H. Res. 65. Resolution directing the President to provide to the Committee on the Judiciary of the House of Representatives information relating to certain activities of the Central Intelligence Agency; to the Committee on the Judiciary.

SENATE—*Wednesday, January 15, 1975*

The Senate met at 12 o'clock meridian and was called to order by the Vice President.

PRAYER

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

Almighty God, bless, we pray Thee, our country, its leaders and all the people. Grant Thy special grace to Thy servant, the President of the United States. Be his counselor, his defense, his source of strength and wisdom. Grant him courage, good health, and patience to bear the burdens of his office. And by Thy grace keep the Congress high in purpose, sound in judgment, and unswerving in duty. Grant us ears to hear and minds to comprehend with courtesy, fairness, and discrimination. May all who hold high office concert their best endeavors for prompt solutions to pressing needs, for enduring measures which enhance the common good, for the recovery of national purpose, and for the establishment of peace and justice according to Thy will and in fulfillment of Thy kingdom.

In the Redeemer's name we pray. Amen.

THE JOURNAL

Mr. MOSS. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Tuesday, January 14, 1975, be dispensed with.

The VICE PRESIDENT. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. MOSS. Mr. President, I do not have any comments to make on the majority side, and I therefore yield to the Senator from Pennsylvania.

A YEAR OF PLAGUE

Mr. HUGH SCOTT. Mr. President, on the 31st of December, in the year of our Lord 1666, the following statement was made, which I think has specific applicability to the late year of our Lord 1974:

> Thus ends this year of publick wonder and mischief to this nation, and, therefore, generally wished by all people to have an end.

That was a notation in the diary of Samuel Pepys for the last day of that unfortunate year of the black plague.

In view of the fact that last year was a plague of problems, we are all glad to see the end of it.

A TIME FOR COOPERATION

Mr. HUGH SCOTT. Mr. President, with respect to the state of the Union message, many judgments have been made without reading it. I hope that the more mature judgments will be made after reading it and after listening to it.

We have a greater responsibility in Congress than one-upmanship. Our responsibility, as the distinguished majority leader has often said, is to cooperate with the President, to seek good legislation, to seek it responsibly, effectively, and expeditiously, and I agree with him.

It has been indicated that the President will ask that the emergency part of his proposed legislation be passed, if at all possible, within the next 90 days. The next 90 days expire approximately April 12, which is the date of the birthday of the great American and great Virginian, Mr. Thomas Jefferson, the patron saint of the Democratic Party. Therefore, they have a good date to look forward to, a good milestone to keep in front of them. We will cooperate on this side of the aisle.

I believe that it would be wiser for Congress to consider the economic legislation and the energy legislation at this time, because if, as reported, the other body intends to take up the economic legislation first and the energy legislation later, I do not see how Congress can act effectively on the energy legislation for a number of months to come. That would be highly unfortunate, particularly in such matters as standby authority for gasoline rationing, which is apparently an objective of both the Executive and the legislature.

I have said that Congress either should accept the President's proposals—there will be many, and they will be specific, and they offer clear plans of action—or, if Congress is otherwise minded, in view of the massive majorities on the other side of the aisle in both bodies, the other side should then enact its own program and ask us to cooperate on this side, which we will do.

The finest possible solution would be continued bipartisan cooperation between legislature and Executive, to work out a mix which will be effective to the people.

I think we must resist one great temptation, and that is to favor all the good things in the message and to favor giving back to the people money so that they can buy things with it or save it, to favor all the tax rebates and refunds, to favor all the things which are politically nutritious, and then to turn around and oppose the means of raising the revenue.

When the matter of increasing the public debt limit comes up, the amount of that limitation next time is going to be so horrendous as to startle the American people, and it ought to startle Congress after these many years of unchecked expenditures.

More than 75 percent of the budget represents moneys which Congress has mandated be spent by the Executive. So we only have approximately 25 percent of the money which could be used to turn around. Hence, the differences.

So I hope that we will all act responsibly. If we are going to provide goodies for the people, we had better be ready to bite the bullet and go for the baddies, which is the means of raising the revenue.

Mr. MOSS. Mr. President, the Senator from Pennsylvania, in making his usual comments, recalled once again that the spending is largely mandated in the budget, and then he gave all the credit of mandating that to Congress.

I just want to recall one fact: No bill becomes law unless it is signed by the President of the United States. Therefore, if there is a mandate that puts us in that problem, more than one department of government is involved.

BIRTHDAY OF DR. MARTIN LUTHER KING, JR.

Mr. HUGH SCOTT. Mr. President, today the late Rev. Dr. Martin Luther King, Jr., would have been 46 years old. Even as the national memory still grieves over his death, it is cheered by the lasting vision of his good works. He was a man for all our times because he espoused brotherhood among peoples and peace, and he worked diligently for his just cause.

Just this week, at the invitation of Mrs. King, I was to participate in a seminar at the Ebenezer Baptist Church in Atlanta to discuss the Voting Rights Act. Most regrettably I was unable to attend because of urgent legislative business.

But I have assured Mrs. King of my personal support of a 5-year extension of the Voting Rights Act. I believe no other single law has had such a direct, immediate and beneficial impact on our democratic process than this one. It stands as a living testimonial to the great work of Dr. King. I personally asked the President to endorse publicly another extension of this law, because his support is vital to Dr. King's—and our—cause, and I am pleased he has done so.

I hope Congress will act to declare this day henceforth a national holiday in memory of Dr. King, so that each year at this time we will reaffirm, through all the days of our years that we can practice that faith, and bring closer that time he foresaw when we shall overcome. I am cosponsoring legislation to this end and hope the Congress will act speedily and positively on this measure.

REMARKS OF SENATOR MANSFIELD AT SENATE DEMOCRATIC CONFERENCE ON TUESDAY, JANUARY 14, 1975

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in

the RECORD remarks which I made at the Democratic Conference on Tuesday, January 14, 1975.

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

REMARKS OF SENATOR MANSFIELD

Gentlemen, as the first order of business, no task could be more pleasant for me than to greet our Senate Democratic colleagues, in the aftermath of the 1974 elections. Not a single incumbent of our party failed of reelection in the November elections. My congratulations go to those who having already served with distinction were returned to office. These Senators include Inouye of Hawaii (applause), Cranston of California (applause), Ribicoff of Connecticut (applause), Allen of Alabama (applause), Long of Louisiana (applause), Church of Idaho (applause), Stevenson of Illinois (applause), Talmadge of Georgia (applause), and Gravel of Alaska (applause), Eagleton of Missouri (applause), Magnuson of Washington (applause), Hollings of South Carolina (applause), McGovern of South Dakota (applause), and Bayh of Indiana (applause).

Of equal pleasure is the welcoming of newly elected Democrats. Before doing so, let me note that their predecessors were Americans of exemplary dedication to the service of this country—Senators the likes of an Ervin, a Fulbright, a Bible, and an Aiken, as well as others. They will be missed, but, in their place have come others who, I am confident, will serve with equal and perhaps even greater distinction.

It gives me great pleasure to introduce them now: Senator Leahy of Vermont (applause), Senator Morgan of North Carolina (applause), Culver of Iowa (applause), Stone of Florida (applause)—he is going to have to attend some of our meetings—Glenn of Ohio (applause), Ford of Kentucky (applause), Hart of Colorado (applause), Bumpers of Arkansas (applause), and, hopefully, subject to clarification under our constitutional processes, Durkin of New Hampshire (applause).

For the Nation as a whole, 1974 was a year of frustration and tragedy. Energy and inflation, Watergate and recession—they tell much of the story. The legacy left to us places new meaning on the expression "national challenge." The Senate of the 94th Congress meets today to accept that challenge.

We convene at a moment of great national stress. It is not the first period of crisis which the Nation has known, nor will it be the last. Nevertheless, we will do well to face the fact that the tragic war in Southeast Asia has strained our institutions as never before. Its cost and waste have done much to snuff out the illusion of omnipotent power. What we now know is that there are limits to what this Nation or any nation can do with the sum of its collective will and strength. We now know that we must decide what is more and what is less beneficial to this Nation. We must make the hard choices between what is more and what is less important. In this connection, we now have the Budget Control and Impoundment Act which set up the Budget Committees of the Senate and the House—a facility designed to provide effective guidance on these most difficult choices. Its first concurrent resolution providing a yardstick for the Congress to determine the economic model for the current year will be brought to the Senate by April 15, 1975.

As for the public's view of the Federal Government, it seems to me that there is more awareness, now, of the part Congress should and must play in the functioning of a constitutional system of divided powers. The people have come to expect more from Congress in the way of discernment and leadership. It is up to us, all of us, to see that they are forthcoming.

Insofar as the majority leadership is concerned, there are no panaceas for the Nation's ill. A little fine tuning here or there of the intricate machinery of the American system is not enough. What has now become apparent is that a multitude of the components of this economy are out of whack. We are a complex nation with a vast complex of problems.

Vietnam and Indochina set the stage for inflation. In addition, wasteful usage of petroleum has placed unbearable demands on our own resources, and required massive imports. The manipulated prices of these imports, in turn, have created international monetary imbalances and brought havoc into our domestic economy especially in terms of prices and employment.

As these problems become more pervasive, they intensify the urgency of maintaining in the Senate a broad perspective of our national requirements. I would hope, therefore, that this Conference and its Policy Committee—and the Policy Committee is the creature and the servant of this Conference—could be used more fully for overall discussions of national issues. This practice, as you know, has been growing in the past several years. Its intensification, together with more frequent exchanges between the majority leadership of both houses, can help us as Congressional Democrats to do our best to move the work of government.

As for the agenda of business for the first session of the 94th Congress, it will be dominated by energy and other problems of the economy. In the wake of last November's elections there are great responsibilities imposed upon the Congress, and especially on Democrats. Let me emphasize that there are also limits on what any Senate can do under the Constitution. We will not be able to work miracles. The Senate constitutes but one part of one branch of a government of divided powers. We cannot presume to discharge the functions of the House or of the Executive Branch or the courts. Watergate should have taught all of us the tragedy and the folly of any such presumption on the part of any one branch.

Within these Constitutional limitations, however, Senate Democrats in cooperation with our Republican colleagues must do our share, our full share, in righting what has gone wrong in the nation.

For the benefit of our new members, let me stress the equality of all Senators—of all new colleagues—as an aspect of this undertaking. Each of us by virtue of the trust of our respective electorates has an equal obligation and right to participate fully in the work of the Senate. There are no first or second class Senators. This is a body of equals. This is a body of peers. That has been the policy of the leadership ever since the Senate Democratic Conference first elected me. That will be the policy of the Leadership as long as I remain Majority Leader. So to the recently elected members, let me say this: speak up and participate fully. Do not take a back seat. Give the Senate the benefit of your fresh insights.

There are no barons as far as chairmen of committees are concerned in this body and there will not be any unless you allow it to happen.

During the past two years, the members of the House and Senate have constituted the only part of the Federal Government which owes its powers to election of the people. No member of the Executive Branch is in the same situation. In so noting, I do not wish to detract in any way from either the President or the Vice President nor the Constitutional process by which they were selected. I only wish to emphasize the burden of the responsibility which falls on the 94th Congress, collectively, to interpret the needs and wishes of the people of the nation.

In this regard it was a major achievement of the 93rd—a responsible and constructive Congress—that it prepared the way for the 94th to approach the dominant issues of concern to the American people. The 93rd, for example, enacted a broad public service employment program along with expanded workmen's compensation benefits which will help to offset the rising tide of unemployment. In the face of a national jobless rate edging towards 8%, however, these measures are only a beginning. As the recession deepens, additional actions of this nature will have to be considered.

Prior to the adjournment last year Senate Democrats also pledged to provide tax cuts as a way to curb the recession and stimulate the economy. As we move in this direction, it should be kept in mind that a budget severely out of balance will not by itself provide stimulus. That will be the case particularly if the imbalance is caused in major part by revenue short-falls due to lost taxes from failing businesses.

Therefore, the Democratic Conference, last year, also pledged a search for some way to reconstitute the Reconstruction Finance Corporation, or something approximating it, as a way of dealing with the host of businesses and institutions that are expected to fall or collapse in the weeks and months ahead. I would urge the appropriate legislative Committee to look into this possibility without delay.

The Democratic Conference during 1974 agreed that credit should be allocated on a priority basis in the light of the Nation's most critical needs, notably in the areas of housing and energy. That question, too, needs prompt examination by the appropriate committees.

As the recession now dominates our national life, wage-price-rent and profit movements must be closely watched. To that end it was the position of the Conference, last year, that, as needed, the concept of controls should come into play. The time to examine this need very closely in terms of possible legislation, it seems to me, is close at hand.

Before the last adjournment, the Democratic Conference urged that a beginning be made in allocations, rationing or other effective means to reduce consumption of energy and other scarce materials. If we are going to cope effectively with exorbitant and arbitrary prices for petroleum, in my judgment, a reduction of consumption equal to at least two million barrels per day, and preferably more, must be achieved. Savings of that kind cannot be made without a stringent conservation system. It is time for enforcement of speed laws, encouragement of a more rapid phase-in of efficient automobiles and a reduction of the wastage of fossil fuels by public utilities and other industries as well as in the home.

I have just recently returned from China, a country of 800 million people where production of petroleum is a fraction of our domestic output. Yet, after meeting all of its domestic needs, that country is still able to export crude. I am not inferring by any means that the situations in the two countries are the same. What I am suggesting is that the energy crisis has two sides. Only one deals with availability of supply. The other is the wisdom of usage. A recent Ford Foundation study—and one by Senator Gaylord Nelson and his committee, and by others—pointed to an energy wastage rate of about 40% in this nation. To me that strongly suggests that the root of our problem is not so much one of supply but rather of a great lack of wisdom in usage. Unless we put an end to the superfluous and extravagant, supplies, no matter how great, will never be sufficient.

One final word on energy. A spectre of confrontation and war in the Mideast was raised recently as a result of interpretations given to an interview by the Secretary of

State. In my judgment, self-sufficiency and negotiations, not confrontation, must form the basis of this nation's policies on energy. The less talk of war in the Middle East in order to bring out petroleum or whatever, the better for all concerned.

May I say that I think insofar as petroleum is concerned, we place too much emphasis on the Middle East, because approximately 28 percent of our imports come from Venezuela; another 18 percent from Canada, though half of that is Venezuelan oil refined, about 9.5 percent from Nigeria; about 9.5 or 10 percent from Iran, which is not considered a Middle East country in the ordinary sense; and 4 or 5 percent from other parts of the world, Indonesia and elsewhere.

So what we have as far as the Middle East is concerned is approximately a third of our imports, and I think we ought to keep that in mind.

What is suggested by the proposals which were put forward last year by the Senate Democrats for dealing with recession and inflation and by the House Leadership in recent days is that the nation's economy runs badly without foresight and without direction. Orderly management of our economic affairs is far better than the endless instability which results from following a hands-off policy interspersed with stop and start crash economic remedies. That policy has already induced a drastic recession on top of spiraling inflation.

In this connection, I would once again point out that under P.L. 93-426 an Executive-Legislative-private Commission has been authorized to study ways of dealing in an integrated long-range fashion with the nation's shortages and supplies and with other fundamental economic questions. Congressional appointments have already been made to this Commission and additional recommendations have been made to the President. The Administration, however, has yet to act to bring this Commission into being.

Beyond economic questions, there will be other issues of pressing importance before the 94th Congress. The implications of Watergate, for example, are not yet behind us. Nor will they be put to rest until there has been translated into law an effective method to reveal and to prevent future abuses of that kind.

It will be recalled that when the 93rd Congress convened in January, 1973, there appeared to be a need to investigate the irregularities that occurred during the political campaign of 1972. It was clear that several regular Senate Committees shared a concern in the matter but that the Senate's responsibility was paramount. On the recommendation of this Conference, therefore, the Senate decided that a special Committee should be empaneled to investigate Watergate and related matters. That was the beginning of Watergate. The wisdom of that course, I believe, was underscored by subsequent developments. The Ervin Committee became the sole locus of the Watergate investigation. It operated in a non-partisan fashion and with telling effectiveness.

On a matter that bears close resemblance to Watergate, there is a similar need for investigation. Intelligence-gathering as it has been pursued at home and abroad by the C.I.A. has raised serious questions concerning possible dangers to Constitutional freedoms. Therefore, the practices which are being pursued under legislation enacted a quarter of a century ago need to be fully tested against the imperatives of today. The Senate can no longer evade its responsibility for being conversant with the mechanisms of intelligence-gathering which have been set up and which operate largely in secrecy. To confront that responsibility, an arm of the Senate must explore deeply. It must be asked how the 1947 National Security Act works today to balance methods employed abroad against effects at home that may serve to weaken and erode the basic precepts of the Constitution. And if I may add another dimension to this question, it needs to ask too: What has been the effect of the operations under this law on the good name of the United States of America in the world—on the reputation which once was this nation's among all peoples, for decency, integrity, honest dealing and compassionate human concern.

I do not know whether we are best advised to proceed in this matter precisely as we did in the Watergate affair. What I do know is that any investigation of the C.I.A. should be undertaken, as was the case in Watergate, by one Senate group and not by many. The investigation, moreover, should be pursued by a membership which provides a wider perspective than that afforded by any one Committee and one which reflects the general character of the Senate in the 94th Congress.

In that respect, I should report to you that I have been informed by Senator Stennis that it is his intention to hold hearings under the auspices of the Armed Services Committee, that he has been in touch with Senator McClellan and Senator Young of the Appropriations Committee and, at my suggestion, that any investigating Committee should be broadened, he indicated that he would also get in touch with Senator Sparkman of the Foreign Relations Committee—and he has—and Senator Muskie of the Government Operations Committee. He also informed me that the Majority and Minority Leaders would be included in any such inquiry by his Committee. Furthermore, he assured me that insofar as it would be possible, the hearings would be open.

I am sure that this will be a matter for discussion late in the Conference. It is my desire only that this issue be brought to your attention at this time. The advice and guidance of the Caucus on an appropriate course is welcomed. May I add, that the existence of a Presidential Commission of inquiry in no way abrogates or reduces the Senate's responsibility in this matter.

If the questions posed by the C.I.A. present us with troublesome issues, there are others which will also arise, involving national health insurance, protection for consumers, and revamping the criminal laws with special attention for victims. There is old business as well. Specifically, there is the question of surface mining protection, and I would expect that the Congress will move quickly to retest the veto of this vital legislation.

Let me conclude this brief introduction to the work of the 94th Congress by noting that nothing in my political preference for Democrats and particularly for the Democratic members of the Senate is meant to suggest that our party has cornered the market on ideas, talent, experience or dedication. I have a deep respect and affection for the President, the Vice President and members of the Executive Branch. Neither the Senate Democratic Majority, the Democratic controlled Congress, nor the Republican-controlled Executive Branch will be able to do much to confront the questions which deeply concern the people of the nation unless all are prepared to work together.

Insofar as the Senate majority leadership is concerned, we will address the agenda for action in the 94th Congress in a spirit of cooperation and unity with the Congressional minority under the leadership of Senator Scott, who has been an excellent working partner, a man of understanding and tolerance, and the President. Together we can do, and we must do, a great deal to meet the needs of the people of the United States. That is our collective responsibility, and we cannot and must not evade it. To shirk our responsibilities would be demeaning. The welfare of the Republic must always come first. As far as we as Democrats are concerned, it will.

ORDER THAT NO BILLS BE INTRODUCED UNTIL AFTER THE PRESIDENT'S STATE OF THE UNION ADDRESS

Mr. MOSS. Mr. President, it is traditional that the Senate does not conduct business or introduce bills prior to the state of the Union message. Therefore, I ask unanimous consent that there be no morning business or business conducted in the sense of the introduction of bills until the President has delivered his state of the Union address.

The VICE PRESIDENT. Without objection, it is so ordered.

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

The VICE PRESIDENT. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

The VICE PRESIDENT. Without objection, it is so ordered.

SENATOR FROM NEW HAMPSHIRE—CREDENTIALS

Mr. GRIFFIN. Mr. President, what is the pending question before the Senate?

The VICE PRESIDENT. The pending question is on agreeing to the motion of the Senator from Michigan, as modified, in the nature of a substitute for the motion of the Senator from Montana.

Mr. GRIFFIN. Mr. President, I withdraw that motion, and I want to indicate to the Senate that that is a temporary action on my part; I intend to offer it again later.

The VICE PRESIDENT. The motion is withdrawn.

Mr. GRIFFIN. I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

The VICE PRESIDENT. Without objection, it is so ordered.

RECESS

Mr. MOSS. Mr. President I move that the Senate stand in recess until the hour of 12:40 p.m. today.

The motion was agreed to; and at 12:24 p.m. the Senate took a recess until the hour of 12:40 p.m.

At 12:40 p.m. the Senate reassembled, when called to order by the Presiding Officer (Mr. Moss).

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

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, may we have order?

The VICE PRESIDENT. The Senate will please come to order.

The Senator from Montana.

PRIVILEGE OF THE FLOOR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that Messrs. Durkin and Wyman have the privilege of the floor for today.

Mr. HUGH SCOTT. Without prejudice.

Mr. MANSFIELD. Without prejudice.

Mr. HUGH SCOTT. I have no objection.

The VICE PRESIDENT. Without objection, it is so ordered.

QUORUM CALL

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

The VICE PRESIDENT. 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 VICE PRESIDENT. Without objection, it is so ordered.

JOINT SESSION OF THE TWO HOUSES—ADDRESS BY THE PRESIDENT OF THE UNITED STATES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess until the conclusion of the President's state of the Union address.

The VICE PRESIDENT. Without objection, it is so ordered.

The Senate will now stand in recess subject to the call of the Chair, for the purpose of attending a joint session with the House of Representatives to hear the address by the President of the United States.

At 12:46 p.m., the Senate took a recess subject to the call of the Chair.

Thereupon, the Senate, preceded by the Sergeant at Arms, William H. Wannall; the Assistant Secretary of the Senate, Darrell St. Claire; the Vice President; and the President pro tempore of the Senate (Mr. JAMES O. EASTLAND), proceeded to the Hall of the House of Representatives to hear the address by the President of the United States, Gerald R. Ford.

(The address delivered by the President of the United States to the joint session of the two Houses of Congress appears in the proceedings of the House of Represenatives in today's RECORD.)

(At 1:56 p.m., on the expiration of the recess, the Senate, having returned to its Chamber, reassembled, and was called to order by the Presiding Officer (Mr. CHILES in the chair).

ORDER FOR PERMISSION TO FILE BILLS AND RESOLUTIONS UNTIL MIDNIGHT TONIGHT

Mr. MANSFIELD. Mr. President, first, I ask unanimous consent that all Senators may have until midnight tonight to introduce bills and submit resolutions.

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

DEATH OF FORMER SENATOR BURTON K. WHEELER

Mr. MANSFIELD. Mr. President, I wish to express my deep sorrow and a sense of sadness at the passing of former Senator Burton K. Wheeler, of the State of Montana.

Senator Wheeler was a controversial, independent figure who made his mark in my State and certainly made his mark in the Senate of the United States.

He lived to be 92. He carried on actively until his passing. He participated in the work of his law firm, and he was active, both mentally and physically.

On behalf of the citizens of the State of Montana, I ask unanimous consent that there be printed in the RECORD a number of articles on Senator Burton K. Wheeler which were published in the Washington Post, the Washington Star-News, and various Montana papers.

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

[From the Great Falls (Mont.) Tribune, Jan. 9, 1975]

BURTON K. WHEELER

Burton K. Wheeler, the distinguished and colorful political maverick who represented Montana in the U.S. Senate for 24 hectic years, loved Montana, life and a rousing fight.

The 92-year-old attorney who died in Washington, D.C., Tuesday, especially enjoyed his vacations at his summer home at scenic Lake McDonald.

A vigorous and powerful senator who acquired an international reputation during his career, Wheeler liked to talk to Montana friends about the news behind the news of the many history-shaping events in which he was involved. He wanted Montanans to remember that he got President Roosevelt to authorize $75 million for construction of Fort Peck dam during a 15-minute meeting. He was proud of the role he played in getting an air base established at Great Falls, for getting approval of Hungry Horse dam and for forcing the Montana Power Co. to pay rent to Flathead Indians for Kerr Dam.

Wheeler's alert blue eyes twinkled with Christmas tree brightness when he reminisced about the dramatic fight he directed against the Supreme Court packing plan of President Franklin D. Roosevelt or his investigation of events that helped expose the Teapot Dome scandal of President Harding's administration.

Wheeler would grin happily during interviews with Montana newsmen when asked about his early political career when he was dubbed "Bolshevik Burt." He said he didn't mind taking abuse for being courageous and intelligent enough to resist mob hysteria. He made a name for himself in World War I when he objected to anti-German hysteria. He like to recall the time an angry mob expelled him from Dillon for his anti-war sentiments.

A consistent opponent of U.S. involvement in foreign wars, Wheeler lost his Senate seat in a primary election campaign in 1946, largely because of the unpopularity of his opposition to our World War II.

Wheeler's forceful positions won him the affection of friends and the hatred of enemies but friends and foes knew who he was and what he thought. Burton K. Wheeler carved his name in U.S. and Montana history—in prominent letters.

[From the Helena (Mont.) Independent Record, Jan. 7, 1975]

MONTANA LOSES HER "RADICAL" EX-SENATOR

BUTTE, MONT.—Burton K. Wheeler, a 24-year veteran of service in the U.S. Senate from Montana, died Monday night in his Washington, D.C., home.

A relative said the death occurred at 10:15 p.m. Eastern Daylight Time.

Wheeler, 92, one of the best-known Senators in Montana's 85 years of statehood, helped expose the Teapot Dome scandal during the Harding Administration. The former Butte lawyer served in the Senate from 1923 until 1947.

His wife, the former Lulu M. White of Albany, Ill., died in 1962.

Wheeler, a native of Hudson, Mass., came to Butte in 1905. According to the legend which grew around the individualistic, salty New Englander, he got off a train at Butte to stretch his legs and decided he liked the city after losing several hundred dollars in a poker game.

He later established a law practice which carried him from obscurity to national renown.

Although he served in the Senate as a Democrat and was given credit for securing funding for such public-works projects as the Fort Peck Dam, Wheeler endorsed the 1966 gubernatorial candidacy of Republican Tim Babcock with the words that "Montana and other Western states have a tradition of sending men of independent thought and action to the Senate."

Of Babcock, he said the GOP candidate had been "a good friend of mine since those Democratic candidates fought against me in 1946."

Wheeler lost a fifth-term election bid in 1946. Observers said his earlier stand against American entry into what was to become World War II may have cost him his seat.

Wheeler himself was twice looked upon as timber for a higher office.

In 1924, he was drafted as a vice presidential candidate for the LaFollette Party, which rebelled against platforms of the established parties.

He also was considered as a presidential candidate in 1940 until the Democratic convention landslide of Franklin D. Roosevelt.

Wheeler entered public life early, winning election to the first of two terms in the U.S. House of Representatives in 1910. He served as U.S. district attorney in Montana from 1912 to 1918.

He won attention during the first of his four senate terms when he participated in the investigation that exposed the Teapot Dome scandal—the 1920s equivalent of Watergate.

The investigation indicated that the secretary of interior had leased oil reserves to private oil firms and allegedly received $400,000 for it.

In the backlash, Wheeler was charged with taking $2,000 to get some federal oil leases. He was brought to trial and acquitted.

His six-year terms in Washington followed an unsuccessful attempt to wrest the Montana governorship from Joseph M. Dixon. Wheeler lost in a Republican landslide in what was to be his last political defeat for 26 years.

Wheeler was born Feb. 27, 1882, the youngest of 10 children of Asa Leonard and Mary Tyler Wheeler. He attended Hudson High School, worked in Boston and attended law school at the University of Michigan in Ann Arbor.

He waited on tables at a dormitory and did stenographic work for faculty members to earn his law-school tuition.

When he set up his law practice in Butte, Wheeler went to work with Billy Meyer, a veteran attorney of the Mining City.

After about a year of practice, his fortunes had improved enough that he was able to return to Albany, Ill., to marry his college sweetheart. He had met Lulu M. White while

he was working his way through school selling books.

Wheeler and his wife were among the best-known happily married couples in Washington. He often referred to her affectionately as "Pardner" or "the Side Kick."

Wheeler served in the Montana Legislature for one term—1910–1912. He was appointed a federal district attorney in 1912 at the age of 30, reputedly one of the youngest ever.

Wheeler's support of Agriculture and labor unions gathered strength about him throughout the summer of his political career. The bitter gubernatorial campaign of 1920 saw him carry only two counties—Silver Bow and Missoula—but come back to win his first senatorial election two years later by a wide majority.

Wheeler's political force carried him through an indictment by a federal grand jury in Great Falls over the Teapot Dome investigation.

The charge was that Wheeler had accepted fees from a Montana oil man after he became a member of the Senate. After a 10-day trial, a jury acquitted him in 30 minutes.

On the day of his acquittal, Wheeler was informed of the birth of his youngest daughter. He named her Marion Montana Wheeler, a tribute to his adopted state.

Wheeler and his wife had five other children and kept homes in Washington, Butte and at Lake McDonald in Glacier National Park.

Wheeler said he considered Sen. Robert LaFollette of Wisconsin the greatest senator in American history. He gave the same accolade to Franklin Roosevelt among presidents.

[From the Washington Post, Jan. 8, 1975]

SENATOR BURTON WHEELER, ARDENT NEW DEALER, DIES

(By Edward A. O'Neill)

In his autobiography, former Sen. Burton Kendall Wheeler (D-Mont.), who died at the age of 92 after an apparent stroke Monday at his home in Washington, wrote what well might be his epitaph:

"Controversy has sparked my public life from start to finish. My opponents have ranged from the giant Anaconda Copper Company to the leaders of both my own Democratic Party and the Republican Party. The names I have been called run the gamut from Communist to Fascist to include a great many other derogatory terms besides. I have been accused of almost everything but timidity."

During his lifetime, he was threatened with lynching while running for governor of Montana. He was threatened with criminal charges by the Department of Justice when he was bringing down U.S. Attorney General Harry M. Daugherty of Teapot Dome notoriety. He successfully fought President Franklin D. Roosevelt's attempt to "pack" the Supreme Court.

And when the United States edged toward involvement in World War II, he became a leading spokesman for the America First movement, a position that brought obloquy down on him and led to his defeat in a primary election in 1946 after four terms in the Senate.

Sen. Wheeler was of a breed rare in these days. He was an American original who believed that what he thought mattered and, by heaven, would try to make it stick. Many times he did.

His stern, moralistic attitudes bore the mark of his Massachusetts forebears—Quakers, Pilgrims and Puritans—who had settled there in the early 1600s. These attitudes were overlaid with stern demands developed during years of fighting the Anaconda Copper Company in his adopted state of Montana, where he accidentally settled as a fledgling lawyer at age 23.

He was, too, a man of large size on the political scene. Before Roosevelt decided to run for an unprecedented third term, Sen. Wheeler was among the most prominent of the names proposed as FDR's successor.

During his 24 years in the Senate, he engaged in many memorable battles. Three stand out: his opposition to America's growing involvement in World War II; the court-packing proposal, and his successful campaign against Harding's and Coolidge's Attorney General, Daugherty.

Sen. Wheeler was an ardent New Dealer—a radical, people thought, when he came to the Senate in the early 1920s. But he was no follower. He shared with many other western congressmen of his day a deep distrust of Britain and an abhorrence of foreign involvements. He had opposed U.S. entry into World War I, and as the U.S. attorney for Montana during that conflict, was accused of pro-Germanism when he refused to bow to the extraordinary war hysteria that swept his state.

When Roosevelt in 1940 began "measures short of war" to assist Britain and the Allies, Sen. Wheeler at first raised only minor objections. But on July 1, 1940, he was the principal speaker at the Keep America Out of the War Congress in Chicago.

This was two weeks before the Democratic Convention met in Chicago to nominate FDR for a third-term and bury whatever hope Sen. Wheeler might have held of ever becoming his party's nominee. In 1940, Sen. Wheeler voted for Norman Thomas for President.

In the beginning months of 1941, Sen. Wheeler opposed passage of the lend-lease bill. On a radio panel show, he spoke his mind in harsh terms: "The lend-lease-aid program is the New Deal's other foreign policy. It will * * * * * * every fourth American * * *"

President Roosevelt's rejoinder was as harsh. He called Sen. Wheeler's statement "the rottenest thing that has been said in public life in my generation."

Just before Pearl Harbor, Sen. Wheeler participated in a sensational exposure of American war plans. According to his account, an Army Air Corps captain gave him a bundle of official documents wrapped in brown paper that were, in Sen. Wheeler's words, "a prospectus" for American participation in the worldwide conflict.

The senator gave them to Chesly Manly, a Washington correspondent for the Chicago Tribune, where Manly's story was published December 4, 1941, three days before the Japanese attack. The story also was published in the old Washington Times-Herald.

The furor over publication of the plans, which were authentic, was quickly overcome by the beginning of the war. When the Pearl Harbor attack occured, Sen. Wheeler said, "Let's lick the hell out of them."

Despite their disagreements, Sen. Wheeler and President Roosevelt kept communicating in person with one another during the war years, with the senator warning FDR, and later President Harry S. Truman, against trusting the Soviet Union. But these years were to be the end of Sen. Wheeler's public life, even though Mr. Truman supported him in his 1946 primary election campaign.

The court-packing battle was a different story.

When President Roosevelt, riding high after his 1936 landslide victory and frustrated by adverse Supreme Court decisions of the "Nine Old Men," decided to add three members to the Court for the ostensible reason that it could not handle its work load and to require retirement at age 70, Sen. Wheeler became the leader of the opposition.

The battle lasted from February into July, 1937. On March 21, Sen. Wheeler rose in the Senate and pulled a letter from his pocket. It was from Chief Justice Charles Evans Hughes, a letter also signed by Sen. Wheeler's close friend, Justice Louis D. Brandeis, and Justice Willis Van Devanter, that said that the Court did not need additional justices to carry on its duties.

The letter caused a sensation and brought support to the relatively small group that Sen. Wheeler then was heading. When a vote was taken on the legislation in July it was beaten by a vote of 70 to 20.

Sen. Wheeler's earlier battle with Attorney General Daugherty began when the senator had been in Washington for less than a year. On Feb. 20, 1924, he made a speech in the Senate accusing Daugherty of failing to investigate adequately the Teapot Dome scandal that the Senate had uncovered the year before.

Senator Wheeler was made chairman of a small subcommittee to investigate what he regarded as dilatory efforts by Daugherty and the Justice Department on Teapot Dome. He also became a one-man "enemies list." The FBI, he later said, "stationed men at my house, surrounded my office, watched persons who went in and came out, constantly shadowed me, shadowed my house, and shadowed my wife."

He was indicted by a federal grand jury in Montana a few months after making the Senate speech on the charge of having used influence to obtain an oil lease for a client. At his trial a year later, he was acquitted. In the interim, a special Senate committee investigated the charges and the full Senate by a vote of 56 to 5, adopted a resolution clearing him.

Daugherty himself was later indicted for various charges of misconduct arising out of Sen. Wheeler's investigations and those of his fellow Montanan, Sen. Thomas J. Walsh. Daugherty was tried twice but acquitted each time. However, other government functionaries in the case did go to jail.

After his defeat in 1946, Sen. Wheeler talked for a time of returning to Montana but was persuaded by a son, Edward, to stay in Washington and join him in the practice of law. Father and son built up a lucrative practice, largely before government regulatory agencies. The elder Wheeler, even after his 90th birthday, went regularly to his office in the Southern Building every work day he was in Washington.

Sen. Wheeler was born on Feb. 27, 1882, in Hudson, Mass., a manufacturing town 23 miles west of Boston. After graduation from Hudson High School in 1900, he worked as a bookkeeper and stenographer in the Boston area for two years, then went to Ann Arbor, Mich., where a cousin lived, to attend the University of Michigan law school. He graduated in 1905, and went west looking for a job.

In Butte, Mont., in October, 1905, card sharks cleaned him of all the money he had in a stud poker game. He decided to stay in Butte, where a lawyer hired him.

Montana in the early 1900s was a virtual company town of the Anaconda Copper Company. Anaconda ran both political parties and the elected officials. In 1911, Sen. Wheeler, by then a lawyer of prominence, was elected to the state legislature.

State legislatures in those days elected U.S. senators. Sen. Wheeler supported Thomas J. Walsh, a foe of "The Company," for 79 ballots before a compromise candidate was chosen.

Walsh, after the Constitution was amended to permit popular choice of senators, was then elected. He persuaded President Wilson to make Sen. Wheeler U.S. attorney for Montana. He took to the job with a zeal that caused consternation throughout the state.

He was castigated as much for what he did not do as what he did do in prosecuting official and nonofficial wrongdoers. Before and during World War I, he refused to prosecute a number of pacifists and members of the International Workers of the World (the Wobblies) in labor disputes.

In 1920, he ran for governor on the ticket of the Nonpartisan League, a largely populist farmers' organization. On the Wheeler slate were a Negro and a Blackfoot Indian. He was beaten badly.

Two years later, with Montana suffering acutely from a postwar depression, he ran as a Democrat for the Senate and won.

Sen. Wheeler once said, "What is a radical? A radical is a progressive who knows what he wants, and believes in the things he advocates."

In Washington, Sen. Wheeler resided at 4930 Loughboro Rd. NW, with Simeon Arboleda, his manservant-companion since 1927. The senator's wife, Lulu, died in 1962.

Survivors include three sons, Edward K., his law partner, of Chevy Chase, John L., of Bethesda, and Richard B., of Denver, and two daughters, Elizabeth Colman of Pine Lake, Wis., and Marion Scott, of Bethesda.

A funeral service is scheduled Thursday, 11 a.m., at Wesley United Methodist Church at Connecticut Avenue and Jocelyn Street NW, with burial in Rock Creek Cemetery. The family suggests memorials in the form of donations to the Greater Montana Foundation in Butte or the University of Montana Scholarship Fund in Missoula.

[From the Washington News-Star]

EX-SENATOR WHEELER, 92, DIES; MAVERICK FROM MONTANA

(By Richard Slusser)

Former Sen. Burton K. Wheeler, 92, a maverick Montana Democrat during his 24 years in the Senate, died last night after an apparent stroke at his home here.

Wheeler was one of the most outspoken isolationists in the Senate before World War II.

There was little of major importance in which he was not immersed—from the Teapot Dome investigation chaired by his senior colleague from Montana, Sen. Thomas J. Walsh, to the heady days of the New Deal which saw him firmly opposed to President Roosevelt's court-packing plan.

Historian Jonathan Daniels called Wheeler a "brass knuckler battler," but he also received many less complimentary, and often contradictory, descriptions—radical, Communist, pro-German, conservative and isolationist.

"They said I was an isolationist," Wheeler said to a reporter last year, "but only to the extent that I wanted to keep out of the war. When Japan attacked, I was one of the first to say we had to lick the hell out of them.

"I felt that if we hadn't gotten into it Hitler and Stalin would have fought it out until one was in the hospital and the other in the coffin."

Wheeler was an early supporter of Franklin D. Roosevelt for the presidential nomination in 1932 and helped get Roosevelt nominated and elected.

He had returned to the Democratic party after bolting in 1924 to run as a candidate for vice president on the Progressive party ticket with Robert LaFollette of Wisconsin. They carried only the state of Wisconsin in the election won by Republican Coolidge.

Wheeler went right along with the New Deal but always retained the independence which he showed when Roosevelt announced the Supreme Court packing bill.

Wheeler was chosen by his more conservative Senate colleagues to lead the fight against the bill and to read to the Senate a devastating letter written by Chief Justice Charles Evans Hughes.

Despite his disagreements with Roosevelt, Wheeler rated him as the most outstanding of modern presidents.

Wheeler attracted national attention during his first term as a participant in the investigation that exposed the Teapot Dome scandal. The investigation indicated the secretary of the Interior leased oil reserves to private oil firms and allegedly received $400,000 for it.

In a backlash from that, Wheeler was accused of taking $2,000 to obtain some federal oil leases. "The jury had two quick votes," he once explained. "One was to go to dinner at government expense and the other was to acquit me."

In 1946, Wheeler failed to win renomination for the Senate. He then began practicing law here and would be in his office of Wheeler & Wheeler daily except for the several months he spent in Montana each year.

Wheeler said that this country's entry into World War II would "make the world safe for communism." He also was one of the few in 1923 who said that the United States ought to recognize Russia. "One paper said I should be deported," he recalled, but added, "where to, back to Massachusetts?"

In a Senate speech disputing Roosevelt on entering the war, Wheeler said: "I've been called an appeaser, a pro-Nazi, a pro-Communist and I don't know what else. I'm not anything but pro-American, and I'm not going to be intimidated by the war-mongers, the President and the FBI, nor anyone else."

When he first was elected to the Senate in 1922 people called Wheeler a radical. "We were the progressives who wanted to correct abuses by corporations and others," he said two years ago. "Now it would seem that some ultraliberals want to tear down the government and that would lead to dictators. It happened in Italy, Germany and Russia."

Wheeler was never pessimistic about the United States, but he said, "I've felt we've made mistakes, a good many, but by comparison with other countries I feel we're ahead and will continue to be ahead."

"But I must confess that I'm a little more worried about conditions in the country than heretofore," he told a reporter for the Star-News a year ago, "particularly the economic situation. This country and no other country can afford to be as reckless in expenditures and government spending as we've been."

He was in the tradition of the progressive fighters from Montana that began with election of Sen. Walsh in 1912 and continues today with Senate Majority Leader Mike Mansfield.

Wheeler called himself "Yankee from the West"—also the title of his autobiography—because he was born in Hudson, Mass., near Boston. He drifted across the continent through the University of Michigan Law School to Butte, Mont. Wheeler, like thousands of young easterns then, had the Pacific Coast as his goal.

However, one day while he was waiting for a train in Butte he joined a poker game near the depot and soon was broken, the victim of a couple of Butte card sharks. He began his career as an attorney in Butte.

Although he intended to stay out of politics, he became involved when he was appointed a U.S. district attorney, an appointment aided by the influence of Sen. Walsh.

In five years he won acclaim for his ability as a prosecutor but resigned the office to help get Walsh reelected to the Senate. He served two terms in the Montana legislature.

His next political move was to run for governor as a candidate of the Non-Partisan League, but he was defeated. However, in 1922 he was nominated and elected to the Senate as a Democrat.

To Wheeler, once called the most dangerous radical in Congress, the Watergate actions in the 1972 election were "child's play."

"When somebody says this business today is worse than Teapot Dome or the Ohio Gang, they don't know what the hell they're talking about."

His wife, the former Lulu White, died in 1962.

He leaves three sons, John L., of Bethesda, Edward K., of Chevy Chase—his law partner—and Richard B., of Denver, and two daughters, Mrs. Elizabeth Colman of Pine Lake Wis., and Mrs. Marion Scott of Bethesda.

BURTON WHEELER IS DEAD AT 92

WASHINGTON.—Burton K. Wheeler, a battler for early New Deal legislation who later broke with Franklin D. Roosevelt and became a militant isolationist in the Senate, has died at the age of 92.

Wheeler served four terms in the Senate but was defeated in 1946, largely because of his persistent criticism of U.S. policies in World War II.

The Montana Democrat remained in Washington as a partner with his son in a law firm; he was in his office the day he died. His son said Wheeler died at his home Monday night after an apparent stroke.

Family members said services will be Thursday morning in the Wesley Methodist Church with burial later in Rock Creek Cemetery.

Wheeler, a native of Hudson, Mass., served 24 years as Democratic senator from his adopted state of Montana. He was an early supporter of Roosevelt's New Deal policies, but later bucked him on efforts to "pack" the Supreme Court and on the U.S. entry into World War II.

Roosevelt is said to have once termed him "the most dangerous radical in Congress." Other descriptions of his political bent ranged from Communist to conservative to isolationist.

Wheeler backed Roosevelt for the presidency as early as 1929 and backed much New Deal legislation after Roosevelt became president in 1933, particularly the utility holding company act.

He and Roosevelt were close personal friends, but Wheeler broke with the president over Roosevelt's 1937 proposal to reorganize the Supreme Court which had overturned key New Deal legislation. The court-packing plan, as it was widely called, was rejected by the Senate, 70 to 20.

With the outbreak of war in Europe, Wheeler opposed Roosevelt's lend-lease assistance in Britain, calling it dictatorial and asinine.

"In the name of defense we have started shooting on the seven seas," he said. "In the name of democracy we have established one-man government. And in the name of peace, the United States has been dragged to the brink of war."

Administration officials, including the President, called Wheeler unpatriotic, pro-Nazi, near treasonous.

"I thought I was right then and I still do," Wheeler said in an interview two years ago. "I said that if we got into war we'll make the world safe for the Communists, and that's what we're doing.

"I felt that if we hadn't gotten into it, Hitler and Stalin would have fought it out until one was in the hospital and the other was in the coffin."

Wheeler spearheaded an investigation of the Teapot Dome scandal and the activities of Atty. Gen. Harry M. Daughtery and his "Ohio Gang." Daughtery retaliated by prosecuting Wheeler on influence charges

"I was never worried," Wheeler said in an interview.

"The jury stayed out just long enough to take two votes—one to go to dinner at government expense and the other to acquit me."

Asked at one time to compare that scandal with Watergate, Wheeler said: "When somebody says this business today is worse than Teapot Dome or the Ohio Gang, they don't know what the hell they're talking about."

Like many politicians before him, he became more conservative in later years and voted for Richard M. Nixon for re-election in 1972, although he remained a Democrat. He said he knew that George McGovern

could not be elected because he went "to extremes."

He likened the Nixon-McGovern race to his own defeat by Dixon in 1920, saying, "A lot of people didn't like Dixon, but they hated me more, so they voted for him."

While he opposed sending American forces to Korea and Vietnam, he supported Nixon's handling of the Vietnam war. He said it was "Kennedy and particularly Johnson who escalated the war."

Although as a former senator he had floor privileges in the Senate, he rarely visited the Senate in recent years. He said, "I didn't ever want to lobby my former colleagues on the floor."

Wheeler was in Billings when the Japanese attack on Pearl Harbor brought the United States into World War II. In an interview at the home of the late B. R. Albin, a personal friend and supporter, the former isolationist Wheeler issued a statement that marked the sudden unity of American feelings. "The only thing left to do now is to give them hell," he said.

THE PRESIDENT'S STATE OF THE UNION MESSAGE

Mr. MANSFIELD. Mr. President, commenting on the President's state of the Union speech, I would like to make a few remarks.

First, let me say that I appreciate the candor with which he laid before the Congress and the American people the grim situation which confronts this Republic today.

Second, I want to say, coupled with his remarks last Monday night when he addressed the Nation, it appears to me that he is facing up to the situation which confronts the Nation at this time; that he is showing leadership; that he is advancing proposals.

While there is room for disagreement here and there, I commend the President for what he has done this week, and I look forward to the proposals which he will send to Congress in the near future.

Furthermore, in line with the President's own statements and thinking, I want to say that, as far as the Senate is concerned, we are prepared to cooperate with him.

We recognize the fact that this is not a Republican or a Democratic question. It is a matter which affects all Americans of all strata, and the only way it can be solved is through cooperation. The President has been most cooperative in his dealings with Congress.

Again, I want to say that, so far as the Senate is concerned, and speaking for the majority—and, I am certain, for the minority as well—we will give him the greatest possible cooperation, to the end that this common set of problems can be solved and the Republic once again put on a path which will lead to prosperity, peace, and contentment.

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

Mr. MANSFIELD. I yield.

Mr. PASTORE. Mr. President, I agree with the majority leader that the President's address this afternoon indicates that we are going off dead center. But I was a little stunned and shocked with reference to his suggestion of a $3 a barrel tax on imported oil.

When we consider that we in New England, and particularly in Rhode Island, are 85 percent dependent on our oil being imported, when we realize the effect of this $3 tax, together with the decontrol of domestic oil, again with the deregulation of natural gas, what it all amounts to is that you are going to eat up the rebate.

I cannot see how you are giving the people of Rhode Island any satisfaction at all when you impose a tax on the fuel we must use and you are going to decontrol domestic oil and you are going to deregulate natural gas.

Talk about arithmetic, you do not even have to be a grammar school graduate to understand that the price is going to go up. They are going to give you a couple of dollars in your left pocket and take it out of your right pocket.

I do not think that is the way to give the relief we need at this time, and I hope the President will reconsider that suggestion.

Mr. MANSFIELD. Mr. President, may I say that I indicated that there were points of differences which are apparent. But I would also state that, in my opinion, those differences can be compromised, can be ironed out.

We will do our best to see that areas such as New England and Florida—which I am sure the President had in mind when he spoke in the Hall of the House of Representatives—will be given every consideration by him before he sends his messages down, and certainly by the appropriate committees of Congress which will hold hearings on his proposals.

Mr. PASTORE. I hope he does it before we freeze to death. [Laughter.]

ORDER FOR A SEGMENT OF THE RECORD TO BE SET ASIDE FOR ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a segment of the RECORD be set aside for routine morning business today, so as to accommodate Senators who wish to introduce bills and to insert speeches.

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

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time taken by the Senate thus far not come out of the time allotted under the order to Mr. GRIFFIN and to me.

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

ROUTINE MORNING BUSINESS

(Routine morning business transacted by the Senate today is printed at this point in the RECORD by unanimous consent.)

MESSAGES FROM THE PRESIDENT RECEIVED AFTER ADJOURNMENT

The following messages from the President of the United States were received after the adjournment of the Congress, under the authority of the order of December 20, 1974.

DISAPPROVAL OF THE HEALTH REVENUE SHARING AND HEALTH SERVICES ACT OF 1974

December 23, 1974:

MEMORANDUM OF DISAPPROVAL

I have withheld my approval from H.R. 14214, the "Health Revenue Sharing and Health Services Act of 1974."

H.R. 14214 conflicts with my strong commitment to the American taxpayers to hold Federal spending to essential purposes. The bill authorizes appropriations of more than $1 billion over my recommendations and I cannot, in good conscience, approve it. These appropriation authorizations are almost double the funding levels I have recommended for Fiscal Year 1975 and almost triple the levels I believe would be appropriate for 1976.

As part of my effort to see that the burden upon our taxpayers does not increase, I requested the Congress last month to exercise restraint in expanding existing Federal responsibilities, and to resist adding new Federal programs to our already overloaded and limited Federal resources. These recommendations reflect my concern with both the need to hold down the Federal budget and the need to limit the Federal role to those activities which can make the most necessary and significant contributions.

In H.R. 14214, the Congress not only excessively increased authorizations for existing programs but also created several new ones that would result in an unjustified expenditure of Federal taxpayers' funds. Although the purposes of many of the programs authorized in this bill are certainly worthy, I just cannot approve this legislation because of its effect upon the economy through increased unwarranted Federal spending.

Finally, it should be pointed out that the Federal Government will spend almost $20 billion in 1975 through Medicare and Medicaid for the financing of health services for priority recipients—aged and low-income persons. These services are provided on the basis of national eligibility standards in Medicare and State eligibility standards in Medicaid and therefore are available to individuals in a more equitable and less restrictive manner than many of the programs authorized in H.R. 14214.

GERALD R. FORD.

THE WHITE HOUSE, *December 21, 1974.*

DISAPPROVAL OF AMENDMENT OF THE TENNESSEE VALLEY AUTHORITY ACT

December 23, 1974:

MEMORANDUM OF DISAPPROVAL

I have withheld my approval from H.R. 11929, "To amend section 15d of the Tennessee Valley Authority Act of 1933 to provide that expenditures for pollution control facilities will be credited against required power investment return payments and repayments."

This bill would permit TVA to defer or offset its repayment obligations to the United States Treasury about $85 million per year for 5 years because of expenditures required to install pollution control

equipment—and thereby enable TVA to postpone some rate increases otherwise required.

The people who are provided with electric power by the Tennessee Valley Authority have been subjected to substantial increases in power rates in recent months. I must point out, however, that consumers of electricity throughout the Nation have experienced similar rate increases for essentially the same reasons—the rising prices of fuel and materials, the cost of installing air pollution control equipment, and the rising cost of labor.

Nevertheless, TVA customers still pay among the lowest power rates of any region in the Nation—about 30 percent of rates in New York, 64 percent of Chicago, and 78 percent of Louisville, Kentucky.

No one likes to pay higher electric bills. But we must not allow this simple fact to result in new legislation which violates the fundamental principle that electricity should be priced to reflect its cost of production, including the cost of pollution abatement and control. My environmental advisers as well as my economic advisers agree with me that this principle must be upheld.

I see no basis in equity or in logic for departing from this principle in the case of the TVA, and for asking the general taxpayer to make up the difference in TVA power rates. To do so would be unfair to power consumers elsewhere in the Nation who do not have the benefit of Tennessee Valley Authority power facilities and who are required to bear the costs attributed to pollution control in their power bills.

GERALD R. FORD.

THE WHITE HOUSE, *December 23, 1974.*

DISAPPROVAL OF THE SURFACE MINING CONTROL AND RECLAMATION ACT OF 1974

December 30, 1974:

MEMORANDUM OF DISAPPROVAL

I am withholding my approval from S. 425, the Surface Mining Control and Reclamation Act of 1974.

S. 425 would establish Federal standards for the environmental protection and reclamation of surface coal mining operations, including the reclamation of orphaned lands. Under a complex procedural framework, the bill would encourage the States to implement and enforce a program for the regulation of surface coal mining with substitution of a federally administered program if the States do not act.

The Executive Branch submitted to both the 92nd and 93rd Congresses legislation that would have established reasonable and effective reclamation and environmental protection requirements for mining activities. Throughout this period, the Administration made every effort in working with the Congress to produce a bill that would strike the delicate balance between our desire for reclamation and environmental protection and our need to increase coal production in the United States.

Unfortunately, S. 425, as enrolled, would have an adverse impact on our domestic coal production which is unacceptable. By 1977, the first year after the Act would take full effect, the Federal Energy Administration has estimated that coal production losses would range from a minimum of 48 million tons to a maximum of 141 million tons. In addition, further losses which cannot be quantified could result from ambiguities in the bill, forcing protracted regulatory disputes and litigation. In my judgment, the most significant reasons why such coal losses cannot be accepted are as follows:

1. Coal is the one abundant energy source over which the United States has total control. We should not unduly impair our ability to use it properly.

2. We are engaged in a major review of national energy policies. Unnecessary restrictions on coal production would limit our Nation's freedom to adopt the best energy options.

3. The United States uses the equivalent of 4 barrels of expensive foreign oil for every ton of unproduced domestic coal—a situation which cannot long be tolerated without continued, serious economic consequences. This bill would exacerbate this problem.

4. Unemployment would increase in both the coal fields and in those industries unable to obtain alternative fuel.

In addition, S. 425 provides for excessive Federal expenditures and would clearly have an inflationary impact on the economy. Moreover, it contains numerous other deficiencies which have recently been addressed in Executive Branch communications to the Congress concerning this legislation.

In sum, I find that the adverse impact of this bill on our domestic coal production is unacceptable at a time when the Nation can ill afford significant losses from this critical energy resource. It would also further complicate our battle against inflation. Accordingly, I am withholding my approval from S. 425.

In doing so, I am truly disappointed and sympathetic with those in Congress who have labored so hard to come up with a good bill. We must continue to strive diligently to ensure that laws and regulations are in effect which establish environmental protection and reclamation requirements appropriately balanced against the Nation's need for increased coal production. This will continue to be my Administration's goal in the new year.

GERALD R. FORD.

THE WHITE HOUSE, *December 30, 1974.*

DISAPPROVAL OF THE ENERGY TRANSPORTATION SECURITY ACT OF 1974

December 30, 1974:

MEMORANDUM OF DISAPPROVAL

I am withholding my approval from H.R. 8193, the Energy Transportation Security Act of 1974.

The bill would initially require that 20 percent of the oil imported into the United States be carried on U.S. flag tankers. The percentage would increase to 30 percent after June 30, 1977.

This bill would have the most serious consequences. It would have an adverse impact on the United States economy and on our foreign relations. It would create serious inflationary pressures by increasing the cost of oil and raising the prices of all products and services which depend on oil. It would further stimulate inflation in the ship construction industry and cut into the industry's ability to meet ship construction for the U.S. Navy.

In addition, the bill would serve as a precedent for other countries to increase protection of their industries, resulting in a serious deterioration in beneficial international competition and trade. This is directly contrary to the objectives of the trade bill which the Congress has just passed. In addition, it would violate a large number of our treaties of Friendship, Commerce, and Navigation.

Although this bill would undoubtedly benefit a limited group of our working population, such benefit would entail disproportionate costs and produce undesirable effects which could extend into other areas and industries. The waiver provisions which the Congress included in an effort to meet a few of my concerns fail to overcome the serious objections I have to the legislation.

Accordingly, I am not approving this bill because of the substantial adverse effect on the Nation's economy and international interests.

I wish to take this opportunity to reiterate my commitment to maintaining a strong U.S. Merchant Marine. I believe we can and will do this under our existing statutes and programs such as those administered by the Maritime Administration in the Department of Commerce.

GERALD R. FORD.

THE WHITE HOUSE, *December 30, 1974.*

DISAPPROVAL OF AMENDMENT OF THE PUBLIC HEALTH SERVICE ACT

January 3, 1975:

MEMORANDUM OF DISAPPROVAL

I have withheld my approval from H.R. 17085, a bill that would amend Title VIII of the Public Health Service Act to provide support for the training of nurses.

This measure would authorize excessive appropriations levels—more than $650 million over the three fiscal years covered by the bill. Such high Federal spending for nursing education would be intolerable at a time when even high priority activities are being pressed to justify their existence.

I believe nurses have played and will continue to play an invaluable role in the delivery of health services. The Federal taxpayer can and should selectively assist nursing schools to achieve educational reforms and innovations in support of that objective. The Administration's 1976 budget request will include funds for this purpose. Furthermore, I intend to urge the 94th Congress to enact comprehensive health personnel training legislation that will permit sup-

port of nurse training initiatives to meet the new problems of the 1970's.

This act inappropriately proposes large amounts of student and construction support for schools of nursing. Without any additional Federal stimulation, we expect that the number of active duty registered nurses will increase by over 50 percent during this decade.

Such an increase suggests that our incentives for expansion have been successful, and that continuation of the current Federal program is likely to be of less benefit to the Nation than using these scarce resources in other ways. One result of this expansion has been scattered but persistent reports of registered nurse unemployment particularly among graduates of associate degree training programs.

Today's very different outlook is not reflected in this bill. We must concentrate Federal efforts on the shortage of certain nurse specialists, and persistent geographic maldistribution. However, this proposal would allocate less than one-third of its total authorization to these problems. Moreover, it fails to come to grips with the problem of geographic maldistribution.

Support for innovative projects—involving the health professions, nursing, allied health, and public health—should be contained in a single piece of legislation to assure that decisions made in one sector relate to decisions made in another, and to advance the concept of an integrated health service delivery team. By separating out nursing from other health personnel categories, this bill would perpetuate what has in the past been a fragmented approach.

The enrolled bill would also extend various special nursing student assistance provisions of current law. Nursing students are overwhelmingly undergraduates, and as such should be—and are—entitled to the same types of student assistance available generally under the Office of Education's programs for post secondary education. These include, in particular, guaranteed loans and basic educational opportunity grants for financially hard-pressed students. Categorical nursing student assistance activities are not appropriate and should be phased out, as the Administration has proposed.

GERALD R. FORD.

THE WHITE HOUSE, *January 2, 1975:*

PRICE SUPPORT FOR MILK

January 3, 1975:

MEMORANDUM OF DISAPPROVAL

I am withholding my approval from S. 4206, entitled "an act to provide price support for milk at not less than 85 percentum of the parity price therefor, and for other purposes."

This bill would require an immediate increase of $1.12 per hundredweight in the support price for milk, to a record high $7.69. Thereafter, through March 31, 1976, further upward adjustments would be required every three months as necessary to reflect changes in the parity index and parity price for milk.

Such large increases in milk prices to producers would be highly inflationary to consumers and unnecessary. The initial increase alone would raise fluid milk prices to consumers by about 6 cents per half gallon of milk and require increasing CCC's purchase price for cheese, and subsequently market prices, 11 or 12 cents per pound. Correspondingly large increases in the support purchase prices for butter and nonfat dry milk also would be required to carry out the higher support price for milk.

These significantly higher prices would be inconsistent with the Administration's continued and concerted efforts to combat inflation and its serious effects on the Nation's economy. Moreover, such prices would ultimately be damaging to the dairy industry and milk producers.

Consumers are resisting prices they must now pay for milk and other dairy products. To artificially force prices still higher, as this legislation would do, would result in further declines in consumption and be a strong stimulus to excess milk production.

To further reduce the demand for milk and dairy products by the increased prices provided in this legislation would be detrimental to the dairy industry. A dairy farmer cannot be well served by Government action that prices his product out of the market. It also would be detrimental since the Government would be required to buy the large surpluses of manufactured dairy products which this legislation would generate. This would cost taxpayers more than $400 million during the life of the bill.

It is clearly in the best interest of producers, consumers, taxpayers, and the Government that this legislation not be signed into law.

GERALD R. FORD.

THE WHITE HOUSE, *January 3, 1975.*

DISAPPROVAL OF EXTENSION OF TIME FOR USE OF FUNDS APPROPRIATED FOR THE RURAL ENVIRONMENTAL ASSISTANCE PROGRAM

January 4, 1975:

MEMORANDUM OF DISAPPROVAL

I am withholding my approval from S. 3943, a bill "to extend the time for using funds appropriated to carry out the 1973 Rural Environmental Assistance Program and the 1974 Rural Environmental Conservation Program."

The bill would extend from December 31, 1974, to December 31, 1975, the time within which farmers may request and receive approval of cost-sharing assistance under the 1973 Rural Environmental Assistance Program (REAP) and the 1974 Rural Environmental Conservation Program (RECP). In total, this bill would make $125,000,000 available to farmers for water and soil conservation practices which would otherwise not be available beyond December 31, 1974.

In my judgment, this bill is not necessary because sufficient cost-share funds have been made available for producers to finance sound conservation practices. Those producers interested in these programs have had adequate time to request and receive approval of these cost-share funds by the end of December 1974. I understand that those farmers, who have started approved conservation practices during the allotted time and were unable to complete them because of weather or other uncontrollable circumstances, will be permitted to complete these practices and receive cost-sharing assistance during 1975.

This Administration shares the view that REAP and RECP have made important contributions to conservation and the rural environment. However, the programs have long ago achieved their objectives. These programs were initiated in the 1930's to supplement farmers' incomes and provide incentives to farmers to install soil and water conservation practices. They were successful in demonstrating the value of conservation as a good farming practice. Many of the practices supported by the programs are profitable without Federal assistance and the supplementary income from this source has diminished in importance at a time when net farm income is near an all-time high.

It is, therefore, my earnest opinion that this bill is both unnecessary and unjustified, and on that basis I withhold my approval.

GERALD R. FORD.

THE WHITE HOUSE, *January 3, 1975.*

DISAPPROVAL OF AMENDMENT OF THE AGRICULTURAL MARKETING AGREEMENT ACT

January 4, 1975:

MEMORANDUM OF DISAPPROVAL

I am withholding my approval from H.R. 2933, a bill which would amend the Agricultural Marketing Agreement Act to make existing grade and quality restrictions on certain imported commodities applicable to imported filberts.

In my judgment, the bill would be unfair to the American consumer and the American farmer, as well as prejudicial to the interests of American trade policy.

H.R. 2933 would be unfair to the consumer because it could unnecessarily increase prices for filbert products. Existing law already requires all imported foodstuffs to meet health standards prescribed under the Food and Drug Act.

The bill could also produce unfair consequences for the farmer by causing the loss of some of his important markets abroad. It could result at best in comparatively limited benefits for domestic producers while risking retaliation from abroad against the larger volume of other products exported by our farmers.

Finally, the bill would be prejudical to our trade policy because it would be inconsistent with our obligations under the General Agreements on Tariffs and Trade. It would erect a non-tariff trade barrier at a time when we are trying to persuade other nations to dismantle theirs.

Although there are other commodities which are subject to the same statutory restrictions that H.R. 2933 would impose on filberts, no new commodities have been included in that list since January of 1971. I cannot in good conscience support the addition of a new commodity

just after signing into law the new Trade Act which has a major aim of eliminating non-tariff trade barriers.

For the foregoing reasons, I am compelled to withhold my approval from H.R. 2933.

GERALD R. FORD.

THE WHITE HOUSE, *January 3, 1975.*

DISAPPROVAL OF DESIGNATION OF THE PRESIDENT GERALD R. FORD FEDERAL OFFICE BUILDING

January 4, 1975:

MEMORANDUM OF DISAPPROVAL

I have today vetoed H.R. 11897, a bill which would name the United States Courthouse and Federal Office Building in Grand Rapids, Michigan, the "President Gerald R. Ford Federal Office Building."

Although I appreciate the honor expressed by the Congress in enacting this legislation, I intend to continue the policy of past Administrations that the executive branch not endorse the naming of Federal office buildings. Generally, the executive branch has deferred to the desires of the Congress on such matters.

However, I know of no Federal office buildings that have been named for a President while still in office. This legislation might begin a precedent I believe it best not to establish.

The proposed naming of this facility for me in my home community is a great honor, and one for which I am deeply grateful; however, for the reasons I have assigned above I feel I cannot sign H.R. 11897.

GERALD R. FORD.

THE WHITE HOUSE, *January 4, 1975.*

DISAPPROVAL OF AUTHORIZATION OF APPROPRIATIONS FOR THE MARITIME ADMINISTRATION

January 4, 1975:

MEMORANDUM OF DISAPPROVAL

I am withholding my approval from H.R. 13296, a bill to authorize appropriations for the Maritime Administration.

This is the annual appropriations authorization bill for certain activities of the Maritime Administration in the Department of Commerce. I would be pleased to approve the measure if it were limited to those authorizations.

Unfortunately, the Congress added an unacceptable amendment which would require the Federal Government to reimburse U.S. flag fishing vessel owners for damage to their equipment by foreign flag ships.

The amendment would require the Secretary of Commerce to provide interest free loans to fishermen to cover the property and the value of produce lost as a result of damage caused by foreign vessels operating in the area of the U.S. Continental Shelf. If an ensuing investigation proved the loss was caused soley by a foreign ship, the loan repayment would be cancelled and the United States would attempt to recover claims from the government of the foreign national involved. The program would be retroactive to January 1, 1972, for claims already filed.

This idemnity program would pose serious problems of administration because it would be difficult to establish responsibility for any damage caused. Futhermore, since the bill provides no basis for advance review of the recipient's financial ability to repay a loan, the Commerce Department could find itself in the position of holding a group of bad debts. At the same time, claims for damage would be difficult to validate and the result would essentially be a grant program with few effective restraints.

Moreover, this program sets a precedent for the Federal relief of private parties from the actions of foreign nationals. Currently, relief is extended only to fishermen whose vessels are the victims of actions by foreign governments beyond recognized territorial limits. International procedures now exist through which claims against foreign nationals can be asserted and adjudicated and these should be used in preference to a Federal indemnity program.

I urge the Congress to pass once again the appropriations authorizations provisions of the bill early in the next session. Meanwhile, the programs covered by these authorizations and funded by appropriations already enacted can be continued under the continuing resolution which runs through February 28, 1975.

GERALD R. FORD.

THE WHITE HOUSE, *January 4, 1975.*

DISAPPROVAL OF THE TRAVEL EXPENSES AMENDMENTS ACT OF 1974

January 6, 1975:

MEMORANDUM OF DISAPPROVAL

I have withheld my approval from S. 3341, the "Travel Expenses Amendments Act of 1974."

This bill would raise the maximum per diem allowance and mileage rates for civilian Government employees traveling on official business. I endorse this proposal. Unfortunately, a provision was added to the bill which would establish a rigid system of mileage reimbursement to the disabled veteran—with no discretionary authority for payment of a lesser amount where justified when the veteran was authorized to travel for treatment.

This provision assumes that there are great similarities in the travel situations of Veterans Administration beneficiaries and Federal employees who are away from home on Government business. This is not the case, however. Generally, a short span of time and distance is involved in VA beneficiary travel to a facility for vocational rehabilitation, counseling and health care, while Government employees may be traveling for days or weeks at a time. The employee per diem is designed to pay for necessary living expenses during this period, including those of lodging and meals.

Under this bill, Government employees using their privately owned vehicles may be reimbursed at the minimum 15¢ per mile, or at a rate comparable to the cost to the Government if the employee used a Government-owned vehicle. This flexibility would be continued for Government employee travel under the bill passed by the Congress. However, such management flexibility would not be applicable to travel of VA beneficiaries. The result would be the required payment of unwarranted mileage rates that would add an estimated $25 million a year to the VA budget.

The Administration will ask the 94th Congress for a new bill to raise the maximum per diem and mileage rates for Federal employees which have been inadequate for some time. Many Federal employees who are required to travel in connection with their work have suffered considerable out-of-pocket expenses in recent years. This should be rectified as soon as possible.

GERALD R. FORD.

THE WHITE HOUSE, *December 31, 1974.*

APPROVAL OF BILLS AND JOINT RESOLUTIONS

On January 8, 1975, a message from the President of the United States was received stating that he had approved and signed the following bills and joint resolutions:

December 18, 1974

S. 1353, An Act to deduct from gross tonnage in determining net tonnage those spaces on board vessels used for waste materials.

S. 3906, An Act to amend title 10, United States Code, by repealing the requirement that only certain officers with aeronautical ratings may command flying units of the Air Force.

December 19, 1974

S. 4016, An Act to protect and preserve tape recordings of conversations involving former President Richard M. Nixon and made during his tenure as President, and for other purposes.

December 21, 1974

S. 782, An Act to reform consent decree procedures, to increase penalties for violation of the Sherman Act, and to revise the Expediting Act as it pertains to Appellate Review.

S. 4040, An Act to amend title 38 of the United States Code to liberalize the provisions relating to payment of disability and death pension and dependency and indemnity compensation, to increase income limitations, and for other purposes.

December 22, 1974

S. 2193, An Act to provide for increased participation by the United States in the Asian Development Bank.

S. 2363, An Act to amend chapter 39 of title 38, United States Code, relating to automobiles and adaptive equipment for certain disabled veterans and members of the Armed Forces.

S. 3164, An Act to further the national housing goal of encouraging homeownership by regulating certain lending practices and closing and settlement procedures in federally related mortgage transactions to the end that unnecessary costs and difficulties of purchasing housing are minimized, and for other purposes.

December 26, 1974

S.J. Res. 234, Joint Resolution transferring to the State of Alaska certain archives and records in the custody of the National Archives of the United States.

S.J. Res. 263, Joint Resolution amending the National Housing Act to clarify the authority of the Federal Savings and Loan Insurance Corporation with respect to the in-

surance of public deposits, and for other purposes.

S. 2343, An Act to authorize the Secretary of the Interior to convey, by quitclaim deed, all right, title, and interest of the United States in and to certain lands in Coeur d'-Alene, Idaho, in order to eliminate a cloud on the title to such lands.

December 27, 1974

S.J. Res. 260, Joint Resolution relative to the convening of the first session of the Ninety-fourth Congress.

S. 3397, An Act for the relief of Jose Ismarnardo Reyes-Morelos.

S. 3578, An Act for the relief of Anita Tomasi.

S. 4013, An Act to amend the Act incorporating the American Legion so as to redefine eligibility for membership therein.

December 30, 1974

S.J. Res. 224, Joint Resolution to authorize and request the President to issue a proclamation designating January, 1975, as "March of Dimes Birth Defects Prevention Month."

S. 939, An Act to amend the Admission Act for the State of Idaho to permit that State to exchange public lands, and for other purposes.

S. 3191, An Act to amend title 10, United States Code, to provide that commissioned officers of the Army in regular grades below major may be involuntarily discharged whenever there is a reduction in force.

S. 3394, An Act to amend the Foreign Assistance Act of 1961, and for other purposes.

December 31, 1974

S.J. Res. 40, Joint Resolution to authorize and request the President to call a White House Conference on Library and Information Services not later than 1978, and for other purposes.

S. 184, An Act to authorize and direct the Secretary of the Interior to sell interests of the United States in certain lands located in the State of Alaska to the Gospel Missionary Union.

S. 194, An Act to authorize the Secretary of the Interior to convey to the city of Anchorage, Alaska, interests of the United States in certain lands.

S. 1283, An Act to establish a national program for research and development in nonnuclear energy sources.

S. 1357, An Act for the relief of Mary Red Head.

S. 2125, An Act to amend the Act of June 9, 1906, entitled "An Act granting land to the city of Albuquerque for public purposes" (34 Stat. 227), as amended.

S. 2594, An Act for the relief of Jan Sejna.

S. 2838, An Act for the relief of Michael D. Manemann.

S. 3418, An Act to amend title 5, United States Code, by adding a section 552a to safeguard individual privacy from the misuse of Federal records, to provide that individuals be granted access to records concerning them which are maintained by Federal agencies, to establish a Privacy Protection Study Commission, and for other purposes.

S. 3489, An Act to authorize exchange of lands adjacent to the Teton National Forest in Wyoming, and for other purposes.

S. 3518, An Act to remove the cloud on title with respect to certain lands in the State of Nevada.

S. 3574, An Act to relinquish and disclaim any title to certain lands and to authorize the Secretary of the Interior to convey certain lands situated in Yuma County, Arizona.

S. 3615, An Act to authorize the Secretary of the Interior to transfer certain lands in the State of Colorado to the Secretary of Agriculture for inclusion in the boundaries of the Arapaho National Forest, Colorado.

S. 3976, An Act to amend title 17 of the United States Code to remove the expiration date for a limited copyright in sound recordings, to increase the criminal penalties for piracy and counterfeiting of sound recordings, to extend the duration of copyright protection in certain cases, to establish a National Commission on New Technological Uses of Copyrighted Works, and for other purposes.

January 2, 1975

S. J. Res. 133, Joint Resolution to provide for the establishment of the American Indian Policy Review Commission.

S.J. Res. 262, Joint Resolution authorizing the Architect of the Capitol to permit certain temporary and permanent construction work on the Capitol Grounds in connection with the erection of an addition to a building on privately owned property adjacent to the Capitol Grounds.

S. 251, An Act to declare that certain land of the United States is held by the United States in trust for the Cheyenne-Arapaho Tribes of Oklahoma.

S. 544, An Act to amend title 18 of the United States Code to permit the transportation, mailing, and broadcasting of advertising, information, and materials concerning lotteries authorized by law and conducted by a State, and for other purposes.

S. 663, An Act to improve judicial machinery by amending title 28, United States Code, with respect to judicial review of decisions of the Interstate Commerce Commission, and for other purposes.

S. 1418, An Act to recognize the fifty years of extraordinary and selfless public service of Herbert Hoover, including his many great humanitarian endeavors, his chairmanship of two Commissions of the Organization of the Executive Branch, and his service as thirty-first President of the United States, and in commemoration of the one hundredth anniversary of his birth on August 10, 1974, by providing grants to the Hoover Institution on War, Revolution, and Peace.

S. 2149, An Act to amend title 10, United States Code, to provide certain benefits to members of the Coast Guard Reserve, and for other purposes.

S. 2446, An Act for the relief of Charles William Thomas, deceased.

S. 2807. An Act to name the Federal building, United States post office, United States courthouse, in Brunswick, Georgia, as the "Frank M. Scarlett Federal Building".

S. 2888, An Act to convey certain land of the United States to the Inter-Tribal Council, Incorporated, Miami, Oklahoma.

S. 3289, An Act to amend the Act of August 10, 1939 (53 Stat. 1347), and for other purposes.

S. 3358, An Act to authorize the conveyance of certain lands to the United States in trust for the Absentee Shawnee Tribe of Indians of Oklahoma.

S. 3359, An Act to authorize the conveyance of certain lands to the United States in trust for the Citizen Band of Pottawatomie Indians.

S. 4073, An Act to extend certain authorizations under the Federal Water Pollution Control Act, as amended, and for other purposes.

January 3, 1975

S. 251, An Act for the relief of Frank P. Muto, Alphonso A. Muto, Arthur E. Scott, F. Clyde Wilkinson, Arthur D. O'Neill, Joseph H. Avery, Junior, Joshua Cosden, Keith Jewell, Bertha Seelmeyer, Thomas Dennis O'Neill, Robert H. Brockhurst, Michael Senko, Salvatore La Capria, C. J. Moore III, and Ann C. Siegal.

S. 754, An Act to assist in reducing crime and the danger of recidivism by requiring speedy trials and by strengthening the supervision over persons released pending trial, and for other purposes.

S. 1296. An Act to further protect the outstanding scenic, natural, and scientific values of the Grand Canyon by enlarging the Grand Canyon National Park in the State of Arizona, and for other purposes.

S. 3022, An Act to amend the Wild and Scenic Rivers Act (82 Stat. 906), as amended, to designate segments of certain rivers for possible inclusion in the national wild and scenic rivers system; to amend the Lower Saint Croix River Act of 1972 (86 State 1174), and for other purposes.

S. 3433. An Act to further the purposes of the Wilderness Act by designating certain acquired lands for inclusion in the National Wilderness Preservation System, to provide for study of certain additional lands for such inclusion, and for other purposes.

S. 3481, An Act to amend the Federal Aviation Act of 1958 to deal with discriminatory and unfair competitive practices in international air transportation, and for other purposes.

January 4, 1975

S. 356, An Act to provide minimum disclosure standards for written consumer product warranties; to define minimum Federal content standards for such warranties; to amend the Federal Trade Commission Act in order to improve its consumer protection activities; and for other purposes.

S. 1017, An Act to provide maximum Indian participation in the Government and education of the Indian people; to provide for the full participation of Indian tribes in programs and services conducted by the Federal Government for Indians and to encourage the development of human resources of the Indian people; to establish a program of assistance to upgrade Indian education; to support the right of Indian citizens to control their own educational activities; and for other purposes.

S. 1083, An Act to amend certain provisions of Federal law relating to explosives.

S. 2854, An Act to amend the Public Health Service Act to expand the authority of the National Institute of Arthritis, Metabolism, and Digestive Diseases in order to advance a national attack on arthritis.

S. 2994, An Act to amend the Public Health Service Act to assure the development of a national health policy and of effective State and area health planning and resources development programs, and for other purposes.

S. 3548. An Act to establish the Harry S Truman memorial scholarships, and for other purposes.

S. 3934, An Act to authorize appropriations for the construction of certain highways in accordance with title 23 of the United States Code, and for other purposes.

MESSAGE FROM THE PRESIDENT

Under the authority of the order of December 20, 1974, a message from the President of the United States was received on December 31, 1974, during the adjournment of the Senate, transmitting the Sixth Annual Report on the National Housing Goal. The message is as follows:

To the Congress of the United States:

I herewith transmit the Sixth Annual Report on the National Housing Goal as required by section 1603 of the Housing and Urban Development Act of 1968.

GERALD R. FORD.

THE WHITE HOUSE, *December 31, 1974.*

MESSAGE FROM THE HOUSE

Under authority of the order of December 20, 1974, a message from the House of Representatives was received on December 20, 1974, after the adjournment of the Senate, which stated that the House 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. 14449) to provide for the mobilization of community development and assistance services and to establish a Community Action Administration in the Department of Health, Education, and Welfare to administer such programs.

APPOINTMENT DURING SINE DIE ADJOURNMENT

On January 13, 1975, during the sine die adjournment, the President pro tempore, pursuant to Public Law 92-489, appointed the Senator from Hawaii (Mr. FONG) to the Commission on Revision of the Federal Court Appellate System, in lieu of the Senator from Florida (Mr. GURNEY), retired.

MESSAGE FROM THE HOUSE

ENROLLED JOINT RESOLUTION SIGNED

At 12:10 p.m., a message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the Speaker has signed the enrolled joint resolution (H.J. Res. 1) extending the time within which the President may transmit the Budget Message and the Economic Report to the Congress.

The enrolled joint resolution was subsequently signed by the Vice President.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the VICE PRESIDENT:

A resolution adopted by the Legislature of the Territory of Guam; to the Committee on Commerce:

RESOLUTION No. 323

Relative to requesting that the Civil Aeronautics Board disapprove any application or filing which would reduce or suspend service by Trans World Airlines to the territory of Guam.

Be it resolved by the Legislature of the Territory of Guam:

Whereas, Trans World Airlines has contributed greatly to the territory of Guam's economic growth and development during the period of time it has served the residents of the territory of Guam as Trans World Airlines employs many local residents whose wages are returned to the local economy and recycled again and again as a result of the multiplier effect; and

Whereas, in addition to its employment of local residents, Trans World Airlines transports many visitors and tourists to the territory of Guam thereby contributing greatly to Guam's present enviable status as a major tourist attraction; and

Whereas, it has come to the attention of the Twelfth Guam Legislature that there is, presently pending before the Civil Aeronautics Board, an application which would have the effect, if approved, of suspending service presently provided by Trans World Airlines thereby drastically reducing competition between airlines serving Guam; and

Whereas, it is imperative that the territory of Guam, which is so dependent upon air traffic to and from the mainland, be assured of continuous service so that its most vital link with the mainland can be preserved; and

Whereas, for many years Guam experienced monopolistic practices with respect to airline service and as a result the people of the territory of Guam were greatly inconvenienced as evidenced by the fact that during the peak months it became impossible for many people to vacation and conduct business on the mainland; and

Whereas, the people of the territory of Guam through the adoption of Resolution No. 316 have respectfully requested Congress to lend every assistance to Pan American World Airways so that it can overcome its present economic crisis this being concrete evidence that the people of the territory of Guam are opposed to any action which would reduce competition or suspend the present level of airline services afforded this vital United States territory; now therefore be it

Resolved, that the Twelfth Guam Legislature does hereby on behalf of the people of Guam respectfully request that the Civil Aeronautics Board disapprove any action, application or filing which would suspend or reduce the present level of service by Trans-World Airlines to the territory of Guam; and be it further

Resolved, that the Speaker certify to and the Legislative Secretary attest the adoption hereof and that copies of the same be thereafter transmitted to the Speaker of the House of Representatives, to the President of the Senate, to the Honorable Howard W. Cannon, Chairman of the Subcommittee on Aviation of the Senate Commerce Committee, to the Honorable John Jarman, Chairman of the Subcommittee on Transportation and Aeronautics of the House Interstate and Foreign Commerce Committee, to Congressman A. B. Won Pat, to Robert D. Timm, Chairman, Civil Aeronautics Board, to Graham Hollenbeck, Trans World Airlines' General Manager on Guam, and to the Governor of Guam.

Duly and regularly adopted on the 4th day of December, 1974.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

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

REPORT OF THE NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

A letter from the Administrator of the National Aeronautics and Space Administration transmitting, pursuant to law, a list of present and former NASA employees who have filed reports pertaining to their NASA and aerospace-related industry employment for the fiscal year ended June 30, 1974 (with an accompanying list); to the Committee on Aeronautical and Space Sciences.

REPORT OF THE NATIONAL FOREST RESERVATION COMMISSION

A letter from the Acting Secretary of the Army transmitting, pursuant to law, the report of the National Forest Reservation Commission for the fiscal year ended June 30, 1974 (with an accompanying report); to the Committee on Agriculture and Forestry.

REPORT ON APPROPRIATION FOR MEDICAL CARE TO THE VETERANS' ADMINISTRATION

A letter from the Deputy Director of the Office of Management and Budget reporting, pursuant to law, that the appropriation to the Veterans' Administration for medical care for the fiscal year 1975, indicating the necessity for a supplemental estimate of appropriation; to the Committee on Appropriations.

REPORT ON APPROPRIATION FOR READJUSTMENT BENEFITS TO THE VETERANS' ADMINISTRATION

A letter from the Director of the Office of Management and Budget reporting, pursuant to law, that the appropriation for readjustment benefits to the Veterans' Administration has been apportioned on a basis indicating the need for a supplemental estimate of appropriation; to the Committee on Appropriations.

FINAL DETERMINATION OF THE INDIAN CLAIMS COMMISSION IN THE CASE OF THE SAC AND FOX TRIBE OF INDIANS OF OKLAHOMA, ET AL.

A letter from the Chairman of the Indian Claims Commission transmitting, pursuant to law, its final determination in the case of the Sac and Fox Tribe of Indians of Oklahoma, et al. against the United States; to the Committee on Appropriations.

REPORT ON DEFICIENCY BY THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

A letter from the Chairman of the Equal Employment Opportunity Commission reporting, pursuant to law, on a violation constituting a deficiency in account for salaries and expenses totaling $800,000; to the Committee on Appropriations.

REPORTS ON MILITARY CONSTRUCTION PROJECTS

A letter from the Deputy Assistant Secretary of Defense transmitting, pursuant to law, reports of military construction projects placed under contract in fiscal year 1974 exceeding the amount authorized for such project by more than 25 percent (with accompanying papers); to the Committee on Armed Services.

MILITARY PERSONNEL POLICY

A letter from the Deputy Assistant Secretary of Defense transmitting, pursuant to law, a list of present or former officers or employees filing reports for the fiscal year 1974 (with accompanying papers); to the Committee on Armed Services.

REPORT ON EXPORT ADMINISTRATION

A letter from the Secretary of Commerce transmitting, pursuant to law, the quarterly report on export administration covering the second quarter of 1974 (with an accompanying report); to the Committee on Banking, Housing and Urban Affairs.

LOAN, GUARANTEE, AND INSURANCE TRANSACTIONS SUPPORTED BY EXIMBANK

A letter from the President and Chairman, Export-Import Bank of the United States, reporting, pursuant to law, on loan, guarantee, and insurance transactions supported by Eximbank of Yugoslavia, Romania, the Union of Soviet Socialist Republics, and Poland during October 1974; to the Committee on Banking, Housing and Urban Affairs.

ANNUAL REPORT ON TRUTH IN LENDING, 1974

A letter from the Board of Governors of the Federal Reserve System, transmitting, pursuant to law, the sixth annual report of the Board of Governors of the Federal Reserve System on truth in lending (with an accompanying report); to the Committee on Banking, Housing and Urban Affairs.

REPORT OF THE SECRETARY OF COMMERCE

A letter from the Secretary of Commerce, transmitting, pursuant to law, the 62d Annual Report of the Secretary of Commerce for the fiscal year ended June 30, 1974 (with an accompanying report); to the Committee on Commerce.

REPORT OF THE INTERSTATE COMMERCE COMMISSION

A letter from the Chairman, Interstate Commerce Commission, transmitting, pursuant to law, the 88th Annual Report of the Interstate Commerce Commission for the 1974 fiscal year (with an accompanying report); to the Committee on Commerce.

REPORT OF THE NATIONAL RAILROAD PASSENGER CORPORATION, NOVEMBER 1974

A letter from the Vice President, Government and Public Affairs, National Railroad Passenger Corporation, transmitting, pursuant to law, a report on the average number of passengers per day on board each train operated, and the on-time performance at

the final destination of each train operated, by route and by railroad (with an accompanying report); to the Committee on Commerce.

REPORT OF THE FEDERAL POWER COMMISSION

A letter from the Chairman, Federal Power Commission, transmitting, pursuant to law, a report showing information on the permits and licenses for hydroelectric projects issued by the Federal Power Commission during the fiscal year ended June 30, 1974; financial statements of proceeds derived from licenses issued by authority of the Federal Power Act; and the names and compensation of persons employed by the Commission during that period (with an accompanying report); to the Committee on Commerce.

REPORT OF THE DISTRICT OF COLUMBIA CITY COUNCIL

A letter from the Chairman, Government of the District of Columbia City Council, transmitting, pursuant to law, the Sixth Annual Report of the District of Columbia City Council, July 1, 1973–June 30, 1974 (with an accompanying report); to the Committee on the District of Columbia.

PROGRESS REPORT OF ACTION ON THE REPORT BY THE COMMISSION ON THE ORGANIZATION OF THE GOVERNMENT OF THE DISTRICT OF COLUMBIA

A letter from the Mayor-Commissioner, The District of Columbia, transmitting, pursuant to law, a progress report of action on the report by the Commission on the Organization of the Government of the District of Columbia (with an accompanying report); to the Committee on the District of Columbia.

ANNUAL REPORT OF THE PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA

A letter from the Executive Secretary, Public Service Commission of the District of Columbia, transmitting, pursuant to law, the 61st Annual Report of the Public Service Commission of the District of Columbia for the calendar year 1973 (with an accompanying report); to the Committee on the District of Columbia.

REPORT OF THE CHESAPEAKE & POTOMAC TELEPHONE CO.

A letter from the vice president and general manager, The Chesapake & Potomac Telephone Co., transmitting, pursuant to law, a report of The Chesapeake & Potomac Telephone Co. for the year 1974 (with an accompanying report); to the Committee on the District of Columbia.

REPORT OF THE SECRETARY OF THE TREASURY

A letter from the Secretary of the Treasury transmitting, pursuant to law, the annual report on the state of the finances of the United States Government for the fiscal year ending June 30, 1974 (with an accompanying report); to the Committee on Finance.

FINANCIAL STATEMENT OF THE SECRETARY OF THE TREASURY

A letter from the Secretary of the Treasury transmitting, pursuant to law, the combined statement of receipts, expenditures, and balances of the United States Government for the fiscal year ended June 30, 1974 (accompanying report); to the Committee on Finance.

REPORT OF THE SECRETARY OF HEALTH, EDUCATION, AND WELFARE

A letter from the Secretary of Health, Education, and Welfare, transmitting, pursuant to law, a report on the committees which advise and consult with him or his designees in carrying out his functions under the Social Security Act (with an accompanying report); to the Committee on Finance.

REPORT ON THE OPERATION OF THE TRADE AGREEMENTS PROGRAM, 1973

A letter from the Chairman, United States Tariff Commission, transmitting, pursuant to law, the 25th report of the United States Tariff Commission on the operation of the trade agreements program, covering calendar year 1973 (with an accompanying report); to the Committee on Finance.

INTERNATIONAL AGREEMENTS ENTERED INTO BY THE UNITED STATES

Two letters from the Assistant Legal Adviser for Treaty Affairs, transmitting, pursuant to law, international agreements other than treaties entered into by the United States within 60 days after the execution thereof (with accompany papers); to the Committee on Foreign Relations.

REPORT ON EXCESS DEFENSE ARTICLES DELIVERED TO FOREIGN COUNTRIES

A letter from the Assistant Secretary for Congressional Relations, Department of State, reporting, pursuant to law, on excess defense articles delivered to foreign countries (with accompanying papers); to the Committee on Foreign Relations.

REPORT ON INVENTORY OF NONPURCHASED FOREIGN CURRENCIES AS OF JUNE 30, 1974

A letter from the Fiscal Assistant Secretary, the Department of the Treasury, transmitting, pursuant to law, a report on Inventory of Nonpurchased Foreign Currencies as of June 30, 1974 (with an accompanying report); to the Committee on Foreign Relations.

REPORT ON PRIVATE GRIEVANCES AND REDRESS, THE FEDERAL ENERGY ADMINISTRATION

A letter from the Administrator, Federal Energy Administration, transmitting, pursuant to law, a report on private grievances and redress of the Federal Energy Administration (with an accompanying report); to the Committee on Government Operations.

DISPOSITION OF FOREIGN EXCESS PERSONAL PROPERTY

A letter from the Assistant Secretary of Defense, transmitting, pursuant to law, the annual report of the Department of Defense relative to its disposition of foreign excess personal property located in areas outside of the United States, Puerto Rico and the Virgin Islands (with an accompanying report); to the Committee on Government Operations.

REPORTS OF THE COMPTROLLER GENERAL

A letter from the Comptroller General of the United States regarding a report to the Congress entitled "How Ship Transfers to Other Countries Are Financed" (with accompanying papers); to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a list of reports of the General Accounting Office, December 1974 (with an accompanying list); to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on achievements, problems, and uncertainties in isolating high-level radioactive waste from the environment by the Atomic Energy Commission (with an accompanying report); to the Committee on Government Operations.

A letter from the Comtproller General of the United States, transmitting, pursuant to law, a report on observations of the Special Supplemental Food Program administered by the Food and Nutrition Service, Department of Agriculture (with an accompanying report); to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on the need to improve the long-term impact of the Law Enforcement Administration grant program, Law Enforcement Assistant Administration, Department of Justice (with an accompanying report): to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on life cycle cost estimating—its status and potential use in major weapon system acquisitions by the Department of Defense (with an accompanying report); to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on the progress and problems of Federal library support programs, Office of Education, Department of Health, Education, and Welfare (with an accompanying report); to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled, "Efforts to Stop Narcotics and Dangerous Drugs Coming From and Through Mexico and Central America," Drug Enforcement Administration, Department of Justice, Department of State (with an accompanying report); to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on how management of Federal Supply Service procurement programs can be improved by the General Services Administration (with an accompanying report); to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on the need for a uniform method for paying interest on Government trust funds (with an accompanying report); to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report pointing out that a reduction in Federal expenditures is possible through Commodity Credit Corporation's assumption of insured warehousing risks, Department of Agriculture (with an accompanying report); to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on the role of Federal assistance for vocational education, Office of Education, Department of Health, Education, and Welfare (with an accompanying report); to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on the substantial staff and cost reductions possible at military telecommunications centers through use of uniform staffing standards, Department of Defense (with an accompanying report); to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on improvements needed to speed implementation of Medicaid's Early and Periodic Screening, Diagnosis, and Treatment program, Social and Rehabilitation Service, Department of Health, Education, and Welfare (with an accompanying report); to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on housing for the elderly—factors which should be evaluated before deciding on low- or high-rise construction, Department of Housing and Urban Development (with an accompanying report); to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on national rural development efforts and the impact of Federal programs on a 12-county rural area in South Dakota, Department of Agriculture and other Federal agencies (with an accompanying report); to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report concerning the progress being made on United States-Soviet Union cooperative programs (with an accompanying report); to the Committee on Government Operations.

PROJECT PROPOSALS UNDER THE SMALL RECLAMATION PROJECTS ACT

A letter from the Deputy Assistant Secretary of the Interior reporting, pursuant to law, on the receipt of project proposals under the provisions of the Small Reclamation Projects Act of 1956; to the Committee on Interior and Insular Affairs.

PROPOSED DISTRIBUTION OF CHEYENNE RIVER SIOUX JUDGMENT FUNDS

A letter from the Acting Secretary of the Interior transmitting, pursuant to law, a proposed plan for the use and distribution of Cheyenne River Sioux judgment funds awarded before the Indian Claims Commission; to the Committe on Interior and Insular Affairs.

AMENDMENT TO PROPOSED PLAN FOR DISTRIBUTION OF CHIRICAHUA APACHE JUDGMENT FUNDS

A letter from the Secretary of the Interior transmitting, pursuant to law, an amendment to the proposed plan for the use and distribution of Chiricahua Apache judgment funds awarded by the Indian Claims Commission; to the Committee on Interior and Insular Affairs.

REPORT OF THE DEPARTMENT OF THE INTERIOR

A letter from the Secretary of the Interior transmitting, pursuant to law, the 1974–75 Annual Report on the coal conversion program (with an accompanying report); to the Committee on Interior and Insular Affairs.

PLAN FOR ASSUMPTION OF ASSETS OF MENOMINEE ENTERPRISES, INC.

A letter from the Acting Secretary of the Interior transmitting, pursuant to law, a plan for the assumption of the assets of Menominee Enterprises, Inc. (with an accompanying report); to the Committee on Interior and Insular Affairs.

REPORT ON MINERALS EXPLORATION ASSISTANCE PROGRAM

A letter from the Secretary of the Interior transmitting, pursuant to law, the annual report on the Minerals Exploration Assistance Program (with an accompanying report); to the Committee on Interior and Insular Affairs.

CONCESSION PERMIT FOR MARINE SERVICES FOR GLEN CANYON NATIONAL RECREATION AREA

A letter from the Deputy Assistant Secretary of the Interior, transmitting, pursuant to law, a concession permit under which Hite Marine, Inc., is authorized to continue to provide marine services for the public visiting Glen Canyon National Recreation Area for a term of five years from January 1, 1974 through December 31, 1978 (with accompanying papers); to the Committee on Interior and Insular Affairs.

PROPOSED CONTRACT FOR RESEARCH PROJECT ENTITLED "DEVELOPMENT OF CONICAL STABILIZERS FOR PILOT HOLE DRILLING"

A letter from the Deputy Assistant Secretary of the Interior, transmitting, pursuant to law, a proposed contract with Foster-Miller Associates, Inc., Waltham, Massachusetts, for a research project entitled "Development of Conical Stabilizers for Pilot Hole Drilling" (with accompanying papers); to the Committee on Interior and Insular Affairs.

PROPOSED POTOMAC HERITAGE TRAIL ACT OF 1974

A letter from the Acting Assistant Secretary of the Interior, transmitting a draft of proposed legislation to amend the National Trails System Act by designating the Potomac Heritage Trail located in portions of Maryland, Pennsylvania, Virginia, West Virginia, and the District of Columbia, as a component of the National Trails System (with accompanying papers); to the Committee on Interior and Insular Affairs.

ADDITIONAL PROJECTS TENTATIVELY SELECTED FOR FUNDING UNDER THE WATER RESOURCES RESEARCH ACT OF 1964

A letter from the Assistant Secretary of the Interior, transmitting, pursuant to law, descriptions of four additional projects tentatively selected for funding through grants, contracts, and matching or other arrangements with educational institutions, private foundations or other institutions, and with private firms, as authorized by section 200(a) of the Water Resources Research Act of 1964 (with accompanying papers); to the Committee on Interior and Insular Affairs.

REPORT ON COMPREHENSIVE PROGRAM PLAN FOR DEVELOPING GEOTHERMAL ENERGY RESOURCES

A letter from the Associate Director, Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, an interim report on a comprehensive program plan for developing geothermal energy resources (with an accompanying report); to the Committee on Interior and Insular Affairs.

RESEARCH PLAN FOR COMPENSATORY EDUCATION STUDY

A letter from the Acting Director, National Institute of Education, Department of Health, Education, and Welfare, transmitting, pursuant to law, the National Institute of Education's research plan for the study of compensatory education (with an accompanying document); referred to the Committee on Labor and Public Welfare.

STATE STUDENT INCENTIVE GRANT PROGRAM—NOTICE OF PROPOSED RULEMAKING

A letter from the Under Secretary of Health, Education, and Welfare, transmitting, pursuant to law, a notice of proposed rulemaking in state student incentive grant program (with accompanying papers); to the Committee on Labor and Public Welfare.

REPORT ON LEAD BASED PAINT POISONING

A letter from the Chairman, U.S. Consumer Product Safety Commission, transmitting, pursuant to law, a report of findings and recommendations with respect to the safe level of lead in residential paints (with an accompanying report); to the Committee on Labor and Public Welfare.

REPORT OF THE NATIONAL HEALTH SERVICE CORPS

A letter from the Secretary of Health, Education, and Welfare, transmitting, pursuant to law, the second annual report for calendar year 1973 of the National Health Service Corps (with an accompanying report); to the Committee on Labor and Public Welfare.

NOTICE OF PROPOSED RULEMAKING FOR THE ETHNIC HERITAGE STUDIES PROGRAM

A letter from the Under Secretary of Health, Education, and Welfare, transmitting, pursuant to law, notice of proposed rulemaking for the Ethnic Heritage Studies Program (with accompanying papers); to the Committee on Labor and Public Welfare.

PROPOSED REGULATIONS FOR EXEMPLARY PROJECTS IN VOCATIONAL EDUCATION

A letter from the Under Secretary of Health, Education, and Welfare, transmitting, pursuant to law, proposed regulations for Exemplary Projects in Vocational Education (with accompanying papers); to the Committee on Labor and Public Welfare.

RIGHT TO READ STATE GRANTS—NOTICE OF PROPOSED RULEMAKING

A letter from the Under Secretary of Health, Education, and Welfare, transmitting, pursuant to law, notice of proposed rulemaking in Right to Read Program (with accompanying papers); to the Committee on Labor and Public Welfare.

REPORT ON THE STATE OF THE ART OF TRANSPORTATION FOR THE ELDERLY

A letter from the Commissioner on Aging, Department of Health, Education, and Welfare, transmitting, pursuant to law, a report on "The State of the Art of Transportation for the Elderly" (with an accompanying report); to the Committee on Labor and Public Welfare.

REGULATIONS GOVERNING FINANCIAL ASSISTANCE FOR STRENGTHENING INSTRUCTION IN ACADEMIC SUBJECTS IN PUBLIC SCHOOLS

A letter from the Under Secretary of Health, Education, and Welfare, transmitting, pursuant to law, regulations governing financial assistance for strengthening instruction in academic subjects in public shools (with accompanying papers); to the Committee on Labor and Public Welfare.

REPORT OF THE SECRETARY OF THE TREASURY

A letter from the Secretary of the Treasury transmitting, pursuant to law, a report on the experience of Federal agencies under the program for self-insuring fidelity losses of Federal personnel for the fiscal year ended June 30, 1974 (with an accompanying report); to the Committee on Post Office and Civil Service.

REPORT OF THE POSTMASTER GENERAL

A letter from the Chairman of the Board of Governors of the U.S. Postal Service transmitting, pursuant to law, the annual report of the Postmaster General for the fiscal year 1974 (with an accompanying report); to the Committee on Post Office and Civil Service.

REPORT OF THE ADMINISTRATIVE OFFICE OF THE U.S. COURTS

A letter from the Director of the Administrative Office of the United States Courts transmitting, pursuant to law, a report on changes regarding the four grade GS–17 positions allocated to the Administrative Office of the United States Courts (with accompanying papers); to the Committee on Post Office and Civil Service.

PROPOSED CONSTRUCTION OF A COURTHOUSE IN EAST ST. LOUIS, ILL.

A letter from the Administrator of General Services transmitting, pursuant to law, a prospectus or proposed construction of a courthouse and Federal office building and parking facility in East St. Louis, Illinois (with accompanying papers); to the Committee on Public Works.

REPORT OF THE SECRETARY OF TRANSPORTATION

A letter from the Secretary of Transportation transmitting, pursuant to law, a report on the Special Bridge Replacement Program (with an accompanying report); to the Committee on Public Works.

REPORT OF THE SECRETARY OF TRANSPORTATION

A letter from the Secretary of Transportation transmitting, pursuant to law, a report on urban area traffic operations improvement programs (with an accompanying report); to the Committee on Public Works.

REPORT OF THE DEPARTMENT OF TRANSPORTATION

A letter from the Federal Highway Administrator transmitting, pursuant to law, an amended report entitled "An Assessment of the Feasibility of Developing a National Scenic Highway System" (with an accom-

panying report); to the Committee on Public Works.

REPORT OF THE SECRETARY OF TRANSPORTATION

A letter from the Secretary of Transportation transmitting, pursuant to law, a report of the activities of the Secretary of Transportation under the Federal Aid Highway Act of 1973 (with an accompanying report); to the Committee on Public Works.

REPORT OF THE TENNESSEE VALLEY AUTHORITY

A letter from tne Board of Directors of the Tennessee Valley Authority transmitting, pursuant to law, the annual report of the activities of the TVA during the fiscal year ending June 30, 1974 (with an accompanying report); to the Committee on Public Works.

PROPOSED AMENDMENTS TO REGULATIONS GOVERNING THE VETERAN'S COST-OF-INSTRUCTION PAYMENTS PROGRAM

A letter from the Under Secretary of Health, Education, and Welfare, transmitting, pursuant to law, proposed amendments to regulations governing the Veteran's Cost-of-Instruction Payments Program (with accompanying papers); to the Committee on Labor and Public Welfare.

NOTICE OF PROPOSED RULEMAKING FOR FINANCIAL ASSISTANCE FOR SUPPLEMENTARY CENTERS AND SERVICES, GUIDANCE, COUNSELING, AND TESTING PROGRAMS UNDER TITLE III OF THE ELEMENTARY AND SECONDARY EDUCATION ACT

A letter from the Under Secretary of Health, Education, and Welfare, transmitting, pursuant to law, notice of proposed rulemaking for financial assistance for supplementary centers and services, guidance, counseling, and testing programs under title III of the Elementary and Secondary Education Act (with accompanying papers); to the Committee on Labor and Public Welfare.

REPORT OF SCIENTIFIC AND PROFESSIONAL POSITIONS ESTABLISHED IN THE DEPARTMENT OF COMMERCE

A letter from the Director of Personnel, U.S. Department of Commerce, transmitting, pursuant to law, a report of scientific and professional positions which are established in the Department of Commerce (with accompanying papers); to the Committee on Post Office and Civil Service.

PROPOSED CONTRACT FOR RESEARCH PROJECT ENTITLED "DESIGN, FABRICATION, AND DEMONSTRATION OF A RAISE/BORING SHOTCRETE SUPPORT SYSTEM"

A letter from the Deputy Assistant Secretary of the Interior, transmitting, pursuant to law, a proposed contract with Foster-Miller Associates, Inc., Waltham, Mass., for a research project entitled "Design, Fabrication, and Demonstration of a Raise/Boring Shotcrete Support System" (with accompany papers); to the Committee on Interior and Insular Affairs.

PROPOSED ADDITIONAL AMOUNTS OF SPECIAL NUCLEAR MATERIAL TO THE INTERNATIONAL ATOMIC ENERGY AGENCY

A letter from the Chairman, U.S. Atomic Energy Commission, transmitting, pursuant to notice, proposed additional amounts of special nuclear material and periods of time during which such amounts may be distributed to the International Atomic Energy Agency; to the Joint Committee on Atomic Energy.

PROPOSED ADDITIONAL AMOUNTS OF SPECIAL NUCLEAR MATERIAL TO THE EUROPEAN ATOMIC ENERGY COMMUNITY (EURATOM)

A letter from the Chairman, U.S. Atomic Energy Commission, transmitting, pursuant to notice, proposed additional amounts of special nuclear material and periods of time during which such amounts may be distributed to the European Atomic Energy Community (Euratom) (with accompanying papers); to the Joint Committee on Atomic Energy.

AUDIT REPORT OF AMVETS

A letter from the National Executive Director, American Veterans of World War II—Korea and Viet Nam, transmitting, pursuant to law, audit report of AMVETS (with an accompanying report); to the Committee on the Judiciary.

REPORT ON THE ADMINISTRATION OF THE FOREIGN AGENTS REGISTRATION ACT OF 1937, AS AMENDED

A letter from the Attorney General, transmitting, pursuant to law, a report of the Attorney General on the administration of the Foreign Agents Registration Act of 1937, as amended, Calendar Year 1973 (with an accompanying report); to the Committee on the Judiciary.

REPORT OF THE ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

A letter from the Chairman, Administrative Conference of the United States, transmitting, pursuant to law, the 1973–74 report of the Administrative Conference of the United States (with an accompanying report); to the Committee on the Judiciary.

REPORT OF THE LAW ENFORCEMENT ASSISTANCE ADMINISTRATION, FISCAL YEAR 1974

A letter from the Administrator, Law Enforcement Assistance Administration, United States Department of Justice, transmitting, pursuant to law, the sixth annual report of the Law Enforcement Assistance Administration, Fiscal Year 1974 (with an accompanying report); to the Committee on the Judiciary.

ORDERS ENTERED IN THE CASES OF ALIENS FOUND ADMISSIBLE TO THE UNITED STATES

Three letters from the Commissioner, Immigration and Naturalization Service, United States Department of Justice, transmitting, pursuant to law, orders entered in the cases of aliens who have been found admissible to the United States under the Immigration and Nationality Act (with accompanying papers); to the Committee on the Judiciary.

THIRD PREFERENCE AND SIXTH PREFERENCE CLASSIFICATIONS FOR CERTAIN ALIENS

A letter from the Commissioner, Immigration and Naturalization Service, United States Department of Justice, transmitting, pursuant to law, reports relating to third preference and sixth preference classifications for certain aliens (with accompanying papers); to the Committee on the Judiciary.

ATTENDANCE OF A SENATOR

Hon. LLOYD BENTSEN, a Senator from the State of Texas, attended the session of the Senate today.

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. MCCLELLAN (for himself, Mr. HRUSKA, Mr. BAYH, Mr. EASTLAND, Mr. FONG, Mr. GRIFFIN, Mr. MANSFIELD, Mr. MOSS, Mr. HUGH SCOTT, Mr. TAFT, and Mr. TOWER):

S. 1. A bill to codify, revise, and reform title 18 of the United States Code; to make appropriate amendments to the Federal Rules of Criminal Procedure; to make conforming amendments to criminal provisions of other titles of the United States Code; and for other purposes. Referred to the Committee on the Judiciary.

By Mr. PROXMIRE:

S. 2. A bill to amend the Communications Act of 1934 in order to recognize and confirm the applicability of and to strengthen and further the objectives of the first amendment to radio and television broadcasting stations. Referred to the Committee on Commerce.

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

S. 3. A bill to create a national system of health security. Referred to the Committee on Finance.

By Mr. MATHIAS:

S. 4. A bill to provide a program to systematically reduce imports of crude oil, residual fuel oil and petroleum products and to provide for a report to accompany such program, and for other purposes. Referred to the Committee on Finance.

By Mr. CHILES (for himself, Mr. BAYH, Mr. BEALL, Mr. BIDEN, Mr. BROCK, Mr. CLARK, Mr. CRANSTON, Mr. HATFIELD, Mr. HATHAWAY, Mr. HUMPHREY, Mr. MATHIAS, Mr. MCGOVERN, Mr. METCALF, Mr. MONDALE, Mr. PACKWOOD, Mr. PERCY, Mr. PROXMIRE, Mr. ROTH, Mr. STAFFORD, Mr. WEICKER, Mr. STONE, Mr. GARY W. HART, Mr. NELSON, Mr. PHILIP A. HART, and Mr. HASKELL):

S. 5. A bill to provide that meetings of Government agencies and of congressional committees shall be open to the public, and for other purposes. Referred to the Committee on Government Operations.

By Mr. WILLIAMS (for himself, Mr. RANDOLPH, Mr. MAGNUSON, Mr. BENTSEN, Mr. BROOKE, Mr. CANNON, Mr. CHILES, Mr. PHILIP A. HART, Mr. HOLLINGS, Mr. HUMPHREY, Mr. JAVITS, Mr. KENNEDY, Mr. MCGEE, Mr. MONDALE, Mr. MOSS, Mr. PASTORE, Mr. PELL, Mr. SCHWEIKER, Mr. STAFFORD, Mr. STEVENS, Mr. MCGOVERN, Mr. PERCY, Mr. CRANSTON, Mr. CLARK, and Mr. CULVER):

S. 6. A bill to provide financial assistance to the States for improved educational services for handicapped children. Referred to the Committee on Labor and Public Welfare.

By Mr. JACKSON (for himself, Mr. METCALF, Mr. CHURCH, Mr. HASKELL, Mr. JOHNSTON, Mr. MOSS, and Mr. NELSON):

S. 7. A bill entitled the Surface Mining Control and Reclamation Act of 1975. Referred to the Committee on Interior and Insular Affairs.

By Mr. DOLE:

S. 8. A bill to designate November 11 of each as Veterans Day and to make such day a legal public holiday. Referred to the Committee on the Judiciary.

S. 9. A bill to extend the State and Local Fiscal Assistance Act of 1972 for 5 years. Referred to the Committee on Finance.

By Mr. RIBICOFF (for himself and Mr. WEICKER):

S. 10. A bill to amend section 5(a) of the Wild and Scenic Rivers Act. Referred to the Committee on Interior and Insular Affairs.

By Mr. BROCK (for himself, Mr. BAKER, Mr. BEALL, Mr. DOMENICI, Mr. GARN, Mr. HANSEN, Mr. PACKWOOD, Mr. PERCY, and Mr. HUGH SCOTT):

S. 11. A bill to amend the State and Local Fiscal Assistance Act of 1972 to make Federal revenue sharing a permanent program to provide for periodic increases in the dollar amounts of revenue returned to the States under that act to offset the effects of inflation, and to eliminate certain restrictions on the purposes for which local governments may use funds obtained under the act. Referred to the Committee on Finance.

My Mr. MCCLELLAN:

S. 12. A bill to improve judicial machinery by providing benefits for survivors of Federal judges comparable to benefits received by

survivors of Members of Congress, and for other purposes. Referred to the Committee on the Judiciary.

By Mr. McGOVERN (for himself, Mr. HUMPHREY, Mr. MANSFIELD, Mr. HUGH SCOTT, Mr. MAGNUSON, Mr. JACKSON, Mr. WILLIAMS, Mr. RANDOLPH, Mr. CRANSTON, Mr. CHURCH, Mr. WEICKER, Mr. CULVER, Mr. STAFFORD, Mr. HATFIELD, Mr. ABOUREZK, Mr. BAYH, Mr. BURDICK, Mr. CLARK, Mr. PHILIP A. HART, Mr. GARY W. HART, Mr. LEAHY, Mr. CASE, Mr. BROOKE, Mr. SCHWEIKER, Mr. MATHIAS, Mr. HASKELL, Mr. HATHAWAY, Mr. INOUYE, Mr. KENNEDY, Mr. McGEE, Mr. McINTYRE, Mr. MONDALE, Mr. PASTORE, Mr. PELL, Mr. RIBICOFF, Mr. MUSKIE, Mr. MOSS, Mr. JAVITS, Mr. HARTKE, Mr. HOLLINGS, Mr. METCALF, and Mr. MONTOYA):

S. 13. A bill to amend the Food Stamp Act of 1964. Referred to the Committee on Agriculture and Forestry.

By Mr. McCLELLAN:

S. 14. A bill to provide cost-of-living adjustments in retirement pay of certain Federal judges. Referred to the Committee on the Judiciary.

By Mr. DOLE (for himself, Mr. TAFT, Mr. BUCKLEY, Mr. FANNIN, Mr. THURMOND, and Mr. HANSEN):

S. 15. A bill to amend the Congressional Budget Act of 1974 to require the Congressional Budget Office to prepare inflationary impact statements in connection with legislation reported by Senate and House committees. Referred to the Committee on Government Operations.

By Mr. DOLE:

S. 16. A bill to provide for the mandatory inspection of rabbits slaughtered for human food, and for other purposes. Referred to the Committee on Agriculture and Forestry.

S. 17. A bill to exempt highway motor vehicles used exclusively in soil and water conservation work from the highway use tax. Referred to the Committee on Finance.

By Mr. DOLE (for himself, Mr. CASE, Mr. DOMENICI, Mr. FONG, Mr. McGEE, Mr. TAFT, and Mr. WILLIAMS):

S. 18. A bill to amend the Act of August 31, 1922, to prevent the introduction and spread of diseases and parasites harmful to honeybees, and for other purposes. Referred to the Committee on Agriculture and Forestry.

By Mr. DOLE (for himself, Mr. CURTIS, and Mr. JAVITS):

S. 19. A bill to amend title XVI of the Social Security Act so as to provide for the referral, for appropriate services provided by other State agencies, of blind or disabled children who are receiving supplemental security income benefits. Referred to the Committee on Finance.

By Mr. HANSEN (for himself, Mr. McGEE, Mr. HUMPHREY, Mr. HUGH SCOTT, and Mr. STEVENSON):

S. 20. A bill to amend section 206 of the Federal Water Pollution Control Act in order to authorize reimbursement for the construction of certain sewage treatment works. Referred to the Committee on Public Works.

By Mr. SPARKMAN:

S. 21. A bill to establish a National Development Bank to provide loans to finance urgently needed public facilities for State and local governments, to help achieve a full employment economy both in urban and rural America by providing loans for the establishment of new businesses and industries and the expansion and improvement of existing businesses and industries, for the construction of low and moderate income housing projects, and to provide job training for unskilled and semiskilled unemployed and underemployed workers. Referred to the Committee on Banking, Housing and Urban Affairs.

Br. Mr. McCLELLAN:

S. 22. A bill for the general revision of the Copyright Law, title 17 of the United States Code, and for other purposes. Referred to the Committee on the Judiciary.

S. 23. A bill for the general revision of the Patent Laws, title 35 of the United States Code, and for other purposes. Referred to the Committe on the Judiciary.

S. 24. A bill to carry into effect certain provisions of the Patent Cooperation Treaty, and for other purposes. Referred to the Committee on the Judiciary.

By Mr. MOSS:

S. 25. A bill to provide for the establishment of the Great Salt Lake National Monument, in the State of Utah, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. MOSS (for himself and Mr. HANSEN):

S. 26. A bill to establish mining and mineral research centers, to promote a more adequate national program of mining and minerals research, to supplement the act of December 31, 1970, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. MOSS:

S. 27. A bill to establish a Department of Natural Resources and Environment. Referred to the Committee on Government Operations.

By Mr. MOSS (for himself and Mr. CRANSTON):

S. 28. A bill to amend the Internal Revenue Code of 1954 to provide a credit against tax, or in the alternative a deduction, for energy conserving residential expenditures. Referred to the Committee on Finance.

By Mr. MOSS:

S. 29. A bill to establish the Lone Peak Wilderness Area in the State of Utah; and

S. 30. A bill to amend the Mineral Leasing Act of February 25, 1920, as amended. Referred to the Committee on Interior and Insular Affairs.

By Mr. McCLELLAN (for himself and Mr. HUGH SCOTT):

S. 31. A bill to amend the Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes. Referred to the Committee on the Judiciary.

By Mr. KENNEDY (for himself, Mr. MAGNUSON, Mr. MOSS, Mr. TUNNEY, Mr. BENTSEN, Mr. BROOKE, Mr. CANNON, Mr. CASE, Mr. CRANSTON, Mr. CULVER, Mr. PHILIP A. HART, Mr. HATFIELD, Mr. HUMPHREY, Mr. INOUYE, Mr. JAVITS, Mr. JOHNSTON, Mr. LEAHY, Mr. MANSFIELD, Mr. McGEE, Mr. McGOVERN, Mr. MONDALE, Mr. MONTOYA, Mr. PELL, Mr. RANDOLPH, Mr. SPARKMAN, Mr. STAFFORD, Mr. WEICKER, and Mr. WILLIAMS):

S. 32. A bill to establish a framework for the formulation of national policy and priorities for science and technology, and for other purposes. Referred, by unanimous consent, jointly to the Committees on Labor and Public Welfare; Aeronautical and Space Sciences; and Commerce.

By Mr. McGEE:

S. 33. A bill to establish a moratorium on Federal coal leasing. Referred to the Committee on Interior and Insular Affairs.

By Mr. HATHAWAY (for himself and Mr. MUSKIE):

S. 34. A bill to further insect and disease control programs of the Forest Service, Department of Agriculture. Referred to the Committee on Agriculture and Forestry.

By Mr. McGOVERN:

S. 35. A bill to maintain the nutritional adequacy of the Food Stamp Program. Referred to the Committee on Agriculture and Forestry.

By Mr. INOUYE:

S. 36. A bill for the relief of Lucilo Mejia Bolaoen;

S. 37. A bill for the relief of Mrs. Etsuko Kogachi Bowman;

S. 38. A bill for the relief of Marlene Valerie Carter;

S. 39. A bill for the relief of Graciela Castillo;

S. 40. A bill for the relief of Mrs. Eufemia Clemente;

S. 41. A bill for the relief of Mr. Angelo B. Cortes;

S. 42. A bill for the relief of Liberato Divina;

S. 43. A bill for the relief of Jose Figueredo;

S. 44. A bill for the relief of Sung Soon Hong;

S. 45. A bill for the relief of Kuen Bae Kim;

S. 46. A bill for the relief of Mrs. Kim-Van Le-Thi;

S. 47. A bill for the relief of Mr. Christopher Pin-Wah Lo;

S. 48. A bill for the relief of Mr. and Mrs. B. William Magallanes; and

S. 49. A bill for the relief of Benjamin N. Mascarenas. Referred to the Committee on the Judiciary.

By Mr. HUMPHREY (for himself, Mr. KENNEDY, Mr. PHILIP A. HART, Mr. HATHAWAY, Mr. JAVITS, and Mr. SCHWEIKER):

S. 50. A bill to establish a national policy and nationwide machinery for guaranteeing to all adult Americans able and willing to work the availability of equal opportunities for useful and rewarding employment. Referred to the Committee on Labor and Public Welfare.

By Mr. INOUYE:

S. 51. A bill for the relief of Mr. Andres B. Pasion;

S. 52. A bill for the relief of Miss Rosario Y. Quijano, Walter York Quijano, Ramon York Quijano, Tarcisus York Quijano, Denis York Quijano, and Paul York Quijano;

S. 53. A bill for the relief of Miss Evelyn R. Rey;

S. 54. A bill for the relief of Mr. and Mrs. Venkateswara Rao Yellapragada; and

S. 55. A bill for the relief of Dino Mendoza Pascua. Referred to the Committee on the Judiciary.

By Mr. SPARKMAN:

S. 56. A bill for the relief of Miss Patricia J. Basbas. Referred to the Committee on the Judiciary.

By Mr. HUGH SCOTT (for himself, Mr. HUMPHREY, Mr. KENNEDY, and Mr. SCHWEIKER):

S. 57. A bill to establish a program of Federal assistance to provide relief from energy emergencies and energy disasters. Referred to the Committee on Interior and Insular Affairs.

By Mr. HUGH SCOTT:

S. 58. A bill concerning compensation and other emoluments attached to the Office of the Attorney General. Referred to the Committee on Post Office and Civil Service.

By Mr. McCLELLAN (for himself and Mr. BUMPERS):

S. 59. A bill to provide an additional permanent district judgeship in Arkansas. Referred to the Committee on the Judiciary.

By Mr. McCLELLAN:

S. 60. A bill for the relief of Raul Arriaza, his wife, Maria Marquart Schubert Arriaza, and their children, Andres Arriaza and Daniel Aivouich Arriaza. Referred to the Committee on the Judiciary.

By Mr. PEARSON:

S. 61. A bill to establish a Commission to study and appraise the organization and operation of the Executive Branch of the Federal Government. Referred to the Committee on Government Operations.

By Mr. HUGH SCOTT (for himself, Mr. BAYH, Mr. BELLMON, Mr. FANNIN, Mr. HUDDLESTON, Mr. METCALF, Mr. MOSS, Mr. SCHWEIKER, Mr. TAFT, Mr. TUNNEY, and Mr. YOUNG):

S. 62. A bill to establish university coal research laboratories and to establish energy resource fellowships, and for other purposes.

Referred to the Committee on Interior and Insular Affairs.

By Mr. BEALL (for himself, Mr. MATHIAS, Mr. FONG, and Mr. STEVENSON):

S. 63. A bill to amend the Internal Revenue Code of 1954 to provide an exemption from income taxation for certain income of condominium housing associations, homeowner associations, and cooperative housing corporations. Referred to the Committee on Finance.

By Mr. STEVENS (for himself, Mr. FONG, Mr. GRAVEL, and Mr. INOUYE):

S. 64. A bill to provide for the addition of the names of the States of Alaska and Hawaii to the list of the forty-eight States inscribed upon the walls of the Lincoln National Memorial. Referred to the Committee on Interior and Insular Affairs.

By Mr. PROXMIRE (for himself, Mr. DOLE, Mr. HANSEN, Mr. MCCLURE, Mr. MCGOVERN, Mr. MUSKIE, Mr. NELSON, Mr. PELL, Mr. PERCY, Mr. STAFFORD, Mr. SYMINGTON, Mr. TOWER, and Mr. HATFIELD):

S. 65. A bill to amend the Congressional Budget Act of 1974 to require the Congressional Office of the Budget to prepare fiscal notes for bills and joint resolutions. Referred to the Committee on Government Operations.

By Mr. KENNEDY (for himself, Mr. JAVITS, Mr. WILLIAMS, Mr. RANDOLPH, Mr. PELL, Mr. NELSON, Mr. MONDALE, Mr. CRANSTON, Mr. HATHAWAY, Mr. SCHWEIKER, and Mr. STAFFORD):

S. 66. A bill to amend title VIII of the Public Health Service Act to revise and extend the programs of assistance under that title for nurse training and to revise and extend programs of health revenue sharing and health services. Referred to the Committee on Labor and Public Welfare.

By Mr. KENNEDY (for himself and Mr. BROOKE):

S. 67. A bill to establish the Nantucket Sound Islands Trust in the Commonwealth of Massachusetts, to declare certain national policies essential to the preservation and conservation of the lands and waters in the trust area, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. MONTOYA:

S. 68. A bill to establish a temporary special commission on Guadalupe-Hildago land rights. Referred to the Committee on the Judiciary.

By Mr. BIDEN:

S. 69. A bill to amend the Internal Revenue Code of 1954 to provide for a credit of $50 against the Federal income tax imposed for taxable year 1974. Referred to the Committee on Finance.

By Mr. CRANSTON (for himself and Mr. TUNNEY):

S. 70. A bill to authorize the establishment of the Desert Pupfish National Monument in the States of California and Nevada, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

S. 71. A bill to establish the California Desert National Conservation Area;

S. 72. A bill to designate certain lands in the Pinnacles National Monument in California as wilderness;

S. 73. A bill to designate certain lands in San Luis Obispo County, California, as the "Santa Lucia Wilderness";

S. 74. A bill to designate certain lands in the Angeles and San Bernardino National Forests as the "Sheep Mountain Wilderness"; and

S. 75. A bill to study certain lands in the Sierra National Forest, California, for possible inclusion in the National Wilderness Preservation System. Referred to the Committee on Interior and Insular Affairs.

By Mr. CRANSTON:

S. 76. A bill for the relief of Rose Gipson. Referred to the Committee on the Judiciary.

By Mr. BROOKE:

S. 77. A bill to amend the Internal Revenue Code of 1954 to provide for a tax on every new automobile with respect to its weight, and for other purposes; and

S. 78. A bill to increase the Federal excise tax on gasoline, to terminate the Highway Trust Fund, and to provide a refundable tax credit with respect to the increased tax paid on not more than 700 gallons of gasoline purchased each year. Referred to the Committee on Finance.

By Mr. MATHIAS:

S. 79. A bill to establish the United States Science and Technology Board. Referred to the Committee on Government Operations.

By Mr. MATHIAS (for himself, Mr. BEALL, Mr. HUMPHREY, Mr. JAVITS, Mr. MCINTYRE, and Mr. THURMOND):

S. 80. A bill to prevent the estate tax law from operating to encourage or to require the destruction of open lands and historic places, by amending the Internal Revenue Code of 1954 to provide that real property which is farmland, woodland, or open land and forms part of an estate may be valued, for estate tax purposes, at its value as farmland, woodland, or open land (rather than at its fair market value), and to provide that real property which is listed on the National Register of Historic Places may be valued, for estate tax purposes at its value for its existing use, and to provide for the revocation of such lower valuation and recapture of unpaid tax with interest in appropriate circumstances. Referred to the Committee on Finance.

By Mr. MATHIAS (for himself, Mr. BROOKE, Mr. CRANSTON, Mr. KENNEDY, and Mr. HOLLINGS):

S. 81. A bill to provide the Governors of Coastal States with a delay mechanism so as to protect coastal states from adverse environmental or economic impacts and other damages associated with the development of oil and gas deposits in the Outer Continental Shelf and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. MATHIAS (for himself and Mr. BEALL):

S. 82. A bill to repeal certain provisions of the Act entitled "An Act to provide for the establishment of the Assateague Island National Seashore in the States of Maryland and Virginia, and for other purposes", approved September 21, 1965, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. MATHIAS:

S. 83. A bill to amend the Internal Revenue Code of 1954 to allow a credit against income tax to individuals for certain expenses incurred in providing higher education. Referred to the Committee on Finance.

By Mr. MATHIAS (for himself, Mr. TUNNEY, and Mr. BAYH):

S. 84. A bill to enforce the first amendment and fourth amendment to the Constitution and the constitutional right of privacy by prohibiting any civil officer of the United States or any member of the Armed Forces of the United States from using the Armed Forces of the United States to exercise surveillance of civilians or to execute the civil laws, and for other purposes. Referred to the Committee on the Judiciary.

By Mr. MATHIAS (for himself and Mr. BEALL):

S. 85. A bill to reimburse the city of Frederick, Maryland, for money paid saving harmless valuable military and hospital supplies. Referred to the Committee on the Judiciary.

By Mr. MATHIAS:

S. 86. A bill to establish a Conference on the Antitrust Laws. Referred to the Committee on the Judiciary.

S. 87. A bill for the posthumous promotion of Lieutenant Commander Hubert Montgomery Hayter, U.S. Navy. Referred to the Committee on Armed Services.

S. 88. A bill to amend the Internal Revenue Code of 1954 to provide for an 8-percent reduction in the amount of income tax withholding. Referred to the Committee on Finance.

By Mr. MATHIAS (for himself, Mr. BEALL, Mr. TUNNEY, and Mr. CRANSTON):

S. 89. A bill to provide that income from entertainment activities held in conjunction with a public fair conducted by an organization described in section 501(c), (3) and (5) shall not be unrelated trade or business income and shall not affect the tax exemption of the organization. Referred to the Committee on Finance.

By Mr. MATHIAS:

S. 90. A bill to amend title 5, United States Code, to provide that certain services be considered as creditable service for purposes of civil service retirement. Referred to the Committee on Post Office and Civil Service.

By Mr. MATHIAS (for himself and Mr. BEALL):

S. 91. A bill to provide for the expansion of the Antietam National Battlefield Site in the State of Maryland and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. MATHIAS:

S. 92. A bill for the relief of Victor Henrique Carlos Gibson. Referred to the Committee on the Judiciary.

By Mr. MATHIAS (for himself, Mr. BEALL, and Mr. JAVITS):

S. 93. A bill to amend the Internal Revenue Code of 1954 to provide that a married individual who files a separate return shall be taxed on his or her earned income at the same rate as an unmarried individual. Referred to the Committee on Finance.

By Mr. MATHIAS:

S. 94. A bill to amend title 5, United States Code, to provide for grade retention benefits for certain Federal employees whose positions are reduced in grade, and for other purposes. Referred to the Committee on Post Office and Civil Service.

By Mr. MATHIAS (for himself, Mr. PELL, Mr. GOLDWATER, Mr. BAYH, Mr. BROCK, and Mr. ROTH):

S. 95. A bill to guarantee the constitutional right to vote and to provide uniform procedures for absentee voting in Federal elections in the case of citizens outside the United States. Referred to the Committee on Rules and Administration.

By Mr. MATHIAS:

S. 96. A bill for the relief of Robert M. Johnston. Referred to the Committee on the Judiciary.

By Mr. CRANSTON (for himself and Mr. TUNNEY):

S. 97. A bill to designate certain lands in the Yosemite National Park in California as wilderness. Referred to the Committee on Interior and Insular Affairs.

By Mr. STEVENS (for himself, Mr. GRAVEL, Mr. JACKSON, and Mr. MAGNUSON):

S. 98. A bill to establish the Klondike Gold Rush National Historical Park in the States of Alaska and Washington, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. HUMPHREY:

S. 99. A bill to establish a Joint Committee on National Security. Referred to the Committee on Armed Services.

By Mr. PELL (for himself and Mr. INOUYE):

S. 100. A bill to provide a national program in order to make the international metric system the predominant but not exclusive system of measurement in the United States and to provide for converting to the general use of such system within 10 years. Referred to the Committee on Commerce.

By Mr. DOLE:

S. 101. A bill to direct the Secretary of the Interior to convey certain lands in Geary County, Kansas, to Margaret G. More. Referred to the Committee on Interior and Insular Affairs.

S. 102. A bill to provide price support for

milk at not less than 85 per centum of the parity price therefor, and for other purposes. Referred to the Committee on Agriculture and Forestry.

S. 103. A bill to provide for reimbursement of extraordinary transportation expenses incurred by certain disabled individuals in the production of their income. Referred to the Committee on Labor and Public Welfare.

By Mr. INOUYE:

S. 104. A bill to amend the Social Security Act to provide for inclusion of the services of licensed registered nurses under medicare and medicaid. Referred to the Committee on Finance.

S. 105. A bill to authorize the Secretary of the Army to make available to the State of Hawaii or through it to the Queen's Medical Center physical facilities not needed by the Army at Fort DeRussy, Hawaii, for the purpose of establishing a mental health clinic in such facilities. Referred to the Committee on Armed Services.

S. 106. A bill to amend the Internal Revenue Code of 1954 to provide credit against income tax for an employer who employs older persons in his trade or business.

By Mr. INOUYE (for himself, Mr. ABOUREZK, Mr. MCINTYRE, Mr. PASTORE, and Mr. RANDOLPH):

S. 107. A bill to allow an additional income exemption for a taxpayer or his spouse who is deaf or deaf-blind; and

S. 108. A bill to amend the Internal Revenue Code of 1954 to allow a deduction from gross income for social agency, legal, and related expenses incurred in connection with the adoption of a child by the taxpayer. Referred to the Committee on Finance.

By Mr. INOUYE (for himself, Mr. KENNEDY, Mr. RANDOLPH, Mr. STAFFORD, and Mr. STEVENS):

S. 109. A bill to amend chapter 55 of title 10, United States Code, to require the armed forces to continue to provide certain special educational services to handicapped dependents. Referred to the Committee on Armed Services.

By Mr. INOUYE:

S. 110. A bill to amend chapter 13 of title 38, United States Code, to make eligible for dependency and indemnity compensation widows of veterans who die of non-service-connected causes but who were at the time of death totally disabled as a result of one or more service-connected disabilities;

S. 111. A bill to authorize the widows of certain former members of the armed forces of the United States to use the services and facilities of post exchanges and commissaries;

S. 112. A bill to amend section 1003 of title 38, United States Code, relating to memorial areas and appropriate memorials to honor the memory of certain deceased members of the Armed Forces whose remains were buried at sea, have not been identified, or were nonrecoverable; and

S. 113. A bill to amend section 1002 of title 38, United States Code, to authorize the burial in a national cemetery of the parents of certain members of the Armed Forces who die in active service. Referred to the Committee on Veterans' Affairs.

S. 114. A bill to amend the Social Security Act to provide that certain persons, who have innocently entered into a legally defective marriage to an insured individual and have lived with such individual as his husband or wife for at least five years, shall be treated, for benefit purposes, as if such marriage had been legally valid. Referred to the Committee on Finance.

S. 115. A bill to amend section 17 of the Airport and Airway Development Act of 1970 in order to change the United States share of development costs for certain airports. Referred to the Committee on Commerce.

S. 116. A bill to provide for the conveyance of the island of Kahoolawe to the State of Hawaii, and for other purposes; and

S. 117. A bill to amend chapter 67 of title 10, United States Code, to grant eligibility for retired pay to certain reservists who did not perform active duty before August 16, 1945, and for other purposes. Referred to the Committee on Armed Services.

S. 118. A bill to incorporate the Pearl Harbor Survivors Association. Referred to the Committee on the Judiciary.

S. 119. A bill to amend the Tariff Schedules of the United States to accord to the Trust Territory of the Pacific Islands the same tariff treatment as is provided for insular possessions of the United States. Referred to the Committee on Finance.

S. 120. A bill to authorize reduced postage rates for certain mail matter sent to Members of Congress. Referred to the Committee on Post Office and Civil Service.

S. 121. A bill to restore the wartime recognition of certain Filipino veterans of World War II and to entitle them to those benefits, rights, and privileges which result from such recognition. Referred to the Committee on Veterans' Affairs.

S. 122. A bill to amend title 39 of the United States Code to provide that Federal income tax returns may be mailed free of postage. Referred to the Committee on Post Office and Civil Service.

S. 123. A bill to amend title XVIII of the Social Security Act to provide for the coverage of certain clinical psychologists' services under the supplementary medical insurance benefits program established by part B of such title. Referred to the Committee on Finance.

S. 124. A bill to amend the Public Health Services Act to provide for financial grants to states in order to insure the delivery of high quality health services for persons who have recently immigrated to the United States. Referred to the Committee on Labor and Public Welfare.

S. 125. A bill to establish an Economic Adjustment Corporation to provide financing to business enterprises, financial institutions, and public agencies which are unable to obtain essential financing on reasonable terms from other sources. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. CRANSTON:

S. 126. A bill for the relief of Antonia Rieta Victa;

S. 127. A bill for the relief of Young Hae Lee Jameson; and

S. 128. A bill for the relief of Lenora Lopez. Referred to the Committee on the Judiciary.

By Mr. STEVENS (for himself and Mr. GRAVEL):

S. 129. A bill to authorize construction of the Devil Canyon and Denali units of the Upper Susitna River Basin project and related transmission facilities. Referred to the Committee on Interior and Insular Affairs.

By Mr. STEVENS:

S. 130. A bill to authorize certain revenues from leases on the Outer Continental Shelf to be made available to coastal and other States; and

S. 131. A bill to authorize the Secretary of the Interior to enroll certain Alaskan Natives for benefits under the Alaska Native Claims Settlement Act and for other purposes. Referred to the Committee on Interior and Insular Affairs.

S. 132. A bill to amend title 5, United States Code, to provide additional cost-of-living adjustments in civil service retirement annuities of certain retired employees in Alaska as long as retired employees continue to reside in Alaska, and for other purposes. Referred to the Committee on Post Office and Civil Service.

S. 133. A bill to amend the Internal Revenue Code of 1954 to permit a deduction from gross income based upon the cost of living in certain States;

S. 134. A bill to amend the Internal Revenue Code of 1954 to exempt from tax a portion of the income of individuals not employed by the Federal Government who live in a State in which Federal employees receive an allowance based on living costs and conditions of environment; and

S. 135. A bill to amend title II of the Social Security Act to adjust the earnings exemption, applicable to recipients of monthly benefits thereunder, for individuals in Alaska or Hawaii so as to take into account the higher cost of living in such States. Referred to the Committee on Finance.

By Mr. MONTOYA (for himself and Mr. WEICKER):

S. 136. A bill to amend the Internal Revenue Code of 1954 to require the establishment of formal procedures and criteria for the selection of individual income tax returns for audit, to inform individuals of the reasons why their returns were selected for audit, and for other purposes. Referred to the Committee on Finance.

By Mr. MONTOYA:

S. 137. A bill to amend the Internal Revenue Code of 1954 to require judicial confirmation of the need for a jeopardy assessment;

S. 138. A bill to amend the Internal Revenue Code of 1954 to revise the provisions relating to property exempt from seizure for collection of taxes; and

S. 139. A bill to amend section 7802 of the Internal Revenue Code of 1954 to define the term of the Commissioner of Internal Revenue. Referred to the Committee on Finance.

By Mr. PELL:

S. 140. A bill to require Congressional approval of oil import fees. Referred to the Committee on Finance.

By Mr. McCLURE (for himself, Mr. FANNIN, and Mr. GARN):

S. 141. A bill to repeal the Gun Control Act of 1968; and

S. 142. A bill to amend chapter 44 of title 18 of the United States Code (respecting firearms) to penalize the use of firearms in the commission of any felony and to increase the penalties in certain related existing provisions, to lower certain age limits from twenty-one years to eighteen, and to eliminate certain recordkeeping provisions with respect to ammunition. Referred to the Committee on the Judiciary.

By Mr. McCLURE:

S. 143. A bill to prohibit the Consumer Product Safety Commission from restricting the sale or manufacture of firearms or ammunition. Referred to the Committee on Commerce.

S. 144. A bill to prohibit the banning of lead shot for hunting. Referred to the Committee on Commerce.

By Mr. PACKWOOD:

S. 145. A bill to amend the Fish and Wildlife Act of 1956 in order to authorize the Secretary of Commerce to make loans and grants to United States fishermen in certain cases to cover the costs of damages to their vessels and gear by foreign vessels. Referred to the Committee on Commerce.

S. 146. A bill to further the purposes of the Wilderness Act by incorporating French Pete Creek and adjacent roadless lands in the Three Sisters Wilderness, Oregon, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

S. 147. A bill to improve the quality of unshelled filberts and shelled filberts for marketing in the United States. Referred to the Committee on Agriculture and Forestry.

S. 148. A bill to amend the Internal Revenue Code of 1954 to provide for the adjustment of the individual income tax tables, the standard deduction, and the personal exemption deduction when necessary to reflect inflation. Referred to the Committee on Finance.

S. 149. A bill to extend to all unmarried individuals the full tax benefits of income splitting now enjoyed by married individuals filing joint returns. Referred to the Committee on Finance.

By Mr. HANSEN (for himself and Mr. McGEE):

S. 150. A bill to construct an Indian Art and Cultural Center in Riverton, Wyoming, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

S. 151. A bill to authorize the Secretary of the Interior to construct, operate, and maintain the Polecat Bench area of the Shoshone extension unit, Pick-Sloan Missouri Basin program, Wyoming, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. HANSEN:

S. 152. A bill to authorize the Secretary of the Interior to sell certain rights in the State of Wyoming. Referred to the Committee on Interior and Insular Affairs.

By Mr. HANSEN (for himself and Mr. HARTKE):

S. 153. A bill to amend part B of title XI of the Social Security Act, Professional Standards Review, to provide for the review of dental services by dentists. Referred to the Committee on Finance.

By Mr. HANSEN:

S. 154. A bill to authorize the granting of mineral rights to certain homestead patentees who were wrongfully deprived of such rights. Referred to the Committee on Interior and Insular Affairs.

By Mr. BAYH (for himself, Mr. ABOUREZK, Mr. BAKER, Mr. BEALL, Mr. BELLMON, Mr. BROOKE, Mr. BURDICK, Mr. CHURCH, Mr. CLARK, Mr. CRANSTON, Mr. DOLE, Mr. FORD, Mr. GLENN, Mr. GRAVEL, Mr. GRIFFIN, Mr. GARY W. HART, Mr. PHILIP A. HART, Mr. HARTKE, Mr. HATFIELD, Mr. HATHAWAY, Mr. HASKELL, Mr. HUDDLESTON, Mr. HUMPHREY, Mr. INOUYE, Mr. JACKSON, Mr. JAVITS, Mr. KENNEDY, Mr. MAGNUSON, Mr. MANSFIELD, Mr. MATHIAS, Mr. McGOVERN, Mr. McINTYRE, Mr. MONDALE, Mr. MONTOYA, Mr. MOSS, Mr. NELSON, Mr. PACKWOOD, Mr. PASTORE, Mr. PEARSON, Mr. PELL, Mr. PROXMIRE, Mr. RANDOLPH, Mr. RIBICOFF, Mr. SCHWEIKER, Mr. STAFFORD, Mr. STEVENSON, Mr. TUNNEY, and Mr. WILLIAMS):

S.J. Res. 1. A joint resolution proposing an amendment to the Constitution to provide for the direct popular election of the President and the Vice President of the United States. Referred to the Committee on the Judiciary.

By Mr. BROOKE (for himself, Mr. BURDICK, Mr. BENSTEN, Mr. CASE, Mr. CLARK, Mr. CRANSTON, Mr. FONG, Mr. GLENN, Mr. HANSEN, Mr. GARY W. HART, Mr. PHILIP A. HART, Mr. HARTKE, Mr. HASKELL, Mr. HATFIELD, Mr. HUMPHREY, Mr. JAVITS, Mr. KENNEDY, Mr. McGOVERN, Mr. MONDALE, Mr. MONTOYA, Mr. MUSKIE, Mr. PELL, Mr. PERCY, Mr. RIBICOFF, Mr. HUGH SCOTT, Mr. STAFFORD, Mr. STEVENS, Mr. SCHWEIKER, Mr. STEVENSON, Mr. TUNNEY, Mr. WEICKER, and Mr. WILLIAMS):

S.J. Res. 2. A joint resolution designating January 15 of each year as "Martin Luther King Day". Referred to the Committee on the Judiciary.

By Mr. KENNEDY (for himself, Mr. CHILES, Mr. McINTYRE, Mr. HATHAWAY, Mr. PELL, Mr. PASTORE, Mr. RIBICOFF, Mr. BROOKE, Mr. MUSKIE, Mr. HOLLINGS, and Mr. LEAHY):

S.J. Res. 3. A joint resolution to require the submission and approval by the Congress of fees on oil imports. Referred to the Committee on Finance.

By Mr. INOUYE:

S.J. Res. 4. A joint resolution to authorize and request the President of the United States to issue a proclamation designating September 17 as "Constitution Day." Referred to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. McCLELLAN (for himself, Mr. HRUSKA, Mr. BAYH, Mr. EASTLAND, Mr. FONG, Mr. GRIFFIN, Mr. MANSFIELD, Mr. MOSS, Mr. HUGH SCOTT, Mr. TAFT, and Mr. TOWER):

S. 1. A bill to codify, revise, and reform title 18 of the United States Code; to make appropriate amendments to the Federal Rules of Criminal Procedure; to make conforming amendments to criminal provisions of other titles of the United States Code; and for other purposes. Referred to the Committee on the Judiciary.

CRIMINAL JUSTICE REFORM ACT OF 1975

Mr. McCLELLAN. Mr. President, today I introduce for myself and the distinguished Senators from Nebraska (Mr. HRUSKA), Michigan (Mr. GRIFFIN), Montana (Mr. MANSFIELD), Utah (Mr. Moss), Pennsylvania (Mr. SCOTT), Ohio (Mr. TAFT), Texas (Mr. TOWER), and Indiana (Mr. BAYH), S. 1, the Criminal Justice Reform Act of 1975.

I am very please to introduce this bill today, Mr. President, because it marks what I hope is a long forward step in attaining an important and historic goal toward which I and many others have been working for almost 10 years. For, with the enactment of this bill, the United States will have, for the first time in its 200-year history, a true criminal code—a clear, concise, and complete statement of the criminal law carefully balanced to safeguard the public welfare while fully preserving individual freedoms. It will be a modern code designed to meet the needs of today's society by retaining the best features of current law, amending others, and eliminating antiquated, unnecessary provisions still technically in effect.

The statement that the enactment of this bill will result in the first true Federal criminal code will no doubt surprise some. But unlike some of the States and most of the other countries of the world, the United States has never had what could accurately be called a criminal code. Since the end of the Revolutionary War, the Congress has, of course, enacted many criminal statutes. And these statutes have been cumulated, reordered, and technically revised on three previous occasions. But, despite these revisions, the Federal criminal law has always remained a consolidation rather than a code—a compilation of individual statutes drafted at different times by different draftsmen to deal with individual problems as they arose. Until today, no attempt has ever been undertaken to achieve unity or consistency or to clearly and systematically state all the rules applicable in the area of the criminal law.

This historical development of our criminal laws, while perhaps not resulting in a system of justice that was inadequate to its task, has inevitably created a system with many outdated provisions, provisions that are sometimes inconsistent, provisions that overlap others, and provisions that provide widely disparate treatment of related subject matters without reason.

The bill I introduce today has been drafted to correct these deficiencies, defects that seriously impede the rendition of justice. By encompassing and reenacting the entire body of Federal criminal law as a unit, it is able to eliminate the outmoded and inconsistent provisions, incorporating current social attitudes toward the question of what conduct should be criminalized, and provide unified and consistent treatment of such conduct in a modern context.

S. 1, then, truly represents a great breakthrough in our approach to criminal law.

I have stated that I and many others have been working toward the goal represented by this bill for more than 10 years. But the bill itself has a history that goes far beyond that and that it is important to understand. For it will make clear at the outset the most fundamental point that I hope to make to the Senators today. That point is that this legislation is in no way a partisan measure, a "political" bill, and should not be regarded as such. Over its long history, those who have given of their time and energy have never looked upon the proposed criminal code as a political matter. Their sole motivation has been to bring about the creation of a statement of the criminal law that would meet the legitimate needs of society and serve as an example that others could follow in the future.

In attempting to reach that goal, many controversial issues had to be resolved. Those resolutions did not always satisfy all those concerned, including myself. But the goal of the code and its great importance to our system of criminal justice were always rightly recognized as superseding disagreements on individual issues. It was in that spirit that S. 1 was brought about, and it is that same spirit that I would urge upon my colleagues. For if the code is to be held hostage because individual issues are resolved in a manner unfavorable to some or because this bill is looked upon as a political measure, it will not survive. Any legislationof this magnitude is too broad in scope to please everyone in all respects. Every effort has been made and will continue to made during the processing of the bill to come to a fair resolution on the important issues presented by it. But, when this bill ultimately comes before the Senate for final passage, hopefully during this session of the Congress, if a Senator still feels that he disagrees with certain provisions, I would urge that he carefully consider the many benefits that will result from codification of the criminal law before he votes. Prior to that time, I will welcome any suggestions any Senator might have as to how the bill can be improved in order that as many issues as possible might be resolved in committee.

Mr. President, in a very real sense, S. 1 is the product of over 20 years of hard work and careful thought by literally hundreds of distinguished and concerned people—academicians, private attorneys, Government officials, legislators, and private citizens. Indeed, it is an excellent example of the legislative process at its best, working through the coopera-

tion of private and public bodies and individuals.

The bill's modern starting point came in 1952, when the American Law Institute first began work on the planning and drafting of a "Model Penal Code" and its Chief Reporter, Prof. Herbert Wechsler, published the substance of the plan in an article for the Harvard Law Review. In March of the next year, the Council of tht American Law Institute met to consider "Tentative Draft No. 1" of the proposed model code. In commenting on those early beginnings, Professor Wechsler had this to say to the Subcommittee on Criminal Laws and Procedures about the state of the criminal law in this country:

Preliminary studies left no doubt to us that the central challenge of the penal law inhered in the state of our penal legislation. Viewing the country as a whole, criminal law consisted of an uneasy mixture of fragmentary and uneven and fortuitous statutory articulation, common law concepts of uncertain scope and a miscellany of modern enactments passed on an *ad hoc* basis and frequently producing gross disparities in liability or sentence.

That description and that challenge are appropriate today.

The Institute labored over its task for 10 years and, in 1962, published its "Proposed Official Draft" of a Model Penal Code. It is difficult to overstate the significance of this accomplishment, for the Model Penal Code has served as a basis for most of the work of codification that has since followed in this country.

Without in any way overlooking the significance of the enactment of the first modern American criminal code by the State of Louisiana in 1942 or the criminal codes passed simultaneously with the development of the Model Penal Code in Wisconsin, Illinois, Minnesota, and New Mexico, the next major step toward the introduction of S. 1 was the creation in New York State in 1961 of a "Temporary Commission on Revision of the Penal Law and Criminal Code."

The New York Commission prepared a code that differs from and in some ways is better attuned to the needs of society than the Model Penal Code but which clearly derives from the Institute's brilliant work. In signing the New York Revised Penal Law, then-Governor Rockefeller observed:

[The Code] reorganizes and modernizes penal provisions proscribing conduct which has traditionally been considered criminal in Anglo-Saxon jurisprudence. Related crimes are grouped together in logically related titles, definitions are more clearly prescribed, and a new scheme of sentencing is provided affording ample scope for both the rehabilitation of offenders and the protection of society. In line with the Commission's objective, a system of penal sanction is achieved which protects society against transgressors, balanced with safeguards for persons charged with crime.

That same comment could be used to describe this bill.

Congress itself took the next step in the development of S. 1 in 1966 by enacting Public Law 89-801. That law created the "National Commission on Reform of Federal Criminal Laws"—the "Brown Commission," so-named after its very able and distinguished Chairman, former Governor Edmund G. "Pat" Brown of California. The Congress charged the Commission to:

[M]ake a full and complete review and study of the statutory and case law of the United States which constitute the Federal system of criminal justice for the purpose of formulating and recommending to the Congress legislation which would improve the Federal system of criminal justice. It shall be the further duty of the Commission to make recommendations for revision and recodification of the criminal laws of the United States, including the repeal of unnecessary or undesirable statutes and such changes in the penalty structure as the Commission may feel will better serve the ends of justice.

The Commission, on which Senator HRUSKA and I were privileged to serve, together with our distinguished former colleague from North Carolina, Senator Ervin, labored for nearly 3 years, with its advisory committee, consultants, and staff, before submitting its recommendations to the Congress and the President on January 7, 1971, in the form of a final report. That report, some 364 pages in length, was submitted as a work basis for consideration by the Congress. In fact, it served as just that and more. The Commission's Final Report was the subject of intensive and extensive hearings and study throughout the 92d Congress by the Subcommittee on Criminal Laws and Procedures, which I am privileged to chair. These hearings resulted in the introduction of bill S. 1 of the 93d Congress, a "study" bill designated to serve as the next step toward the ultimate enactment of a Federal Criminal Code.

While the subcommittee was proceeding with its analysis, the Department of Justice was conducting its own study of the final report. That study led to the drafting and introduction of bill S. 1400 of the 93d Congress, designed to accomplish the same goals as S. 1 and the Model Penal Code before it.

Together S. 1 and S. 1400 of the last Congress served as the basis for still further hearings and development by the Subcommittee on Criminal Laws and Procedures with a view toward analyzing and distilling the best features of each into a single bill. The product of that effort is the bill that I introduce today.

In order to make clear the extent of the legislative effort that has gone into the production of this bill, I would like to highlight very briefly the work done by the subcommittee in this regard.

In February 1971, the subcommittee began its hearings and studies on the final report of the Brown Commission. Those hearings and studies continued throughout the 92d Congress. During that Congress, 13 days of public hearings were held on the work of the Commission, State experience with criminal law revision, and the various policy questions presented by the Commission's draft code. Sixty-four witnesses appeared before the subcommittee, with many other persons and organizations submitting prepared statements. Staff studies on a number of issues were undertaken. In all, over 4,000 pages of testimony, statements, and exhibits were received by the subcommittee on the issues raised by the Brown Commission report alone.

The subcommittee continued its study of the feasibility of a Federal criminal code during the 93d Congress through its analysis of S. 1 and S. 1400. Twenty more days of hearings were held on these bills, and approximately 80 additional witnesses heard, again with many more submitting prepared statements and position papers. Approximately 4,000 additional pages of testimony, statements, and exhibits were received on these two bills. When finally printed, then, the record of the subcommittee's work on the reform of the Federal criminal law will total over 8,000 pages contained in 11 volumes.

But numbers alone cannot do credit to the tremendous amount or quality of the study, discussion, and preparation that went into the presentations of the many individuals and organizations testifying. Particular note must be made of the contributions of such organizations as the Association of the Bar of the City of New York and its Special Committee on the Proposed New Federal Criminal Code, the American Civil Liberties Union, the National Legal Aid and Defender Association, the National Council on Crime and Delinquency, the New York County Lawyers Association, the National District Attorneys Association, the NAACP Legal Defense and Education Fund, the Federal Bar Association, the Administrative Office of U.S. Courts, the Department of Justice, and the American Bar Association, particularly its sections on taxation, antitrust, corporation, banking, and business law, and the Special Committee on Reform of Federal Criminal Laws of the Section on Criminal Law. Without their effort and assistance and that of others too numerous to mention, the introduction of this bill today would not have been possible.

Mr. President, while I am acknowledging the assistance of the many people who participated in bringing about S. 1, I feel that it is most appropriate that I also acknowledge the assistance of the members of the Subcommittee on Criminal Laws and Procedures, who have been unsparing of their time and effort over the last 4 years in the processing of this legislation. In this regard, however, special credit must be given to the distinguished Senator from Nebraska. As all the Senators know, the demands on each Senator's time are great and inevitably result in scheduling conflicts. When my responsibilities as chairman of the Appropriations Committee or other official business has necessitated my absence from the subcommittee's hearings, the Senator from Nebraska has been unselfish in giving of his time and talent so that the work of the subcommittee might continue. His interest in the Federal criminal code and his expertise are well-known, and it is in no small measure due to his efforts that this bill is introduced today.

Mr. President, I have discussed at some length the history of the proposed Federal criminal code—how it came to be. But I have only briefly alluded to the reason why it came to be when I referred to the defects existing in the law today as a result of its statute-by-statute development. I think a few additional words are in order to explain why

a Federal criminal code is so important and why the time is ripe for its enactment.

First, in several significant areas of the criminal law, the Federal rule today is simply unclear. Doubt has arisen both as to the nature of the conduct prescribed and the scope of available defenses. This situation has resulted in disagreements among the Nation's courts of appeals in these areas and the consequent enforcement of a different Federal law in different parts of the country. An excellent example of this problem involves the articulation of the Federal insanity defense. Because the Supreme Court has not yet ruled on the matter, the courts of appeals have been required to formulate their own tests to determine whether or not the defense exists. This has led to the development of at least 5 different formulas in the 11 circuits and created a situation where the Federal Government appears to apply different standards to people accused of crime in different places.

Surely there can be no greater injustice than to apply the law differently to people who have committed the same act. Yet, similar illustrations can be found in other areas.

This uncertainty in the Federal criminal law is not limited to cases where the courts interpret the same provision in different ways, however. It also arises where the same language is used in different provisions enacted at different times. The word "willful", for example, appears throughout present title 18 of the United States Code. Depending upon where it is used, it has been construed to encompass an act done with a specific intent to violate the law and an act done stubbornly—and various types of actions in between. The result has been that the identical word used in different statutes has been construed to create different requisite mental elements depending upon where it appears.

But perhaps nothing has so distorted Federal criminal law as the practice of defining Federal crimes so as to make jurisdictional requirements elements of the offense. This legislative approach confuses the act that is to be criminalized with the right of the Federal Government to prohibit the conduct in question and has resulted in a proliferation of statutes proscribing essentially the same activity and differing only in the reason for which the Federal Government chooses to intervene. Under present law, for example, there are over 70 theft offenses basically varying only in their jurisdictional aspect. This drafting technique also leads inevitably to the question whether the requisite mental element involved in the offense applies to the jurisdictional element as well as the prohibited conduct, whether, for example, an accused had to "know" that the instrumentality he was using in committing his crime had been transported in interstate commerce, and frequently results in a distortion of Congressional intent in this regard.

The inadequacies of the present Federal criminal law are not limited to problems of statutory formulation. As with the insanity defense, many important areas of the law, such as the law of defenses and the substantive law of conspiracy, have never been fully articulated by the Congress but have been left for definition by the courts. The abdication of responsibility by the Congress in these areas has rendered understanding of the law more difficult and, as in the case of the insanity defense, the law itself inconsistent in different parts of the country.

Finally, the sentencing structure of the present Federal law is also seriously in need of repair. In title 18 alone, there are no fewer than 17 different maximum terms of imprisonment and 14 different fine levels. There appears to be little rationality or consistency in their application. Greatly disparate sentences are often applied to essentially the same conduct. And rarely do the imposable fines bear any relation to the amount of injury inflicted or gain realized by the offender.

Mr. President, these deficiencies in the penal law are serious ones and have impaired the ability of our judicial system to fulfill its goal of rendering justice to those who appear before it. But the deficiencies can be corrected. I feel that they are corrected in large part in the bill I introduce today.

By treating the entire body of criminal statutory and case law as a single entity and restating it in terms of the demands of our modern society, the bill is able to eliminate many outmoded provisions of the law no longer relevant to today's need. This restatement and reform is accomplished through the use of common English with every effort being made to avoid overly technical language. Where words recur throughout the code that might give rise to litigation as to their meaning—such as the term "willful" and the other terms of culpability—they are defined to provide clarity and consistency. The drafting of offenses in simple and precise terms will inevitably remove much of the uncertainty that we now experience and make the criminal code more understandable to everyone.

Much of the Federal decisional law, the basis for much of the uncertainty today, is codified for the first time in this bill. No longer will individuals be required to interpret possibly conflicting court decisions in order to determine the Federal rule on such issues as the insanity defense because the Congress has failed to act. Through the vehicle of the code, the Congress will finally work its will in areas such as the law of defenses, presumptions, and the substantive law of conspiracy.

By redefining the various Federal offenses, the bill is able to separate the circumstances that give rise to Federal jurisdiction from the conduct that actually constitutes the criminal offense. The jurisdictional bases for the various offenses are stated in a subsection separate from that defining the prohibited conduct. This approach permits the consolidation of several hundred previously distinct offenses into a much smaller number and makes it clear that the requisite mental elements for the crime apply to the substantive conduct and not the jurisdictional circumstances.

This treatment of the jurisdictional bases has also permitted a reexamination of the rationale behind the inclusion and exclusion of various offenses as Federal crimes.

Where a determination was made that the current scope of Federal jurisdiction was broader than necessary in a particular area or, in a small number of cases, too narrow, it permitted the drafters of the Code to selectively narrow or expand jurisdiction as appropriate without doing violence to the proper role of the Federal and State governments in the criminal law area.

Finally, the sentencing system presently existing is completely reformed. The disparate system of grading is eliminated, and the multiplicity of penalties is replaced by a new approach under which all offenses are classified into nine categories for sentencing purposes. This new classification has permitted a reexamination of all Federal crimes to reflect the contemporary attitudes of our society toward the seriousness of such offenses as those involving drugs, organized crime, and white collar crime.

Mr. President, I have spoken at some length about this bill, its purpose and its history. It is a bill of great magnitude, not merely in terms of its size, but also in terms of its scope. As with any attempt of such proportions, no one will be completely satisfied with it; no one will agree with all that it contains. I myself do not. There are some provisions that I would prefer were not included; indeed, some that I may seek to amend in committee. But that fact does not at all make me hesitate to introduce the bill.

As I have already stated, the benefits to be achieved from the creation of a Federal criminal code, from the improvements that it will mean for our system of criminal justice, far outweigh the consequences that might result from the provisions with which I might disagree. It is the goal of codification that is important—not the wording of any one provision.

I would strongly urge the Senators to consider S. 1 in this light. To attempt to judge the bill in terms of any single issue would be wrong and would be to overlook its purpose. This does not mean that I am urging my colleagues to overlook any provisions they might oppose or refrain from attempting to change them. To the contrary, debate on such issues is not only to be expected but to be welcomed. For it is only through the examination of diverse views ably stated that we may reach sound decisions. I would merely state that too much is at stake and too great is the need for reform to run the risk of losing it all because one believes that some issues were wrongly decided. If such an approach is adopted, the years of effort of many people will have been in vain.

Mr. HRUSKA. Mr. President, with the introduction of this bill, the Senate is presented with the opportunity to provide the United States with a modern, comprehensive, and workable Federal Crimi-

nal Code—a code that will replace the often inadequate, clumsy and outmoded penal provisions scattered throughout the 50 titles of our Federal laws with a rational, integrated code of criminal laws that is both workable and responsive to the demands of a modern nation. I take great pleasure in joining the distinguished chairman of the Subcommittee on Criminal Laws in sponsoring this bill.

At the outset, Mr. President, as the ranking minority member of the Subcommittee on Criminal Laws and Procedures, I want to take this opportunity to salute our distinguished chairman, the senior Senator from Arkansas (Mr. McCLELLAN) on his excellent presentation of the need for and background of this bill.

His interest, like mine, in the enactment of a Federal criminal code spans nearly a decade. From 1966 to 1971, he served, along with Senator Ervin and myself, on the National Commission on the Reform of Federal Criminal Laws. For the past 4 years, he has held extensive hearings to examine and consider the basic issues underlying the modernization of Federal penal law. In short, the fact that we are at this stage in the enactment of a Federal Criminal Code is in no small measure a tribute to the commitment and effort of our distinguished chairman.

Mr. President, the value of a rational set of criminal laws to our society cannot be overstated. Criminal law structures our relationships with our fellow man. It serves as the common denominator for society, protecting the order of the community and fostering the security of the individual.

In his discussion of the need for penal code reform throughout the Nation, Prof. Herbert Wechsler has aptly expressed the profound impact that the penal law has on our daily lives:

> Whatever view one holds about the penal law, no one will question its importance in society. This is the law on which men place their ultimate reliance for protection against all the deepest injuries that human conduct can inflict on individuals and institutions. By the same token, penal law governs the strongest force that we permit official agencies to bring to bear on individuals. Its promise as an instrument of safety is matched only by its power to destroy. If penal law is weak or ineffective, basic human interests are in jeopardy. If it is harsh or arbitrary in its impact, it works a gross injustice on those caught within its toils. The law that carries such responsibilities should surely be as rational and just as law can be. Nowhere in the entire legal field is more at stake for the community, for the individual.

Our system of justice does not, of course, rest on the substantive criminal law alone. The producers by which our criminal laws are enforced and the individuals who deal with the administration of the law are important elements. In this respect, the subject bill contains nearly a hundred pages on criminal procedure. And each of those elements is highly dependent on the other. But without rationally conceived and clearly formulated criminal laws, neither the administrator nor the individual citizen can know precisely, let alone respect, what society expects of him. It is the criminal law that determines whether the Government and social order deserve credence and respect.

NEED FOR REFORM

Mr. President, despite this fundamental role that criminal law plays in our society, this Nation since its beginning has never adopted a uniformly drafted, consistently organized code. Present statutory criminal law on the Federal level is often composed of conflicting, imprecise, and awkward laws passed in an ad hoc fashion to deal with problems as they arose. Many of these statutes, by and large, were enacted with little relevance to each other or to the state of the criminal law as a whole.

The failure to revise and reform our criminal laws has posed a number of acute problems both to the lawyer and to the citizen. Chief among these problems is uncertainty in the law that has developed. Conflicts and imprecisions in our laws stem from the fact that many of the important areas in our criminal laws are not codified. Many extremely sensitive areas have been left by Congress for the Federal judiciary to grapple with on a case by case basis. An example is the insanity defense. Where it is possible to discern the type of insanity test applied, at least five different formulas have been identified for the 11 circuits. As a result, whether a defendant is adjudged guilty or not guilty by reason of insanity can rest on the irrelevant issue of which circuit the indictment was brought in.

Imprecision and contradictions in our law do not end with a consideration of nonstatutory law. For example, we have some 79 statutes dealing with theft sprinkled throughout our laws. Although they basically prohibit the same kind of conduct, it is rare to find two that read alike. As a result, the Federal judiciary is confronted with differing statutory definitions of the same underlying offense and must make a determination whether the use of different words manifests the Congress intent to require proof of different elements. Not surprisingly, this quandary results in conflicting court interpretations.

Loopholes and technicalities abound from the present hodgepodge of our criminal laws. Currently our laws define an offense in terms of the jurisdiction. Crimes are created and jurisdictional pegs written into the offense to satisfy a then perceived need. This approach leaves irrational gaps and inconsistencies in the application of Federal criminal laws. For example, conviction for the commission of a fraudulent scheme may depend on whether the mail or the telephone is used.

The sentencing scheme of our current laws is erratic. Only occasionally—as if by accident—are fines related to the amount of injury inflicted or gain realized by the offender, and then the ratio of fine to amount involved may be 1 to 1, 2 to 1, or 3 to 1. Similar conduct is often treated with disparity. For example, robbery of a bank carries a sentence of 20 years while robbery of a post office carries 10 years.

In short, the Federal penal law reflects neglect. Because of its lack of clarity, consistency, and comprehensiveness, it tends to undermine the very system of justice of which it is the foundation.

The need, then, to revise our criminal laws is patent. The myriad of laws with which we are saddled must be replaced with a logical, integrated code.

It is necessary to codify for the first time in our history those important and sensitive areas of the law such as the law of defenses, accomplice liability, and conspiracy that have hitherto been left to case-by-case development.

It is necessary to simplify the law. The definitions of a crime should be stated in common English, without convoluted sentences, verbose, or technical language.

It is necessary to eliminate imprecision and inconsistency in the interpretation of our criminal laws. We propose a common dictionary in the code so that it is clear that where a word recurs throughout our criminal laws, it carries a precise, and identical, meaning.

It is necessary to divorce the question of what is criminal conduct from the question of what criminal behavior triggers Federal jurisdiction. Punishment should be imposed for the underlying misconduct which is within Federal jurisdiction rather than for the interference with the jurisdictional factor itself. In creating a crime, it is necessary to determine whether there is the authority and the need for the Federal Government to prohibit certain conduct. But the power of the Federal Government should not be confused with what conduct is proscribed. This approach has several material advantages, not the least of which are clarity of drafting and consolidation of offenses into fewer offenses with several jurisdictional bases. For example, under this approach, the approximately 70 statutes dealing with theft—each written in a different fashion to cover the taking of various kinds of property in different jurisdictional situations—can be replaced with a single section.

It is necessary to eliminate obsolete statutes that clutter up the law such as those making it a Federal offense to operate a pirate ship on behalf of a foreign prince (18 U.S.C. 1651), to detain a U.S. carrier pigeon (18 U.S.C. 45), or to seduce a female steamship passenger (18 U.S.C. 2198.)

Finally, it is necessary to adopt a consistent and integrated system of sentencing.

S. 1 is intended to satisfy all these needs. It embodies, I believe, a systematic, sensible, and comprehensive penal policy for the United States that is both workable and responsive to the demands of our highly complex 20th century society.

REVISION AND REFORM

Mr. President, since my appointment to the National Commission, I have spent a great deal of time considering the proper form Federal criminal law should take in this Nation. This is a compelling issue that touches the lives of most citizens in one way or another, and the lives of some citizens to an overwhelming degree. During the deliberations of the

Commission and later the Subcommittee on Criminal Laws, we have been exposed to some remarkable new thinking in this field some of which has been incorporated into both the final report of the Commission and now S. 1. Many of these ideas have much merit. Their adoption will result in a more fair, a more compassionate, a more effective, a more balanced, and a more workable criminal justice system. This should be our ultimate goal.

This code, for the first time since 1790, puts the definition of all Federal felonies in one place. Where existing law has proved satisfactory, and where existing statutory language has received favorable case law interpretation, the law and the operative language have been retained. But, for the most part, a number of reforms as well as revisions have been introduced, both with respect to existing offenses and newly created offenses. I want to discuss at this point some of these reforms in substantive criminal law.

First. Scope of Federal jurisdiction. One of the most widespread and sustained criticisms directed toward the report of the National Commisson on the reform of Federal criminal laws involved its approach to jurisdiction. The National Commission adopted the so-called piggy-back jurisdiction concept. Piggy-back jurisdiction is what its name implies. If there is Federal jurisdiction over one offense, the Federal Government can prosecute any other offense that may have been committed, at that same time by the defendant. For example, if a defendant robbed a local store, killed the local storekeeper and, in fleeing, stole a car taking it across State lines, the Federal Government could prosecute not only the violation of the Dyer Act—stealing a car—but also the murder and robbery and any other offense that could have been committed. The Dyer Act would, for jurisdictional purposes, carry on its back all of the other offenses, even though they were local in nature and local in interest.

This approach was criticized on the ground that it would result in the Federal Government usurping the role of the States in prosecuting local crime by expanding greatly Federal jurisdiction. In other words, that this was a step toward national policing. I believe the criticism was well founded.

The proposed code rejects general piggy-back jurisdiction. It allows the Federal Government to assert ancillary jurisdiction over only a very limited number of serious offenses. As a result, the role of the States in criminal matters is not usurped by the Federal Government under this code. Their role remains instrumental. By this restriction of jurisdiction, I believe the proposed code reflects the proper role of the States as viable components of the criminal justice system.

Second. White collar offenses. In order to combat white collar crime, several innovations are employed. A new offense is created to allow more effective prosecution of pyramid sales schemes, for example. The mail fraud statute is revised to insure that consumer fraud on the national scale is subject to Federal prosecution.

Third. Campaign offenses. A new offense is created to prohibit sabotage of political campaigns. The offense basically has two points. First, it confers Federal jurisdiction over a crime if it occurs during a Federal campaign with the intent to influence the outcome of the Federal election. Federal jurisdiction over the break-in of the Democratic headquarters in the Watergate Hotel was purely fortuitous. There was Federal jurisdiction because the hotel is in the District of Columbia. If the same break-in for the same purposes had occurred in another State—for instance in Miami Beach during the Democratic National Convention—the Federal Government would not have had jurisdiction. The proposed code cures this defect by vesting jurisdiction in the Federal Government over any felony relating to a Federal election.

Second, the political sabotage offense makes it illegal to distribute campaign literature without accurately identifying the sponsor. This part of the offense is directed at the "dirty tricks" aspect of the 1972 Presidential campaign, where some individuals distributed campaign literature ostensibly sponsored by a candidate which falsely accused some individuals of engaging in illicit activities. This type of activity has no place in our campaigns and should be prohibited.

Fourth. Racketeering—Two new offenses have been created in the organized crime area. The first makes it unlawful to operate a racketeering syndicate, that is, to lead organized crime. In this way, those who are the leaders of organized crime will subject themselves to criminal liability by that very fact.

The second new offense in this area is called "Washing Racketeering Proceeds." It makes it an offense to "launder" the proceedings of organized crime by investing the gains of organized crime in legitimate businesses. All too often, the phrase, "crime does not pay" is belied by organized criminals. Through their racketeering activities they mulct funds from their victims and then launder these proceeds. By prohibiting this conduct, this offense is designed to strip away the financial fabric and profit of organized crime.

Fifth. Victim's Compensation—A new, and somewhat novel, provision adopted by the code is a victim's compensation provision. Under this proposal, an innocent victim of a Federal crime of violence can be compensated for the personal injuries he sustained.

The compensatory fund will be financed from fines, dividends from the sale of goods by the Federal Prisons Industries and private contributions. This provision insures that consideration is given to the victim as well as punishment meted out to the criminal.

Sixth. The sentencing system—The reforms wrought by the jurisdictional and the substantive offense provisions would have little practical significance if they were unaccompanied by a realistic approach to the myriad problems which arise once a person has been convicted of a Federal offense. The sentencing part of the code therefore replaces existing anomalies with a rational system distinguishing the degrees of crime while insuring uniformity.

Two significant changes are made with respect to organizations that engage in criminal activity. While an organization is treated as a person in other areas of the law, this fictional treatment breaks down when it comes to sentencing an organization. Quite simply, the organization cannot be sent to jail. The question is what type of sentence will deter organizations from engaging in criminal conduct and properly reflect society's sense of retribution.

The code makes two significant changes in this respect. First, it increases the fine levels for organizations to reflect the greater capacity to pay. All too often, current fines amount to a slap on the wrist to the corporation or labor union. The second change is the creation of a new sanction—the "notice sanction." The sanction requires an organization that has defrauded a number of people to give notice of the conviction to those innocent victims who may be entitled to file civil claims for damages. Here again, the code pays some attention to the victim of the crime.

A concept that this Senator has endorsed for many years is also incorporated in the code—appellate review of sentencing. The United States is the only modern nation that does not afford the defendant a way to appeal his sentence on the ground that it was excessive, or unduly harsh. Every aspect of a criminal trial can be appealed to a higher authority, save the sentence imposed on the defendant. The lack of authority and machinery to review unreasonable sentences has troubled me for many years. How we can justify a sentence of probation in one case and a sentence of a long period of imprisonment in a nearly identical case? In my view, the appellate review concept is necessary to reduce the unwarranted disparities in sentencing that belabor our criminal justice system.

Mr. President, at this point I should caution that by listing some of the reforms in this bill, I do not intend to emphasize them at the expense of other reforms or, what concerns me more, to suggest that these are the only major reforms. This list of reforms is far from exhaustive. Nor do I want to minimize the importance of revising our existing laws. Where present law has proved satisfactory, and where existing statutory language has received favorable case law interpretation, the law and the operative language have been retained. I point to these ideas incorporated in S. 1 only to show that the bill draws together the best of past experience and the best of innovation into a workable, comprehensive, and scholarly code.

BACKGROUND OF THE CODE

Mr. President, the recasting of our Federal criminal law has clearly recognized as a long-term project that would require strong bipartisan support and a healthy spirit of reconciliation, good will and accommodation. Much remains to be done if we are to enact for this Nation its first Federal Criminal Code. But much has already been accomplished.

As the distinguished Senator from Ar-

kansas has pointed out, S. 1 is the product of many years of hard work and careful thought by a large number of distinguished and concerned citizens. Nearly a decade of study is embodied in this bill.

In 1966, Congress passed a bill creating a National Commission on Reform of Federal Criminal Laws. After nearly 3 years of hearings and deliberations, that Commission, popularly referred to as the Brown Commission after its distinguished chairman, former Governor "Pat" Brown of California, published a study draft in June 1970 in order to secure the benefit of public criticism before the Commission made its decisions. The many comments submitted in response to the circulation of 5,000 copies of the study draft greatly aided the numbers of the Commission as they met again and again to determine the final shape and scope of the Report. The final report was submitted to the President and to the 92d Congress on January 7, 1971, "as a work basis upon which, the Congress may undertake the necessary reform of the substantive criminal laws."

During the 92d Congress, the Subcommittee on Criminal Laws and Procedures held hearings and conducted studies of the final report, further adding to the knowledge and options available in the field of criminal law codification.

Using the Commission final report as the "working basis" and in light of the 2 years of hearings, the Criminal Laws Subcommittee drafted S. 1 which Senator McCLELLAN introduced early in the 93d Congress and which Senator Ervin and I cosponsored.

During the same two years following the submission of the Commission's final report, the Attorney General at the direction of the President, established a special unit of experienced attorneys in the Department of Justice to evaluate the final report and to prepare and submit appropriate legislation encompassing comprehensive reform of our Federal Criminal Laws. S. 1400 which was introduced by this Senator and cosponsored by the distinguished Senator from Arkansas was the result of this effort.

Both S. 1 and S. 1400 then served as the vehicles during the last Congress for further hearings and study by the Subcommittee on Criminal Laws. While there were a number of differences between S. 1 and S. 1400, they had a basic similarity of concept and approach, springing as they both did from the National Commission's final report.

The bill introduced today builds upon all the work accomplished over these past years. It is drafted in the light of the many and detailed comments and criticisms that have arisen during the more than 4 years of hearings and more than 4 years of study by the National Commission.

Intended to be a composite of the best features of S. 1, S. 1400 and the final report, the bill introduced today has also been the subject of detailed comments. A committee print of this new bill was published on October 15, 1974 and sent to every witness who appeared before the subcommittee and to all the agencies of the Federal Government. All of the comments received were carefully evaluated and weighed and amendments to the committee print made in response thereto.

Consistent with the importance of this undertaking, Mr. President, this brief recital of the history of this bill should manifest the great care and deliberation with which this proposed code has been treated.

CONCLUSION

Mr. President, the revision, reform and codification of the Federal criminal law is widely conceded to be imperative. For too long now our efforts to protect life and property, human rights and domestic tranquility have been hobbled by the most fundamental element of the criminal justice system, the law itself.

The processing of this bill is one of the most important tasks that confronts this Congress. As Senator McCLELLAN has pointed out, the enactment of a Federal Criminal Code must be approached with a healthy spirit of compromise. The bill that we will eventually bring forward will have provisions to which we may object or about which we may not be enthusiastic, and that will certainly be true as to each member of the subcommittee and the full Judiciary Committee. But if we are to bring about this reform, there must be compromise. We will have to make up our minds that we are not going to vote against the whole program because it contains one provision of law or one feature of a bill that we do not like. Ransom has never been an honorable means to achieve an end.

S. 1 offers Congress the opportunity to restructure Federal criminal law so as to better serve the ends of justice in its broadest sense—justice to the individual and justice to society as a whole. While it is unrealistic to assume that every facet of the bill will be viewed with equal favor by all observers, I think it is not too much to hope that the task of translating the proposals they embody into reality will be approached with quiet reason and in a spirit of true bipartisanship.

The monumental importance of the undertaking demands no less.

Mr. TAFT. Mr. President, I am pleased today to cosponsor S. 1, a bill to codify, revise, and reform title 18 of the United States Code.

In my view, reform of title 18 is necessary and long overdue. This bill represents a culmination of 4 years of effort by the Senate Subcommitee on Criminal Laws and Procedures and by a special professional staff unit of the U.S. Department of Justice. The arduous work of these bodies followed 3 years of extensive work by a National Commission on Reform of Federal Criminal Laws, known as the Brown Commission, which followed more than 20 years of work by State commissions, State legislative committees, and the American Law Institute. I am gratified that we have finally reached the state where we may go forward in this Congress with legislation.

It is clearly evident from the 4 years of hearings which have been held that our criminal justice system cries out for extensive reform. I agree with the Judiciary Committee that the time has come to create for the first time since the founding of our Nation, a systematic, consistent, and comprehensive Federal Criminal Code to replace the hodgepodge which now exists. I also recognize that in attempting a task of this magnitude, it is obvious that the final bill cannot possibly satisfy everyone in every respect, but the present state of the law does not accomplish this either. Dealing with literally hundreds of provisions, it is inevitable that some will disagree with certain sections. I, myself, cannot agree with all of the bill's provisions, however, looking at the entire bill, it represents a good legislative effort and a vehicle by which Congress may work its will in promulgating the necessary reform. It is a well reasoned, logical approach which is both workable and responsive to the demands of our society. At a time when crime is increasing at alarming rates, it is in the best interests of our country that we have a systematic, sensible, and comprehensive Federal criminal code which will hopefully alleviate this growing problem which threatens and undermines our American way of life.

Mr. BAYH. Mr. President, I am pleased to join with the distinguished chairman of the Subcommittee on Criminal Laws, Mr. McCLELLAN, in cosponsoring S. 1, the bill to codify and revise our Federal criminal laws. There is no question, Mr. President, but that this legislation is needed and indeed long overdue. Senator McCLELLAN and the distinguished Senator from Nebraska, Mr. HRUSKA, have devoted their energies to this massive and important effort for some years. In the course of their work, they have refined the various legislative proposals to the point where the legislation is now ready for action by the Judiciary Committee and the full Senate.

Congress and the American people are very much in their debt for the time and attention they have given to the project.

In any piece of legislation of this scope and size, there will invariably be specific provisions on which reasonable men may differ. In cosponsoring S. 1, I wish to indicate that I am not thereby endorsing each and every one of the statutory provisions it contains. I have examined the current draft of the bill and find I can support its basic structure and outline. When this bill is considered by the Judiciary Committee, I will initiate or support amendments to certain of its specific provisions.

Once again, I wish to commend my distinguished colleagues, Mr. McCLELLAN and Mr. HRUSKA for the time and effort they have devoted to this important legislation. I look forward to continuing to work with them in fashioning the final version of this important bill.

By Mr. PROXMIRE:

S. 2. A bill to amend the Communications Act of 1934 in order to recognize and confirm the applicability of and to strengthen and further the objectives of the first amendment to radio and television broadcasting stations. Referred to the Committee on Commerce.

FIRST AMENDMENT CLARIFICATION ACT OF 1975

Mr. PROXMIRE. Mr. President, today I am introducing the First Amendment Clarification Act of 1975, which is designed to give the people of the United

States the full benefit of a free press—electronic as well as printed.

For nearly a half century the broadcasters of this country have been subjected to regulation by a Federal agency. It generally is accepted that this regulation is founded on the principle of public ownership of the electromagnetic spectrum. But no such declaration of ownership exists in law.

Even if there were a direct statement of public ownership in the United States Code—and there is not—governmental control over broadcasting content by the Federal Communications Commission could not be justified under the first amendment to the Constitution.

The reason is simple: radio and television broadcasting is part of the free press. It goes beyond free speech.

Free speech can be limited. The best example is the famous admonition of Oliver Wendell Holmes concerning shouting "fire" in a crowded theater.

WATCHDOG OR LAP DOG

But freedom of the press cannot be limited. The press was the only industry, the only business, given special treatment by the authors of the first amendment. It is there because of a fear of excessive power being exercised by Government. Hugo Black said that the first amendment gave the press freedom so that it might "serve the governed, not the governors."

The press, recognized by the Constitution, is the watchdog of the Government. If the Government holds the leash, the watchdog is a lap dog.

The Supreme Court has done its job well in protecting the freedom of the print media. Only last year it struck down a Florida law that required newspapers to permit political candidates to reply to critical editorials.

There was no public outcry about fairness being dealt a death blow, for the principle of a free press is generally—if not universally—accepted in this country. And, it might be pointed out, the United States is nearly unique in having a free press. Even the United Kingdom cannot boast that.

The ironic point about the unconstitutional Florida law is that it parallels the personal attack rule under the Federal Communication Commission's so-called fairness doctrine.

TERM IS MISNOMER

But the term fairness doctrine—a misnomer if there ever was one—is hailed by many persons in this country, even the Supreme Court which has held in the Red Lion case that it "enhances" the first amendment.

It is difficult to understand how a prohibition against Congress passing laws abridging, that is, diminishing, the freedom of the press can be enhanced. A prohibition is a negative, a zero. And zero multiplied by any factor is still zero.

But the argument adopted by the Supreme Court was that there is a scarcity of space on the electromagnetic spectrum, that there can be only a limited number of broadcasters, and that anyone can publish a newspaper or print a handbill.

The answer to that, of course, is that in every large- and medium-sized city—and in almost every small city—there are more television signals available than daily newspapers. And if radio stations are counted, as they must be, general audience broadcasting stations far outnumber general circulation newspapers.

And further, economic pressures make it nearly impossible to found a daily newspaper in a community where one already exists.

But what about that public ownership of the airwaves argument? Is not that a good one?

TO INDULGE IN FANTASY

A Minnesota law school professor wrote this in 1967:

To say that the airways or spectrum can be owned by anyone is simply to indulge in fantasy.

That professor, Glen O. Robinson, is now a Federal Communications Commissioner.

He, of course, is sworn to uphold the Communications Act of 1934, so his personal opinions do not affect the performance of his professional duties.

Yet, it is interesting to remember how Federal regulation of the spectrum developed. It was not the result of a declaration of the public interest in broadcasting. On the contrary, pioneer broadcasters and other users of the spectrum realized that one radio transmitter could interfere with the signal of another. They voluntarily tried to parcel out the spectrum so as not to interfere with each other. But, as one might guess, that did not work, so they sought Government regulation. The result was the Radio Act of 1927.

The Federal Communications Commission was established as the successor to the old Radio Commission and with greater powers in 1934.

In a series of internal decisions, the fairness doctrine was developed. It was, and remains, a series of administrative law rulings, although the FCC last year did issue a restatement called the Fairness Report.

CONGRESS KEPT SILENT

In 1959, the fairness doctrine was recognized by the Congress. I must confess, that it was an amendment I offered that led to that statutory recognition. The Supreme Court in its Red Lion decision upholding the constitutionality of the fairness doctrine noted that fact.

But, also, the Supreme Court noted in that case that since then, the Congress has kept silent by refusing to overturn the construction of the fairness doctrine.

I now consider the fairness doctrine to be the "unfairness doctrine."

One of the reasons I have adopted that position is that when Government imposes its regulations, regardless of its good intentions, it naturally seeks more and more power. In this case, it has gradually but successfully rewritten the first amendment. Gradual? Yes; even the FCC traces the beginnings of the fairness doctrine back to the old Radio Commission.

The tragedy is that nearly a half century of gradualism has eroded the guarantee of a free press—a free electronic press.

A FOURTH INSTITUTION

Mr. Justice Potter Stewart in an address at the Yale Law School last November made a telling point about the press. He said that in guaranteeing a free press, the authors meant "to create a fourth institution outside the Government as an additional check on the three official branches."

It is necessary to point out an obvious fact at this point: Radio and television did not exist when the first amendment was drafted. We can only assume that had these electronic media existed then, the first amendment would have included them along with newspapers, magazines, books, pamphlets, and the like. We can make that assumption because many authorities writing on the subject of a free press make no distinction between one medium of communication and another. Mr. Justice Stewart did not in his speech at Yale.

Reason dictates that there should be no differentiation between the same information or opinion delivered by different media. Should the President be more credible when he is seen and heard on television than when his words are printed in a newspaper? I think not.

Should an opinion on a Presidential speech be more believable because it is delivered to the listener and viewer by an electronic tube than by a printing press and paper? Marshall McLuhan is confusing on that. The fact is, each individual brings to his or her reading and viewing his or her own personal background of knowledge, intellect and emotion. The individual person makes up his or her own mind.

BASIS OF GOVERNMENT

To deny that, denies the basis of our form of representative government.

Even if the spectrum were publicly owned, there is no reason to believe that radio waves are more persuasive or influential than any other means of communication. To assert that they do so does not square with the psychological literature, which can be summed up by saying that television at worst tends to reinforce opinions already held.

The FCC, when considering a complaint against a broadcaster, operates as if that broadcaster and the material broadcast were completely influential—that everything heard or seen on the station would be accepted and acted upon by the listener or viewer. Those who think know that is not true.

What is more, the FCC ignores the fact that the listener or viewer of that particular broadcaster has access to other sources of information and opinion. There are other broadcast stations, newspapers, magazines, books available to the listener or viewer. The FCC rarely takes that fact into consideration.

The Commission acts as if a broadcaster were some sort of pied piper leading his audience like so many dumb animals.

We are not rats. We are rational human beings, capable of thinking for ourselves.

DIVERSITY IS NEEDED

We have all sorts of sources of information and opinion. We make up our minds in diverse ways.

Diversity is what we need to keep our form of government viable. That is what the free marketplace of ideas is all about.

But the FCC, backed by the Supreme Court in the Red Lion case, claims that only through the Government controlling the fairness of broadcasters can that free marketplace be maintained.

That seems incongruent to me. It just does not fit together.

This incongruity arises because broadcasting is treated differently than publishing, even by the highest court in the land.

In the Miami Herald case, to which I referred earlier, Chief Justice Burger wrote:

> The choice of material to go into a newspaper and the decisions made as to limitations on the size of the paper, and content, and treatment of public issues and public officials—whether fair or unfair—constitute the exercise of editorial control and judgment. It has yet to be demonstrated how governmental regulation of this crucial process can be exercised consistent with First Amendment guarantees of a free press.

STIFLING RESTRAINT

Intervening in that case with a joint brief were the publishers of the Wall Street Journal and the New York Times. They argued that if the Florida law were upheld to permit political candidates to have the right to reply to editorials critical of them that would restrict the airing of political views. Their brief said:

> Every page one story about legislators or other elected officials may carry with it the possibility the legislator or official will be the author of a portion of a future front page. It is painfully clear that those conditions will lead not to debate but to a stifling degree of restraint in political reporting by newspapers.

The same could be said of radio and television.

And that is the danger of the FCC's fairness doctrine and the Communications Act's equal time rule.

These regulate through Government power what and who can be put on the air. While the intent is to promote fairness, the opposite can be the effect.

Broadcasters find it easier to go along, to avoid controversy, and thus lessen diversity of ideas.

FOR BENEFIT OF CITIZENS

We need diversity of ideas, especially in these times when newspapers are finding it difficult to stay in business against tough economic competition. Ask the employees of the Washington Star-News. Ask the people in Morristown, Tenn., who have lost the Monday edition of the Gazette-Mail because of increases in the cost of newsprint, ink, and other items.

Now is the time to make broadcasters fully equal to publishers so that the people of this country can have diversity in the news media.

Freedom of the press was designed for the benefit of all American citizens, not for the benefit of the disseminators of news and opinion.

If the most popular of the disseminators, television and radio, are tied down by governmental controls, those who suffer will be the people of this country.

All we need do is look at those countries where there is no freedom of the press.

Mr. President, that is why I am offering this legislation.

DEFINES PURPOSE

The first section of my bill defines its purpose: to recognize and confirm the applicability of the first amendment to broadcasting and to strengthen and further the objectives of the first amendment. That can be accomplished by removing the statutory and regulatory restrictions placed on broadcasters who operate under the Communications Act of 1934.

Section 2 of my bill deals with the definition of "public interest, convenience and necessity" under which broadcasters operate. Right now, that phrase in the Communications Act is used to make broadcasters accountable to the FCC after the fact for everything they put on the air, everything from opinions on controversial subjects of public interest, regardless who voices them, to whether a station programs classical or rock music. It is true that the FCC cannot censor what goes out on the air, and the FCC will point to that when it conveniences them, but broadcasters are required to answer to the FCC later. Obviously, that cannot help but influence broadcasters.

STOP "RAISED EYEBROWS"

My bill will make it clear that the term "public interest, convenience, and necessity" cannot be construed to give the FCC jurisdiction to require that any person be provided broadcast time, or to require that any viewpoint be given broadcast time. It further makes clear that the FCC cannot exercise any power, supervision, or control over the content or scheduling of any program or other material broadcast, and the FCC cannot comment on or review any of those items. The last provision of my bill is to stop what has been called the "raised eyebrow" effect used by the FCC to indirectly control and regulate broadcasters.

There is an exception in my bill. The last phrase in section 2—"except where the broadcast of such material is otherwise prohibited by law"—means that other Federal laws against the broadcasting of obscenities and lottery information would remain in effect even though my bill became law.

Section 2 is also written in such a way that the FCC would retain its power to decide which applicants would receive licenses under the Communications Act. To me, there are some constitutional questions about the fact of licensing, but it is a fact of physics that only one broadcaster may use a channel at one time. Therefore, there does have to be a traffic cop. The intent of my bill is to permit the FCC to recognize the existence of minority groups that might wish to apply for broadcasting licenses. All technical data being equal, the FCC could decide to award those licenses to the minority group.

REPEALS SECTION 315

Section 3 of my bill repeals that part of the Communications Act that permits the FCC to revoke the license of any station that willfully refuses or fails to allow a candidate for Federal office to buy reasonable amounts of broadcast time. The reason for that section of my bill is to make it consistent with the next section.

Section 4 repeals section 315 of the Communications Act of 1934. Section 315 contains both the equal time rule and the authorization for the FCC's fairness doctrine.

The equal time rules requires that when a candidate for a public office is given or sold time any other candidate for that same office must be given an equal opportunity.

Like the Boy Scout oath, that sounds great. Unlike the Boy Scout oath, the equal time rule is an abridgment of the first amendment. It is a governmental control over a part of the free press.

But there is a practical reason for doing away with the equal time rule, too. The best example is to cite the congressional action that temporarily rescinded the equal time to permit the famous debates between John Kennedy and Richard Nixon in 1960. Most persons will agree that those debates were useful to the electorate. Yet, they could not have been held with section 315 in force.

CATCH 22 CITED

Similarly, that section of the Communications Act now bars similarly programing concerned with any election, local, State, or Federal right now, including Presidential elections. Eliminating the section can bring meaningful coverage of candidates views in special programing.

The fairness doctrine of the FCC requires that broadcasters afford reasonable opportunities for the presentation of contrasting viewpoints on controversial issues of public importance. And that is incorporated into law through section 315.

The administration of the fairness doctrine has been a catch 22.

Unlike the equal time requirement, the fairness doctrine does not call for each viewpoint to receive the same amount of air time, neither does it require that the other viewpoints be given in the same program. That sounds fine. But the trouble is, even if it were constitutional, the fairness doctrine is applied case by case with only the particulars of past cases to use in judging its application.

Right now in the courts, NBC is facing a fairness doctrine fight over its documentary, "Pensions: The Broken Promise." NBC claimed in defending itself that the subject of private pension plans was not controversial because as far as it knew the subject had not been dealt with previously on network television. Accuracy in Media, Inc., complained that contrasting viewpoints were not aired on the program. NBC said that it had done a fair job and had no intention to giving the subject more air time.

"UNFAIRNESS" DOCTRINE

Now here is where catch 22 comes in: Had NBC devoted more time to the issue, giving additional viewpoints, there would have been no issue before the FCC. So in order to prove its point, to test the matter in the courts, NBC could air no more shows on the subject without making its case moot.

A three-judge appeals court panel

ruled in favor of NBC, saying that this country needs investigative reporting. In April, the entire appeals court will rehear the case.

That is just one example of how the "unfairness" doctrine works.

In repealing section 315, I would also knock out its other provisions, which include the best time rates for political advertisers. That seems totally unfair as a matter for law.

The next part of my bill, section 5, gets at the heart of the first amendment question. This amends section 326 of the present law that states that there shall be no censorship by the FCC and that the FCC shall not interfere with the right of free speech. That is fine as far as it goes. I add the right of free press. That is the key to putting broadcasters and publishers on equal footing regarding first amendment rights.

FCC A FACTOR

And again, this is for the benefit of the people of the United States.

Because censorship, by definition, means prior restraint section 326 has protected broadcasters from having programs kept off the air at scheduled broadcast time. There have been cases where broadcasters themselves have stopped personalities from going on the air with particular programs, but that has not been governmental censorship. In those cases where programs already taped have been held off the air, the Government has not been involved directly. But there is no doubt that the existence of the FCC has been a factor. Think not? Ask Dick Cavett.

Further new language in section 326 will make it clear that broadcasters will have the right to determine the scheduling and the content of their programs and who shall appear on them so that the chilling effect of the existence of the FCC will not be a factor.

Finally, section 6 of my bill repeals the prohibition of political editorializing by noncommercial educational broadcasting stations. This section of the current law, aimed at licensees, is clearly unconstitutional, although it has not been tested.

ONE HUNDRED AND EIGHTY DEGREES OPPOSED

At this point, I would like to add that I have not amended other sections of the law dealing with publicly supported broadcasting. An argument can be made that if broadcasting is supported by tax dollars, the taxpayers have a right to say how their tax dollars should be used. For example, it would be wrong for the Government Printing Office to publish a daily newspaper. Such a newspaper could not please all of the taxpayers.

This bill is 180 degrees opposed to the position of many critics of the present system who believe that more governmental regulation of broadcasting is needed.

Some persons and groups believe that there should be public access to the airwaves. Some of them, I am sure, believe the same is true for newspapers despite the Miami Herald decision.

The rebuttal to those seeking air time for good purposes—and I do not doubt their sincerity—is twofold:

First. More and better professionalism has been demonstrated in recent years in broadcast journalism. There is not enough yet, true. But there is a definite movement in that direction. Professionalism means that there should be no bias in news coverage and that contrasting opinions should be aired when it comes to editorializing, and that the two should be clearly separated. Many would say, "Yes, but that is what the fairness doctrine seeks." And my answer to that is: It has not worked that way. The fairness doctrine has stifled professionalism.

COMMUNICATIONS TOTALITY

Second. There are many, many viewpoints seeking to be heard and only 24 hours in each day. Broadcasting has time restraints. But as a practical matter, I challenge anyone to name a topic that has not been covered by radio and television. I think there are none. But if there are some left uncovered, other media must be considered. The totality of communications must be remembered. Often I get letters complaining that broadcasters or publishers have neglected certain facts, which are then cited. But I wonder, where did these people learn those facts? Obviously, they did not do their own investigations; they learned of them through the competitive news media.

Let me sum up these two points this way: Mr. Justice Stewart said this in his Yale speech about newspapers, but he could have said it about broadcasters:

> If a newspaper wants to serve as a neutral marketplace for debate, that is an objective that it is free to choose. And within limits, that choice is probably necessary to commercially successful journalism.

In other words, the public still controls the cash drawer for newspapers and broadcasting stations. Even without "Big Brother" FCC looking over their shoulders, most broadcasters will heed the public. They must in order to survive over the long haul. Yet, they will still be free to be forthright when need be.

PUBLIC SERVICE

What about public service announcements?

Newspapers do not forget public service; neither will broadcasters. The National Advertising Council is not controlled by the FCC, but it is there to help promote good causes. And it will still be there in a free broadcasting situation. One official has told me that even when his network was leading the pack in revenue, it was giving more public service announcements than its competitors—and it did not have to do so.

What about minority job opportunities?

There is the Equal Employment Opportunities Commission to handle that. If it does not do its job, the Congress knows where to crack down.

What about false and misleading advertising?

We have the Federal Trade Commission for that job. No need to dilute enforcement with the FCC.

What about monopolies?

We already have the Justice Department for that task.

What about libel?

That is and has been a matter for States and the common law. The last Federal libel legislation, the Alien and Sedition Acts, died a natural death. It is generally accepted that the Supreme Court would have held that law unconstitutional.

Mr. President, it is impossible to cover and counter all arguments against first amendment rights for broadcasters in one speech. So since last July I have made a number of speeches on this floor on the subject. Today's speech, however, does attempt to cover the major points. And I intend to speak some more.

Also, I know, the first amendment and related topics will be fully discussed when this bill is given a public hearing.

Mr. President, I ask unanimous consent that the text of my bill be printed in the RECORD at this point.

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

S. 2

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE AND STATEMENT OF PURPOSE

SECTION 1. (a) This Act may be cited as the "First Amendment Clarification Act of 1975".

(b) It is the purpose of this Act to recognize and confirm the applicability of and to strengthen and further the objectives of the first amendment of the Constitution of the United States by removing statutory and regulatory restrictions on broadcasters operating under the Communications Act of 1934.

DEFINITION OF PUBLIC INTEREST, CONVENIENCE, AND NECESSITY

SEC. 2. Section 309 of the Communications Act of 1934 is amended by inserting at the end thereof the following:

"(i) Notwithstanding any other provision of this part, effective on and after the date of the enactment of this subsection for the purposes of this part, the term 'public interest, convenience, and necessity' shall not be construed to give the commission jurisdiction to require the provision of broadcast time to any person or persons or for the expression of any viewpoint or viewpoints or otherwise to exercise any power, supervision, control, influence, comment or review, either directly or indirectly, over the content or schedule of any program or any other material broadcast by licensees, except where the broadcast of such material is otherwise prohibited by law."

REPEAL OF LICENSE OR CONSTRUCTION PERMIT REVOCATION POWER RELATING TO FACILITIES FOR CANDIDATES FOR FEDERAL PUBLIC OFFICE

SEC. 3. Section 312(a) of the Communications Act of 1934 is amended by inserting "or" at the end of clause (5), striking out the semicolon and "or" at the end of clause (6) and inserting in lieu thereof a period, and striking out clause (7).

REPEAL OF SECTION 315 RELATING TO FACILITIES FOR CANDIDATES FOR PUBLIC OFFICE

SEC. 4. Section 315 of the Communications Act of 1934 is repealed.

RECOGNITION OF APPLICATION OF RIGHT OF FREE PRESS

SEC. 5. Section 326 of the Communications Act of 1934 is amended by inserting after "speech" the following: "or the right of free press" and by striking the period after "communication" and inserting in lieu thereof a comma and "including the right of a radio station to determine the schedule of its programs and the content of its programs. Nothing in this Act shall be construed to require the provision of broadcasting time to any person or persons."

REPEAL OF PROHIBITION OF POLITICAL EDITORIALS

SEC. 6. Section 399 of the Communications Act of 1934 is repealed.

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

S. 3. A bill to create a national system of health security. Referred to the Committee on Finance.

Mr. KENNEDY. I am today introducing in this body, S. 3, the Health Security Act of 1975. In several weeks I will submit to the Senate a list of cosponsors who I believe will constitute a coalition for national health insurance sufficient to enact legislation in this Congress. I am anxious, however, that this bill be brought before the American people on this, the 1st day of the 94th Congress.

This bill proposes to establish a program that will assure health security to all Americans even as legislation of the 1930's assured them social security. The bill would cover every resident of this Nation with health insurance for the vast majority of essential health services. This insurance coverage would be provided regardless of where a person lives, where he works, his medical history, his income, the size of his family, or any other factor.

Moreover, he would pay for this insurance according to his ability to pay. Contrary to present insurance practice, he would not pay a flat premium regardless of income. He would not pay more if he or his family have a history of medical problems. He would not pay more if he has a dangerous job—or lives in a bad neighborhood.

This proposed legislation is the answer to providing good health insurance to every American on an equitable basis. It is also the answer to controlling the skyrocketing costs of health care and to assuring that quality health services are available and nearby when we need them, and to organizing health services in ways that help us to find the right doctor or the right service to fit our particular need.

This legislation, in other words, not only seeks to provide every American with enough insurance to enable him to purchase whatever health care he needs—it seeks also to assure that good health services are actually made available to each of us where and when we need them, and in a form that we can understand and use.

In accomplishing these goals the bill protects the rights of both doctor and patient—both provider and consumer of services. It assures that services are available by offering providers the resources and incentives to make them available. Indeed, the bill would usher in a new era of opportunity for provider and consumer alike.

THE LESSONS OF MEDICARE AND MEDICAID

This is the only national health insurance legislation before Congress which extends insurance coverage to all Americans on so equitable a basis, and couples this with so serious an effort to reform our health care system to assure that good services are actually available. The history of medicare and medicaid has taught us that attempts to offer health insurance on a piecemeal basis to segments of our population—without major efforts to expand and reform our health care system—result in increased inflation which robs Americans of much of the benefit of the new insurance. Medicare today covers less than half of the health care costs of the elderly, due in part to rising health care costs stimulated by passage of the medicare program. Many elderly Americans today, in fact, pay more for health care under medicare than they paid before the program was passed.

This legislation which I introduce today, the health security program, does not make this same mistake. It couples increased purchasing power through improved insurance with expanded and improved services. Moreover, it establishes budgeting mechanisms designed to bring the cost of health services in America under reasonable control.

This program will ultimately assure every American of the good health care he needs at a cost he can afford—and it will do this for less cost to our Nation than our present system, or any other pending health insurance proposal.

THE HEALTH CARE CRISIS

We are in the midst of a crisis in health care in America. There are many aspects to this crisis. But the aspect known best by every American is the crisis in costs.

THE CRISIS IN COSTS

Hospital costs have risen. Doctor bills have risen. And insurance premiums have risen to keep pace. Every American family feels the pressure of this inflation. The average wage earner works 1 month a year just to pay his health care and health insurance bills.

And there is no limit in sight. There is nothing at present built into our health care system that will assure an end to this inflation. Unless our Nation takes action to slow this progress, health care will cost Americans more and more each year.

The answer to this problem is not to cut back on benefits, to raise insurance premiums even more, or to simply offer more insurance to more Americans. The answer is to reform our health care system and bring these costs under control.

THE COST OF HEALTH SECURITY

There has been a great deal of debate about the costs of national health insurance. Opponents of the health security program which I introduce today have argued the program will cost too much—as if "cost" means what appears in the Federal budget.

Well, it is true that under the health security program more money will pass through the Federal budget than under other proposals. But, that is because the Federal Government under this proposal becomes the health insurance agent for the Nation. The billions of dollars that are currently paid to insurance companies would be paid to the Federal Government under the program. Likewise, since this program covers all essential health services without deductibles, coinsurance, or limitations, billions of dollars that Americans currently pay to doctors, hospitals, laboratories, dentists, drugstores, and other providers would also be paid to the Government.

The Government would collect these funds and serve as Americans' agent in paying these bills. Yes, the funds would flow through the Federal budget in this process. But, cost is not what appears in the Federal budget. Any American family will tell you that cost is what comes out of his paycheck—or out of his pocketbook.

Under the Health Security Act Americans will pay no more health insurance premiums, little or no doctor bills, little or no hospital bills, fewer dental bills, fewer drug bills, and less of many other health care costs.

Instead, Americans will pay taxes geared to their income. The average family, in the early years of the program, will pay the Government roughly the same amount for health care that it is currently paying the insurance companies, the doctors and others. The difference is, the average family will have a far better insurance policy and will get broader services for their money. Moreover, as the cost controls in the health security program take hold, the health security program will cost less than our present system would cost, even with its poorer services.

This cost saving is effected through strong budget controls over the health care system—and through such efficiencies as have been demonstrated in health maintenance organizations. A GAO study of health facility construction costs said:

> Various studies have shown that prepaid group practice members compared with traditional insurance plan members (1) have substantially lower hospital use rates, generally at least 20 percent less, (2) have lower surgery rates, and (3) compare favorably on other measures of health care.

The same study indicated these organizations reduce the need for hospital beds by 20 percent.

By offering incentives to providers to form health maintenance organizations, the health security program will save millions of dollars on expensive hospital care. Organizations, through these savings, can offer good care to Americans at far lower cost than under the current system.

The fact is that the health security program will cost far less out of the workingman's paycheck and pocketbook. It will cost far less to our Nation in terms of gross expenditures for health care. These are the real costs that both the average family and this Government need to come to terms with and face up to. These are the costs that will be brought under control by the health security program.

COMMUNITIES WITHOUT DOCTORS

But the health care crisis in America is not a matter of inflation and rising costs alone. The crisis is also evident to the 5,000 American communities that have no doctor, and to patients who wait in city hospital emergency rooms 6 or 8 hours for help because they have no doctor or because they cannot reach him after hours. This legislation sets aside funds, establishes planning procedures, and creates incentives to attract health professionals and build facilities accessible to every community—and to allow imaginative professionals to offer health care in new ways designed to meet the special needs of these rural and urban communities.

THE CRISIS OF DISORGANIZATION

The crisis is also evident to patients who spend hours waiting at the doctor's office only to be sent to a laboratory for tests, then waiting at a specialist's office perhaps only to be sent to yet another laboratory for more tests, then perhaps back to the first doctor or to a hospital or a drugstore. Each stop involves waiting, some involve traveling across town and back, and some involve making appointments way in advance. All in all, it can take days or weeks to complete the process; it can cost extra dollars for repeated tests and duplicate records, and worst of all, it can discourage the elderly, the infirm, or the poor from completing the course.

And the whole process is geared more to responding to the patient for a specific disease, than to viewing the patient as a whole with the intention of preventing diseases and keeping him well.

The health security legislation encourages health professionals to reorient their efforts toward preventative care, and to offer more tightly organized forms of health care to Americans who choose it. It does this by building in long-term economic incentives to professionals who start health maintenance organizations, foundations, and other new forms of care—as well as offering the resources needed to underwrite the startup and initial operating losses of some organizations.

THE CRISIS IN QUALITY OF CARE

The crisis is evident, too, to Americans who suffer needlessly because they cannot get to the skilled services or facilities they need, or because they receive less than the best quality care. The fact is that the quality of health care varies greatly in America. There is too much unnecessary or ill-advised surgery performed. There are too many missed diagnoses. It is not necessarily due to greed, to incompetence, or to carelessness. It is simply that our Nation is trying to offer sophisticated 20th century medical care through 19th century organizations.

We have created scores of new and interrelated specialties but continue to think the physician can operate on his own with no close formal relations to other physicians of other specialties. Most physicians practice solo or in groups of the same specialty. The patient medical records, like his physicians, are scattered all over town, and sometimes it is the patient who decides what specialist he needs for a given problem. It seems clear that, in this fragmented system, a patient is likely to be treated by the specialist he chooses from the perspective of that specialty. A surgeon, for example, is more likely to pursue a surgical solution to a problem than would an internist, if other approaches are possible—especially if consultation between the specialists is cumbersome and there is no real incentive to explore all possible solutions. The delay and clumsiness of referral and consultation can also lead to missed diagnoses—as can the absence of a complete medical record to the doctor who is making the diagnosis.

Moreover, we have for the most part continued to license health professionals on a once and for all basis, while medical knowledge has literally exploded during recent decades. We have not required continuing education of physicians whose training was completed decades ago—and more importantly, we have made minimal efforts to establish continuing programs to meet these physicians' particular needs and problems.

This health security program establishes national licensure and continuing education requirements—as well as the resources for conducting these programs. It also establishes a National Quality of Care Commission in the Department of Health, Education, and Welfare to gather statistics, establish guidelines, and set standards of quality based on the advice of health professionals and it strengthens local peer review organizations to review services in their area in the light of these standards. The program further establishes referral requirements that assure a variety of treatments are considered before a patient is subjected to lengthy or costly procedures. All of these features are aimed at providing the incentives and resources to health professionals to reorganize health care in a way consistent with the enormous complexity of modern medicine—and assuring every American that he is getting the best health care possible whenever he encounters our health care system.

THE CRISIS OF INADEQUATE HEALTH INSURANCE

But perhaps the crisis in health care is most obvious to Americans whose health insurance has run out, who cannot get insurance because of their medical history, or who simply cannot afford to buy good insurance. Many Americans of all incomes have been bankrupted by health care costs which continue after their insurance runs out. They then join the ranks of Americans whose medical history makes it impossible to buy good insurance at all, and millions of other Americans of low income who are not eligible for group plans and cannot afford decent insurance.

For these Americans who have no decent insurance every illness can turn into a financial disaster. Since every penny comes out of an already limited income, they weigh every decision as to whether or not to seek a doctor—and sometimes they wait too long and suffer needless pain.

There is no way to tell how many children grow up in America with needlessly twisted limbs, dulled minds, or other handicaps simply because fear of the cost kept his parents away from the doctor for too long. There is no way to tell how many Americans suffer needless pain and even early death simply because good health costs too much. It is clear, however, that these things can and do happen all too often for a country as advanced as America.

The problem is our hopelessly fragmented health insurance system which encourages insurance companies in the name of profit to exclude Americans who need care the most, or to limit their policies to the most profitable benefits that they can market. This crazy-quilt system also frustrates the providers of care. Doctors and hospitals are faced with providing expensive services to millions of Americans whose insurance may or may not pay—knowing frequently that if the insurance does not come through there is little hope of the patient being able to pay the bill.

The provider deserves a fair fee for his services. The answer to our health insurance dilemma is not to require the provider to offer free care—it is to create an insurance system that assures that every American is covered for basic health care. If we insist that health professionals should offer help to everyone who needs it, and Americans do insist on that, then we should make sure that every American is covered by an insurance policy that will pay the provider a fair fee for his service.

Nor should insurance coverage influence the provider's method of treatment. Too often providers are encouraged to hospitalize a patient in order that insurance will cover the cost. Insurance should be comprehensive enough to cover whatever course of treatment the physician considers medically appropriate.

The health security program assures this by covering all Americans with comprehensive health insurance coverage from the Federal Government. When this legislation is passed—

No American family will be bankrupted by the cost of care;

No American will be kept from needed care for fear of the cost;

Doctors and hospitals will not be forced to write off bills or hire bill collectors. They will bill one source on one form and know in advance that they will be paid; and

Providers will be freed to offer care in the most medically accepted way, without regard to insurance coverage.

This program will free the patient to seek health care, and it will free the provider to be a physician and healer rather than an accountant.

THE FEDERAL GOVERNMENT AS INSURANCE CARRIER

The health security program makes the Federal Government the insurance agent for all Americans. This is essential to the program. It is essential in order to assure that all Americans have the same comprehensive insurance coverage at a cost they can afford. It is essential also to bringing about reform in our health care system, because this role as the insurance carrier is the lever we need to control costs and improve the way health care is organized and delivered in our Nation. I say "we," because I conceive of this lever as an instrument that providers and customers of health care alike will use to establish the incentives and set aside the resources necessary to bring about change. This national program will be shaped by the best thinking and in the best interests of both providers and consumers.

I believe that the private health insurance industry has failed us. It fails to control costs. It fails to control quality. It provides partial benefits, not comprehensive benefits; acute care, not preventive care. It ignores the poor and the medically indigent.

Despite the fact that private health insurance is a giant $20 billion industry, despite more than three decades of enormous growth, despite massive sales of

health insurance by thousands of private companies competing with each other for the health dollar of millions of citizens, health insurance benefits today pay only 40 percent of the total cost of individuals covered by private health care, leaving 60 percent to be paid out of pocket by the patient at the time of illness or as a debt thereafter, at the very time when he can least afford it.

Nearly all private health insurance is partial and limited. For most citizens, their health insurance coverage is more loophole than protection.

Too often, private carriers pay only the cost of hospital care. They force doctors and patients alike to resort to wasteful and inefficient use of hospital facilities, thereby giving further impetus to the already soaring cost of hospital care and unnecessary strains on health manpower.

Valuable hospital beds are used for routine tests and examinations which, under any rational health care system, would be conducted on an outpatient basis.

Unnecessary hospitalization and unnecessarily extended hospital care are encouraged for patients for whom any rational system would provide treatment in other, less elaborate facilities.

There is no way we can use the private health insurance industry to offer all Americans the protection they need. There is no way the Nation can use this industry as a lever to encourage change and reform in the health care system.

It is for these reasons that this legislation proposes to make the Federal Government the health insurance agent in a national program of health security.

GUARANTEES TO THE NATION'S DOCTORS AND OTHER PROVIDERS

America's health professionals are the backbone of health care in the Nation. Without their strong and creative efforts, we will never solve any of our health care problems in America. I intend to protect the rights of America's providers, and assure them their rightful leadership role in any efforts Congress makes to improve our health care system.

The health care crisis in our Nation is as apparent to providers as to the patient. Providers are concerned with disorganization of services, with quality of care, with inadequate and fragmented insurance coverages, and with the shortage and maldistribution of health professionals and facilities. These problems frustrate providers' attempts to serve the people who need care the most. They involve them in a tangle of cumbersome referrals and cross-referrals. They occasionally have him without proper facilities and associates. And the insurance redtape frequently turns the physician into a bookkeeper.

The health security program does not aim at taking responsibility for reform away from the providers. Rather, it offers providers the incentives and resources they need to bring about the reform both they and their patients so badly need. Indeed, the program creates a lever which I hope providers will help to use responsibly to bring about change.

The program's intent is to in fact free providers of some of the constraints that limit them. For example,

The Health Security Act allows all varieties of medical practice—whether solo, fee-for-service practice; or prepaid group practice; or anything in between. It is not the program's intent to stifle any form of practice. Instead, we want to encourage all forms of practice that improve efficiency and quality.

Let me offer a series of guarantees to protect the fundamental principles important to American physicians.

The first guarantee is that the Federal Government in this Nation must not own the hospitals or employ the physicians. I do not want to build a British health care system in the United States. I do not want socialized medicine in America.

I believe in maintaining the free enterprise system in this country and in American medicine. In fact, I would like to see even more variety, and more competition in the health care system between different forms of health care. I look forward to a day when physicians can practice in solo practice, in HMO's, in medical foundations, in large groups, or in any other way that is efficient and beneficial to the patients and doctors, too. I believe we can create a uniquely American health care system that will preserve free enterprise for the doctors, and still offer your patients the financial support and adequate care they need.

The second guarantee is that Americans must not be assigned as patients to one physician or another, or to one organization or another for their health care. I want Americans to have maximum choice in this regard. Only in this way can we produce a system that is fair to doctors and patients alike.

My third guarantee is that the Federal Government must not make medical judgments or interfere in the clinical decisions between a doctor and his patient. What we must do is encourage physicians to take the actions necessary to assure Americans that they are receiving the finest possible care that American medicine can offer.

My fourth guarantee is that we must not create an overarching Federal agency in Washington, telling every area and community in this Nation exactly how they must offer health care. What we must do is to set national guidelines and standards, within which local agencies can develop the best possible health care programs for the doctors and patients in their areas.

I subscribe completely to these guarantees, and I am confident that they will be at the heart of any national health care legislation which Congress may enact.

COMPARISONS WITH OTHER NATIONS

The know-how exists to create a better organized system of health care in America. Other nations have in fact gone ahead of us in this regard. The United States is the only major industrial nation in the world without a system of national health insurance or a national health service. While none of these systems seem suited to America's values and society, they have, in fact, succeeded in moving their nations ahead of our country in many important areas.

In infant mortality, among the major industrial nations of the world, the United States today trails behind 19 other countries, including all the Scandinavian nations, most of the British Commonwealth, Japan, and East Germany. Half of these nations were behind us in the early 1950's.

We trail six other nations in the percentage of mothers who die in childbirth. In the early 1950's, we had the lowest rate of any industrial nation.

Tragically, the infant mortality rate for nonwhites in the United States is nearly twice the rate for whites. And nearly five times as many nonwhite mothers die in childbirth as whites—shameful evidence of the ineffective prenatal and postnatal care our minority groups receive.

The story told by other health indicators is equally dismal. The United States trails 27 other nations in life expectancy for males at age 45, and 11 other nations in life expectancy for females.

In fact, our Nation has the potential for higher levels of health than any of these nations because of our far vaster health care resources, and the brilliant record of American medical research. I believe the health security program is a uniquely American approach to organizing health care that will capitalize on these strengths and preserve the basic values of doctor and patient alike.

THE DEVELOPMENT OF THE HEALTH SECURITY PROGRAM

Walter Reuther, the late president of the United Auto Workers, was among the first to see that financing programs like medicare and medicaid or extensions of private health insurance could not resolve the crisis of disorganization and the spiraling cost of health care. Walter Reuther understood that the Nation needed to take a bold step forward. In November 1968, he announced the formation of the Committee of One Hundred for National Health Insurance. As he said, in establishing the mandate of the committee:

> I do not propose that we borrow a national health insurance system from any other nation. No nation has a system that will meet the peculiar needs of America. I am confident that we have in America the ingenuity and the social inventiveness needed to create a system of national health insurance that will be uniquely American—one that will harmonize and make compatible the best features of the present system, with maximum freedom of choice, within the economic framework and social structure of a national health insurance system.

Joining Walter Reuther on that committee were Dr. Michael E. deBakey, president of Baylor College of Medicine; Mrs. Mary Lasker, president of the Albert and Mary Lasker Foundation; Mr. Whitney M. Young, Jr., executive director of the National Urban League; and other outstanding citizens from the fields of medicine, public health, industry, agriculture, labor, education, the social services, youth, civil rights, religious organizations, and consumer groups. I

have had the honor of serving on that committee, along with my former Senate colleagues, Ralph Yarborough, John Sherman Cooper, and William Saxbe.

In its efforts over the past 4 years, the committee has worked to develop a sound program for improving the organization, financing and delivery of health services to the American people. The committee's deliberations were based upon the premise that progress toward a more rational health system should be orderly and evolutionary. The members of the committee felt that a better system of health care for America should rest upon the positive motivations and interests of both consumers and providers of health services. They believed that no system could succeed if it were imposed by fiat through rigid legislation and administrative regulations.

Throughout its deliberations, the committee has been guided by the work of its distinguished technical subcommittee, chaired by Dr. I. S. Falk, professor emeritus of public health of Yale University and the most eminent authority in the field of health economics in the Nation. The committee consulted extensively with representatives of professional associations, consumer organizations, labor unions, business groups, and many other interested organizations. The health security program is the result of these efforts, and it gives careful consideration to the recommendations of all of these groups.

In August 1970, Senators Cooper, Saxbe, Yarborough, and I, together with 11 other Senators, introduced the original version of the health security program as S. 4297 in the 91st Congress.

At the time the bill was originally introduced, Congresswoman Martha Griffiths of Michigan had already introduced legislation in the House of Representatives to create a national health insurance program similar in overall concept to the health security program, and her bill had received the strong endorsement of the AFL–CIO, under the leadership of President George Meany.

These two bills were combined into a strong new Health Security Act of 1971, which was introduced in the 92d Congress as S. 3 and H.R. 22.

THE HEALTH SECURITY ACT OF 1975

The revised Health Security Act of 1975 is the product of this long and arduous process of refinement. Improvements have been made in the areas of care in the home. Other refinements increase the equity of the tax support for the program by increasing the limit on the wage base for the social security tax from $15,000 to $20,000. Essentially, however, this new bill retains the basic principles of the bill first introduced in the 92d Congress.

The 94th Congress faces the greatest need in decades for a program of comprehensive national health insurance. Inflation is driving health care costs to prohibitive levels for more and more Americans, and unemployment will leave millions more without health insurance coverage.

The health security program, S. 3, goes further than any other proposal to control health care costs and assure every American family the health care it needs as a matter of right. Since its design by the Committee of One Hundred, health security has become the standard by which all national health insurance proposals are judged. The proposal has been further improved for the 94th Congress by the Committee for National Health Insurance and the leadership of America's trade union movement.

Health security's principles can unite the Nation better than any other bill. The concept of comprehensive care for all Americans under social security as a matter of right enjoys the broadest popular support of any national health insurance proposal.

I believe it is imperative that we begin our discussion of national health insurance in the 94th Congress with the high standard set by health security. During the last Congress, I introduced a bill designed to implement as much of the health security program as was possible in the 93d Congress. I believe the 94th Congress can do much more, and I hope my colleagues will join me in supporting health security as their legislative goal.

For my colleagues' benefit, I ask unanimous consent to have printed in the RECORD a description of the major provisions of the bill and a section-by-section analysis.

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

A COMPLETE PLAN OF HEALTH CARE FOR ALL AMERICANS

The Health Security Program results from more than four years of intensive study and development by the Committee for National Health Insurance—a group of 100 American leaders from many fields—citizen groups, church groups, labor, consumers, and health professionals.

The formulation of the program has been guided by two basic beliefs:

1. A national program of health security benefits should be created as part of the Social Security system to provide comprehensive health care for everyone living in the United States.

2. The program should be developed to bring about major improvements in the organization, financing and the providing of health care.

INTRODUCTION

National health insurance for the United States is an issue today because our methods of getting and paying for health care are dangerously near total collapse. The evidence is all around us.

We're spending too much for care. The quality of care is not what it should be. The care is not available to many who need it most. Present health insurance pays less than one-third of the health bill for those covered. Millions are not covered.

The best indicator of our overspending is that today the average American spends one month's pay for his health care, a considerably higher total than is spent by the average citizen of any other industrial country.

One major reason for the overspending results from the nation's failure to control runaway costs. In fiscal year 1974, for example, total health costs in the United States were $104 billion, an increase of 10 percent over FY 1973. This was during a period of price controls. Following the lifting of controls on April 30, 1974, health cost inflation accelerated at an annual rate of 18 percent, much faster even than the general inflation.

During the previous five years, total health costs for the country increased an average of 12.8 percent a year. The total cost increase during the past eight years was over $56.1 billion—from $47.9 billion in fiscal year 1967 to $104 billion in fiscal year 1974. Thus, the nation's total health bill jumped well over 100 percent in eight years.

The lack of quality in our health care is indicated by our failure to keep up with other industrial countries in such important health care indices as infant mortality, maternal mortality, and life expectancy. By all these measurements, the United States ranks further behind other industrial countries than it did 15 or 20 years ago.

The questionable quality of our health care is further indicated from various studies showing a very high percentage of today's surgery is unnecessary.

The evidence for the failure of our health care to reach many who need it most is found in these widely accepted statistics: The poor have twice as much illness; four times as much chronic illness; three times the heart disease; five times the eye defects; five times as much mental retardation.

After more than 30 years of trying, private health insurance has failed to come even close to meeting the nation's need for adequate coverage. In fact, private health insurance pays less than one-third of the health costs. The rest comes either out of our own pockets or is paid by the Government.

After 30 years of trying, private health insurance has failed to provide universal coverage. About 40 million Americans have no health insurance. Millions of additional working people and their families do *not* have the security of knowing their hospital and medical costs will be paid during layoffs and periods of unemployment.

Can this country afford to wait for solutions that the private health insurance industry is incapable of providing?

These are the reasons why Health Security is being proposed.

HEALTH SECURITY PHILOSOPHY

The basic purpose of the Health Security program would be to establish a broad system for health care in the United States, not just set up a method of paying the bills for doctors, hospitals and other health services.

It would be equally concerned with making sure health services are available to all Americans, improving the quality of care and holding the costs of the care within reasonable limits.

The program would be a working partnership between the public and private elements of our society concerned with health care. Care would be provided by physicians, hospitals and other private providers in much the same way it is done today, but it would be financed and administered through the Government.

The Health Security program does not envisage a national health service in which the Government owns the facilities, employs the personnel and manages all the finances of the health care system.

Under the program, the funds made available would finance and budget the essential costs of good health care for all Americans. These funds would also build a new capacity to bring adequate, efficient and reliable health care to all.

Over the long run, by revitalizing the existing health care system and ending the runaway costs of health care, the Health Security Program would be far less expensive than the amount we would spend if the present arrangements were to continue.

From the day the Health Security Program begins, it would guarantee a substantial reduction in overall health cost. Even in the first year, the comprehensive services of the program would cost no more than is now paid for partial and inefficient services.

HEALTH SECURITY IN BRIEF

Eligibility.—Everyone living in the United States would be eligible for Health Security benefits.

Benefits.—The Health Security Program

would pay for nearly the entire range of personal health care services including catastrophic coverage. The covered services would include full physicians' services; inpatient and outpatient hospital services; home health services; optometry and podiatry services, and devices and appliances. It would also cover, at the outset, dental care for children up to age 15 and eventually cover the entire population. And, with limitations, psychiatric services, nursing home care and drugs would be covered. It would establish large pilot projects to determine the feasibility of home maintenance care for the chronically ill or disabled.

Administration.—Health Security would be administered by a five-member Health Security Board as part of the Department of Health, Education and Welfare. The Board would establish policy, standards and regulations for the program.

Financing.—The program would be financed from a Health Security Trust Fund created by a special tax on employers, employees and the self-employed, with the entire amount matched by Federal general revenues.

Cost and Quality Controls.—Health Security would establish a Quality Control Commission to develop cost control features, including national standards for health care providers.

Payments to Providers.—Physicians, dentists, hospitals, nursing homes and other health care providers would be paid in full directly from the Health Security Trust Fund. The patient could not be charged more.

Consumer Participation.—Health Security would assure effective participation of consumers in policy, development and administration of the program on the national, state and local levels. It would encourage consumer organizations to establish health care plans. Procedures would be built into the entire system to assure public accountability for its operation.

Manpower Support.—Health Security would actively encourage more efficient organization of existing health manpower and provide funds for special training of health professionals and allied personnel.

Resources Development Fund.—To improve the providing of health care, a Resources Development Fund would be established to support innovative health programs, particularly in manpower, education, training and group practice development.

Incentives.—Financial, professional and other incentives would be built into Health Security to move the health care delivery system toward organized arrangements for patient care, such as health maintenance organizations and other prepaid group practice plans or professional foundations. It would also establish programs for preventive care, early diagnosis of illness and medical rehabilitation.

BENEFITS

Everyone living in the United States would be entitled to have all health care—with few exceptions—paid for by the Health Security Program.

The Program would have no exclusions for pre-existing conditions; no limits on preventive medical services; no co-insurance; no deductibles; no waiting periods.

Here are the details of the services which would be available:

Physicians Services.—Professional services by physicians, furnished in their offices or elsewhere, would be covered in full. This includes general medical and specialized services.

All major surgery and other specialized care would be covered if performed by qualified specialists.

Psychiatric services would be provided to outpatients if given for active treatment of emotional or mental disorders and if provided by comprehensive mental health organizations. Otherwise, there would be a limit of 20 consultations by a psychiatrist during a benefit period.

Dental Services.—At the start, Health Security dental benefits would be limited primarily to children up to age 15, with the coverage including preventive, diagnostic and therapeutic services.

Adults would be entitled initially to certain emergency and rehabilitative services, such as oral surgery to correct accident damage.

The age of eligibility for full dental care would be extended to persons up to age 25 during the first five years of the program's operation and the younger people would remain eligible throughout their lives. The increase of coverage could be accelerated if the Health Security Board believes it is feasible.

Institutional Services.—Health Security would provide full payment for hospital services; skilled nursing home care up to 120 days per benefit period or for an unlimited time if the home is owned or managed by a hospital; other approved non-custodial health services; and, home health services.

The program would also include pathology and radiology services and all other necessary services whether furnished by a hospital or other institution or by others under arrangements with such institutions.

The program would also include recognition as providers of authorized free-standing alcohol, drug abuse, family planning and rehabilitation centers.

Drugs.—Health Security would cover drugs for hospital inpatients and outpatients and for persons enrolled in comprehensive group practice plans and professional foundations as long as the drugs were from an approved list.

For others, drugs would be covered if they were necessary for specified chronic diseases and conditions requiring long or costly drug therapy.

The purpose of the approved drug list—and regular reviews of the list—would be to assure the safety, effectiveness and reasonable cost of the prescribed drugs.

Devices, Appliances and Equipment.—Health Security would provide coverage of therapeutic devices, appliances—including eyeglasses, hearing aids and prosthetic devices—and equipment. An approved list of covered items would be prepared and reviewed regularly.

Other Professional and Supporting Services.—Health Security would cover:

1. Professional services of optometrists and podiatrists;

2. Diagnostic services of independent pathology laboratories;

3. Diagnostic and therapeutic services of independent radiologists;

4. Mental health day care services furnished by a health maintenance organization or comprehensive community health center, or 60 days of care furnished, during or following a benefit period, by a hospital or a center affiliated with a hospital;

5. Ambulance services;

6. Other professional services such as psychological counseling, physiotherapy, nutrition, social work and home care or health education when furnished as part of institutional services or through health maintenance organizations;

7. Diagnostic and therapeutic services of free-standing alcohol, drug abuse, family planning and rehabilitation centers.

Social Care Services.—Grants would be provided to local nonprofit organizations to develop social care services to aid chronically ill, aged and other homebound patients. Under this section, while some measure of local financing is developed, Health Security would cover homemaker services, transportation and other social care services as a demonstration of the usefulness of such benefits in reducing unnecessary long-term institutional care.

ADMINISTRATION

Health Security would be administered at four levels—national, regional, area and local—with some important functions carried out by States.

National.—Overall Health Security policy and regulation would be established and carried out by a five-member, full-time Health Security Board appointed by the President and under the supervision and direction of the Secretary of Health, Education and Welfare.

The members normally would be appointed for five-year terms, with one member serving as chairman and with no more than three members from the same political party. The program would be administered through an Executive Director appointed by the Board.

To assist the Board in carrying out its functions and to advise and recommend various changes or actions, a 21-member National Health Security Advisory Council would be established. A majority of the membership of the Council would be consumers of health services. The Council would be authorized to appoint professional and technical committees to help carry out its functions.

The Secretary, Board and Executive Director would all work to assure effective coordination of Health Security with existing HEW programs—and with programs in the regions and States—for the development of health facilities and manpower resources, medical research and public and community health services.

The Health Security Board would control expenditures from the Health Security Trust Fund, establish national benefit patterns, set standards of participation and develop policy guidelines. The Board would also have the responsibility to assure effective consumer participation and public accountability at all levels.

The Board would also have responsibility for studying systems of paying for services and for planning new developments and improvements for health services.

A Commission on Quality of Health Care would be established and charged with assuring and developing standards for care of high quality.

Regional and Health Service Areas.—At the second and third level of administration for the Health Security Program, 10 regional Health Security offices would be established within the regions of the Department of Health, Education and Welfare and approximately 100 health service areas would be established paralleling the natural medical delivery patterns in the United States.

The health service areas normally would consist of a State or part of a State. Interstate areas would be established where the Board found that patterns of health service organization and patient flow made an interstate area a more practical unit of administration.

Local.—As the fourth level of administration, the Health Security Board would establish in each health service area a local Health Security office and any necessary branch offices.

These offices would assist health service consumers and providers and serve an ombudsman function by investigating complaints concerning administration of the program. They would also have informational and other administrative functions.

States.—States would participate in Health Security in a number of ways. They would participate in planning, training, coordination for quality controls and manpower increases, health education, utilization review and the inspection of providers.

The Health Security Board would establish appropriate payment arrangements with the States for the services.

To improve the supply and distribution of

health personnel and facilities and the organization of health services, the Board would work with State comprehensive health planning agencies and with regional medical programs.

Existing Programs Affected.—A number of major Federal health programs would be superseded in whole or in part by Health Security.

Medicare.—Everyone 65 or over, along with the rest of the population, would be entitled to Health Security coverage. Because the benefits of Health Security would be broader than those offered under Medicare, the Medicare program would be terminated.

Medicaid.—Most of the benefits of State Medicaid programs would be available under Health Security. Such benefits would be deleted from Medicaid, leaving it as a supplementary program to Health Security. States would claim partial reimbursement for Medicaid services they provided which exceeded those available under Health Security. This would include long-term nursing home care, drugs for certain purposes and adult dental care. Providing these services would be at the option of the individual States.

CHAMPUS.—Under the Civilian Health and Medical Program of the Uniformed Services, the Defense Department reimburses civilian hospitals and private doctors for the health services of servicemen, their dependents and retirees. Most of CHAMPUS benefits would be available under Health Security; CHAMPUS would provide only those benefits not covered by Health Security.

The Department of Defense program for care in military hospitals of servicemen, their dependents and retirees, would continue unaffected by Health Security.

Workmen's Compensation.—Because separation of the health service benefits of Workmen's Compensation programs from cash payments would unduly complicate the eligibility determination process, Workmen's Compensation would continue unaffected by Health Security.

Other Programs.—Maternal and Child Health Programs, Crippled Children Programs, Office of Economic Opportunity Health Programs and Medical Vocational Rehabilitation provide a range of various services to specific groups. In addition to a personal health service component, each program covers other types of health and community service, such as research and vocational training.

Personal health services provided by these programs would be transferred to Health Security, while all other benefit features would remain with the existing program.

Future Plans.—In order to broaden the scope and benefits of Health Security to remove its initial limitations, the program would undertake various studies, including long-term care, coordination of Veterans Administration health care programs with Health Security, and the provisions of Health Security benefits to United States citizens in other countries.

FINANCING

The financing of Health Security would be through a Health Security Trust Fund, similar to the Social Security Trust Fund.

Fifty percent of the money would come from:

1. A 3.5 percent tax on employer payroll.
2. A 1 percent tax on the first $20,000 a year in wages and non-earned income.
3. A 2.5 percent tax on the first $20,000 a year of self-employment income.

The remaining 50 percent would come from Federal general revenues.

If an employer's existing obligations for the purchase of health benefits for his employees are greater than 3.5 percent of payroll, the excess would be applied toward the 1 percent which would otherwise be withheld from an employee's wages.

The first $3,000 income for persons over 60 would be exempt from Health Security tax.

The total of these taxes and the Government matching funds would be the total available to pay for personal health services in each fiscal year.

After setting aside contingency reserves and money for the development of additional health resources, the remaining money would be divided among the ten regions of the country. This would be done with regard for recent and current use and expenditure patterns for services covered by the program.

Initially, the Health Security Board would look to the latest expenditure, figures available before the program starts, making appropriate adjustments among the regions for figures higher or lower than the average. After that, the allocation among regions would be guided by actual expenditures and estimates of what was needed to meet the program's obligations and objectives.

The Board would budget funds for each of the HEW regions in each category of covered service from the total sum allocated to the region. There would be authority for each region to determine its own needs and priorities in support of services.

Operation of the Health Security Trust fund would be taken out of the consolidated budget, except for Government contributions to the trust funds.

COST AND QUALITY CONTROLS

The central cost control feature of the Health Security program is that the health care system would be anchored to a budget established in advance.

The program's main quality control feature would be the establishment of national standards for participation both for individual and institutional providers.

To develop and enforce such standards, a Commission on the Quality of Health Care would be established. It would be a quasi-independent board reporting to the Health Security Board, but with authority to appeal to the Secretary of Health, Education, and Welfare if it believes the Board has failed to implement or enforce effective quality standards.

Here are the details:

Budgeting.—The Health Security Program would establish an advance budgeting procedure for the costs of personal health services.

Each year an advance determination would be made of the total amount to be spent in the various regions on physicians' services, institutional services and other categories of services provided in local communities.

The cost of each kind of service and the overall cost of the program would be allowed to increase only on a controlled and predictable basis.

The program would use the budgetary process not merely to control costs, but also to strengthen local, State and regional planning, stimulate more efficient institutional administration; and gradually reverse the current undesirable emphasis on inpatient hospital and other institutional services. This would be done by stressing preventive and early curative services and by making alternative levels and forms of care available outside of institutions.

In approving budgets for institutions, the program would consider recommendations and decisions of State and other health planning authorities, administrative efficiency of the institution, scope of care provided and the need to achieve an equitable distribution of resources throughout the region and country.

Wasteful duplication of services and facilities would be gradually eliminated by withdrawal of funding. Institutional budgets would be increased to allow for the provision of services needed for a balanced development of regional resources.

National Standards.—The national standards for provider participation would be designed to upgrade the quality of care, encourage appropriate use of health manpower and promote orderly planning of facilities.

Physicians, dentists, osteopaths, optometrists and podiatrists licensed to practice in a state when the program begins would be eligible to take part in the program as long as they met continuing education requirements.

The Health Security Board would be authorized to establish national standards for professional personnel licensed after the program begins and to set requirements for their continuing education.

Hospitals, skilled nursing homes, home health agencies, specified free-standing centers, medical or dental foundations and health maintenance organizations would be eligible to participate if they met national standards established by the Board.

Federal law would supersede state statutes which restrict the development of group practice programs.

Institutions would be required to establish working relationships with other providers of care so that a patient would have continued and appropriate treatment. Institutions which refused to comply with local and regional plans required by the Board would not be eligible to participate in the program.

PAYMENTS TO PROVIDERS

Hospitals, skilled nursing homes and other types of institutional providers would operate on an approved budget basis rather than being able to charge whatever they decided.

Using the precious year's fiscal experience and taking into account standards of participation, range of desirable services and quality controls required by Health Security, the institutions would develop proposed budgets for the next fiscal year. They would be assisted by the regional and local offices of Health Security in preparation of their budget requests. The budgets would be reviewed and given final approval at the regional office level.

Money allocated for payment of individuals, such as physicians, dentists, podiatrists, etc., would be distributed to local areas within the region. This would be done on a per capita basis with adjustments for differences in the cost of goods and services. The budgeted per capita amount for each type of covered service would be divided between the categories of providers according to the number of individuals who elected to receive care from those providers.

For example: In a city of 100,000 people, 25,000 may be enrolled in health maintenance organizations. If the amount budgeted for physicians services in that area is $65 per capita, the Board would pay the HMOs $1,625,000—$65 × 25,000—for physicians services. Since the other 75,000 individuals elected to receive care from solo, fee-for-service practitioners, the Board would create a fund of $4,875,000—$65 × 75,000—to pay all fee-for-service bills submitted by physicians in the community.

Other independent providers, such as pathology laboratories, radiology services, pharmacies and providers of appliances, would be paid through methods adapted to their characteristics.

Under Health Security, providers would have to agree not to charge individuals for all or part of any service provided. Payment in full would be made directly by the program to the provider or to the agency representing him. There would be no billing of the patient or indemnity payment to him.

Health maintenance organizations and professional foundations accepting responsibility for providing or securing all covered services for a defined population would receive the total amount budgeted and negotiated as payment. They would share also in the savings they helped to achieve by preventing unnecessary hospitalization of their enrollees.

CONSUMER PARTICIPATION

Health Security would rely heavily on the development of new, comprehensive care organizations such as health maintenance organizations (HMOs) and other forms of prepaid group practice plans to improve consumer opportunities for better health care and provide alternatives for better patient care.

Such organizations will be required to provide or arrange for all covered services except mental and dental services. Professional foundations would be required to provide the same range of services as HMOs and to meet the same strict quality standards.

The manner in which services would be paid for recognizes the added value of the comprehensive care programs as more efficient and higher quality to, and satisfaction of, the consumer.

Consumer organizations would be encouraged to give health care a high priority in their overall activities and to sponsor and develop comprehensive community-wide health care organizations. Along with health maintenance organizations to be developed by hospitals, physician groups and combinations of professionals, the programs developed by consumer-sponsored organizations would be supported and recognized by Health Security.

The Health Security Board would assure effective participation by consumers at all levels of policy formulation and program development. There would be a majority of consumer representatives on the National Advisory Council assisting the Board in its continuing administration of the program, and on regional and local advisory councils. The makeup of the councils would have to reflect the composition of the state or community served. There would be public control of the basic policies governing the program and full public accountability for its finances and operations.

MANPOWER SUPPORT

Health Security would actively encourage more efficient organization of existing health manpower, provide funds for special training of physicians, dentists and other health personnel, and apply financial incentives to stimulate the movement of health manpower to medically deprived areas.

Health Security would recognize costs incurred by HMOs in supporting the training and appropriate utilization of allied health professionals. It would pay the full cost of employing support personnel, such as nurse practitioners, public health nurses, nutritionists and community health workers, thus extending the ability of physicians to provide care and giving the consumer access to a wider range of services.

Training funds could be used for the retraining of health workers to enhance or refresh skills or for new positions of greater responsibility.

Money would be available through the Resources Development Fund to stimulate the expansion of training programs for new categories of health professionals, especially those required as members of primary health care teams—such as pediatric nurse practitioners, physicians' assistants and dental hygienists. Emphasis would be placed upon demonstration programs for the training and placement of allied health workers, and support would be available to institutions for the special costs of educating and training minority group and economically deprived students.

The assured purchasing power of a national health program would help to overcome many of the present barriers to recruiting and holding needed health workers in disadvantaged and remote areas. Substantial efforts would be made to enhance the desirability of practice in such areas by improving local resources and providing money for special communication, transportation and consultation costs.

In addition, special incentives would be used to increase the attractiveness of practice in rural or deprived areas for health workers and their families. There would be financial disincentives for the disproportionate clustering of physicians and dentists in a few metropolitan or suburban areas and corresponding incentives for their location in other areas.

RESOURCES DEVELOPMENT FUND

A substantial Resources Development Fund—Administered by the Health Security Board—would help to increase the resources for services and to bring new organized programs of health service into being and to expand existing ones.

The Resources Development Fund would be formed, first, by appropriations from Federal general revenue for the period between enactment and when benefits began, so that system improvements could get underway promptly; and, subsequently, by taking a percentage of the annual income of the Trust Fund (2 percent the first year, increasing in regular intervals to a maximum of 5 percent a year).

A priority would be given in grants and loans to stimulate the development and growth of health maintenance organizations. Essentially, the fund would recognize the responsibility of Health Security to assure the availability of covered health services, and not merely to pay for them. And, it would have concern for the development of services to meet the changing needs of people in the most effective and efficient manner, not merely to build on already overburdened and often wastefully expensive services.

INCENTIVES

Payment for services provided under Health Security would give special incentives to health maintenance organizations, and medical or dental foundations.

Physicians who became members of primary health care teams and established working relationships with specialists and with such patient-care resources as hospitals, skilled nursing homes and home health facilities, would be reimbursed for the costs of such linkages and would be encouraged to extend their services through such support arrangements.

Health Security would provide support for continuing studies and demonstrations of new and promising methods of organizing health services.

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Section-by-Section Analysis of the Health Security Act

Title I—Health Security Benefits

Part A—Eligibility for benefits

(Sections 11–12.) Every resident of the U.S. (and every non-resident citizen when in the U.S.) will be eligible for covered services. Reciprocal and "buy in" agreements will permit the coverage of groups of non-resident aliens, and in some cases benefits to U.S. residents when visiting in other countries.

Part B—Nature and scope of benefits: Covered services

(Section 21.) Every eligible person is entitled to have payments made by the Board for covered services provided within the United States by a participating provider.

(Section 22.) All necessary professional services of physicians (including preventive care) are covered wherever furnished, with one quantitative limitation. Psychiatric services to an ambulatory patient are covered without limit if the patient seeks care in the organized setting of a group practice organization, a hospital out-patient clinic, or other comprehensive mental health clinic. In these kinds of organized settings, peer review and budgetary controls can be expected to curtail unnecessary utilization.

If the patient is consulting a solo practitioner, however, there is a limit of 20 consultations per benefit period. In communities where psychiatric services are in especially short supply, the Board may prescribe referral or other nonfinancial conditions to give persons most in need of services a priority of access to solo practioners.

(Section 23.) Comprehensive dental services (exclusive of most orthodontia) are covered for children under age 15, with the covered age group increasing by two years each year until all those under age 25 are covered. (Persons once covered remain covered for the rest of their lives). This benefit is limited initially because, even with full use of dental auxiliaries, there is insufficient manpower to provide dental benefits to the entire population. However, the Board is authorized to expand the benefits more rapidly if availability of resources warrants, and the Board is required within seven years of the effective date of the legislation, to establish a timetable for phasing in benefits for the entire population. To encourage the development of groups which provide comprehensive medical and dental services or comprehensive dental services, the Board is authorized to phase in full dental benefits more rapily for the enrollees of those groups than for the general population.

(Section 24.) In-patient and out-patient hospital services and services of a home health agency are covered for the duration of the services, and skilled nursing home services are covered for limited periods. Pathology and radiology services are specifically included as parts of institutional services, thus reversing the practice of Medicare. Domiciliary or custodial care is specifically excluded in any institution, thus necessitating the two important restrictions on payments for institutional care:

(1) Payment for skilled nursing home care is limited to 120 days per benefit period, except that this limit may be increased either when the nursing home is owned or managed by a hospital and payment for care is made through the hospital's budget, or for all nursing homes affiliated with hospitals. It is not practical to assume that the majority of nursing homes and extended care facilities in the country will be able to implement effective utilization review and control plans in the first years of Health Security. The demand for essentially domiciliary or custodial care in nursing homes is so overwhelming that an initial arbitrary limit on days of coverage is necessary. Extension of the benefit is authorized when this becomes feasible.

(2) Many state hospitals do not provide optimal active treatment to their psychiatric patients but rather maintain them in a custodial setting. If Health Security provides unlimited coverage for patients in these hospitals, it might tend to freeze the level of care instead of stimulating these institutions to upgrade their medical care performance. Therefore, the psychiatric hospital benefit is limited to 45 days of *active treatment* during a benefit period.

(Section 25.) The bill provides coverage for two categories of drug use: prescribed medicines administered to in-patients or out-patients within participating hospitals or to enrollees of comprehensive health service organizations, and drugs necessary for the treatment of specified chronic illnesses or conditions requiring long or expensive drug therapy. This will provide coverage of most drug costs for individuals who require costly drug therapy.

The bill requires the Board and the Secretary of HEW to establish two lists of approved drugs. There will be a broad list of approved medicines available for use in institutions and by comprehensive health service organizations and a more restricted list which is available for use outside such organized settings. The restricted list shall stipulate which drugs on it shall be available for treatment of each of the specified chronic diseases. No such restrictions shall be placed upon drug therapy within an institutional setting.

Use of the restricted list will meet the most costly needs for drug therapy while restraining unnecessary utilization. The benefit is more liberal where adequate control mechanisms exist.

(Section 26.) The appliances benefit is similar in concept and operation to the drug benefit, subject to a limitation on aggregate cost. The Board shall prepare lists of approved devices, appliances or equipment which it finds are important for the maintenance or restoration of health, employability or self-management (taking into consideration the reliability and cost of each item). The Board will also specify the circumstances or the frequency with which the item may be prescribed at the cost of the Health Security program.

(Section 27.) The professional services of optometrists and podiatrists are covered, subject to regulations, as are diagnostic or therapeutic services furnished by independent pathology laboratories and radiology services. The care of a psychiatric patient in a mental health day care service is covered for up to 60 days (day care benefits are unlimited if furnished by a group practice organization, by a comprehensive mental health center, or by an approved mental health day care service). Ambulance and

other emergency transportation services are covered, as well as non-emergency services where (as in some sparsely settled areas) transportation is essential to overcome special difficulty of access to covered services.

Supporting services such as psychological, physiotherapy, nutrition, social work and health education are covered if they are part of institutional services or are furnished by a group practice organization, individual practice association or certain public or non-profit organizations. This establishes the important principle that these and other supporting services should be provided as part of a coordinated program of health maintenance and care. Psychologists, physical therapists, social workers, etc. will not be permitted to establish independent practices and bill the program on a fee-for-service basis. This is intended to assure that whenever services of this nature are provided they are part of an organized plan of treatment and are germane to the overall care of the patient.

In addition to services available from hospitals, mental health centers or other providers, free-standing alcohol, drug abuse, family planning and rehabilitation centers would be recognized as providers if such centers have an agreement with the Board under section 49(a)(5), (6) and (7).

(Section 28.) Health services furnished or paid for under a workmen's compensation law are not covered. Reimbursement for loss of earnings is so closely interlocked with the health services aspects of workmen's compensation that absorption of the health services portion of workmen's compensation by Health Security could have the effect of delaying findings of eligibility for income payments.

School health services are covered only to the extent provided in regulations.

The Board may exclude from coverage medical or surgical procedures which are essentially experimental in nature. Individuals who enroll in a comprehensive health service organization or enroll themselves with a primary practitioner accepting capitation payments are not entitled to seek covered services from other providers of services (except as specified in regulations). Surgery primarily for cosmetic purposes is excluded from coverage.

The services of a professional practitioner are not covered if they are furnished in a hospital which is not a participating provider. This is intended to discourage physicians from admitting patients to hospitals which cannot or will not meet standards for participation in the program.

Part C—Participating providers of services

(Section 41(a).) Participating providers are required to meet standards established in this title or by the Board under Part H relating to quality of care. In addition, they must agree to comply with such requirements as the Board finds necessary, to assure to their employees, employment rights and working conditions similar to the guarantees of other workers. In addition, they must agree to provide services without discrimination, to make no charge to the patient for any covered service, and to furnish data necessary for utilization review by professional peers, statistical studies by the Board and by the Commission on the quality of the care and verification of information for payments.

(b) A provider's participation may be terminated under procedures described in part G of the bill.

(c) If a provider is merged, consolidated or reorganized, pre-existing employment rights shall be subject to reasonable requirements by the Board for protection of employees' rights.

(Section 42 (a).) Professional practitioners licensed when the program begins are eligible to practice in the State where they are licensed. All newly licensed applicants for participation must meet national standards established by the Board in addition to those required by his State. While stopping short of creating a Federal licensure system for health professionals, this will guarantee minimum national standards. A state-licensed practitioner who meets national standards will be qualified to provide Health Security covered services in any other state. (See also Section 56(a)(1).)

(b) For purposes of this title a doctor of osteopathy is a physician, as is a dentist when performing procedures which, in generally accepted medical practice, may be performed by either a physician or a dentist.

A doctor of optometry or podiatry qualified in accordance with subsection (a) is a physician when furnishing services which are covered services in accordance with regulations issued under Section 27(a) and which he is legally qualified to furnish in the state in which he furnished them.

(Section 43.) This section establishes conditions of participation for general hospitals similar to those required by Medicare. Two requirements not found in the Medicare program are: (1) that the hospital must not discriminate in granting staff privileges on any grounds unrelated to professional qualifications; (2) that the hospital establish a pharmacy and drug therapeutics committee for supervision of hospital drug therapy. Medicare allows any hospital accredited by the Joint Commission on the Accreditation of Hospitals (if it provides utilization review) to participate in the program, thus in effect delegating to the Commission the determination whether the standards are met. This title requires all participating hospitals to meet standards established by the Board.

(Section 44.) Psychiatric hospitals will be eligible to participate only if the Board finds that the hospital (or a distinct part of the hospital) is engaged in furnishing *active* diagnostic, therapeutic and rehabilitative services to mentally ill patients. Psychiatric hospitals are required to meet the same standards as those prescribed for general hospitals in Section 43, and such other conditions as the Board finds necessary to demonstrate that the institution is providing active treatment to its patients. These standards will exclude costs incurred by state mental institutions to the extent they serve domiciliary or custodial functions.

(Sections 45 and 46.) Section 45 establishes conditions of participation for skilled nursing homes similar to those established for extended care facilities under Medicare. Important differences, however, are the requirement for affiliation with a participating hospital or group practice organization (see Section 51(b)) and changes in the requirements for utilization review (see Section 50). Under Section 46 participation by home health agencies will be limited to public agencies and non-profit private organizations—proprietary home health agencies are specifically excluded.

(Section 47.) Subsection (a) describes a group practice organization (one type of health maintenance organization) which undertakes to provide an enrolled population either with complete health care or, at the least, with complete Health Security services (other than mental health or dental services) for the maintenance of health and the care of ambulatory patients. The bill, in its aim to improve the methods of delivery of health services, places much emphasis on the development of new organizations of this kind and the enlargement of old ones.

Other requirements are spelled out in this section: The organization must furnish medical services (and dental services if they are included) through prepaid group practice. Other services must be furnished by staff of the organization or by contractors for whom the organization assumes responsibility, except that institutional services may be provided by arrangements with other participating providers at the expense of the group practice organization. The organization must be non-profit, but it may utilize proprietary providers in fulfilling its responsibilities.

All persons living in or near a specified service area will be eligible to enroll during an annual open enrolment period, subject to the capacity of the organization to furnish care. Services must be reasonably accessible to persons living within the specified service area. Periodic consultation with representatives of enrollees is required, and they must be given opportunity to participate in policy formulation and in evaluation of operation. Professional policies and their effectuation, including monitoring the quality of services and their utilization, are to be the responsibility of a committee or committees of physicians (and other health professionals where appropriate). Health education and the use of preventive services must be stressed, and lay persons are to be employed so far as is consistent with good medical practice. Charges for any services not covered by Health Security must be reasonable. Finally, the organization must agree to pay for services furnished by other providers in emergencies, either within the service area of the organization or elsewhere, but may meet this requirement to the extent feasible through reciprocal service arrangements with other organizations of like kind.

Subsection (b) makes clear that the organization, or professionals furnishing services for it, may also serve non-enrollees, with payment to be made to the organization, or, at its request, to such professionals.

(Section 48.) An individual practice association (another type of health maintenance organization, sponsored by a county or other local medical society, which meets all the conditions for participation by a group practice organization other than the requirement of group practice. All physicians practicing in the area (and all dentists if dental services are furnished) must be permitted to become professional members, subject only to criteria, approved by the Board, relating to professional qualifications. For professional services to enrollees, professional members may be compensated by the foundation by whatever method, including fee-for-service, may be agreed upon by it and its members.

Subsection (b) provides that a professional member may furnish services to persons not enrolled in the association and receive payment from the Board on the same basis as independent practitioners, except that if he is paid by capitation, salary, or stipend by the association, the payment for services to non-enrollees is to be made to the association.

(Section 49.) This section deals with several classes of health organizations that vary widely, even within a single class, in their structure and in the scope of the services which they offer. Because statutory specifications cannot well be tailored to so many variables, the section sets forth only a general statement of the kinds of organizations to which it relates and leaves participation of each organization to a case-by-case decision of the Board on such terms as the Board deems proper.

Subsection 49(a)(1) permits the participation of community health centers or the like which, though furnishing a broad range of ambulatory services, do not serve an enrolled or otherwise predetermined population and may not meet some other requirements of section 47(a). Subsection (a)(2) authorizes the Board to deal separately with the primary care portion of a system of comprehensive care where it is necessary to rely on arrangements with other providers, rather than on a unified structure, to round out the other elements of the system. Where organizations meeting the extensive require-

ments of section 47(a) or 48(a) are not available, these two paragraphs of section 49(a) will give the Board flexibility in furthering one of the bill's prime objectives, the development and broad availability of comprehensive services furnished on a coordinated basis.

Because of the extent to which mental health services are separated from other health care, subsection (a)(3) permits the Board to contract directly with public or other nonprofit mental health centers and mental health and day care services.

If a state or local public health agency is providing preventive or diagnostic services, such as immunization or laboratory tests, the Board may under subsection (a)(4) contract with it for the continuance of these services.

In accordance with regulations, the Board may contract with free standing ambulatory treatment centers for alcoholism and/or drug abuse; for family planning services; and for rehabilitation services.

In the field of private practice, physicians or dentists or other practitioners may group themselves in a clinic, nonprofit or proprietary, or in any number of other ways, and it may be more convenient both to them and to the Board to regard them as an entity than to deal with each practitioner separately. Subsection (a)(8) permits this. The Board will have wide discretion in contracting with such entities subject only to the limitation that, like other organizations described in section 49(a), the entity may not (under section 88(a)) be paid on a fee-for-service basis. Practitioners who elect that method of payment may of course pool their bills for submission to the Board, but there is no reason to contract with a unit for the payment of fees to it.

Subsection (b) makes clear that agreements with the Board under this section shall not (unless expressly so stipulated) preclude practitioners furnishing services under the agreements from furnishing other services as independent providers.

(Section 50.) This section specifies the broad and general conditions under which independent pathology laboratories, independent radiological services, providers of drugs, devices, appliances, equipment, or ambulance services may qualify as providers under Health Security. As under Medicare, a Christian Science Sanatorium qualifies if operated, or listed and certified, by the First Church of Christ, Scientist, Boston.

(Section 51.) The requirements of utilization review in hospitals and skilled nursing homes are in the main similar to those which Medicare has, since 1966, imposed with respect to services to aged patients. In Health Security the requirements will of course apply to the entire population. As in Medicare, the review is designed to serve a dual purpose: identification of certain specific misuses of the institutional services with a view to their termination, and a focusing of continuing attention and concern of the medical staff on the necessity for efficient utilization of institutional resources. Section 51(a) strengthens the educational aspect of the process by requiring specifically that records of reviews be maintained and statistical summaries of them be reported periodically to the institution and its medical staff (and, on request, to the Board). As under Medicare, the review committee will consist of two or more physicians, with or without other professional participation; and in the case of hospitals, will normally be drawn from the medical staff unless for some reason an outside group is required. For skilled nursing homes, on the other hand, section 51(c) departs from Medicare by permitting as an alternative that the Committee be established by the State or local public health agency under contract with the Board, or failing that, by the Board. If the nursing home operates under a consolidated budget with a hospital, the review will be made by the hospital committee. Like Medicare, Section 51(d) and (e) call for review of specific long-stay cases as required by regulations, and notification to the institution, the attending physician, and the patient when a decision adverse to further institutional services is made.

(Section 52.) Subsection (a) of Section 52 is also like Medicare in requiring a participating skilled nursing home to have in effect an agreement with at least one participating hospital for the transfer of patients and medical and other information as medically appropriate. Subsection (b) introduces a requirement, applicable two years after the effective date of health benefits to both skilled nursing homes and home health service agencies, of affiliation with a participating hospital or group practice organization. Unless the medical staff of the hospital or organization undertakes to furnish the professional services in the nursing home or the professional services of the home health service agency, that medical staff or a committee of it must assume responsibility for these services. Subsection (c) allows the Board to waive the application of either of these requirements to a skilled nursing home or a home health agency which the Board finds essential to the provision of adequate services, if (but only for as long as) lack of a suitable hospital or organization within a reasonable distance makes a transfer or an affiliation agreement impracticable.

(Section 53.) If the construction or substantial enlargement of a hospital, skilled nursing home, or ambulatory care facility has been undertaken after December 31 of the year of enactment, without either a State certificate of need or a prior approval by a planning agency designated by the governor of the State or the Board, section 53 precludes the institution from participating in the Health Security program, except that in case of enlargement, the Board may permit participation subject to reduction in reimbursement for services. This should greatly strengthen state and local planning authorities.

(Section 54.) This section prohibits double recovery in malpractice litigation by stipulating that no damages will be awarded to the injured party for remedial services which are available without cost under the Health Security program.

(Section 55.) Institutions of the Department of Defense and the Veterans' Administration, and institutions of the Department of Health, Education, and Welfare serving merchant seamen or Indians or Alaskan natives, are excluded by section 55 from serving as participating providers, as is also any employee of these institutions when he is acting as an employee. The Board will, however, provide reimbursement for any services furnished (in emergencies, for example) by these institutions or agencies to eligible persons who are not a part of their normal clientele. It will also provide reimbursement for services furnished by the Public Health Service under the Emergency Health Personnel Act of 1970.

(Section 56.) This section overrides, for purposes of the Health Security Program, State laws of several kinds which inhibit the utilization or the mobility of health personnel, cloud the legality of so-called "corporate practice" of health professions, or restrict the creation of group practice organizations. The authority of Congress to do this, in conjunction with a program of Federal expenditure to provide for the general welfare, flows from the Supremacy Clause of the Constitution and seems now to be clearly established. *Ivanhoe Irrigation District v. McCracken*, 357 U.S. 275 (1958); *King v. Smith*, 392 U.S. 309 (1968).

The first three paragraphs of subsection (a), while stopping short of creating a system of Federal licensure for health personnel, will greatly facilitate both the interstate mobility of State licensees and the effective use of ancillary personnel in the furnishing of health care. The dispensations contained in these paragraphs will be available to persons who meet national standards established by the Board.

Paragraph (1) permits a physician, dentist, optometrist, or podiatrist, licensed in one State and meeting the national standards, to furnish Health Security benefits in any other State, the scope of his permissible practice being governed by the law of the State in which he is practicing. This paragraph obviates the difficulty and cost which a practitioner may encounter, especially where reciprocity of licensure is not available, in taking up practice in a State in which he has not been licensed.

Paragraph (2) grants a similar authority to other health professional and non-professional personnel. For occupations such as pharmacy and professional nursing, which are subject to licensure in all States, a person can avail himself of this paragraph only if he is licensed in one State and meets the national standards; in other cases, where licensure is not universally required, compliance with national standards is sufficient. Here again, impediments to mobility created by existing licensure laws will be removed.

The restrictions which many professional practice acts impose on the use of lay assistants, and the legal uncertainties which often deter such use, discourage practices that can increase greatly, without sacrifice of safety, the volume of services which professionals can render. Accordingly, paragraph (3) of subsection (a) enables the Board to permit physicians and dentists, participating in public or non-profit hospitals and group practice organizations, to use ancillary health personnel, acting under professional supervision and responsibility, to assist in furnishing Health Security benefits. Such assistants may do only things which the Board has specified, and may be used only in the context of an organized medical staff or medical group. Persons employed as assistants must not only meet national standards for their respective occupations, but must also satisfy special qualifications that the Board may set for particular acts or procedures.

In the interest of encouraging salaried practice and the integration of professional practitioners into well-structured organizations for the delivery of health services, paragraph (4) of subsection (a) does away with the "corporate practice" rule insofar as it concerns participating public or other nonprofit hospitals and group practice organizations. These institutions may employ physicians or make other arrangements for their services, unless in the unlikely event that the lay interference with professional acts or judgments should be threatened. No conflict of interest results from such arrangements; in the non-profit setting loyalty to employer and loyalty to patient run parallel.

Some State laws place restrictions of one kind or another on the incorporation of group practice organizations. When these restrictions prevent the State incorporation of an organization meeting the strict requirements of the Health Security Act, section 56(b) empowers the Secretary to incorporate it for purposes of the Act. Except for the special restrictions, State law will govern the corporation.

Part D—Trust fund; allocation of funds for services

(Section 61.) By section 406(a) of the present bill, section 1817 of the Social Security Act, creating the Federal Hospital Insurance Trust Fund, is amended and transferred to become section 61 of the Health

Security Act. The fund will thus become the Health Security Trust Fund, succeeding to the assets and liabilities of both medicare trust funds, and receiving the proceeds of the health security taxes imposed by title II of the Health Security Act and the authorized appropriations from general revenues equal to 100 percent of those tax receipts.

The Fund will also receive recoveries of overpayments, and receipts from loans and other agreements. To implement the role of the Trust Fund, the Managing Trustee (the Secretary of the Treasury) will make payments from the Trust Fund provided for under Title I, as the Board certifies, and with respect to administrative expenses as authorized annually by the Congress.

(Section 62.) The Health Security program is intended to operate on a budget basis overall. Accordingly, subsection (a) requires the Board to determine for each fiscal year the maximum amount which may be available for obligation from the Trust Fund. The amount so determined in advance (by March 1 preceding each fiscal year) shall not exceed the smaller of two stated limitations. The first limit is fixed on 200% of the expected net receipts from all the Health Security taxes (i.e., the tax receipts augmented by 100% thereof, to be appropriated into the Fund from general revenues of the Government.) The second limit, applicable to each fiscal year after the first full fiscal year of benefit operation (i.e., after fifteen months' availability of covered services), is an amount equal to the estimated obligations of the current year (within which the estimate is being made), subject to certain adjustments. Such adjustments will reflect change expected in: (A) the price of goods and services; (B) the number of eligible persons; (C) the number of participating professional providers, or the number or capacity of institutional or other participating providers so far as such changes are not already adequately reflected; and (D) the expected cost of program administration.

In the interest of prudent fiscal management, subsection (b) requires the Board to restrict its estimate of the amount available for obligation in the next fiscal year (in accordance with subsection (a)) if the Board estimates that the amount in the Trust Fund at the beginning of the next fiscal year will be less than one-quarter of the total obligations to be incurred for the current year, and that such restriction will not impair the adequacy or quality of the services to be provided. Also, the Board is required to reduce its alternative estimate of the maximum amount to be available if it finds that the aggregate cost to be expected has been reduced (or an expected increase has been lessened) through improvement in organization and delivery of service or through utilization control.

Subsection (c) provides against various other contingencies which may result in increase or decrease in the estimate of the maximum amount to be available for obligation in a next fiscal year. The amount may be modified before or during the fiscal year: if the Secretary of the Treasury finds that the expected Health Security tax receipts will differ by 1 percent or more from the estimate used under subsection (a); or if the Board finds that either its factors of expected change or the cost of administration is expected to differ from the estimate by 5 percent or more; or if an epidemic, disaster or other occurrence compels higher expenditure than had been expected. If, as a result, the maximum estimate has to be increased (rather than being decreased), the Board (through the Secretary) shall promptly report its action to the Congress with its reasons.

(Section 63.) Subsection (a) provides that separate accounts shall be established in the Health Security Trust Fund—a Health Services Account, a Health Resources Development Account, and an Administration Account, as well as a residual General Account. Subsection (b) provides that in each of the first two years of program operation, 2 percent of the Trust Fund shall be set aside for the Health Resources Development Fund; and the allocation shall increase by 1 percent at two-year intervals to 5 percent within the next 6 years. The money in this account will be used exclusively for the planning and system improvement purposes described in part F.

(c) (d) After deducting the amount approved by Congress and transferred to the Administration Account, the remainder of the monies shall be allocated to the Health Services Account, and shall be used exclusively for making payment for services in accordance with part E.

(Section 64.) This section provides for allocation of the Health Services Account among the regions of the country. (a) The allocation to each region shall be based on the aggregate sum expended during the most recent 12-month period for covered services (with appropriate modification for estimated changes in the price of goods and services, the expected number of eligible beneficiaries, and the number of participating providers). (b) In allocating funds to the regions the Board shall seek to reduce, and over the years gradually eliminate, existing differences among the regions in the average per capita amount expended upon covered health services (except when these reflect differences in the price of goods and services). To accomplish this, the Board will curtail increases in allocations to high expenditure regions and stimulate an increase in the availability and utilization of services in regions in which the per capita cost is lower than the national average. (c) A contingency reserve of up to 5% may be withheld from allocation. If the remaining funds available are inadequate, allocations will be reduced pro rata. (d) Allocations may be modified before or during a fiscal year if the Board finds this is necessary.

(Section 65.) The Board will divide the allocation to each region into funds available to pay for: institutional services; physician services; dental services; furnishing of drugs; furnishing of devices, appliances and equipment; and other professional and supporting services, including subfunds for optometrists, podiatrists, independent pathology laboratories, independent radiology services, and other items. The percent allocated to each category of service may vary from region to region. In determining allocation to these funds they will be guided by the previous years' expenditures for each category of service but also take into account trends in the utilization of services and the desirability of stimulating improved utilization of resources. It will encourage a shift from heavy reliance on institutional care to better utilization of preventive and ambulatory services.

(Section 66.) These regional funds will be sub-divided among the health service areas in each region, primarily upon the basis of the previous years' expenditure for each kind of service. Again, the Board will gradually attempt to achieve the equalization of services within each region by restraining the increase of expenditures in high cost areas and channeling funds into health service areas with a low level of expenditures.

(Section 67.) Before or during a fiscal year, the division of regional funds by classes of service or the allotments to health service areas may be modified if necessary or if indicated by newly acquired information.

(Section 68.) By the time Health Security benefits become available, the Government will be operating on a fiscal year beginning on October 1, instead of July 1 as at present. This section accordingly allows the Board to make the initial determinations and allocations under this part either for the three-month period from the effective date of benefits on July 1 until the beginning of the next fiscal year or for the fifteen-month period which includes the next fiscal year.

Part E—Payment to providers of services

(Section 81.) Payments for covered services provided to eligible persons by participating providers will be made from the Health Services Account in the Trust Fund.

(Section 82.) This section delineates methods of paying professional practitioners. Every independent practitioner (physician, dentist, podiatrist, or optometrist) shall be entitled to be paid by the fee-for-service method (subsection (a)), the amounts paid being in accordance with relative value scales prescribed after consultation with the professions (subsection (g)). Each physician engaged in general or family practice of medicine in independent practice may elect to be paid by the capitation method if he agrees to furnish individuals enrolled on his list with all necessary and appropriate primary services, make arrangements for referral of patients to specialists or institutions when necessary, and maintain records required for medical audit; and independent dentist practitioners may elect the capitation method of payment similarly (subsection (b)).

These requirements in connection with capitation payments are intended to assure that the physician (or dentist) provides to his patients all professional services within the range of his undertaking and secures other needed services by referral. Through regular medical audits, the Board will monitor the level and quality of care provided.

When necessary to assure the availability of services in a given area, subsection (c) permits paying an independent practitioner a full-time or part-time stipend in lieu of or as a supplement to other methods of compensation. This method of payment will be used selectively by the Board, mainly to encourage the location of practitioners in remote or deprived areas. Practitioners may also be reimbursed for the special costs of continuing education required by the Board and for maintaining linkages with other providers—for example, communication costs. Incentives operative under this provision will encourage physicians to improve the quality and continuity of patient care, even if the physician does not participate in a group practice. The Board may pay for specialized medical services on a per session or per case basis, or may use a combination of methods authorized by this section.

Subsection (d) defines the capitation method of payment.

Subsections (e), (f), (g). These subsections describe the method to be used in applying, as between practitioners electing the various methods of payments, the monies available in each health service area for payment to each category of professional providers. From the amount allocated to each service area, the Board will earmark funds sufficient to pay practitioners receiving stipends and for the professional services component of institutional budgets, such as hospitals. The remainder of the money will be divided to compute the per capita amount available for each category of service (i.e., physicians, dentists, podiatrists, optometrists) to the residents of the area. This per capita amount in each category will fix the capitation payments to organizations that undertake to provide the full range of services in that category to enrolled individuals. Lesser amounts will be fixed for more limited services. For example, if the per capita amounts available for physician and dental services are $65 and $25, respectively, primary physicians accepting capitation payments will receive the percentage of that $65 which is allocated for primary services, a medical so-

ciety-sponsored individual practice association would receive the entire $65 for physician services, dentists furnishing all covered services would receive the $25 allocated for dental services, and organizations which undertake to provide all physician and dental services to enrolled individuals will receive $90 for each enrolled individual.

The budget per capita amount for each type of covered service (physician, dental, etc.) will be divided between the categories of providers of service according to the number of individuals who elect to receive care from those providers. For example, in a city of 100,000 people, 25,000 may enroll in a group practice organization. Using the figures cited in the example above, the Board will pay the group practice organization $1,625,000 ($65 × 25,000) for physician services. The other 75,000 individuals elect to receive their physician services from solo, fee-for-service practitioners. The Board will create a fund of $4,875,000 ($65 × 75,000) to pay all fee-for-service bills submitted by physicians in that community, in accordance with relative value scales and unit values fixed by the Board. The fund for fee payments will be augmented to the extent that some capitation payments have been lowered because they cover only primary services, and may be augmented further where a substantial volume of services is furnished, on a fee basis, to non-residents of the area.

Subsection (h) authorizes the Board to experiment with other methods of reimbursement so long as the experimental method does not increase the cost of service or lead to overutilization or underutilization of services.

(Section 83.) Hospitals will be paid on the basis of a predetermined annual budget covering their approved costs. To facilitate review of these budgets, the Board will institute a national uniform accounting system. Subsection (b) stipulates that the costs recognized for purposes of the budget will be those incurred in furnishing the normal services of the institution except as changed by agreement, or by order of the Board under section 134. This will enable the Board, on the basis of State and local planning, to eliminate, gradually, wasteful or duplicative services, and also to provide for an orderly expansion of hospital services where needed.

Physicians and other professional practitioners whose services are held out as available to patients generally (such as pathologists and radiologists) will be compensated through the institutional budget, whatever the method of compensation of such practitioners and whether or not they are employees of the hospital. This departs from the practice in Medicare which allows independent billing by such physicians. The institution's budget may also be increased to reflect the cost of owning or operating an affiliated skilled nursing home, or home health service agency. Hospital budgets will be reviewed by the Board, locally or regionally, which may permit participation by representatives of the hospitals in each region. Budgets may be modified before, during, or after the fiscal year if changes occur which make modification necessary.

(Section 84.) If an entire psychiatric hospital is found by the Board to be providing active treatment to its patients, and the institution is therefore primarily engaged in providing covered services to eligible beneficiaries, it will be paid on the same basis as a general hospital (on the basis of an approved annual budget). Otherwise the Board will negotiate a patient-day rate to be paid for each day of covered service provided to an eligible beneficiary.

(Section 85.) This section provides that skilled nursing homes and home health agencies will be paid in the same manner as a general hospital (on an approved annual budget basis). The Board may specify use of nationally uniform systems of accounting and may prescribe by regulation the items to be used in determining approved costs and the services which will be recognized in budgets.

(Section 86.) Reimbursement for drugs will be made to the dispensing agent on the basis of an official "product price" for each drug on the approved list, plus a dispensing fee in the case of an independent pharmacist. The official product price will be set at a level which will encourage the pharmacy to purchase substantial quantities of the drug (this should result in significant reductions in the unit cost of each drug). The official price may be modified regionally to reflect differences in cost of acquiring drugs. The Board will establish dispensing fee schedules for reimbursing independent pharmacies. These schedules will take into account regional differences in costs of operation, differences in volume, level of services provided and other factors.

(Section 87.) Subsections (a) and (b) provide that a group practice organization or individual practice association will be paid a basic capitation rate multiplied by the number of eligible enrollees. The amount of the capitation rate will be determined by the per capita amounts available for the several professional services in the area, and a rate fixed by the Board as the average reasonable and necessary cost per enrollee for other covered services.

Subsection (c) fixes capitation amounts for institutional services based on per diem rates derived from the budgets of participating institutional providers or institutions with which the organization or association may have a contractual agreement. The organization or association will be entitled to share in up to 75% of any savings which are achieved by lesser utilization of institutional services by its enrollees. Entitlement to such savings is conditional upon a finding by the Board that the services of the organization or association have been of high quality and adequate to the needs of its enrollees, and that the average utilization of hospital or skilled nursing services by the enrollees of the organization or association is less than the use of such services by comparable population groups not so enrolled but under otherwise comparable circumstances. This money may be used by the organization or association for any of its purposes, including the provision of services which are not covered under the Health Security program.

Subsection (e) directs the Board to allow organizations and associations to reinsure with the Board against catastrophic costs incurred on behalf of any one enrollee, against some or all of the costs of institutional care which it contracts out, and against some or all of the costs of out-of-area services.

Subsection (f) permits the Board to make an additional payment to group practice organization for the cost of clinical education or training provided by the organization.

(Section 88.) Subsection (a) provides that an organization or agencies with which the Board has entered into an agreement under section 49 (such as a neighborhood health center, a non-profit mental health center, or local public health agency furnishing preventive or diagnostic services) may be paid by any method agreed upon other than fee-for-service.

Subsection (b) provides that independent pathology or radiology services may be paid on the basis of an approved budget or such other methods as may be specified in regulations.

Subsection (c) leaves the method of payment for other types of supporting services to be specified in regulations.

(Section 89.) This section provides that the Board will reduce payments to institutional providers in accordance with findings by the Secretary that a facility or any part of a facility has not been built in compliance with the area health plan.

(Section 90.) All participating providers will be paid from the Health Services Account in the Trust Fund at such time or times as the Board finds appropriate (but not less often than monthly). The Board may make advance payment to supply providers with working funds when it deems advisable.

Part F—Development Fund

Subpart 1—Planning: Funds To Improve Services and To Alleviate Shortages of Facilities and Personnel

(Section 101.) This section sets forth the general purposes of subpart 1 of Part F. The subpart enables the Board, through selective financial assistance, to stimulate and assist in the development of comprehensive services, the education and training of health personnel who are in especially short supply, and the betterment of the organization and efficiency of the health delivery system. In carrying out these functions, the Board is to be guided by the planning with respect to health facilities and the organization of services which will be conducted under the recently enacted title XV of the Public Health Services Act, when and as the new processes become operative. In the meantime it will be guided by such planning as is conducted by the Secretary under section 102. With respect to the supply and distribution of health personnel, the Board will also rely on planning conducted by the Secretary.

(Section 102.) Subsection (a) directs the Secretary, in effect, to fill in the gap in facility and services planning until the new processes can begin to produce results, addressing himself immediately to the most acute shortages and maldistributions of facilities and the most serious deficiencies in organization. He is directed to consult with, and utilize the experience and recommendations of, both existing State and local health planning agencies and the new agencies as they emerge.

Subsection (b) places on the Secretary a continuing duty to plan for improvement of the supply and distribution of health personnel, and to do this in consultation both with the health planning agencies and with appropriate professional organizations.

Thus, the bill takes advantage of the new legislation strengthening State planning agencies, focusing in them eventually the responsibility, visualized in the "Partnership-for-Health" legislation but in many States not realized as an operating reality, for pulling together all health planning efforts within their territories. Recognizing, however, that it will take time to make new arrangements effective, the bill charges the Secretary with bringing all available experience and skills to bear on the immediate need to identify the most pressing requirements in preparation for the availability of Health Security benefits. These tasks will not be easy, but they are lent new urgency by the Health Security Program.

(Section 103.) In administering subpart 1, this section stipulates, the Board will give priority to improving comprehensive health services for ambulatory patients through the development or expansion of group practice organizations and community health centers, and primary care centers (where full service organizations are impractical), the recruitment and training of personnel, and the strengthening of coordination among providers of services. Funds will not be used to replace other Federal financial assistance, and may supplement other assitance only to meet specific needs of the Health Security program. Other Federal assistance programs are to be administered when possible to further the objective of Part F, and the Board may provide loans or interest subsidies to help the beneficiaries of other programs to meet the requirements for non-Federal funds.

(Section 104.) Help of several kinds will be available under this section for the creation or the enlargement of group practice organizations to serve an enrolled population on a capitation basis, agencies such as neighborhood health centers which need not require enrollment in advance, primary care centers, or organizations furnishing comprehensive dental services.

Grants may be made to any public or other non-profit organization (which need not be a health organization) to help meet the cost, other than construction cost, of establishing such organizations, and to existing organizations to help meet the cost of expansion: the maximum grants being, in the former case 90 percent of the cost, in the latter 80 percent. The Board may also provide technical assistance for these purposes. Loans may be made for the cost of necessary construction, subject to the same 90 and 80 percent limitation on amount. Finally, start-up costs of operation of these organizations may be underwritten, for five years in the case of organizations which must build up an enrollment to assure operating income, and in other cases until the Health Security program begins payment for services in the first year of entitlement to benefits. The effect of these several provisions is to reduce sharply, if not eliminate, the financial obstacles which have heretofore impeded the growth of group practice and similar organizations.

(Section 105.) This section contains a series of provisions to assist in the recruitment, education, and training of health personnel. The Board will establish priorities to meet the most urgent needs of the Health Security system, but the priorities will be flexible both as between different regions and from time to time. Professional practitioners will be recruited for service in shortage areas, both urban and rural, and in group practice organizations, and such practitioners may be given income guarantees. Other Federal assistance for health education and training will be availed of, but the Board may supplement the other assistance if the Board believes it inadequate to the needs, until Congress has had opportunity to review its adequacy. The training authorized includes retraining. It also includes the development of new kinds of health personnel to assist in furnishing comprehensive services, and the training of area residents to participate in personal health education and to serve liaison functions and serve as representatives of the community in dealing with health organizations. Grants may be made to test the utility of such personnel, and to assist in their employment before the effective date of health benefits. Education and training are to be carried out through contracts with appropriate institutions and agencies, and suitable stipends to students and trainees are authorized. Physicians will be recruited and trained to serve as hospital medical directors.

Finally, special assistance may be given, both to institutions and to students, to meet the additional costs of training persons disadvantaged by poverty, membership in minority groups, or other cause.

(Section 106.) This section authorizes special improvement grants: first, to any publice or other nonprofit health agency or institution to establish improved coordination and linkages with other providers of services; and, second, to the organizations described in section 104 to improve their utilization review, budget, statistical, or records and information retrieval systems, to acquire equipment needed for those purposes, or to acquire equipment useful for mass screening or for other diagnostic or therapeutic purposes.

(Section 107.) This section provides that loans under part F are to bear 3 percent interest and to be repayable in not more than 20 years. Other terms and conditions are discretionary with the Board, except for required compliance with the Davis-Bacon Act. Repayment of loans made from general appropriations will go to the general fund of the Treasury; repayment of later loans will revert to the Health Resources Development Account in the Trust Fund.

(Section 108.) This section specifies that payments under part F shall be in addition to, and not in lieu of, payments to providers under part E.

Subpart 2—Programs of Personal Care Services.

(Section 111.) The purpose of this subpart is stated in this section, to encourage and assist in the development of community programs of maintaining in their own homes, by means of comprehensive health and personal care services, disabled or chronically ill persons who otherwise require or are likely to require institutional care. It is intended that a grant be made in any community that can develop a satisfactory program and such non-Federal financing as the Board finds appropriate.

(Section 112.) This section authorizes grants to public or nonprofit agencies for this purpose, each program being designed to serve a substantial urban or rural population. Grants may be made for up to four years, and shall be irrevocable except for cause.

(Section 113.) The services to be provided include, in addition to covered health services, combinations of personal care services (such as homemaker and home maintenance services, laundry, meals-on-wheels and other dietary services, help with transportation and shopping, and other appropriate services). Different services may be provided in different programs. Full coordination with existing community health or personal care programs is required. Committees are to be established, consisting of professionals and representatives of users of the services, to screen applications for assistance and monitor utilization.

(Section 114.) Grantees must evaluate their programs with respect both to benefits to users of the services and to the fiscal impact on the Health Security system. The Board is also to evaluate each program and summarize its conclusions in its annual reports to Congress.

(Section 115.) Within three years the Board is to make a comprehensive report to Congress on this program with an evaluation of its operation. The Board is to submit also its recommendations of methods of developing, as widely and rapidly as practicable, personal care services where they are then lacking, with a view to making such services generally available throughout the United States; its recommendations with respect to the continuing financial support of such programs; and its recommendations on the proper role of the Health Security program in providing long-term institutional care and in providing personal care services in lieu thereof.

Subpart 3—Availability of funds

(Section 120.) For the two-year "tooling-up" period, appropriations of $200 and $400 million are authorized for financial assistance. Beginning with the effective date of health benefits, percentages of the Trust Fund expenditures will be earmarked for such assistance (section 63). From that date on, the leverage of these expanding funds will supplement and reinforce the incentives, which are built into the normal operation of the Health Security program, for improvement of the organization and methods of delivery of health services.

Part G—Administration

This part of the bill creates an administrative structure within the Department of Health, Education, and Welfare with responsibility for administration of the Health Security program. Program policy will be made by a five-member Board, under the supervision of the Secretary of HEW. The Board will be assisted by a National Health Security Advisory Council which will recommend policy and evaluate operation of the program, and an Executive Director who will serve as Secretary to the Board and chief administrative officer for the program. Administration of the program will be greatly decentralized among the HEW Regional Offices. Regional and local health services advisory councils will advise on all aspects of the program in their regions and local areas. The Board may also appoint such professional or technical committees as it may deem necessary.

(Section 121.) This section establishes a five-member full-time Health Security Board serving under the Secretary of Health, Education, and Welfare. Board members will be appointed by the President with the advice and consent of the Senate, for five-year overlapping terms. Not more than three of the five appointees may be members of the same political party. A member who has served two consecutive terms will not be eligible for reappointment until two years after the expiration of his second term. One member of the Board shall serve as chairman at the pleasure of the President.

(Section 122.) This section charges the Secretary of HEW and the Board with responsibility for performing the duties imposed by this title. The Board shall issue regulations with the approval of the Secretary. It is required to engage in the continuous study of operation of the Health Security program; and, with the approval of the Secretary, to make recommendations on legislation and matters of administrative policy, and to report to the Congress annually on administration and operations of the program. The report will include an evaluation of adequacy and quality of services, costs of services and the effectiveness of measures to restrain the costs. The Secretary of HEW is instructed to coordinate the administration of other health-related programs under his jurisdiction with the administration of Health Security, and to include in his annual report to the Congress a report on his discharge of this responsibility.

The Civil Service Commission is instructed to make every effort to facilitate recruitment and employment, to work in the Health Security Administration, of persons experienced in private health insurance administration and other pertinent fields.

Subsection (g) authorizes the Board to establish fifty positions, carrying salaries in the GS–16 to GC–18 range, in the professional, scientific, and executive service, to meet the need for highly qualified personnel both in research and development activities and in administration. It is expected that about half of these positions would be used for high-level administrative assignments, and the other half for the most responsible professional and scientific work of the Board.

(Section 123.) This section creates the position of an Executive Director, appointed by the Board with the approval of the Secretary. The Executive Director will serve as secretary to the Board and shall perform such duties in administration of the program as the Board assigns to him. The Board is authorized to delegate to the Executive Director or other employees of HEW any of its functions or duties except the issuance of regulations and the determination of the availability of funds and their allocations to the regions.

SEC. 124. This section provides that the program will be administered through the regional offices of the Health Security Board. It also directs the Board to establish local health service areas which shall be the same as the health service areas under the new title XV of the Public Health Service Act, except that with the approval of the Secretary the Board may divide such an area into

two or more areas for the purposes of the health security program. These areas are to serve as local administrative units, with a local office in each, and perhaps suboffices. One of the responsibilities of these offices will be to investigate complaints about the administration of the program.

(Section 125) Subsection (a) establishes a National Health Security Advisory Council, with the Chairman of the Board serving as the Council's Chairman and 20 additional members not in the employ of the Federal Government. A majority of the appointed members will be consumers who are not engaged in providing and have no financial interest in the provision of health services. Members of the Council representing providers of care will be persons who are outstanding in fields related to medical, hospital or other health activities or who are representatives of organizations or professional associations. Members will be appointed to four-year over-lapping terms by the Secretary upon recommendation by the Board.

Subsection (b) authorizes the Advisory Council to appoint professional or technical committees to assist in its functions. The Board will make available to the Council all necessary secretarial and clerical assistance. The Council will meet as frequently as the Board deems necessary, or whenever requested by seven or more members, but not less than four times each year.

Subsection (c) provides that the Advisory Council will advise the Board on matters of general policy in the administration of the program, the formulation of regulations and the allocation of funds for services. The Council is charged with responsibility for studying the operation of the program, and utilization of services under it, with a view to recommending changes in administration or in statutory provisions. They are to report annually to the Board on the performance of their functions. The Board, through the Secretary, will transmit the Council's report to the Congress together with a report by the Board on any administrative recommendations of the Council which have not been followed, and a report by the Secretary of his views with respect to any legislative recommendations of the Council.

(Section 126) To further provide for participation of the community, the Board will appoint an advisory council for each region and local area. Each such Council would have a composition parallel to that of the National Council; and each will have the function of advising the regional or local representative of the Board on all matters directly relating to the administration of the program.

(Section 127) The Board is authorized to appoint standing committees to advise on the professional and technical aspects of administration with respect to services, payments, evaluations, etc. These committees will consist of experts drawn from the health professions, medical schools or other health educational institutions, providers of services, etc. The Board is also authorized to appoint temporary committees to advise on special problems. The committees will report to the Board, and copies of their reports are to be made available to the National Advisory Council.

(Section 128) Subsection (a) requires the Board to consult with appropriate State health and other agencies to assure the coordination of the Health Security program with State and local activities in the fields of environmental health, licensure and inspection, health education, etc.

Susection (b) requires the Board, whenever possible, to contract with States to survey and certify providers (other than professional practitioners) for participation in the program. This is similar to Medicare except that the Board is given authority to establish the qualifications required of persons making the inspections.

Subsection (c) authorizes the Board to contract with State agencies to undertake health education activities, supervision of utilization review programs, and programs to improve the quality and coordination of available services in that State.

Subsection (d) requires the Board to reimburse States for the reasonable cost of performing such contract activities and authorizes the Board to pay all or part of the cost of training State inspectors to meet the qualifications established by the Board.

Subsection (e) directs the Board to make inspections if a State is unable or unwilling to do so.

Subsection (f) calls for the publication of the results of the inspections.

(Section 129.) The Board is authorized to provide technical assistance either directly or through contract with a State to skilled nursing home and home health service agencies to supplement the skills of their permanent staff in regard to social services, dietetics, etc.

(Section 130.) Subsection (a) charges the Board with responsibility for informing the public and providers about the administration and operation of the Health Security program. This will include informing the public about entitlement to benefits and the nature, scope, and availability of services. Providers would be informed of the conditions of participation, methods and amounts of compensation, and administrative policies. In support of the program's effort to improve drug therapy, the Board is authorized with the approval of the Secretary, to furnish all professional practitioners with information concerning the safety and efficacy of drugs appearing on either of the approved lists (Section 25), indications for their use and contraindications. Information of this nature is not now always available to practitioners.

Subsection (b) requires the Board to make a continuing study and evaluation of the program, including adequacy, quality and costs of services. Subsection (c) authorizes the Board directly or by contract to make detailed statistical and other studies on a national, regional, or local basis of any aspect of the title, to develop and test incentive systems for improving quality of care, methods of peer review of drug utilization and of other service performances, systems of information retrieval, budget programs, instrumentation for multiphasic screening or patient services, reimbursement systems for drugs, and other studies which it considers would improve the quality of services or administration of the program.

Subsection (d) authorizes the Board to enter into agreements with providers to experiment with alternative methods of reimbursement which offer promises of improving the coordination of services, their quality or accessibility.

(Section 131.) Severe discrepancies exist today between the national need for various kinds of health manpower and the availability of clinical facilities to train such personnel. Certain specialties (such as surgery), in which there is a surplus of manpower, monopolize clinical training facilities to the disadvantage of specialties in short supply (such as primary or family practice), thus perpetuating the imbalance between supply and demand. This section gives the Board authority to bring the availability of clinical training facilities into balance with national or regional manpower needs by issuing training priorities for institutional providers participating in the program.

(Section 132.) This section grants authority to the Board, in accordance with regulations, to make determinations of who are participating providers of service, determinations of eligibility, of whether services are covered, and the amount to be paid to providers. The Board is granted authority to terminate participation of a provider who is not in compliance with qualifying requirements, agreements, or regulations. But unless the safety of eligible individuals is endangered, the provider shall be entitled to a hearing before the termination becomes effective.

(Section 133.) This section establishes procedures for hearings and for judicial review, similar to those under the Social Security Act.

(Section 134.) This section has one of the bill's most important provisions with respect to achieving improvement in coordination availability, and quality of services. It greatly strengthens state and local planning agencies and gives the Board authority to curtail inefficient administration of participating institutional providers.

The Board is authorized to issue a direction to any participating provider (other than an individual professional practitioner) that, as a condition of participation, the provider add or discontinue one or more covered services. For example, if two community hospitals are operating maternity wards at low occupancy rates, the Board may require that one hospital cease to provide such service. A provider may be required to provide services in a new location, enter into arrangements for the transfer of patients and medical records, or establish such other coordination or linkages of covered services as the Board finds appropriate.

In addition, if the Board finds that services furnished by a provider are not necessary to the availability of adequate services under this title and that their continuance is unreasonably costly, or that the services are furnished inefficiently (and that efforts to correct such inefficiency have proved unavailing) the Board may terminate participation of the provider.

No direction shall be issued under this section except upon the recommendation of, or after consultation with, the appropriate state health planning agency. And no direction shall be issued under this section unless the Board finds that it can be practicably carried out by the provider to whom it is addressed. The Board is required to give due notice and to establish and observe appropriate procedures for hearings and appeals, and judicial review is provided.

Part H—Quality of care

This part authorizes the Board, and charges it with the duty, to maintain and enhance the quality of care furnished under the Act. Section 141(a) sets forth this authority and this day, to be discharged with the advice and assistance of, and in close collaboration with, the Commission on the Quality of Health Care created by an amendment of the Public Health Service Act contained in title III of the present bill.

Regulations under the part are to be issued before health security benefits become effective, and thereafter to be upgraded as rapidly as is practicable. Subsection (b) states as the objective the highest quality of care attainable throughout the nation, with exceptions to quality requirements only when, and as long as, they are necessary to avoid acute shortages of services. Subsection (c) calls for collaboration with the Commission, and stipulates that any failure to follow its recommendations shall be submitted to the Secretary and that, unless he directs the Board to adopt the recommended regulations, the reasons for not doing so must be published by the Board.

(Section 142.) The Board is to issue regulations requiring continuing professional education for physicians, dentists, optometrists, podiatrists. Reports of compliance with the regulations will be required and, after warning, practitioners may be disciplined for failure to comply.

(Section 143.) Subsection (a) provides that major surgery, and other procedures specified in regulations, are not covered services unless they are performed by a specialist, and (ex-

cept in emergencies) are, to the extent prescribed in regulations, performed on referral by a physician engaged in general practice. Specialists, according to subsection (b) are those certified by the appropriate national specialty boards, with a five-year period allowed board-eligible physicians to obtain certification, and with a "grandfather" exception for certain physicians practicing when health security benefits go into effect.

Subsection (c) authorizes the Board to require, except in acute emergencies, consultation with an appropriate specialist, as a prerequisite to specified surgical procedures; in such cases subsection (d) enables the Board to require pathology reports and clinical abstracts or discharge reports.

(Section 144.) Subsection (a) requires that practitioners furnishing services on behalf of institutional or other providers meet the same qualifications that are demanded of independent practitioners. Subsection (b) authorizes the Board to make additional requirements, in the interest of the quality care and of safety of patients, for all providers other than professional practitioners. This is like the authority given the Secretary under the Medicare law, but with the notable difference that standards of the Joint Commission on the Accreditation of Hospitals constitute a minimum for Board requirements, rather than a maximum as under Medicare. Exceptions are permitted only, as stated in section 141, to avoid acute shortages of services.

(Section 145.) Although the provisions relating to professional standard review organizations, recently added to the Social Security Act, are repealed by section 405 of the present bill, the Board is authorized, on recommendation of the Commission on the Quality of Health Care, to use organizations previously designated by the Secretary for the purposes of monitoring the quality of services, either institutional or noninstitutional. The Board may also use for this purpose similar organizations approved by it in the future.

(Section 146.) In exercising its authority under part H the Board is directed to take into account the findings of the Secretary's Commission on Medical Malpractice, and to seek to reduce the incidence of malpractice and to improve the availability of malpractice insurance.

Part I—Miscellaneous provisions

(Section 161.) This section contains definitions of certain terms used in the title.

(Section 162.) This section creates the offices of Deputy Secretary of Health, Education and Welfare and an Under Secretary for Health and Science in the Department of Health, Education and Welfare, and abolishes the office of Under Secretary of Health, Education and Welfare.

(Section 163.) This section stipulates that the effective date for entitlement for benefits will be July 1, of the second calendar year following enactment.

(Section 164.) Subsection (a) provides that an employer will not be relieved, by the enactment of the Health Security Act, of any existing contractual or other non-statutory obligation to provide or pay for health services to his present or former employees and their families. An employer whose cost under such a contract, immediately before health security taxes go into effect, exceeds the cost to him of paying those taxes is required by subsection (b) to apply the excess, during the remaining life of the contract, first to the payment of health security taxes on behalf of his employees. If an excess still remains after meeting this obligation, and after an allowance for the cost of any continuing obligation to pay for health services not covered by Health Security, subsection (c) requires the employer to pay the amount of this remaining excess to those employees, former employees, and survivors who are beneficiaries of the pre-existing contract; but by agreement with the employees or their representatives, these funds may be applied to other employee benefits. Computations of the amounts involved are to be made on a per capita basis, as defined in subsection (d).

TITLE II—HEALTH SECURITY TAXES

Part A—Employment taxes

(Section 201.) Effective on January 1 of the second year after enactment, subsections (a) and (b) convert the existing Medicare hospital insurance payroll taxes into Health Security taxes and raise the rates to 1 percent on employees and 3.5 percent on employers. Subsection (c) sets the wage base for the employment tax at 150 percent of the Social Security wage base (or a tax base at present of $21,150 in conformity with the recent automatic increase of the Social Security tax base). This subsection also defines covered employment to include all substantial groups now excluded from social security tax coverage, except that State and local governments are excluded from the tax on employers.

(Section 202.) This section makes a number of conforming and technical amendments. Chief among these are provisions for refund of excess taxes collected from an employee, who has held two or more jobs, on wages aggregating in a year more than the amount of the new wage base; exclusions of Health Security contributions from agreements with State governments for the social security coverage of State and Municipal employees (since these employees will contribute to Health Security through payroll taxes); and exclusions of Health Security contributions from agreements for the coverage of United States citizens employed by foreign subsidiaries of United States corporations (since these employees will not benefit materially from Health Security in its present form).

(Section 203.) This section excludes from the gross income of employees, for income tax purposes, payment by their employers of part or all of the Health Security taxes on the employees.

(Section 204.) This section spells out the effective dates of the new payroll tax provisions.

Part B—Taxes on self-employment income and unearned income

(Section 211.) Effective at the beginning of the second calendar year after enactment, this section converts the existing Medicare self-employment tax into a Health Security self-employment tax, sets the rate at 2.5 percent, and sets the maximum taxable self-employment income at $23,500 (with the same upward adjustment as in the employee tax for subsequent rises in average wage levels).

(Section 212.) Effective on the same date, this section adds a new 2½ percent Health Security tax on unearned income (unless such income is less than $400 a year), subject to the same maximum on taxable income as is applicable to the employee and self-employment taxes.

Taxable unearned income is adjusted gross income up to the stated maximum, minus wages and self-employment income already taxed for Health Security purposes (excluding certain items of income (notably social security benefits) specifically excluded from the other taxes and excluding $5,000 in unearned income for persons over age 60.)

(Section 213.) This section makes appropriate changes in nomenclature and in the requirements of tax returns, including reports of estimated tax liability under the new tax on unearned income.

(Section 214.) This section details the specific effective dates of the taxes imposed by this part.

Part C—Income Tax Deductions for Medical Care

(Section 221.) This section amends the Internal Revenue Code so that no medical deductions shall be allowed for the cost of medical care which is covered by the Health Security Act on or after the effective date of health security benefits.

TITLE III—COMMISSION ON THE QUALITY OF HEALTH CARE

(Section 301.) The purpose of Title III is to create a Commission on the Quality of Health Care in order to improve health care in the United States. The Commission's function is:

To develop methods of measuring health care;

To develop standards for promoting health care of high quality;

To encourage the use of such measurements and standards under the provisions of the Health Security Act.

(Section 302.) This section adds to the Public Health Service Act a new Title XVII, entitled "Commission on the Quality of Health Care."

(Section 1701, Public Health Service Act.) Subsection (a) establishes a Commission on the Quality of Health Care within the Department of Health, Education and Welfare. The Commission will consist of eleven members who are to be appointed by the Secretary after consultation with the Health Security Board. The Commission is required to carry out the functions set forth under sections 1702 and 1703.

Subsection (b) describes the requirements for the membership of the Commission. Seven of the members appointed must be representatives of health service providers or representatives of non-governmental organizations that are engaged in the process of developing standards relating to the quality of health care. Four members must be representatives of consumers who are not engaged in and have no financial interest in the delivery of health care services. Commission members will be appointed to serve five-year overlapping terms. Subsection (c) requires the Secretary to designate the Chairman of the Commission, who serves at the pleasure of the Secretary. Subsection (d) authorizes the Commission to employ needed personnel and appoint advisory committees. It also stipulates the conditions of employment and rates and terms of compensation.

(Section 1702, Public Health Service Act.) Subsection (a) defines the primary responsibilities of the Commission. The Commission is directed to initiate and continuously develop methods to assess the quality of health care delivered under the provisions of the Health Security Act; and to initiate and develop ways to use such assessments in order to maintain and improve the quality of health care delivered under the Act. The Commission is required to submit its findings and recommendations to the Secretary and the Health Security Board.

Specifically, the Commission is required to:

(1) collect data on a systematic and nationwide basis that will provide information on the (A) qualifications of health personnel and the adequacy and ability of health care facilities to provide quality health care; (B) the patterns of health care practices in actual episodes of care; (C) the utilization patterns for components of the health care system; and (D) the health of patients during and at the end of actual episodes of care and the relationship of the various factors outlined above to the health of such patients;

(2) use the data it collects to develop statistical norms and ranges to describe the factors outlined in paragraph (1). Such norms and ranges may be developed on a national or regional basis, for particular population groups, or on any other basis deemed most useful by the Commission;

(3) use such statistical norms and ranges as a basis for developing standards (and acceptable deviation from such standards) that will be useful in measuring, controlling, and improving the quality of health care; and

(4) make recommendations to the Secretary and the Health Security Board on the

proper use of standards developed under the provisions of paragraph (3) in connection with the Board's continuing responsibility for the maintenance and improvement of the quality of the health care delivered under the Health Security Act. Such recommendations may also be used by the Secretary or the Board when developing proposals to amend the Health Security Act.

When carrying out its duties under the provisions of this subsection, the Commission is directed to give first priority to the quality of care delivered for those illnesses or conditions which have high incidence of occurrence within the population and which are responsive to medical or other treatment.

Subsection (b) requires the Commission to conduct a broad health care research program. Specifically, the objectives of the program are to:

(1) improve technologies for assessing health care quality;

(2) compare the quality of health care under alternative health delivery systems and methods of payment;

(3) analyze the effects of consumer health education and preventive health services;

(4) continue the studies made by the Secretary's Commission on Medical Malpractice. In this respect, the Commission is also required to evaluate any of the recommendations of the Secretary's Commission which the Health Security Board has put into effect or any other measures that the Board has established, which pertain to the incidence of malpractice, malpractice insurance, or malpractice claims;

(5) obtain other information that will be useful in order to accomplish the purposes of this new title of the Public Health Service Act and title I, part H, of the Health Security Act (concerning the maintenance and improvement of the quality of health care delivered under the Health Security Act).

Subsection (c) authorizes the Commission to provide technical assistance to enable participating providers to furnish the Board with information required by it for purposes of the Commission. The Commission is also authorized to provide technical assistance to participating providers who are developing and carrying out quality control programs.

(Section 1703, Public Health Service Act.) This section directs the Commission, even before it has developed standards under the preceding provisions, to give advice recommendations to the Health Security Board concerning quality health care regulations.

(Section 1704, Public Health Service Act.) This section authorizes the Secretary to establish twenty-five positions on the staff of the Commission, carrying salaries in the GS–16 to GS–18 range, in the professional, scientific, and executive service, to meet the need for highly qualified personnel in the research and development activities of the Commission.

TITLE V—REPEAL OR AMENDMENT OF OTHER ACTS

(Section 401.) This section repeals the Medicare and Federal Employee Health Benefit statutes on the date Health Security benefits become effective, but stipulates that this shall not affect any right or obligation incurred prior to that date.

(Section 402.) This section requires that after the effective date of benefits, no State shall be required to furnish any service covered under Health Security as a part of its State plan for participation under Medicaid, and that the Federal government will have no responsibility to reimburse any State for the cost of providing a service which is covered under Health Security. After the effective date of benefits, the Secretary of HEW shall prescribe by regulation the new minimum scope of services required as a condition of State participation under Title XIX. To the extent the Secretary finds practicable, the new minimum benefits will be designed to supplement Health Security—especially with respect to skilled nursing home services, dental services and the furnishing of drugs.

(Section 403.) This section provides that funds available under the Vocational Rehabilitation Act or the Maternal and Child Health title of the Social Security Act shall not be used to pay for personal health services after the effective date of benefits, except (to the extent prescribed in regulations by the Secretary of HEW) to pay for services which are more extensive than those covered under Health Security.

(Section 404.) This section makes applicable to Health Security the provisions recently added to the Social Security Act requiring reduction in reimbursement for care in facilities which have made substantial capital expenditures found by a State planning agency to be inconsistent with standards developed pursuant to the Public Health Service Act. Because the provision will continue to apply to the residual programs under titles V and XIX of the Social Security Act, the reductions will continue to be determined by the Secretary and his determinations are made binding on the Board, as provided in section 89 of the bill.

(Section 405.) This section repeals the provisions recently added to the Social Security Act relating to professional standards review organizations. Section 145 of the bill permits the use of such organizations already designated by the Secretary, and approval by the Board and use of similar organizations in the future.

(Section 406.) Subsection (a) amends section 1817 of the Social Security Act, creating the Federal Hospital Insurance Trust Fund, and transfers it to become section 61 of the Health Security Act under the title "Health Security Trust Fund". The effect of this transfer is summarized in the description of title I, part D, of the present bill. Subsection (b) extends to the Health Security system the provisions of section 201(g) of the Social Security Act, authorizing annual Congressional determination of amounts to be available from the respective trust funds for the administration of the several national systems of social insurance. Subsections (c) and (d) contain conforming and technical provisions.

(Section 407.) This section makes a number of changes in title XV of the Public Health Service Act, which is the planning portion of the recently passed National Health Planning and Resources Development Act of 1974. Subsections (a) and (b) provide that the Secretary's guidelines on national health planning policy should be issued in twelve, rather than eighteen, months, and that they must emphasize the need for prompt action to meet the demands of the health security program. Under subsection (c), the DHEW Under Secretary for health and science replaces the Assistant Secretary on the National Council on Health Planning and Development, and the Chairman of the Health Security Board is added to the Council. Subsection (d) strikes out a requirement of coordination with Professional Standards Review Organizations, in view of the repeal of the PSRO provisions of the Social Security Act. Review and approval or disapproval of Federal grants and contracts by health systems agencies (subject to final decision by the Secretary) is extended, by subsection (e), to include Health Security Board grants and contracts under Part F of title I. Finally, section 1526 providing for grants for State demonstrations in rate regulation is repealed, since the Health Security Board will be fixing the amount of payments to participating providers of services.

(Section 408.) This section establishes the salary levels for the Deputy Secretary and the Under Secretary for Health and Science, Department of Health, Education, and Welfare, the Chairman of the Health Security Board, members of the Health Security Board and members of the Commission on the Quality of Health Care, and the Executive Director of the Health Security Board.

(Section 409.) This section removes the operations of the Health Security Trust from the administrative budget of the United States, and directs that these operations be reported and projected in a separate statement, as was done with the Social Security trust until recently. The Government contribution to the Health Security system will continue to be shown as an expenditure in the administrative budget.

TITLE V—STUDIES RELATED TO HEALTH SECURITY

(Section 501.) This section directs the Secretary of Health, Education and Welfare in consultation with the Secretary of State and the Secretary of the Treasury to study the coverage of health services for United States residents in other countries.

(Section 502.) Subsection (a) directs the Secretary of HEW to study means of coordinating the federal health care programs for merchant seamen, and for Indians and Alaskan natives, with the Health Security benefits program. The Secretary and the Administrator of Veterans' Affairs shall conduct a similar joint study of the means of coordinating veterans health care programs with the Health Security benefits program. A similar study is to be conducted, jointly with the Secretary of Defense, relating to the program of care, in civilian facilities, of the dependents of military personnel. Reports to the Congress and any legislative recommendations arising from the studies are required within three years after the enactment of the Health Security Act.

Subsection (b) requires the respective Secretaries and the Administrator to consult with representatives of the affected beneficiary groups, and to include a summary of their views in the reports to Congress.

With respect to the joint study to determine the most effective method of coordinating the Veterans' Administration Health Program with the Health Security program established under this bill, it is important to understand that there is no intention to require either the integration of the VA program into the Health Security Program, or even the consideration of such integration. Rather, the section recognizes that any national health security or health insurance program would be so pervasive as to require other federal health programs such as those of the Veterans' Administration to be effectively coordinated with them. Through such coordination, needless duplication and expenditures should be avoided.

(Section 503). This section authorizes the appropriation of money needed for conducting the studies authorized in this title, and the use of experts and consultants and advisory committees, and of contracts for the collection of information or the conduct of research.

By Mr. MATHIAS:

S. 4. A bill to provide a program to systematically reduce imports of crude oil, residual fuel oil and petroleum products and to provide for a report to accompany such program, and for other purposes. Referred to the Committee on Finance.

Mr. MATHIAS. Mr. President, approximately 1 year ago the oil embargo began to be fully felt in this country. It became clear to the executive and to the Congress that the President should be given additional authority to cope with oil-related problems such as shortages and high prices.

Our circumstances are, indeed, drastically changed from 1 year ago. Acute energy supply problems prevailed last winter. But now we have an adequate supply of all forms of energy with the exception of natural gas. In the absence of another foreign oil embargo, stockpiles are sufficient to carry us through this winter. It is appropriate, then, to ask why we are concerned. We are concerned because even though our immediate supply needs for the winter are met, we are now faced with extremely high prices for energy; prices which the Western consuming nations as a group can ill afford to pay. The gravity of the present situation is well illustrated when we consider that:

The industrial nations now face a collective payments deficit of $40 billion:

Developing nations face a collective yearly deficit of $20 billion; half due to rising oil prices; and

Oil producers now have a surplus of $60 billion, which is far more than can be dissipated through payments to other countries, development needs, or reinvestment in industrial countries.

President Ford, in discussing the state of the economy and in special energy messages to the Congress and to the American people, has pointed out the necessity for reducing our energy consumption and increasing domestic supply so as to in turn decrease imports.

A program of conservation and alternative supply in concert with other consuming nations must be the cornerstone of our future efforts. The OPEC countries have learned a lesson from the past practices of industrialized nations. Cartel arrangements have long existed as between industrialized countries as they have sought favorable trade relations with less developed parts of the world. The strength of the multinational petroleum companies was also founded on a cartel arrangement. In short, the members of OPEC have had history to guide them as they have turned the tables on consuming nations.

It is only prudent to assume that the present course of the oil exporting nations is undertaken with a full understanding of its ramifications and with the clear purpose of gaining economic and political advantage over the industrialized countries; limited only by what the traffic can bear. Under these circumstances, the United States and others similarly situated are presented with a clear challenge.

Our response must include a strong program to conserve energy and augment supply, coupled with every effort to persuade producing countries of their great stake in the continued vitality of industrial economies. But we should not suffer under any illusion that simple persuasion will suffice to lower prices. We must realize that it will be politically difficult if not impossible for any of these exporting countries to accept lower prices. In fact, if demand for OPEC oil grows, normal market forces may make it impossible to eliminate staggering monetary surpluses regardless of willpower.

The industrialized countries now import two-thirds of their oil, which supplies one-third of their total energy need. At a minimum, present import bills must be reduced if the international monetary system is to be stabilized. This is a difficult, but not impossible task. It will appreciably strengthen consuming nations to respond to producer cartel price increases and supply interruption should they again occur.

As demand on world markets dampens through conservation and increased supply and as other countries such as Mexico, Peru, China, and Malaysia become net exporters of energy, the hold on the market of the OPEC cartel may be more difficult to maintain. With little or no market expansion, OPEC members would realize only half of present income by the end of the decade.

It is in our national interest to reduce imports of oil. Import quotas are an appropriate response. Such restrictions would reduce our balance-of-payments deficit significantly; would dampen world oil prices, and so lessen the strain on other consuming nations; serve as an impetus for domestic conservation efforts; and finally, signal U.S. leadership to the world in implementing international sharing agreements such as the International Energy Agency.

Quotas should be implemented in an atmosphere of cooperation with producing countries. We seek to protect no single domestic industry, but rather to protect the continued vitality of entire industrialized economies. This is a goal which producing countries must necessarily share since their stake in those economies is so great.

If the world price of oil can be reduced somewhat then serious discussion of the proposal by the Shah of Iran to index the price of oil to world commodities or manufactured goods should take place. Only through such an arrangement can we have long-term price stability. But to index now would not be in anyone's long-term best interest, as it could bankrupt industrial economies.

West German Chancellor Schmidt pointed out in his recent visit to the United States that this country has advanced many useful ideas as to how to deal with the high cost of energy and resulting inflation. But while the Chancellor welcomed U.S. proposals, he rightfully chided us for not following through—for not setting an example. It will require leadership from both the executive, and the Congress. The Senate now has an opportunity through my proposal, to provide meaningful leadership not only to the American people, but to all people in energy conservation.

We can no longer tell the world of the need for energy conservation and self-restraint and at the same time fail to take the necessary steps to implement strategies for meaningful conservation. It is time that we gave substance to our platform. We must lead by example, not by rhetoric.

Therefore, it is my purpose to provide a positive and definitive plan for limiting imports not only of crude oil but particularly of refined petroleum products. We can do more than broadly charge the President to go out and formulate a report to the Congress as the National Energy Authorities Act of the last Congress would have provided. We have had many well documented reports, yet we continue to drift.

Most recently, the Project Independence blueprint was assembled and published for review. Extensive hearings have been held by a number of congressional committees with testimony from every sector of the economy in order to determine the ramifications of our current energy problem. While consensus is often difficult to reach, almost every responsible economist views the current balance-of-payments deficits, which is primarily oil related, as an international timebomb.

We have had many innovative proposals to work within the framework of high oil prices and continued high import volumes. Most of these proposals involve recycling revenues. They are undoubtedly useful as short-term measures since many of the consuming nations would be bankrupt within months should recycling not take place. But we must recognize that any recycling proposal eventually imposes severe hardships on the debtor nation, or leaves others out in the cold. At the present time most of the surplus money has gone into the short-term loan market primarily Eurodollars. This flow of money does not in any sense equate with individual countries' foreign exchange needs. Nor can we expect improvement in the future as the credit worthiness of individual countries will be the primary criterion for the flow of funds; a standard which will exclude many needy developed and developing countries. Not only will debt service over a period of years become increasingly onerous, and eventually impossible for some countries, but also the volume and direction of petrodollars may be in the hands of a very few countries and the implications of this are profoundly disturbing.

A small group of countries, quite possibly with unstable leadership, could have the power to dictate the availability of capital in various parts of the Western World. Recently we have had an example of the gravity of this situation. When certain oil producing countries announced on December 11 that sterling would not be acceptable in payment for petroleum, the pound was severely damaged on international exchange markets and the British stockmarket, adjusted for inflation, sank to its lowest level ever; a stark illustration of the power possessed by a very few. My bill addressed the tremendous outflow of money that we have experienced in the last year and which we will continue to experience in the years ahead unless programs are fashioned to reduce imports.

The President called upon the American people to voluntarily conserve energy Many sectors of the economy are unlikely to voluntarily conserve energy in a meaningful way. Unfortunately, this is true of some of the larger energy-using sectors, particularly transportation. It is simply human nature to resist self-denial as long as there is suspicion that one's neighbor, or a stranger, is not making similar sacrifices. The reports are coming in and it is clear that voluntary conservation will not be enough.

Mandatory programs are called for and I believe that the American people will respond positively to mandatory programs as long as they are convinced that sacrifices are not in vain and that they are shared equitably by all Americans. In that regard I agree with the President that the people of our Nation are capable of great sacrifice, if only they can see a clear goal worthy of the effort.

My bill requires that the President file a schedule with the Congress within 60 days of the enactment of this legislation which sets forth maximum import levels through 1985 and that from the date of such report, imports not exceed 5,500,000 barrels per day for the remainder of 1975, and that there be further reductions over the next 4 years so that in 1980 petroleum imports do not exceed 3,000,000 barrels per day, and in 1985 2,000,000 barrels per day. Imports which are specifically committed by the President to establishing and augmenting a National Strategic Energy Reserve System would not be counted for the purposes of my amendment.

At this point I would invite discussion of the implementation of any restriction on imports. We must consider in detail the different effects on our domestic economy of importing refined products while excluding crude oil and vice versa. We must not only look for a Band-Aid to cover our current painful problem, but seek long-range solutions that relate to both our energy needs and to our fiscal future. It may well be that imported product has a greater adverse impact than imported crude. The mix between product and crude will have important ramifications for independent and major oil companies; for the siting of domestic refiners; for conversion of utilities to coal and for our balance-of-payments deficit. I believe imported crude should be favored over imported product.

It would be a contradiction in terms to create greater dependence on foreign technologies as we implement Project Independence. The ration of crude to refined imports is a complex decision that should be thoroughly aired and thoroughly understood.

Let me detail the kinds of reductions that are proposed in my amendment. The American Petroleum Institute tabulated aggregate U.S. crude imports in the 4 weeks ended November 22, 1974 at 3,858,000 barrels per day, up from 3,541,000 barrels in the same period a year earlier. Aggregate product imports were 3,034,000 barrels per day in the 1974 period versus 2,005,000 barrels per day a year earlier. We are up substantially over last year in both categories. From this data we can estimate that total imports for refined product and crude oil range between 6,500,000 barrels and 7,000,000 barrels per day. My amendment would require a reduction of slightly less than 22 percent to 5,500,000 barrels; a reduction of slightly over a million barrels per day for calendar year 1975. This represents only an 8-percent reduction in our petroleum use and just over a 3.5-percent reduction in total energy use.

The President would then have the discretion to set import levels at this 1975 level or below until 1980 when the ceiling would drop to 3,000,000 barrels per day. I would envision the President using these 4 years to make a staged reduction in imports as energy conservation measures in this country improve in sophistication and begin to yield meaningful results and additional domestic supplies are brought on line. The next target would be in order. In the immediate future we take no precipitous action, but only do what is necessary to provide leadership and reduce balance-of-payments deficits.

As the Senate well knows, it would not be enough to simply slash imports without at the same time implementing strategies for reducing domestic consumption and bringing on additional supply. The Congress passed the Petroleum Allocation Act and that machinery is still in place to determine who is entitled to what level of imported crude and product. That Allocation Act also can serve to distribute energy within the borders of the United States.

It cannot, however, determine energy supply at the retail level. We have had experience with oil conservation through inconvenience and it is clear that a more orderly and equitable system is required. The Allocation Act will create burdensome lines if implemented at a retail level.

The transportation sector of our economy is the most fruitful area for energy conservation for two reasons. First, we find a very high percentage of energy consumption in this sector. Second, wasteful consumption is significant and can be drastically reduced without creating unemployment or other great hardship.

As we fashion a mandatory conservation program, a number of goals must be kept in mind. Such a program must reduce gasoline consumption; not discriminate against people on the basis of wealth; not create black markets, hoarding or artificial shortages, and finally, not strengthen present recessionary or inflationary pressures in the economy, but rather weaken such pressures.

Proposals may be grouped in two general categories; rationing or taxing. Rationing can be of the World War II type where nontransferrable coupons are issued. I reject this approach because I believe a black market would be soon created in coupons. I suspect that sanctions for dealing in the black market would meet with widespread apathy and that consequently the force of law would be weakened. Another drawback would be the administrative costs associated with establishing this system. Transferrable coupons would eliminate the possibility of a black market, but in my opinion once transfer of coupons is permitted, we have created a mixture of tax and subsidy. Those who desire gas beyond their quota will incur additional costs imposed by the rationing system and those who use less than their quota can exchange extra entitlements for money. There may be a more sophisticated method through our tax system. If we can rebate gas tax revenues on a weekly, monthly, or yearly basis under our existing tax system; we can work equity for all our people at every income level. Those who are not reached by the tax can receive a rebate through various subsidy mechanisms. A further advantage to a tax system is that funds not rebated are available to find solutions to the energy problem.

I have dealt at some length with how we should reduce domestic consumption of energy because my bill will signal the necessity for such efforts and should trigger a debate, not only in Congress, but also in the country. It states in the clearest terms that we will protect ourselves from bankruptcy through self-indulgence; that we are prepared for sacrifice. Winston Churchill in "The Gathering Storm" recites some lines from an unknown author:

"Who is in charge of the clattering train?
The axles creak and the couples strain;
And the pace is hot and the points are near,
And sleep has deadened the driver's ear;
And the signals flash through the night in vain,
For death is in charge of the clattering train."

Certainly there are many differences between 1974 and the late 1930's, but one aspect is similar. Just as the democracies could have best opposed German rearmament at the first instance of violated treaties, so consuming nations can best respond to the OPEC oil cartel now rather than later. There is a tendency for institutions, particularly democratic institutions, to shrink from complex problems. Not only is our energy problem complex, but it is remote. People are aroused by shortage and their leaders respond. But we have no shortage, rather we have an increasing debt and this is not yet so immediately threatening as to arouse broad public concern, unified leadership, and effective action. We drift on in the hope of better times. This is a vain hope because better times will only come through immediate efforts to conserve fuel and generate alternative supply. We cannot be hypnotized into inaction.

By Mr. CHILES (for himself, Mr. BAYH, Mr. BEALL, Mr. BIDEN, Mr. BROCK, Mr. CLARK, Mr. CRANSTON, Mr. HATFIELD, Mr. HATHAWAY, Mr. HUMPHREY, Mr. MATHIAS, Mr. MCGOVERN, Mr. METCALF, Mr. MONDALE, Mr. PACKWOOD, Mr. PERCY, Mr. PROXMIRE, Mr. ROTH, Mr. STAFFORD, Mr. WEICKER, Mr. STONE, Mr. GARY W. HART, Mr. NELSON, Mr. PHILIP A. HART, and Mr. HASKELL):

S. 5. A bill to provide that meetings of Government agencies and of congressional committees shall be open to the public, and for other purposes. Referred to the Committee on Government Operations.

Mr. CHILES. Mr President, in January 1973, I introduced S. 260, the Federal Government in the Sunshine Act. The purpose of this bill is to provide for more public access to the work of the legislative and executive branches of Government by making most meetings of congressional committees and Federal agencies open to all interested persons.

Since the introduction of the bill, we have had a conference cosponsored by Common Cause and two rounds of hear-

ings at which a number of agency officials and Members of Congress testified. After each discussion on the bill, we considered the many thoughtful suggestions and made revisions to reflect the most discerning of them.

The bill that I am reintroducing today as S. 5, is, therefore, a much more refined bill, a bill which has been carefully examined by many of the people who will be affected by its passage.

Support for the bill within the Senate has been encouraging. The concept of opening up congressional markup sessions and conferences has been overwhelmingly accepted by the Democratic conference. Last Congress, we had 26 cosponsors for the bill. This Congress we hope to have even more.

Secrecy in Government has become synonymous, in the public's mind, with deception by the Government. While some matters must be discussed in closed session, these are few and are specifically provided for in the bill, to insure that the bill itself will not become a shield behind which Government can hide its deliberations from the people.

The experience we have had with open meetings in the 93d session shows that committees can work as effectively or more effectively in the public. For the past 2 years the Government Operations Committee, the Banking, Housing, and Urban Affairs Committee, and the Interior Committee have held open markup sessions. They have dealt effectively and openly with such important, and often controversial, legislation as the Congressional Budget and Impoundment Control Act of 1973, the Energy Reorganization Act of 1973, Federal Regulation of Lobbying Amendments, the Housing and Community Development Act of 1974, control of export-import banking, energy allocation, land use policy, Executive privilege, consumer protection, surface mining, and mineral leasing.

I hope that the Senate will act on the bill this Congress. With the public so keenly aware these days of the things that can go wrong in the governmental decisionmaking process, it is incumbent upon the Senate to show them that we are willing to eliminate the practices which foster wrong decisions.

Mr. President, I ask for unanimous consent to have the bill printed in full at this point in the RECORD.

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

S. 5

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.—This Act may be cited as the "Government in the Sunshine Act".

SEC. 2. DECLARATION OF POLICY.—It is hereby declared to be the policy of the United States that the public is entitled to the fullest practicable information regarding the decisionmaking processes of the Federal Government.

SEC. 3. DEFINITIONS.—For purposes of this Act—

(1) "National defense" means—

(A) the protection of the United States and its military forces against actual or potential military attack by a foreign power;

(B) the obtaining of foreign intelligence information deemed essential to the military defense of the United States or its forces;

(C) the protection of information essential to the military defense of the United States or its forces against foreign intelligence activities; or

(D) the protection, to the extent specifically found necessary by the President in writing, of the United States against overthrow of the Government by force; and

(2) "Person" includes an individual, partnership, corporation, associated governmental authority, or public or private organization.

TITLE I—CONGRESSIONAL PROCEDURES

SEC. 101. SENATE COMMITTEE HEARING PROCEDURE.—(a) The Legislative Reorganization Act of 1946 is amended—

(1) by striking out the third sentence of section 133(b);

(2) by striking out subsections (a), (b), and (f) of section 133A;

(3) by adding after section 133B the following:

"OPEN SENATE COMMITTEE MEETINGS

"SEC. 133C. (a) Each meeting of each standing, select, or special committee of the Senate, or subcommittee thereof, including meetings to conduct hearings, shall be open to the public: *Provided,* That a portion or portions of such meetings may be closed to the public if the committee or subcommittee, as the case may be, determines by a vote of a majority of a quorum of the committee or subcommittee present that the matters to be discussed or the testimony to be taken at such portion or portions—

"(1) will disclose matters necessary to be kept secret in the interests of national defense or the necessarily confidential conduct of the foreign policy of the United States;

"(2) will relate solely to matters of committee staff personnel or internal staff management or administration;

"(3) will tend to charge with crime or misconduct, or to disgrace any person, or will represent a clearly unwarranted invasion of the privacy of any individual: *Provided,* That this paragraph shall not apply to any Government officer or employee with respect to his official duties or employment: *And provided further,* That as applied to a witness at a meeting, this paragraph shall not apply unless the witness requests in writing that the hearing be closed to the public;

"(4) will disclose information pertaining to any investigation conducted for law enforcement purposes, but only to the extent that the disclosure would (A) interfere with enforcement proceedings, (B) deprive a person of a right to a fair trial or an impartial adjudication, (C) disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source, (D) disclose investigative techniques and procedures, or (E) endanger the life or physical safety of law enforcement personnel; or

"(5) will disclose information relating to the trade secrets or financial or commercial information pertaining specifically to a given person where—

"(A) a Federal statute requires the information to be kept confidential by Government officers and employees; or

"(B) the information has been obtained by the Federal Government on a confidential basis other than through an application by such person for a specific Government financial or other benefit, and the information must be kept secret in order to prevent grave and irreparable injury to the competitive position of such person.

A separate vote of the committee shall be taken with respect to each committee or subcommittee meeting a portion or portions of which are proposed to be closed to the public pursuant to this subsection. The vote of each committee member participating in each such vote shall be recorded and no proxies shall be allowed. Within one day of such vote, the committeee shall make publicly available a written copy of such vote and, if a meeting or portion thereof is closed to the public, a full written explanation of its action.

"(b) Each standing, select, or special committee of the Senate, or subcommittee thereof, shall make public announcement of the date, place, and subject matter of each meeting at least one week before such meeting unless the committee or subcommittee determines by a vote of a majority of a quorum of the committee or subcommittee present that committee business requires that such meeting be called at an earlier date, in which case the committee shall make public announcement of the date, place, and subject matter of such meeting at the earliest practicable opportunity.

"(c) A complete transcript shall be made of each meeting of each standing, select, or special committee or subcommittee (whether open or closed to the public). Except as provided in subsection (d) of this section, a copy of each such transcript shall be made available for public inspection within seven days of each such meeting, and additional copies of any transcript shall be furnished to any person at the actual cost of duplication. Notwithstanding the provisions of subsection (d), in the case of meetings closed to the public, the portion of such transcript made available for public inspection shall include a list of all persons attending and their affiliation, except for any portion of such list which would disclose the identity of a confidential source, or endanger the life or physical safety of law enforcement personnel.

"(d) In the case of meetings closed to the public pursuant to subsection (a) of this section, the committee or subcommittee may delete from the copies of transcripts that are required to be made available or furnished to the public pursuant to subsection (c) of this section, those portions which it determines by vote of the majority of a quorum of the committee or subcommittee consist of materials specified in paragraph (1), (2), (3), (4), or (5) of subsection (a) of this section. A separate vote of the committee or subcommittee shall be taken with respect to the transcript of each such meeting. The vote of each committee or subcommittee member participating in each such vote shall be recorded and published and no proxies shall be allowed. In place of each portion deleted from copies of the transcript made available to the public, the committee or subcommittee shall supply a full written explanation of why such portion was deleted, and a summary of the substance of the deleted portion that does not itself disclose information specified in paragraph (1), (2), (3), (4), or (5) of subsection (a). The committee or subcommittee shall maintain a complete copy of the transcript of each meeting (including those portions deleted from copies made available to the public), for a period of at least one year after such meeting, or until the Congress following the one in which such meeting was held is assembled, whichever occurs later.

"(e) A point of order may be raised in the Senate against any committee or subcommittee vote to close a meeting to the public pursuant to subsection (a) of this section, or against any committee or subcommittee vote to delete from the publicly available copy a portion of a meeting transcript pursuant to subsection (d) of this section, by committee or subcommittee members comprising one-fourth or more of the total number of members of such committee or sub-

committee present and voting for or against such action. Any such point of order shall be raised in the Senate within two calendar days after the vote against which the point of order is raised, and such point of order shall be a matter of highest personal privilege. Each such point of order shall immediately be referred to a Select Committee on Meetings consisting of the President pro tempore, the leader of the majority party, and the leader of the minority party. The select committee shall examine the complete verbatim transcript of the meeting in question and shall rule whether the vote to close the meeting was in accordance with subsection (a) of this section, or whether the vote to delete a portion or portions from publicly available copies of the meeting transcript was in accordance with subsection (d) of this section, as the case may be. The select committee shall report to the Senate within five calendar days (excluding days where the Senate is not in session) a resolution containing its findings. If the Senate adopts a resolution finding that the committee vote in question was not in accordance with the relevant subsection, it shall direct that there be made publicly available the entire transcript of the meeting improperly closed to the public or the portion or portions of any meeting transcript improperly deleted from the publicly available copy, as the case may be.

"(f) The Select Committee on Meetings shall not be subject to the provisions of subsection (a), (b), (c), or (d) of this section."

(b) Subsection (a) of subsection 242 of the Legislative Reorganization Act of 1970 is repealed.

(c) Paragraph 7(b) of Rule XXV of the Standing Rules of the Senate is repealed.

(d) Title I of the table of contents of the Legislative Reorganization Act of 1946 is amended by inserting immediately below item 133B the following:

"133C. Open Senate committee meetings.".

SEC. 102. Clause 27(f)(2) of Rule XI of the Rules of the House of Representatives is amended to read as follows:

"(2)(A) Each meeting of each standing, select, or special committee or subcommittee, including meetings to conduct hearings, shall be open to the public: *Provided*, That a portion or portions of such meetings may be closed to the public if the committee or subcommittee, as the case may be, determines by vote of a majority of a quorum of the committee or subcommittee present that the matters to be discussed or the testimony to be taken at such portion or portions—

"(i) will disclose matters necessary to be kept secret in the interests of national defense or the necessarily confidential conduct of the foreign policy of the United States;

"(ii) will relate solely to matters of committee staff personnel or internal staff management or administration;

"(iii) will tend to charge with crime or misconduct, or to disgrace any person, or will represent a clearly unwarranted invasion of the privacy of any individual: *Provided*, That this paragraph shall not apply to any Government officer or employee with respect to his official duties or employment: *And provided further*, That as applied to a witness at a meeting, this paragraph shall not apply unless the witness requests in writing that the hearing be closed to the public;

"(iv) will disclose information pertaining to any investigation conducted for law enforcement purposes, but only to the extent that the disclosure would (A) interfere with enforcement proceedings, (B) deprive a person of a right to a fair trial or an impartial adjudication, (C) disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source, (D) disclose investigative techniques and procedures, or (E) endanger the life or physical safety of law enforcement personnel; or

"(v) will disclose information relating to the trade secrets or financial or commercial information pertaining specifically to a given person where—

"(I) a Federal statute requires the information to be kept confidential by Government officers and employees; or

"(II) the information has been obtained by the Federal Government on a confidential basis other than through an application by such person for a specific Government financial or other benefit, and the information must be kept secret in order to prevent grave and irreparable injury to the competitive position of such person.

A separate vote of the committee shall be taken with respect to each committee or subcommittee meeting a portion or portions of which are proposed to be closed to the public pursuant to this subsection. The vote of each committee member participating in each such vote shall be recorded and no proxies shall be allowed. Within one day of such vote, the committee shall make publicly available a written copy of such vote and, if a meeting or portion thereof is closed to the public, a full written explanation of its action.

"(B) Each standing, select, or special committee or subcommittee shall make public announcement of the date, place, and subject matter of each meeting at least one week before such meeting unless the committee or subcommittee determines by a vote of a majority of a quorum of the committee or subcommittee present that committee business requires that such meeting be called at an earlier date, in which case the committee shall make public announcement of the date, place, and subject matter of such meeting at the earliest practicable opportunity.

"(C) A complete transcript shall be made of each meeting of each standing, select, or special committee or subcommittee (whether open or closed to the public). Except as provided in paragraph (D), a copy of each such transcript shall be made available for public inspection within seven days of each such meeting, and additional copies of any transcript shall be furnished to any person at the actual cost of duplication. Notwithstanding the provisions of paragraph (D), in the case of meetings closed to the public, the portion of such transcript made available for public inspection shall include a list of all persons attending and their affiliation, except for any portion of such list which would disclose the identity of a confidential source, or endanger the life or physical safety of law enforcement personnel.

"(D) In the case of meetings closed to the public pursuant to subparagraph (A), the committee or subcommittee may delete from the copies of transcripts that are required to be made available or furnished to the public pursuant to subparagraph (C), portions which it determines by vote of the majority of a quorum of the committee or subcommittee consist of material specified in subsection (i), (ii), (iii), (iv), or (v) of subparagraph (A). A separate vote of the committee or subcommittee shall be taken with respect to the transcript of such meeting. The vote of each committee or subcommittee member participating in each such vote shall be recorded and published, and no proxies shall be allowed. In place of each portion deleted from copies of the transcript made available to the public, the committee or subcommittee shall supply a full written explanation of why such portion was deleted and a summary of the substance of the deleted portion that does not itself disclose information specified in subsection (i), (ii), (iii), (iv), or (v) of subparagraph (A). The committee or subcommittee shall maintain a complete copy of the transcript of each meeting (including those portions deleted from copies made available to the public), for a period of at least one year after such meeting, or until the Congress following the one in which such meeting was held is assembled, whichever occurs later.

"(E) A point of order may be raised against any committee or subcommittee vote to close a meeting to the public pursuant to subparagraph (A), or against any committee or subcommittee vote to delete from the publicly available copy a portion of a meeting transcript pursuant to subparagraph (D), by committee or subcommittee members comprising one-fourth or more of the total number of the members of such committee or subcommittee present and voting for or against such action. Any such point of order must be raised before the entire House within two calendar days after the vote against which the point of order is raised, and such point of order shall be a matter of highest personal privilege. Each such point of order shall immediately be referred to a Select Committee on Meetings consisting of the Speaker of the House of Representatives, the majority leader, and the minority leader. The select committee shall report to the House within five calendar days (excluding days where the House is not in session) a resolution finding that the committee vote in question was not in accordance with the relevant subsection, it shall direct that there be made publicly available the entire transcript of the meeting improperly closed to the public or the portion or portions of any meeting transcript improperly deleted from the publicly available copy.

"(F) The Select Committee on Meetings shall not be subject to the provisions of subparagraph (A), (B), (C), or (D) of this section."

SEC. 103. (a) JOINT AND CONFERENCE COMMITTEES.—The Legislative Reorganization Act of 1946 is amended by inserting after section 133C, as added by section 101(3) of this Act, the following new section:

"OPEN JOINT AND CONFERENCE COMMITTEE MEETINGS

"SEC. 133D. (a) Each meeting of each joint committee and each subcommittee thereof, and each committee of conference shall be open to the public: *Provided*, That a portion or portions of such meetings may be closed to the public if the committee determines by vote of a majority of a quorum of the committee or subcommittee present that the matters to be discussed or the testimony to be taken at such portion or portions—

"(1) will disclose matters necessary to be kept secret in the interests of national defense or the necessarily confidential conduct of the foreign policy of the United States;

"(2) will relate solely to matters of committee staff personnel or internal staff management or administration;

"(3) will tend to charge with crime or misconduct, or to disgrace any person, or will represent a clearly unwarranted invasion of the privacy of any individual: *Provided*, That this paragraph shall not apply to any Government officer or employee with respect to his official duties or employment: *And provided further*, That as applied to a witness at a meeting, this paragraph shall not apply unless the witness requests in writing that the hearing be closed to the public;

"(4) will disclose information pertaining to any investigation conducted for law enforcement purposes, but only to the extent that the disclosure would (A) interfere with enforcement proceedings, (B) deprive a person of a right to a fair trial or an impartial adjudication, (C) disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement

authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source, (D) disclose investigative techniques and procedures, or (E) endanger the life or physical safety of law enforcement personnel; or

"(5) will disclose information relating to the trade secrets or financial or commercial information pertaining specifically to a given person where—

"(A) a Federal statute requires the information to be kept confidential by Government officers and employees; or

"(B) the information has been obtained by the Federal Government on a confidential basis other than through an application by such person for a specific Government financial or other benefit, and the information must be kept secret in order to prevent grave and irreparable injury to the competitive position of such person.

A separate vote of the committee shall be taken with respect to each committee or subcommittee meeting a portion or portions of which are proposed to be closed to the public pursuant to this subsection. The vote of each committee member participating in each such vote shall be recorded and no proxies shall be allowed. Within one day of such vote, the committee shall make publicly available a written copy of such vote and, if a meeting or portion thereof is closed to the public, a full written explanation of its action.

"(b) Each joint committee, subcommittee, and committee of conference shall make public announcement of the date, place, and subject matter of each meeting at least one week before such meeting unless the committee or subcommittee determines by a vote of a majority of a quorum of the committee or subcommittee present that committee business requires that such meeting be called at an earlier date, in which case the committee shall make public announcement of the date, place, and subject matter of such meeting at the earliest practicable opportunity.

"(c) A complete transcript shall be made of each meeting of each joint committee, subcommittee, and committee of conference (whether open or closed to the public). Except as provided in subsection (d) of this section, a copy of each such transcript shall be made available for public inspection within seven days of each such meeting, and additional copies of any transcript shall be furnished to any person at the actual cost of duplication. Notwithstanding the provisions of subsection (d), in the case of meetings closed to the public, the portion of such transcript made available for public inspection shall include a list of all persons attending and their affiliation, except for any portion of such list which would disclose the identity of a confidential source, or endanger the life or physical safety of law enforcement personnel.

"(d) In the case of meetings closed to the public pursuant to subsection (a) of this section, the joint committee, subcommittee, or committee of conference may delete from the copies of transcripts that are required to be made available or furnished to the public pursuant to subsection (c) of this section, those portions which it determines by vote of the majority of a quorum of the committee or subcommittee consist of materials specified in paragraph (1), (2), (3), (4), or (5) of subsection (a) of this section. A separate vote of the committee or subcommittee shall be taken with respect to the transcript of such meeting. The vote of each committee or subcommittee member participating in each such vote shall be recorded and published, and no proxies shall be allowed. In place of each portion deleted from copies of the transcript made available to the public, the committee or subcommittee shall supply a full written explanation of why such portion was deleted, and a summary of the substance of the deleted portion that does not itself disclose information specified in paragraph (1), (2), (3), (4), or (5) of subsection (a) of this section. The committee or subcommittee shall maintain a complete copy of the transcript of each meeting (including those portions deleted from copies made available to the public), for a period of at least one year after such meeting, or until the Congress following the one in which such meeting was held is assembled, whichever occurs later.

"(e) A point of order may be raised against any committee vote of a joint committee, subcommittee, or committee of conference to close a meeting to the public pursuant to subsection (a) of this section, or any committee or subcommittee vote to delete from the publicly available copy a portion of a meeting transcript pursuant to subsection (d) of this section by committee or subcommittee members comprising one-fourth or more of the total number of the members of such committee or subcommittee present and voting for or against such action. Any such point of order shall be raised in either House within two calendar days after the vote against which the point of order is raised, and such point of order shall be a matter of highest personal privilege. Each such point of order shall immediately be referred to a Select Joint Committee on Meetings consisting of the President pro tempore of the Senate, the Speaker of the House of Representatives, and the majority and minority leaders from each House. The select committee shall examine the complete verbatim transcript of the meeting in question and shall rule whether the vote to close the meeting was in accordance with subsection (a) of this section, or whether the vote to delete a portion or portions from publicly available copies of the meeting transcript was in accordance with subsection (d) of this section, as the case may be. The select committee shall report to both Houses a concurrent resolution within five calendar days (excluding days where either House is not in session) containing its findings. If both Houses adopt such a resolution finding that the committee vote in question was not in accordance with the relevant subsection, they shall direct that there be made publicly available the entire transcript of the meeting improperly closed to the public, or the portion or portions of any meeting transcript improperly deleted from the publicly available copy, as the case may be.

"(f) The Select Joint Committee on Meetings shall not be subject to the provisions of subsection (a), (b), (c), or (d) of this section."

(b) Title I of the table of contents of the Legislative Reorganization Act of 1946 is amended by inserting immediately below item 133C, as added by section 101(c) of this Act, the following:

"133D. Open joint and conference committee meetings.".

SEC. 104. EXERCISE OF RULEMAKING POWERS.—The provisions of this title are enacted by the Congress—

(1) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they shall be considered as part of the rules of each House, respectively, or of that House to which they specifically apply, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change such rules (so far as relating to such House) at any time, in the same manner, and to the same extent as in the case of any other rule of such House.

TITLE II—AGENCY PROCEDURES

SEC. 201. (a) This section applies, according to the provisions thereof, to any agency, as defined in section 551(1) of title 5, United States Code, where the body comprising the agency consists of two or more members. Except as provided in subsection (b), all meetings (including meetings to conduct hearings) of such agencies, or a subdivision thereof authorized to take action on behalf of the agency, shall be open to the public. For purposes of this section, a meeting consists of any procedure by which official agency business is considered or discussed by at least the number of agency members (or of members of a subdivision of the agency authorized to take action on behalf of the agency), required to take action on behalf of the agency.

(b) Subsection (a) shall not apply to any portion or portions of an agency meeting where the agency determines by a vote of a majority of its entire membership, or, in the case of a subdivision thereof authorized to take action on behalf of the agency, a majority of the membership of such subdivision, that such portion or portions of the meeting—

(1) will disclose matters necessary to be kept secret in the interests of national defense or the necessarily confidential conduct of the foreign policy the United States;

(2) will relate solely to individual agency personnel or to internal agency office management and administration or financial auditing;

(3) will tend to charge with crime or misconduct, or to disgrace any person, or will represent a clearly unwarranted invasion of the privacy of any individual: *Provided*, That this paragraph shall not apply to any Government officer or employee with respect to his official duties or employment: *And provided further*, That as applied to a witness at a meeting this paragraph shall not apply unless the witness requests in writing that the meeting be closed to the public;

(4) will disclose information pertaining to any investigation conducted for law enforcement purposes, but only to the extent that the disclosure would (A) interfere with enforcement proceedings, (B) deprive a person of a right to a fair trial or an impartial adjudication, (C) disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source, (D) disclose investigative techniques and procedures, (E) endanger the life or physical safety of law enforcement personnel; or (F) in the case of an agency authorized to regulate the issuance or trading of securities, disclose information concerning such securities, or the markets in which they are traded, when such information must be kept confidential in order to avoid premature speculation in the trading of such securities; or

(5) will disclose information relating to the trade secrets or financial or commercial information pertaining specifically to a given person where—

(A) a Federal statute requires the information to be kept confidential by Government officers and employees; or

(B) the information has been obtained by the Federal Government on a confidential basis other than through an application by such person for a specific Government financial or other benefit and the information must be kept secret in order to prevent grave and irreparable injury to the competitive position of such person;

(6) will relate to the conduct or disposition (but not the initiation) of a case of adjudication governed by the provisions of the first paragraph of section 554(a) of title 5, United States Code, or of subsection (1), (2), (4), (5), or (6) thereof.

A separate vote of the agency members, or the members of a subdivision thereof authorized to take action on behalf of the agency, shall

be taken with respect to each agency meeting a portion or portions of which are proposed to be closed to the public pursuant to this subsection. The vote of each agency member participating in such vote shall be recorded and no proxies shall be allowed. Within one day of such vote, the agency shall make publicly available a written copy of such vote and, if a meeting or portion thereof is closed to the public, a full written explanation of its action.

(c) Each agency shall make public announcement of the date, place, and subject matter of each meeting, and whether open or closed to the public, at least one week before each meeting. Such announcement shall be made unless the agency determines by a vote of the majority of its members, or in the case of a subdivision thereof authorized to take action on behalf of the agency, a majority of the members of the subdivision, that agency business requires that such meetings be called at an earlier date, in which case the agency shall make public announcement of the date, place, and subject matter of such meeting, and whether open or closed to the public, at the earliest practicable opportunity.

(d) A complete transcript or electronic recording adequate to fully record the proceedings shall be made of each meeting of each agency (whether open or closed to the public). Except as provided in subsection (e) of this section a copy of the transcript or electronic recording of each such meeting, together with any official minutes of such meeting, shall be made available to the public for inspection, and additional copies of any such transcript, minutes, or recording (or a copy of a transcription of the electronic recording), shall be furnished to any person at the actual cost of duplication or transcription. Notwithstanding the provisions of subsection (e), in the case of meetings closed to the public, the portion of such transcript made available for public inspection or electronic recording shall include a list of all persons attending and their affiliation, except for any portion of such list which would disclose the identity of a confidental source, or endanger the life or physical safety of law enforcement personnel.

(e) In the case of meetings closed to the public pursuant to subsection (b) of this section, the agency may delete from the copies of transcripts, electronic recordings, and minutes made available or furnished to the public pursuant to subsection (d) of this section, those portions which the agency determines by vote of a majority of its membership consist of materials specified in paragraph (1), (2), (3), (4), (5), or (6) of subsection (b) of this section. A separate vote of the agency shall be taken with respect to each transcript, electronic recording, or minutes. The vote of each agency member participating in such vote shall be recorded and published, and no proxies shall be allowed. In place of each portion deleted from copies of the meeting transcript, electronic recording, and minutes made available to the public, the agency shall supply a full written explanation of why such portion was deleted and a summary of the substance of the deleted portion that does not itself disclose information specified in paragraph (1), (2), (3), (4), (5), or (6) of subsection (b). The agency shall maintain a complete verbatim copy of the transcript, or a complete electronic recording of each meeting (including those portions deleted from copies made available to the public), for a period of at least two years after such meeting, or until one year after the conclusion of any proceeding with respect to which the meeting, or a portion thereof, was held, whichever occurs later.

(f) Each agency subject to the requirements of this section shall, within three hundred and sixty days after the enactment of this Act, following consultation with the Administrative Conference of the United States and published notice in the Federal Register of at least thirty days and opportunity for written comment by any persons, promulgate regulations to implement the requirements of subsections (a) through (e) inclusive of this section. Such regulations must, prior to final promulgation, receive the approval in writing of the Assistant Attorney General, office of Legal Counsel, certifying that in his opinion the regulations are in accord with the requirements of this section. Any citizen or person resident in the United States may bring a proceeding in the United States Court of Appeals for the District of Columbia Circuit—

(1) to require an agency to promulgate such regulations if such agency has not promulgated such regulations within the time period specified herein; or

(2) to set aside agency regulations issued pursuant to this subsection that are not in accord with the requirements of subsections (a) through (e) inclusive of this section, and to require the promulgation of regulations that are in accord with such subsections.

(g) The district courts of the United States shall have jurisdiction to enforce the requirements of subsections (a) through (e) inclusive of this section by declaratory judgment, injunctive relief, or otherwise. Such actions shall be brought within sixty days after the meeting whose closing is challenged as a violation of this section: *Provided*, That if public notice of such meeting was not provided by the agency in accordance with the requirements of this section, such action shall be brought within sixty days of such meeting or such public announcement, whichever is the later. Such actions shall be brought against an agency and its members by any citizen or person resident in the United States. Such actions may be brought in the district wherein the plaintiff resides, or has his principal place of business, or where the agency in question has its headquarters. In such actions a defendant shall serve his answer within twenty days after the service of the complaint. The burden is on the agency to sustain its action. Except as to causes the court considers of greater importance, proceedings before the district court, as authorized by this paragraph, take precedence on the docket over all other causes and shall be assigned a hearing and trial at the earliest practicable date and expedited in every way. In deciding such cases the court may examine any portion of a meeting transcript or electronic recording that was deleted from the publicly available copy and may take such additional evidence as it deems necessary. Among other forms of equitable relief, including the granting of an injunction against future violations of this section, the court may require that any portion of a meeting transcript or electronic recording improperly deleted from the publicly available copy be made publicly available for inspection and copying, and, having due regard for orderly administration and the public interest, may set aside any agency action taken or discussed at an agency meeting improperly closed to the public. The jurisdiction of the district courts under this subsection shall be concurrent with that of any other court otherwise authorized by law to review agency action. Any such court may, at the application of any person otherwise properly a party to a proceeding before such court to review an agency action, inquire into asserted violations by the agency of the requirements of this section and afford the relief authorized by this section in the case of proceedings by district courts.

(h) In any action brought pursuant to subsection (f) or (g) of this section, the reasonable costs of litigation (including reasonable fees for attorneys and expert witnesses) may be apportioned to the original parties or their successors in interest whenever the court determines such award is appropriate. In the case of apportionment of costs against an agency or its members, the costs may be assessed by the court against the United States.

(i) The agencies subject to the requirements of this section shall annually report to Congress regarding their compliance with such requirements, including a tabulation of the total number of agency meetings open to the public, the total number of meetings closed to the public, the reasons for closing such meetings, and a description of any litigation brought against the agency under this section.

SEC. 202. Title 5 of the United States Code is amended by adding after section 557 the following:

"EX PARTE COMMUNICATIONS IN AGENCY PROCEEDING

"SEC. 557A. (a) DEFINITIONS.—For purposes of this section—

"(1) 'Ex parte communication' means a communication relevant to an on-the-record agency proceeding where such communication is not made on the record, or openly at a scheduled hearing session in such proceeding, and reasonable notice thereof is not given to all parties to, or intervenors in, such proceedings.

"(2) 'Interested person' means any person (including a member or employee of any Government agency or authority) other than a member or employee of the agency before which the on-the-record proceeding is pending who communicates with an agency member or employee with respect to any such on-the-record agency proceeding.

"(3) 'On-the-record agency proceeding' means any proceedings before any agency where the agency action, or a portion thereof, is required by law to be determined on the record after an opportunity for an agency hearing.

"(b) This section applies to any on-the-record agency proceeding.

"(c) In any agency proceeding which is subject to subsection (b) of this section—

"(1) no interested person shall make or cause to be made to any member of the agency in question, administrative judge, or employee who is or may be involved in the decisional process of the proceeding any ex parte communication;

"(2) no member of the agency in question, administrative judge, or employee who is or may be involved in the decisional process of the proceeding shall make or cause to be made to an interested person any ex parte communication;

"(3) a member of the agency in question, administrative judge, or employee who is or may be involved in the decisional process of the proceeding, who receives a communication in violation of this subsection, shall place in the public record of the proceeding—

"(A) any written material submitted in violation of this subsection; and

"(B) a memorandum stating the substance of each oral communication submitted in violation of this subsection; and

"(C) responses, if any, to the materials described in subparagraphs (A) and (B) of this subsection;

"(4) upon obtaining knowledge of a communication in violation of this subsection prompted by or from a party or intervenors to any proceeding to which this section applies, the agency members or member, the administrative judge, or employee presiding at the hearings may, to the extent consistent with the interests of justice and the policy of the underlying statutes, require the party or intervenors to show cause why his claim or interest in the proceeding should not be dismissed, denied, disregarded, or otherwise adversely affected by virtue of such violation.

"(d) The prohibitions of this section shall not apply—

"(1) to any proceeding to the extent required for the disposition of ex parte matters as authorized by law;

"(2) to any written communication from persons who are neither parties or intervenors to the proceeding, nor government officials acting in their official capacity, where such communications are promptly placed in the public docket file of the proceedings.

"(e) The prohibitions of this section shall apply at such time as the agency shall designate, having due regard for the public interest in open decisionmaking by agencies, but in no case shall they apply later than the time at which a proceeding is noticed for hearing. If the person responsible for the communication has knowledge that the proceeding will be noticed, the prohibitions of this section shall apply at the time of his acquisition of such knowledge. In the case of any person who files with an agency any application, petition, or other form of request for agency action, the prohibitions of this section shall apply, with respect to communications with such person, commencing at the time of such filing or at the time otherwise provided by this subsection, whichever occurs first.

"(f) Every agency notice of an opportunity for participation by interested persons in a hearing shall contain a statement as follows:

"(1) if such notice relates to an on-the-record agency proceeding, it shall state that the proceeding is subject to the provisions of this section with respect to ex parte communications;

"(2) if such notice relates to an agency proceeding not on-the-record, it shall state that the proceeding is not subject to the provisions of this section with respect to ex parte communications.

If a notice of hearing with respect to any proceeding before an agency fails to comply with this section, the proceeding shall be deemed to be an on-the-record agency proceeding for purposes of ex parte communications.

"(g) Each agency subject to the requirements of this section shall, within three hundred and sixty days after the enactment of this section, following consultation with the Administrative Conference of the United States and published notice in the Federal Register of at least thirty days and opportunity for written comment, promulgate regulations to implement the requirements of this section. Any citizen or person resident in the United States may bring a proceeding in the United States Court of Appeals for the District of Columbia Circuit—

"(1) to require any agency to promulgate regulations if the agency has not promulgated such regulations within the time period specified; or

"(2) to set aside agency regulations issued pursuant to this subsection that are not in accord with the requirements of this section, and to require the promulgation of regulations that are in accord with this section.

"(h) Nothing in this section shall be construed to permit any communication which is prohibited by any other provision of law, or to prohibit any agency from adopting, by rule or otherwise, prohibitions or regulations governing ex parte communications which are additional to, or more stringent than, the requirements of this section.

"(i) The district courts of the United States shall have jurisdiction to enforce the requirements of subsections (c) and (e) of this section by declaratory judgment, injunctive relief, or otherwise. The action may be brought by any citizen of or person resident in the United States. The action shall be brought in the district wherein the plaintiff resides or has his principal place of business, or where the agency in question has its headquarters. Where a person other than an agency, agency member, administrative judge, or employee is alleged to have participated in a violation of the requirements of this section, such person may, but need not, be joined as a party defendant; for purposes of joining such person as a party defendant, service may be had on such person in any district. Among other forms of equitable relief, the court may require that any ex parte communication made or received in violation of the requirements of this section be published, and, having due regard for orderly administration and the public interest, may set aside any agency action taken in a proceeding where the violation occured. The jurisdiction of the district courts under this subsection shall be concurrent with that of any other court otherwise authorized by law to review agency action. Any such court may, at the application of any person otherwise properly a party to a proceeding before such court to review an agency action, inquire into asserted violations by the agency of the requirements of this section, and afford the relief authorized by this section in the case of proceedings by district courts.

"(j) In any action brought pursuant to subsection (g) and (i) of this section, cost of litigation (including reasonable fees for attorneys and expert witnesses) may be apportioned to the original parties or their successors in interest whenever the court determines such award is appropriate."

SEC. 203. This title and the amendments made by this title do not authorize withholding of information or limit the availability of records to the public except as provided in this title. This title does not authorize any information to be withheld from Congress.

By Mr. WILLIAMS (for himself, Mr. RANDOLPH, Mr. MAGNUSON, Mr. BENTSEN, Mr. BROOKE, Mr. CANNON, Mr. CHILES, Mr. PHILIP A. HART, Mr. HOLLINGS, Mr. HUMPHREY, Mr. JAVITS, Mr. KENNEDY, Mr. MCGEE, Mr. MONDALE, Mr. MOSS, Mr. PASTORE, Mr. PELL, Mr. SCHWEIKER, Mr. STAFFORD, Mr. STEVENS, Mr. MCGOVERN, Mr. PERCY, Mr. CRANSTON, Mr. CLARK, and Mr. CULVER):

S. 6. A bill to provide financial assistance to the States for improved educational services for handicapped children. Referred to the Committee on Labor and Public Welfare.

THE EDUCATION OF ALL HANDICAPPED CHILDREN ACT

Mr. WILLIAMS. Mr. President, with Senators RANDOLPH and MAGNUSON, I am reintroducing a bill entitled "The Education for All Handicapped Children Act." The bill was introduced at the beginning of the 93d Congress, and throughout that Congress the Committee on Labor and Public Welfare, through our Subcommittee on the Handicapped, conducted extensive hearings both in Washington and throughout the United States. As originally introduced, this bill followed on the record of a series of landmark court cases establishing in law the right to education for all handicapped children. Since those initial decrees in 1971 and 1972, the progress toward establishing the right and the remedy for handicapped children has continued, leaving clear today that this right is no longer questioned. Response by numerous States through the courts or through the legislatures has moved us far beyond where we originally stood when this legislation was first introduced.

Furthermore, steps taken by the 93d Congress have brought us much closer to achieving the implementation of the right of all handicapped children to go to school with their peers. These provisions, adopted as part of the Education Amendments of 1974, laid the basis for comprehensive planning, the delivery of additional financial assistance to the States, and the protection of the rights of parents and their children in receiving educational services from the schools of this Nation. These provisions—

Mandated the States to prepare and submit to the Commissioner a comprehensive planning document, establishing a goal of full educational opportunity for each handicapped child within the State and requiring a detailed timetable for accomplishing this goal. This document is due on August 21, 1975, and must be submitted in order for the State to receive funds after June 30;

Established a priority in the use of Federal funds under that program for children not presently receiving an education program;

Changed the State grant program into an entitlement program based on the number of children in average daily attendance and thus vastly increased the funding available to the States for fiscal year 1975;

Mandated a plan for the provision of full due process guarantees to all handicapped children and their parents;

Mandated the States to submit in detail a plan demonstrating how children will be educated in the least restrictive environment;

Mandated a plan from the States demonstrating how they will prohibit the classification of children in a racially or culturally discriminatory manner; and

Underscored the mandate for a least restrictive environment by providing an incentive under title I for the return of children now served by State agencies to their local educational agency.

The culmination of this action has been increased appropriations under the supplemental appropriations bill passed by the 93d Congress and signed by the President, making available to the States $100 million for fiscal year 1975 and $100 million for fiscal year 1976, or slightly more than double the appropriations available in the previous fiscal year. While there are few Senators in this Chamber who agree that this level of funding is sufficient, it does represent a vitally needed increase of funds which will be well used by the States.

The bill I am introducing builds on that important record and on the hearings held throughout the 93d Congress. It amends part B of the Education of the Handicapped Act to provide an entitlement to States of 75 percent of the excess costs involved in educating handicapped children for fiscal years 1976 through 1980, and to lay in place a reorganization of that part of existing law which I believe will revitalize and make clear the responsibilities of State and local educational agencies in delivering services to handicapped children. In brief, this bill—

Mandates the States to have in effect a policy which assures the right to a free appropriate public education for each handicapped child;

On the basis of the planning document submitted pursuant to Public Law 93–380, requires the States to submit a plan demonstrating how a free appropriate public education will be available for all handicapped children within the State within 2 years from date of enactment;

Requires the States to establish a priority for providing a free appropriate public education to handicapped children who are unserved and to those with the most severe handicaps;

Requires each local educational agency within a State to maintain an individualized written education program for each handicapped child, to review this program at least annually and to revise the provisions of this program. This program will be developed and agreed upon jointly by the parents of the child, the child when appropriate, the teacher and the local educational agency;

Requires, as does existing law, due process guarantees for parents of handicapped children and their child in all decision affecting the identification, evaluation and educational placement; procedures to assure that the child will be served in the least restrictive environment; and procedures to prohibit the classification of children in a culturally or racially restrictive manner;

Requires that any materials or procedures utilized for evaluation and placement will be administered in the primary home language or communication, and that no single procedure shall be the sole criterion for determining appropriate educational programing for the child;

Requires that the State educational agency shall be the sole agency for carrying out the act and that all education programs including those administered by another State agency will be supervised by persons in the State educational agency responsible for the education of handicapped children;

Requires the State to have a planning and advisory panel to prescribe general policies for determining priorities within the State;

Requires the State to set forth procedures by which all Federal funds for the education of handicapped children including those under title I, title III of the Elementary and the Secondary Education Act and the Vocational Education Act received by the State or any of its political subdivisions will be utilized only in a manner consistent with the requirement of a free appropriate public education for all handicapped children within 2 years from date of enactment;

Requires the State to establish procedures for the development and implementation of a comprehensive system of personnel development which includes the in-service training of general and special educational personnel;

Requires the State to establish procedures which assure that handicapped children in private schools will be provided special education and related services at no cost to their parents if such children have been referred to such schools or facilities as a means of carrying out the provisions of this act or other law requiring the right to education for each handicapped child, and to assure that each child has all the benefits and rights they would have if served in a public educational agency;

Requires the U.S. Commissioner of Education to evaluate the impact and effectiveness of all State efforts to assure the free appropriate public education of all handicapped children, and to provide for the collection and annual reporting of information with respect to State programs, numbers of children served and not served;

Requires the Secretary of the Department of Health, Education, and Welfare to insure that each recipient of assistance under the act shall take affirmative action to employ and advance in employment qualified handicapped individuals; and

Establishes a new grant program to assist any State or local educational agency in removing architectural barriers within existing school buildings.

In recognizing, as the 93d Congress did and as this bill does, the need for increased financial assistance for the education of handicapped children, I believe that it is time for us to also be very clear about the primary responsibility that the States have in carrying out and assuring to each child within their State the guarantees of the Constitution. We have moved beyond the time when the excuses of lack of expertise or gradual improvement are sufficient to absolve these responsibilities. Until the day that each of us, as representatives of individual States, can stop trying to deal with these guarantees on a case-by-case basis, and until each parent within each State and each child has an educational program which allows him or her to grow, we will not have dealt with the constitutional birthrights of these children in a manner befiting the United States of America. This bill, I believe, makes many important improvements and will start us on a road to true accountability of the educational system.

The Subcommittee on the Handicapped in the last Congress established a hearing record which makes clear the need for these provisions. It is time for the Congress to pass this legislation, and I see no reason why this will not be done in the early months of this session.

I ask unanimous consent, Mr. President, that the text of S. 6 be printed immediately following the text of my remarks, and ask further that documents setting forth the legal mandates within the States—exhibit A, and the status of State programs to assure the right to education for handicapped children—exhibit B—be printed immediately following the text of the bill.

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

S. 6

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 "Education for All Handicapped Children Act".

SEC. 2. (a)(1) Section 601 of the Education of the Handicapped Act and all references thereto are redesignated as section 600.

(2) Part A of such Act is amended by adding after section 600 (as redesignated by this section) the following new section:

"STATEMENT OF PURPOSE

"SEC. 601. (a) The Congress finds that—

"(1) there are more than seven million handicapped children in the United States today;

"(2) the special educational needs of such children are being fully met in only a few school systems;

"(3) more than half of the handicapped children in the United States do not receive appropriate educational services which would enable them to have full equality of opportunity;

"(4) one million of the handicapped children in the United States are excluded entirely from the public school system and will not go through the educational process with their peers;

"(5) there are many handicapped children throughout the United States participating in regular school programs whose handicaps prevent them from having a successful educational experience because their handicaps are undetected;

"(6) because of the lack of adequate services within the public school system, families are often forced to find services outside the public school system, often at great distance from their residence and at their own expenses;

"(7) developments in the training of teachers and in diagnostic and instructional procedures and methods have advanced to the point that, given appropriate funding, State and local educational agencies can and will provide effective special educational programs and related services to meet the needs of handicapped children;

"(8) State and local educational agencies have a responsibility to provide education for all handicapped children, but present financial resources are inadequate to meet the special educational needs of handicapped children; and

"(9) it is in the national interest that the Federal Government assist State and local efforts to provide programs to meet the educational needs of handicapped children in order to assure equal protection of the laws; therefore,

"(b) It is the purpose of this title to insure that all handicapped children have available to them not later than 1978 special education and related services designed to meet their unique needs, to insure that the rights of handicapped children and their parents or guardians are protected, to relieve the fiscal burden placed upon the States and localities when they provide for the education of all handicapped children, and to assess and assure the effectiveness of efforts to educate handicapped children.".

(b) Section 602 of the Act is amended to read as follows:

"DEFINITIONS

"SEC. 602. As used in this title—

"(1) 'handicapped children' means mentally retarded, hard-of-hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, orthopedically impaired, or other health-impaired children, or children with specific learning disabilities who by reason thereof require special education and related services;

"(2) 'Advisory Committee' means the National Advisory Committee on Handicapped Children;

"(3) 'construction', except where otherwise specified, means (A) erection of new or expansion of existing structures, and the acquisition and installation of equipment therefor; or (B) acquisition of existing structures not owned by any agency or insti-

tution making application for assistance under this title; or (C) remodeling or alteration (including the acquisition, installation, modernization, or replacement of equipment) of existing structures; or (D) acquisition of land in connection with the activities in clauses (A), (B), and (C); or (E) a combination of any two or more of the foregoing;

"(4) 'children with specific learning disabilities' means those children who have a disorder in one or more of the basic psychological processes involved in understanding or using language, spoken or written, which disorder may manifest itself in imperfect ability to listen, think, speak, read, write, spell, or do mathematical calculations. Such disorders include such conditions as perceptual handicaps, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia. Such term does not include children who have learning problems which are primarily the result of visual, hearing, or motor handicaps, of mental retardation, of emotional disturbance, or of environmental, cultural, or economic handicaps;

"(5) 'Commissioner' means the Commissioner of Education;

"(6) 'elementary school' means a day or residential school which provides elementary education, as determined under State law;

"(7) 'equipment' includes machinery, utilities, and built-in equipment and any necessary enclosures or structures to house them, and includes all other items necessary for the functioning of a particular facility as a facility for the provision of educational services, including items such as instructional equipment and necessary furniture, printed, published, and audio-visual instructional materials, and books, periodicals, documents, and other related materials;

"(8) 'free appropriate public education' means special education, and related services which shall be provided at public expense, under public supervision and direction and without charge, and meeting the standards of the State educational agency, which shall include an appropriate preschool, elementary, or secondary school education in the applicable State and which is provided in conference with an individualized written education program required by this Act;

"(9) 'individualized written education program' means a written educational plan for each child developed and agreed upon jointly by the local educational agency, the teacher, the parents or guardians of the child and the child when appropriate, which includes (A) a statement of the child's present levels of educational performance, (B) statements of the instructional objectives to be achieved, (C) a statement of the specific educational services to be provided to such child, and the extent of integration into the regular classroom, (D) the projected date for initiation and anticipated duration of such services, and (E) objective criteria and evaluation procedures and schedule for determining whether instructional objectives are being achieved;

"(10) 'institution of higher education' means an educational institution in any State which—

"(A) admits as regular students only individuals having a certificate of graduation from a high school, or the recognized equivalent of such a certificate;

"(B) is legally authorized within such State to provide a program of education beyond high school;

"(C) provides an educational program for which it awards a bachelor's degree, or provides not less than a two-year program which is acceptable for full credit toward such a degree, or offers a two-year program in engineering, mathematics, or the physical or biological sciences which is designed to prepare the student to work as a technician and at a semiprofessional level in engineering, scientific, 'or other technological fields which require the understanding and application of basic engineering, scientific, or mathematical principles or knowledge;

"(D) is a public or other nonprofit institution; and

"(E) is accredited by a nationally recognized accrediting agency or association listed by the Commissioner pursuant to this paragraph or, if not so accredited, is an institution whose credits are accepted, on transfer, by not less than three institutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited: *Provided, however,* That in the case of an institution offering a two-year program in engineering, mathematics, or the physical or biological sciences which is designed to prepare the student to work as a technician and at a semiprofessional level in engineering, scientific, or technological fields which require the understanding and application of basic engineering, scientific, or mathematical principles or knowledge, if the Commissioner determines that there is no nationally recognized accrediting agency or association qualified to accredit such institutions, he shall appoint an advisory committee, composed of persons specially qualified to evaluate training provided by such institutions, which shall prescribe the standards of content, scope and quality which must be met in order to qualify such institutions to participate under this Act and shall also determine whether particular institutions meet such standards.

For the purposes of this paragraph the Commissioner shall publish a list of nationally recognized accrediting agencies or associations which he determines to be reliable authority as to the quality of education or training offered.

"(11) 'local educational agency' means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts or countries as are recognized in a State as an administrative agency for its public elementary or secondary schools, and such term also includes any other public institution or agency having administrative control and direction of a public elementary or secondary school;

"(12) 'nonprofit' as applied to a school, agency, organization, or institution means a school, agency, organization, or institution owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual;

"(13) 'per pupil expenditure for all other children' means, for any State, the aggregate current expenditure for personnel, materials, equipment, and transportation services provided comparable to personnel, materials, equipment, and transportation services provided pursuant to sections 613(a) (4) and (5), during the fiscal year preceding the fiscal year for which the computation is made, of all local educational agencies in that State, plus any direct current expenditure by the State for operation of the schools of any such agency for all other children not included in the determination made under paragraph (14) of this section, divided by the aggregate number of children other than the children described in paragraph (14) children in daily attendance to whom such agency has provided free appropriate public education, and such expenditure shall not include any financial assistance received under the Elementary and Secondary Education Act of 1965, or any other Federal financial assistance;

"(14) 'per pupil expenditure for handicapped children' means, for any State, the aggregate current expenditure for personnel, materials, equipment, and transportation services provided pursuant to sections 613 (a) (4) and (5), during the fiscal year preceding the fiscal year for which the computation is made, of all local educational agencies in that State, plus any direct current expenditure by the State for the operation of the schools of any such agency for handicapped children, divided by the aggregate number of handicapped children in daily attendance to whom such agency has provided free appropriate public education, and such expenditure shall not include any financial assistance received under any other part of the Education of the Handicapped Act, under the Elementary and Secondary Education Act of 1965, or any other Federal financial assistance;

"(15) 'public educational agency' means any State educational agency, any local educational agency, and any other public agency approved by the State educational agency to provide special education and related services to handicapped children within the State;

"(16) 'related services' means transportation and developmental, corrective, and other supportive services (including, but not limited to, speech pathology and audiology, psychology, physical and occupational therapy, physical education and recreation, and medical services and social work) as required to assist a handicapped child to benefit from special education, and includes the early identification and assessment of handicapping conditions in children and provision of services to such children;

"(17) 'research and related purposes' means research, research training (including the payment of stipends and allowances), surveys, or demonstrations in the field of education of handicapped children, or the dissemination of information derived therefrom, including (but without limitation) experimental schools;

"(18) 'secondary school' means a day or residential school which provides secondary education, as determined under State law, except that it does not include any education provided beyond grade 12;

"(19) 'Secretary' means the Secretary of Health, Education, and Welfare;

"(20) 'special education' means specially designed instruction at no cost to parents or guardians to meet the unique needs of a handicapped child as set forth in each child's individualized written education program, including classroom instruction, home instruction and instruction in hospitals and institutions;

"(21) 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands;

"(22) 'State educational agency' means the State board of education or other agency or officer primarily responsible for the State supervision of public elementary and secondary schools, or if there is no such officer or agency, an officer or agency designated by the Governor or by State law; and

"(23) the term 'home instruction' means special education and related services in the home or institutional setting which is provided in conformance with an individualized written education program to children who are determined by the State educational agency and reassessed periodically as temporarily unable to attend school because of a medical condition that presupposes the child's absence from school in excess of four weeks, except that the child's handicapping condition that requires special education and related services shall not be the reason for the provision of home instruction instead of free appropriate public education in the regular educational environment, or alternative special programs in a class or school setting.".

SEC. 3. Part B of the Education of the Handicapped Act is amended to read as follows:

"DURATION OF ASSISTANCE

"SEC. 611. During the period beginning July 1, 1975, and ending September 30, 1980, the Commissioner shall, in accordance with provisions of this part, make payments to State educational agencies for grants made on the basis of entitlements created under this part for the purpose of assisting such States in providing full educational opportunity to all handicapped children.

"ENTITLEMENT

SEC. 612. (a) Each State which meets the eligibility requirements of section 613(a) is entitled under this part to an amount which is equal to the Federal percentage (established pursuant to subsection (d)) of the amount by which the per pupil expenditure for handicapped twenty-one years of age or younger exceeds the per pupil expenditure for all other children, aged five to seventeen years, inclusive, in the public elementary and secondary schools in that State, multiplied by the number of handicapped children twenty-one years of age or younger for which the State is, in the academic year preceding the fiscal year for which the determination is made, providing free appropriate public education.

"(b) Funds so allotted shall be used by the State to initiate, expand, and improve special education and related services for handicapped children in accordance with the provisions of this part.

"(c) The per pupil expenditure for handicapped children, from birth to twenty-one years, inclusive, and the per pupil expenditure for all other children, aged five to seventeen years, inclusive, in any State shall be determined by the Commissioner on the basis of the most recent data available to him.

"(d) For the purpose of this section, the 'Federal percentage' shall, for each fiscal year, be 75 percent.

"ELIGIBILITY

"SEC. 613. (a) In order to qualify for assistance under this part in any fiscal year, a State shall demonstrate to the Commissioner that the following conditions are met:

"(1) The State has in effect a policy that assures all handicapped children the right to a free appropirate public education.

"SEC. 613. (a) In order to qualify for assistance under this part in any fiscal year, a State shall demonstrate to the Commissioner that the following conditions are met:

"(1) The State has in effect a policy that assures all handicapped children the right to a free appropriate public education.

"(2) The State has developed a plan pursuant to section 613(b) of this Act in effect prior to the enactment of the Education for All Handicapped Children Act which will be submitted not later than August 21, 1975 and will be amended so as to comply with the provisions of this paragraph. Each such amended plan shall set forth in detail the policies and procedures which the State will undertake or has undertaken in order to assure that—

"(A) there is established (i) a goal of providing full educational opportunity to all handicapped children, (ii) a detailed timetable for accomplishing such a goal, and (iii) a description of the kind and number of facilities, personnel, and services necessary throughout the State to meet such a goal;

"(B) a free appropriate public education will be available for all handicapped children within the State not later than 2 years from the effective date of the Education for All Handicapped Children Act;

"(C) all children residing in the State who are handicapped regardless of the severity of their handicap and who are in need of special education and related services are identified, located, and evaluated, including a practical method of determining which children are currently receiving needed special education and related services and which children are not currently receiving needed special education and related services;

"(D) the policies and procedures are established in accordance with detailed criteria prescribed by the Commissioner to protect the confidentiality of such data and information by the State; and

"(E) the amendment to the plan submitted by the State required by this subsection shall be available to parents and other members of the general public at least thirty days prior to the date of submission of the amendment to the Commissioner.

The amendment made by section 3 relating to paragraph (2) of section 613(a) of the Education of the Handicapped Act shall take effect on and after August 21, 1975.

"(3) The State has established priorities for providing a free appropriate public education to handicapped children with the most severe handicaps or who are unserved, and has made adequate progress in meeting the timetable of the plan, developed pursuant to paragraph (2) of this subsection.

"(4) Each local educational agency in the State will maintain an individualized written education program for each handicapped child and review at least annually and revise its provisions when appropriate with the agreement of the parents or guardian of the handicapped child.

"(5) The State has established procedures to insure that handicapped children and their parents or guardians are guaranteed procedural safeguards in decisions regarding identification, evaluation, and educational placement of handicapped children including, but not limited to (A) (i) prior notice to parents or guardian of the child when the local or State educational agency proposes to change the educational placement of the child, (ii) an opportunity for the parents or guardian to obtain an impartial due process hearing, examine all relevant records with respect to the classification or educational placement of the child, and obtain an independent educational evaluation of the child, (iii) procedures to protect the rights of the child when the parents or guardian are not known, unavailable or the child is a ward of the State including the assignment of an individual (not to be an employee of the State or local educational agency involved in the education or care of children) to act as a surrogate for the parents or guardian, and (iv) provision to insure that the decisions rendered in the impartial due process hearing required by this paragraph shall be binding on all parties subject only to appropriate administrative or judicial appeal; and (B) procedures to insure that, to the maximum extent appropriate, handicapped children, including children in public or private institutions or other care facilities, are educated with children who are not handicapped, and that special classes, separate schooling, or other removal of handicapped children from the regular educational environment occurs only when the nature or severity of the handicap is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily; and (C) procedures to insure that testing and evaluation materials and procedures utilized for the purposes of evaluation and placement of handicapped children will be selected and administered so as not to be racially or culturally discriminatory. Any such materials or procedures shall be provided and administered in the child's primary home language or communication, and no single procedure shall be the sole criterion for determining an appropriate educational program for a child.

"(6) The State educational agency will be the sole agency for carrying out the requirements of this part and that all educational programs for handicapped children within the State, including all such programs administered by any other State agency will be supervised by the persons responsible for educational programs for handicapped children in the State educational agency and shall meet education standards of the State educational agency.

"(7) The State has a planning and advisory panel, appointed by the Governor, composed of individuals involved in or concerned with the education of handicapped children, including handicapped individuals, teachers, parents, or guardians of handicapped children, State and local education officials, and administrators of programs for handicapped children, which (A) advises the State educational agency of unmet needs within the State in the education of handicapped children, (B) prescribes general policies under which the State educational agency will determine priorities within the State for educational services for handicapped children, (C) reviews the State plan and reports to the State educational agency, the public, and the Commissioner on the progress made in the implementation of the plan and recommends needed amendments to the plan, (D) comments publicly on any rules or regulations proposed for issuance by the State regarding the education of handicapped children and the procedures for distribution of funds under this title, and (E) assists the State in developing, conducting, and reporting the evaluation procedures required under section 617 of this title.

"(b) The Commissioner is authorized to establish specific criteria prescribing the manner in which the requirements of subsection (a) of this section are to be met.

"APPLICATION

"SEC. 614. (a) Any State meeting the eligibility requirements set forth in section 613 (a) and desiring to participate in the program under this part shall submit to the Commissioner an annual application at such time, in such manner, and containing or accompanied by such information as he deems necessary. Each such application shall—

"(1) set forth programs and procedures for the expenditure of funds paid to the State agency in the fiscal year for which such application is made which are consistent with section 613(a)(2) of this part, and which insure that priority in the expenditure of funds under such application shall be given to the provision of special education and related services to children with the most severe handicaps or who are presently unserved;

"(2) set forth programs and procedures by which funds received by the State or any of its political subdivisions under other Federal programs (including, but not limited to, part A of title I of the Elementary and Secondary Education Act; title III of the Elementary and Secondary Education Act, or its successor authority; Public Law 89-313; and the Vocational Education Act of 1968 which provide assistance for the education of handicapped children, will be utilized by the State, or any of its political subdivisions, only in a manner consistent with the goal of providing a free appropriate public education for all handicapped within two years from the date of enactment of this Act;

"(3) set forth programs and procedures for the development and implementation of a comprehensive system of personnel development which shall include the in-service training of general and special educational instructional and support personnel, detailed procedures to assure that all personnel necessary to carry out the purposes of this part are appropriately and adequately prepared and trained, and that effective procedures for acquiring and disseminating to teachers of, and administrators of programs for, handicapped children significant information derived from educational research,

demonstration, and similar projects, and for adopting, where appropriate, promising educational practices developed through such projects;

"(4)(A) set forth programs and procedures to assure that to the extent consistent with the number and location of handicapped children in the State who are enrolled in private elementary and secondary schools, provision is made for the participation of such children in the program assisted or carried out under this part; and

"(B) that handicapped children in private schools and facilities will be provided special education and related services at no cost to their parents, if such children are placed in or referred to such schools or facilities as the means of carrying out the requirements of this title or other applicable law requiring the provision of special education and related services to all handicapped children within such State and that in all such instances the State education agency shall assure that such schools and facilities meet standards that apply to public educational agencies and that children so served have all the rights they would have if served in public educational agencies;

"(5) set forth policies and procedures which assure that distribution of funds under this part reflects the excess cost of serving handicapped children in each local educational agency and the number of children so served by each local educational agency;

"(6) provide satisfactory assurance that the control of funds provided under this part, and title to property derived therefrom, shall be in a public agency for the uses and purposes provided in this part, and that a public agency will administer such funds and property;

"(7) provide for (A) making such reports in such form and containing such information as the Commissioner may require to carry out his functions under this part, including reports of the objective measurements required by paragraph (9) of this section, and (B) keeping such records and affording such access thereto as the Commissioner may find necessary to assure the correctness and verification of such reports and proper disbursement of Federal funds under this Act;

"(8) provide satisfactory assurance that Federal funds made available under this part will be so used as to supplement and increase the level of State and local funds expended for the education of handicapped children and in no case supplant such State and local funds; except that, where the State provides clear and convicting evidence, certified by its advisory panel required by section 613, that all handicapped children have available to them appropriate special education and related services, the Commissioner may waive in part the requirement of this clause if he determines that the certification is correct;

"(9) provide satisfactory assurance that such fiscal control and fund accounting procedures will be adopted as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid under this Act to the State, including any such funds paid by the State to local educational agencies; and

"(10) provide for procedures for evaluation at least annually of the effectiveness of programs in meeting the educational needs of handicapped children, in accordance with such criteria that the Commissioner shall prescribe pursuant to section 617.

"(b)(1) The Commissioner shall approve any State annual application and any modification thereof which—

(1) is submitted by a State eligible under in accordance with section 613 of this Act, and,

(2) meets the requirements of subsection (a) of this section. The Commissioner shall disapprove any application which does not meet the requirements of the preceding sentence, but shall not finally disapprove a State application except after reasonable notice and opportunity for a hearing to the State.

"WITHHOLDING AND JUDICIAL REVIEW

"SEC. 615. (a)(1) Whenever the Commissioner, after reasonable notice and opportunity for a hearing to any State educational agency, finds that there has been a failure to comply substantially with any provision of sections 613 or 614, the Commissioner shall notify the agency that payments will not be made to the State under this part (or, in his discretion, that the State educational agency shall not make further payments under this part to specified local educational agencies whose actions or omissions caused or are involved in such failure) until he is satisfied that there is no longer any such failure to comply. Until he is so satisfied, no payments shall be made to the State under this part, or payments by the State educational agency under this part shall be limited to local educational agencies whose actions did not cause or were not involved in the failure, as the case may be.

"(2) Whenever the State planning and advisory panel finds that there has been substantial failure to carry out the requirements of any provision of this act, it shall notify the chief executive officer of the State and the Commissioner who may provide notice, conduct a hearing and, if he finds a failure described in paragraph (1), withhold payments pursuant to this subsection.

"(b)(1) If any State is dissatisfied with the Commissioner's final action with respect to the approval of its State application submitted under section 614, such State may, within sixty days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Commissioner. The Commissioner thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code.

"(2) The findings of fact by the Commissioner, if supported by substantial evidence shall be conclusive; but the court, for good cause shown, may remand the case to the Commissioner to take further evidence, and the Commissioner may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

"(3) Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Commissioner or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

"ADMINISTRATION

"SEC. 616. (a)(1) In carrying out his duties under this part, the Commissioner shall—

"(A) cooperate with, and render all technical assistance necessary, directly or by grant or contract, to the States in matters relating to the education of handicapped children and the execution of the provisions of this part;

"(B) provide such short-term training programs and institutes as are necessary; and

"(C) disseminate information, and otherwise promote the education of all handicapped children within the States.

"(2) As soon as practicable after the enactment of this Act, the Commissioner shall prescribe uniform categories and accounting procedures to be utilized by State agencies in submitting an application for assistance under this part in order to assure equity among the States.

"(b) There are authorized to be included for each fiscal year in the appropriation for the Department of Health, Education, and Welfare such sums as are necessary to administer the provisions of this part.

"EVALUATION

"SEC. 617. (a) The Commissioner shall measure and evaluate the impact of the program authorized under this part and the effectiveness of State efforts to assure the free appropriate public education of all handicapped children.

"(b) In carrying out his responsibilities under this part, the Commissioner shall conduct directly, or by grant or contract such studies, investigations, and evaluations as are necessary to assure effective implementation of this part and (1) shall provide for the collection and annual reporting of programmatic information concerning programs and projects carried out with financial assistance under this part and other Federal programs supporting the education of handicapped children, and such information from State and local educational agencies and other appropriate sources necessary for the implementation of this part, including such information as (A) the numbers of handicapped children participating in programs supported under this part, (B) the types of handicaps and the numbers of persons with such handicaps participating in such programs, (C) the numbers of persons needing such services, (D) the amount of Federal, State, and local expenditures specifically used to provide such special educational programs and (2) provide for the evaluation of such programs through (A) the development of effective methods and procedures for evaluation methods and procedures, and (C) conducting actual evaluation studies designed to test the effectiveness of activities supported by financial assistance under this Act.

"(c)(1) Not later than one hundred and twenty days after the close of each fiscal year, the Commissioner shall submit to the appropriate committees of the Congress a report on the progress being made toward the provision of free appropriate public education to all handicapped children, including a full report of all evaluation activities conducted under subsection (b).

"(2) Such report shall include a detailed evaluation of the education programs provided in accordance with individualized written education programs, and shall include an evaluation of the degree to which State and local educational agencies meet instructional objectives and have complied with the projected timetable for delivery of services.

"(3) The Commissioner shall also include in the report required under this subsection an analysis, and evaluation of the effectiveness, of the procedures undertaken by the States to assure that handicapped children receive special education and related services in the least restrictive environment commensurate with their needs and to assure compliance with section 613(a)(6)(B) and improve programs of instruction for handicapped children in day or residential facilities. Such analysis shall include any recommendations for change in provisions of this part, or other Federal law providing support for the education of handicapped children. In order to carry out such an evaluation, the Commissioner is authorized to conduct a statistically valid survey for assessing the effectiveness of the individualized written education program, and such sums as are necessary are hereby authorized to be appropriated to carry out such survey.

"(d) The Commissioner is authorized to hire personnel necessary to conduct data collection and evaluation activities required by subsection (b) without regard to the provisions of title 5, United States Code, relating to appointments in the competitive service

and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and general schedule pay rates except that no more than twenty such personnel shall be employed at any time.

"(f) There are authorized to be appropriated for carrying out the responsibilities of this section $2,500,000 for fiscal year 1976, $3,500,000 for fiscal year 1977, $5 million for fiscal year 1978, and $7,500,000 each for fiscal year 1979 and fiscal year 1980.

"EMPLOYMENT OF HANDICAPPED INDIVIDUALS

"SEC. 618. As a condition of providing financial assistance under this Act, the Secretary shall insure that each recipient of such assistance shall take affirmative action to employ and advance in employment qualified handicapped individuals covered under, and on the same terms and conditions as set forth in, the applicable provisions of the Rehabilitation Act of 1973 (87 Stat. 355) relating to employment of handicapped individuals by State rehabilitation agencies and rehabilitation facilities and under Federal contracts and subcontracts.

"PAYMENTS

"SEC. 619. (a) The Commissioner shall, subject to the provisions of section 613, relating to eligibility, pay to each State the amount which that State is eligible to receive under this part.

"(b)(1) The Commissioner is authorized to pay to each State amounts equal to the amounts expended for the proper and efficient performance of its duties under this part which may include regional, interstate and intrastate technical assistance, and dissemination of necessary materials.

"(2) The total of such payments in any fiscal year shall not exceed—

"(A) one and one-half per centum of the total of the amounts of the grants paid under this Act for that year to the State educational agency; or

"(B) $75,000, or $25,000 in the cases of the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, or the Trust Territory of the Pacific Islands, whichever is greater.

"(3) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this subsection.

"(c) Payments under this Act may be made in advance or by way of reimbursement and in such installments as the Commissioner may determine necessary."

GRANTS FOR THE REMOVAL OF ARCHITECTURAL BARRIERS

SEC. 4. (a) Upon application by any State or local educational agency the Commissioner of Education is authorized to make grants to pay part or all of the cost of altering existing buildings and equipment in the same manner and to the same extent as authorized by an Act approved August 12, 1968 (Public Law 90-480), relating to architectural barriers.

(b) For the purposes of carrying out the provisions of this section, there are authorized to be appropriated such sums as may be necessary.

EFFECTIVE DATE

SEC. 5. The amendments made by sections 2 and 3 of this Act shall take effect on and after July 1, 1975.

STATE LAWS AND OTHER LEGAL REQUIREMENTS RELATING TO THE EDUCATION OF HANDICAPPED CHILDREN

State	Type of mandation	Date of implementation	Date of passage	Ages of eligibility	Categories excluded
Alaska	Full planning and programing	1977		6 to 21	
Arizona	Conditional (5 or more exceptional children in district).	1965	1965	5 to 19	
Arizona	Selective planning and programing	1976		5 to 21	Gifted and emotionally handicapped.
Arkansas [1]	Full planning and programing	1979-80		6 to 21	
California	Mandatory			3 to 21	Emotionally handicapped.
Colorado [2]	Full planning and programing	1976		2, 5 to 21	
Connecticut	Mandatory	1973		5 to 21	
Delaware	do	AG opinion		4 to 21	
District of Columbia	No statute (Mills vs. board of education mandatory).	1972	1971	School age	
Florida	Mandatory		1973	(13 yr guaranteed 3-mo maximum)	
Georgia	Full planning and programing	1976		3 to 18	
Hawaii	Mandatory		1949	5 to 20 (except under early admission plan)	
Idaho	do		1972	Birth to 21	
Illinois	do		1961	3 to 21	
Indiana	do		1973	Deaf-6 mos-6-18	
Iowa	Selective mandate		1970	Birth to 21 (to 24 if necessary)	Deaf, blind, or severely handicapped may be educated in State schools.
Kansas	[3] Selective planning and programing DD only.	1974		Birth to 21	
Kentucky	Planning and programing	1974		do	
Louisiana	Mandate by petition (5 or more)			3 to 21	
Maine	Mandatory		1973	5 to 21 (speech handicapped-birth to 21)	
Maryland	Planning and programing	1974		Birth to 18	
Massachusetts	do	1974	1973	3 to 21	
Michigan	do	1973		Birth to 25	
Minnesota	Mandatory		1972	Deaf, blind, (R or S1-4 to 21) MR 5 to 21, ED 6 to 21.	
Mississippi	Mandate by petition (5+)			Birth to 21	
Missouri	Mandatory	1974		5 to 21	
Montana [4]	(a) Selective (conditional)—(at least to EMR, TMR or PH).			PH-birth-25 TMR-birth-21 EMR-legal school age.	
Nebraska	Mandatory	1976	1973	5 to 18	
Nevada	do		do	[5] 5 to 21	
New Hampshire	do		1965	5 to 21 Deaf 4 to 21 PH 5 to 31	
New Jersey	do			5 to 21	
New Mexico	Planning and programing	1977		(By Jan. 1) 6 to 21	
New York court order	Mandatory		1973	5 to 21	
North Carolina	do		1974	Birth-adulthood deaf 18 or 21 if need exist.	
North Dakota	do			6 to 21	
Ohio	Petition (8 or more crippled or EMR)			5 to 21	
Pennsylvania court order	EMR		1971	From 5 yr. of age	
Oklahoma	Mandatory		1970	4 to 21 (until 25 if necessary)	
Oregon	do		1973	Birth to 21 EMR 6 to 21	
Rhode Island	Mandatory		1971	3 to 21	
South Carolina	Planning and programing	1977		6 to 21, HI 3 to 21	
South Dakota	Mandatory		1969	Birth to 21	
Tennessee	Planning and programing	September 1974		4 to 21	
Texas	Petition			3 to 21	
Utah	Mandatory		1973	5 to 21	
Vermont	do		1968	Birth to 21	
Virginia	Planning	1976-77 [7]	1973	2 to 21	
Washington	Mandatory		1971	Legal school age	
West Virginia	do	July 1, 1977	1974	5 to 23	
Wisconsin	do		1973	Birth to 21	
Wyoming	do		1969	Legal school age	

[1] Current statute is conditional; or 5 or more similarly handicapped children in district. AG opinion says new law effective July 1973.
[2] Except PH-3 to 21.
[3] DD means retardation, cerebral palsy or epilepsy.
[4] Court order suggests present rights.
[5] Petition-(at least 4 EMR, TMR, or PH).
[6] Aurally handicapped, 3-21.
[7] Established by regulation.

Definition of the kinds of mandatory legislation used by states:

Full Program Mandate: Such laws require that programs must be programs where children meet the criteria defining the exceptionality.

Planning and Programming Mandate: This form includes required planning prior to required programming.

Planning Mandate: This kind of law mandates only a requirement for planning.

Conditional Mandate: This kind of law requires that certain conditions must be met in or by the local education district before mandation takes effect (this usually means that a certain number of children with like handicaps must reside in a district before the district is obliged to provide for them).

Mandate by Petition: This kind of law places the burden of responsibility for program development on the community in terms of parents and interested agencies who may petition school districts to provide programs.

Selective Mandate: In this case, not all disabilities are treated equally. Education is

provided (mandated) for some, but not all categories of disabilities.

STATUS OF STATE EDUCATION PROGRAMS FOR HANDICAPPED CHILDREN

(Compiled by the Council for Exceptional Children)

ALABAMA

At present, there are in Alabama, a great many handicapped children who are not receiving an appropriate public education. Data collected for the 1971–72 school year by the Alabama State Department of Education indicates that out of a total of 111,149 handicapped children, only 22,384, about a fifth, were receiving a public education designed to meet their needs. Projections done by the Department for the 1972–73 school year predicted that while an additional 6,000 handicapped would be served there would still be over 80,000 children waiting for their opportunity to receive a meaningful public education. In considering this situation, it must be emphasized that law is presently in force in Alabama mandating that all eligible handicapped children be provided with an appropriate education by 1977.

ALASKA

At present, there are in Alaska a great many handicapped children who are not receiving an appropriate public education. Data collected for the 1971–72 school year by the Alaska Department of Education indicates that out of a total of 5,050 handicapped children, only 1,875, less than 40 percent, were receiving a public education designed to meet their needs. Projections done by the Department for the 1972–73 school year predicted that while an additional 125 handicapped children would be served there would still be over 1,700 children waiting for their opportunity to receive a meaningful public education. In considering this situation, it must be emphasized that law is presently in force in Alaska mandating that all eligible handicapped children be provided with an appropriate education.

ARIZONA

At present, there are in Arizona a great many handicapped children who are not receiving an appropriate public education. Data collected for the 1971–72 school year by the Arizona Department of Education indicated that 27,381 handicapped children, out of a total of 40,059, close to 70 percent were not receiving a public education designed to meet their needs. Projections done by the Department for the 1972–73 school year predicted that while an additional 4,000 handicapped would be served there would still be over 23,000 children waiting for their opportunity to receive a meaningful public education. In considering this situation, it must be emphasized that law is presently in force in Arizona mandating that all eligible handicapped children be provided with an appropriate education by 1976. Despite the large number of children still needing service, state appropriations for the education of the handicapped increased only $2.5 million from 1971–72 to $5.6 million for the 1973–74 school year.

ARKANSAS

At present, there are in Arkansas a great many handicapped children who are not receiving an appropriate education. Data collected from the Arkansas State Department of Education indicates that, as of the past school year, only 22.8 percent of the handicapped school age population were being served. 53,118 additional handicapped children need the opportunity to receive a meaningful public education. As indicated in its annual report to the Governor, the State Department of Education estimates that 3,700 additional teaching units costing approximately $10,000 per unit are required to meet this need. Although it is anticipated that some additional funds may be forthcoming from the state, it will represent a relatively small contribution to the overall necessity for 37 million additional dollars. In considering this situation, it must be emphasized that law is presently in force in Arkansas mandating that all eligible handicapped children be provided with an appropriate education by the 1979–80 school year.

CALIFORNIA

At present, there are in California a great many handicapped children who are not receiving an appropriate public education. Data collected for the 1971–72 school year by the California Department of Education indicates that out of a total of 1,141,080 handicapped children, only 321,760 children, significantly less than half, were receiving an education designed to meet their needs. Projections done by the Department for the 1972–73 school year predicted that the total number of handicapped children to be served would be little different from the 1971–72 level of service. In considering this situation, it must be emphasized that law is presently in force in California mandating that all eligible handicapped children be provided with an appropriate education. The educational dilemma facing California's handicapped children and their families had been considered sufficiently serious to lead to the filing of at least four right to education lawsuits.

COLORADO

At present, there are in Colorado a great many handicapped children who are not receiving an appropriate public education. Statistics gathered by the Colorado Department of Education for the school year 1972–73 showed that of the 91,060 handicapped children in the state only 34,388, or slightly more than one-third, were receiving needed special educational services. In considering this situation, it must be emphasized that with the passage of H.B. 1164 by the legislature, Colorado has mandated that appropriate public education services must be provided to all eligible handicapped children by September, 1976. The educational dilemma facing Colorado's handicapped children and their families has been considered sufficiently serious to lead to the filing of a pending class action right to education lawsuit in the Federal District Court in Denver, *Colorado Association for Retarded Children* v. *Colorado* (Civil No. C–4620 D. Colo., Filed Dec. 22, 1972).

CONNECTICUT

At present, there are in Connecticut a great many handicapped children who are not receiving an appropriate public education. Data collected for the 1971–72 school year by the Connecticut State Department of Education indicates that out of a total of 89,866 handicapped children, only 35,544, less than 40 percent, were receiving a public education designed to meet their needs. Projections done by the Department for the 1972–73 school year predicted that while an additional 4,000 handicapped would be served, there would still be over 50,000 children waiting for their opportunity to receive a meaningful public education. In considering this situation, it must be emphasized that law is presently in force in Connecticut mandating that all eligible handicapped children be provided with an appropriate education.

DELAWARE

At present, there are in Delaware a great many handicapped children who are not receiving an appropriate public education. Data collected for the 1971–72 school year by the Delaware Department of Public Instruction indicates that out of a total of 15,722 handicapped children, only 8,351, slightly over half, were receiving a public education designed to meet their needs. While projections done by the Department for the 1972–73 school year predicted an additional 2,000 children would be served, there would still be over 5,000 handicapped children waiting for their opportunity to receive a meaningful public education. The educational dilemma facing these children has been so severe that in 1971, Catholic Social Services, Inc. of Delaware filed an administrative action against the State Board of Education to obtain an education for three handicapped children excluded from school (filed August 24, 1971). Since that time discussion has been occurring throughout the state about the possibility of filing a class action right to education lawsuit against the state.

FLORIDA

At present, there are in Florida, a great many handicapped children who are not receiving an appropriate public education. Data collected for the 1971–72 school year by the Florida State Department of Education indicates that over 34,000 out of a total of 139,903 handicapped children were not receiving an education designed to meet their needs. Projections done by the State Department of Education for the 1972–73 school year indicated little change from the 1971–72 school year. In considering this situation, it must be emphasized that law is presently in force mandating that all handicapped children be provided with a public education. Of importance also is that in the just concluded session of the legislature, this mandate was extended to include profoundly retarded children.

GEORGIA

At present, there are in Georgia a great many handicapped children who are not receiving an appropriate public education. Data collected for the 1971–72 school year by the Georgia Department of Education indicates that out of a total 127,864 handicapped children, only 65,061, about half, were receiving a public education designed to meet their needs. Projections done by the Department for the 1972–73 school year predicted that while an additional 11,000 handicapped would be served there would still be over 50,000 children waiting for their opportunity to receive a meaningful public education. In considering this situation, it must be emphasized that law is presently in force in Georgia mandating that all eligible handicapped children be provided with an education.

HAWAII

At present, there are in Hawaii a great many handicapped children who are not receiving an appropriate public education. Data collected for the 1971–72 school year by the Hawaii Department of Education indicates that only 9,106 handicapped children, out of a total of 19,590 children, less than half, were receiving an education designed to meet their needs. Projections done by the Department for the 1972–73 school year predicted that the total number of handicapped children to be served would be little different from the 1971–72 level of service. In considering this situation, it must be emphasized that law is presently in force in Hawaii mandating that all eligible handicapped children be provided with an appropriate education. The educational dilemma facing Hawaii's handicapped children has been considered sufficiently serious to lead to the filing of a class action right to education lawsuit in Hawaii (*Kekahana* v. *Burns*, Civil No. 72–3799, D. Hawaii).

IDAHO

At present, there are in Idaho a great many handicapped children who are not receiving an appropriate public education. Data collected for the 1971–72 school year by the Idaho State Department of Education indicates that out of a total of 36,561 handicapped children, only 8,395 about a fifth, were receiving a public education de-

signed to meet their needs. While projections done by the Department for the 1972–73 school year predicted that an additional 1700 children would be served, there still would be over 25,000 handicapped children waiting for their opportunity to receive a meaningful public education. In considering this situation, it must be emphasized that law is presently in force in Idaho mandating that all handicapped children be provided with a public education.

ILLINOIS

At present, there are in Illinois a great many handicapped children who are not receiving an appropriate public education. Data collected for the 1971–72 school year by the Office of the Superintendent of Public Instruction indicates that 74,504 handicapped children, out of a total of 183,381 children, about 40 percent were not receiving a public education designed to meet their needs. In considering this situation, it must be emphasized that law is presently in force in Illinois mandating that all eligible handicapped children be provided with an appropriate education. Despite the large number of children still needing service, state appropriations for the education of the handicapped increased only $16.4 million from 1971–72 to $73.3 million for the 1973–74 school year.

INDIANA

At present, there are in Indiana a great many handicapped children who are not receiving an appropriate public education. Data collected for the 1971–72 school year by the Department of Public Instruction indicates that 58.492 handicapped children, out of a total of 145,091 children, were not receiving needed special education services. Projections done by the Department for the 1972–73 school year predicted that the total number of children to be served would be little different from the 1971–72 school year. In considering this situation, it must be emphasized that state law presently in force in Indiana mandates that an appropriate public education must be provided to all eligible handicapped children.

IOWA

At present, there are in Iowa a great many handicapped children who are not receiving an appropriate public education. Data collected for the 1971–72 school year by the Iowa Department of Public Instruction indicates that out of a total of 94,731 handicapped children, only 36,521, less than 40 percent, were receiving a public education designed to meet their needs. Projections done by the Department for the 1972–73 school year predicted that while an additional 7,000 handicapped would be served, there would still be over 50,000 children waiting for their opportunity to receive a meaningful public education. In considering this situation, it must be emphasized that law is presently in force in Iowa mandating that all eligible handicapped children be provided with an appropriate education. Despite the large number of children still needing service, state appropriations for the education of the handicapped increased only $3.7 million from 1971–72 to $7.2 million for the 1973–74 school year.

KANSAS

At present, there are in Kansas a great many handicapped children who are not receiving an appropriate public education. Data collected for the 1971–72 school year by the Kansas State Department of Education indicates that 26,853 handicapped children, out of a total of 54,566 children, about half were not receiving a public education designed to meet their needs. Projections done by the Department for the 1972–73 school year predicted that while an additional 2,000 handicapped would be served, there would still be close to 25,000 children waiting for their opportunity to receive a meaningful public education. In considering this situation, it must be emphasized that law is presently in force in Kansas mandating that all eligible handicapped children be provided with an appropriate education by 1979. Despite the large number of children still needing service, state appropriations for the education of the handicapped increased only $2.4 million from 1971–72 to $6.1 million for the 1973–74 school year.

KENTUCKY

At present, there are in Kentucky a great many handicapped children who are not receiving an appropriate public education. Data collected for the 1971–72 school year by the State Department of Education indicates that only 24,336 children out of a total of 78,386 handicapped children, less than a third, were receiving an education to meet their needs. Projections done by the Department for the 1972–73 school year suggest that close to 40,000 handicapped children, about half, would receive specially designed services. In considering this situation, it must be emphasized that law is presently in force in Kentucky which requires that all handicapped children be educated by September, 1974. The educational dilemma facing Kentucky's handicapped children and their families has been considered sufficiently serious to lead to the filing of a pending class action right to education lawsuit in the federal district court in Frankfort, *Kentucky Association for Retarded Children, et al.* v. *Kentucky State Board of Education* (Civil Action No. 435, E. D. Ky., filed Sept. 6, 1973).

LOUISIANA

At present, there are in Louisiana a great many handicapped children who are not receiving an appropriate public education. Data collected for the 1971–72 school year by the Louisiana State Department of Education indicates that out of a total of 122,344 handicapped children, only 45,056, less than 40 percent, were receiving a public education designed to meet their needs. Projections done by the Department for the 1972–73 school year predicted that while an additional 5,500 handicapped would be served, there would still be over 70,000 children waiting for their opportunity to receive a meaningful public education. In considering this situation, it must be emphasized that law is presently in force in Louisiana mandating that all eligible handicapped children be provded with an appropriate education. You will be interested to know that the educational dilemma facing Orleans Parish mentally retarded children and their families was considered sufficiently serious to lead to the filing of a successful class action right to education lawsuit, *Lebanks* v. *Spears*, (60 F.R.D. 155, E.D. La. 1973) on behalf of all the Parish's mentally retarded children. Despite the large number of children still needing service, state appropriations for the education of handicapped increased only $8 million from 1971–72 to $20 million for the 1973–74 school year.

MAINE

At present, there are in Maine a great many handicapped children who are not receiving an appropriate public education. Data collected for the 1971–72 school year by the Maine Department of Education and Cultural Services indicates that only 6,758 handicapped children, out of a total of 30,743 children, less than a fourth, were receiving an education designed to meet their needs. Projections done by the Department for the 1972–73 school year predicted that the 1971–72 level of service would be extended to only an additional 3,000 children still leaving about 20,000 handicapped children waiting for their opportunity to obtain a public school education. In considering this situation, it must be emphasized that law is presently in force in Maine mandating that appropriate educational services be provided to every eligible handicapped child. You should also know that the amount of state appropriations available for the education of the handicapped for the 1973–74 school year was $1.5 million, an increase of only $200,000 since the 1971–72 school year.

MARYLAND

At present, there are in Maryland a great many handicapped children who are not receiving an appropriate public education. Data collected for the 1971–72 school year by the Maryland Department of Education indicates that 57,380 handicapped children, out of a total of 123,639 children, close to half, were not receiving a public education designed to meet their needs. Projections done by the Department for the 1972–73 school year predicted that the total number to be served would be little different than the 1971–72 school year level of service. In considering this situation, it must be emphasized that Maryland presently has law in force mandating that all eligible handicapped children must be provided with an appropriate public education by 1979. That date, however, has been set aside as a result of a decision in a class action right to education lawsuit, *Maryland Association for Retarded Children* v. *State of Maryland* (Equity No. 100/182/77676, Circuit Ct. Baltimore City, Maryland, May 3, 1974), in which the court proclaimed that all children have the right to an education which must be provided by September, 1975.

MASSACHUSETTS

At present, there are in Massachusetts, a great many handicapped children who are not receiving an appropriate public education. Data collected for the 1971–72 school year by the Department of Education indicates that 45,152 children out of a total of 108,612 handicapped, less than half, were receiving an education to meet their needs. Projections done by the Department for the 1972–73 school year suggested little change from the 1971–72 school year. In considering this situation, it must be emphasized that with the passage of Chapter 766, partially motivated by a class action right to education lawsuit, the Massachusetts legislature mandated that all handicapped children be educated by September, 1974. While state appropriations to implement the act have been increased to approximately $60 million, it has been estimated that an additional $40 to $50 million is still needed to achieve full compliance.

MICHIGAN

At present, there are in Michigan a great many handicapped children who are not receiving an appropriate public education. Data collected for the 1971–72 school year by the Michigan Department of Education indicates that 123,279 handicapped children, out of a total of 288,297 children, did not receive a public education designed to meet their needs. Projections done by the Department for the 1972–73 school year predicted that the total number of handicapped children that would receive services would be little different from the 1971–72 level of service. In considering this situation it must be emphasized that with the passage by the Michigan legislature of Public Act 198 in 1971, the state mandated that appropriate public education services must be provided to all handicapped children by September, 1973. The importance of this Act was emphasized by Judge Charles Joiner of the Eastern District of Michigan Federal District Court when he ruled in *Harrison* v. *State of Michigan* (350 F. Supp. 846, E.D. Mich. 1972) that "this law is a whole new attack on the problem of special education. For the first time, the legislature has directed in unequivocal terms the state and other educational districts to face up to the problem of providing educational programs and services designed to develop the maximum potential of every handicapped person."

MINNESOTA

At present, there are in Minnesota a great many handicapped children who are not receiving an appropriate public education. Data collected for the 1971–72 school year by the

Minnesota Department of Education indicates that 52,242 handicapped children, out of a total of 122,665 children, were not receiving an education to meet their needs. More recent data, reported by the Department in March, 1974 for the 1973–74 school year, indicated that although substantial progress has been made, there are still over 17,000 children waiting for their opportunity to receive special education. In considering this situation, it is important to note that Minnesota law requires that these children be educated.

MISSISSIPPI

At present, there are in Mississippi a great many handicapped children who are not receiving an appropriate public education. Data collected for the 1971–72 school year by the Mississippi Department of Education indicates that out of a total of 116,066 handicapped children, only 16,587, less than 15 percent, were receiving a public education designed to meet their needs. Projections done by the Department for the 1972–73 school year predicted that only about an additional 4,500 handicapped children would be served, leaving the vast majority of these children still waiting for their opportunity to receive a meaningful public education. In considering this situation, it must be emphasized that law is presently in force in Mississippi mandating that all eligible handicapped children be provided with an appropriate education. Despite the large number of children still needing service, state appropriations for the education of the handicapped totaled $7.1 million for 1973–74, an increase of only $1.7 million from 1972–73.

MISSOURI

At present, there are in Missouri a great many handicapped children who are not receiving an appropriate public education. Data collected for the 1971–72 school year by the Missouri Department of Elementary and Secondary Education indicates that only 65,110 handicapped children, out of a total of 221,578 children, less than a third, are receiving an education designed to meet their needs. Projections done by the Department for the 1972–73 school year predicted that the total number to be served would be little different from the 1971–72 level of service. In considering this situation, it must be emphasized that with the passage of H.R. 474, the Missouri legislature placed in force a mandate that all eligible handicapped children must be provided with an appropriate public education. The statute also provides that this level of service must be provided by September, 1974. Despite the large number of children still needing service, state appropriations for the education of handicapped children increased only $4.5 million from 1971–72 to $18.5 million for the 1973–74 school year. The educational dilemma facing Missouri's handicapped children has been considered sufficiently serious to lead to the ling of a class action right to education lawsuit, *Radley* v. *Missouri* (Civil No. 73C556(3), E.D. Mo., November 1, 1973). The suit was dismissed in February, 1974 with the court holding that the presence of the statute rendered the issues moot in that the court could not improve on the implementation schedule or approach to the problem mandated by H.B. 474.

MONTANA

At present, there are in Montana a great many handicapped children who are not receiving an appropriate public education. Data collected for the 1971–72 school year by the Montana Office of Public Instruction indicates that out of a total of 23,480 handicapped children, only 5,358, less than a quarter, were receiving a public education designed to meet their needs. Projections done by the Office of Public Instruction for the 1972–73 school year predicted that only about an additional 3,000 would be served, still leaving 15,000 handicapped children waiting for their opportunity to receive a meaningful public education. In considering this situation, it must be emphasized that law is presently in force in Montana mandating that all eligible handicapped children be provided with an appropriate education by 1979. Despite the large number of children still needing service, state appropriations for the education of the handicapped totaled $10.5 million for 1973–74, an increase of only $3.3 million from 1972–73.

NEBRASKA

At present, there are in Nebraska a great many handicapped children who are not receiving an appropriate public education. Data collected for the 1971–72 school year by the Nebraska Department of Education indicates that out of a total of 93,568 handicapped children, only 23,734, about a fourth, were receiving a public education designed to meet their needs. Projections done by the Department for the 1972–73 school year predicted that while an additional 5,000 handicapped children would be served, there would still be about 65,000 children waiting for their opportunity to receive a meaningful public education. In considering this situation, it must be emphasized that law is presently in force in Nebraska mandating that all eligible handicapped children be provided with an appropriate education by 1976. Despite the large number of children still needing service, state appropriations for the education of the handicapped totaled $4.7 million for 1973–74, an increase of only $1.1 million from 1971–72.

NEVADA

At present, there are in Nevada a great many handicapped children who are not receiving an appropriate public education. Data collected for the 1971–72 school year by the Nevada Department of Education indicates that out of a total of 13,640 handicapped children, only 6,300, about half, were receiving a public education designed to meet their needs. Projections done by the Department for the 1972–73 school year predicted that the total number of handicapped children to be served would be little different from the 1971–72 level of service. In considering this situation, it must be emphasized that law is presently in force in Nevada mandating that all eligible handicapped children be provided with an appropriate education. The educational dilemma facing Nevada's handicapped children and their families has been considered sufficiently serious to lead to the filing of a pending class action right to education lawsuit, *Brandt* v. *Nevada* (Civil No. R–2779, D. Nev., Filed Dec. 22, 1972), on behalf of all of Nevada's handicapped children.

NEW HAMPSHIRE

At present, there are in New Hampshire a great many handicapped children who are not receiving an appropriate public education. Data collected for the 1971–72 school year by the New Hampshire State Department of Education indicates that out of a total of 19,374 handicapped children, only 6,070, about 31 percent, were receiving a public education designed to meet their needs. Projections done by the Department for the 1972–73 school year predicted that while an additional 4,300 handicapped children would be served, there would still be about 9,000 children waiting for their opportunity to receive a meaningful public education. In considering this situation, it must be emphasized that law is presently in force in New Hampshire mandating that all eligible handicapped children be provided with an appropriate education.

NEW JERSEY

At present, there are in New Jersey a great many handicapped children who are not receiving an appropriate public education. Data collected for the 1971–72 school year by the New Jersey Department of Education indicates that 131,866 children, out of a total of 231,055 handicapped children, more than half, were not receiving an education to meet their needs. Projections done by the Department for the 1972–73 school year indicated that although another 50,000 children were expected to be served, there still remained about 80,000 handicapped children for whom special programs were not planned to be available. In considering this situation, it must be emphasized that law is presently in force in New Jersey mandating that all eligible handicapped children be provided with an appropriate public education.

NEW MEXICO

At present, there are in New Mexico a great many handicapped children who are not receiving an appropriate public education. Data collected for the 1971–72 school year by the New Mexico Department of Education indicates that out of a total of 53,126 handicapped children, only 8,655, approximately 16 percent, were receiving a public education designed to meet their needs. Projections done by the Department for the 1972–73 school year predicted that only about an additional 1,500 children would be served, leaving over 40,000 handicapped children still waiting for their opportunity to receive a meaningful public education. In considering this situation, it must be emphasized that law is presently in force in New Mexico mandating that all eligible handicapped children be provided with an appropriate education by 1977. Despite the large number of children still needing service, state appropriations for the education of the handicapped totaled $8 million for 1973–74, an increase of only $3.5 million from 1971–72.

NEW YORK

At present, there are in New York a great many handicapped children who are not receiving an appropriate public education. Data collected for the 1971–72 school year by the Department of Education indicates that 151,592 handicapped children, out of a total of 372,811 children, were not receiving a public education designed to meet their needs. Projections done by the Department for the 1972–73 school year predicted that only about an additional 15,000 handicapped children would receive service leaving about 135,000 handicapped children still waiting for their opportunity to receive a meaningful public education. In considering this situation, it must be emphasized that law is presently in force in New York mandating that all eligible handicapped children be provided with an appropriate public education. The intent and responsibility of the state has been reinforced by New York Education Commissioner Nyquist when he ordered New York City in *Reid* v. *Board of Education of the City of New York* (No. 8742, Commissioner of Education of New York, Nov. 26, 1973), a class action right to education suit, to provide publicly supported, suitable education programs for all handicapped children. The New York City public schools estimate that it will immediately cost them $60 million to implement the decision.

NORTH CAROLINA

At present, there are in North Carolina a great many handicapped children who are not receiving an appropriate public education. Data collected for the 1971–72 school year by the North Carolina Department of Education indicates that out of a total of 172,580 handicapped children, only 73,739, less than half, were receiving a public education designed to meet their needs. Projections done by the Department for the 1972–73 school year predicted that while an additional 10,000 handicapped would be served, there would still be about 90,000 children still waiting for their opportunity to receive a meaningful public education. In considering this situation, it must be emphasized that law is presently in force in North Carolina mandating that all eligible handicapped children be provided with an appropriate education. Specifically, the legislature in its

last session adopted law that declared "that the policy of the state is to ensure every child a fair and full opportunity to reach his full potential. . . ." (CH 1293, 1973). The educational dilemma facing North Carolina's handicapped children and their families has been considered sufficiently serious to lead to the filing of a pending class action right to education lawsuit, *North Carolina Association for Retarded Children* v. *North Carolina* (Civil No. 3050, E.D.N.C. filed May 18, 1973), on behalf of all North Carolina's mentally retarded children. You should also know that the amount of state appropriations available for the education of the handicapped for the 1973–74 school year was $39 million, an increase of only $9 million since the 1971–72 school year.

NORTH DAKOTA

At present, there are in North Dakota a great many handicapped children who are not receiving an appropriate public education. Data collected for the 1971–72 school year by the North Dakota Department of Public Instruction indicates that out of a total of 47,215 handicapped children, only 8,947, less than a fifth, were receiving a public education designed to meet their needs. Projections done by the Department for the 1972–73 school year predicted that the total number of handicapped children to be served would be little different from the 1971–72 level of service. In considering this situation, it must be emphasized that law is presently in force in North Dakota mandating that all eligible handicapped children be provided with an appropriate education by 1980. The educational dilemma facing North Dakota's handicapped children and their families has been considered sufficiently serious to lead to the filing of a pending class action right-to-education lawsuit, *North Dakota Association for Retarded Children* v. *Peterson* (Civil No. 1196, D.N.D., Filed Nov. 28, 1972), on behalf of all North Dakota's handicapped children. You should also know that in another recently concluded individual action the North Dakota Supreme Court held that the plaintiff physically handicapped child "is entitled to an equal educational opportunity under the constitution of North Dakota, and that depriving her of that opportunity would be an unconstitutional denial of equal protection under the Federal and State constitutions and of the Due Process and Privileges and Immunities Clauses of the North Dakota Constitution," (*in the interest of G.H., a child* v. *G.H., B.H., F.H., Williston School District, et al.* (Civil No. 8930, N.D.S.C., April 30, 1974). Despite the large number of children still needing service, state appropriations for the education of the handicapped totaled $3 million for 1973–75 biennium, an increase of only $1.6 million from 1971–73 biennium.

OHIO

At present, there are in Ohio a great many handicapped children who are not receiving an appropriate public education. Data collected for the 1971–72 school year by the Ohio Department of Education indicates that out of a total of 335,898 handicapped children, slightly over half, 175,300 children were receiving a public education designed to meet their needs. Projections done by the Department for the 1972–73 school year predicted that only an additional 16,000 handicapped children would be provided with a special education, leaving approximately 144,000 children waiting for their opportunity. It is clear that even though state appropriations have increased from $65.5 million in 1971–72 to $90.4 million for 1973–74, an increase of 38 percent, 45 percent of the handicapped children still remain unserved. The educational dilemma facing Ohio's handicapped children has been considered sufficiently serious to lead to the recent filing of a pending class action right-to-education lawsuit, *The Cuyahoga County Association for Retarded Children and Adults, et al.* v. *Martin Essex, et al.* (Civil Action No. C74–587 N.D. Ohio, filed June 28, 1974).

OKLAHOMA

At present, there are in Oklahoma a great many handicapped children who are not receiving an appropriate public education. Data collected for the 1971–72 school year by the Oklahoma State Department of Education indicates that out of a total of 144,586 handicapped children, only 23,746, about 16 percent, were receiving a public education designed to meet their needs. Projections done by the Department for the 1972–73 school year predicted that while an additional 10,000 handicapped children would be served, there would still be over 110,000 children waiting for their opportunity to receive a meaningful public education. In considering this situation, it must be emphasized that law is presently in force in Oklahoma mandating that all eligible handicapped children be provided with an appropriate education.

OREGON

At present, there are in Oregon a great many handicapped children who are not receiving an appropriate public education. Data collected for the 1971–72 school year by the Oregon Board of Education indicates that 26,274 handicapped children, out of a total of 48,044 children, were not receiving a public education designed to meet their needs. Projections done by the Board for the 1972–73 school year predicted that while an additional 3,500 handicapped children would be served there would still be over 18,000 children waiting for their opportunity to receive a meaningful public education. In considering this situation, it must be emphasized that law is presently in force in Oregon mandating that all eligible handicapped children be provided with an appropriate education.

PENNSYLVANIA

At present, there are in Pennsylvania a great many handicapped children who are not receiving an appropriate public education. Data collected for the 1971–72 school year by the Pennsylvania Department of Education indicates that 108,619 handicapped children out of a total of 265,449 children were not receiving a public education designed to meet their needs. Statistics produced by the Department based on December, 1972 enrollments were that despite service expansion to an additional 60,000 children since the 1971–72 school year, there still remain close to 50,000 handicapped children who are waiting for their opportunity to receive a public education. In considering this situation, it must be emphasized that law is presently in force in Pennsylvania mandating that appropriate educational services be provided to every eligible handicapped child. This mandate was specifically reinforced for all mentally retarded children by the landmark right-to-education order achieved in the class action *PARC* v. *Commonwealth of Pennsylvania* (334 F. Supp. 1257, E.D. Pennsylvania 1971 and 343 F. Supp. E.D. Pennsylvania 1972) lawsuit.

RHODE ISLAND

At present, there are in Rhode Island a great many handicapped children who are not receiving an appropriate public education. Data collected for the 1971–72 school year by the Rhode Island Department of Education indicates that only 13,475 handicapped children, out of a total of 39,475 children, about a third, were receiving an education designed to meet their needs. Projections done by the Department for the 1972-73 school year predicted that only about 6,000 additional handicapped children would receive the educational services they need, leaving about 20,000 handicapped children still waiting for their opportunity to receive a public education. In considering this situation, it must be emphasized that law is presently in force in Rhode Island mandating that appropriate educational services be provided to every eligible handicapped child. The educational dilemma facing Rhode Island's handicapped children and their families has been considered sufficiently serious to lead to the filing of a pending class action right to education lawsuit, *Rhode Island Society for Autistic Children* v. *Reisman*, (C.A. No. 5081, D.R.I., Filed Dec., 1972) on behalf of all Rhode Island's handicapped children by the Rhode Island Society for Autistic Children.

SOUTH CAROLINA

At present, there are in South Carolina a great many handicapped children who are not receiving an appropriate public education. Data collected for the 1971–72 school year by the South Carolina State Department of Education indicates that out of a total of 106,505 handicapped children, only 38,275, about 36 percent, were receiving a public education designed to meet their needs. Projections done by the Department for the 1972–73 school year predicted that while an additional 15,275 handicapped children would be served there would still be over 50,000 children waiting for their opportunity to receive a meaningful public education. In considering this situation, it must be emphasized that law is presently in force in South Carolina mandating that all eligible handicapped children be provided with an appropriate education by 1977. Despite the large number of children still needing service, state appropriations for the education of the handicapped totaled $16.5 million for 1973–74, an increase of only $6.5 million from 1971–72.

SOUTH DAKOTA

At present, there are in South Dakota, a great many handicapped children who are not receiving an appropriate public education. Data collected for the 1971–72 school year by the South Dakota Department of Public Instruction indicates that out of a total of 17,795 handicapped children, only 4,414, about one-fourth, were receiving public education designed to meet their needs. While projections done by the Department for the 1972–73 school year predicted that an additional 7,500 children would be served there would still be over 5,000 children waiting for their opportunity to receive a meaningful public education. In considering this situation, it must be emphasized that law is presently in force in South Dakota mandating that all handicapped children be provided with a public education.

TENNESSEE

At present, there are in Tennessee a great many handicapped children who are not receiving an appropriate public education. Data collected for the 1971–72 school year by the Tennessee State Department of Education indicates that out of a total of 131,903 handicapped children, only 49,173, less than 40 percent, were receiving a public education designed to meet their needs. Projections done by the Department for the 1972–73 school year predicted that the total number of handicapped children to be served would be little different from the 1971–72 level of service. In considering this situation, it must be emphasized that law is presently in force in Tennessee mandating that all eligible handicapped children be provided with an appropriate education as of September, 1974. The educational dilemma facing Tennessee's handicapped children and their families has been considered sufficiently serious to lead to the filing of a class action right to education lawsuit, *Rainey* v. *Tennessee Department of Education* (No. A–3100 Chancery Court of Davidson County, Tenn., Filed Nov. 6, 1973), on behalf of all of Tennessee's handicapped children. The suit was concluded in July, 1974 with a consent order that again requires that all eligible handicapped children be provided with an appropriate education.

TEXAS

At present, there are in Texas a great many handicapped children who are not receiving an appropriate public education. Data collected for the 1971–72 school year by the Texas Education Agency indicates that out of a total of 777,731 handicapped children, only 175,662, less than a fourth, were receiving a public education designed to meet their needs. Projections done by the Agency for the 1972–73 school year predicted that while an additional 21,000 handicapped would be served there would still be over 580,000 children waiting for their opportunity to receive a meaningful public education. In considering this situation, it must be emphasized that law is presently in force in Texas mandating that all eligible handicapped children be provided with an appropriate education.

UTAH

At present, there are in Utah a great many handicapped children who are not receiving an appropriate public education. Data collected for the 1971–72 school year by the Utah State Department of Public Instruction indicated that 17,100 handicapped children, out of a total of 44,179 children, were not receiving a public education designed to meet their needs. Projections done by the Department for the 1972–73 school year predicted that the total number of handicapped children to be served would be little different from the 1971–72 level of service. In considering this situation, it must be emphasized that law is presently in force in Utah mandating that all eligible handicapped children be provided with an appropriate education.

VERMONT

At present, there are in Vermont a great many handicapped children who are not receiving an appropriate public education. Data collected for the 1971–72 school year by the Vermont Department of Education indicates that only 4,612 handicapped children, out of a total of 20,631 children, less than a fourth, were receiving an education designed to meet their needs. Projections done by the Department for the 1972–73 school year predicted that the total number to be served would be little different from the 1971–72 level of service. In considering this situation, it must be emphasized that law is presently in force in Vermont mandating that appropriate educational services be provided to every eligible handicapped child.

VIRGINIA

At present, there are in Virginia a great many handicapped children who are not receiving an appropriate public education. Data collected for the 1971–72 school year by the Virginia State Department of Education indicates that out of a total of 146,748 handicapped children, only 44,768, about 30 percent, were receiving a public education designed to meet their needs. Projections done by the Department for the 1972–73 school year predicted that while an additional 3,000 handicapped would be served, there would still be about 98,000 children waiting for their opportunity to receive a meaningful public education. In considering this situation, it must be emphasized that law is presently in force in Virginia mandating that all eligible handicapped children be provided with an appropriate education. A target date for compliance by 1976–77 has been established by the Department through regulations. Despite the large number of children still needing service, state appropriations for the education of the handicapped increased by $4 million from 1971–72 to $12.6 million for the 1973–74 school year.

WASHINGTON

At present, there are in Washington many handicapped children who are not receiving an appropriate public education. Data collected by the Department of Public Instruction indicates that 10,702 handicapped children, which includes the learning disabled category of exceptionality, are presently unserved and for whom the Department desires to serve with an appropriate education during the 1975–77 biennium. There are, in addition, another 12,000 unserved learning disabled handicapped children for whom the state plans to provide programs after the 1975–77 biennium. In order to provide children the services required and planned for the 1975–77 biennium, an additional 36 million dollars is needed, excluding any inflationary factors. While the state has continued to expand services, additional funds are not expected to surpass 16 million dollars and may, in fact, fall short of expectations. Therefore, funding will fall at least 20 million dollars short of the level required to implement the state's plan. In considering this situation it must be emphasized that law is presently in force in the state of Washington which mandates that all handicapped children be provided with an appropriate education.

WEST VIRGINIA

At present, there are in West Virginia a great many handicapped children who are not receiving an appropriate public education. Data collected for the 1971–72 school year by the West Virginia Department of Education indicates that only 15,161 handicapped children, out of a total of 80,561 children, less than a fifth, were receiving an education designed to meet their needs. Projections done by the Department for the 1972–73 school year predicted that the total number to be served would be little different from the 1971–72 level of service. In considering this situation, it must be emphasized that with the passage by the state legislature of H.B. 1271, West Virginia has mandated that appropriate public education must be provided to all eligible handicapped children. The legislature also by this Act ordered compliance with the mandate in September of this school year.

WISCONSIN

At present, there are in Wisconsin, a great many handicapped children who are not receiving an appropriate public education. Data collected for the 1971–72 school year by the Department of Public Instruction indicates that only 66,230 children out of a total of 155,813 handicapped children, considerably less than half, were receiving an education to meet their needs. Statistics for the 1972–73 school year show that the total number to be served is 55 percent, little different from the 1971–72 level of service. In considering this situation, it must be emphasized that with the passage by the legislature of Chapter 89, Wisconsin has mandated that appropriate public education must be provided to all eligible handicapped children. This mandate requiring that these services must be made available beginning with the 1974–75 school year was reinforced and cited in a District Court decision in *Panitch* v. *Wisconsin* (No. 72–C–461 D. Wis.), a class action right to education lawsuit.

WYOMING

At present, there are in Wyoming a great many handicapped children who are not receiving an appropriate public education. Data collected for the 1971–72 school year by the Wyoming State Department of Education indicates that out of a total of 18,475 handicapped children, only 5,665, less than a third, were receiving a public education designed to meet their needs. Projections done by the Department for the 1972–73 school year predicted that the total number of handicapped children to be served would be little different from the 1971–72 level of services and that over 12,000 handicapped children would still be waiting for their opportunity to receive a meaningful public education. In considering this situation, it must be emphasized that law is presently in force in Wyoming mandating that all eligible handicapped children be provided with an appropriate education.

By Mr. JACKSON (for himself, Mr. METCALF, Mr. CHURCH, Mr. HASKELL, Mr. JOHNSTON, Mr. MOSS, and Mr. NELSON):

S. 7. A bill entitled the Surface Mining Control and Reclamation Act of 1975. Referred to the Committee on Interior and Insular Affairs.

Mr. METCALF. Mr. President, I am joining the junior Senator from Washington (Mr. JACKSON) the Chairman of the Senate Interior Committee, and other cosponsors in introducing the Surface Mining Control Act of 1975. The bill we are introducing today is identical to the bill which President Ford pocket-vetoed last month after the 93d Congress had adjourned.

Federal legislation to regulate surface coal mining is long overdue. Enactment of the Surface Mining Control and Reclamation Act will enable the coal industry to proceed with development of our Nation's vast coal resources in a manner which will assure that the other natural resources of our country will not be unnecessarily damaged.

Congress has been actively considering surface coal mining legislation for the past 4 years. During the 93d Congress the Senate passed a bill in October of 1973 by a vote of 82 to 8. The House passed its amendment to the Senate bill in July of 1974 by a vote of 291 to 81. The conference committee met almost 30 times for over 100 hours to resolve the differences between the Senate and House versions of the bill. Unfortunately, the end product of all this intensive study and debate did not become law because the President did not sign it.

I deeply regret that President Ford vetoed the bill. I particularly regret the fact that he did not give the Congress a chance to override his veto and thus permit the industry to get on with the business of mining coal.

It is worth recalling today that industry has in the past fought strip mining bills far less stringent than the legislation before Congress today. The delay in enacting legislation, caused largely by industry's opposition, has brought the nature and scope of the strip mining problem more sharply into focus. The need for strong regulation of strip mining practices is more apparent—to more people—than ever before.

Despite this the President of the National Coal Association, who has always claimed to support Federal legislation, now indicates that none is needed. Those who believe that the existence of an urgent need for coal will somehow forestall effective regulation of strip mining are whistling in the dark.

On numerous occasions, including the recent amendments to the Clean Air Act, Congress has shown that it understands the need for careful tradeoffs between energy needs and environmental concerns. But Congress is not prepared to sacrifice legitimate environmental goals.

Mr. President, Chairman JACKSON and I have agreed to make the Surface Mining Control and Reclamation Act of 1975 the first priority of the Committee on Interior and Insular Affairs during the 94th Congress. We intend to seek committee approval of the bill without amendment and report it back to the Senate as soon as possible. We will then seek its approval without amendment by the Senate. We see no need for hearings or intensive debate since this issue has been debated so long and so vigorously for the past 4 years, and it was only a month ago that the Senate approved the conference report and sent the bill to the President.

The leaders in the House committee, Representatives UDALL and MINK, have agreed to this approach so that Congress can once again place before the President a strong but balanced bill which hopefully he will approve. If he does not, the Congress will then have the opportunity to override his veto which we were regrettably denied last month.

Mr. President, I ask unanimous consent that a brief summary of the significant features of the bill together with a list of those organizations which support the conference report last year be included at the end of my remarks.

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

BRIEF SUMMARY OF SURFACE MINING CONTROL AND RECLAMATION ACT OF 1975

(1) *Environmental Standards.* The bill establishes the basic standard that lands may not be surface mined unless they can be reclaimed. It includes the following environmental protection standards: prevention of dumping spoil and overburden downslope in mountainous areas; a requirement that mine sites be regarded to approximate original contour, including backfilling the final cut to eliminate highwalls; revegetation measures to assure land stability and long-term productivity; and water protection standards directed at protection of water quantity and quality. The latter will be particularly significant in maintaining the delicate hydrologic relationships in the West and preventing acid mine drainage in the East. The environmental performance standards are not inflexible, however, as the bill provides for variances from these standards in order to allow certain planned postmining land uses.

(2) *State Responsibility.* The bill gives the principal responsibility for surface mining regulation to the States. The States are given thirty months to prepare adequate regulatory programs to meet the minimum standards in the Act. Federal funding is available to help the States prepare and enforce such programs.

(3) *Surface Impacts of Underground Mines.* The bill also treats surface impacts of underground mines such as those resulting from mine waste disposal. In particular, mine waste embankments are covered by rigorous engineering requirements, in order to prevent failures such as occurred at Buffalo Creek, where an embankment gave way resulting in the death of 125 persons.

(4) *Reclamation of Orphan Lands.* The bill establishes a reclamation program to repair past damages from both surface and underground coal mines in all regions of the country. In addition, assistance is provided for the construction of public facilities in order to ameliorate the impact of rapid coal development. For ten years, a reclamation fee of 35¢ per ton for surface mined coal and 25¢ per ton for underground mined coal, or 10% of the value of such coal, whichever is less, is assessed in order to provide for the reclamation program. At the present rate of production this amounts to approximately $165 million per year. One half of this money must be spent in the state in which it is collected.

(5) *State Mineral Institutes.* The bill also authorizes the Secretary of the Interior to establish state mining and mineral resources research institutes at State or other eligible universities. These institutes will perform research on mineral extraction and processing technologies, and train engineers and scientists to serve the needs of the nation's mining industry. This program should help to avoid future materials and personnel shortages.

(6) *Surface Owner Protection.* Special problems arise where coal deposits have been reserved to the United States but title to the surface has been conveyed to private individuals. The bill establishes as Federal coal leasing policy a requirement that the Secretary of the Interior not lease for surface mining without the consent of the surface owner, Federal coal deposits underlying land owned by a person who has his principal place of residence on the land, or personally farms or ranches the land affected by the mining operation, or receives directly a "significant portion" of his income from such farming. By so defining "surface owner", the bill should prevent speculators purchasing land only in the hope of reaping a windfall profit simply because Federal coal deposits lie underneath the land.

At the same time, so that there will not be any undue locking up of Federal coal, generous compensation is guaranteed to the surface owner, based not only upon the market value of the property of the land, but also the costs of dislocation and relocation, loss of income and other values and damages.

The procedure for obtaining surface owner consent is intended to assure that the surface owner will be dealing solely with the Secretary of the Interior in deciding whether or not to give his consent to surface coal mining. Penalties would be assessed to discourage the making of "side deals" in order to circumvent the provisions of the bill.

ORGANIZATIONS WHICH SUPPORTED CONFERENCE REPORT ON SURFACE MINING

AFL–CIO.
American League of Anglers.
Appalachian Coalition.
Consumer Federation of America.
Environmental Action.
Environmental Policy Center.
Friends of the Earth.
Izaak Walton League of America.
League of Women Voters.
National Association of Conservation Districts.
National Association of Wheatgrowers.
National Audubon Society.
National Farmers Organization.
National Farmers Union.
National Grange.
National Rural Electric Cooperative Association.
National Wildlife Federation.
Northern Plains Resource Council, Montana.
Powder River Basin Resource Council, Wyoming.
Public Citizens' Congress Watch.
Sierra Club.
Wilderness Society.
United Auto Workers.
United Mine Workers.

Mr. JACKSON. Mr. President, I am delighted to be the principal sponsor of the Surface Mining Control and Reclamation Act of 1975 (S. 7) introduced today.

Federal legislation to regulate surface coal mining is long overdue. The coal industry can afford the cost of reclaiming surface mined land. What it cannot afford is the continuing uncertainty created by failure to resolve this issue.

Last month, after 4 years of intensive congressional debate, Congress believed that it had resolved the surface mining issue by sending to the President a bill identical to S. 7. Unfortunately, the President vetoed that bill without even giving the Congress a chance to override the veto by returning it before adjournment.

As the junior Senator from Montana has already indicated, he and I intend to seek rapid enactment of S. 7. It achieves a balance between the need to protect the environment and the need to develop our coal resources to meet our national energy needs. We do not wish to reopen debate on the bill because this would almost inevitably lead to prolonged delay and could result in a substantially modified bill.

I was pleased that the President's State of the Union speech this afternoon indicated that the administration may be taking a more reasonable position now. President Ford indicated that with appropriate changes he would sign the bill. I look forward to seeing just what changes the administration feels are appropriate. I will make a judgment at that time as to whether any changes should be made in S. 7 or whether the Congress should simply enact it and override a Presidential veto if one is forthcoming.

The White House memorandum of disapproval of the bill overwhelmingly passed by the 93d Congress was not at all convincing. It relied heavily on highly questionable estimates of coal production losses.

In this regard, I would remind the Senate and the administration of the pledge I made to the President last December 17 to correct any unanticipated problems which may arise in implementation of the bill during the 2½-year period after its enactment before it comes into full force and effect. I will not be a party to weakening the bill because of vague fears about possible impacts at some time in the future.

By Mr. DOLE:

S. 8. A bill to designate November 11 of each year as Veterans Day and to make such day a legal public holiday. Referred to the Committee on the Judiciary.

VETERANS DAY

Mr. DOLE. Mr. President, I am introducing legislation to restore the special day for veterans to November 11. For many years, this tribute was paid on November 11, a day which is both unique in history and appropriate for honoring the Americans who have served in our armed services in defense of freedom around the world.

In the 93d Congress, I introduced this same bill and the Senate voted to return Veterans Day to its traditional date. The House did not act. This year, I hope we can pass this measure in ample time for the House to act.

November 11 was originally selected as Veterans Day because that date has special significance, not only for Americans but also for all citizens of the world, for it was on this day in 1918 that the

armistice was signed which ended World War I.

In 1971, the designation of Veterans Day was changed so that the legal holiday would fall on the fourth Monday of October. The date of November 11 was thus stripped of its officially sanctioned recognition and the celebration of Veterans Day lost significance in the eyes of many Americans.

The change in the legal designation cannot erase the significance of this date, nor can an extra 3-day weekend justify a reduction in this Nation's tribute and homage to the men and women who have given so much in their quest for world peace and freedom.

The original measure to establish Veterans Day was introduced by the Honorable Edward Rees of Emporia, Kans., who served the Fourth District of Kansas for 24 years in the Congress. In view of the distinguished service of Congressman Rees, the celebration of Veterans Day on November 11 has a special meaning and importance to the former servicemen of Kansas.

Since we in the Congress have taken the action to set aside a day in honor of veterans, we have the responsibility to be attentive to the preferences of veterans as to when their day should be celebrated.

STATE ACTIONS INDICATIVE

Currently, there are 41 States which celebrate Veterans Day on November 11. It is significant that 40 of these States have returned to the traditional date after a period of celebrating it on the fourth Monday of October in response to the Federal change as established by the Congress in 1968.

In the remaining 9 States which have not returned to the traditional date, there are several moves in progress to accomplish this. These efforts range from bills in State legislatures to memorial resolutions to the Congress.

So the preference of the vast majority of State governments has been made clear. I think this is mandate enough for the Congress to return Veterans Day to November 11.

VETERANS PREFERENCE

But the mandate is even stronger. The veterans population in the States celebrating on November 11 amounts to over 85 percent of the total living U.S. veterans. It is their actions which have caused 41 States to use the traditional date for honoring veterans. So the preference of the vast majority of veterans is clear, and we in the Senate should be responsive to this.

SENATE SUPPORTS

It is significant that six bills including my own were introduced in the 93d Congress to change Veterans Day back to November 11. I was pleased to see that almost the entire Veterans' Affairs Committee came out in support of a bill to accomplish this action.

ADMINISTRATION SUPPORT

There is also recognition and support from the Administration. When Mr. Richard Roudebush, who is now Administrator of the Veterans Administration, was still in the U.S. Congress, he offered an amendment to exempt Veterans Day from the "Monday holiday" law, and I supported that effort.

All of this support—from the States, veterans, and Senators—clearly shows the desire of the Nation. I think our actions here in the Senate should reflect that mandate.

Working men and women have chosen a day of their own—Labor Day. By the same token, veterans—who have given so much to preserve the things we cherish in this country—should have the same opportunity.

With these thoughts in mind, I urge that every effort be made to pass this legislation to reinstate the date of November 11 as Veterans Day. Passage of this legislation will again establish a legal holiday which represents American tradition and provides a unique and fitting day of recognition for American veterans.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD at this point.

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

S. 8

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, effective January 1, 1977, section 6103(a) of title 5, United States Code, is amended by striking out—

"Veterans Day, the fourth Monday in October." and inserting in lieu thereof—

"Veterans Day, November 11;".

By Mr. DOLE:

S. 9. A bill to extend the State and Local Fiscal Assistance Act of 1972 for 5 years. Referred to the Committee on Finance.

EXTENSION OF REVENUE SHARING ACT

Mr. DOLE. Mr. President, it is obvious that revenue sharing is a very successful, a very beneficial, and a very popular program. Because of the benefits, I introduce today this bill to extend the State and Local Fiscal Assistance Act, commonly known as the Revenue Sharing Act.

BALANCE OF GOVERNMENT

Revenue sharing has provided the beginning for a healthy trend toward a return of State and local governments to their more traditional roles in the solution of State and local problems. By so doing, revenue sharing helps keep our Federal spending in closer touch with reality. Rather than arbitrarily—and sometimes incorrectly—passing out Federal funds from a gigantic bureaucracy in Washington, the revenue sharing method of Federal funding permits local governments to determine how funds should be spent and to decide which projects need funding and which do not.

The exclusion of State and local officials from many programs usurped by Federal agencies has helped assure that priorities for funding were sometimes established in a vacuum. It has been wasteful and often counterproductive. Under revenue sharing local officials have had great flexibility and far greater input in determining which projects in their communities shall receive an allocation of our limited fiscal resources.

ANTI-INFLATIONARY

This bill, if enacted, will be useful in holding down inflation. By giving local government a greater hand in Federal spending, the people will have a better opportunity to hold down Government spending and to fight inflation. Revenue sharing takes expenditures out of the hands of Washington bureaucrats and puts them in the hands of local government, where they should be, so that ordinary people will have a better opportunity to take action in holding down inflationary Government spending.

It is significant that Governors, mayors, and elected officials in Kansas and many other States as well have heartily endorsed revenue sharing.

FACILITATE PLANNING

Another important asset of the Revenue Sharing Act has been that it facilitates forward planning by State and local governments on the funding available to them. It is precisely for this reason—the need for future planning—that I introduce this bill today. My bill would extend the Revenue Sharing Act for 5 years beyond its present expiration date of December 31, 1976. If we extend the Revenue Sharing Act for 5 years now, the long-range planning capabilities of State and local officials would be greatly enhanced.

At the same time, this extension would not be for such a long time that we might become locked in on a particular level of appropriation. My bill increases the level of appropriation for revenue sharing by $150 million for each fiscal year. At the end of 5 years, this level of appropriation could be modified as might be needed.

IMPROVEMENTS IMPORTANT

Numerous refinements and technical improvements have been proposed for the Revenue Sharing Act. My introduction of this bill in this form, ought not to imply that certain improvements are not needed or desirable. On the contrary, I feel that several improvements in the allocation formula and perhaps elsewhere, could be made and should be considered. But these changes would not represent essential modification of the program. They would be more in the nature of "fine-tuning" efforts.

Since the revenue-sharing formula is very complex, I would suggest that hearings and study are needed before any such changes are proposed. I believe that as the committee considers this extension proposal, it could at the same time study the recommendations that I, and many of my colleagues might propose to accomplish this "fine-tuning" I spoke of.

Mr. President, I ask unanimous consent that the text of the bill be printed at this point in the RECORD.

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

S. 9

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 105(b)(1) of the State and Local Fiscal Assistance Act of 1972 is amended by striking out "and" at the end of subparagraph (F), and by striking out subparagraph

(G) and inserting in lieu thereof the following:

"(G) for the period beginning July 1, 1976, and ending September 30, 1976, $1,662,500,000;

"(H) for the fiscal year beginning October 1, 1976, $6,650,000,000;

"(I) for the fiscal year beginning October 1, 1977, $6,800,000,000;

"(J) for the fiscal year beginning October 1, 1978, $6,950,000,000;

"(K) for the fiscal year beginning October 1, 1979, $7,100,000,000;

"(L) for the fiscal year beginning October 1, 1980, $7,250,000,000; and

"(M) for the period beginning October 1, 1981, and ending December 31, 1981, $1,850,000,000.".

(b) Section 105(b)(2) of such Act is amended by striking out "and" at the end of subparagraph (D), and by striking out subparagraph (E) and inserting in lieu thereof the following:

"(E) for the period beginning July 1, 1976, and ending September 30, 1976, $1,105,000;

"(F) for each of the fiscal years beginning October 1, 1976, October 1, 1977, October 1, 1978, October 1, 1979, and October 1, 1980, $4,780,000; and

"(G) for the period beginning October 1, 1981, and ending December 31, 1981, $1,195,000.".

SEC. 2. (a) Section 104(c) of the State and Local Fiscal Assistance Act of 1972 is amended by inserting after "6 months" the following: ", or one-fourth of such net revenues, in the case of an entitlement period of 3 months".

(b) Section 107(b)(5) of such Act is amended to read as follows:

"(5) SPECIAL RULE FOR PERIODS BEGINNING JULY 1, 1976, AND OCTOBER 1, 1981.—In the case of the entitlement periods beginning July 1, 1976, and ending September 30, 1976, and beginning October 1, 1981, and ending December 31, 1981, the aggregate amount taken into account under paragraph (1)(A) for the preceding entitlement period and the aggregate amount taken into account under paragraph (1)(B) shall be one-fourth of the amounts which (but for this paragraph) would be taken into account."

(c) Section 108(c)(1)(C) of such Act is amended by striking out "December 31, 1976" and inserting in lieu thereof "December 31, 1981".

(d) Section 141(b) of such Act is amended—

(1) by striking out "December 31, 1976" in paragraph (5) and inserting in lieu thereof "September 30, 1976"; and

(2) by adding at the end thereof the following:

"(6) The one-year periods beginning on October 1 of 1976, 1977, 1978, 1979, and 1980.

"(7) The period beginning October 1, 1981, and ending December 31, 1981.".

By Mr. RIBICOFF (for himself and Mr. WEICKER):

S. 10. A bill to amend section 5(a) of the Wild and Scenic Rivers Act. Referred to the Committee on Interior and Insular Affairs.

THE HOUSATONIC RIVER VALLEY

Mr. RIBICOFF. Mr. President, the Housatonic River Valley must be saved.

Many demographers and land use planners predict that Connecticut, now composed of urban, suburban, and rural areas, may be the first State to become one large city from border to border.

If this predicted growth is allowed to occur without sufficient controls, most of Connecticut's natural resources will disappear. In an attempt to avoid the destruction of the cultural and physical environment of the Connecticut River Valley, in 1969 I introduced legislation to create a Connecticut Historic Riverway. This measure has twice passed the Senate unanimously.

When no action was taken in the House of Representatives, a similar bill was introduced in, and passed by, the Connecticut General Assembly. As a result the towns in the lower Connecticut River Valley are working together to preserve and protect their historic and natural heritage.

During the last Congress I worked with citizens of the Shepaug River Valley—a tributary of the Housatonic River—on legislation to add it to the study list of the Wild and Scenic Rivers System. Because of strong public interest and overwhelming local support for the proposal, it was passed by the Congress and is now a public law.

The Connecticut and Shepaug Rivers are not the only rivers in my State in need of protection.

The Housatonic River, which flows from Massachusetts along the western edge of Connecticut, to Long Island Sound, is also seriously threatened by pollution and uncontrolled development. If we do not begin to reverse these destructive trends, in a short time the important natural resources of the Housatonic will be lost.

The towns along the upper Housatonic River Valley are living reminders of Connecticut's and the Nation's early years and should be preserved for future generations to enjoy. Beginning with a settlement by a group of Puritans at the river's mouth in 1639, a number of small towns developed along the valley. Within a few years settlements spread up the valley. In 1642 a trading post was established at the junction of the Housatonic and Naugatuck Rivers. New Milford was founded in 1707 and by the start of the Revolutionary War, Litchfield County was dotted with small villages and farms.

The first half of the 19th century saw a substantial increase in manufacturing activity in the valley. By 1842 trains were running all the way to Canaan on the Massachusetts border.

This initial burst of activity quickly changed direction. After the Civil War, industry began withdrawing from the upper valley and expanded in the lower valley. As a result of this and a steady decline in population, many villages and towns and much of the upper river's shoreline remain close to the condition which existed 100 years ago. Now is the time to begin to protect this entire area.

In some sections of America, preservation is a relatively easy task. In the Far West, for example, the land is lightly populated and often Government owned. The opposite situation prevails in New England. There most of the land is privately owned, often by descendants of the original settlers, and the local traditions are well established.

Because the Housatonic River flows across State lines and through many municipalities, no concerted effort has ever been made to preserve it. In fact, 11 towns share jurisdiction over the stretch of the river between the Massachusetts border and its confluence with the Shepaug River. These are Salisbury, North Canaan, Canaan, Sharon, Cornwall, Kent, Sherman, New Milford, Bridgewater, Brookfield, and Newton.

The State of Connecticut has established State parks and State forests in some sections, but has been unable to preserve the entire riverway. The Federal and State governments can serve as the catalyst for bringing all the diverse elements of the region together for one common purpose—the preservation of the cultural and physical environment of the upper Housatonic River Valley.

While developing my Connecticut historic riverway and Shepaug wild and scenic rivers legislation, I followed three basic rules. They are equally applicable to the Housatonic River Valley. First, do not rely solely on established Federal programs. Any new preservation effort should be geared to the nature of the resource to be preserved. It must reflect the needs and concerns of the local people themselves. Otherwise, progress is not possible. Second, insure that the local citizens have equal powers with Federal Government over the design, development, and operation of any program. Third, recognize that preservation takes time and that no program can or should be rushed through immediately.

I am today introducing legislation to add the Housatonic River between the Massachusetts border and the Shepaug River to the Wild and Scenic Rivers Act—Public Law 90-542. This act was designed to preserve close to their existing state certain rivers which possess remarkable scenic, recreational, geologic, fish and wildlife, historic, cultural, or similar values.

Under the Wild and Scenic Rivers Act, the river itself is protected by a prohibition against the construction of power dams and other encroachments. The land alongside the river is protected in three possible ways: first, complete public ownership; second, partial public ownership through acquisition of scenic or other easements, or third, local zoning ordinances.

When the legislation was passed in 1968, eight rivers were designated for immediate inclusion in the system and others were chosen for further study for possible future designation. This bill would add this section of the Housatonic River to those now being studied.

If approved by Congress, the Department of the Interior will then make a survey of the river to determine whether it should be designated for permanent inclusion in the wild and scenic rivers system.

Time is running out on many of our great natural resources, including the Housatonic River Valley. But those interested in preserving the valley, which lies on the edge of a rapidly urbanizing area, simply cannot wall out all future development.

What is needed is a vehicle to channel the inevitable forces of development in such a way as to protect the cultural and natural resources without disrupting the local economy and the residents' lifestyles.

I hope that in the months ahead Government officials, environmental orga-

nizations, and private citizens in northwestern Connecticut will study and comment on these proposals. We must begin a dialog directed toward saving this area before it is polluted by uncontrolled development.

I ask unanimous consent that the following be printed at this point in the RECORD:

One. The Text of S. 10;

Two. Public Law 90–542, the Wild and Scenic River Act;

Three. Guidelines for evaluating potential wild and scenic rivers; and

Four. A citizens' guide to the Wild and Scenic Rivers Act prepared by the Housatonic Valley Association.

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

S. 10

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 "Housatonic River Act of 1975."

Section 5(a) of the Wild and Scenic Rivers Act is amended by adding at the end thereof the following:

"Housatonic, Connecticut—The segment between the Massachusetts-Connecticut boundary and the confluence of Shepaug River."

[Public Law 90–542, 90th Congress, S. 119, Oct. 2, 1968]

An act to provide for a National Wild and Scenic Rivers System, and for other purposes

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 "Wild and Scenic Rivers Act".

(b) It is hereby declared to be the policy of the United States that certain selected rivers of the Nation which, with their immediate environments, possess outstandingly remarkable scenic, recreational, geologic, fish and wildlife, historic, cultural, or other similar values, shall be preserved in free-flowing condition, and that they and their immediate environments shall be protected for the benefit and enjoyment of present and future generations. The Congress declares that the established national policy of dam and other construction at appropriate sections of the rivers of the United States needs to be complemented by a policy that would preserve other selected rivers or sections thereof in their free-flowing condition to protect the water quality of such rivers and to fulfill other vital national conservation purposes.

(c) The purpose of this Act is to implement this policy by instituting a national wild and scenic rivers system, by designating the initial components of that system, and by prescribing the methods by which and standards according to which additional components may be added to the system from time to time.

SEC. 2. (a) The national wild and scenic rivers system shall comprise rivers (i) that are authorized for inclusion therein by Act of Congress, or (ii) that are designated as wild, scenic or recreational rivers by or pursuant to an act of the legislature of the State or States through which they flow, that are to be permanently administered as wild, scenic or recreational rivers by an agency or political subdivision of the State or States concerned without expense to the United States, that are found by the Secretary of the Interior, upon application of the Governor of the State or the Governors of the States concerned, or a person or persons thereunto duly appointed by him or them, to meet the criteria established in this Act and such criteria supplementary thereto as he may prescribe, and that are approved by him for inclusion in the system, including, upon application of the Governor of the State concerned, the Allagash Wilderness Waterway, Maine, and the segment of the Wolf River, Wisconsin, which flows through Langlade County.

(b) A wild, scenic or recreational river area eligible to be included in the system is a free-flowing stream and the related adjacent land area that possesses one or more of the values referred to in section 1, subsection (b) of this Act. Every wild, scenic or recreational river in its free-flowing condition, or upon restoration to this condition, shall be considered eligible for inclusion in the national wild and scenic rivers system and, if included, shall be classified, designated, and administered as one of the following:

(1) Wild river areas—Those rivers or sections of rivers that are free of impoundments and generally inaccessible except by trail, with watersheds or shorelines essentially primitive and waters unpolluted. These represent vestiges of primitive America.

(2) Scenic river areas—Those rivers or sections of rivers that are free of impoundments, with shorelines or watersheds still largely primitive and shorelines largely undeveloped, but accessible in places by roads.

(3) Recreational river areas—Those rivers or sections of rivers that are readily accessible by road or railroad, that may have some development along their shorelines, and that may have undergone some impoundment or diversion in the past.

SEC. 3 (a) The following rivers and the land adjacent thereto are hereby designated as components of the national wild and scenic rivers system:

(1) CLEARWATER, MIDDLE FORK, IDAHO.—

(2) ELEVEN POINT, MISSOURI.—

(3) FEATHER, CALIFORNIA.—

(4) RIO GRANDE, NEW MEXICO.—The segment extending from the Colorado State line downstream to the State Highway 96 crossing, and the lower four miles of the Red River, to be administered by the Secretary of the Interior.

(5) ROGUE, OREGON.—The segment of the river extending from the mouth of the Applegate River downstream to the Lobster Creek Bridge; to be administered by agencies of the Departments of the Interior or Agriculture as agreed upon by the Secretaries of said Departments or as directed by the President.

(6) SAINT CROIX, MINNESOTA AND WISCONSIN.—The segment between the dam near Taylors Falls, Minnesota, and the dam near Gordon, Wisconsin, and its tributary, the Namekagon from Lake Namekagon downstream to its confluence with the Saint Croix; to be administered by the Secretary of the Interior: *Provided,* That except as may be required in connection with items (a) and (b) of this paragraph, no funds available to carry out the provisions of this Act may be expended for the acquisition or development of lands in connection with, or for administration under this Act of, that portion of the Saint Croix River between the dam near Taylors Falls, Minnesota, and the upstream end of Big Island in Wisconsin, until sixty days after the date on which the Secretary has transmitted to the President of the Senate and Speaker of the House of Representatives a proposed cooperative agreement between the Northern States Power Company and the United States (a) whereby the company agrees to convey to the United States, without charge, appropriate interests in certain of its lands between the dam near Taylors Falls, Minnesota, and the upstream end of Big Island in Wisconsin, including the company's right, title, and interest to approximately one hundred acres per mile, and (b) providing for the use and development of other lands and interests in land retained by the company between said points adjacent to the river in a manner which shall complement and not be inconsistent with the purposes for which the lands and interests in land donated by the company and administered under this Act. Said agreement may also include provision for State or local governmental participation as authorized under subsection (e) of section 10 of this Act.

(7) SALMON, MIDDLE FORK, IDAHO.—From its origin to its confluence with the main Salmon River, to be administered by the Secretary of Agriculture.

(8) WOLF, WISCONSIN.—From the Langlade-Menominee County line downstream to Keshena Falls; to be administered by the Secretary of the Interior.

(b) The agency charged with the administration of each component of the national wild and scenic rivers system designated by subsection (a) of this section shall, within one year from the date of this Act, establish detailed boundaries therefor (which boundaries shall include an average of not more than three hundred and twenty acres per mile on both sides of the river); determine which of the classes outlined in section 2, subsection (b), of this Act best fit the river or its various segments; and prepare a plan for necessary developments in connection with its administration in accordance with such classification. Said boundaries, classification, and development plans shall be published in the Federal Register and shall not become effective until ninety days after they have been forwarded to the President of the Senate and the Speaker of the House of Representatives.

SEC. 4. (a) The Secretary of the Interior or, where national forest lands are involved, the Secretary of Agriculture or, in appropriate cases, the two Secretaries jointly shall study and from time to time submit to the President and the Congress proposals for the addition to the national wild and scenic rivers system of rivers which are designated herein or hereafter by the Congress as potential additions to such system; which, in his or their judgment, fall within one or more of the classes set out in section 2, subsection (b), of this Act; and which are proposed to be administered, wholly or partially, by an agency of the United States. Every such study and plan shall be coordinated with any water resources planning involving the same river which is being conducted pursuant to the Water Resources Planning Act (79 Stat. 244; 42 U.S.C. 1962 et seq.).

Each proposal shall be accompanied by a report, including maps and illustrations, showing among other things the area included within the proposal; the characteristics which make the area a worthy addition to the system; the current status of land-ownership and use in the area; the reasonably foreseeable potential uses of the land and water which would be enhanced, foreclosed, or curtailed if the area were included in the national wild and scenic rivers system; the Federal agency (which in the case of a river which is wholly or substantially within a national forest, shall be the Department of Agriculture) by which it is proposed the area be administered; the extent to which it is proposed that administration, including the costs thereof, be shared by State and local agencies; and the estimated cost to the United States of acquiring necessary lands and interstate in land and of administering the areas as a component of the system. Each such report shall be printed as a Senate or House document.

(b) Before submitting any such report to the President and the Congress, copies of the proposed report shall, unless it was prepared jointly by the Secretary of the Interior and the Secretary of Agriculture, be submitted by the Secretary of the Interior to the Secretary of Agriculture or by the Secretary of Agriculture to the Secretary of the Interior, as the case may be, and to the Secretary of

the Army, the Chairman of the Federal Power Commission, the head of any other affected Federal department or agency and, unless the lands proposed to be included in the area are already owned by the United States or have already been authorized for acquisition by Act of Congress, the Governor of the State or States in which they are located or an officer designated by the Governor to receive the same. Any recommendations or comments on the proposal which the said officials furnish the Secretary or Secretaries who prepared the report within ninety days of the date on which the report is submitted to them, together with the Secretary's or Secretaries' comments thereon, shall be included with the transmittal to the President and the Congress. No river or portion of any river shall be added to the national wild and scenic rivers system subsequent to enactment of this Act until the close of the next full session of the State legislature, or legislatures in case more than one State is involved, which begins following the submission of any recommendation to the President with respect to such addition as herein provided.

(c) Before approving or disapproving for inclusion in the national wild and scenic rivers system any river designated as a wild, scenic or recreational river by or pursuant to an act of a State legislature, the Secretary of the Interior shall submit the proposal to the Secretary of Agriculture, the Secretary of the Army, the Chairman of the Federal Power Commission, and the head of any other affected Federal department or agency and shall evaluate and give due weight to any recommendations or comments which the said officials furnish him within ninety days of the date on which it is submitted to them. If he approves the proposed inclusion, he shall publish notice thereof in the Federal Register.

SEC. 5. (a) The following rivers are hereby designated for potential addition to the national wild and scenic rivers system:

(1) Allegheny, Pennsylvania: The segment from its mouth to the town of East Brady, Pennsylvania.

(2) Bruneau, Idaho: The entire main stem.

(3) Buffalo, Tennessee: The entire river.

(4) Chattooga, North Carolina, South Carolina, and Georgia: The entire river.

(5) Clarion, Pennsylvania: The segment between Ridgway and its confluence with the Allegheny River.

(6) Delaware, Pennsylvania and New York: The segment from Hancock, New York, to Matamoras, Pennsylvania.

(7) Flathead, Montana: The North Fork from the Canadian border downstream to its confluence with the Middle Fork; the Middle Fork from its headwaters to its confluence with the South Fork; and the South Fork from its origin to Hungry Horse Reservoir.

(8) Gasconada, Missouri: The entire river.

(9) Illinois, Oregon: The entire river.

(10) Little Beaver, Ohio: The segment of the North and Middle Forks of the Little Beaver River in Columbiana County from a point in the vicinity of Negly and Elkton, Ohio, downstream to a point in the vicinty of East Liverpool, Ohio.

(11) Little Miami, Ohio: That segment of the main stem of the river, exclusive of its tributaries from a point at the Warren-Clermont County line at Loveland, Ohio, upstream to the sources of Little Miami including North Fork.

(12) Maumee, Ohio and Indiana: The main stem from Perrysburg, Ohio, to Fort Wayne, Indiana, exclusive of its tributaries in Ohio and inclusive of its tributaries in Indiana.

(13) Missouri, Montana: The segment between Fort Benton and Ryan Island.

(14) Moyie, Idaho: The segment from the Canadian border to its confluence with the Kootenai River.

(15) Obed, Tennessee: The entire river and its tributaries, Clear Creek and Daddys Creek.

(16) Penobscot, Maine: Its east and west branches.

(17) Pere Marquette, Michigan: The entire river.

(18) Pine Creek, Pennsylvania: The segment from Ansonia to Waterville.

(19) Prise, Idaho: The entire main stem.

(20) Rio Grande, Texas: The portion of the river between the west boundary of Hudspeth County and the east boundary of Terrell County on the United States side of the river: *Provided*, That before undertaking any study of this potential scenic river, the Secretary of the Interior shall determine, through the channels of appropriate executive agencies, that Mexico has no objection to its being included among the studies authorized by this Act.

(21) Saint Croix, Minnesota and Wisconsin: The segment between the dam near Taylors Falls and its confluence with the Mississippi River.

(22) Saint Joe, Idaho: The entire main stem.

(23) Salmon, Idaho: The segment from the town of North Fork to its confluence with the Snake River.

(24) Skagit, Washington: The segment from the town of Mount Vernon to and including the mouth of Bacon Creek; the Cascade River between its mouth and the junction of its North and South Forks; the South Fork to the boundary of the Glacier Peak Wilderness Area; the Suiattle River from its mouth to the Glacier Peak Wilderness Area boundary at Milk Creek; the Sauk River from its mouth to its junction with Elliott Creek; the North Fork of the Sauk River from its junction with the South Fork of the Sauk to the Glacier Peak Wilderness Area boundary.

(25) Suwannee, Georgia and Florida: The entire river from its source in the Okefenokee Swamp in Georgia to the gulf and the outlying Ichetucknee Springs, Florida.

(26) Upper Iowa, Iowa: The entire river.

(27) Youghiogheny, Maryland and Pennsylvania: The segment from Oakland, Maryland, to the Youghiogheny Reservoir, and from the Youghiogheny Dam downstream to the town of Connellsville, Pennsylvania.

(b) The Secretary of the Interior and, where national forest lands are involved, the Secretary of Agriculture, shall proceed as expeditiously as possible to study each of the rivers named in subsection (a) of this section in order to determine whether it should be included in the national wild and scenic rivers system. Such studies shall be completed and reports made thereon to the President and the Congress, as provided in section 4 of this Act, within ten years from the date of this Act: *Provided, however*, That with respect to the Suwannee River, Georgia and Florida, and the Upper Iowa River, Iowa, such study shall be completed and reports made thereon to the President and the Congress, as provided in section 4 of this Act, within two years from the date of enactment of this Act. In conducting these studies the Secretary of the Interior and the Secretary of Agriculture shall give priority to those rivers with respect to which there is the greatest likelihood of developments which, if undertaken, would render them unsuitable for inclusion in the national wild and scenic rivers system.

(c) The study of any of said rivers shall be pursued in as close cooperation with appropriate agencies of the affected State and its political subdivisions as possible, shall be carried on jointly with such agencies if request for such joint study is made by the State, and shall include a determination of the degree to which the State or its political subdivisions might participate in the preservation and administration of the river should it be proposed for inclusion in the national wild and scenic rivers system.

(d) In all planning for the use and development of water and related land resources, consideration shall be given by all Federal agencies involved to potential national wild, scenic and recreational river areas, and all river basin and project plan reports submitted to the Congress shall consider and discuss any such potentials. The Secretary of the Interior and the Secretary of Agriculture shall make specific studies and investigations to determine which additional wild, scenic and recreational river areas within the United States shall be evaluated in planning reports by all Federal agencies as potential alternative uses of the water and related land resources involved.

SEC. 6. (a) The Secretary of the Interior and the Secretary of Agriculture are each authorized to acquire lands and interests in land within the authorized boundaries of any component of the national wild and scenic rivers system designated in section 3 of this Act, or hereafter designated for inclusion in the system by Act of Congress, which is administered by him, but he shall not acquire fee title to an average of more than 100 acres per mile on both sides of the river. Lands owned by a State may be acquired only by donation, and lands owned by an Indian tribe or a political subdivision of a State may not be required without the consent of the appropriate governing body thereof as long as the Indian tribe or political subdivision is following a plan for management and protection of the lands which the Secretary finds protects the land and assures its use for purposes consistent with this Act. Money appropriated for Federal purposes from the land and water conservation fund shall, without prejudice to the use of appropriations from other sources, be available to Federal departments and agencies for the acquisition of property for the purposes of this Act.

(b) If 50 per centum or more of the entire acreage within a federally administered wild, scenic or recreational river area is owned by the United States, by the State or States within which it lies, or by political subdivision of those States, neither Secretary shall acquire fee title to any lands by condemnation under authority of this Act. Nothing contained in this section, however, shall preclude the use of condemnation when necessary to clear title or to acquire scenic easements or such other easements as are reasonably necessary to give the public access to the river and to permit its members to traverse the length of the area or of selected segments thereof.

(c) Neither the Secretary of the Interior nor the Secretary of Agriculture may acquire lands by condemnation, for the purpose of including such lands in any national wild, scenic or recreational river area, if such lands are located within any incorporated city, village, or borough which has in force and applicable to such lands a duly adopted, valid zoning ordinance that conforms with the purposes of this Act. In order to carry out the provisions of this subsection the appropriate Secretary shall issue guidelines, specifying standards for local zoning ordinances, which are consistent with the purposes of this Act. The standards specified in such guidelines shall have the object of (A) prohibiting new commercial or industrial uses other than commercial or industrial uses which are consistent with the purposes of this act, and (B) the protection of the bank lands by means of acreage, frontage, and setback requirements on development.

(d) The appropriate Secretary is authorized to accept title to non-Federal property within the authorized boundaries of any federally administered component of the national wild and scenic rivers system designated in section 3 of this Act or hereafter designated for inclusion in the system by Act of Congress and, in exchange therefor, convey to the grantor any federally owned property which is under his jurisdiction with-

in the State in which the component lies and which he classifies as suitable for exchange or other disposal. The values of the properties so exchanged either shall be approximately equal or, if they are not approximately equal, shall be equalized by the payment of cash to the grantor or to the Secretary as the circumstances require.

(e) The head of any Federal department or agency having administrative jurisdiction over any lands or interests in land within the authorized boundaries of any federally administered component of the national wild and scenic rivers system designated in section 3 of this Act or hereafter designated for inclusion in the system by Act of Congress is authorized to transfer to the appropriate secretary jurisdiction over such lands for administration in accordance with the provisions of this Act. Lands acquired by or transferred to the Secretary of Agriculture for the purposes of this Act within or adjacent to a national forest shall upon such acquisition or transfer become national forest lands.

(f) The appropriate Secretary is authorized to accept donations of lands and interests in lands, funds, and other property for use in connection with his administration of the national wild and scenic rivers system.

(g)(1) Any owner or owners (hereinafter in this subsection referred to as "owner") of improved property on the date of its acquisition, may retain for themselves and their successors or assigns a right of use and occupancy of the improved property for noncommercial residential purposes for a definite term not to exceed twenty-five years or, in lieu thereof, for a term ending at the death of the owner, or the death of his spouse, or the death of either or both of them. The owner shall elect the term to be reserved. The appropriate Secretary shall pay to the owner the fair market value of the property on the date of such acquisition less the fair market value on such date of the right retained by the owner.

(2) A right of use and occupancy retained pursuant to this subsection shall be subject to termination whenever the appropriate Secretary is given reasonable cause to find that such use and occupancy is being exercised in a manner which conflicts with the purposes of this Act. In the event of such a finding, the Secretary shall tender to the holder of that right an amount equal to the fair market value of that portion of the right which remains unexpired on the date of termination. Such right of use or occupancy shall terminate by operation of law upon tender of the fair market price.

(3) The term "improved property", as used in this Act, means a detached, one-family dwelling (hereinafter referred to as "dwelling"), the construction of which was begun before, January 1, 1967, together with so much of the land on which the dwelling is situated, and said land being in the same ownership as the dwelling, as the appropriate Secretary shall designate to be reasonable necessary for the enjoyment of the dwelling for the sale purpose of noncommercial residential use, together with any structures accessory to the dwelling which are situated on the land so designated.

SEC. 7. (a) The Federal Power Commission shall not license the construction of any dam, water conduit, reservoir, powerhouse, transmission line, or other project works under the Federal Power Act (41 Stat. 1063), as amended (16 U.S.C. 791a et seq.), on or directly affecting any river which is designated in section 3 of this Act as a component of the national wild and scenic rivers system or which is hereafter designated for inclusion in that system, and no department or agency of the United States shall assist by loan, grant, license, or otherwise in the construction of any water resources project that would have a direct and adverse effect on the values for which such river was established, as determined by the Secretary charged with its administration. Nothing contained in the foregoing sentence, however, shall preclude licensing of, or assistance to, developments below or above a wild, scenic or recreational river area or on any stream tributary thereto which will not invade the area or unreasonably diminish the scenic, recreational, and fish and wildlife values present in the area on the date of approval of this Act. No department or agency of the United States shall recommend authorization of any water resources project that would have a direct and adverse effect on the values for which such river was established, as determined by the Secretary charged with its administration, or request appropriations to begin construction of any such project, whether heretofore or hereafter authorized, without advising the Secretary of the Interior or the Secretary of Agriculture, as the case may be, in writing of its intention so to do at least sixty days in advance, and without specifically reporting to the Congress in writing at the time it makes its recommendation or request in what respect construction of such project would be in conflict with the purpose of this Act and would affect the component and the values to be protected by it under this Act.

(b) The Federal Power Commission shall not license the construction of any dam, water conduit, reservoir, powerhouse, transmission line, or other project works under the Federal Power Act, as amended, on or directly affecting any river which is listed in section 5, subsection (a), of this Act, and no department or agency of the United States shall assist by loan, grant, license, or otherwise in the construction of any water resources project that would have a direct and adverse effect on the values for which such river might be designated, as determined by the Secretary responsible for its study or approval—

(i) during the five-year period following enactment of this Act unless, prior to the expiration of said period, the Secretary of the Interior and, where national forest lands are involved, the Secretary of Agriculture, on the basis of study, conclude that such river should not be included in the national wild and scenic rivers system and publish notice to that effect in the Federal Register, and

(ii) during such additional period thereafter, as, in the case of any river which is recommended to the President and the Congress for inclusion in the national wild and scenic rivers system, is necessary for congressional consideration thereof or, in the case of any river recommended to the Secretary of the Interior for inclusion in the national wild and scenic rivers system under section (2)(a)(ii) of this Act, is necessary for the Secretary's consideration thereof, which additional period, however, shall not exceed three years in the first case and one year in the second.

Nothing contained in the foregoing sentence, however, shall preclude licensing of, or assistance to, developments below or above a potential wild, scenic or recreational river area or on any stream tributary thereto which will not invade the area or diminish the scenic, recreational, and fish and wildlife values present in the potential wild, scenic or recreational river area on the date of approval of this Act. No department or agency of the United States shall, during the periods hereinbefore specified, recommend authorization of any water resources project on any such river or request appropriations to begin construction of any such project, whether heretofore or hereafter authorized, without advising the Secretary of the Interior and, where national forest lands are involved, the Secretary of Agriculture in writing of its intention so to do at least sixty days in advance of doing so and without specifically reporting to the Congress in writing at the time it makes its recommendation or request in what respect construction of such project would be in conflict with the purposes of this Act and would affect the component and the values to be protected by it under this Act.

(c) The Federal Power Commission and all other Federal agencies shall, promptly upon enactment of this Act, inform the Secretary of the Interior and, where national forest lands are involved, the Secretary of Agriculture, of any proceedings, studies, or other activities within their jurisdiction which are now in progress and which affect or may affect any of the rivers specified in section 5, subsection (a), of this Act. They shall likewise inform him of any such proceedings, studies, or other activities which are hereafter commenced or resumed before they are commenced or resumed.

(d) Nothing in this section with respect to the making of a loan or grant shall apply to grants made under the Land and Water Conservation Fund Act of 1965 (78 Stat. 897; 16 U.S.C. 4601-5 et seq.).

SEC. 8. (a) All public lands within the authorized boundaries of any components of the national wild and scenic rivers system which is designated in section 3 of this Act or which is hereafter designated for inclusion in that system are hereby withdrawn from entry, sale, or other disposition under the public land laws of the United States.

(b) All public lands which constitute the bed or bank, or are within one-quarter mile of the bank, of any river which is listed in section 5, subsection (a), of this Act are hereby withdrawn from entry, sale, or other disposition under the public land laws of the United States for the periods specified in section 7, subsection (b), of this Act.

SEC. 9. (a) Nothing in this Act shall affect the applicability of the United States mining and mineral leasing laws within components of the national wild and scenic rivers system except that—

(i) all prospecting, mining operations, and other activities on mining claims which, in the case of a component of the system designated in section 3 of this Act, have not heretofore been perfected or which, in the case of a component hereafter designated pursuant to this Act or any other Act of Congress, are not perfected before its inclusion in the system and all mining operations and other activities under a mineral lease, license, or permit issued or renewed after inclusion of a component in the system shall be subject to such regulations as the Secretary of the Interior or, in the case of national forest lands, the Secretary of Agriculture may prescribe to effectuate the purposes of this Act;

(ii) subject to valid existing rights, the perfection of, or issuance of a patent to, any mining claim affecting lands within the system shall confer or convey a right or title only to the mineral deposits and such rights only to the use of the surface and the surface resources as are reasonably required to carrying on prospecting or mining operations and are consistent with such regulations as may be prescribed by the Secretary of the Interior or in the case of national forest lands, by the Secretary of Agriculture, and

(iii) subject to valid existing rights, the minerals in Federal lands which are part of the system and constitute the bed or bank or are situated within one-quarter mile of the bank of any river designated a wild river under this Act or any subsequent Act are hereby withdrawn from all forms of appropriation under the mining laws and from operation of the mineral leasing laws including, in both cases, amendments thereto.

Regulations issued pursuant to paragraphs (i) and (ii) of this subsection shall, among other things, provide safeguards against pollution of the river involved and unnecessary impairment of the scenery within the component in question.

(b) The minerals in any Federal lands which constitute the bed or bank or are situated within one-quarter mile of the bank

of any river which is listed in section 5, subsection (a), of this Act are hereby withdrawn from all forms of appropriation under the mining laws during the periods specified in section 7, subsection (b) of this Act. Nothing contained in this subsection shall be construed to forbid prospecting or the issuance of leases, licenses, and permits under the mineral leasing laws subject to such conditions as the Secretary of the Interior and, in the case of national forest lands, the Secretary of Agriculture find appropriate to safeguard the area in the event it is subsequently included in the system.

SEC. 10. (a) Each component of the national wild and scenic rivers system shall be administered in such manner as to protect and enhance the values which caused it to be included in said system without, insofar as is consistent therewith, limiting other uses that do not substantially interfere with public use and enjoyment of these values. In such administration primary emphasis shall be given to protecting its esthetic, scenic, historic, archeologic, and scientific features. Management plans for any such component may establish varying degrees of intensity for its protection and development, based on the special attributes of the area.

(b) Any portion of a component of the national wild and scenic rivers system that is within the national wilderness preservation system, as established by or pursuant to the Act of September 3, 1964 (78 Stat. 890; 16 U.S.C., ch. 23), shall be subject to the provisions of both the Wilderness Act and this Act with respect to preservation of such river and its immediate environment, and in case of conflict between the provisions of these Acts the more restrictive provisions shall apply.

(c) Any component of the national wild and scenic rivers system that is administered by the Secretary of the Interior through the National Park Service shall become a part of the national park system, and any such component that is administered by the Secretary through the Fish and Wildlife Service shall become a part of the national wildlife refuge system. The lands involved shall be subject to the provisions of this Act and the Acts under which the national park system or national wildlife system, as the case may be is administered, and in case of conflict between the provisions of these Acts, the more restrictive provisions shall apply. The Secretary of the Interior in his administration of any component of the national wild and scenic rivers system, may utilize such general statutory authorities relating to areas of the national park system and such general statutory authorities otherwise available to him for recreation and preservation purposes and for the conservation and management of natural resources as he deems appropriate to carry out the purposes of this Act.

(d) The Secretary of Agriculture, in his administration of any component of the national wild and scenic rivers system area, may utilize the general statutory authorities relating to the national forests in such manner as he deems appropriate to carry out the purposes of this Act.

(e) The Federal agency charged with the administration of any component of the national wild and scenic rivers system may enter into written cooperative agreements with the Governor of a State, the head of any State agency, or the appropriate official of a political subdivision of a State for State or local governmental participation in the administration of the component. The States and their political subdivisions shall be encouraged to cooperate in the planning and administration of components of the system which include or adjoin State- or county-owned lands.

SEC. 11. (a) The Secretary of the Interior shall encourage and assist the States to consider, in formulating and carrying out their comprehensive statewide outdoor recreation plans and proposals for financing assistance for State and local projects submitted pursuant to the Land and Water Conservation Fund Act of 1965 (78 Stat. 897), needs and opportunities for establishing State and local wild, scenic and recreational river areas. He shall also, in accordance with the authority contained in the Act of May 28, 1963 (77 Stat. 49), provide technical assistance and advice to, and cooperate with, States, political subdivisions, and private interests, including nonprofit organizations, with respect to establishing such wild, scenic and recreational river areas.

(b) The Secretaries of Agriculture and of Health, Education, and Welfare shall likewise in accordance with the authority vested in them, assist, advise, and cooperate with State and local agencies and private interests with respect to establishing such wild, scenic and recreational river areas.

SEC. 12. (a) The Secretary of the Interior, the Secretary of Agriculture and heads of other Federal agencies shall review administrative and management policies, regulations, contracts, and plans affecting lands under their respective jurisdictions which include, border upon, or are adjacent to the rivers listed in subsection (a) of section 5 of this Act in order to determine what actions should be taken to protect such rivers during the period they are being considered for potential addition to the national wild and scenic rivers system. Particular attention shall be given to scheduled timber harvesting, road construction, and similar activities which might be contrary to the purposes of this Act.

(b) Nothing in this section shall be construed to abrogate any existing rights, privileges, or contracts affecting Federal lands held by any private party without the consent of said party.

(c) The head of any agency administering a component of the national wild and scenic rivers system shall cooperate with the Secretary of the Interior and with the appropriate State water pollution control agencies for the purpose of eliminating or diminishing the pollution of waters of the river.

SEC. 13. (a) Nothing in this Act shall affect the jurisdiction or responsibilities of the States with respect to fish and wildlife. Hunting and fishing shall be permitted on lands and waters administered as parts of the system under applicable State and Federal laws and regulations unless, in the case of hunting, those lands or waters are within a national park or monument. The administering Secretary may, however, designate zones where, and establish periods when, no hunting is permitted for reasons of public safety, administration, or public use and enjoyment and shall issue appropriate regulations after consultation with the wildlife agency of the State or States affected.

(b) The jurisdiction of the States and the United States over waters of any stream included in a national wild, scenic or recreational river area shall be determined by established principles of law. Under the provisions of this Act, any taking by the United States of a water right which is vested under either State or Federal law at the time such river is included in the national wild and scenic rivers system shall entitle the owner thereof to just compensation. Nothing in this Act shall constitute an express or implied claim or denial on the part of the Federal Government as to exemption from State water laws.

(c) Designation of any stream or portion thereof as a national wild, scenic or recreational river area shall not be construed as a reservation of the waters of such streams for purposes other than those specified in this Act, or in quantities greater than necessary to accomplish these purposes.

(d) The jurisdiction of the States over waters of any stream included in a national wild, scenic or recreational river area shall be unaffected by this Act to the extent that such jurisdiction may be exercised without impairing the purposes of this Act or its administration.

(e) Nothing contained in this Act shall be construed to alter, amend, repeal, interpret, modify, or be in conflict with any interstate compact made by any States which contain any portion of the national wild and scenic rivers system.

(f) Nothing in this Act shall affect existing rights of any State, including the right of access, with respect to the beds of navigable streams, tributaries, or rivers (or segments thereof) located in a national wild, scenic or recreational river area.

(g) The Secretary of the Interior or the Secretary of Agriculture, as the case may be, may grant easements and rights-of-way upon, over, under, across, or through any component of the national wild and scenic rivers system in accordance with the laws applicable to the national park system and the national forest system, respectively: *Provided*, That any conditions precedent to granting such easements and rights-of-way shall be related to the policy and purpose of this Act.

SEC. 14. The claim and allowance of the value of an easement as a charitable contribution under section 170 of title 26, United States Code, or as a gift under section 2522 of said title shall constitute an agreement by the donor on behalf of himself, his heirs, and assigns that, if the terms of the instrument creating the easement are violated, the donee or the United States may acquire the servient estate at its fair market value as of the time the easement was donated minus the value of the easement claimed and allowed as a charitable contribution or gift.

SEC. 15. As used in this Act, the term—

(a) "River" means a flowing body of water or estuary or a section, portion, or tributary thereof, including rivers, streams, creeks, runs, kills, rills, and small lakes.

(b) "Free-flowing", as applied to any river or section of a river, means existing or flowing in natural condition without impoundment, diversion, straightening, rip-rapping, or other modification of the waterway. The existence, however, of low dams, diversion works, and other minor structures at the time any river is proposed for inclusion in the national wild and scenic rivers system shall not automatically bar its consideration for such inclusion: *Provided*, That this shall not be construed to authorize, intend, or encourage future construction of such structures within components of the national wild and scenic rivers system.

(c) "Scenic easement" means the right to control the use of land (including the air space above such land) for the purpose of protecting the scenic view from the river, but such control shall not affect, without the owner's consent, any regular use exercised prior to the acquisition of the easement.

SEC. 16. There are hereby authorized to be appropriated such sums as may be necessary, but not more than $17,000,000, for the acquisition of lands and interests in land under the provisions of this Act.

Approved October 2, 1968.

GUIDELINES FOR EVALUATING WILD, SCENIC AND RECREATIONAL RIVER AREAS PROPOSED FOR INCLUSION IN THE NATIONAL WILD AND SCENIC RIVERS SYSTEM UNDER SECTION 2, PUBLIC LAW 90-542

FEBRUARY 1970

PURPOSE

The following criteria supplement those listed in section 2 of the Wild and Scenic Rivers Act, which states that rivers included in the National Wild and Scenic Rivers System shall be free-flowing streams which possess outstandingly remarkable scenic, recrea-

tional, geological, fish and wildlife, historic, cultural and other similar values.

These guidelines are intended to define minimum criteria for the classification and management of free-flowing river areas proposed for inclusion in the national system by the Secretary of the Interior or the Secretary of Agriculture, and for State rivers included in the system by the Secretary of the Interior.

In reading these guidelines and in applying them to real situations of land and water it is important to bear one important qualification in mind. There is no way for these statements of criteria to be written so as to mechanically or automatically indicate which rivers are eligible and what class they must be. It is important to understand each criterion; but it is perhaps even more important to understand their *collective* intent. The investigator has to exercise his judgment, not only on the specific criteria as they apply to a particular river, but on the river as a whole, and on their relative weights. For this reason, these guidelines are not absolutes. There may be extenuating circumstances which would lead the appropriate Secretary to recommend, or approve pursuant to Section 2 (a) (ii), a river area for inclusion in the system because it is exceptional in character and outstandingly remarkable even though it does not meet each of the criteria set forth in these guidelines. However, exceptions to these criteria should be recognized only in rare instances and for compelling reasons.

The three classes of river areas described in Section 2(b) of the Wild and Scenic Rivers Act are as follows:

"(1) Wild river areas—Those rivers or sections of rivers that are free of impoundments and generally inaccessible except by trail, with watersheds or shorelines essentially primitive and waters unpolluted. These represent vestiges of primitive America.

"(2) Scenic river areas—Those rivers or sections of rivers that are free of impoundments, with shorelines or watersheds still largely primitive and shorelines largely undeveloped, but accessible in places by roads.

"(3) Recreational river areas—Those rivers or sections of rivers that are readily accessible by road or railroad, that may have some development along their shorelines, and that may have undergone some impoundment or diversion in the past."

GENERAL CHARACTERISTICS

The Wild and Scenic Rivers Act, Section 10(a), states that, "Each component of the national wild and scenic rivers system shall be administered in such manner as to protect and enhance the values which caused it to be included in said system without, insofar as is consistent therewith, limiting other uses that do not substantially interfere with public use and enjoyment of these values. In such administration primary emphasis shall be given to protecting its esthetic, scenic, historic, archeologic, and scientific features. Management plans for any such component may establish varying degrees of intensity for its protection and development, based on the special attributes of the area."

In order to qualify for inclusion in the national system, a State free-flowing river area must be designated as a wild, scenic, or recreational river by act of the State legislature, with land areas wholly and permanently administered in a manner consistent with the designation by any agency or political subdivision of the State at no cost to the Federal Government, and be approved by the Secretary of the Interior as meeting the criteria established by the Wild and Scenic Rivers Act and the guidelines contained herein. A river or related lands owned by an Indian tribe cannot be added to the national system without the consent of the appropriate governing body.

In evaluating a river for possible inclusion in the system or for determining its classification, the river and its immediate land area should be considered as a unit, with primary emphasis upon the quality of the experience and *overall* impressions of the recreationist using the river or the adjacent riverbank. Although a free-flowing river or river unit frequently will have more than one classified area, each wild, scenic, or recreational area must be long enough to provide a meaningful experience. The number of different classified areas within a unit should be kept to a minimum.

Any activity, use, or development which is acceptable for a wild river is also acceptable for scenic and recreational river areas, and that which is acceptable for a scenic river is acceptable for a recreation river area. Activity and development limitations discussed below should not necessarily be interpreted as the desired level to which development or management activity should be planned. Hunting and fishing will be permitted, subject to appropriate State and Federal laws.

The Wild and Scenic Rivers Act provides condition, i.e., flowing body of water or estuary or a section, portion, or tributary thereof, including rivers, streams, creeks, runs, kills, rills, and small lakes which are without impoundment, diversion, straightening, rip-rapping or other modification of the waterway. However, low dams, diversion works, and other minor structures will not automatically preclude the river unit from being included in the National Wild and Scenic Rivers System, providing such structures do not unreasonably diminish the free-flowing nature of the stream and the scenic, scientific, geological, historical, cultural, recreational, and fish and wildlife values present in the area.

The river or river unit must be long enough to provide a meaningful experience. Generally, any unit included in the system should be at least 25 miles long. However, a shorter river or segment that possesses outstanding qualifications may be included in the system.

There should be sufficient volume of water during normal years to permit, during the recreation season, full enjoyment of water-related outdoor recreation activities generally associated with comparable rivers. In the event the existing supply of water is inadequate, it would be necessary to show that additional water can be provided reasonably and economically without unreasonably diminishing the scenic, recreational, and fish and wildlife values of the area.

The river and its environment should be outstandingly remarkable and, although they may reflect substantial evidence of man's activity should be generally pleasing to the eye.

The river should be of high quality water or susceptible of restoration to that condition. A concept of nondegradation whereby existing high water quality will be maintained to the maximum extent feasible will be followed in all river areas included in the national system.

All rivers included in the national system should meet the "Aesthetics—General Criteria" as defined by the National Technical Advisory Committee on Water Quality in the Federal Water Pollution Control Administration's *Water Quality Criteria*, April 1, 1968. Water quality should meet the criteria for fish, other aquatic life, and wildlife, as defined in that document, so as to support the propagation of those forms of life which normally would be adapted to the habitat of the stream. Where no standards exist or where existing standards will not meet the objectives of these criteria, standards should be developed or raised to achieve those objectives. Wild river areas can be included in the national system only if they also meet the minimum criteria for primary contact recreation, except as these criteria might be exceeded by natural background conditions. Scenic or recreation river areas which qualify for inclusion in the system in all respects except for water quality may be added to the system provided adequate and reasonable assurance is given by the appropriate Federal or State authority that the water quality can and will be upgraded to the prescribed level for the desired types of recreation, and support aquatic life which normally would be adapted to the habitat of the stream at the prescribed level of water quality. At such time as water quality fully meets the criteria, it may be desirable to change the classification of a river.

New public utility transmission lines, gas lines, water lines, etc., in river areas being considered for inclusion in the national system are discouraged. However, where no reasonable alternative exists, additional or new facilities should be restricted to existing rights-of-way. Where new rights-of-way are indicated, the scenic, recreational, and fish and wildlife values must be evaluated in the selection of the site in accordance with the general guidelines described in the Report of the Working Committee on Utilities prepared for the President's Council on Recreation and Natural Beauty, December 1968.

Mineral activity subject to regulations under the Act must be conducted in a manner that minimizes surface disturbance, sedimentation and pollution, and visual impairment. Specific controls will be developed as a part of each management plan.

CRITERIA FOR RIVER DESIGNATION

The following criteria for classification, designation, and administration of river areas are prescribed by the Act. These criteria are not absolutes, nor can they readily be defined quantitatively. In a given river, a departure from these standards might be more than compensated by other qualities. However, if several "exceptions" are necessary in order for a river to be classified as wild, it probably should be classified as scenic. If several "exceptions" are necessary in order for a river to be classified as scenic, it probably should be classified as recreational.

Wild River Areas

The Wild and Scenic Rivers Act states that "these represent vestiges of primitive America," and they possess these attributes:

1. "Free of impoundments"
2. "Generally inaccessible except by trail"
3. "Watersheds or shorelines essentially primitive"
4. "Waters unpolluted"

Classification criteria.

Despite some obvious similarities, the "wildness" associated with a wild river is not synonymous with the "wildness" involved in wilderness classification under the Wilderness Act of 1964. One major distinction, in contrast to wilderness, is that a wild river area also may contain recreation facilities for the convenience of the user in keeping with the primitive setting.

1. An "impoundment" is a slack water pool formed by any man-made structure. Except in rare instances in which esthetic and recreational characteristics are of such outstanding quality as to counterbalance the disruptive nature of an impoundment, such features will not be allowed on wild river areas. Future construction of such structures that would have a direct and adverse effect on the values for which that river area was included in the national system, as determined by the Secretary charged with the administration of the area, would not be permitted. In the case of rivers added to the national system pursuant to Sec. 2(a)(ii), such construction could result in a determination by the Secretary of the Interior to reclassify or withdraw the affected river area from the system.

2. "Generally inaccessible" means there are no roads or other provisions for overland motorized travel within a narrow, incised river valley, or if the river valley is broad,

within ¼ mile of the riverbank. The presence, however, of one or two inconspicuous roads leading to the river area will not necessarily bar wild river classification.

3. "Essentially primitive" means the shorelines are free of habitation and other substantial evidence of man's intrusion. This would include such things as diversions, straightening, rip-rapping, and other modifications of the waterway. These would not be permitted except in instances where such developments would not have a direct and adverse effect on the values for which that river area was included in the national system as determined by the Secretary charged with the administration of the area. In the case of rivers added to the national system pursuant to Section 2(a)(ii), such construction could result in a determination by the Secretary of the Interior to reclassify or withdraw the affected river area from the system. With respect to watersheds, "essentially primitive" means that the portion of the watershed within the boundaries has a natural-like appearance. As with shorelines, developments within the boundaries should emphasize a natural-like appearance so that the entire river area remains a vestige of primitive America. For the purposes of this Act, a limited amount of domestic livestock grazing and pasture land and cropland devoted to the production of hay may be considered "essentially primitive." One or two inconspicuous dwellings need not necessarily bar wild river classification.

4. "Unpolluted" means the water quality of the river at least meets the minimum criteria for primary contact recreation, except where exceeded by natural background conditions, and esthetics as interpreted in the Federal Water Pollution Control Administration's Water Quality Criteria, April 1, 1968. In addition, the water presently must be capable of supporting the propagation of aquatic life, including fish, which normally would be adapted to the habitat of the stream. Where no standards exist or where existing standards will not meet the objectives of these criteria, standards should be developed or raised to achieve those objectives.

Management objectives.

The administration of a wild river area shall give primary emphasis to protecting the values which make it outstandingly remarkable while providing river-related outdoor recreation opportunities in a primitive setting.

To achieve these objectives in wild river areas, it will be necessary to;

1. Restrict or prohibit motorized land travel, except where such uses are not in conflict with the purposes of the Act.

2. Acquire and remove detracting habitations and other nonharmonious improvements.

3. Locate major public-use areas, such as large campgrounds, interpretive centers or administrative headquarters, outside the wild river area. Simple comfort and convenience facilities, such as fireplace, shelters, and toilets, may be provided for recreation users as necessary to provide an enjoyable experience, protect popular sites, and meet the management objectives, such facilities will be of a design and location which harmonize with the surroundings.

4. Prohibit improvements or have structures unless they are clearly in keeping with the overall objectives of the wild river area classification and management. The design for any permitted construction must be in confirmation with the approved management plan for that area. Additional habitations or substantial additions to existing habitations will not be permitted.

5. Implement management practices which might include construction of minor structures for such purposes as improvement of fish and game habitat; grazing, protection from fire; insects, or disease; rehabilitation or stabilization of damaged resources, provided the area will remain natural appearing and the practices or structures will harmonize with the environment. Such things as trail bridges, an occasional fence, natural-appearing water diversions, ditches, flow measurement or other water management devices, and similar facilities may be permitted if they are unobstructive and do not have a significant direct and adverse effect on the natural character of the area.

Scenic River Areas

The Wild and Scenic Rivers Act states that scenic rivers:

1. Are "free of impoundments".

2. Are "accessible in places by road".

3. Have "shorelines or watersheds still largely primitive and shorelines largely undeveloped".

Classification criteria.

1. An "impoundment" is a slack water pool formed by any manmade structure. Except in rare instances in which esthetic and recreational characteristics are of such outstanding quality as to counterbalance the disruptive nature of an impoundment, such features will not be allowed on scenic river areas. Future construction of such structures that would have a direct and adverse effect on the values for which that river area was included in the national system as determined by the Secretary charged with the administration of the area, would not be permitted. In the case of rivers added to the national system pursuant to Section 2(a)(ii), such construction could result in a determination by the Secretary of the Interior to reclassify or withdraw the affected river area from the system.

2. "Accessible in places by road" means the roads may occasionally bridge the river area. Scenic river areas will not include long stretches of conspicuous and well-traveled roads closely paralleling the riverbank. The presence, however, of short stretches of conspicuous or longer stretches of inconspicuous and well-screened roads or screened railroads will not necessarily preclude scenic river designation. In addition to the physical and scenic relationship of the free-flowing river area to roads, consideration should be given to the type of use for which such roads were constructed and the type of use which would occur within the proposed scenic river area.

3. "Largely primitive" means that the shorelines and the immediate river environment still present an overall natural character, but that in places, land may be developed for agricultural purposes. A modest amount of diversion, straightening, rip-rapping, and other modification of the waterway would not preclude a river from being considered for classification as a scenic river. Future construction of such structures would not be permitted except in instances where such developments would not have a direct and adverse effect on the values for which that river area was included in the national system as determined by the Secretary charged with the administration of the area.

In the case of rivers added to the national system pursuant to Section 2(a)(ii), such construction could result in a determination by the Secretary of the Interior to reclassify or withdraw the affected river area from the system. "Largely primitive" with respect to watersheds means that the portion of the watershed within the boundaries of the scenic river area should be scenic, with a minimum of easily discernible development. Row crops would be considered as meeting the test of "largely primitive," as would timber harvest and other resource use, providing such activity is accomplished without a substantially adverse effect on the natural-like appearance of the river or its immediate environment.

4. "Largely undeveloped" means that small communities or any concentration of habitations must be limited to relatively short reaches of the total area under consideration for designation as a scenic river area.

Management objectives.

A scenic river area should be managed so as to maintain and provide outdoor recreation opportunities in a near natural setting. The basic distinctions between a "wild" and a "scenic" river area are degree of development, type of land use, and road accessibility. In general, a wide range of agricultural, water management, silvicultural and other practices could be compatible with the primary objectives of a scenic river area, providing such practices are carried on in such a way that there is no substantial adverse effect on the river and its immediate environment.

The same considerations enumerated for wild river areas should be considered, except that motorized vehicle use may in some cases be appropriate and that development of larger scale public-use facilities within the river areas, such as moderate size campgrounds, public information centers, and administrative headquarters, would be compatible if such structures were screened from the river.

Modest facilities, such as unobtrusive marinas, also would be possible if such structures were consistent with the management plans for that area.

Recreational River Areas

The Wild and Scenic Rivers Act states that recreational rivers:

1. Are "readily accessible by road or railroad";

2. "May have some development along their shoreline";

3. May have "undergone some impoundment or diversion in the past."

Classification criteria.

1. "Really accessible" means the likelihood of paralleling roads or railroads on one or both banks of the river, with the possibility of several bridge crossings and numerous river access points.

2. "Some development along their shorelines" means that lands may be developed for the full range of agricultural uses and could include small communities as well as dispersed or cluster residential developments.

3. "Undergone some impoundment or diversion in the past" means that there may be water resources developments and diversions having an environmental impact greater than that described for wild and scenic river areas. However, the degree of such development should not be to the extent that the water has the characteristics of an impoundment for any significant distance.

Future construction of impoundments, diversions, straightening, rip-rapping, and other modification of the waterway or adjacent lands would not be permitted except in instances where such developments would not have a direct and adverse effect on the values for which that river area was included in the national system as determined by the Secretary charged with the administration of the area. In the case of rivers added to the national system pursuant to Section 2(a)(ii), such construction could result in a determination by the Secretary of the Interior to reclassify or withdraw the affected river area from the system.

Management objectives.

Management of recreational river areas should be designed to protect and enhance existing recreational values. The primary objectives will be to provide opportunities for engaging in recreation activities dependent on or enhanced by the largely free-flowing nature of the river.

Campgrounds and picnic areas may be established in close proximity to the river, although recreational river classification does not require extensive recreational developments. Recreational facilities may still be kept to a minimum, with visitor services provided outside the river area.

Adopted:

HARRISON LOESCH,
Department of the Interior.
EDWARD P. CLIFF,
Department of Agriculture.

SUMMARY

Attributes and management objectives of the three river classifications for inclusion in the National Wild and Scenic River System

FEBRUARY 1970

Attributes

Wild

1. Free-flowing. Low dams, diversion works or other minor structures which do not inundate the natural riverbank may not bar consideration as wild. Future construction restricted.
2. Generally inaccessible by road. One or two inconspicuous roads to the area may be permissible.
3. Shorelines essentially primitive. One or two inconspicuous dwellings and land devoted to production of hay may be permitted. Watershed natural-like in appearance.
4. Water quality meets minimum criteria for primary contact recreation except where such criteria would be exceeded by natural background conditions and esthetics and capable of supporting propagation of aquatic life normally adapted to habitat of the stream.

Scenic

1. Free-flowing. Low dams, diversion works or other minor structures which do not inundate the natural riverbank may not bar consideration. Future construction restricted.
2. Accessible by roads which may occasionally bridge the river area. Short stretches of conspicuous or longer stretches of inconspicuous and well-screened roads or railroads paralleling river area may be permitted.
3. Shoreline largely primitive. Small communities, limited to short reaches of total area. Agricultural practices which do not adversely affect river area may be permitted.
4. Water quality should meet minimum criteria for desired types of recreation except where such criteria would be exceeded by natural background conditions and esthetics and capable of supporting propagation of aquatic life normally adapted to habitat of the stream, or is capable of and is being restored to that quality.

Recreation

1. May have undergone some impoundment or diversion in the past. Water should not have characteristics of an impoundment for any significant distance. Future construction restricted.
2. Readily accessible, with likelihood of paralleling roads or railroads along riverbanks and bridge crossings.
3. Shoreline may be extensively developed.
4. Water quality should meet minimum criteria for desired types of recreation except where such criteria would be exceeded by natural background conditions and esthetics and capable of supporting propagation of aquatic life normally adapted to habitat of the stream or is capable of and is being restored to that quality.

Management objectives

Wild

1. Limited motorized land travel in area.
2. No unharmonious or new habitations or improvements permitted.
3. Only primitive-type public use provided.
4. New structures and improvement of old ones prohibited if not in keeping with overall objectives.

To be used only in conjunction with the text.

Federal Water Pollution Control Administration's Water Quality Criteria, April 1, 1968.

Adopted:

5. Unobtrusive fences, gauging stations and other management facilities may be permitted if no significant adverse effect on natural character of area.
6. Limited range of agriculture and other resource uses permitted.

Scenic

1. Motorized vehicles allowed on land area.
2. No unharmonious improvements and few habitations permitted.
3. Limited modern screened public use facilities permitted, i.e., campgrounds, visitor centers, etc.
4. Some new facilities allowed, such as unobtrusive marinas.
5. Unobtrusive fences, gauging stations and other management facilities may be permitted if no significant adverse effect on natural character of area.
6. Wide range of agriculture and other resource uses may be permitted.

Recreation

1. Optimum accessibility by motorized vehicle.
2. May be densely settled in places.
3. Public use areas may be in close proximity to river.
4. New structures allowed for both habitation and for intensive recreation use.
5. Management practice facilities permitted.
6. Full range of agricultural and other resource uses may be permitted.

HOUSATONIC VALLEY ASSOCIATION, INC.,
Kent, Conn.

Citizens Guide To Wild & Scenic Rivers Act

Q: 1. What is the Wild & Scenic Rivers Act?

A: An Act (P.L. 90-542) designed to preserve rivers which possess remarkable scenic, recreational, geologic, fish and wildlife, historic, cultural, or similar values for the benefit of present as well as future generations. Section 1(b).

Q: 2. What rivers or streams qualify for protection under the act?

A: The Act (P.L. 90-542) defines a "river" as a "free-flowing body of water (or estuary) or a section or portion or tributary thereof". Such flowing bodies include rivers, streams, creeks, runs, kills, rills and even small lakes. Sec. 15(a). Furthermore, every wild, scenic or recreational river in its freeflowing condition is eligible for inclusion in the "system" if it possesses one or more of the values described in the answer to Q. 1. (See Sec. 1(b) of P.L. 90-542), Sec. 2(b).

Q: 3. How does a river become included in the national "Wild & Scenic Rivers System"?

A: Congress must first pass an Act designating the river as a potential addition to the "system" (i.e. amend Section 5(a) of the Act). Then the Secretary of the Interior must conduct a *study* of the river in cooperation with the State and local government. Based on this study, a report is prepared and transmitted to the President and Congress for final authorization.

Otherwise, a river must be designated wild, scenic or recreational by or pursuant to state legislation and subsequently found suitable and approved by the Secretary for inclusion. Sec. 2(a).

Q: 4. Are all rivers included within the "system" classified, designated and administered in the same manner?

A: No. The Act (P.L. 90-542) establishes three distinct and separate classifications. They are (1) wild river areas; (2) scenic river areas; and (3) recreational river areas. Sec. 2(b). Each shall be administered in such a manner consistent with the Act so as to protect and enhance its values without limiting other non-conflicting uses. Sec. 10(a).

Q: 5. What are these three classes?

A: A "wild" river is:

(a) free of impoundments,
(b) generally inaccessible by trial,
(c) with watersheds or shorelines essentially primitive and
(d) waters unpolluted.

(These represent vestiges of primitive America). Sec. 2(b)(1).

A "scenic" river is:

(a) free of impoundments,
(b) with shorelines or watersheds still largely primitive and shorelines largely undeveloped,
(c) but accessible in places by road. Sec. 2(b)(2).

A "recreational" river is:

(a) readily accessible by road or railroad,
(b) may have some development along its shorelines, and
(c) may have undergone some impoundments or diversion in the past. Sec. 2(b)(3).

Q: 6. If impoundments or diversions exist is a river ineligible for consideration?

A: No. Low dams, diversion works and other minor structures do not automatically bar its consideration for inclusion.

Q: 7. Which classification best fits the Housatonic River between the Massachusetts border and its confluence with the Shepaug?

A: The classification "scenic" river best fits the Housatonic River, or this portion of it, Sec. 2(b)(2), and guidelines pp. 8-10.

Q: 8. Once included in the system, how is the river protected?

A: The Act (P.L. 90-542) prohibits the construction or dams and other encroachments. Thus, the River is protected from project(s) which impair its natural qualities and impede its "freeflowing condition." Section 7(a) and Sec. 7(b).

Moreover the river's immediate environment, the land alongside the river, is also protected by three possible management techniques:

1) complete public ownership—Sec. 6(a),
2) partial public ownership (easements) Sec. 6(a) or (b) or
3) local zoning ordinances. Sec. 6(c).

Q: 9. How will this affect ownership of private property along the river?

A: If the town has in force and applicable to such property a duly adopted, valid zoning ordinance that conforms or is amended to conform to the purposes of the Act, it cannot be acquired by condemnation. If 50% of the acreage of the entire protected area is owned by federal, state or local government, property may not be acquired by condemnation. Thus, two significant restrictions exist on the government's power to take private property.

Furthermore, if a river is designated as a wild, scenic or recreational river, the boundaries of the protected area are limited to an average of *not more than* 320 acres per mile on both sides of the river (roughly ¼ mile from the river bank). Within this corridor, acquisition of private property is limited to 100 acres per mile on both sides. Scenic easements may be acquired on the remaining acreage.

Q: 10. Won't designation prevent landowners from using their land as in the past?

A: No. If the river qualifies for inclusion, it is because of the care exercised by owners of the land as well as their refusal to allow the area to be overrun by incompatible and intensive residential, commercial and industrial development. The Act requires that the river area be administered so as to emphasize its "esthetic, scenic, historic, archaeologic, and scientific features," thus protecting and enhancing the values which caused it to be included in the system. If the government does purchase a scenic easement, in a way it will be a financial reward for the stewardship and conservation practiced. Nonetheless, any regular use (e.g. farming) exercised prior to the acquisition of the easement will *not* be affected. Sec. 6 & 15(c).

(NOTE.—In buying a scenic easement the

government only buys the right to develop the land in a way which would adversely affect its scenic value.)

Q: 11. *What is the first step needed to protect the Housatonic River?*

A: Your Senator and Congressman must resubmit the bill to include the Housatonic River on the study list (Sec. 5(a)) to determine whether it should be designated wild, scenic or recreational and included in the national "system". An alternative method would be for the state legislature to establish its own wild & scenic rivers system. At least 23 states have done just that. Connecticut has not.

By Mr. BROCK (for himself, Mr. BAKER, Mr. BEALL, Mr. DOMENICI, Mr. GARN, Mr. HANSEN, Mr. HRUSKA, Mr. LAXALT, Mr. PACKWOOD, Mr. PERCY, and Mr. HUGH SCOTT):

S. 11. A bill to amend the State and Local Fiscal Assistance Act of 1972 to make Federal revenue sharing a permanent program to provide for periodic increases in the dollar amounts of revenue returned to the States under that act to offset the effects of inflation, and to eliminate certain restrictions on the purposes for which local governments may use funds obtained under the act. Referred to the Committee on Finance.

STATE AND LOCAL FISCAL ASSISTANCE ACT OF 1975

Mr. BROCK. Mr. President, I am pleased to introduce a piece of legislation that should properly be the first order of business for the 94th Congress. I am particularly delighted to have so many distinguished cosponsors, and I hope that this bodes well for our effort to extend and expand revenue sharing which is so crucial to our Federal system.

Why should this be one of the first priorities of Congress? There are several reasons: First, the act must be extended by the end of 1976, or else this important piece of legislation will die. But, perhaps more important than for immediacy purposes is the fact that our State and local governments must know the status of this bill by the end of 1975 in order for them to prepare their budgets. Some States will be planning their fiscal year 1977 budgets as early as this summer.

Second, with this Congress to face so many complex problems, such as inflation/recession legislation, health care, energy problems, and the like, we should try to swiftly pass such items as revenue sharing, that have been adequately pilot tested and proven effective.

Mr. President, the bill my colleagues and I have introduced is essentially a simple extension of the original legislation. We do not intend to make dramatic changes, such as with distribution formulas. However, there are three changes of significance that I would like to point out.

First, this extension bill will make revenue sharing permanent, as it should be under our federalist system of government. Second, revenue sharing will be made inflation proof, especially in this year of double-digit inflation, and third, the annoying and rather useless redtape of the program has been minimized.

Let me take a minute to elaborate on these changes.

Making the fund permanent: Most of the original advocates of the revenue sharing concept have envisioned this as a permanent fund. One early advocate, Dr. Walter W. Heller, former Chairman of the President's Council on Economic Advisers during the Kennedy-Johnson administration, envisioned a trust fund that would make funds available to States "as a matter of right, free from the uncertainties and hazards of the annual appropriations process." Senator HOWARD BAKER, a prime mover in revenue sharing legislation in both the 91st and 92d Congresses, originally envisioned a permanent program. Although I, too, originally wanted a permanent fund, Congress in its wisdom properly placed a 5-year pilot testing period in the original bill. But that test is coming to a successful end, so any new act should now be made permanent.

The new Budget Act (Public Law 93-344), designed to give Congress more control over the total budget, recognized this need for permanent funding of revenue sharing. While the Budget Act places close scrutiny on most spending authority, it states that this "shall not apply to new authority which is an amendment to or extension of the State and Local Fiscal Act of 1972 * * *"—section 401 (d)(2).

Making the fund inflation proof: The present annual funding increase for revenue sharing works out to approximately 2.5 percent a year, which, as we all know, does not adequately reflect our present inflation rate. Therefore, revenue sharing must be tied into an automatic escalator indicator that properly reflects our economy. Particularly since S. 11 will make revenue sharing permanent, we must find some easily determinable index so that the fund level can be adjusted automatically without Congress having to continually authorize new levels.

The Advisory Commission on Intergovernmental Relations—ACIR—a group made up of Members of Congress, Governors, mayors, State legislative leaders, elected county officials, and private citizens, has studied various funding methods. They have finally recommended that funding be put at a constant percentage of the Federal personal income tax base, the adjusted gross income—AGI, and we have taken their recommendation. Federal income tax collections are a true indicator of our citizens' capacity to pay for programs, and thus a proper base to use for a program whose purpose is to return responsibility to the appropriate local level.

Easing restrictions on local governments: Under the present act, local governments must restrict their expenditures for certain high priority items. There are two reasons for doing away with these restrictions. First, the whole purpose of revenue sharing is to return funds to local governments, in other words, to those who truly know local problems. This was to be done with a minimum of bureaucratic redtape. Imposing restrictions or even priorities is the antithesis of this concept. Why is it that we in Congress always feel we have the answers, when, in reality, there is no single programmatic solution for the thousands of different local communities, each with separate and distinct problems?

Although there may be philosophical differences on this point, as a practical matter, such limitations or restrictions simply become time-consuming redtape, due to the fungibility of funds. In short, the various governments put revenue sharing money into these priority items and put their own money, that would have gone into these programs, into other programs they deem necessary. Why not eliminate this redtape and redundancy?

These three changes will make an already very successful program even more successful.

Mr. President, there are, of course, reasons why people do not support revenue sharing. Some feel that revenue sharing divorces taxation from spending, that there are more pressing needs, that revenue sharing funds are not adequately used to eliminate discrimination, that they reduce Federal budgetary flexibility, and so on. Like most criticisms, there are grains of truth in all these points. But when you fully investigate each argument, the benefits overwhelmingly outweigh any real or presumed liabilities in revenue sharing. In fact, I hope that some of my colleagues in the Senate who have objections will also air their views, so that debate can be adequately aired and a response made or improvements achieved.

Whatever the objections to revenue sharing, the advantages so outweigh the disadvantages that this program should be passed. It is a program that has been adequately pilot tested, it is a program that has broad bipartisan support, it is a program that returns power to the local governments, it is a program that allows local officials the funds to take care of problems that only they can see and that could never be considered if we had thousands of categorical grants. In short, Mr. President, it is a program that works.

I ask unanimous support that the State and Local Fiscal Assistance Act of 1975, S. 11, be printed in the RECORD at this point.

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

S. 11

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "State and Local Fiscal Assistance Act of 1975".

SEC. 2. (a) Section 103 of the State and Local Fiscal Assistance Act of 1972 is repealed.

(b) Section 105(b)(1) of such Act is amended—

(1) by striking out "and" at the end of subparagraph (F), and

(2) by striking out subparagraph (G) and inserting in lieu thereof the following:

"(G) for the fiscal year beginning July 1, 1976, $6,650,000,000,

"(H) for the period beginning July 1, 1977, and ending September 30, 1977, $1,700,000,000; and

"(I) for fiscal years beginning after September 30, 1977, an amount equal to seventenths of 1 percent of the Federal adjusted gross income (as defined in section 141(d)) for taxable years ending with or within the preceding calendar year.".

(c) Section 105(b)(2) of such Act is amended—

(1) by striking out "and July 1, 1975," in

subparagraph (D) and inserting in lieu thereof: "July 1, 1975, and July 1, 1976,", and

(2) striking out subparagraph (E) and inserting in lieu thereof the following:

"(E) for the period beginning July 1, 1977, and ending September 30, 1977, $1,195,000; and

"(F) for fiscal years beginning after September 30, 1977, an amount equal to the sum of—

"(i) $4,780,000, plus

"(ii) an amount equal to the amount determined by multiplying $4,780,000 by a percentage equal to the percentage by which the amount appropriated under section 105(k)(1) for any such fiscal year exceeds $6,650,000,000.".

(d) Section 141 of such Act is amended by adding at the end thereof the following new subsection:

"(d) Federal Adjusted Gross Income.—For purposes of this title, the term 'Federal adjusted gross income' means the sum of the amounts reported by individuals as adjusted gross income (as defined in section 62 of the Internal Revenue Code of 1954) for taxable years ending within or with a calendar year, determined on the same basis as such adjusted gross income is determined for such period by the Internal Revenue Service for general statistical purposes.".

SEC. 3. (a) Section 107(b) of such Act is amended by striking out paragraph (5) thereof and by redesignating paragraphs (6) and (7) as (5) and (6), respectively.

(b) Section 123(a) of such Act is amended—

(1) by striking out paragraph (3),

(2) by redesignating paragraphs (4), (5), (6), (7), and (8), as (3), (4), (5), (6), and (7), respectively, and

(3) by striking out "Paragraph (7)" in the last sentence thereof and inserting in lieu thereof "Paragraph (6)".

(c) Section 141(b) is amended—

(1) by striking out "and 1975" in paragraph (4) and inserting in lieu thereof "1975, and 1976",

(2) by striking out paragraph (5) and inserting in lieu thereof the following:

"(5) The period beginning July 1, 1977, and ending September 30, 1977.

"(6) The one-year periods beginning on October 1 of 1977 and all subsequent years.

SEC. 4. Pursuant to the provisions of subsection (d)(2) of section 401 of the Congressional Budget Act of 1974, neither the provisions of subsection (a) nor the provisions of subsection (b) of such section apply to the new spending authority (as defined in subsection (c) of such Act) contained in the first section of this Act.

SEC. 5. The amendments made by this Act take effect on the date of enactment of this Act, and the amendment made by subsection (a) of the first section of this Act applied with respect to funds received by units of local government under subtitle A of title I of the State and Local Financial Assistance Act of 1972 which are unexpended on such date of enactment regardless of the date on which such funds were transferred to such units.

Mr. HUGH SCOTT. Mr. President, as an original sponsor of the State and Local Fiscal Assistance Act of 1973, I am pleased to join in the effort which would permanently establish revenue sharing now scheduled to expire at the end of the 94th Congress.

Revenue sharing is one of the most significant and responsive programs that Congress has ever enacted. During a period when fiscal responsibility is uppermost in congressional minds, it is imperative that this Congress begin with programs which have proven records of returning tax dollars to taxpayers. Revenue sharing puts the money where the problems are. Putting it simply—it works.

The legislation we offer you today would basically conform to the existing law. Three significant improvements have been proposed which would allow for the long-term continuation of revenue sharing without annual Federal alterations or interruptions.

The current contradiction in terms which prohibits the overall usage of this Federal money slows the revenue sharing process and complicates what should be an easy flow of Federal assistance to worthy local governments. This legislation amends the current law to assure a smooth budget process.

In my own Commonwealth of Pennsylvania, I can cite the revenue sharing endorsements of numerous local governments and Pennsylvania organizations including the Pennsylvania League of Cities, the Pennsylvania State Mayors' Association, and the Pennsylvania State Association of County Commissioners.

I urge my colleagues to support this legislation and work for its swift enactment so that self-determination can be established and faithfully enforced assuring a more efficient use of our tax dollars.

By Mr. McGOVERN (for himself, Mr. HUMPHREY, Mr. MANSFIELD, Mr. HUGH SCOTT, Mr. MAGNUSON, Mr. JACKSON, Mr. WILLIAMS, Mr. RANDOLPH, Mr. CRANSTON, Mr. CHURCH, Mr. WEICKER, Mr. CULVER, Mr. STAFFORD, Mr. HATFIELD, Mr. ABOUREZK, Mr. BAYH, Mr. BURDICK, Mr. CLARK, Mr. PHILIP A. HART, Mr. GARY W. HART, Mr. LEAHY, Mr. CASE, Mr. BROOKE, Mr. SCHWEIKER, Mr. MATHIAS, Mr. HASKELL, Mr. HATHAWAY, Mr. INOUYE, Mr. KENNEDY, Mr. McGEE, Mr. McINTYRE, Mr. MONDALE, Mr. PASTORE, Mr. PELL, Mr. RIBICOFF, Mr. MUSKIE, Mr. MOSS, Mr. JAVITS, Mr. HARTKE, Mr. HOLLINGS, Mr. METCALF, and Mr. MONTOYA):

S. 13. A bill to amend the Food Stamp Act of 1964. Referred to the Committee on Agriculture and Forestry.

THE FOOD STAMP PROGRAM

Mr. McGOVERN. Mr. President, I would like to introduce on this first day of the new session food stamp amendments of the utmost importance.

President Ford has recently proposed regulation changes increasing the cost of food stamps to millions of Americans. If the Congress allows this action to become effective March 1, it will be the first major step backward in this country's commitment to "put an end to hunger in America for all time."

Under the President's proposal, all recipients would be required to pay 30 percent of their income for food stamps. Currently the poorest recipients pay as little as 5 percent of their meager incomes. These people stand to have a 500-percent increase in the cost of food stamps on March 1. The average food stamp recipient who pays 23 percent of his income for stamps will have a 30-percent increase in the cost of stamps; 95 percent of the 15 million food stamp participants will have to pay more for their food. This coupled with inflation, recession, and rising unemployment will place an impossible burden on the ability of the poor to obtain an adequate diet.

There are many ways to fight inflation in this country that make economic and social sense. But cutting the food stamp program now and risking increased hunger in thousands of American families make no sense at all.

It makes even less sense when you look at who will be hurt the most by these cuts. The proposal to cut the food stamps by $325 million in 4 months and $650 million in fiscal year 1976 hits hardest those least capable of coping with inflation—the elderly, and the poorest of the poor.

The President said at his press conference announcing the proposal that some Americans will have to pay "slightly more" for food stamps. But the facts show that 95 percent of the 15 million Americans now using the stamps will have to pay 30 percent more, causing many to drop out of the program.

A more detailed analysis of the impact of President Ford's proposal, done by the Community Nutrition Institute, follows.

The legislation which I am today proposing would amend the Food Stamp Act to prevent this regulation change from going into effect. The amendment continues the concept that the cost of food stamps should represent a reasonable investment on the part of the household but provides that in no event can that investment be more than the percentum charged under the current schedule.

The amendment would also reduce the maximum charge from 30 percent of net food income to 25 percent. In other words, those recipients now paying 10 percent and 20 percent of their incomes for stamps would continue to pay that amount, while those paying 26 percent to 30 percent would have the price reduced to 25 percent.

The estimated cost of this provision at current participation levels is $450 million.

While this is a substantial figure. I do not believe it is too much to devote to the poorest sector of the country at a time when the President has recommended a tax cut of $16 billion to stimulate the economy generally. We are in a recession. Alan Greenspan expects unemployment to reach 8 percent. I think that is a conservative figure. Simultaneously, inflation is expected to decline to 6–7 percent by summer. In this context, reducing the cost of food for the Nation's poor to 25 percent of their income is dictated both by conscience and economics. Indeed, the December 23, 1974, report of the Joint Economic Committee, achieving price stability through economic growth, recommends precisely this action.

The bill also addresses the question of food stamps for SSI recipients.

The current temporary provision under which supplemental security income recipients in 45 States may automatically participate in the food stamp program,

and the recipients in New York, Massachusetts, California, Nevada, and Wisconsin are cashed out, will expire on June 30, 1974. On July 1, the complicated and costly provisions of Public Law 93–86 will become effective.

In an attempt to finally lay to rest this perennial labyrinth, this legislation provides that all SSI recipients in all States would be automatically eligible for food stamps. The bonus, of course, would still depend on the household's income.

It is estimated that at least 90 percent of the SSI recipients do in fact have net food stamp income below the national guidelines. The administrative expense of investigating the 4 million SSI participants, to weed out the few ineligibles, would in all probability be greater than certifying for a minimum bonus the few SSI recipients slightly above the cutoff line.

Public assistance recipients (AFDC) are now automatically eligible under food stamp regulations. This amendment would extend that system to SSI recipients on a permanent basis and elevate the regulation to law.

I ask unanimous consent that the accompanying bill, section-by-section analysis, Community Nutrition Institute report, and a portion of the Joint Economic Committee print be printed in the RECORD at this point.

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

S. 13

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. Section 7(b) of the Food Stamp Act of 1964, as amended, is amended, by deleting: "but in no event more than 30 per centum of the household's income" and inserting in lieu thereof the following: "but in no event more than the lesser of (1) the per centum charged a household with the same income January 1, 1975, or (2) 25 per centum of the household's income".

SEC. 2. Section 3(e) of the Food Stamp Act of 1964, as amended is amended by deleting the following: "related individuals (including legally adopted children and legally assigned foster children) or nonrelated individuals over age 60" and insert in lieu thereof the word: "individuals".

SEC. 3. Section 5(b) of the Food Stamp Act of 1964, as amended, is amended to read as follows:

"(b) The Secretary, in consultation with the Secretary of Health, Education, and Welfare, shall establish uniform national standards of eligibility for participation by households in the food stamp program and no plan of operation submitted by a State agency shall be approved unless the standards of eligibility meet those established by the Secretary. The standards established by the Secretary, at a minimum, shall prescribe the amounts of household income and other financial resources, including both liquid and non-liquid assets, to be used as criteria of eligibility. The Secretary may also establish temporary emergency standards of eligibility for the duration of the duration of the emergency without regard to income and other financial resources, for households that are victims of a mechanical disaster which disrupts the distribution of coupons, and for households that are in need of temporary food assistance, and that commercial channels of food distribution have again become available to meet the temporary food needs of such households: *Provided,* That the Secretary shall in the case of Puerto Rico, Guam, and the Virgin Islands, establish special standards of eligibility and coupon allotment schedules which reflect the average per capita income and cost of obtaining a nutritionally adequate diet in Puerto Rico and the respective territories, except that in no event shall the standards of eligibility or coupon allotment schedules so used exceed those in the fifty States."

SEC. 4. Section 10 of the Food Stamp Act of 1964, as amended, is amended as follows:

Subsection (e) is amended by inserting in clause (7), after the word "law", the following: ", and at the option of the State agency,".

SEC. 5. The Food Stamp Act of 1964, as amended, is amended by a. deleting in section 3(e) the following:

"No individual who receives suppemental security income benefits under title XVI of the Social Security Act shall be considered to be a member of a household or an elderly person for any purpose of this Act for any month if such person receives for such month, as part of his supplemental security income benefits or payments described in section 1616(a) of the Social Security Act (if any), an amount equal to the bonus value of food stamps (according to the Food Stamp Schedule effective for July 1973) in addition to the amount of assistance such individual would be entitled to receive for such month under the provisions of the plan of the State approved under title I, X, XIV, or XVI, as appropriate, in effect for December 1973, assuming such plan were in effect for such month and such individual were aged, blind, or disabled, as the case may be, under the provisions of such State plan or under Public Law 92–603, as amended. The Secretary of Health, Education, and Welfare shall issue regulations for the implementation of the foregoing sentence after consultation with the Secretary of Agriculture."

b. adding a new subsection 5(e) as follows: "(e) Effective July 1, 1975, households in which all members receive supplemental security income benefits under Title XVI of the Social Security Act, or households in which all members are included in a federally aided public assistance or general assistance grant shall be certified for participation in the food stamp program under this Act. Certification of all other households shall be based on the uniform national standards established pursuant to subsection (b)."

SEC. 6. Section 10(h) of the Food Stamp Act of 1964, as amended, is amended by deleting the first two sentences and inserting in lieu thereof the following: "Subject to such terms and conditions as may be prescribed by the Secretary in the regulations issued pursuant to this Act, household members or persons who are housebound, feeble, physically handicapped, or otherwise disabled, to the extent that they are unable to adequately prepare all of their meals, may use coupons issued to them to purchase meals prepared for and delivered to them by a political subdivision or by a private nonprofit organization which: (1) is not receiving federally donated foods from the United States Department of Agriculture for use in the preparation of such meals; and (2) is operated in a manner consistent with the purposes of this Act; and (3) is recognized as a tax exempt organization by the Internal Revenue Service. Meals served pursuant to this subsection shall be deemed "food" for the purposes of this Act."

SECTION-BY-SECTION ANALYSIS

SECTION 1

Section one would amend the food stamp act to prevent the recently announced regulation change increasing the cost of food stamps to 30% for all participants from going into effect. The amendment continues the concept that the cost of food stamps should represent a reasonable investment on the part of a household but provides that in no event can that investment be more than the *per centum* charged a household with the same income under the current schedule.

The amendment would also reduce the maximum charge from 30% of net food stamp income to 25%. In other words, those recipients now paying 10% and 20% of their incomes for stamps would continue to pay that amount while those paying 26–30% would have the price reduced to 25%.

The estimated cost of this provision at current participation levels is $450 million.

SECTION 2

This section of the bill amends Section 3 of the Food Stamp Act of 1964, as amended, which defines the terms used in the Act.

Subsection (e) which defines the term "household" is amended to delete the requirement that household members under age 60 be related in order to qualify for the food stamp program. This requirement was ruled unconstitutional by the Supreme Court in its decision in the case of *Moreno v. USDA*, 413 U.S. 528. The amendment will bring the Act into conformance with the Supreme Court decision.

This provision was introduced at the request of the administration in the 93d Congress, but no action was taken.

SECTION 3

This section of the bill revises subsection 5(b).

Subsection 5(b) retains the concept that the food stamp program shall be limited to households whose income and resources are substantial limiting factors in the attainment of a nutritionally adequate diet. However, it excludes the housing payment in kind from the standards of eligibility. The inclusion of housing payments in kind not in excess of $25 is most unpopular among the States. To determine the value of in kind income, State agencies must develop expertise in estimating the value of housing or obtain guidance on the matter through other agencies or organizations. In either case, any possible savings to the program are more than offset by the complexities, if not impossibilities, of effectively administering this provision. Further, this provision would permit housing payments in kind to be disregarded for purposes of income, and thus be treated consistently with the way in which other payments in kind are handled under the food stamp and other welfare-type programs.

The revision of Subsection 5(b) further deletes the provision prohibiting the participation of certain tax dependents in the food stamp program. In its decision in the case of *Murry v. USDA*, 413 U.S. 508, the Supreme Court ruled that the "tax dependency" provision of the Act is unconstitutional. Thus, the *"tax dependency"* provision in the current Act is not enforceable.

This provision was introduced at the request of the administration in the 93d Congress, but no action was taken.

SECTION 4

This section of the bill revises Section 10 (e)(7) of the Act.

Subsection (e)(7) is revised to give a State agency an option to establish a system under which a food stamp household may elect to have its charge for the coupon allotment withheld from its public assistance check. The Act now mandates a State agency to offer such a system. This service is costly and of questionable value. An optional system would permit a State to operate the system in an area where it would be helpful, such as rural localities lacking adequate transportation. The State would not be required to bear the cost of administering such a system in larger metropolitan areas where public assistance withholding is not only of minimal useful-

ness but also subject to abuse. Giving the States this option could serve to gain their increased cooperation in other areas of greater program importance.

This provision was introduced at the request of the administration in 93rd Congress, but no action was taken.

SECTION 5

This amendment deletes from the household definition, Section 3(e), the language on eligibility of supplemental security income recipients. The current temporary provision under which supplemental security income recipients may automatically participate in the program will expire on June 30, 1975. On July 1, 1975, the complicated and costly provisions of Public Law 93-86 will become effective.

Subsection (b) of this section therefore contains a new provision governing the eligibility for food stamps of supplemental security income recipients. It would become effective July 1st.

Under the provision all SSI recipients in all states would be automatically eligible for food stamps. It is estimated that at least 90% of the SSI recipients do in fact have net food stamp income below the national guidelines. The administrative expense of investigating the 1 million SSI participants, to weed out the few ineligibles, would in all probability be greater than certifying for minimum bonus the few SSI recipients slightly above the cut-off line.

Public assistance recipients (AFDC) are automatically eligible under food stamp regulations. This amendment would extend that system to SSI recipients on a permanent basis and elevate the regulation to law.

SECTION 6

Section 6 removes the requirement that food stamp recipients who are housebound, feeble, physically handicapped, or otherwise disabled must be over 60 years of age to use stamps for meals-on-wheels.

Without this section, many incapacitated persons under 60 who receive meals-on-wheels have to pay cash for the meals even though they have food stamps. Purchase of delivered meals with food stamps would still be limited to incapacitated persons.

Achieving Price Stability Through Economic Growth

(Report of the Joint Economic Committee, Congress of the United States, together with supplementary and minority views, December 23, 1974.)

RELIEF MEASURES FOR THE POOR AND THE ELDERLY

The Poor.—The poor have been the hardest hit by changing economic conditions in 1974. The combination of inflation, recession, and rising unemployment has been catastrophic for the poor and near-poor. While the poor may not suffer a proportionately greater decline in dollar incomes than other groups, the decline in their purchasing power is from a level that is at best marginally adequate. Price increases in recent years have caused a greater loss of purchasing power for the poor than for higher income groups.

In all of the previous inflationary periods since World War II, the poor benefited because of accompanying tighter labor markets. But the economy is now in the midst of a serious recession. Also contributing to the poor's loss of purchasing power is the general tendency for the wages of low-skilled workers to adjust less to inflation than average wage rates, primarily because they lack the bargaining power of better-paid and more highly unionized workers. Prices of the basic purchases made by the poor have been rising faster than the Consumer Price Index. For example, food price inflation of the past 18 months has added twice as much to the cost of living of the poor as to the average urban worker's cost of living.[1] The poor cannot "substitute down" as the more affluent can to less expensive foods. Dried beans and rice, which are common items in the diets of the poor, increased in price from December 1970 to March 1974 by 256 percent and 124.3 percent, respectively.

What can be done to reduce the burdens imposed on the poor by the present combination of recession and inflation? Most public assistance is channeled to the poor through the many income support programs which have been established in the United States since the depression more than 45 years ago. These programs, established at different times and with varying objectives, have combined to produce an overall income transfer system riddled with conflicts and inequities, operated at huge cost, and delivering inadequate benefits to millions of needy persons.

A comprehensive program for reform of our income maintenance program was presented earlier this month in a report issued by the Subcommittee on Fiscal Policy of this Committee, under the leadership of Congresswoman Martha Griffiths. The recommended program consists of two parts: Tax relief for low- and moderate-income workers and modest cash grants related to income for the poorest in our society. Tax relief would occur through the substitution of rebatable tax credits, which are deducted from tax liability, for the personal exemptions now in effect. Excess credits would be paid to the individual(s) filing the tax return.

This comprehensive system of credits and allowances is more efficient and equitable than the food stamp and AFDC programs which it would replace. This program breaks sharply with the traditional welfare structure in that it avoids the penalties on work, marriage, and family responsibility that the old programs perpetuate. We commend the full 260 page report to anyone seriously interested in the Federal income transfer system, the problems under which it currently operates and some of the possibilities of reform.

We recommend that the program for income maintenance reform contained in the report of the Subcommittee on Fiscal Policy and the legislation that would enact this program be given the most immediate consideration.

While endorsing this welfare reform package and agreeing fully with the points it raises concerning the serious deficiencies in the current welfare programs, we also recognize that some immediate improvements are needed in the income support programs to help compensate the many poorer Americans who have suffered greatly from this year's severe inflation and developing recession. The Subcommittee on Fiscal Policy realizes, and states in its report, that its recommended program could not be in effect until 1977. In the light of this time lag, extension under existing statutes of the food stamp and Aid for Dependent Children (AFDC) programs is required to provide immediate relief to the poor.

The food stamp program should be emphasized since it is the income support program reaching the greatest number of people, it focuses on the necessity which has risen most rapidly in price, and is a program that can be made more effective with a few simple administrative changes. Currently, there are 14.3 million recipients of food stamps out of a total eligible population estimated to be between 30 to 35 million. The cost has escalated in the past three years from $1.6 billion to $4.0 billion. Many economists view this expansion of the program as a healthy development in that they see many advantages to food stamps as an income support program. More people benefit at a far lower per capita cost than in the government's two other major welfare programs, Medicare and AFDC. Also, the Food Stamp Program is mandatory, is nation-wide, is based on minimum food needs tied to national standards and most important, is designed to help all the needy. Thus, it includes the working poor, who are usually not covered by other income support measures.

Despite these laudable advantages, the program as it is currently operating suffers from some serious shortcomings. Perhaps the most significant is that the amount of food stamp allotments (currently $150 per month for a family of four) is simply not enough to provide for a nutritionally balanced diet. In many cases, this deficient payment affects the health of prenatal infants, nursing mothers, the elderly, and the unemployed. As things now stand, a family with a low income receiving food stamps may have to spend more than 40 percent of its income to obtain a minimum required diet.

The monthly bonus amount is based on the Economy Food Plan of the USDA, which currently provides allotments allowing less than 40 cents per person per meal. According to a food consumption survey by the USDA, less than 10 percent of those who eat at the cost level of the Economy Food Plan obtain the full recommended dietary allowances. For this reason, the USDA's Low Cost Food Plan should become the basis for food stamp allotments.

An equally significant defect of the present program is that the maximum purchase price, 30 percent of net household income, is too high. In fact, this ties in with the low level of participation in the program, since the high cost of purchasing food stamps is the most important reason for non-participation by many households. Thus, the maximum purchase price should be set at 25 percent of net household income, which would not only increase the value of the stamps for those currently using them (particularly benefitting the elderly poor), but would also attract many more people into the program, especially those poor people who felt they simply could not afford the current purchase price. These changes would raise the annual cost of the program by approximately $420 million.

It should be noted that this 25 percent maximum and preservation of the existing sliding scale up to that maximum, is in conflict with the President's recent amendment to the food stamp regulations. This amendment would require, as of March 1, 1975 *all* food stamp recipients to pay a flat 30 percent of net income for their food stamp allotment. This is a most ill-advised administrative change; it would increase the already severe burden that the poor and near-poor are bearing. Specifically, households with one or two persons would be hurt the most. Of these 50 percent are over 60 years of age. An elderly individual receiving the current Supplemental Security Income (SSI) payment of $146.00 a month now pays $30 to receive $46 in food stamps, a $16 bonus. The President's amendment would increase the purchase price to $43.80, reducing the bonus to $2.20, a virtually negligible amount. Among food stamp recipients of all ages, those with the lowest incomes will experience the greatest percentage increases in purchase prices. The ultimate effect, therefore, will be a strong inducement for many to drop from the program.

The participation problem is already a

[1] Loraine Donaldson. "The Poor Pay More—of the Food Inflation Tax," unpublished paper, Georgia State University, 1974. Food costs, which according to the Bureau of Labor Statistics have risen about three times as fast as other major budget components, generally account for a higher proportion of the poor's expenditures than of higher income groups.

serious one. Only 40 to 48 percent of those eligible actually use food stamps. Even this low rate overstates the participation of the elderly, blind, and disabled, which is currently 28 percent. Legislation to alleviate much of this problem has already been passed by Congress in July specifying that the Federal Government should cover 50 percent of administrative costs, as compared to the present level of 28 percent. Additional funds to cover administrative costs should enable states to hire more certification workers.

Another major problem is that the semi-annual increase in the food stamp allotment lags four to twelve months behind the increases in cost of the Economy Food Plan. For example, the Food Stamp allotment during this month (December 1974) is based on the Economy Food Plan established in February. Costs are probably 10 to 15 percent higher now.

To increase the value of the food stamps, for current participants, the President's administrative decision earlier this year should be reversed and the maximum purchase price should be reduced from 30 percent to 25 percent of net household income. The present sliding payment scale up to the maximum should be retained. Furthermore, the U.S. Department of Agriculture should expand participation in the program, particularly by implementing the provisions of P.L. 93-347 that enable the Federal Government to provide 50 percent of the administrative costs of the program. The payment scales of the Food Stamp Program should be adjusted every four instead of every six months.

THE IMPACT OF THE FORD ADMINISTRATION'S PROPOSAL TO RAISE FOOD STAMP PRICES

(By the Community Nutrition Institute)

ABOUT THE COMMUNITY NUTRITION INSTITUTE

The Community Nutrition Institute is a private non-profit organization in Washington, D.C. specializing in research, advocacy, training, and technical assistance in the areas of federal food assistance programs and federal programs for the aging. Since 1970, CNI has been known for its publication of CNI Weekly Report, a weekly newsletter covering the food and nutrition field. In the food stamp area, CNI has also recently published an outreach manual, "Publicizing Food Stamps: A Guide for Local Food Stamp Campaigns," and has available flyers explaining how recipients of the Supplemental Security Income program can qualify for food stamps.

On November 26, the Ford Administration unveiled a plan to make changes in the food stamp program that would result in a serious economic blow to millions of poor families across the United States. The new plan would require these families to pay more—in many cases, significantly more—for their food stamps.

The food stamp program, which now aids about 15 million persons each month, has in the past five years become one of the most important assistance programs available to low income persons in this country. The program provides stamps to eligible households, who use the food stamps at grocery stores just as if they were cash. The amount of food stamps a household gets depends on the size of the household, and is supposed to be sufficient to provide the household with a nutritionally adequate diet.[1] Most households pay a monthly charge for their food stamps, with the amount that each household pays for its stamps being determined by its income.

The Ford Administration's new plan, formally published in the Federal Register for December 6, 1974, would require all but the most destitute households to pay 30 percent of their net income to purchase their stamps each month, starting in March, 1975. For many households, this would represent a sharp increase over the price now paid for stamps. Yet there would be no increase at all in the amount of food stamps that would be provided for this increased price.

The U.S. Department of Agriculture (USDA), which administers the food stamp program, says that the average household now pays 23 percent of its net income for food stamps. This means that the Administration's plan would require the average family to pay nearly one third more for its food stamps than it now pays. According to USDA, this translates into an additional charge to the average family of four of $14 a month, or $168 a year, for the same amount of stamps.[2]

Nationwide, over 95 percent of all food stamp recipients—or over 14 million persons—would have to pay more for food stamps under the Administration's plan (see Appendix B). USDA's official estimate is that these recipients will have to pay $650 million more each year to buy food stamps if the new plan is put into effect.[3]

THE ADMINISTRATION'S PLAN AND THE ELDERLY

The new plan would hit hardest at food stamp recipients living in one and two person households, the majority of whom are elderly. Most single persons would be hit with increases of 35 to 100 percent in the price of their food stamps. For a few individuals and couples the increase would run as high as 800 percent. Nearly one out of every four food stamp recipients lives in a one or two person household.[4]

The plan would be harshest on those individuals whose net income is between $154 and $194 a month. All such persons who are now eligible for a $10-$13 food stamp benefit each month would be eliminated entirely from the food stamp program.

These individuals would be eliminated under the new plan because they would be required to pay more in cash to participate in the food stamp program each month than they would receive back in the form of food stamps. At present, one person households in this income range can pay $33-$36 each month and receive $46 in food stamps. Under the new plan, however, they would have to pay $46-$58, and still get only $46 in food stamps.

This aspect of the new food stamp plan would mean that some persons living below the poverty line (now $194 a month for persons living alone) would be unable to get food stamp aid for the first time in a number of years.

The elimination from the food stamp program of individuals with incomes between $154 and $194 a month would affect recipients of the Supplemental Security Income (SSI) program—the federal government's new assistance program for the aged, blind, and disabled poor—with particular severity. (In Michigan and Wisconsin, the current income eligibility limit for one person households wishing to participate in the food stamp program is $210 a month, rather than $194 a month as elsewhere. Therefore, all single persons in these two states with net incomes between $154 and $210 a month would be dropped from the program.)

There are now 18 states in which combined federal and state payments to aged, blind and disabled individuals enrolled in the SSI program total $154 a month or more. Consequently, individual SSI recipients in these states will be dropped from the food stamp program unless they can qualify for large enough income deductions. The states involved are Colorado, Connecticut, Idaho, Illinois, Kansas, Maine, Michigan, Minnesota, Nebraska, New Hampshire, New Jersey, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Dakota, Vermont, and Washington. Blind individuals in Iowa who receive SSI benefits would also be affected in this manner.[4]

Some SSI recipients in other states would also be forced out of the food stamp program. The SSI program provides a basic federal income guarantee of $146 a month to individuals and $219 a month to couples, and allows states to supplement these amounts. Even in states that do not provide supplementary payments, individuals and couples who receive Social Security or other unearned income as well as SSI are allowed to have $20 additional in total income—or $166 a month for individuals and $239 for couples. This means that in all states, single persons who receive both Social Security and SSI will have an income of at least $166 a month, and will consequently be eliminated from the food stamp program under the Administration's new plan, unless they qualify for income deductions.[5] The most recent figures from the Social Security Administration show that two thirds of all elderly SSI recipients do receive Social Security.

SSI recipients who do not receive Social Security or other income, and who live in a state that does not provide supplementary payments, now have incomes of $146 a month and will technically remain able to participate in the food stamp program if the new plan is implemented. However, a person with net income of $146 a month would have to pay $43.80 for $46 of food stamps each month, under the new plan. Presently, such persons pay $30 for their $46 in stamps. It seems safe to predict that few if any aged, blind, or disabled SSI recipients will continue to go through the time-consuming processes involved in applying for and using food stamps to receive a $2.20 monthly benefit.

SSI recipients and other individuals who are able to take significant income deductions would get larger food stamp benefits, but would still have to pay far more than they do currently. An SSI recipient with net income after deductions of $105 a month, for example, would have to pay $31.50 for food stamps, instead of $18 as at present.

Elderly couples—especially those who are SSI recipients—would also be harshly affected. A couple with $270 net monthly income would have to pay $81 for $84 in food stamps, rather than $64 for $84 in stamps as at present. A couple with $239 net income (the basic federal SSI payment of $219 plus $20 in Social Security) would pay $71.70, instead of $62, for its $84 in food stamps (and would see its food stamp benefit nearly cut in half from $22 to $12.30).

The overall effect of the new USDA plan on SSI recipients would thus be to eliminate most of them from the program by substantially reducing (or eliminating altogether) their food stamp benefits. Although the Congress acted on three occasions—in August 1973, December 1973, and July 1974 (P.L. 93-86, P.L. 93-233, and P.L. 93-335)—to keep SSI recipients in the food stamp program, the Administration's new food stamp plan would effectively end their participation in large numbers. One USDA food stamp official told the Community Nutrition Institute that he expected about half of the elderly individuals and couples who now get food stamps to leave the program as a result of this new plan. USDA statistics show that if this estimate is correct, implementation of this plan would mean that nearly one million elderly poor would stop getting food stamp benefits.

Net monthly income	Household of 1		Household of 2	
	Current price (Price paid for $46 of stamps each month)	Price under new plan (Price paid for $46 of stamps each month)	Current price (Price paid for $84 of stamps each month)	Price under new plan (Price paid for $84 of stamps each month)
$25	$1	$7.50	$1	$7.50
$35	4	10.50	4	10.50
$45	6	13.50	7	13.50
$65	10	19.50	12	19.50

Footnotes at end of article.

Footnote at end of table.

Net monthly income	Household of 1: Price paid for $46 of stamps each month — Current price	Household of 1: Price paid for $46 of stamps each month — Price under new plan	Household of 2: Price paid for $84 of stamps each month — Current price	Household of 2: Price paid for $84 of stamps each month — Price under new plan
$85	$14	$25.50	$18	$25.50
$105	18	31.50	23	31.50
$125	24	37.50	29	37.50
$145	30	43.50	35	43.50
$165	33	[1] 49.50	38	49.50
$185	36	[1] 55.50	44	55.50
$205			50	61.50
$225			56	67.40
$245			62	73.50
$265			64	79.50
$275			64	82.50

[1] All individuals with net monthly income of $154 and above would have to pay more for food stamps than they would receive, and would hence be removed from the program.

Implementation of the plan would be doubly harsh on many SSI recipients because it would come at a time when inflation has been eating up the value of their SSI benefits. The SSI benefits paid to aged individuals in 19 states are now lower, when adjusted for inflation, than comparable state old age assistance payments were in January, 1972 (before the SSI program came into existence). Payments to aged couples, when adjusted for inflation, have declined since January, 1972 in 21 states. The declines range as high as 25 percent for individuals in some states, and 20 percent for couples.[7]

FAMILIES WITH VERY LOW INCOMES

The new plan would also prove very severe on larger families that have very low incomes, such as net income under $100 a month. These families, which have oriented their subsistence spending patterns for three years around the prices currently charged for stamps, would receive a devastating jolt by having their food stamp prices rise by up to 200 percent at a time when rent, heat, and other costs are rising as well. The following chart shows the current food stamp prices and the prices that would be charged to a very poor family of four under the new plan:

Net monthly income:	Current price	Price under new plan
$37.50	$4	$11.25
47.50	7	14.25
57.50	10	17.25
67.50	13	20.25
77.50	16	23.25

Also hard hit by the new plan would be higher income households earning within $100 of the maximum food stamp income eligibility limits. Households in these income categories would see their food stamp benefits disappear almost entirely. A household of two with $270 net monthly income would pay $81 for $84 in stamps, an increase of $17 in price. A family of four with $500 income would pay $150 for $154 in stamps, up 20. A family of six with $680 monthly income would pay $204 for $210 in stamps, an increase of $26.

MANY FAMILIES WOULD BE FORCED TO LEAVE THE PROGRAM

One immediate effect of the new plan would be to drive large numbers of the poor—especially the elderly—out of the food stamp program. Considering that large numbers of SSI recipients would leave or be removed from the program—and that many non-SSI one and two person households as well as many families near the top of the income scale would also drop out—an overall drop-out rate of 10 percent seems a conservative estimation. A 10 percent drop-out rate would mean that 1.5 million persons were either elimniated or felt compelled to leave the food stamp program.

(An important point to remember is that food stamp participation is already quite low—about 15 million persons out of 37 million estimated to be eligible by an HEW Department computer analysis conducted in early 1974.[8] The high prices already charged for food stamps have long been said by a number of nutritionists and anti-hunger advocates to be the single greatest obstale to increased participation.[9]

If 10 percent of those in the program do drop out, about $325–$335 million a year in benefits going to the poor would disappear, in addition to the $650 million in benefits that would be wiped out by having recipients pay more for their stamps.

This would make the total withdrawal of benefits, due to the Administration's new plan, close to $1 billion a year. (See Appendix A). Since the entire food stamp program now provides less than 4 billion a year in benefits, the new plan would cut food stamp aid going to the nation's poor by about 25 percent. This would make the new food stamp plan one of the largest cutbacks in income assistance for the poor in U.S. history, and perhaps the largest cutback during any period of economic crisis.

THE ADMINISTRATION'S JUSTIFICATIONS FOR THE PLAN

No strong arguments have been advanced to defend the new plan. Two principal arguments—that the plan is necessary as a budget cutting device and that the plan would make the food stamp program more equitable—do not stand up under close scrutiny.

1 *Budgetary Considerations:* Administration spokesmen frequently cite the rising costs of the food stamp program as the main reason for the new cutbacks. The food stamp program is rapidly growing and is out of control, they say, contending that costs have risen from $2.2 billion in fiscal year 1973 to $4 billion in fiscal 1975.[10]

This analysis is misleading on several accounts. In FY 1973, several hundred counties ran the commodity distribution program instead of a food stamp program, at a cost to the federal government of about a quarter of a billion dollars. These counties have now transferred to the food stamp program, as required by Congress in Public Law 93–86. The cost of the commodity program in FY 1973 is not included in the $2.2 billion figure given for FY 1973, but the cost of running food stamp programs in these counties is included in the $4 billion figure for FY 1975.

Even more important, the increase in the numbers of persons in the food stamp program in recent years simply reflects those persons who entered the program when their counties switched from the commodity program to the food stamp program. In December 1971, 14.9 million persons participated in either the food stamp or commodity programs. In September 1974, the number of participants stood at 15.0 million. *The number of persons in these programs has not changed in nearly 3 years despite massive inflation and high unemployment. The food stamp program is not growing rapidly. It is not out of control. The entire increase in the cost of the program is due to the transfer of counties from commodities to food stamps, and to the federal government's inability to control food price inflation.* If inflation were brought under control, so would be the costs of the food stamp program.

A further point is that Congress and USDA are making other food stamp changes to cut food stamp program costs. Congress has enacted a ban on food stamps for students claimed as tax dependents by households not themselves eligible for food stamps; USDA has announced that quality control and work registration procedures will be intensified. USDA says that an additional $110 million will be saved in the latter part of FY 1975 alone through these alterations in the program.

Finally, to make the massive program cuts envisioned by the new plan would not only be disastrous to the elderly and to other poor families but would also contribute to further unemployment and recession by removing needed federal food stamp dollars from local economies. These dollars are "high velocity" dollars that circulate widely throughout local economies and have a significant economic "multiplier effect." Their removal from local economies at this time could be especially damaging economically in areas of high food stamp usage (See Appendix A for the effect on each state).

It is especially inappropriate for Administration spokesmen to defend this draconian food stamp measure while at the same time suggesting the possibility of a tax cut in 1975 to stimulate the economy. A tax cut, of course, will not help the elderly poor and the majority of food stamp recipients who pay little or no income tax. To cut taxes and raise food stamp prices would thus be an exercise in redistributing income from the elderly and the poor to those who already have more income.

2. *Equitability Considerations:* Stephen Hiemstra, an assistant to Edward J. Hekman, the administrator of USDA's Food and Nutrition Service, was quoted in the New York Times as saying that the Administration's new plan would make the food stamp program more equitable because it would require all families to pay 30 percent of net income for food stamps, the amount now required of many large families. Hiemstra similarly told the Washington Post that 25 percent of all food stamp recipients would not be affected by the new plan, because many people already pay the full 30 percent.[11]

These statements are based upon an incorrect mathematical analysis, as Dr. Hiemstra now acknowledges. USDA food stamp profiles show that persons in households already paying 30 percent of income comprise less than one-tenth of one percent of the entire food stamp caseload (See Appendix B). The "many large families" already paying a full 30 percent of income turn out not to exist.

The only persons who will not be affected by the new plan are destitute households who will continue to get food stamps free (one or two person households with income below $20 a month; larger households with income below $30 a month), and an infinitesimal fraction of participants who do already pay 30 percent of income for food stamps. These two groups, taken together, comprise only about 4 percent of all food stamp participants. The remaining 96 percent of recipients, numbering over 14 million people, will have to pay more than before.

In a phone conversation with the Community Nutrition Institute on December 5, Dr. Hiemstra acknowledged USDA's error and said that it appeared that over 90 percent of those getting food stamps would, indeed, have to pay more under the new plan.

Simple logic should indicate that making virtually everyone in a group of people worse off than before is not an effective exercise in making matters more equitable for this group.

Moreover, there has always been some logic in charging differing percentages of income to different categories of food stamp recipients. A single person making $170 a month now pays $36 for $46 in food stamps. A family of four making $170 a month net income pays $47 for $154 in food stamps. The family of four does pay a larger percentage of income, but it also gets a much greater benefit. If the single person had to pay $47, such a person would actually be paying the gov-

Footnotes at end of article

ernment $1 more than the value of the food stamps he or she would be receiving. Yet it is exactly this type of absurd arrangement that the Administration's new plan would bring into being, under the guise of "equitability."

The Community Nutrition Institute believes that the elderly and the poor deserve better than the new plan. These are people who need special help in a time of economic distress, people who are living on fixed incomes but watching heat, electric, and other bills rise every month. Their Social Security checks, SSI checks, and food stamp allotments are regularly adjusted to keep pace with inflation, but the adjustments are usually out of date before they are even implemented. The food stamp allotment for a family of four, supposedly based on the meager USDA "economy food plan," will be $154 a month from January 1, 1975 until June 30, 1975. But by September, 1974, the cost of the economy plan had already hit $155.10 and showed no signs of stopping.

The attempt to make the poor pay more for their food stamps would thus squeeze them from both ends—while inflation is decreasing the "real value" of their food stamps and of other benefits, the government is asking them to pay more than ever for these "devalued" stamps. The result can only be more hunger and malnutrition—and consequently, higher government expenditures for public assistance and medical assistance in the years to come.

Already the poor have been harder hit by the inflation than has any other segment of the population. A recent study by the HEW Department, "The Impacts of Inflation and Higher Unemployment: With Emphasis on the Lower Income Population" found that the current inflationary period has been 20 percent worse for the poor than for middle income families (unlike inflationary periods in the 1960's when the impact of rising prices was distributed relatively evenly among income groups.) [12]

The study also found that unemployment rates for those with the lowest incomes—the aged, blacks and teenagers—have risen faster than the average; and that despite food stamps, unemployment compensation, and other government programs, some of the unemployed have suffered income losses of as much as 40 percent after losing their jobs.

In a comment that could be applied directly to the Administration's new food stamp plan, the study observed that "the statistics presented in this paper, while accurate, fail, as all such presentations must, to convey the hardship that a 10 percent income loss means to a family that begins with a $3,000 income. The poor have little or no flexibility to adjust to job and real income losses."

In spite of what the HEW study has found, the Administration is proposing with its new food stamp plan to mete out a further 7 percent income loss to the average poor family in the program, and to inflict an even greater income loss on most of the elderly. To paraphrase the HEW paper, no analysis can convey the hardship that this will bring.

At the very least, prices for food stamps should be maintained at current levels, the same levels that have been in effect for three years. (If anything, it is already harder for a low income family to pay the same percentage of income for food stamps that it paid three years ago, since the cost of all other family necessities has risen so sharply during this period.)

FOOTNOTES

[1] In fact, the amount of food stamps a household gets each month is tied to the "economy food plan," USDA's cheapest and least nutritious food plan. A number of medical experts, and even nutritionists within USDA, have termed the economy food plan nutritionally inadequate over anything but short periods of time. This evidence is collected in papers filed in Rodway v. United States Department of Agriculture, Civil Action No. 2553–71. Among the exhibits in this lawsuit are USDA studies showing that in USDA's last Food Consumption Survey, conducted in 1965–6, only 10 percent of the families studied who were spending at the level of the economy food plan were obtaining an adequate diet—defined as 100 percent of the Recommended Daily Allowance (RDA) of seven basic nutrients—and that less than 50 percent of the families studied who were spending at this level were getting even ⅔ of the RDA's of these nutrients. A summary of some of this evidence can be found in CNI Weekly Report, Vol. III:41.

[2] USDA's statement that the average household now pays 23 percent of its income for food stamps was first quoted in "Food Aid Cut Would Hurt Elderly Poor", *Washington Post*, December 4, 1974. USDA's statement that the average family of four will have to pay $14 more each month for its stamps first appeared in "Ford Criticized on Food-Stamp Plan," *New York Times*, December 4, 1974. Both statements were confirmed by P. Royal Shipp, USDA food stamp director, in a conversation with CNI on December 10.

[3] USDA's food stamp profile shows that 23 percent of food stamp recipients live in one and two person households, and USDA officials have cited this statistic in recent weeks. USDA's statement that over half of those in one and two person households are elderly was cited in the *Washington Post*, December 4, 1974.

[4] Current SSI benefit levels in each state are listed in "Supplemental Security Income for the Aged Blind, and Disabled: Summary of State Supplementation and Medicaid Decisions," a publication of the Department of Health, Education, and Welfare.

[5] The number of single person households who will be eliminated from the food stamp program cannot be estimated from the USDA food stamp profile. The most recent profile is based on data collected in June, 1973, over half a year before the SSI program began. The SSI program has resulted in some increase in income to many individuals and couples in many states.

[6] The food stamp profile shows 23 percent of all recipients, or about 3.5 million persons, in one and two person households. USDA has said that over half of these people, or at least 1.75 million, are elderly. If half of the elderly individuals and couples leave the program, at least 875,000 elderly persons will no longer be getting food stamps.

[7] From an unpublished analysis by Dr. Gary Bickel, Bureau of Social Science Research, Washington, D.C.

[8] The HEW computer analysis is cited in "Studies in Public Welfare, Paper No. 14: Public Welfare and Work Incentives: Theory and Practice," a publication of the Subcommittee on Fiscal Policy of the Joint Economic Committee of the U.S. Congress. Charles Seagraves, an HEW official, confirmed the results of the computer run in a conversation with CNI in April, 1974.

[9] See especially "Hunger USA Revisited: A Report by the Citizen's Board of Inquiry into Hunger and Malnutrition in the United States," October 1972: "Report and Recommendations of the Panel on Nutrition and Other Special Groups," Hearings before the Select Committee on Nutrition and Human Needs of the United States Senate, June 19, 1974; and an unpublished study of food stamp participation in two North Dakota counties by the EFMS Community Action Project, Devil's Lake, North Dakota, 1971.

[10] These figures appear in papers prepared by the HEW Department and subsequently cited in "Welfare Report/HEW wants welfare programs replaced by negative income tax," *National Journal Reports*, October 19, 1974, and in several articles in the *Washington Post*.

[11] *New York Times*, December 4, 1974: *Washington Post*, December 4, 1974.

[12] "Technical Analysis Paper No. 2: The Impetus of Inflation and Higher Unemployment: With Emphasis on the Lower Income Population," HEW Department, October 1974.

APPENDIX A: THE EFFECT OF THE NEW PLAN ON STATE ECONOMIES

Implementation of the Administration's food stamp plan would have a considerable effect on the economies of a large number of states. The table shown below lists the amount of federal food stamp dollars that will be lost to state economies annually if the plan is put into effect. The first column gives the USDA figure for the number of food stamp recipients in each state in September 1974, the latest month for which such data is available. The second column shows the loss to each state if the price increase took effect but if no one left the food stamp program as a result. The third column shows the loss if 10 percent of the food stamp participants in each state left the program, a conservative estimation.

It should be remembered that food stamp dollars are "high velocity" dollars that circulate a number of times in a local economy and have a significant economic "multiplier" effect. Therefore, the actual loss to state economies will be several times the dollar figures shown in this chart.

HOW THE FIGURES WERE COMPILED

USDA estimates that the new plan will cut food stamp benefits by $3.50 per participant per month. Consequently the figures in the second column were derived by multiplying the number of food stamp recipients in each state by $42 ($3.50/mo.×12 months). The figures for most states are probably low, because September is traditionally one of the months of lowest food stamp participation (food stamp participation peaks each March).

The figures in the third column were derived by:

(1) taking the USDA figure for the average person food stamp bonus for each state in September, 1974.

(2) adding 60 cents to this figures to reflect the increase in food stamp bonuses that will occur on January 1, 1974 when new food stamp tables take effect. (The new tables increase the food stamp allotment about $1 per person; in the past, each $1 increase in the allotment per person has resulted in a 70 cent increase in the average monthly bonus. Since one person households will not get any allotment increase on January 1, however, the increase has been estimated here at only 60 cents. USDA officials regard this estimate as conservative.)

(3) subtracting $3.50 from the figure derived in step (2), to reflect the decrease in the bonus that USDA says will occur if the new plan is implemented.

(4) multiplying this figure by 10 percent of the number of recipients in each state in October, 1974 to find the monthly loss in federal bonus dollars that will occur if 10 percent of the participants in each state leave the program.

(5) multiplying this figure by 12 to annualize it.

(6) adding this figure to the figure in column 2 to find the total annual dollar loss to each state if the prices are increased on March 1 and if 10 percent of the recipients leave the program.

The figures in this column are also low because they are based on September participation data.

State	Food stamp recipients	Dollar loss to economy from new plan if no one leaves the program	Dollar loss to economy if 10 percent of recipients leave the program
Alabama	338,507	$14,217,294	$22,264,282
Alaska	14,205	596,610	1,035,033
Arizona	[1] 110,400	[1] 4,636,800	[1] 7,314,220

State	Food stamp recipients	Dollar loss to economy from new plan if no one leaves the program	Dollar loss to economy if 10 percent of recipients leave the program
Arkansas	245,940	10,329,580	10,181,868
California	1,343,373	56,421,666	83,987,679
Colorado	131,151	5,508,342	8,747,247
Connecticut	139,532	5,860,344	8,435,546
Delaware	21,214	$890,988	$1,274,876
District of Columbia	116,392	4,888,464	7,395,547
Florida	514,847	21,623,574	35,586,224
Georgia	424,830	17,842,860	26,835,661
Hawaii	71,540	3,004,680	4,802,337
Idaho	31,695	1,331,190	2,044,327
Illinois	840,900	35,317,800	53,299,605
Indiana	194,036	8,149,512	12,338,361
Iowa	105,645	4,437,090	6,672,115
Kansas	53,107	2,230,494	3,149,457
Kentucky	400,655	16,827,510	27,366,339
Louisiana	502,279	21,095,718	33,933,969
Maine	96,133	4,037,586	5,808,355
Maryland	245,101	10,294,242	16,626,671
Massachusetts	87,774	3,686,508	5,013,650
Michigan	667,791	23,847,222	32,670,694
Minnesota	[1] 165,930	[1] 5,969,060	[1] 9,953,808
Mississippi	348,321	14,629,482	23,026,804
Missouri	288,353	12,110,826	18,820,223
Montana	[1] 32,821	[1] 1,378,482	[1] 2,181,546
Nebraska	44,332	1,861,944	2,654,068
Nevada	27,168	1,141,056	1,940,447
New Hampshire	30,277	1,271,634	1,793,730
New Jersey	435,187	18,277,854	27,333,325
New Mexico	149,831	6,292,902	10,133,370
New York	1,195,785	50,222,970	65,175,065
North Carolina	[1] 341,397	[1] 14,338,674	[1] 21,553,075
North Dakota	[1] 18,361	[1] 771,162	[1] 1,137,133
Ohio	750,774	31,532,508	50,722,291
Oklahoma	155,463	6,529,446	9,337,107
Oregon	163,617	6,871,914	10,694,661
Pennsylvania	744,896	31,285,632	43,487,028
Rhode Island	77,881	3,271,002	4,621,458
South Carolina	354,484	14,888,328	23,982,969
South Dakota	[1] 30,273	[1] 1,271,466	[1] 1,874,867
Tennessee	329,456	[1] 13,837,152	[1] 21,842,932
Texas	1,057,976	44,434,992	69,902,590
Utah	39,829	1,672,818	2,519,263
Vermont	98,165	1,602,930	2,241,812
Virginia	215,338	9,044,196	13,238,118
Washington	[1] 228,898	[1] 9,613,716	14,991,903
West Virginia	213,724	8,978,508	12,964,965
Wisconsin	129,403	5,434,926	7,421,003
Wyoming	9,272	389,424	589,142
Guam	1,194	[1] 50,148	81,812
Puerto Rico	[2] 816,403	34,288,926	57,899,300
Virgin Islands	[3] 17,396	730,632	1,310,545
Total	15,049,302	632,070,684	958,210,323

FOOTNOTES

[1] The totals for these states do not reflect about 77,000 residents of Indian reservations who are still enrolled in the commodity program rather than the food stamp program. All reservations must switch to the food stamp program by July 1, 1977, however, and so the eventual economic effect of the cutback in these states would be larger than this chart indicates.

[2] The total for Puerto Rico includes 352,000 persons estimated by USDA to have participated in the food stamp program in October, 1974, plus 464,403 additional persons reported as having participated in the commodity program in October. Since all commodity areas of Puerto Rico transferred to food stamps on November 1, these 464,403 persons are presumably now food stamp recipients and were counted as such in the above chart. Preliminary figures for October have been used (rather than September data) because some parts of Puerto Rico scheduled to implement the food stamp program on September 1 were late in certifying large numbers of eligible households. In addition, far more persons are eligible for food stamps in Puerto Rico than have been eligible for commodities, and the October figures should be closer to the eventual size of the food stamp program.

[3] October preliminary data used in the Virgin Islands since the food stamp program was implemented here on October 1.

NOTE.—The dollar loss to state economies in the above chart totals $632 million rather than $650 million. USDA's official estimate, because the above chart is based on food stamp participation by 15 million persons, which USDA estimates that participation will soon average closer to 15.5 million persons. Considering that participation usually peaks in March and dips over the summer, and that Puerto Rico is expected to witness major expansion of the food stamp program in coming months, USDA's projection seems reasonable. This higher average participation figure would bring the total dollar loss to state economies if the new plan is implemented and if 10 percent of food stamp recipients leave the program to about $980–$985 million a year. If 10 percent proves to be an underestimation of the dropout rate, then the total dollar loss to state economies if the new plan is implemented will surpass $1 billion a year.

APPENDIX B: THE NUMBER OF RECIPIENTS AFFECTED BY THE NEW FOOD STAMP PLAN, AS INDICATED BY USDA'S FOOD STAMP PROFILE

This appendix is based on the U.S. Department of Agriculture's most recent profile of recipients in the food stamp program. The profile which is reprinted on page 24 shows that the Ford Administration's new food stamp plan will require over 95 percent of all food stamp recipients to pay more for their food stamps.

HOW MANY PEOPLE WILL HAVE TO PAY MORE?

Under the Administration's new food stamp plan, everyone will have to pay more for food stamps except two groups: those who have been receiving and who will continue to receive food stamps free of charge, and those who already pay 30 percent of net income for food stamps.

1. *Those receiving food stamps free of charge.* To receive food stamps for free, one and two persons households must have net income less than $20 a month, and larger households must have net income less than $30 a month. The USDA profile shows that 4.1 percent of all recipients have net monthly income less than $30. We shall therefore use this figure as the percentage of persons receiving free food stamps, recognizing that it may be a slight over-estimation because households of one and two with incomes between $20 and $30 a month can not actually get free food stamps.

2. *Persons already paying 30 percent of income for food stamps.* To find those households already paying 30 percent of net income for food stamps we must examine the food stamp tables now in use (see table at end.) These tables are divided into income brackets of $10, $20, and $30. All households of the same size and within the same income bracket pay the same amount for food stamps. At present, there are a small number of income brackets in which the price for food stamps is actually set at 30 percent of the lowest dollar figure in the income bracket. For example, all households of eight with net monthly income in the bracket running from $360 to $389.99 pay $108 for food stamps, and $108 is equal to 30 percent of $360, the lowest dollar figure in the bracket. The only income brackets where any households pay 30 percent for food stamps are those brackets consisting of households of eight or more with incomes of $110 a month or more. Those households whose net incomes actually fall right on the bottom dollar of one of these income brackets (or up to 3 cents over the lowest dollar of the bracket) are already paying precisely 30 percent of income for food stamps and will not be affected by the new food stamp plan. On the other hand, households of eight or more whose incomes are not right at the bottom of an income bracket *will* have to pay more for food stamps under the new plan. A household of eight with net income of $385, for example, would have to pay $115.50 for food stamps, rather than $108 as at present.

To find the number of persons who are already paying 30 percent of income and who consequently will not be affected by the new plan, we must therefore find the number of persons in households of eight and above, with incomes of $110 and up, whose net incomes fall within the bottom four cents of one of the income brackets.

To calculate this figure, we will take 4/1000 of the percentage of persons in households of eight or more, with incomes of $110 or more, whose incomes place them in an income bracket $10 wide (since the probability is 4 out of 1,000 that their income will be in the bottom four cents of the bracket). We then take 4/2000 of the percentage of persons in those income brackets that are $20 wide, and 4/3000 of the percentage of recipients in income brackets that are $30 wide. The total will give us a reasonable estimate of the percentage of households already paying 30 percent of net income for food stamps.

HOUSEHOLDS OF EIGHT

The food stamp profile shows that 4.6 percent of those in eight person households are in the $100 to $149.99 ranges, which is made up of $10 income brackets: $4.6\% \times .004 = .0184\%$.

43.5 percent of those in eight person households are in the $150–$249.99 range or the $250–$359.99 range, which is made up almost entirely of $20 brackets: $43.5\% \times .002 = .0870\%$.

45.7 percent of those in eight person households are in the income range of $360 and up, which is made up of $30 income brackets: $45.7\% \times .00133 = .0608\%$.

So the total percentage of persons in eight person households already paying 30 percent of income for food stamps is: $.0184\% + .0870\% + .0608\% = .1662\%$ of all persons in eight person households.

Since 6.3 percent of all recipients are in eight person households, the percentage of all recipients who are in eight person households and who already pay 30 percent of income is: $6.3\% \times .1662\% = .0105\%$ of all food stamp recipients.

Now we repeat the same procedure for households of nine and households of 10 and above.

HOUSEHOLDS OF NINE

1. Income in the $100–$149.99 range: $4.2\% \times .004 = .0168\%$.

2. Income in the $150–$359.99 range: $42.9\% \times .002 = .0858\%$.

3. Income $360 and up: $47.5\% \times .00133 = .0632\%$.

4. The total percentage of all persons in nine person households who pay 30 percent of net income for food stamps is: $.0168\% + .0858\% + .0632\% = .1658\%$ of all persons in nine person households.

5. Since 4.1 percent of all recipients are in nine person households: $4.1\% \times .1658\% = .0068\%$ of all food stamp recipients.

HOUSEHOLDS OF 10 OR MORE

1. Income in the $100–$149.99 range: $4.4\% \times .004 = .0176\%$.

2. Income in the $150–$359.99 range: $38.0\% \times .002 = .0760\%$.

3. Income $360 and up: $51.3\% \times .00133 = .0682\%$.

4. The total percentage of all persons in households of ten or more who pay 30 percent of income for food stamps is: $.0176\% + .0760\% + .0682\% = .1618\%$ of all persons in households of ten or more.

5. Since 7.6 percent of all recipients are in households of ten or more: $7.6\% \times .1618\% = .0123\%$ of all food stamp recipients.

Total. The total percentage of all recipients who now pay 30 percent of income for food stamps is the total of the percentages for eight person households, nine person households, and households of ten or more: $.0105\% + .0068 + .0123\% = .0296$ percent of all food stamp recipients.

So, .0296 percent of all recipients currently pay 30 percent of income to purchase food stamps. (If anything, the estimate of .0296 percent as the percentage of recipients already paying 30 percent of income for food stamps should be slightly higher, principally

because the number of welfare families of large size has declined since June 1973, the month on which the USDA food stamp profile is based. Since this month, the number of families in the Aid to Families with Dependent Children program has decreased by several hundred thousand, but the number of families in the program has edged slightly upward. This means that the size of the average welfare family has declined. Most AFDC families are eligible for food stamps, and a majority of these families participate in the food stamp program. If the percentage of food stamp recipients in families of eight or more is lower today than in June 1973, which seems inevitable because of the AFDC statistics, then the number of persons already paying 30 percent of income for food stamps would also be lower than has been calculated here.)

PERCENTAGE OF RECIPIENTS NOT AFFECTED BY THE NEW PLAN

The percentage of recipients not affected by the new plan is the total of those receiving food stamps free of charge (4.1%) and those already paying 30 percent of income for stamps (.0296%). Consequently, about 4.13 percent of all food stamp recipients will not be affected adversely by the Administration's plan to raise food stamp prices, and about 95.87 percent of all recipients will be affected adversely. Since there are now about 15 million recipients in the program, between 14 and 14.5 million persons will have to pay more for their food stamps if the new plan is implemented.

1973 TOTAL UNITED STATES PROFILE OF FOOD STAMP PROGRAM PARTICIPANTS FOR ALL PERSONS BY HOUSEHOLD SIZE, BY INCOME RANGE FOR THE MONTH OF JUNE

PROFILE A

[In percent]

Monthly income	1 person	2 persons	3 persons	4 persons	5 persons	6 persons	7 persons	8 persons	9 persons	10 or more persons	Total
0 to $29.99	6.1	5.4	4.5	4.5	3.7	3.4	3.3	2.2	1.7	2.8	4.1
$30 to $39.99	2.3	1.6	1.2	.7	.4	.3	.6	.3	.4	.2	.9
$40 to $49.99	3.5	2.0	1.4	.9	.4	.2	.2	.6	.3	.3	1.1
$50 to $69.99	10.7	5.1	4.2	2.3	1.7	1.2	1.4	.8	.7	1.2	3.3
$70 to $99.99	21.1	13.6	7.7	6.1	3.9	2.6	2.2	2.3	2.3	1.8	7.1
$100 to $149.99	55.9	30.6	21.4	13.3	11.2	8.4	7.6	4.6	4.2	4.4	18.0
$150 to $249.99	.4	41.7	52.4	40.7	31.6	26.7	22.8	20.1	21.6	16.7	30.6
$250 to $359.99			7.2	26.3	31.0	30.5	27.1	23.4	21.3	21.3	17.9
$360 to $419.99				5.2	11.7	11.9	14.2	12.0	11.9	9.2	6.5
$420 to $479.99					4.4	11.0	12.6	14.0	12.0	8.6	4.7
$480 to $539.99						3.8	4.1	12.3	7.1	7.5	2.4
$540 and up							3.9	7.4	16.5	26.4	3.4
Percent by household size	9.6	13.3	14.1	14.4	12.3	10.2	8.1	6.3	4.1	7.6	100.0

FOOD STAMP ALLOTMENTS AND PURCHASE REQUIREMENTS (EFFECTIVE JAN. 1)

48 States and District of Columbia	Number of persons in household 1	2	3	4	5	6	7	8
Monthly coupon allotment	$46	$84	$122	$154	$182	$210	$238	$266
Monthly net income and monthly purchase requirement:								
$0 to $19.99	0	0	0	0	0	0	0	0
$20 to $29.99	1	1	0	0	0	0	0	0
$30 to $39.99	4	4	4	4	5	5	5	5
$40 to $49.99	6	7	7	7	8	8	8	8
$50 to $59.99	8	10	10	10	11	11	12	12
$60 to $69.99	10	12	13	13	14	14	15	16
$70 to $79.99	12	15	16	16	17	17	18	19
$80 to $89.99	14	18	19	19	20	21	21	22
$90 to $99.99	16	21	21	22	23	24	25	26
$100 to $109.99	18	23	24	25	26	27	28	29
$110 to $119.99	21	26	27	28	29	31	32	33
$120 to $129.99	24	29	30	31	33	34	35	36
$130 to $139.99	27	32	33	34	36	37	38	39
$140 to $149.99	30	35	36	37	39	40	41	42
$150 to $169.99	33	38	40	41	42	43	44	45
$170 to $189.99	36	44	46	47	48	49	50	51
$190 to $209.99	36	50	52	53	54	55	56	57
$210 to $229.99		56	58	59	60	61	62	63
$230 to $249.99		62	64	65	66	67	68	69
$250 to $269.99		64	70	71	72	73	74	75
$270 to $289.99		$64	$76	$77	$78	$79	$80	$81
$290 to $309.99			82	83	84	85	86	87
$310 to $329.99			88	89	90	91	92	93
$330 to $359.99			94	95	96	97	98	99
$360 to $389.99			100	104	105	106	107	108
$390 to $419.99			104	113	114	115	116	117
$420 to $449.99				122	123	124	125	126
$450 to $479.99				130	132	133	134	135
$480 to $509.99				130	141	142	143	144
$510 to $539.99				130	150	151	152	153
$540 to $569.99					154	160	161	162
$570 to $599.99					154	169	170	171
$600 to $629.99					154	178	179	180
$630 to $659.99						178	188	189
$660 to $689.99						178	197	198
$690 to $719.99						178	202	207
$720 to $749.99							202	216
$750 to $779.99							202	225
$780 to $809.99							202	226
$810 to $839.99								226
$840 to $869.99								226
$870 to $899.99								226

Note: For each additional household member over 8 add $22 to the 8-person allotment.

Source: The table of food stamp benefits that the administration's plan would replace reprinted from: "Food and Nutrition," the newsletter of the Food and Nutrition Service, U.S. Department of Agriculture, Nov. 22, 1974.

THE ADMINISTRATION'S FOOD STAMP PLAN

Reprinted below is the Administration's food stamp plan as it appeared in the December 6 Federal Register. The new plan would do away with the traditional food stamp table, and have the price of each household's food stamps determined by taking 30 percent of the household's net income. The price would not be rounded downward to the nearest dollar. The reprint follows:

[Food and Nutrition Service—FSP No. 1975-1.2; Amdt. No. 45]

FOOD STAMP PROGRAM

PURCHASE REQUIREMENTS

Pursuant to the authority contained in the Food Stamp Act of 1964, as amended (78 Stat. 703, as amended; 7 U.S.C. 2011-2026), notice is hereby given that the Food and Nutrition Service, Department of Agriculture proposes to amend Notice FSP No. 1975-1.1 which prescribes maximum monthly allowable income standards and basis of coupon issuance for the 48 States and the District of Columbia, issued pursuant to Part 271 of the regulations governing the operation of the Food Stamp Program, 7 CFR 271. Notices FSP 1975-2.1 for Alaska; 1975-3.1 for Hawaii; 1975-4.1 for Puerto Rico; 1975-5.1 for the Virgin Islands; and 1975-6.1 for Guam will also be amended accordingly.

Notice FSP No. 1975-1.1 provides that the percentage of income represented by the purchase requirements reflect historical differentials which show a wide variation of the percentage of income by household size and income. Additionally, there are further distortions due to the use of income intervals which result in varying percentages of income within these intervals.

Under the proposed amendment, the amount that each household will pay for its coupon allotment will be 30 percent of adjusted net monthly income; i.e., income after all allowable deductions have been made, except that one- and two-person households with net monthly income of less than $20 and all other households with net monthly income of less than $30 shall continue to receive their coupon allotments without paying anything.

Thus, under the proposed amendment, the differentials and distortions in the Notice FSP No. 1975-1.1 will be removed as every household with the same income will pay the same purchase requirement.

Interested persons may submit written comments, suggestions, or objections regarding the proposed amendment to P. Royal Shipp, Director, Food Stamp Division, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250 not later than December 27, 1974. All comments, suggestions, or objections received by this date will be considered before the final notice is issued.

Comments, suggestions, or objections will be open to public inspection pursuant to 7 CFR 1.27(b) at the Office of the Director during regular business hours (8:30 a.m.-5:00 p.m.) at 500 12th Street, SW, Washington, D.C., Room 650.

The proposed revision is:

Notice FSP No. 1975–1.1 for the 48 States and the District of Columbia, issued pursuant to a part of Subchapter C—Food Stamp Program, under Title 7, Chapter II, Code of Federal Regulations, is amended and superseded, by this Notice FSP No. 1975–1.2 to read as follows:

MAXIMUM MONTHLY ALLOWABLE INCOME STANDARDS AND BASIS OF COUPON ISSUANCE: 48 STATES AND DISTRICT OF COLUMBIA

Households in which all members are included in the federally-aided public assistance grant, general assistance grant, or supplemental security income benefit shall be determined to be eligible to participate in the program while receiving such grants without regard to the income and resources of the household members.

The maximum allowable income standards for determining eligibility of all other applicant households, including those in which some members are recipients of federally-aided public assistance, general assistance, or supplemental security income benefit, in any State other than Alaska or Hawaii or in the District of Columbia, shall be the higher of:

(1) The maximum allowable monthly income standards for each household size which were in effect in such States or the District of Columbia, prior to July 29, 1971, or

(2) The following maximum allowable monthly income standards:

Maximum allowable monthly income standards

[48 States and District of Columbia]

One	[1] $194
Two	280
Three	406
Four	513
Five	606
Six	700
Seven	793
Eight	886
Each additional member	+73

[1] Poverty guideline.

"Income" as the term is used in the notice is as defined in paragraph (c) of § 271.3 of the Food Stamp Program Regulation.

Section 7(a) of the Food Stamp Act, as amended, requires that the value of the coupon allotment be adjusted semi-annually by the nearest increment that is a multiple of two to reflect changes in the prices of food pubilshed by the Bureau of Labor Statistics.

Prior to the amendment to the Act requiring semi-annual adjustment of the value of the coupon allotment, the adjustments were made at the beginning of each fiscal year; i.e., in July based on the cost of the economy food plan in the preceding December. With the enactment of the semi-annual adjustment, the law specified that the first adjustment be made in January 1974 to reflect changes in food prices through August 1973. A similar procedure was used for the July 1, 1974 adjustment and for the January 1, 1975 adjustment in the value of the coupon allotment which is based on the cost of the economy food plan in August 1974.

The total monthly coupon allotments for some households are not divisible by four. This results in total coupon allotments of uneven dollar amounts for those households which choose to purchase one-fourth or three-fourths of their total coupon allotment. For such households, the State agency shall round the face value of one-fourth or three-fourths of the total coupon allotment up to the next higher whole dollar amount and shall not change the purchase requirements for such allotments.

Pursuant to section 7(a) of the Food Stamp Act, as amended (7 U.S.C. 2016 Pub L. 91–671), the face value of the monthly coupon allotment which State agencies are authorized to issue to any household certified as eligible to participate in the Program in the 48 States and the District of Columbia is as follows:

Monthly coupon allotments

[48 States and District of Columbia]

Household size:	
1	$46
2	84
3	122
4	154
5	182
6	210
7	238
8	266
Each additional person	+22

PURCHASE REQUIREMENTS

Pursuant to section 7(b) of the Food Stamp Act, as amended (7 U.S.C. 2016, Pub. L. 91–671), the amount that each household shall be required to pay for its total coupon allotment shall be 30 percent of adjusted net monthly income; i.e., income after all allowable deductions have made; except that:

1. One- and two-person households with adjusted net income of less than $20 per month shall continue to receive their coupon allotments without paying anything; and

2. Households of three or more persons with adjusted net income of less than $30 per month shall continue to receive their coupon allotments without paying anything.

(78 Stat. 703, as amended; 7 U.S.C. 2011–2026)

(Catalog of Federal Domestic Assistance Programs, No. 10.551, National Archives Reference Services)

RICHARD L. FELTNER,
Assistant Secretary.

DECEMBER 3, 1974.

STOPPING THE FOOD STAMP CUTBACK

Mr. CHURCH. Mr. President, I am a sponsor of the legislation to be introduced today by Senator MCGOVERN and Senator SCOTT and 28 other Senators to prevent the Ford administration from raising food stamp prices.

Part of my concern is general. I believe that the administration has acted in shortsighted and arbitrary fashion. The regulations formally published in the Federal Register on December 6, 1974, allowed only 20 days for comment. They were offered as Congress was in the midst of important end-of-session business. They paid little heed to the impact that the regulations would have on most of the 15 million persons who now receive food stamp assistance.

By requiring all but the most destitute households to pay 30 percent of net income to purchase stamps from March on, the administration was playing fast and loose with a program enacted by the Congress for specific, important purposes. Surely, the U.S. Department of Agriculture must have known that the average household pays 23 percent of net income for stamps; the administration plan would disqualify millions of persons, or make the food stamp saving so insignificant as to be worthless.

Deep as my overall concern is, I am especially appalled by the fact that the administration plan would hit hardest at food stamp recipients living in 1- and 2-person households, most of whom are elderly.

As chairman of the Senate Special Committee on Aging, I must resist any effort that would pull the rug out from under so many older Americans so ruthlessly and so suddenly.

According to the Community Nutrition Institute, the administration food stamp program would:

First. Increase the cost of food stamps by 35 to 100 percent for most single persons. For a few individuals and couples the increase would run as high as 800 percent;

Second. Hit hardest at individuals whose net income is between $154 and $194. These persons now are eligible for a stamp benefit of from $10 to $13 a month, but they would be eliminated under the new plan because they would be required to pay more in cash to participate in the food stamp program each month than they would receive back in food stamps; and

Third. Adversely affect recipients of supplemental security income benefits in 18 States because combined Federal-State payments total $154 a month or more. My own State of Idaho is in this category, and I see no reason to penalize SSI recipients there with loss of food stamps simply because the State has seen fit to supplement SSI.

Mr. President, the administration proposal is shortsighted and cruel and unfortunately typical of several recent efforts by the administration to withdraw or gut programs which are even more urgently needed in this period of high living costs and recession. An article in today's Washington Post by Joseph Kraft sums up the situation admirably and pays special attention to the elderly. I ask unanimous consent that it be printed in the RECORD at the end of these remarks.

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

[From the Washington Post, Jan. 15, 1975]

CRIPPLING THE FOOD STAMP PROGRAM

(By William Chapman)

Someone once said that the last unexplored territory of the United States is the Department of Agriculture. The phrase comes to mind as one attempts to unravel the Department's proposal to dismantle a very large part of the food-stamp program and to understand why it was made at this particular time. This has nothing to do with the recent rule which deprives middle-class college students of their food stamps; it has to do with the order, soon to be promulgated, which will take them away from a very large number of those who need them most, the elderly and the poorest of the poor.

The cut-back was first announced by President Ford who seems to have had no firm grasp on the details of what he was proposing. Mr. Ford said, at a news conference, that this venture in budget-cutting would affect only "certain individuals" who would have to pay only "slightly more" in cash to obtain the stamps. This estimate was soon contradicted by the Department of Agriculture, which acknowledged that 95 per cent of the recipients would be affected to some extent and that the cost to the average user would increase by nearly one-third.

The fact, insofar as an outsider can comprehend it, is that the food stamp program is an unwanted stepchild which the Ford Administration inherited from the 1960s and which the current Secretary of Agriculture,

Earl L. Butz, would just as soon disinherit. The scenario ran something like this: The President demanded that several billion dollars be cut from the budget this fiscal year. Each department was required to offer up some sacrifice. Butz looked over his columns, passing quickly by the farm subsidy system and the county agents, and came upon food stamps. He has said several times that this is a *welfare* program which, if permitted to exist at all, should be operated by some other part of the government. It was only natural, then, that the sacrifice the Secretary chose to offer was this odd-ball poverty scheme hatched by, of all persons, Sen. George McGovern (D–S.D.) and somehow allowed to nest in his Department of Agriculture.

The Butz plan to save $650 million a year had a superficial ring of equity: Every food-stamp purchaser would be required to pay a flat 30 per cent of his adjusted income, for whatever amount of stamps he used each month. Under current law, he pays according to a sliding scale, based on his adjusted income. The hitch, outsiders quickly noted, was that this simple formula would mean a substantial added cost for almost everyone in the program The average purchaser today pays only 23 per cent of his income. So this average person, come March, will find his food-stamp budget increased by nearly one-third.

That would be serious enough, given the low incomes of all food-stamp users, but it is calamitous for the people on whom it falls most heavily. These are the elderly poor, those least capable of defending themselves against such levies. They have been accustomed to patching out their meager budgets with food stamps that cost only 10–20 per cent of their incomes. An elderly couple with, say, $270 in adjusted monthly income can now pay $64 and receive food stamps worth $84. It is a bonus of $20. Under the Butz plan, they will be required to put up $81 to receive that same $84 worth of stamps—a bonus of $3.

It is not difficult to see what lies ahead for persons in such circumstances. They will simply drop out. Who will stand in long lines, fill out a 6-page form to become certified, and, once in the supermarket with his stamps, laboriously separate his hamburger from non-qualifying purchases, all for the sake of a $3 savings? It is asking too much, even of those for whom $3 is a not inconsiderable sum. The Department of Agriculture declined to estimate how many of the 15 million persons currently using food stamps might withdraw from the program. The best guess is that of the Community Nutrition Institute, which figures that about 10 per cent, or 1.5 million persons, would find the benefits of food stamps to be so small that they would abandon them completely.

It is the simple-minded miserliness of this proposition that is most offensive but beyond that, Mr. Ford should think ahead to the damaging political consequences of his Secretary's peculiar choice. The food stamp program no longer is an unwanted orphan dependent for its existence on a few earnest do-gooders in Congress: It happens to be the most popular and defensible social welfare program this side of Social Security. Congress is very likely to rewrite the law and take away the President's unilateral authority to raise the amount that food stamp recipients must pay. Mr. Ford will then be in the position of deciding whether or not to veto an early act of the new Congress in order to support his Secretary's instinctive aversion to welfare programs.

By Mr. DOLE (for himself, Mr. TAFT, Mr. BUCKLEY, Mr. FANNIN, Mr. THURMOND, and Mr. HANSEN):

S. 15. A bill to amend the Congressional Budget Act of 1974 to require the Congressional Budget Office to prepare inflationary impact statements in connection with legislation reported by Senate and House committees. Referred to the Committee on Government Operations.

Mr. DOLE. Mr. President, for many years it has been recognized that Government programs and expenditures directly and indirectly affect the economic health of our Nation. It is now apparent that these effects on the economy can be adverse as well as beneficial.

The American people blame U.S. Government officials for our current problems of inflation, and they are entirely justified in pointing their fingers in the past have been major contributors to inflation. If action is not taken, Congress will continue to enact legislation and adopt programs which will give added impetus to inflation in the future.

It is sad, but true, that Congress has never really known the future impact of its programs. We have adopted new measures without ever analyzing and projecting their probable economic consequences. Therefore, I am introducing legislation today which will require that a statement regarding the inflationary impact of legislation reported to either House of Congress be prepared by the Congressional Budget Office.

The requirement for such a statement would end this blind legislative process. Congress could know in advance what the inflationary impact of proposed programs and expenditures would be.

Government programs and expenditures can be inflationary in two ways. First, direct expenditures by the Government add to the demand for a good or service. If our economy is already producing a particular product at capacity, the added demand created by Government will not result in an increase in usability, but merely in higher prices. With the inflationary impact statement, Members of Congress would be able to evaluate the proposed expenditure in terms of increased usability—and correspondingly increased well being of Americans—versus higher prices.

Second, Government programs can cause prices to increase. In recent years a variety of programs have been enacted which have resulted in added costs for U.S. businesses. Inevitably, these added costs have been passed on to the American consumer.

In most cases, the goals and objectives of these programs have been laudable. Unfortunately, however, we have not always considered their true cost in terms of secondary impacts and ultimate price increases to the public. As a result, they have frequently added to the prices of products purchased by American consumers. It is now time to consider whether or not the benefits of future programs will justify the higher prices they may create.

The inflationary impact statement would provide Members of Congress with the information needed to evaluate proposed Government programs and expenditures. It would shed light on the effect which programs would ultimately have on the prices paid by Americans. And Congress would be in a position to better evaluate the true cost of proposed programs and to represent the interests of the American people.

Mr. President, I ask unanimous consent that the text of the bill be printed at this point in the RECORD.

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

S. 15

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

That this Act may be cited as the "Inflationary Impact Statement Act of 1975."

SEC. 2. FINDINGS

The Congress finds that—

(1) inflation is one of the principal economic problems facing Americans;

(2) Federal programs and expenditures which Congress authorize have a significant impact on the economy and can play a major role in contributing to inflation;

(3) it is imperative that Congress, in keeping with its unique responsibility for balancing the possible adverse effects of programs it considers against the beneficial aspects of the same, be informed in advance of the impact on inflation of any legislative proposal to come before it for action.

SEC. 3. INFLATIONARY IMPACT STATEMENTS.

(a) Section 403 of the Congressional Budget Act of 1974 is amended—

(1) by striking out "and" at the end of paragraph (1);

(2) by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; and";

(3) by inserting after paragraph (2) the following new paragraph:

"(3) an inflationary impact statement relative to such bill or resolution covering the fiscal year in which it is to become effective and each of the four fiscal years following such fiscal year. As used in this paragraph, the term 'inflationary impact statement' means an estimate, to the extent practicable, of the probable impact of a particular bill or resolution on the aggregate rate of inflation and the cost of goods and services to be affected by its enactment. Such estimate shall be based on the amount of new budget authority contained in such bill or resolution, as well as the new budget authority at specified projected levels assumed to be authorized by subsequent legislation, unless, with respect to any fiscal year for which an estimate is required, the Director determines that it is improbable that outlays will occur."; and

(4) by striking out "estimate and comparison" in the last sentence and inserting in lieu thereof "estimate, comparison, and statement".

(b) The provisions of subsection (a) are enacted by the Congress as an exercise of its rulemaking power as provided by section 904 (a) of the Congressional Budget Act of 1974.

Mr. TAFT. Mr. President, I am pleased to join the Senator from Kansas (Mr. DOLE) in introducing S. 15, the Inflationary Impact Statement Act of 1974.

This legislation is a combination of separate bills which the Senator from Kansas and I introduced in the last Congress. We have combined our efforts and those of the bills' cosponsors to introduce this bill on the first legislative day of the 94th Congress, because it is crucial that Congress evaluate the total cost rather than simply the budget cost of legislative proposals. This bill will foster those types of evaluations.

Basically, S. 15 would require the new Congressional Budget Office to supply the Congress with an estimate of the impact on the aggregate rate of inflation

and the cost of goods and services affected, for 5 fiscal years, of any legislation which is reported by congressional committees for further congressional consideration. In my view, the enactment of this requirement would be a great advance over the important step forward the 93d Congress took when it imposed a similar reporting requirement for projected actual Federal budget costs of legislative proposals, in the Congressional Budget Act of 1974.

In last year's economic summits and debate on the inflation problem, it has been emphasized that Government programs are often considerably more costly to consumers than their direct cost in terms of Government funding. For example, the expense of just completing required paperwork for the Government has been estimated to be $50 billion per year. Government safety and antipollution standards have added $320 to the cost of a new car over the last 4 years; mileage requirements which would bring about a 30 to 40 percent improvement in miles per gallon would add another $200 to $400 to the price of a new car by 1980. The use of tariffs and import quotas to protect domestic industries costs consumers $10 billion per year in higher prices. When the medicare and medicaid programs were put into effect, the additional pressure on hospital services helped increase the inflation rate from about 8 percent per year to around 12 to 15 percent.

All too often, these types of Government-induced inflation escape adequate legislative attention because they do not show up in the Federal budget. Congress clearly should decide whether such programs or requirements are worthwhile only after facing up to their total inflationary impact.

In recognition of this problem, President Ford recently announced that future new Government regulations would carry an inflation impact statement. However, the imposition of that requirement at the regulation stage is only part of the battle. It is probably even more important that overall impact on inflation be considered fully at the time the Congress shapes the basic legislation which determines the structure of the Government's programs. Thus, I feel that President Ford was on target when he urged Congress several months ago to pass legislation such as this bill promptly. I am hopeful that the 94th Congress will fulfill that responsibility.

By Mr. DOLE:

S. 16. A bill to provide for the mandatory inspection of rabbits slaughtered for human food, and for other purposes. Referred to the Committee on Agriculture and Forestry.

Mr. DOLE. Mr. President, during the 92d Congress the Senate passed a bill providing for the mandatory inspection of rabbits slaughtered for human food. The House was unable to act on that legislation although it had received committee approval and appeared assured of passage.

Again in the 93d Congress the Senate passed this legislation. However, it did not make it through the House due to some confusion regarding the proper jurisdiction for the required inspections.

Today I would like to introduce this legislation once again with the expectation we can now resolve the problems, and I urge prompt action to enable the same privilege to rabbit producers and processors that other meat and poultry producers and processors enjoy.

Mr. President, rural America is facing economic crisis. Even with our Government farm programs, farm population continues to decline. These people are leaving the farm for one reason—they cannot make an equitable income with the increasing cost of farming and the declining prices they receive for their production.

PREFER RURAL LIFE

My State of Kansas is no exception. The Kansas economy is based on agriculture. Grain production and livestock are the two biggest industries in the State. Several generations have succeeded in farming the same lands. These people do not want to leave the farm community and migrate to the urban centers and their concentration of problems.

This economic concern is exhibited in the efforts of a northwest Kansas community in and around Hill City, Graham County, Kans.

Several years ago, citizens of that community banded together with citizens of several counties in that area. There were community leaders, farmers, bankers, and low-income laborers—all joined together to create an economic development group to try to improve their future.

ADDITIONAL INCOME

The result of this alliance was the formation and inauguration of Kansas Food Products, Inc., a plant to slaughter and process rabbits. The farmers of the surrounding area produce the domestic rabbits—sell them to the plant—which slaughters and processes them. Under contract, the plant produces rabbits for domestic use, and contracts to sell other portions of the rabbit carcass to research facilities. This plant has been operating for several years and is expanding rapidly. It has greatly enhanced the community it serves, provides employment for some citizens, and a supplemental crop for farmers to improve their income.

INSPECTION COSTLY

The management chose wisely to build the plant to comply with USDA meat and poultry inspection specifications, so the consumer would be assured of wholesome meat. Their USDA inspection is strictly a voluntary action, in order to protect the consumer, and this plant is forced to pay over $12,000 per year for this inspection service. Plants slaughtering other meat animals or poultry receive this inspection service at no charge as a means to fulfill the Wholesome Meat and Poultry Acts.

Today, I introduce a bill that would provide for the same USDA inspection service to slaughtering and processing plants for rabbits that is provided processors of other animals prepared for consumer food. As a cosponsor of the Wholesome Meat and Poultry Acts, I feel it was the intention of these acts to provide such service, and it is with this purpose that I introduce this bill again in this Congress and urge prompt action to insure sufficient time for the House to also act.

By Mr. DOLE:

S. 17. A bill to exempt highway motor vehicles used exclusively in soil and water conservation work from the highway use tax. Referred to the Committee on Finance.

CONSERVATION VEHICLE USE TAX EXEMPTION

Mr. DOLE. Mr. President, soil and water conservation contractors in Kansas and other States as well play an important part in keeping the cost of food production low and in maintaining our soil, water, and food producing resources for future years. Yet these contractors pay a very unfair Federal highway use tax under present law. The bill I introduce today would provide an exemption for the vehicles used by these contractors.

SOIL CONSERVATION VITAL

We are faced today in this country with an ever growing demand to produce more and more food and fiber for our own people and for millions of hungry people all over the world. We must do so with increasing efficiency if we are to hold down inflationary rises in the cost of living. As we produce more, the need for proper conservation of our soil and water resources becomes ever more critical. Erosion carries away millions of tons of topsoil a year, and improper drainage and poor land management techniques undermine the pureness of our water resources.

To be sure, the U.S. Department of Agriculture—through programs of the Soil Conservation Service—SCS—and the Agricultural Stabilization and Conservation Service—ASCS—is committed to halting this unnecessary waste of vital resources. In this battle they rely on private conservation contractors to get the actual work done. The bill I offer today is designed to attract more private operators to help in this important task. It provides relief from Federal highway use taxes for vehicles used solely in conservation work and which are not for hire.

IMPORTANT SMALL BUSINESSMEN

By and large, the local conservation contractor is a small businessman with limited operating capital. The average company employs only 11 people and grosses under $100,000 a year. And it is primarily engaged in work for SCS, ASCS, and local farmers—constructing farm ponds, waterways, terraces, diversion dams, floodwater retaining structures, and steam bank stabilization projects. To accommodate such a broad range of activities, equipment such as trucks, bulldozers, scrapers and draglines must be maintained. This equipment must be transported to conservation job sites, and so, State and Federal highway use taxes must be paid on the transporting trucks. The Federal highway use tax for a tractor-trailer to transport such equipment ranges up to several hundred

dollars, and State taxes into the thousands. A conservation contractor can pay taxes of $1,000 a year on a tractor-trailer that carries a bulldozer from field to field, logging under 1,000 miles a year. Many of these vehicles never travel on a Federal highway. The equivalent tax in such a case is in excess of $1 per mile. Hence, highway use tax outlays can be significant to the small operator—and he is using these vehicles solely in conservation work which will prevent floods, save valuable wetlands, conserve soil, and reduce food costs. It feels the highway use tax in this instance is counterproductive to the best interests of the Nation. We cannot ignore the fact that every factor which increases the cost of producing food further fuels the dangerous inflationary spiral in which we find ourselves.

ENCOURAGE CONSERVATION

The shortage of private contractors has long plagued SCS. Existing conditions have driven and continue to drive many qualified contractors into other contracting fields or force them to reduce their operations. SCS often has difficulty finding sufficient contractors to do the work under programs approved by Congress.

State highway use taxes have been a great problem for conservation contractors also. Individual States have recognized the problems. States already making some exemption for conservation vehicles include Kansas, South Dakota, Nebraska, Illinois, and Texas.

But the Federal Government must take the lead in exempting bona fide conservation vehicles from Federal highway use taxes. Such an initiative, in turn, would encourage other States to follow suit on their own use taxes, and thus significantly increase the incentives to attract and hold new contractors for conservation work.

The typical vehicle used to transport conservation equipment travels an average of only 3,000 miles a year on all roads, and about 2,000 miles a year on the Federal Interstate System—for those that even use that system. Approximately two-thirds of such vehicles are never driven on the Interstate System. There are some 20,000 potential conservation contractors in the United States operating approximately 20,000 eligible vehicles, meaning that the total lost revenue to the highway trust fund would not currently be more than $3.5 million. Such an amount is minuscule in comparison to the potential benefits to every American which can be derived through this incentive.

In view of the importance of conservation contractors for the preservation of our vital food producing resources and the economic impact Federal highway use taxes have on these contractors, it seems appropriate that changes in these tax regulations be made without further delay. I encourage every Senator to support this legislation, and hope we can move expeditiously to provide this needed incentive.

I request unanimous consent that the bill be printed in the RECORD at this point.

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

S. 17

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 4483 of the Internal Revenue Code of 1954 (relating to exemptions from the highway use tax) is amended by adding at the end thereof the following new subsection:

"(d) Vehicles Used for Soil and Water Conservation.—Under regulations prescribed by the Secretary or his delegate, no tax shall be imposed by section 4481 on the use of any highway motor vehicle which is not for hire and is used exclusively in soil and water conservation work and in the transportation of equipment used for soil and water conservation."

(b) The amendment made by subsection (a) shall take effect on the first day of the first month which begins after the date of the enactment of this Act.

By Mr. DOLE (for himself, Mr. CASE, Mr. DOMENICI, Mr. FONG, Mr. MCGEE, Mr. TAFT, and Mr. WILLIAMS):

S. 18. A bill to amend the act of August 31, 1922, to prevent the introduction and spread of diseases and parasites harmful to honeybees, and for other purposes. Referred to the Committee on Agriculture and Forestry.

THE AFRICAN HONEYBEE

Mr. DOLE. Mr. President, the African honeybee represents a serious threat to our beekeeping industry and to an important part of American agriculture. Under existing law, we have inadequate protection from this threat. This is why I am introducing legislation today to strengthen protective measures by the Department of Agriculture to prevent the spread of the African honeybee into this country.

THREAT TO U.S. FOOD PRODUCTION

The spread of the African honeybee, also known as the Brazilian honeybee, could lead to a multibillion-dollar disaster for American agriculture. The African honeybee could destroy the beekeeping industry in this country, as we know it, and the impact could be not only a severe reduction of honey production, but a sharp decline in the supply of fruits, vegetables, and seed crops.

One of the most important roles of the beekeeping industry in U.S. agriculture is its part in the pollination of crops. About 90 crops are dependent upon bees for pollination. The value of farm commodities directly dependent upon insects for pollination has been estimated by the Department of Agriculture at $1 billion. Honeybees have a primary part in this pollination since present day farming operations have largely eliminated wild insect pollinators. The destruction of our honeybee population, which the African honeybee could cause, would cripple some of our most important fruit, vegetable, and seed industries. These commodities include alfalfa and onion seed production, tangerines, tangeloes, mandarin oranges, all melon and cucumber crops, apples, cherries, and other tree fruits. Crops valued at $6 billion are greatly improved by bee pollination, although they are not directly dependent upon it. It has been shown that the output of such crops as long-staple cotton are greatly enhanced by bee pollination. The loss of bee pollination could result in a decline in the level of production from these crops.

HONEY SUPPLY IN DANGER

The production of honey is also at stake with the beekeeping industry. While honey and beeswax production has a lower economic significance than the pollination role of honeybees, the sales of honey and beeswax represent a primary source of income for the beekeeping industry. Revenues from these sales have been estimated at nearly $150 million. And production levels are normally over 220 million pounds of honey and 4 million pounds of beeswax annually.

Honey has traditionally been recognized as a nutritious and delightfully tasty food. In recent years, there has been a new appreciation of honey as a "natural food." The African honeybee represents a threat to the continued production of this commodity. We could deprive ourselves of an adequate supply of honey by not taking steps to protect our honey industry. This legislation is designed to provide the additional necessary protective measures.

AFRICAN HONEYBEE TRAITS

In 1971 and 1972, a special committee, appointed by the National Research Council and the National Academy of Sciences, studied the African or Brazilian honeybee and the impact it could have in the United States. I am proud to say that Dr. Charles D. Michener, department of entomology of the University of Kansas, was chairman of this committee. The findings of the committee were that this exceptionally aggressive and ferocious strain of bees could migrate to North America and become a serious public nuisance and a major problem to the beekeeping industry.

The African honeybee was accidentally introduced into Brazil in 1957, hence the secondary name of Brazilian honeybee. The bee has since moved throughout most of South America. Although the strain has mixed with other breeds of honeybees, it has not lost its extremely aggressive traits.

DESTROY OTHER BEES

The African honeybee threatens the existence of domestic honeybees. It forages so aggressively that other strains kept by commercial beekeepers cannot compete, and in South America, domestic bees have disappeared in areas where the aggressive strain has appeared. Occasionally, the African bees completely take over the hives of other bees.

The African bee also leaves managed hives readily to migrate long distances and establish itself in new areas. This represents a dual threat to beekeepers. The African or Brazilian strain, having taken over the local bee colony, may suddenly depart, leaving the beekeeper without any producing bees, and leaving the crops in the area without a pollinating agent.

The wide-ranging and rapid-spreading traits of the African bee make it a double liability to beekeepers. It is known to spread at a rate of about 200 miles a year so that within a few years virtually all beekeepers in this country could be vulnerable to it, especially in the Southern parts of the United States.

It is especially significant that Southern beekeepers are the most exposed to the African bee because of the warmer climate and the closer geographical proximity to South America. Southern beekeepers do a great deal of breeding and development in bees. Stocks of bees produced in the South are transported to the Northern part of the country in the spring. Although it is thought that the African bee could not live in the colder temperatures in the Northern United States, it could still have a major impact on Northern beekeepers because of the restocking patterns in the trade.

DANGEROUS TO PEOPLE

The African bee is especially known for its vicious attacks on animals and people. In its tour to Brazil, the special committee noted several reports of people being stung to death by this strain of bees. The bee readily attacks any human or animal which intrudes into its area. Swarms of the African or Brazilian bee in flight are especially ferocious and when more than one swarm are united, they are reported to be dangerous. The aggressive bees will follow their "victims" up to about 100 meters whereas domestic bees normally follow only about 10 meters.

The aggressive traits of the African bee could make it difficult for beekeepers to maintain the colonies. Should the African bee become dominant in this country, communities would probably begin to object to the presence of beehives in the area. Because of their sting, African honeybees as pollinating insects could become such a liability as to be unacceptable for this purpose.

PREVENT SPREAD

My bill basically strengthens two approaches to preventing introduction of the undesirable strain. Officials in the Department of Agriculture are aware of the African honeybee threat and are working to prevent its introduction. However, I believe more comprehensive action should be taken. This bill has been drawn up in consultation with the Department.

The first part of this legislation would strengthen existing law by prohibiting importation of the African or Brazilian honeybee in all its stages, from germ plasm to the adult. Presently, the law only prohibits introduction of the adult stage. This amendment will allow the USDA to take steps against introduction of all life stages including the eggs, larvae, and pupae.

RESEARCH NEEDED

An exception is made for research purposes and I hope the Department will initiate further study on this strain, if it has not already done so. In addition to its aggressiveness, the African bee is known to be extremely hard working. It flies further and for longer periods to find honey than the strains it replaces. It also works in a wider range of weather conditions. Many beekeepers say that the African bee produces more honey.

So further research is needed for two reasons. First, development of genetic strains to counter the African bee's aggressiveness is needed. Second, genetic research may allow the development of the productive traits of this strain in other bees. I hope the Department will be successful along this line.

COOPERATION WITH OTHER GOVERNMENTS

The second aspect of this legislation authorizes a program of eradiction and control with the Governments of Canada, Mexico, and Central America. This type of cooperation already exists for other natural pestilence and for diseases. It makes sense to stop the spread of the African honeybee before it reaches our own borders and I hope the provisions of this bill will allow that to be accomplished. Programs which may be established under this bill should supplement cooperative activities between the United States and the countries of South America where the bee already exists.

Mr. President, I hope that my colleagues in the Senate will support this legislation. It is potentially beneficial to beekeepers in every State. The threat of the African bee to our honey producing industry is serious and since this bill would help reduce that threat, I hope it will receive early consideration.

I ask unanimous consent that the bill be printed in the RECORD at this point.

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

S. 18

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1 of the Act of August 31, 1922, as amended (42 Stat. 833; 76 Stat. 169; 7 U.S.C. 281), is amended to read as follows:

"(a) In order to prevent the introduction and spread of diseases and parasites harmful to honeybees, and the introduction of genetically undesirable germ plasm of honeybees, the importation into the United States of all honeybees is prohibited, except that honeybees may be imported into the United States—

"(1) by the United States Department of Agriculture for experimental or scientific purposes, or

"(2) from countries determined by the Secretary of Agriculture—

"(A) to be free of diseases or parasites harmful to honeybees, and undesirable species or subspecies of honeybees; and

"(B) to have in operation precautions adequate to prevent the importation of honeybees from other countries where harmful diseases or parasites, or undesirable species or subspecies, of honeybees exist.

Honeybees imported pursuant to paragraph (2) of this subsection shall be imported under such rules and regulations as the Secretary of Agriculture and the Secretary of the Treasury shall prescribe.

"(b) Except with respect to honeybees imported pursuant to paragraph (1) or (2) of subsection (a) of this section, all honeybees offered for import or intercepted entering the United States shall be destroyed or immediately exported.

"(c) As used in this Act, the term 'honeybee' means all life stages and the germ plasm of honeybees of the genus Apis.".

SEC. 2. Section 2 of the Act of August 31, 1922 (42 Stat. 834; 7 U.S.C. 282), is amended to read as follows:

"SEC. 2. Any person who violates any provision of section 1 of this Act or any regulation issued under it is guilty of an offense against the United States and shall, upon conviction, be fined not more than $1,000, or imprisoned for not more than one year, or both.".

SEC. 3. The Act of August 31, 1922, is further amended by adding the following new sections:

"SEC. 3. The Secretary of Agriculture is authorized to cooperate with the Governments of Canada, Mexico, Guatemala, Belize, Honduras, El Salvador, Nicaragua, Costa Rica, Panama, and Colombia, or the local authorities thereof, in carrying out necessary research, surveys, and control operations in those countries in connection with the eradication, suppression, control, and prevention or retardation of the spread of undesirable species and subspecies of honeybees, including but not limited to Apis mellifera adansonii, commonly known as the African or Brazilian honeybee. In performing the operations or measures authorized in this Act, the governments of such countries shall be responsible for the authority necessary to carry out such operations or measures on all lands and properties therein and for such other facilities and means as in the discretion of the Secretary of Agriculture are necessary. The measure and character of cooperation carried out under this Act on the part of the United States and on the part of the governments of such countries, including the expenditure or use of funds appropriated pursuant to this Act, shall be such as may be prescribed by the Secretary of Agriculture. Arrangements for the cooperation authorized by this Act shall be made through and in consultation with the Secretary of State.

"SEC. 4. Funds appropriated to carry out the provisions of this Act may also be used for printing and binding without regard to section 501 of title 44, United States Code, for employment, by contract or otherwise, of civilian nationals of Canada, Mexico, Guatemala, Belize, Honduras, El Salvador, Nicaragua, Costa Rica, Panama, and Colombia for services abroad, and for the construction and operation of research laboratories, quarantine stations, and other buildings and facilities.

"SEC. 5. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.".

By Mr. DOLE (for himself, Mr. CURTIS, and Mr. JAVITS):

S. 19. A bill to amend title XVI of the Social Security Act so as to provide for the referral, for appropriate services provided by other State agencies, of blind or disabled children who are receiving supplemental security income benefits. Referred to the Committee on Finance.

REFERRAL OF HANDICAPPED CHILDREN

Mr. DOLE. Mr. President, today many parents are applying for Federal assistance for their handicapped children under the supplemental security income program. The SSI law, as it presently stands, requires that each handicapped individual applying for assistance shall be referred to the State vocational rehabilitation agency. Clearly, children are not candidates for vocational rehabilitation and it is my understanding that in the actual execution of the program,

children younger than 13 are simply not being referred.

However, the application for SSI for disabled children represents an opportunity which has not existed previously to refer these individuals at an early stage to an appropriate State or local agency which can provide them treatment and assistance for their particular disability. Today, I introduce this bill to provide that disabled children under the age of 13 shall be referred to the appropriate health, social, or educational agency. This bill provides flexibility for children between the ages of 13 and 18 so that they may be referred to the vocational rehabilitation agency or the proper alternate agency as appropriate. In many cases, specialized agencies may be needed to provide adequate treatment and this measure provides flexibility for referral to those organizations.

This measure should not be controversial. The additional cost of this change in the program should be negligible if there is any at all. It does provide an improved service to our handicapped children and provides for better utilization of the funds we are spending to help handicapped people under the SSI program.

OVERSIGHT IN SSI LAW

In 1972, the Congress established that handicapped people would be referred to vocational rehabilitation agencies under the SSI program. It was apparently an oversight in the drafting of this legislation that no consideration was given for the referral of children who are not eligible for vocational rehabilitation.

At present, all an intake officer is required to do is review medical and related records to determine eligibility. Even if that same review clearly indicates a desperate need for medical or other intervention, and the intervention might lead to a diminution of the disability, the employee has no authority to do anything. This gap in the program must be filled with regard to children from birth to 13 years and in certain cases from 13 to 18 years.

Early intervention has long since been established by the medical profession and experts in the field of child development as the best, if not the only, way to preclude the possibility of a childhood disability from developing into a lifelong and irreversible handicap.

For example, an HEW-funded study by the Rand Corp. entitled "Services for Handicapped Youth: A Program Overview" found that "for handicapped children, age 6 is past the optimal time to start the child" in programs designed to reverse the disability.

A study by the Oregon State Board of Education of the impact of title VI—services to the aged, blind, or disabled—programs upon emotionally disturbed, learning disabled, mentally retarded, and physically handicapped children found that "there is increasing evidence of the value" of early intervention for handicapped children.

In a study by Robert Chamberlin and Phillip Nader, published in the American Journal of Orthopsychiatry, the disfunctions of nursery school children were found to be "significantly related to later school function" and clearly, "early intervention appeared warranted" to prevent those disfunctions from irreversible development.

Take the case of a deaf child, or one with a severe hearing impairment. In the past, such a child was destined to live the life of a deaf-mute. Since speech either develops early or not at all, early intervention here, using all of the many methodological rehabilitative devices developed in recent years, has made the difference between an adult who is a "freak" and one who has developed the ability to lead a self-sufficient and normal life.

Or look briefly at the child with a mental disorder. Diagnoses of mental disorders are difficult at best. Emotionally disturbed children are frequently believed, especially by their parents, to be suffering from a physical ailment. And a child with an undiagnosed physical disorder frequently suffers not only from the physical ailment, but also develops emotional hang-ups which, unless early treated, result in later years in an adult without the capacity to attain self-sufficiency.

SUPPORT BY HEW

The regulations developed by the Department of Health, Education, and Welfare for implementation of the SSI program, published not long ago in the Federal Register, make what is perhaps the strongest argument for early intervention. Those regulations make the following points:

1. Vocational rehabilitation is mandated where the disabling impairment, with rehabilitative services, will restore the recipient to "productive activity."
2. Vocational rehabilitation is mandated in cases where, without the services, the disabling effect would "result in continued eligibility."
3. They are mandated where such services "will enable the individual to engage in productive activity."
4. They are mandated where the "predictable period of productive work activity" will "offset payments which would otherwise be made."

In other words, vocational rehabilitation services are designed to render a disabled individual self-sufficient and get him off the payments and out of the SSI program as quickly as possible. It is, therefore, obvious that if a child's disability is prevented from ever developing into the kind of handicap that precludes future employment as an adult, the test of SSI will have been met, since that child will never need the income payments of adult rehabilitative services available through the SSI program in the first place.

In view of all the foregoing, the law should be amended to provide for the referral of all eligible children to the appropriate local or State agency for services. With such a mandate, for example, the intake officer making an SSI eligibility determination would then be required, with appropriate consent forms having been formulated and signed by the parent, to refer the parent, the disabled child and all pertinent records to the State or local agency or agencies offering services that best meet the child's needs. At present, no matter how severe or obvious the disability of a child may be, there is no obligation whatever to do more than establish the fact of eligibility of the disabled child, even in a case where, clearly, the mildest intervention could well prevent further development of that disability.

Since the children who would thereafter receive medical or rehabilitative services are in any event medicaid eligible, a refined system of referral, evaluation—by the appropriate agency—and actual service could readily be offered by programs already in existence. The services offered by those programs are, of course, available to the potential recipient even without the referral—but in many instances they are not used simply because the client does not know that they exist, or know which service or services he needs, or even that he is eligible for them. A mandated referral, therefore, not only solves that problem, but also guarantees the child in need of early entry into a comprehensive health services system.

So again, I believe this measure is a much needed and noncontroversial change to the SSI law. During a period when we are especially concerned about inflation, this modification of the program should enable us to get more complete assistance for handicapped children while not increasing Federal expenditures.

In support of this proposed amendment, I have been contacted by numerous persons and organizations associated with handicapped citizens. The following organizations have written to me to indicate their support: American Foundation for the Blind; National Association for Retarded Citizens; National Congress of Parents and Teachers; the Council for Exceptional Children; and the American Academy of Pediatrics. I ask unanimous consent that their letters be inserted at this point in the RECORD.

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

AMERICAN FOUNDATION FOR THE BLIND, INC.,
Washington, D.C., December 17, 1974.

Re S. 4164, referral of handicapped children.

Hon. ROBERT DOLE,
U.S. Senate, Dirksen Office Building, Washington, D.C.

DEAR SENATOR DOLE: The American Foundation for the Blind is appreciatively aware of your introduction, on November 19, 1974, of the above legislation, "to amend Title XVI of the Social Security Act so as to provide for the referral, for appropriate services provided by other State agencies, of blind or disabled children who are receiving supplemental security income benefits."

Enactment of this legislation would, we feel, focus professional attention on the unmet needs of handicapped children enrolled in the SSI program. By amending Section 1615 of the Social Security Act to include SSI enrollees under age 18, and in certain cases under age 13, mandatory referral "for appropriate health, social, or educational services" enhances the likelihood of early intervention and treatment of conditions which, unattended until adulthood, could well condemn

this child to a lifetime of dependency, through permanent disability.

Please accept our thanks for your continuing concern for all handicapped Americans.

Sincerely,

BARBARA D. MCCARRY,
Specialist in Governmental Relations.

NATIONAL ASSOCIATION FOR RETARDED CITIZENS,
December 18, 1974.

Hon. ROBERT DOLE,
U.S. Senate,
Dirksen Senate Office Building,
Washington, D.C.

DEAR SENATOR DOLE: The National Association for Retarded Citizens is most supportive of your efforts to amend Title XVI of the Social Security Act to provide for appropriate referral for services to SSI recipients who are below age 18. Our organization has been working closely with officials in the Social Security Administration on the implementation of the SSI program.

There is no doubt that one of the major weaknesses of the SSI program since its start one year ago has been the non-utilization of available SSI benefits by children. Applications from children are much lower than original projections. Those that do apply and qualify for SSI benefits are usually not referred for any services as are adult recipients.

Your bill, S. 4164, which mandates referral to appropriate health, social or educational agencies will facilitate disabled children to secure needed services to ameliorate their handicapping conditions. We urge you to seek rapid enactment of this provision.

If there is anything specific we can do to assist you in securing passage of this legislation, please do not hesitate to contact our Washington office (785-3388).

Sincerely,

MARION P. SMITH,
President.

NATIONAL CONGRESS OF PARENTS AND TEACHERS,
December 4, 1974.

HON. ROBERT DOLE,
U.S. Senate,
Dirksen Senate Office Building,
Washington, D.C.

DEAR SENATOR DOLE: This letter is in support of S. 4164 to amend Title XVI of the Social Security Act so as to mandate the referral of blind or disabled children under the age of 13 who are receiving supplementary security income benefits to appropriate health, social, or educational services provided by a state or local agency.

Comprehensive health services for such children is of paramount importance, not only for their physical rehabilitation, but equally important, as a means of prevention of additional emotional and social problems. The amendment you have proposed would assure that these children gain early entry into a comprehensive health system.

Since its founding in 1897, the 8-million member National PTA has had sound health as one of its guiding principles. We believe that the concept of health as physical, mental, emotional, and social well-being is vital to the welfare of the individual citizen, the community, and the nation.

We would urge the Congress to enact S. 4164.

Sincerely,

GRACE C. BAISINGER,
Coordinator of Legislative Activity.

THE COUNCIL FOR EXCEPTIONAL CHILDREN,
December 18, 1974.

Senator ROBERT DOLE,
New Senate Office Building,
Washington, D.C.

DEAR SENATOR DOLE: We observe with immense pleasure, and we most heartily endorse, the provision which you intend to offer shortly to remedy a major omission in the delivery structure of the Supplemental Security Income program.

We refer specifically to your bill, S. 4164, which would amend Title XVI of the Social Security Act to provide appropriate referral for children under the age of thirteen in order that they also may receive the services to which they are rightfully entitled under the SSI program, as well as provide appropriate referral for young Americans between thirteen and eighteen. We applaud your compassion and your continuing concern that these children have the right and the opportunity to develop to their full potential.

We would simply make one further recommendation, which could perhaps be dealt with in your Chamber colloquy during deliberations on your excellent proposal. We fully support your intent that these children have entrance into a full range of services, i.e. health, social, diagnostic, consultative, and habilitative, through the SSI mechanism.

Specific referral will, of course, depend upon the individual needs of each child, and will be determined on a case by case basis. We would strongly recommend, however, that referral to the appropriate educational agency occur as a minimum for all children under SSI. A child may require, or not require, any number of services under that broad constellation already discussed by you in your introductory remarks. However, all children require an education, and indeed have the right to an education, as squarely affirmed in recent years by the courts, state legislatures, and the United States Congress (P.L. 93-380, Education Amendments of 1974). Undoubtedly, many parents and guardians of the children eligible for SSI can be expected to have not made effective entry into the educational system. Your proposal could act as an important safeguard in rectifying these omissions.

In your introductory remarks of November 19, you placed heavy emphasis upon the earliest possible intervention into the lives of handicapped children. We heartily concur and would simply add the footnote that most of the states now either require or encourage the early childhood education of handicapped children. In fact, the number of states without any legal provisions in this area has dropped to five. Moreover, you and your colleagues in the Congress recently took a step forward in that direction by ordering that all children aged *three to twenty-one* would be counted for purposes of determining each state's entitlement under the basic aid-to-the-states program for education of the handicapped (ESEA Title VI-B of 1969 as amended by P.L. 93-380, August 21, 1974).

We would make one further modest, but vital recommendation: that the legislative history make it clear that—in the development of Executive Branch policies, regulations, and guidelines relative to this referral mandate—The Bureau of Education for the Handicapped within the U.S. Office of Education be actively involved. This will guarantee the presence of special education expertise during important deliberations on implementation.

Permit us to conclude by simply reiterating our endorsement of your proposal, with the strong hope that you will give thoughtful consideration to the minimum educational referral mechanism just discussed.

We stand ready to make the resources of the Council available to you in this, and all other of your worthy endeavors on behalf of exceptional children.

Sincerely yours,

FREDERICK J. WEINTRAUB,
Assistant Executive Director for Governmental Relations.

AMERICAN ACADEMY OF PEDIATRICS,
Arlington, Va., December 19, 1974.

Hon. ROBERT J. DOLE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR DOLE: The American Academy of Pediatrics is interested in rectifying the apparent oversight in the Supplemental Security Income legislation wherein no consideration was given to the referral of children who are not eligible or suited for vocational rehabilitation. As P.L. 92-603 is written, no provisions were made with regard to children from birth to age 18. Children are thus denied the benefits of appropriate services, which seems shortsighted and insensitive.

The importance of early intervention in childhood disabilities cannot be overemphasized. Referral to the appropriate diagnostic and therapeutic services at the earliest possible stage of development can make the difference between a productive adulthood and one of permanent disability and dependency.

The American Academy of Pediatrics recommends that the Supplemental Security Income program should have the added objective of assuring disabled children are referred for appropriate health services. S. 4164 is an important step in providing for the referral of eligible disabled children into a comprehensive system of health services so that their health and medical needs might be addressed. The Academy would urge positive action by the Congress on this bill.

Sincerely yours,

ROBERT G. FRAZIER, M.D.,
Executive Director.

Mr. DOLE. Mr. President, I hope this bill can be acted on expeditiously in order that our handicapped children can start receiving the help they need at the earliest possible moment. I ask unanimous consent that the bill be printed at this point in the RECORD.

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

S. 19

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (a) of section 1615 of the Social Security Amendments of 1972 is amended to read as follows:

"(a) In the case of any blind or disabled individual who—

"(1) has not attained age 65, and

"(2) is receiving benefits (or with respect to whom benefits are paid) under this title, the Secretary shall make provision for referral—

"(3) in case such individual has attained age 18 (and, in appropriate cases, when the individual has not attained such age but has attained age 13), of such individual to the appropriate State agency administering the State plan for vocational rehabilitation services approved under the Vocational Rehabilitation Act, and (except in such cases as he may determine) for a review not less often than quarterly of such individual's blindness or disability and his need for and utilization of the rehabilitation services made available to him under such plan, and

"(4) in case such individual has not attained age 13 (and, in appropriate cases, when the individual has attained such age but has not attained age 18), to the State or local agency which provides health, social, or educational services appropriate to the needs of such individual."

By Mr. HANSEN (for himself, Mr. MCGEE, Mr. HUMPHREY, Mr. HUGH SCOTT, and Mr. STEVENSON):

S. 20. A bill to amend section 206 of the Federal Water Pollution Control Act in

order to authorize reimbursement for the construction of certain sewage treatment works. Referred to the Committee on Public Works.

Mr. HANSEN. Mr. President, late in the last session of Congress, I introduced legislation which would allow many qualified municipalities to receive Federal participation intended under the Federal Water Folluton Control Act Amendments of 1972. Today, I am reintroducing this legislation.

I ask unanimous consent that my RECORD statement when I introduced this bill last session, a list of those municipalities which will receive assistance under this bill, and the bill itself be printed at this point in the RECORD.

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

By Mr. HANSEN:

S. 20. A bill to amend section 206 of the Federal Water Pollution Control Act in order to authorize reimbursement for the construction of certain sewage treatment works. Referred to the Committee on Public Works.

Mr. HANSEN. Mr. President, I am introducing today an amendment to the Federal Water Pollution Control Act Amendments of 1972. When Congress passed the 1972 amendments, it intended that waste treatment projects initiated after June 30, 1966, were to receive not less than 50 percent and as high as 75 percent Federal participation. Despite this intent, many qualified projects have not and will not receive this intended Federal assistance.

Mr. President, I ask unanimous consent that the computer printout I received from the Environmental Protection Agency listing those qualified projects failing to receive the full intended Federal participation be printed in the RECORD following my remarks.

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

(See exhibit 1.)

Mr. HANSEN. Mr. President, to better understand my amendment, I would like to take this opportunity to review the Federal participation provisions for waste treatment plants, and explain why, despite the clear intent of Congress, certain projects have not received the full intended Federal participation.

Section 8(c) of the Federal Water Pollution Control Act as amended, the legislation that preceded the 1972 amendments, provided that States and municipalities were to receive Federal assistance for waste treatment projects. Many projects received assistance under this act. However, because adequate funds were not authorized, many qualified projects did not receive the total amount allowable under the act. As a consequence, Congress, in the 1972 amendments, sought to assure that those previously constructed qualified projects would receive the previously stipulated Federal assistance and, second, that more recently constructed projects would receive increased Federal participation.

In significant part, the 1972 amendments provide as follows:

Section 206(b) provides that projects constructed between June 30, 1956, and June 30, 1966, are to receive the 30 percent Federal participation authorized under the earlier act.

Section 206(a) provides that projects constructed between July 1, 1966, and June 30, 1972, are to receive 50 percent Federal participation.

Section 202(a) provides that projects that receive funds authorized for any fiscal year beginning July 1, 1971, are to receive 75 percent Federal participation.

Section 202(b) also provides 75 percent Federal participation, but is not pertinent to our discussion here, and is mentioned only because it might tend to confuse. The section is not pertinent here because it was directed at assisting only a very narrow special category of projects, principally, if not exclusively, several Long Island, N.Y., projects (see H. Rept. 92-911, p. 89-90).

The congressional intent of the 1972 amendments was to provide a full, consistent, and graduated program of Federal assistance to qualified projects. However, this congressional policy has not been fully implemented.

Projects which received initial limited participation prior to October 1, 1971, under the original legislation, and were not under construction prior to July 1, 1972, have, despite the intent of Congress, failed to qualify for any Federal assistance.

It is my understanding that this hiatus has, in part, occurred because the Environmental Protection Agency did not commence allocating fiscal 1972 project funds until sometime after October 1, 1971. The effect of this action has resulted in many projects, on which construction was initiated after July 1, 1972, but which did not receive postfiscal 1971 funds, to fail to qualify for Federal participation. These projects do not qualify for participation under section 202(a) since they did not receive postfiscal 1971 funds, and they do not qualify for section 206(a) assistance because construction was not initiated until after June 30, 1972. Thus, these projects are caught in hiatus between the funding provisions of sections 202(a) and 206(a).

A factor that has amplified this unintended hiatus has resulted from EPA's adoption of a narrower definition of the term "construction" than provided by the act. Under section 212(1) of the 1972 amendments, "construction" is defined to include any preliminary activity to construction, including planning and feasibility studies. The definition in section 212(1) of the act reads as follows:

"The term 'construction' means one or more of the following: preliminary planning to determine the feasibility of treatment works, engineering, architectural, legal, fiscal, or economic investigations or studies, surveys, designs, plans, working drawings, specifications, procedures, or other necessary actions, erection, building, acquisition, alteration, remodeling, improvement, or extension of treatment works, or the inspection or supervision of any of the foregoing items."

The EPA has, however, narrowed the definition of "construction" when prefaced by the term "initiated," which is not defined by the act, to require "the issuance of a notice to proceed" or the "execution of a construction contract." (40 Code of Federal Regulations, chapter I, subpart E, section 35.905-3). The effect of this action has increased the hiatus between section 202(a) and 206(a).

Specifically, under section 206(a), Congress provided 50 percent Federal participation for projects on which construction was initiated during fiscal 1967 through 1972. As defined by the amendment, "construction" would be initiated whenever any preliminary activity to the actual construction commenced. Accordingly the amendments envisioned that any project failing to qualify for section 206(a) assistance because construction was not initiated before July 1, 1972, would be receiving fiscal 1972 funds, thus qualifying for section 202 (a) assistance. Under this anticipated procedure, there would exist no hiatus period between section 206(a) and section 202(a). If a project was funded prior to fiscal 1972, construction would necessarily have been initiated during the same period, and accordingly, the project would qualify for 50 percent funding under section 206(a). If a project was funded after fiscal 1972, it would qualify for 75 percent participation under section 202(a), regardless when construction was initiated. Thus, as Congress envisioned, there would be no period during which a qualified project would fail to receive Federal participation under both section 202(a) and section 206 (a), as has in fact occurred.

My bill will remedy this situation by closing the unfortunate hiatus between section 206(a) and section 202(a). My bill provides that qualified projects are to receive 50 percent Federal participation under section 206(a) not only if, as the 1972 amendments now provide, construction was initiated during fiscal 1967 through 1972, but, additionally, if the project was funded from authorizations from fiscal years 1967 through 1971. With this added language, the hiatus between sections 202(a) and 206(a) will be closed, and all qualified projects will fall within one of the two sections. Accordingly, the construction of these two sections will be as Congress originally intended.

EXHIBIT 1

EPA MUNICIPAL WASTEWATER TREATMENT GRANTS AWARDED BEFORE OCT. 1, 1971, NOT UNDER CONSTRUCTION JULY 1, 1972

State and applicant	Project No.	Grant date	Construction date	Eligible cost	EPA grant	Grant percent
Alabama:						
Clayton, town of	020701	1/71		$20,000	$6,000	30.00
Warrior, city of	021401	9/71		208,500	68,800	32.99
Total				228,500	74,800	62.99
Arizona:						
Navajo Tribal Utility A	011401	9/71		1,857,000	557,100	30.00
Do	010801	9/70	10/72	462,500	152,620	32.99
Do	010101	12/69	11/72	411,100	135,662	32.99
Cold River Jt SS	010301	3/10	1/73	1,657,729	547,050	32.99
Total				4,388,329	1,392,432	128.97
Arkansas: Yellville, city of	028301	4/70	8/72	$336,000	$100,830	30.00
California: Stockton, city of	045401	1/71		178,682	58,965	32.99
Colorado: Denver Metro SDD No. 1	025501	3/71		64,500	21,280	32.99
Connecticut: Conn. Dept. Mental Health	014501	6/71	4/73	227,600	5,000	2.18
Delaware: New Castle County	005001	7/71	8/72	4,406,000	1,193,545	27.09
Florida:						
Rivera Beach, City of	032801	5/71		1,030,000	339,900	33.99
Dunedin, city of	032201	6/71	8/72	1,600,000	528,000	33.00
South Bay, city of	029501	11/70	8/72	586,700	193,610	32.00
Green Cove Springs	020101	6/71	9/72	655,300	216,240	32.99

EXHIBIT 1—Continued

EPA MUNICIPAL WASTEWATER TREATMENT GRANTS AWARDED BEFORE OCT. 1, 1971, NOT UNDER CONSTRUCTION JULY 1, 1972—Continued

State and applicant	Project No.	Grant date	Construction date	Eligible cost	EPA grant	Grant percent
Florida—continued						
Hollywood, city of	033301	12/70	10/72	$7,250,000	$2,392,500	33.00
Sebring, city of	028901	6/71	11/72	1,212,000	363,600	30.00
Manatee County	033701	4/71	12/72	8,936,000	2,948,880	33.00
Jasper, city of	020201	6/71	1/73	264,790	79,430	29.99
Total				21,534,790	7,062,160	257.97
Georgia:						
Lumpkin, city of	021201	4/71		101,000	33,330	33.00
Homerville, city of	020901	10/70		116,000	38,280	33.00
St. Marys, city of	020801	7/70		495,000	163,350	33.00
Commerce, city of	020401	6/70		810,000	243,000	30.00
Ringgold, city of	020301	6/70		497,000	149,100	30.00
Darien, city of	020201	10/70		176,000	58,080	33.00
Watkinsville, town of	030201	2/71		239,000	78,870	33.00
Kingston, city of	029901	2/71		94,000	31,020	33.00
Milan, city of	029801	2/71		197,000	65,010	33.00
Waycross, city of	029601	6/71		2,344,000	773,520	33.00
Hamilton, city of	029501	2/71		98,000	32,340	33.00
Georgetown, city of	029301	2/71		128,000	42,240	33.00
Whitesburg, town of	029201	2/71		114,000	34,200	30.00
Senoia, city of	029101	2/71		178,000	53,400	30.00
Loganville, city of	029001	2/71		318,000	104,940	33.00
Lexington, city of	028901	2/71		111,000	36,630	33.00
Glennville, city of	028401	1/71		282,000	93,060	33.00
Ailey, city of	028101	1/71		78,000	25,740	33.00
Abbeville, city of	028001	1/71		153,000	50,490	33.00
Talbotton, city of	027901	1/71		166,000	49,800	30.00
Helen, city of	027501	2/71		117,000	38,610	33.00
Bartlow County	027401	4/71		322,000	106,260	33.00
Colbert, city of	026701	12/70		103,000	33,990	33.00
Pulaski, town of	026101	1/71		31,000	10,230	33.00
Lincolntown, town of	025601	12/70		537,970	177,530	32.99
Dallas, city of	025401	12/70		250,000	75,000	30.00
Menlo, city of	025201	12/70		137,000	45,210	33.00
Woodstock, city of	025101	1/71		139,000	45,870	33.00
Smithville, city of	024501	11/70		54,000	16,200	30.00
Alpharetta, city of	024401	3/71		258,000	77,400	30.00
Ball Ground, city of	024101	11/70		117,000	35,100	30.00
Willacoochee, city of	024001	4/71		104,000	34,320	33.00
Eastman, city of	023901	9/70		812,500	268,120	32.99
Newton, city of	023701	9/70		120,000	39,600	33.00
Donalsonville, city of	023601	11/70		397,000	131,010	33.00
Rentz, town of	023501	9/70		23,200	6,700	28.87
Snellville, town of	023301	4/71		477,000	143,100	30.00
Centerville, city of	022701	12/70		304,000	100,320	33.00
Greenville, city of	022501	2/71		247,000	62,400	25.26
Valdosta, city of	022401	12/70		247,000	81,510	33.00
Shellman, city of	022301	3/71		47,000	15,510	33.00
Fort Oglethorpe, city of	020101	6/70	8/72	1,667,000	550,000	32.99
Grantville, city of	021001	10/70	8/72	342,668	113,080	32.99
Augusta, city of	025001	12/70	9/72	2,479,406	818,200	32.99
Hazlehurst, city of	028301	3/71	9/72	385,721	127,280	32.99
Covington, city of	028801	3/71	9/72	1,449,000	478,170	33.00
Warner Robins, city of	028701	4/71	9/72	3,290,440	1,085,840	32.99
Bibb County W. & S.A	025901	1/71	10/72	474,120	156,450	32.99
Fulton County	025701	3/71	11/72	5,983,306	1,974,490	32.99
Conyers, city of	030001	3/71	11/72	1,287,000	424,710	33.00
Macon, city of	030101	3/71	11/72	4,063,200	1,340,850	32.99
Port Wentworth, city of	019201	10/69	11/72	272,317	89,860	32.99
Garden City, city of	019301	10/69	12/72	793,385	261,810	32.99
McDonough, city of	021701	8/70	12/72	535,000	160,500	30.00
Sandersville, city of	029701	2/71	12/72	1,021,621	337,130	32.99
Colquitt, city of	026301	12/70	1/73	374,938	123,720	32.99
Reidsville, city of	028501	2/71	2/73	141,000	46,530	33.00
Thomaston, city of	022201	4/71	2/73	573,000	189,090	33.00
Cairo, city of	021901	9/70	2/73	636,850	210,160	32.99
Brunswick, city of	020001	11/70	2/73	1,911,000	630,630	33.00
Statesboro, city of	028601	3/71	4/73	1,386,000	415,800	30.00
Floyd County	027201	2/71	4/73	422,000	139,260	33.00
Edison, city of	027601	1/71	4/73	97,000	32,010	33.00
East Dublin, town of	029401	5/71	6/73	258,480	85,290	32.99
Total				41,384,122	13,491,250	2,063.97
Illinois: Gt Chicago Metro San D	093501	3/71	1/73	4,096,000	1,676,510	40.93
Indiana:						
Cedar Lake, town of	021101	10/65	8/72	1,853,000	637,200	34.38
Grandview, town of	029201	5/71	9/72	221,200	79,090	35.75
Ellettsville, town of	042001	6/71	3/73	404,300	174,000	43.03
Total				2,478,500	890,290	113.16
Kentucky:						
Nicholasville, city of	028101	9/70		58,300	19,230	32.98
Worthington, city of	028801	1/71		30,013	9,904	32.99
Perry County San D No. 1	028501	1/71		297,500	98,170	32.99
Somerset, city of	029101	3/71	8/72	1,780,000	587,400	33.00
Russell Springs, city of	023201	4/67	5/73	598,000	179,400	30.00
Total				2,763,813	894,104	161.96
Louisiana:						
Shreveport, city of	024001	12/69		3,636,000	1,199,880	33.00
New Orleans S. & W. Bd	025601	12/70		1,044,200	344,580	32.99
Franklin, town of	024301	12/70		27,773	8,330	29.99
Total				4,707,973	1,552,790	95.98
Maine: Bangor, city of	007101	3/71	7/72	2,156,100	539,020	24.99
Maryland: Anne Arundel County	019101	12/68	5/73	3,560,300	1,570,360	44.10
Massachusetts: Fitchburg, city of	026801			476,800		0
Minnesota: Redwood Falls, city of	051701	1/68		$355,505	$106,651	29.99
Mississippi:						
Sherman, town of	019301	2/67		78,600	23,580	30.00
Quitman, town of	020901	5/67	9/72	590,000	241,000	40.84
Prentiss, town of	029001	4/70	10/72	601,000	210,010	34.94
Senatobia, city of	028101	11/69	10/72	465,000	153,450	33.00
Shelby, city of	029901	6/70	10/72	171,000	56,430	33.00
Waveland, town of	018001	9/65	2/73	1,838,000	877,260	47.72
Biloxi, city of	023901	12/67	6/73	3,986,000	1,722,900	43.22
Total				7,729,600	3,284,630	262.72
Montana:						
Crow Ind Develop Comm	014401	12/69		439,400	79,950	18.19
Havre, City of	014601	2/70	9/72	850,000	326,800	38.44
Total				1,289,400	406,750	56.63
New Mexico: Bernalillo, town of	015701	6/70		82,600	27,250	32.99
North Carolina: Lake Waccamaw, town of	026801	12/69	11/72	528,872	194,140	36.70
North Dakota: Standing Rock Sioux Trb	023501	3/71		71,800	21,540	30.00
Ohio:						
Seneca County	053101	9/71		36,700	11,010	30.00
Sugarcreek, village of	046001	9/71	9/72	683,300	185,610	29.07
Wayne County	048301	9/70	10/72	146,800	48,440	32.99
Allen County	044901	10/70	10/72	2,118,400	565,090	26.67
Knox County	053901	9/71	10/72	1,008,400	258,900	25.67
Cleveland, city of	055101	9/71	12/72	40,600,000	13,398,000	33.00
Marietta, city of	055401	9/71	1/73	503,800	113,220	22.47
Athens County	038601	3/71	2/73	664,100	229,020	34.48
North Royalton, city of	029001	5/66	6/73	298,700	133,720	44.76
Total				46,015,200	14,943,010	279.11
Oklahoma:						
Heavener, U. A	042301	7/68		10,000	3,300	33.00
Bartlesville, city of	046501	9/70		50,000	16,500	33.00
Chickasha, M.A	046801	8/70		99,600	29,880	30.00
Oklahoma City, city of	050401	2/71	9/72	28,695,900	9,469,640	32.99
Total				28,855,500	9,519,320	128.99
Oregon:						
Wheeler, city of	024301	6/71		278,500	83,550	30.00
Echo, city of	031801	6/71		137,000	41,100	30.00
Astoria, city of	029101	3/71	9/72	8,730,000	2,880,900	33.00
Wallowa, city of	025901	2/70	11/72	212,000	63,600	30.00
Total				9,357,500	3,069,150	123.00
Pennsylvania:						
New Eagle, boro of	028201			476,041		0
McDonald, boro of	030201			548,400		0
Smithon, boro of	034901	8/68		235,000	11,710	4.98
Zelienople, boro of	043301	5/70		190,000	17,530	9.22
Keating, twp of	042301	9/69		68,400	5,270	7.70
Center Twp S.A	041101	8/69		1,643,300	82,100	4.99
Brookhaven Boro	038701	1/69		250,000	11,330	4.53
Allentown A	046201	7/70		136,876	65,730	48.02
Saegertown San D	045201	3/71		502,600	221,140	43.99
Ambridge, Boro of	044701	8/70		624,000	249,600	40.00
Dalton, Boro of	044001	1/70		860,000	175,160	20.36
Cooperstown, M.A	050601	3/71		195,000	78,000	40.00
Bucks County W. & S.A	051401	6/71		500,000	107,250	21.45
Herndon M.A	046701	8/70		169,400	67,760	40.00
Bethlehem A	053701	6/71		6,543,300	2,879,050	43.99
Delaware Twp M.A	053501	6/71		100,000	40,000	40.00
Lower Saucon Twp A	053101	6/71		1,343,300	591,050	43.99
Coopersburg Boro M.A	050701	4/71	7/72	176,400	77,610	43.99
Berlin, Boro of	049101	4/71	8/72	620,900	220,000	35.43
South Fayette, Twp of	043701	6/70	8/72	2,181,000	602,800	27.63
Lemoyne, Boro of	053801	7/71	8/72	3,687,000	1,063,420	28.84
Orbisonia-Rock Hill M.A	029601	3/68	10/72	416,500	183,260	44.00
Cambridge Springs, Boro	052901	6/71	11/72	667,700	287,500	43.05
Carrolltown, Boro of	048901	2/71	1/73	652,800	196,060	30.03
Bucks County W.S.A	051701	6/71	1/73	4,952,000	1,801,800	36.38
Chartiers Twp S.A	030301	9/68	1/73	162,600	6,910	4.24
Upper Allen Twp A	051801	4/71	5/73	3,145,400	793,050	25.21
Manheim Boro A	050301	4/71	6/73	336,000	134,400	40.00
Total				31,383,917	9,969,490	772.02
South Carolina:						
Moncks Corner, town of	021901	4/71		393,600	129,880	32.99
Lamar, town of	019301	3/70	8/72	155,400	51,280	32.99
Myrtle Beach, city of	025201	9/71	10/72	800,000	264,000	33.00
St. George, town of	019201	1/69	2/73	338,000	145,760	43.12
Clinton, city of	023301	9/71	2/73	294,500	124,110	42.14
Branchville, town of	025001	9/71	3/73	73,712	30,560	41.45
Mullins, city of	023201	4/71	5/73	972,000	241,820	24.87
St. Stephen, town of	017601	2/68	5/73	205,000	61,500	30.00
Total				3,232,212	1,048,910	280.56
South Dakota:						
Yankton Sioux Tribe	020201	6/71	8/72	122,000	36,600	30.00
Columbia, city of	020101	8/71	11/72	26,200	5,430	20.72
Total				148,200	42,030	50.72
Tennessee: Roane County	027601			761,000		0

State and applicant	Project No.	Grant date	Construction date	Eligible cost	EPA grant	Grant percent
Texas:						
Granger, city of	059901	4/71		$42,400	$12,720	30.00
Celeste, city of	065101	3/71		22,900	7,550	32.96
Deer Park, city of	078701	7/71	1/73	93,800	30,950	32.99
Total				159,100	51,220	95.95
Utah: Moroni City Corp	012001	3/71	3/73	1,305,100	391,530	30.00
Virginia:						
Weber City, town of	023701			519,900		.00
Wakefield, town of	029601	3/71	7/72	132,700	60,000	45.21
Total				652,600	60,000	45.21
Washington:						
Washtucna, town of	034801	1/71		43,000	12,900	30.00
Milton, town of	034101	11/70	7/72	822,600	271,450	32.99
Pierce County	033801	1/71	7/72	670,700	221,331	33.00
Kelso, city of	033101	12/70	7/72	271,900	89,720	32.99
Concrete, town of	014601	5/70	10/72	290,335	95,810	32.99
North Lake Washington S.D	031601	6/70	12/72	$1,915,000	$631,950	33.00
Sedro Woolley, city of	031701	6/70	12/72	1,118,600	369,138	33.00
Total				5,132,135	1,692,299	227.97
West Virginia:						
Gassaway, Town of	012601	3/66		391,000	117,300	30.00
Union, town of	016601	4/71		376,500	112,950	30.00
W. Va. Bd. of Education	014501			100,000		.00
Mannington, city of	013401	3/67		1,032,000	340,560	33.00
Moorefield, town of	015101	2/69		139,400	41,820	30.00
Grantsville town of	015201	3/69	1/73	387,100	145,590	37.61
Raleigh County Auport A	016801	6/71	1/73	312,000	93,600	30.00
Greenbrier P.S.C. No. 1	015501	7/69	3/73	1,063,000	313,590	29.50
Total				3,801,000	1,165,410	220.11
Wyoming: Gillette, city of	008401	5/71	10/72	835,900	275,840	32.99
Puerto Rico: P.R. Aqueduct Sewer Auth	007601	6/71		791,200	343,750	43.44
Grand total				235,476,350	77,136,256	5,899.37

Note: 190 records totaled.

S. 20

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 206 (a) of the Federal Water Pollution Control Act is amended by inserting after "1972," the following: "or constructed with financial assistance appropriated pursuant to the provisions of this Act for any fiscal year beginning July 1, 1966, and ending June 30, 1971,".

By Mr. SPARKMAN:

S. 21. A bill to establish a National Development Bank to provide loans to finance urgently needed public facilities for State and local governments, to help achieve a full employment economy both in urban and rural America by providing loans for the establishment of new businesses and industries and the expansion and improvement of existing businesses and industries, for the construction of low and moderate income housing projects, and to provide job training for unskilled and semiskilled unemployed and underemployed workers. Referred to the Committee on Banking, Housing and Urban Affairs.

NATIONAL DEVELOPMENT ACT OF 1975

Mr. SPARKMAN. Mr. President, I introduce a bill to establish a National Development Bank to provide loans to finance urgently needed public facilities for State and local governments, to help achieve a full employment economy both in urban and rural America by providing loans for the establishment of new businesses and industries and the expansion and improvement of existing businesses and industries for the construction of low and moderate income housing projects, and to provide job training for unskilled and semiskilled unemployed and underemployed workers.

I will not take the time of the Senate to review in detail the economic plight which this Nation is presently facing. We all know unemployment is increasing. We know that any number of States, counties, and large and small towns find themselves in critical situations—they are having to cut down or eliminate all types of facilities and services urgently needed by the people. We know large and small businesses and industries are in deep slumps, and if they can continue to exist at all, many of them are having to cut back in employment, which simply adds to greater unemployment rolls already the highest in many years. The housing industry is almost at a dead standstill. Housing starts are way below normal—yet many, many of our low and moderate income families desperately need safe, decent, and adequate housing. Housing which is on the market is beyond reach for those who need housing badly.

We are suffering through one of the tightest money periods we have ever experienced and needed capital is just not available to local government to finance thos things needed by the people; money is just not available to both small and large businesses or to individuals and corporations to establish new or expand existing businesses. Money, particularly mortgage credit, is almost nonexistent to public agencies and private nonprofit and limited dividend corporations for the construction of housing.

Mr. President, the bill I send to the desk would establish a Federal banking facility to make loans at reasonable interest rates in all the areas of which I can speak. My bill would establish a National Development Bank with a capitalization of $5 billion. The capital for the bank would be raised by the Federal Financing Bank, and would permit the bank to make loans up to 20 times the paid-in capital stock of the Bank.

Mr. President, except for minor modifications, the bill I introduce today is the same bill I introduced in the 1st session of the 92d Congress. Since that time a number of Senators have introduced similar measures. Off hand, one might think that my bill is the reestablishment of a Federal instrument like the old Reconstruction Finance Corporation. To some degree, that is correct. However, rather than limiting loans to business and industry, as was the case under the RFC, my bill would make Federal financing available to a broad spectrum of borrowers—small and big business and industry to be sure but also to public bodies and agencies as well.

The events of the time and the introduction of similar bills by others have convinced me we need the type of financing facility which my bill would provide.

I sincerely hope the Banking, Housing and Urban Affairs Committee will give very early consideration to my bill, as well as any other measures introduced which are similar to it, as early as possible.

I ask unanimous consent to insert a section-by-section analysis of the bill following my remarks.

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

NATIONAL DEVELOPMENT ACT OF 1975—SECTION-BY-SECTION SUMMARY OF BILL S. 21

Sec. 1.—Short Title—"National Development Act of 1975"

Sec. 2.—Findings and Declaration of Purpose

Sec. 3.—Creation of National Development Bank as instrumentality of U.S. with succession until dissolved by Congress to make long-term low interest rate loans to (1) State and local governments for public works and facilities, (2) individuals and corporations to expand or otherwise improve existing businesses and industries, and (3) public agencies, private nonprofit and limited dividend corporations for construction of low and moderate income housing.

Sec. 4.—Technical Definitions

Sec. 5.—Provides that Board of Directors shall consist of the Secretaries of Treasury, Commerce, Housing and Urban Development, Agriculture, and Labor plus ten other persons appointed by the President and confirmed by Senate from State and local governments, private enterprises, organized labor, and rural organizations dealing with economic and social problems of depressed areas. Provides a two-year term for those appointed by the President.

Sec. 6.—Administrative—Provides for appointment of President, other officers, and employees as may be needed to carry out functions of bank and political activities.

Sec. 7.—Conflict of interest and prohibition

Sec. 8.—Technical—General Corporate Powers

Sec. 9.—Provides for principal office of Bank to be in Washington, D.C. with branches or agencies in any city of the U.S.

Sec. 10.—Provides that Bank shall have a capital stock of $5 billion and authorizes Federal Financing Bank to purchase such stocks.

Sec. 11.—Sets the outstanding indebtedness of Bank at any time not to exceed 20 times the paid-in capital stock of Bank at the time.

Sec. 12.—Authorizes purchase of any asset of Bank by Federal Financing Bank at such price as may be agreed upon by the Bank and F.F.B.

Sec. 13.—Permits Federal Reserve Banks, Federal Reserve Open Market Committee, and any federally chartered or regulated commercial bank, savings and loan association or mutual savings bank to purchase obligation of Bank.

Sec. 14.—Establishes obligations of Bank as lawful investments as securities for all fiduciary trust and public funds.

Sec. 15.—Authorizes the Bank to make or guarantee loans for the purchase of real or personal property, and for the working capital necessary to locate a new business or industry to improve or expand an existing business if (1) the borrower agrees to provide job opportunities to the unemployed or underemployed, (2) the borrower agrees to provide training courses for the unemployed or underemployed, and (3) other such requirements as may be imposed by the Bank.

Sec. 16.—Authorizes the Bank to make or guarantee loans to finance capital expenditures for public works and community facilities.

Sec. 17.—Authorizes the Bank to make or guarantee loans to public agencies, nonprofit cooperatives, limited dividend corporations, and others to provide dwellings for low and moderate income families.

Sec. 18.—Technical.

Sec. 19.—Authorizes Bank Directors to make whatever arrangements they consider adequate to secure loans made by the Bank.

Sec. 20.—Authorizes Board of Directors to set the maturity of loans made by the Bank; however, requires Bank to refinance loan with another lender whenever in the judgment of the Board refinancing is possible and feasible.

Sec. 21.—Authorizes Bank to guarantee any loan made by any bank, savings bank, trust company, building and loan or saving and loan association, insurance company, mortgage loan company or credit union if such loans are made for the purpose of carrying out this Act, and the effective interest rate for such loans is not more than 1½ percentum above the Federal Reserve discount rate.

Sec. 22.—Authorizes the Bank to make direct loans for the purpose of carrying out this Act at interest rates not to exceed a rate equal to the average yield on all marketable bonds of the U.S. maturing in more than six but not less than twelve years plus one-half of one percent.

Sec. 23.—Exempts all holdings of the Bank from all Federal taxation. Permits Federal, State, and local taxation of real property and tangible personal property held by Bank, and permits taxation of principal and interest of Bank obligation the same as obligation of private corporations are taxed.

Sec. 24.—Authorizes GAO to audit financial transactions of the Bank.

Sec. 25.—Authorizes to be appropriated without fiscal year limitation the sum of $5 billion to the Federal Financing Bank to finance the purchase of Bank stock.

By Mr. McCLELLAN:

S. 22. A bill for the general revision of the Copyright Law, title 17 of the United States Code, and for other purposes. Referred to the Committee on the Judiciary.

COPYRIGHT LAW REVISION

Mr. McCLELLAN. Mr. President, as chairman of the Subcommittee on Patents, Trademarks and Copyrights, I introduce, for appropriate reference, a bill for the genral revision of the copyright law, title 17 of the United States Code, and for other purposes. Title I of this legislation provides for the general revision of the copyright law. Title II provides for the protection of ornamental designs of useful articles.

Other than for necessary technical and perfecting amendments, and changes required by the enactment of Public Law 93-573, the interim copyright bill, the text of this bill is identical to that passed by the Senate on September 9, 1974. No new issues have arisen since that action and, therefore, it is anticipated that the Subcommitee on Patents, Trademarks and Copyrights will report a copyright revision bill at an early date in this session. I am hopeful that the 94th Congress will finally produce a modern U.S. copyright statute.

By Mr. McCLELLAN:

S. 23. A bill for the general revision of the patent laws, title 35 of the United States Code, and for other purposes. Referred to the Committee on the Judiciary.

PATENT LAW REVISION

Mr. McCLELLAN. Mr. President, I introduce, for appropriate reference, a bill for the general revision of the patent laws, title 35 of the United States Code, and for other purposes.

The subject of patent revision legislation has occupied the attention of Congress, the executive branch, the organized bar, industry, and the inventive community for a number of years. A series of patent research studies were prepared for the Subcommittee on Patents, Trademarks, and Copyrights. President Johnson established the President's Commission on the Patent System, and President Nixon transmitted to the Congress in 1973 a special message on patent reform. I have introduced general patent revision bills in several Congresses, and during the 93d Congress patent revision bills were introduced by several Members of the Senate.

I believe that the bill which I am introducing today makes useful and necessary improvements in the patent system, while preserving and strengthening the incentive provided by the patent system. I invite study of this bill by all interested parties and would welcome any comments or proposed amendments.

By Mr. McCLELLAN:

S. 24. A bill to carry into effect certain provisions of the Patent Cooperation Treaty, and for other purposes. Referred to the Committee on the Judiciary.

ON IMPLEMENTATION OF THE PATENT COOPERATION TREATY

Mr. McCLELLAN. Mr. President, as chairman of the Subcommittee on Patents, Trademarks and Copyrights, I introduce a bill to carry into effect certain provisions of the Patent Cooperation Treaty and for other purposes.

The United States and 34 other countries are signatories of the Patent Cooperation Treaty. On September 12, 1972, the President submitted the treaty to the Senate for its advice and consent, and the Senate gave its advice and consent on October 30, 1973. The treaty is not self-executing in this country and the purpose of the bill which I am introducing is to provide the necessary statutory authority for implementing the treaty. At the request of the Department of Commerce I introduced a substantially similar bill, S. 2469, in the 93d Congress. That bill was reported favorably by the Patent Subcommittee, but it was not possible to complete action on that legislation prior to the adjournment of the Congress.

This bill would amend certain sections of title 35, United States Code, to provide applicants filing applications for patents only in the United States, with the flexibility afforded to applicants filing under the treaty. I have long advocated efforts to promote greater international cooperation in patent matters, subject only to the qualification that such undertakings should not weaken the American patent system or contribute to an erosion of industrial and intellectual property rights. I believe that the Patent Cooperation Treaty meets that test. By providing among other things, centralized filing procedures and a standardized application format, the treaty will offer many advantages to U.S. applicants who seek patent protection abroad.

By Mr. MOSS:

S. 25. A bill to provide for the establishment of the Great Salt Lake National Monument, in the State of Utah, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

GREAT SALT LAKE NATIONAL MONUMENT

Mr. MOSS. Mr. President, I am introducing today a bill which would establish a Great Salt Lake National Monument on Antelope Island in Utah's unique inland sea.

The national monument would occupy all of the island except for 2,000 acres at the northern end which the State of Utah has been developing as a State park.

When I first came to Congress in 1959, I set as one of my goals the proper utilization of the Great Salt Lake—preservation of its scenic, scientific, and historic values, with accessibility for visitors, along with continued commercial development of the brines and minerals of the Lake. Beginning with the 86th Congress, and in each succeeding Congress, I have introduced either national park or national monument legislation, on which extensive hearings have been held in both Utah and Washington. In the 90th Congress my Great Salt Lake monument bill passed the Senate, but died in the House.

Along the way Congress has legislated on the relicted land problem on the shore, to resolve the objective of commercial development. It has yet to legislate, however, on the scenic and recreational uses of the lake. But, the hearings held on my bills reawakened interest in Utah and in development of Great Salt Lake. Residents of the State want something to be done to make available to Utahans and to out-of-State visitors the remarkable scientific, historical, and recreational potential of the lake.

In 1963, the Utah Legislature established a Great Salt Lake Authority to recommend usage of the lake and its shores and islands. Later, in the absence of Federal development, the State Park and Recreation Department secured a lease on the northern 2,000 acres of the island and started to develop a State park. Substantial progress has been made. Last year the State legislature provided $5.5 million for development of the

park. The funds are being used to restore and to upgrade a 7-mile causeway from a graveled roadway to hard surface; water and sewer facilities are being developed, as well as a small campground and a marina. The park is to be open year-round. In 1972 it was visited by approximately 200,000 people.

The development of the State park, including the road and recreation facilities, is fully compatible with, and of equal standards to, a national monument established by the Federal Government. Thus, passage of my bill would bring about development of the island as a unified whole. Its full potential would be reached at long last. Antelope Island is truly worthy of national monument designation. It offers a superb platform from which to see and interpret this unique and scenic lake and its physical history.

The wave-carved terraces from different stages of ancient Lake Bonneville are visible. In addition there are magnificent views of Great Salt Lake and the other islands and promontories and mountain ranges that stand in and around the basin. The restricted but fascinating lake life, including reeflike algae deposits, and the products of evaporation can readily be interpreted from the island base.

It is also easy to visualize, from the island, the effect of Great Salt Lake, both as a barrier and as a magnet for fur trappers, explorers, Mormon pioneers, and the railroad builders, all major features of the story of America's westward expansion. Promontory Range can be seen. This is the place on which the golden spike was driven in 1869, linking the east and west coasts by transcontinental railroad. Built on the island in 1849, stands the oldest house in Utah still used for its original purpose as a ranchhouse. It nestles in a grassy grove of trees near the island's largest spring.

Let me quote to you the Department of the Interior's conclusion as to scientific significance:

Scientific significance is the hallmark of the National Monument caliber for any feature, site or area. On this basis, Antelope Island merits National Monument status in its own right. The island as a whole comprises a complete topographic unit and it is the record of the drama of earth history which circumscribes the island from its present shoreline to the crests and promontories standing as much as 2,400 feet above the surface of Great Salt Lake. These are factors which contribute to the scientific significance of Antelope Island. It is doubtful whether any other location surpasses Antelope Island as a scientific exhibit of the story of Great Salt Lake and its ancestral lakes and as a place for its observation, study and enjoyment by visitors.

The State now leases 2,000 acres from the owner of the island which is nearly all in single ownership. The establishment of the monument would require acquisition of the entire island, along with relicted land left exposed by the receding waters and extending to a band of water around the island.

Mr. President, the Advisory Board on National Parks, Historic Sites, Buildings and Monuments recommended in 1963 that Antelope Island, or a portion of it, be authorized for establishment in the national park system.

I send to the desk, for appropriate reference, a bill to provide for the establishment of the Great Salt Lake National Monument in the State of Utah, and for other purposes.

By Mr. MOSS (for himself and Mr. HANSEN):

S. 26. A bill to establish mining and mineral research centers, to promote a more adequate national program of mining and minerals research, to supplement the act of December 31, 1970, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

MINING AND MINERALS RESOURCES RESEARCH ACT OF 1975

Mr. MOSS. Mr. President, in order to solve many of our environmental problems we need Federal Government participation, in the form of grants and appropriations, to aid in research and development of new environmental technologies, including new energy sources and better mined land reclamation techniques.

The Nation has become painfully aware of the environmental deterioration caused by some past mining practices. The mining industry is also aware of the environmental problems associated with the extraction of minerals, and has, in many instances, developed practical solutions for dealing with them. But, as further environmental improvement is sought, the technical difficulties and the cost of gaining each new increment of quality greatly increase the costs of operation, and may make the difference between feasibility and infeasibility in a mine's economic picture. Senate Report No. 91-390 on the National Mining and Minerals Policy Act (Public Law 91-631) stated:

Research can be particularly beneficial in assisting the mining industry to cope with the many new requirements that our increased concern over environmental quality placed upon mine operators. The Federal Government should engage in long-range research programs which will provide the technology necessary for private industry to implement practices designed to improve the quality of our environment. It should establish and maintain policies and programs which supply the needed trained specialists, and publish and disseminate data and technical information relevant to environmental quality matters.

A bill embodying these concepts and providing funds to tax-supported schools throughout the country for science and engineering research was introduced by the distinguished Senator from Colorado, GORDON ALLOTT, in the 92d Congress as S. 635. After a lengthy conference, the conference report was accepted by both bodies in October of 1972. The bill unfortunately was pocket vetoed by the President.

Senator HANSEN and I introduced in the 93d Congress a similar bill, S. 263, which was incorporated into the surface mining bill vetoed by the President.

I introduced on behalf of myself and my good friend from Wyoming, Senator HANSEN, a new bill to establish mining and mineral research centers, to promote a more adequate national program of mining and minerals research, and to supplement the act of December 31, 1970.

By Mr. MOSS:

S. 27. A bill to establish a Department of Natural Resources and Environment. Referred to the Committee on Government Operations.

DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENT ACT

Mr. MOSS. Mr. President, I introduced my first bill to create a Department of Natural Resources in 1965. I have refined and updated the bill and reintroduced it in each session of Congress since that time, joined in more recent years by a number of my colleagues.

The shifts in organizational emphasis in the Department of Natural Resources bills have paralleled the shift in emphasis on our resource problems. My original bill grew out of conflicts I had witnessed mainly in the conservation and management of our water and land and mineral resources at home, and which I had seen on a larger scale through my work in the Senate Interior Committee.

It was apparent again and again that overlapping of jurisdictions between agencies working in the same field, but located in different departments and seeing their missions in different ways, contributed to the difficulty in finding solutions to resource problems. Had the functions been in the same department, under the same umbrella, I was convinced we could work more easily and efficiently and with less waste and delay. So my first Department of Natural Resources bill emphasized reorganization of our water and land functions.

Then came the mushrooming interest in the protection of our environment, and my bill was redrafted to reflect the need for greater coordination between conservation agencies, including not only the protective and management functions, but the regulatory functions, and was renamed the Department of Natural Resources and Environment.

Last year the energy crisis exploded upon our consciousness. Suddenly, we became acutely aware of the needs to curtail our consumption of energy altogether, to open new supplies of vital fuels like coal and oil, and to develop the technology of production and use of new sources of energy. Indeed, so fast did these issues emerge that within one session of the Congress we created two entirely new energy agencies and reorganized others in the process.

Each of the shifts in emphasis has only served to emphasize the widespread nature of our natural resources problems and the urgency of enacting legislation to streamline and make efficient the organizational machinery by which all resource programs are administered and to end, once and for all, fragmentation of policy formulation, decision making and program implementation.

There are a number of ways in which a department could be structured—I am not here to argue details down to the last bureau or agency. This I would leave to the good judgment of the committee. I would like mainly here this morning to explain the philosophy and reasoning

behind some of the choices I made in drafting S. 27.

My bill would establish a Department of Natural Resources and Environment, with a Secretary, a Deputy Secretary, and then an Under Secretary of Natural Resources and Environment for Water, an Under Secretary of Natural Reources and Environment for Lands, and an Undersecretary of Natural Resources and Environment for Energy.

Functions would be transferred to it from the Department of the Interior, the Department of Agriculture, the Department of Commerce, the Department of Defense, the Department of Transportation, the Energy Research and Development Administration, the Federal Energy Administration, the Nuclear Regulatory Commission, the Federal Power Commission, and the Environmental Protection Agency, and some other agencies.

Among the land and recreation agencies which would go into the new department are the Bureau of Outdoor Recreation, the Bureau of Sport Fisheries and Wildlife, the National Park Service, the Bureau of Land Management—all from Interior—the Forest Service, and the Soil and Water Conservation Research Division of the Agriculture Research Service from the Department of Agriculture.

Among water development agencies would come the following functions: from the Department of the Interior—the Bureau of Reclamation, the Office of Saline Water, the Office of Water Resources Research, and the hydro power marketing agencies; from the Department of Agriculture—the Soil Conservation Service. From the Department of the Army's Corps of Engineers would come the planning, project evaluation, policy formulation and budgeting responsibilities relating to the civil functions of the Corps. The functions of the Water Resource Council would also be transferred to the new department. Our heightened need for greater agricultural production, brought on by our food shortages, underlines the importance of water and land reorganization.

As I indicated, there have been great changes in the energy field since the bill I introduced 2 years ago. I will have some comments to make on the reorganization of the energy agencies later on. But briefly, all of the functions of the new Federal Energy Administration, the Energy Research and Development Administration, and the Nuclear Regulatory Commission would be transferred to the Department of Natural Resources and Environment.

The major scientific and technological components of the new department would be established by transferring the functions of the Geological Survey from the Department of the Interior and those of the National Oceanic and Atmospheric Administration of the Department of Commerce to the new department.

My proposed Department is called the Department of Natural Resources and Environment and would include the components of the Environmental Protection Agency—the Water Quality Office, Solid Waste Office, Air Pollution Control Office, Pesticides Office, and Radiation Office. The administration proposal retains the EPA as a separate agency.

WHY THIS CONCEPT?

Let me give you an example of why I decided to pursue this concept.

A number of generating plants have been constructed in the Four Corners area of the Southwest. Requests for licenses to build others are pending. The plants are designed to utilize the plentiful coal of the region and the water from the Colorado River system.

Most of the plants which have been built have come under heavy attack by environmental groups because of the discharge of pollutants into the air, because of the impact of plant construction on sites, because of the disposal of coal wastes, or for other reasons.

The Department of the Interior granted licenses on the basis that the energy the plants would produce was needed, but the environmental impact problems were never settled before the plants were built, since the EPA law had not been enacted. Had there been the machinery, within a single department, to check out both the economic and environmental impact of the plants at the same time, many of the present difficulties could have been avoided.

An even more specific example is the proposed Kaiparowits plant in southern Utah. The request for a license to build this plant was recently denied by the Secretary of the Interior on the basis of environmental degradation. The several private utility companies, who wish to build the plant, have now selected a new site and revised their plans, and a new environmental impact statement is being drafted. If the new statement is accepted by the Department, then it will still have to run the gamut of the Council on Environmental Quality and the Environmental Protection Agency, with more time prescribed for consideration and comment, and the construction of this much needed source of energy will be delayed and delayed again.

I feel that the Council on Environmental Quality should remain outside the Department, but I can see no reason why agencies which have jurisdiction on other problems should not be coordinated within a single Department and their comments made internally. These include agencies which decide on the impact of plant construction on sites, the discharge of pollutants into the air, the disposal of coal waste, the acceptability of a mining plan and the location of power lines and the return of water to a river system to mention a few.

The most excruciating example of delay in getting environmental clearance on an important project because of divided departmental responsibility is that of the Bonneville unit of the Central Utah project.

After months of study, an environmental impact statement on the Bonneville unit was finally completed in Utah. It was sent to the Bureau of Reclamation in Washington, returned to the field several times for revisions, sent back to the Bureau and then finally cleared by the Department of the Interior after considerable inter-bureau discussion within the Department. It then went to the Council on Environmental Quality for 30 days, and then back to the Department for comment by the Forest Service and other interested agencies.

During the time while the impact statement was slowly circulating, construction on the Bonneville unit has come to a grinding halt. No new contracts could be advertised until the impact statement cleared. One of the major purposes of the Bonneville unit is to construct a collection and distribution system which will bring high mountain water for municipal and industrial use in the Great Basin including the Salt Lake Valley, where water is short, and where a dry year or two would result in water rationing. The delay is edging toward disaster each day it continues. The State becomes more and more alarmed. This delay could all have been prevented had the agencies which are required to comment on the environmental impact statement been located in one department, with one deadline for comment, and with compromise, not competition, as the goal.

Mr. President, we must simplify the way in which we analyze resource projects. And we must find ways to build them so that we can have both development and conservation. I believe that the technological and political genius of the American people can be harnessed to do this—and do it well.

I am concerned about the interaction between protection and development because I recognize that both are essential. In this matter, our Nation is cast on the horns of a dilemma. Like a hero of Greek tragedy, we find only two courses of action open, either of which could be fatal: if we put the brakes on production, we face a sinking standard of living; if we press full steam ahead on production, we may—through pollution—destroy our life-giving environment.

To accomplish this dual task of resource development and environmental protection, I believe we need a Department of Natural Resources and Environment exercising comprehensive authority. It must have the responsibility and the capability of keeping the environment clean while developing sufficient resources to maintain an acceptable standard of living. It must lead the Nation into the new paths that must be found and marked—paths that will permit an advanced industrial society to continue and living conditions to improve. That most difficult accommodation must be made in constructive reciprocity; not by check and countercheck which halts development or spews pollution. Stalement is no solution to the problem. Dynamic accommodation is the answer.

OVERSIGHT AGENCIES

Although I propose only one executive department for the natural resources, I do not intend it to be the sole monitor of environmental conditions. I would retain the Council on Environmental Quality, as I have indicated, and I have long advocated passage of legislation to create in the Congress a Joint Committee on the Environment. In brief,

this would result in the following arrangement:

First, the Department of Natural Resources and Environment would exercise the operating responsibilities of the Federal Government relating to natural resources development and protection.

Second, the Council on Environmental Quality would exercise present responsibilities which include evaluating the state of the environment as well as the operation of the Natural Resources and Environment Department. The Council would also continue to prepare annually the official Environmental Quality Report of the President.

Third, the congressional Joint Committee would have the responsibility of holding public hearings on the report and of recommending to the legislative committees of the Congress such action as it deemed necessary.

In short, we would have a manager—the department; a watchdog—the Council; and a legislative investigator—the Joint Committee.

Such an arrangement, I believe would constitute a rational solution to the problem of organizing the Federal resource management effort to provide most effectively both protection and development.

THE ENERGY AGENCIES

The way of life in our Nation is dependent upon the management, regulation, research and development of our energy resources. Our energy agencies must be reorganized to establish a total program which will meet the enormous demands facing us, and to deal with the increasingly complex and critical problem of meeting our energy needs. We must have organization with initiative, flexibility, and concentration of purpose.

We still have not achieved a satisfactory arrangement. The Federal Energy Administration was given authority to coordinate and manage federal energy policy. The Energy Research and Development Administration was given responsibility for planning, managing, and conducting the government's energy research and development programs and for working with industry in developing new technologies. The truncated Nuclear Regulatory Commission was left as an independent agency to carry on the regulatory and licensing functions of the AEC.

We have consolidated some Federal energy activities but in separate agencies where those conflicts can go on forever. One group of bureaucrats flexes its muscles against another group, and the group or industry or mission which has the most powerful backing or the most obdurate administrative hierarchy succeeds in achieving its objectives. That is a sure guarantee that policy decisions if made at all rather than by default, will be fragmented, based on narrow interests and limited vision.

We have not, in other words, provided any overall direction and command short of the Natural Resources Council or the White House, perhaps the most disturbing development of all. The present arrangement will tend to concentrate more power in the White House—and we have had enough of that—and further insulate the policymakers from congressional scrutiny.

My philosophy is to place resource development, management, and regulation under one roof in the same department. Only where both of these missions are in one department can conflicts be settled by compromises worked out in the best interests of the public and the concerned parties. Someone must have the authority to insist that a decision be reached, and the Secretary of a Cabinet department can so insist when all of those in disagreement are under his jurisdiction. He then has the authority and power to make a reasoned and final judgment, with all the facts at hand and a broad perspective on the effect the decision will have on overall energy and natural resource policy.

Let me give one example of an energy problem requiring that decisions be made in a single Department of Energy and Natural Resources for its proper resolution: The problem of ordering powerplants to convert from oil to coal. The energy agencies of the Department would have to determine the extent to which such conversions were necessary in order to lessen demand for oil.

The environment agencies would have to determine how much environmental degradation would result, give an opinion on the acceptability of the environmental harm, and furthermore how to distribute geographically the plants covered in order to minimize any degradation. The natural resource agencies would have to determine if measures would be required to increase coal production in order to meet the additional demand for coal. Each of the above inputs would then have to be weighed against the benefits of alternative measures for conserving oil. The coordination of such an analysis and the resolution of the multiple conflicts inherent in the problem, require the work of a single manager, the Secretary of the Department, with the responsibility and the power to oversee the entire process.

CONCLUSION

In conclusion, let me say that while the exact structure of a new Department of Natural Resources and Environment or Department of Energy and Natural Resources—whatever it is called—may be subject to discussion, and some of the constituent demands of such a department may be open to question, there can be no doubt that such reorganization is long past due, and should be undertaken at once. The Congress should work concurrently with the administration in this task.

Now is the time to air the problems and the differences, and to harmonize our efforts to establish a singe Federal department capable of effective resource management.

Now is the time to designate a single administrator to head one operation in which all agencies would work cooperatively, rather than competitively, toward the preservation of our natural resources and the protection of our environment. We must delay no longer. Necessary management of our resources and our environment is really impossible with our present administrative machinery.

By Mr. MOSS (for himself and Mr. CRANSTON):

S. 28. A bill to amend the Internal Revenue Code of 1954 to provide a credit against tax, or in the alternative a deduction, for energy-conserving residential expenditures. Referred to the Committee on Finance.

TAX DEDUCTION FOR RESIDENTIAL INSULATION IMPROVEMENTS (S. 28)

Mr. MOSS. Mr. President, I am introducing for appropriate reference a bill to provide a tax deduction or an alternative tax credit for energy-conserving residential improvement expenses. This bill is similar to one I introduced 2 years ago, and to an amendment that Senator CRANSTON and I offered in the 93d Congress to the first Emergency Energy Act, and which the Senate then adopted.

The purpose of my bill is to encourage homeowners to make repairs or improvements which will reduce heat loss in winter and heat gain in summer, by installing in their homes such things as ceiling insulation, storm windows, weatherstripping, and solar heating and cooling devices. The bill limits the amount of the deduction allowed to $1,000 for any taxable year, with an option to take instead a tax credit equal to 25 percent of the allowable expense, and further limits these benefits to expenses paid in connection with the taxpayer's principal residence.

The potential energy savings in the residential sector are enormous. For example, the Ford Foundation's Energy Policy Project calculated that in 1985, insulation against heat loss and gain alone could save 1.3 quadrillion (10^{15}) Btu's. That is a little more than a third of the energy which the Alaska pipeline will provide annually. Further savings can be achieved through the use of heat pumps instead of electric resistance heaters, and solar space-heating and water-cooling units.

Energy conservation is as important to our energy future as increasing our supply. High prices and market forces will act as strong incentives to conserve energy, but they alone will not be sufficient. We need to provide additional incentives so that people can afford and will undertake the capital expenditures required to make end uses of energy more efficient. This bill provides an incentive in one important area of energy conservation, and I urge its favorable consideration by the Senate.

By Mr. MOSS:

S. 29. A bill to establish the Lone Peak Wilderness Area in the State of Utah. Referred to the Committee on Interior and Insular Affairs.

LONE PEAK WILDERNESS AREA

Mr. MOSS. Mr. President, the bill I am introducing today would set aside 24,320 acres in the Wasatch and Uinta National Forests as an addition to the national wilderness system. The bill is similar to the one I introduced in the 92d and 93d Congresses, but its boundaries have been redrawn to exclude White Pine Canyon and some areas included in my prior bills which are not of wilderness quality.

A bill providing for a study of this area

was passed by the Senate in the closing days of the 92d Congress, but it died in the House.

The Lone Peak area is one of the few in the country which is close enough to a large city to provide almost "suburban wilderness." It is located to the east and south of Salt Lake City, and is only a few minutes drive from its outskirts. The peak is one of the most beautiful in the rugged mountain range which towers over the city, and the area surrounding it is still wild and primitive. Evergreens abound, and the streams are clear and unpolluted. Within an hour or so of leaving the city, one can have hiked or backpacked or ridden by horse into a fresh new world.

Legislation to establish a Lone Peak Wilderness Area has the support of the Salt Lake County Commission, of most of the Utah press, many outdoor and environmental groups in the State, and the public generally.

By Mr. MOSS:

S. 30. A bill to amend the Mineral Leasing Act of February 25, 1920, as amended. Referred to the Committee on Interior and Insular Affairs.

DEVELOPMENT OF TAR SANDS

Mr. MOSS. Mr. President, I am introducing today a bill to make possible the development of deposits of bituminous sands, popularly known as tar sands, which are an important potential source of additional supplies of domestic oil. The Utah Geological Survey and the U.S. Geological Survey have estimated that Utah's tar sands, which contain the vast bulk of known U.S. deposits, contain approximately 29 billion barrels of oil.

For years I have been trying to bring to fruition the development of this resource. In 1960 I participated in working out the extensive amendments to the Mineral Leasing Act that were enacted that year, which included a tar sands amendment authorizing the Secretary of Interior to lease such deposits. A further amendment provided that under certain circumstances a tar sands lease could issue under the multiple use principle notwithstanding the existence of a prior conventional oil and gas lease on the same tract. In operation, however, problems arose over the potentially conflicting rights of the oil and gas lessee and those of the bituminous sands lessee.

The central problem has been whether the bituminous sands lessee, whose right to mine the sands and extract the oil is clear, has a right to extract oil from the sands by in situ methods, or whether that right belongs to the oil and gas lessee, who traditionally has had the right to introduce pressure maintenance, fire flooding, and other methods of increasing recovery from an oil well.

In 1966, in answer to my request, the Department of Interior rendered an opinion that the bituminous sands lessee could develop a deposit by in situ methods. However, because of the possible legal complications arising from this problem, the Department of Interior ceased issuing bituminous sands leases. I ask unanimous consent to have printed at this point in the RECORD a letter from the Oil Development Co. of Utah describing the difficulty of obtaining of a tar sands project.

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

OIL DEVELOPMENT CO. OF UTAH,
Washington, D.C., December 19, 1974.

Hon. FRANK MOSS,
U.S. Senate,
New Senate Office Building,
Washington, D.C.

DEAR SENATOR MOSS: I wish to thank you for your efforts on behalf of my company and our proposed thermal oil project, Gordon Flats, Wayne County, Utah. With the current interest on improving the national energy output, I thought your letter of October 29, 1974, to Secretary of the Interior Morton would provide a positive reaction from the Department and allow us to receive the approval needed to start the subject project, but apparently no reply means that the government machine is not working on such a small matter. As you know, the Triangle Area has been given more than a billion barrels in reserves, and we expect to recover several hundred million barrels from the Unit Area alone. Whatever has caused the delay, it is untimely with this increased demand for energy, and disturbing that a private company cannot proceed in oil development on public lands; lands that are continuing to require Federal lease rental payments and are faced with advancing expiration dates. It is unfortunate that we have reached this point on such an extensive heavy oil reserve, ". . . one of the largest remaining unexploited hydrocarbon energy resources in the United States. This triangle is included in the Glen Canyon Recreation Area; rather than in Canyonlands National Park so the multiple-use principle can apply in this case and encouragement can be given to private firms endeavoring to develop this promising resource." It is a shame that your interest cannot be carried through to completion in light of my company's desire to develop these resources and our country's need to build a secure energy base.

The attached timetable indicates what we have been through in trying to get the project approved and what we are facing all over again at the Washington level. I can understand the need to protect the Department of the Interior from law suits, but at this rate the needed energy resource will never come on stream or if it does, it will be so far in the future that current leaseholders will have lost out because of expiring leases. If this is the eventual outcome it is not fair to those companies who have invested in Federal leases and have been waiting for the price of oil to increase where an economic project can be developed. This level was reached almost a year ago, but we have been blocked by other factors thus preventing the return on our investment.

The investment for Oil Development Company of Utah to date on the Gordon Flats project is approximately $250,000 in lease acquisition and core drilling, with another $225,000 committed for equipment to drill and operate the project over its pilot life. In addition to this amount, we are faced with approximately $23,000 per year on lease rentals on land we cannot even receive an approval to operate. Once the project is approved, we are prepared to spend approximately $1,000,000 to drill and operate the pilot project just to prove the technique of fireflooding in these heavy oil sands.

With a successful pilot we are prepared to spend many times this amount for the total development in the Unit Area. This development could bring some 7,000 to 10,000 barrels a day into the energy system and ultimately provide several hundred million barrels to the national supply. I would say that this planned investment indicates our desire to develop the heavy oil reserves in the right way, but unfortunately the Department of the Interior may never allow us to do so because of their indecision on this matter.

The company has done everything possible in trying to work this project through the Federal System. We have worked closely with all the USGS Field Offices reporting to Denver and have followed their recommendations to Washington. Upon reaching the Washington level, we held meetings with the USGS at Reston to review the project and try to again expedite their decision for any early start of the project.

At this point it appears that the whole project is to be restudied as there are three issues which seem to be blocking the forward motion: 1) the extention of Federal leases in light of the long delay that has been created by the government; 2) the Solicitors Office has the opinion that comment made in the Trans Delta case also indicates a suspension of all oil and gas activities in the Glen Canyon Recreational Area until the completion of a master plan being prepared by the National Park Service; 3) the controversy has again arose as to whether the deposit is tar or heavy oil and therefore can the project be operated under a conventional oil and gas lease. The USGS at Denver has made a decision that we can go ahead with the project as the oil is mobil and therefore producible as a heavy oil. This apparently did not satisfy the Reston office and we have again submitted proof of oil mobility in place.

We held another meeting with the USGS in November to obtain some form of timetable on their decision. No date was given as they are concerned that this is not their decision to make but that the Department of Interior should make a policy decision on the matter. In talking with Deputy Under Secretary of the Interior Lyons, he feels that the Department should not make the decision but the USGS should, and the Secretary then approve it. At this point we have both sides indicating the other should make the decision, and consequently neither one is. We were advised that our next step should be to write a letter to the Secretary of the Interior and request a meeting at that level, which will hopefully bring about a decision and an early startup of the Gordon Flats heavy oil project.

As a matter of interest, I would like to point out the state of confusion our energy picture is in. I have gone at great length here to indicate the position we have reached with the Interior Department. Yet, on the other hand the Bureau of Mines has developed a new program to supply funds for various R&D efforts to increase the nation's oil production. One of these proposals, to cover an in situ recovery project in Utah heavy oil sands, is due in early January, and if approved the Bureau of Mines would support our project by as much as 40% of the total cost. The ironic point to be made here is that the project must be totally approved before we can receive funds from the Bureau of Mines. We have pointed this problem out to both agencies and received only sympathy and comments from the Mines that they hope we can have our project approved by the time their contracts are issued.

Thank you again for your help on this project and I am sure we will be calling on you for more support in the near future, as I cannot see early approval of a project on Federal lands in Utah.

Yours very truly,

CARL J. BERRY,
Assistant Vice President.

Mr. MOSS. Mr. President, I introduced legislation in the 90th Congress, and in each succeeding Congress, to remove the legal uncertainties which have prevented tar sands development. The bill I am

introducing today grows out of those measures, and embodies an approach consistent with the findings of the Public Land Law Review Commission.

Development of U.S. tar sands and the questions surrounding such development received some attention in the 93d Congress. I ask unanimous consent to have printed at this point in the RECORD portions of "Report on Development of the U.S. Tar Sands," prepared by Paul F. Rothberg, a science and technology analyst with the Congressional Research Service.

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

EXCERPTS FROM REPORT ON DEVELOPMENT OF THE U.S. TAR SANDS

VI. TAR SANDS DEVELOPMENT ON FEDERAL LANDS

Considerable attention in the 93d Congress has focused on minerals development on federal lands. Increasingly, Members of Congress are becoming aware that the United States has large quantities of mineral resources on federally-owned lands which can be used as needed energy materials. For example, 50 percent of our total known coal reserves are on Federal lands, as are 72 percent of the Nation's oil shale reserves, and 56 percent of known geothermal areas. Over 60% of the tar sands deposits are largely on federally-owned lands. The Tar Sand Triangle and Circle Cliffs, giant sand deposits in Utah, are federally-owned.

The Subcommittee on Minerals, Materials, and Fuels of the Senate Committee on Interior and Insular Affairs has examined a variety of legislative proposals designed to change existing laws related to development of minerals on Federal lands. Congressional responsibility for minerals development and the importance of the Subcommittee's hearings were summarized by Senator Lee Metcalf when he stated:

"Public land mineral development must take place within the context of the wide variety of demands being made on Federal lands. This requires accommodations among conflicting uses. We need to be sure that our policies and procedures assure that mineral development is as compatible as possible with other uses and values of Federal lands.

"Under our Constitution the Congress has a special responsibility for the Federal lands. Congress must establish policies and standards to assure that mineral resource development on Federal lands is consistent with the basic policy that the Federal lands are vital national resource reserves held in trust by the Federal Government for all the people." [1]

During these hearings the legislative agenda considered by the Subcommittee consisted of three principal bills:

1. S. 1040, the Mineral Leasing Act of 1973 which is the Administration's proposal to repeal the Mining Law of 1872, the Mineral Leasing Act of 1920, the Materials Act of 1955, and other stautes, and substitute for them a single leasing system for federally-owned minerals on all Federal lands;

2. S. 3085, the Hardrock Mineral Development Act of 1974, which would repeal the 1872 Mining Law and establish a leasing system for hardrock minerals; and

3. S. 3086, the Minerals Development Act of 1974, which was drafted by the American Mining Congress.

The first of these bills has special bearing on development of the federally-owned tar sands deposits. For this legislation defines the term "oil and gas" to mean all hydrocarbon substances except coal or oil shale. Under this definition no distinction is drawn between conventional oil and oil extracted from tar sands. Accordingly, legal problems resulting from issuance of two leases—one for oil from tar sands and another for conventional oil—issued on the same tract of land would not occur, because only a single "oil and gas" lease need be issued for all hydrocarbon substances except coal or oil shale. Such a leasing policy would be similar to the existing policy in Utah.

Institution of a leasing policy which would define oil from tar sands under an "umbrella" definition of all hydrocarbon substances except coal and oil shale would allow for legal ownership of tar sands oil produced with *in situ* techniques, and thus would remove a major roadblock to development of the federally-owned tar sands deposits.

VII. TAR SANDS DEVELOPMENT AND SETTING NATIONAL PRIORITIES

Over the next ten years, the impacts of the energy crisis, initially experienced from late 1973 to early 1974, will probably be reflected in the national budget. Increased allocations to achieve the goals of Project Independence will be required for energy technologies, energy conservation, and possibly a variety of governmental incentives to stimulate production of new energy at coal gasification and liquefaction plants and at oil shale processing sites.

Any new program requiring expenditures of public funds must be considered within the framework of existing constraints on the budget. For example, allocation of funds for research and development of new sources of energy might affect financial resources available for national health or educational programs. Accordingly, decisions on federal research and development and leasing of tar sands in the United States become more complicated and require evaluations related to other national objectives and to alternative sources of energy. Questions which are raised include:

1. What priority should development of the U.S. tar sands resources receive?

2. In the realm of international diplomacy, what level of influence, if any, should the United States exert on foreign countries to develop their tar sands resources?

3. What role or strategy should the Department of the Interior assume in the development of tar sands processing technologies?

4. What should be the distribution of costs and benefits with respect to development of the federally-owned tar sands deposits?

5. Should private industry or should an agency of the Federal Government develop the federally-owned tar sands?

The answer to these policy questions are not easily obtained. Environmental issues, policy decisions, and energy needs must be considered. Effects on local and state governments must be evaluated. International ramifications must be reviewed, especially the possible transfer of technology to assist Canadians in development of their huge Alberta tar sands deposits. [Should successful *in situ* processes for tar sands be demonstrated, the Canadians may be more willing to expedite development of their tar sands resources.]

In their study, Setting National Priorities: the 1974 Budget, Fried, Rivilin, Schultze and Teeters have defined some of the problems involved in the allocation of resources to meet national priorities; they maintain that:

"These choices interact and influence each other. How much is devoted to any governmental program is influenced by judgments about how large total government expenditures should be, which in turn are influenced by the urgency of the problems with which governmental programs deal. Questions of distribution affect the allocation of budgetary resources among roles or strategies, and vice versa." [2]

With respect to research and development programs for tar sands, allocations for utilization of this resource cannot be made without consideration of a multitude of associated factors. Perhaps, policy makers in the executive branch and in the Congress will decide current programs to stimulate exploitation of tar sands are adequate.

VII. LEGISLATIVE ASPECTS OF TAR SANDS DEVELOPMENT

If the Congress decides that legislative actions are necessary to stimulate directly or indirectly development of the federally-owned tar sands deposits, possible considerations might include:

1. A clearly defined national policy for tar sands development which contains a workable leasing policy for the federally-owned tar sands deposits;

2. Tax policies to expedite development of this alternative energy resource;

3. Increased allocations for research and development related to tar sands processing; and

4. Increased allocations to obtain needed geological information on the U.S. tar sands resource base.

Because of the known and unknown consequences of tar sands processing, congressional actions seeking to stimulate development of tar sands will have to be balanced by cautious concern for the environmental integrity of the tar sands lands.

With respect to either administrative or congressional actions, the establishment of a workable tar sands leasing policy may prove to be the optimum means of expediting the development of the federally-owned tar sands deposits. This could be accomplished by the Congress with passage of a bill similar to H.R. 16201 or S. 3375 or by a broad legislative concept as outlined in S. 1040. Alternatively, there is the possibility that the Department of the Interior could issue new regulations which specifically addressed the problems of *in situ* processing of tar sands. These regulations would provide that if a developer uses *in situ* means to extract oil from the ground, he is entitled to the legal ownership of any hydrocarbon material regardless whether it is tar sands oil or conventional oil. Whether or not it is possible for the Department of the Interior to remove all legal problems associated with leasing of federally-owned tar sands would have to be explored.

Mr. MOSS. Mr. President, there is no excuse for further delay in the development of this resource. I urge the Senate to act swiftly on my proposal.

By Mr. MCCLELLAN (for himself and Mr. HUGH SCOTT):

S. 31. A bill to amend the act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes. Referred to the Committee on the Judiciary.

UNFAIR COMPETITION ACT OF 1975

Mr. MCCLELLAN. Mr. President, as chairman of the Subcommittee on Patents, Trademarks and Copyrights, I introduce, for appropriate reference, on behalf of myself and Mr. SCOTT of Pennsylvania, a bill to amend the act to provide for the registration and protection

[1] U.S. Congress. Senate. Committee on Interior and Insular Affairs. Subcommittee on Minerals, Materials, and Fuels. Hearings on Mineral Development on Federal Lands. 93d Congress. Second Session, (Washington, U.S. Govt. Print. Off.), 1974. p. 1.

[2] E. R. Fried, A. M. Rivlin, C. L. Schultze, and N. H. Teeters. Setting National Priorities: The 1974 Budget, Brookings Institution. Washington, D.C. 1973, p. 4.

of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes. This legislation is known as the proposed Unfair Competition Act of 1975.

The bill would establish a uniform body of Federal unfair competition law by creating a Federal statutory tort of unfair competition affecting interstate commerce, and by establishing Federal jurisdiction over such tort claims within the framework of the Trademark Act of 1964 The crux of the bill proposes a new section 43(a) of the Trademark Act including in three subsections those torts generally acknowledged to give rise to the major part of the law of unfair competition. In a fourth subsection, provision is made for the Federal courts to deal with other acts which constitute unfair competition because of misrepresentation or misappropriation of goods or services.

The bill provides that all of the remedies set forth in the Trademark Act for infringement of trademarks would be available in respect to acts of unfair competition. However, the bill would not affect remedies which are otherwise unavailable or preempt the jurisdiction of any State in cases of unfair competition.

Other than a technical amendment, this legislation is identical to S. 1362 of the 93d Congress.

By Mr. KENNEDY (for himself Mr. MAGNUSON, Mr. MOSS, Mr. TUNNEY, Mr. BENTSEN, Mr. BROOKE, Mr. CANNON, Mr. CASE, Mr. CRANSTON, Mr. CULVER, Mr. PHILIP A. HART, Mr. HATFIELD, Mr. HUMPHREY, Mr. INOUYE, Mr. JAVITS, Mr. JOHNSTON, Mr. LEAHY, Mr. MANSFIELD, Mr. MCGEE, Mr. MCGOVERN, Mr. MONDALE, Mr. MONTOYA, Mr. PELL, Mr. RANDOLPH, Mr. SPARKMAN, Mr STAFFORD, Mr. WEICKER, and Mr. WILLIAMS):

S. 32. A bill to establish a framework for the formulation of national policy and priorities for science and technology, and for other purposes. Referred, by unanimous consent, jointly to the Committees on Labor and Public Welfare; Aeronautical and Space Sciences; and Commerce.

Mr. KENNEDY. Mr. President, the National Policy and Priorities for Science and Technology Act of 1975, which I am introducing today, is designed to meet this Nation's need for cohesive national policies for science and technology. Our experience in recent years, during which planning for the future in this critical area has too often been set aside, has resulted in a situation in which the United States has shortchanged its resources for science and technology, while the problems to which those resources must be applied have multiplied by leaps and bounds.

The abolition of the White House Office of Science and Technology left a void in science policy formulation which has not yet been filled. I know that the Director of the National Science Foundation, who also serves as science adviser to the executive branch, has done his best to fill the gap. But the consensus of informed opinion in the scientific community is that it is not possible for the heat of one Government agency to discharge the coordinating, and oversight role over other agencies which a White House office could accomplish. Similarly we do not have strong science and technology programs at the State, regional, and local levels, where the real problems of our citizens must be confronted and solved.

The National Science Foundation has been trying to make a contribution in these areas in recent years, with the encouragement of the Special Subcommittee on the National Science Foundation which I chair. In short, although the NSF has tried to do the job, with its limited resources and leverage, the time has now come for Congress to enact legislation which can provide the Nation with the institutions needed to formulate effective national policy and priorities for science and technology.

The importance of this issue was recognized by the Senate during the 93d Congress. S. 32, which I introduced in 1973, was unanimously approved by the Senate last October. Three committees of the Senate, the Committee on Labor and Public Welfare, the Committee on Commerce, and the Committee on Aeronautical and Space Sciences considered its provisions. During extensive hearings it was demonstrated clearly that providing the President and the Congress with the best possible scientific and technological advice at the highest levels of Government was of priority importance. Unfortunately, the House of Representatives was unable to complete its own consideration of this issue prior to adjournment.

Therefore, Mr. President, at a time when our Nation is facing critical problems of inflation, unemployment, environmental degradation, resource depletion, and food shortfalls, I am reintroducing the National Policy and Priorities for Science and Technology Act, together with Senators MAGNUSON, MOSS, TUNNEY, and 24 other cosponsors. The provisions of the bill will give the Nation an effective framework for the establishment of national policy and priorities for science and technology, so that the Nation's scientific and technical manpower and resources can be applied to the solution of the Nation's problems. The policy provisions of the bill, and the institutional mechanisms to carry out that policy, will significantly improve this Nation's ability to cope with its massive problems in an age of technology.

Witness after witness during hearings on this legislation last year, testified to the need for new mechanisms to bring the best possible scientific and technical advice to the highest levels of our Government. This is not now the case, and we find that important decisions are too often being made without consideration of these critical components. We also need to maintain an environment hospitable to creative scientific work, and to encourage the advancement of science technology. Moreover, we need creative institutional innovations, both in the public and private sector, to manage and encourage our scientific and technological enterprise.

Mr. President, I also want to take note of recent indications that the administration is also concerned about the problems which this bill is designed to remedy. One of the first assignments which President Ford gave to Vice President ROCKEFELLER was to look into the adequacy of the present science advisory mechanism within the executive branch and to report back to him on how that mechanism could be improved. I have contacted the Vice President to indicate to him our willingness to work together on this issue, an effort which I hope will result in priority consideration by both the administration and the Congress of an issue which is of the utmost importance to the well-being of our citizens today and for generations to come.

Mr. President, I ask unanimous consent that the legislation I have introduced today be jointly referred to the Senate Committee on Labor and Public Welfare, the Senate Committee on Commerce, and the Senate Committee on Aeronautical and Space Sciences. I also ask unanimous consent that the attached newspaper article, a summary of the provisions of the National Policy and Priorities for Science and Technology Act of 1975, and the full text of the bill appear at this point in the RECORD.

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

[From The New York Times, Oct. 11, 1974]

CALLING ALL SCIENTISTS

(By James Reston)

WASHINGTON.—If ever there was a time when the President of the United States needed the help of the best objective scientific minds to help him grapple with the problems of food, fuel, transportation, housing and many other things, it is now; but he is a little short-handed.

Early in 1973, President Nixon abolished the post of Presidential science adviser at the White House, and disbanded the Government's Office of Science and Technology. It was decided then that men like James Killian and Jerry Wiesner of the Massachusetts Institute of Technology, who had helped guide the country through the mysteries of nuclear energy and space, among many other things, were no longer essential on the White House staff.

Roy L. Ash, director of the Office of Management and Budget, explained the reasons. During the Eisenhower Administration, he said, when the Russians pushed ahead into space with their Sputnik, "there was a need to bring science right to the top of the White House."

But after that, he added, science and scientific points of view were represented throughout the Government, so "there isn't a need to bring the scientific point of view directly into the President's office. It gets there every day."

Well, maybe so. There is, however, another view that Mr. Nixon didn't like the advice he was getting from the scientists about some of his programs, like the development of the supersonic planes, and the dangers of modern technology on the environment of the human race. And there was another conflict. Mr. Nixon sensed, quite accurately, that his official scientists were not very enthusiastic about his chances of winning the Vietnam war. They were not part of "the Nixon team," but had become sort of a "special interest" group or scientific lobby within the White House family, with strong political views hostile to his own.

Maybe he was right about this and maybe

he was wrong, but the fact is that he wiped them out, and transferred the responsibility for scientific advice to the director of the National Science Foundation, H. Guyford Stever, an able and talented man, who is not at the center of policy-making at a time when science is central to the problem of the nation's and the world's problems.

Roy Ash is probably right that "science and scientific points of view are now represented throughout the Government," but he is probably wrong in thinking that their information about present problems and their suggestions about what might be done about increasing the food and the fuel of the world get to the White House "every day" or even on time to influence President Ford's decisions.

The truth is, as Roy Ash indicated, that the Federal Government has a remarkable reservoir of scientific knowledge in Washington, scattered through the departments and agencies—on atomic and solar energy, on increasing the production of food by seeding and desalting the waters of the world, on geologic surveys of new sources of petroleum—one of which is now coming to the fore in Mexico—but all of this information is dispersed in the departments of the Government and in the universities and laboratories of America.

It is not brought together, with all its potentialities for the future, and put before the President as a vision of the possible and the basis of his policies, which is too bad, because we now have a President who is listening.

It is fortunate, and accidental, that Nelson Rockefeller, Mr. Ford's nominee for Vice President, has spent the last few months presiding over a study of the "critical choices" before America—many of them on precisely this question about what science can contribute to the solution of our national and world problems.

One of the studies in the Rockefeller analysis, for example, has to do with the role of scientific research and development on the world's economic problems. It indicates that a bold investment of $40 billion in fertilizer plants could produce within a few years enough additional food to maintain many millions of the world's increasing population.

George Woods, former head of the World Bank, is working on a plan to bring the Arabs—the new capitalists of the world—the United Nations, and the banking and technological skills of the Western world together to build and distribute this new fertilizer capacity.

Likewise, Rockefeller money and other foundation money is going to exploit new and cheaper means of producing essential raw materials to manufacture aluminum, to find food in the seas, to restore the ancient granaries of the Middle East, and to find new and cheaper engines of transportation.

For the moment, the pessimism and shortages of the world are dominating the possibilities and dampening the natural optimism of America, and this is the frustration of the scientists in Washington, in the universities, and in the laboratories.

They are dispersed and many of them feel abandoned. They are a great natural resource of America, and know much about the unused resources of the world. But they have to be given a chance to help the nation, and only the President can call them all back together.

[From the Washington Post, Dec. 28, 1974]

FORD IS URGED TO FORM UNIT ON SCIENCE

(By Victor Cohn)

Charging that President Ford is not getting the best scientific advice on crises of the economy, energy environment, food and weapons, the Federation of American Scientists urged him yesterday to create a new White House Council on Science and Technology.

"The United States is entering a time more critical than any since World War II" because of such problems, and lack of scientific and technological input is "standing in the way" of solutions, said Dr. Philip Morrison, federation president.

The 6,500-member federation thus joined in a growing outpouring of calls for such a White House body—a three-member, presidentially appointed advisory group like the Council of Economic Advisers and the Council on Environmental Quality.

Other such recommendations have come recently from the National Academy of Sciences, a committee of Scientific Society Presidents (32 officials assembled by Dr. Alan Nixon of the American Chemical Society) and a similar Association for Cooperation in Engineering.

The Senate this year passed a bill proposed by Sen. Edward M. Kennedy (D-Mass.) to create such a council, and some House members have predicted that the House will consider such a bill next session.

President Ford Saturday asked Vice President Rockefeller to study whether or not the position of White House science adviser should be reinstituted.

Such a post—with a White House Office of Science and Technology (OST) and a President's Science Advisory Committee—was created in the wake of Sputnik, Russia's first space satellite. They advised Presidents Eisenhower, Kennedy, Johnson and, for a time, Nixon.

Some of the advice became unpopular, like recommendations against the anti-ballistic missile and supersonic transport. Presidents Johnson and Nixon soured on the entire apparatus and largely ignored OST and advisory committee warnings of environmental energy and food crisis.

Two years ago Nixon abolished the entire White House science structure. He gave its duties to National Science Foundation, a small federal agency until then mainly concerned with supporting basic science.

Then, under criticism, he named Dr. H. Guyford Stever, the foundation's head, his science adviser, but told Stever to report to Nixon's subordinates.

What this has meant, charged the scientists' federation, is that "we are not heard."

For example, said federation director Jeremy Stone, scientists' former role in commenting on defense has been given the National Security Council, "so there is no way to tell the President about military boondoggles, which always exist."

Stone said a mail poll of 100,000 scientists yielded a "large, for direct mail", response of 798 favoring a new White House advisory council, 732 favoring a body working with the Office of Management and Budget, and 640 a Cabinet-level science department.

But both the federation's governing council and its 60 sponsors, including half the nation's Nobel Prize-winners in science, overwhelmingly favored the council idea. The federation fears, said Stone, that the President may merely give science a "public relations role" by naming a scientific council to OMB.

If he does something like this, the federation said, "his decision will be widely denounced by scientific groups, and his standing with scientists will never recover."

Stone also criticized Stever for "betraying" scientists' "virtually unanimous" desires by his own "totally unwarranted" neutrality before Mr. Ford on the science advice issue.

Stever told a reporter that he too has urged the President "to strengthen science in his administration," including "some national defense matters on why science should be heard," but only a President can decide how or whether he wants new advice.

FACT SHEET: S. 32, NATIONAL POLICY AND PRIORITIES FOR SCIENCE AND TECHNOLOGY ACT OF 1975

GENERAL

This Act establishes a framework for the formulation of national policy and priorities for science and technology.

DECLARATION OF POLICY

This Act establishes as national policy that: (1) there must be a continuing Federal investment in science and technology which is annually set as to overall level and allocation among priority areas; (2) scientists, engineers, and technicians must have continuing opportunities for socially useful employment in positions commensurate with their professional, technical capabilities; and (3) national capabilities for technological planning and policy formulation must be strengthened.

COUNCIL OF ADVISERS ON SCIENCE AND TECHNOLOGY

A White House Council of Advisers on Science and Technology is established to advise the President with respect to Federal policies, plans, and programs in science and technology. The Council will annually make recommendations to the President and Congress regarding the level of Federal investment in science and technology and the priorities for allocating that investment among major program areas.

COMPREHENSIVE STUDY OF FEDERAL ORGANIZATION FOR SCIENCE AND TECHNOLOGY

The Council will contract with the National Academy of Sciences for a comprehensive, eighteen-month study of the Federal organization for civilian science and technology. The study will take account of the impact of Federal science and technology programs on the economy, the environment, and individuals and groups that may be affected by such programs, as well as on the Nation's strength in science and technology and its application to the resolution of our social problems.

FEDERAL COORDINATING COMMITTEE FOR SCIENCE AND TECHNOLOGY

This Act redesignates the Federal Council for Science and Technology as the Federal Coordinating Committee for Science and Technology, and gives it the statutory authority to coodinate Federal plans and programs in science and technology. The Chairman of the Council is designated as Chairman of this Committee.

NATIONAL SCIENCE FOUNDATION

The National Science Foundation Act is amended to: (1) require that the Foundation aid in the development of national policies to foster the application of scientific and technical knowledge to the solution of national problems; and (2) clarify the policy-making role of the National Science Board and broaden the membership of the National Science Board to emphasize more industrial, technical, and public membership. The Foundation is authorized to provide information and assistance to the Council. The Foundation is also required to develop an educational program of continuing education in science and engineering to enable scientists and engineers to render more valuable contributions to the Nation. The program will include the development of special curriculums and educational techniques, as well as the award of fellowships.

STATE AND REGIONAL SCIENCE AND TECHNOLOGY PROGRAMS

This Act establishes an Intergovernmental Science and Technology Advisory Committee to advise the Foundation and the States on the application of science and technology throughout the Nation. The Foundation will make grants of up to $100,000 to any State to enable it to establish a State Office of Science and Technology.

APPROPRIATIONS

This Act authorizes $8 million in fiscal year 1976 and $14 million in fiscal year 1977. In FY 1975, $2.5 million is for the Council, $1.5 million for the Academy study, $1.5 million for Continuing Education, and $2.5 million for the State Science Program. In FY 1977, $5 million is for the Council, $3.5 million for Continuing Education, and $5.5 million for the State Science Program.

S. 32

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Policy and Priorities for Science and Technology Act of 1975".

STATEMENT OF FINDINGS AND DECLARATION OF POLICY

SEC. 2. (2) The Congress, recognizing the profound impact of science and technology on society, and the interrelations of scientific, technological, economic, social, political, and institutional factors, hereby finds that—

(1) Federal funding for science and technology represents an investment in the future, which is indispensable to sustained national progress;

(2) the manpower pool of scientists and engineers constitutes an invaluable national resource which should be utilized to the maximum extent possible at all times;

(3) the scientific and technological capabilities within the United States, if properly applied and directed, could effectively assist in improving the quality of life and in anticipating and resolving many critical and emerging national problems;

(4) strong participation by State and local governments is essential to the successful solution of many civilian problems, and in developing programs for the application of science and technology to civilian needs and to setting civilian research and development activities priorities;

(5) the maintenance and strengthening of diversified scientific and technological capabilities in government, industry and the universities, and the encouragement of independent initiatives based on such capabilities, are essential to the most effective use of science and technology in resolving critical and emerging national problems;

(6) a more systematic approach is needed to identify critical and emerging national problems and to analyze, plan, and coordinate Federal science and technology programs, policies, and activities intended to contribute to the resolution of such problems; and

(7) the effectiveness of scientific and technological contributions to improvements in the quality of life and the resolution of critical and emerging national problems depends on the maintenance of a strong base of knowledge in science and advanced technology together with a resource of highly qualified scientists and engineers.

(b) The Congress declares that it is the continuing policy and responsibility of the Federal Government to take appropriate measures directed toward achieving the following goals—

(1) there must be a continuing Federal investment in science and technology adequate to the needs of the Nation;

(2) the level of this investment must be adjusted annually with regard to particular needs and opportunities and the prevalent economic situation;

(3) the Federal investment in science and technology must be allocated annually among the priority needs of the Nation, including the need to maintain the Nation's strength in basic research and education in science and engineering;

(4) scientists, engineers, and technicians must have continuing opportunities for socially useful employment in positions commensurate with their professional, technical capabilities; and

(5) the National capabilities for technological planning and policy formulation must be strengthened.

(c) Therefore, it is declared to be the purpose of this Act to promote the effective application of science and technology to the furtherance of national goals by—

(1) establishing a Council of Advisers on Science and Technology in the Executive Office of the President to provide a source of scientific and technological analysis and judgment to the President;

(2) establishing an Intergovernmental Science and Technology Advisory Committee to foster the application of science and technology to State and regional needs;

(3) establishing an Interagency Federal Coordinating Committee on Science and Technology to coordinate agency research and development efforts; and

(4) having the President submit an annual Science and Technology Report to the Congress.

TITLE I—COUNCIL OF ADVISERS ON SCIENCE AND TECHNOLOGY

ESTABLISHMENT OF COUNCIL

SEC. 101. (a) There is established in the Executive Office of the President a Council of Advisers on Science and Technology (hereinafter referred to as the "Council"). The Council shall be composed of three Members who shall be appointed by the President, by and with the advice and consent of the Senate from among individuals who, by reason of their training, experience, and attainments, are exceptionally qualified to analyze and interpret scientific and technological developments; to appraise and recommend programs, policies, and activities of the Federal Government in the light of the policy declared in section 2; and are sensitive to the economic, social, esthetic, and cultural needs and interests of the Nation.

(b) The President shall designate one of the members of the Council as Chairman and one as Vice Chairman, who shall act as Chairman in the absence of the Chairman.

(c) Members of the Council shall serve full time and the Chairman of the Council shall be compensated at the rate provided for level II of the Executive Schedule (5 U.S.C. 5313). The other members of the Council shall be compensated at the rate provided for level IV of the Executive Schedule (5. U.S.C. 5315).

(d) The Council may employ such officers and employees as may be necessary to carry out its functions under this Act. In addition, the Council may employ and fix the compensation of such experts and consultants as may be necessary for the carrying out of its functions under this Act, in accordance with section 3109 of title 5, United States Code (but without regard to the last sentence thereof).

(e) The Council shall have the authority, within the limits of available appropriations, to enter into contracts or other arrangements for the carrying out by organizations or individuals, including other Government agencies, of such activities as the Council deems necessary to carry out the purposes of this Act.

FEDERAL INVESTMENT IN SCIENCE AND TECHNOLOGY

SEC. 102. (a) The Council shall annually appraise progress in science and technology in relation to the needs of the Nation and, taking account of the state of the economy through consultation with the Council of Economic Advisers, shall determine the desired level of Federal investment in science and technology for the fiscal year immediately following the fiscal year in which such determination is made.

(b) On the basis of such determination, the Council shall make appropriate recommendations to the President and the Congress regarding the desired level of Federal investment in science and technology for the fiscal year immediately following the fiscal year in which such recommendations are made.

SCIENCE AND TECHNOLOGY PRIORITIES

SEC. 103. (a) The Council shall annually assess alternative uses of Federal funds for science and technology in relation to scientific and technical opportunities and national needs, and on the basis thereof shall determine a set of priorities for allocating Federal funds among major expenditure areas in science and technology, which pertain to the fiscal year immediately following the fiscal year in which such determination is made.

(b) On the basis of such determination, the Council shall make appropriate recommendations to the President and the Congress regarding such priorities.

SCIENCE AND TECHNOLOGY POLICY ANALYSIS AND PLANNING

SEC. 104. (a) The Council shall serve as a source of scientific and technological analysis and judgment for the President with respect to major policies, plans, and programs of science and technology of the Federal Government. In carrying out this function, the Council shall—

(1) seek to define a coherent approach for applying science and technology to critical and emerging national problems and for coordinating the scientific and technological responsibilities and programs of the Federal departments and agencies in the resolution of such problems;

(2) assist and advise the President in the preparation of the Science and Technology Report, in accordance with section 108 of this title;

(3) gather timely and authoritative information concerning significant developments and trends in science, technology, and in national priorities, both current and prospective, to analyze and interpret such information for the purpose of determining whether such developments and trends are interfering, or are likely to interfere, with the achievement of the policy set forth in section 2 of this Act;

(4) initiate studies and analyses, including systems analyses and technology assessments of alternatives available for the resolution of critical and emerging national problems amenable to the contributions of science and technology and, insofar as possible, determine and compare probable costs, benefits, and impacts of these alternatives;

(5) review and appraise the various programs, policies, and activities of the Federal Government in the light of the policy set forth in section 2 of this Act for the purpose of determining the extent to which such programs, policies, and activities are contributing to the achievement of such policy, and to make recommendations to the President with respect thereto;

(6) report at least once each year to the President on the overall activities and accomplishments of the Council, pursuant to section 108 of this title; and

(7) perform other duties and functions and make and furnish such studies, reports thereon, and recommendations with respect to matters of policy and legislation as the President may request.

FUNCTIONS OF THE CHAIRMAN

SEC. 105. The Chairman of the Council shall, in addition to the other duties and functions set forth in this title—

(1) serve as the Science and Technology Adviser to the President;

(2) serve as Chairman of the Federal Coordinating Committee for Science and Technology established under title II of this Act;

(3) appoint, assign the duties, and fix the compensation of personnel without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the

provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates, at rates not in excess of the rate prescribed for GS–18 of the General Schedule under section 5332 of such title; and

(4) perform such other duties and functions as the President may request.

COORDINATION WITH OTHER ORGANIZATIONS

SEC. 106. (a) In exercising its powers, functions, and duties under this title, the Council shall—

(1) work in close consultation and cooperation with the heads of the Federal departments and agencies;

(2) utilize the services of consultants, establish such advisory committees, and, to the extent practicable, consult with the State and local governmental agencies, with appropriate professional groups, and with such representatives of industry, the universities, agriculture, labor consumers, conservation organizations, and other groups, organizations and individuals as it may deem advisable;

(3) hold such hearings in various parts of the Nation as the Council deems necessary, to determine the views of such agencies, groups, and organizations referred to in paragraph (2) of this subsection and of the general public, concerning trends in science and technology; and

(4) utilize to the fullest extent possible the existing services, facilities, and information (including statistical information) of public and private agencies and organizations, and individuals, in order that duplication of effort and expense may be avoided.

(b) Each department, agency, and instrumentality of the executive branch of the Government, including any independent agency, is authorized to furnish the Council such information as the Council deems necessary to carry out its function under this title.

(c) Upon request, the Administrator of the National Aeronautics and Space Administration is authorized to assist the Council with respect to carrying out its activities conducted under paragraph (4) of subsection 104(a) of this title.

STUDY OF FEDERAL ORGANIZATION FOR SCIENCE AND TECHNOLOGY

SEC. 157. (a) Not later than ninety days following appointment of the Council members, the Council shall contract with the National Academy of Sciences to conduct a study in order to recommend improvements in the Federal organization for civilian science and technology.

(b) Such contract shall contain provisions to assure that the study takes adequate account of the impact of Federal scientific and technical programs on—

(1) the generation of scientific and technical knowledge;

(2) the utilization of such knowledge in dealing with economic and social problems and opportunities;

(3) the utilization and enhancement of the Nation's scientific and technical manpower and resources;

(4) the strength of the economy, both domestically and internationally;

(5) the quality of the environment; and

(6) the interests of individuals and groups that may be affected by Federal scientific and technical programs.

(c) The study shall include, without being limited to—

(1) examination and appraisal of the existing Federal organization for civilian science and technology;

(2) consideration of possible improvements in such organization; and

(3) consideration of the establishment of such new departments, agencies, offices, or other organizations as may serve to strengthen the Nation's scientific and technical enterprise and increase the effectiveness of its applications to the solution of national problems.

(d) In conducting its study, the Academy shall make maximum feasible use of related investigations and studies conducted by public and private agencies, including congressional hearings and reports.

(e) The Academy shall transmit to the Council not later than eighteen months after the starting date of the contract, a final report, containing detailed statements of the findings and conclusions of the Academy, together with its recommendations for improvements in the Federal organization for civilian science and technology.

SCIENCE AND TECHNOLOGY REPORT

SEC. 108. (a) The President shall transmit annually to the Congress, beginning October 15, 1976, a Science and Technology Report (hereinafter referred to as the "Report") which shall set forth—

(1) a review of developments of national significance in science and technology, including, but not limited to, the mathematical, physical, social, and life sciences, and civil, chemical, electrical, and mechanical engineering, and other technologies;

(2) the significant effects of current and foreseeable trends in science and technology on the social, economic, and other requirements of the Nation;

(3) a review and appraisal of selected science and technology-related programs, policies, and activities of the Federal Government;

(4) an inventory and projection of critical and emerging national problems the resolution of which might be substantially assisted by the application of science and technology;

(5) the identification and assessment of scientific and technological measures that can contribute to the resolution of such problems, in light of the related social, economic, political, and institutional considerations;

(6) the existing and projected scientific and technological resources, including specialized manpower, that could contribute to the resolution of such problems;

(7) recommendations for legislation on science and technology-related programs and policies that will contribute to the resolution of such problems,

(8) recommendations with regard to Federal investment level and priorities in science and technology, as made by the Council pursuant to sections 102 and 103 of this title.

(b) The Council shall insure that the report is printed and made available as a public document.

(c) If the recommendations in the report regarding Federal investment level and priorities in science and technology are substantially different from those submitted by the Council to the President, then the report shall include an appendix containing the original recommendations of the Council to the President, along with the Council's supporting justification and the reasons why the President did not accept the recommendations as submitted.

TITLE II—FEDERAL COORDINATING COMMITTEE FOR SCIENCE AND TECHNOLOGY

ESTABLISHMENT AND FUNCTIONS OF FEDERAL COORDINATING COMMITTEE FOR SCIENCE AND TECHNOLOGY

SEC. 201. (a) There is established the Federal Coordinating Committee for Science and Technology (hereinafter referred to as the "Committee").

(b) The Committee shall be composed of the Chairman of the Council of Advisers on Science and Technology and one representative of each of the following: Department of Agriculture, Department of Commerce, Department of Defense, Department of Health, Education, and Welfare, Department of Housing and Urban Development, Department of the Interior, Department of State, Department of Transportation, Veterans Administration, Atomic Energy Commission, National Aeronautics and Space Administration, National Science Foundation, Environmental Protection Agency, and Energy Research and Development Agency. Each such representative shall be an official of policy rank designated by the head of the Federal agency concerned.

(c) The Chairman of the Council of Advisers on Science and Technology shall serve as Chairman of the Committee. The Chairman may make provision for another member of the Council, to act temporarily as Chairman of the Committee.

(d) The Chairman (1) may request the head of any Federal agency not named in subsection (b) of this section to designate a representative to participate in meetings or parts of meetings of the Committee concerned with matters of substantial interest to such agency, and (2) may invite other persons to attend meetings of the Committee.

(e) The Committee shall consider problems and developments in the fields of science and technology and related activities affecting more than one Federal agency, and shall recommend policies and other measures—

(1) to provide more effective planning and administration of Federal scientific and technological programs,

(2) to identify research needs including areas of research requiring additional emphasis,

(3) to achieve more effective utilization of the scientific and technological resources and facilities of Federal agencies, including the elimination of unnecessary duplication, and

(4) to further international cooperation in science and technology.

(f) The Committee shall perform such other related duties as shall be assigned, consonant with law, by the President or by the Chairman.

(g) For the purpose of effectuating this section, each Federal agency represented on the Committee shall furnish necessary assistance to the Committee in accordance with section 214 of the Act of May 3, 1945 (59 Stat. 134; 31 U.S.C. 691). Such assistance may include—

(1) detailing employees to the Committee to perform such functions, consistent with the purposes of this section, as the Chairman may assign to them, and

(2) undertaking, upon request of the Chairman, such special studies for the Committee as come within the functions herein assigned to the Committee.

(h) For the purpose of conducting studies and making reports as directed by the Chairman, standing subcommittees and panels of the Committee may be established in consonance with the provisions of section 214 of the Act of May 3, 1945 (59 Stat. 134; 31 U.S.C. 691).

ABOLITION OF FEDERAL COUNCIL FOR SCIENCE AND TECHNOLOGY

SEC. 202. The Federal Council for Science and Technology established pursuant to Executive Order 10807, dated March 13, 1959, as amended by Executive Order 11381, dated November 8, 1967, is hereby abolished.

TITLE III—NATIONAL SCIENCE FOUNDATION

NATIONAL SCIENCE POLICY

SEC. 301. Section 3(d) of the National Science Foundation Act of 1950 is amended to read as follows:

"(d) The foundation shall recommend and encourage the pursuit of national policies designed to foster research and education in science and engineering, and the application of scientific and technical knowledge to the solution of national problems."

NATIONAL SCIENCE BOARD

SEC. 302. Section 4 of the National Science Foundation Act of 1950 is amended—

(1) by inserting before the period at the

end of subsection (a) a comma and the following: "within the framework of applicable national policies as set forth by the President and the Congress" and

(2) by striking out subsection (c) and inserting in lieu thereof the following:

"(c) The persons nominated for appointment as members of the Board (1) shall be eminent in the fields of science, social science, engineering, agriculture, industry, education, or public affairs, (2) shall be selected solely on the basis of established records of distinguished service, and (3) shall be so selected as to provide representation of the views of leaders from a diversity of fields from all areas of the Nation. The President is requested, in the making of nominations of persons for appointment as members, to give due consideration to any recommendations for nomination which may be submitted to him by the National Academy of Sciences, the National Academy of Engineering, the National Association of State Universities and Land-Grant Colleges, the Sea Grant Association, the Association of American Universities, the Association of American Colleges, the Association of State Colleges and Universities, or by other scientific, technical, public interest or educational associations."

ASSISTANCE TO COUNCIL

SEC. 303. In order to carry out the purposes of this Act, the National Science Foundation is authorized to—

(1) gather and analyze information regarding Federal expenditures for research and engineering activities, and the employment and availability of scientific, engineering, and technical manpower, which the Foundation has assembled pursuant to paragraphs (1), (5), (6), and (7) of section 3(a) of the National Science Foundation Act of 1950 in order to appraise the implementation of the policies set forth in section 2 of this Act;

(2) provide such information and appraisals to the Council of Advisers on Science and Technology; and

(3) provide such additional information and staff assistance to the Council of Advisers on Science and Technology as the Council may request.

CONTINUING EDUCATION IN SCIENCE AND ENGINEERING

SEC. 304. (a) Not later than ninety days following enactment of this Act, the National Science Foundation shall initiate an educational program of continuing education in science and engineering in order to enable scientists and engineers who have been engaged in their careers for at least five years to pursue courses of study designed to—

(1) provide them with new knowledge, techniques, and skills in their special fields; or

(2) acquire new knowledge, techniques, and skills in other fields which will enable them to render more valuable contributions to the Nation.

(b) The program developed under this section shall include, but not be limited to—

(1) the development of special curriculums and educational techniques for continuing education in science and technology; and

(2) the award of fellowships to scientists and engineers to enable them to pursue courses of study which provide continuing education in science and engineering.

(c) From funds available pursuant to section 502, the Foundation is authorized to make grants to, and to enter into contracts with, institutions of higher education and other academic institutions, nonprofit institutes and organizations, and private business firms, for the purpose of developing courses and curriculums specially designed for continuing education in science and technology under this section.

(d)(1) From funds available pursuant to section 502 the Foundation is authorized to award continuing education fellowships to scientists and engineers to enable them to pursue appropriate courses of study.

(2) The Foundation shall allocate fellowships under this subsection in such manner, insofar as practicable, as will—

(A) attract highly qualified applicants; and

(B) provide an equitable distribution of such fellowships throughout the United States.

(3) The Foundation shall pay to persons awarded fellowships under this section such stipends (including such allowances for subsistence, health insurance, relocation expenses, and other expenses for such persons and their dependents) as it may prescribe by regulation designed to accomplish the purposes of this Act.

(4) Fellowships shall be awarded under this section upon application made at such times and containing such information as the Foundation shall by regulation require.

TITLE IV—STATE AND REGIONAL SCIENCE AND TECHNOLOGY PROGRAMS

ESTABLISHMENT OF INTERGOVERNMENTAL SCIENCE AND TECHNOLOGY ADVISORY COMMITTEE

SEC. 401. (a) There is established in the National Science Foundation an Intergovernmental Science and Technology Advisory Committee.

(b) The Committee shall be composed of twenty-two members to be appointed as follows:

(1) Twenty members, two from each of the standard Federal regions, shall be appointed by the President, by and with the advice and consent of the Senate;

(2) A member of the Council selected by the Chairman of the Council; and

(3) The Director of the Foundation.

In making appointments under clause (1) of this subsection, the President is requested to consider the appointment of individuals who, by reason of education, experience, or interest, are especially qualified to serve on the Committee and to give due consideration to nominations received from the Council of State Governments, National Governors' Conference, National Conference of State Legislatures, International City Management Association, National League of Cities/United States Conference of Mayors, National Association of County Officials, and other public interest organizations.

(c) The term of office of each member of the Committee appointed under clause (1) of subsection (b) shall be three years; except that—

(1) the members first taking office shall serve as designated by the President, six for a term of one year, eight for a term of two years, and six for a term of three years; and

(2) any member appointed to fill a vacancy occurring prior to the expiration of the term to which his predecessor was appointed shall be appointed for the remainder of such term.

(3) Each appointed member of the Committee shall, while serving on business of the Committee, be entitled to receive compensation at a rate not to exceed the daily rate prescribed for GS–18 of the General Schedule under section 5332 of title 5, United States Code, including traveltime, and while so serving away from his home or regular place of business he may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as the expenses authorized by section 5703(b) of title 5, United States Code, for persons in Government service employed intermittently.

FUNCTIONS OF THE COMMITTEE

SEC. 402. (a) The Committee shall advise and assist the Foundation in—

(1) identifying and defining civilian problems at the State, regional, and local levels and the environment in which solutions to these problems ought to be provided;

(2) identifying areas of highest priority for study, assessment, and development of policy alternatives by the Foundation under this title; and

(3) identifying and fostering ways to facilitate the transfer and utilization of results of civilian research and development activities so as to maximize the application of science and technology to civilian needs.

(b) The Committee is authorized to—

(1) assist the Director of the Foundation, as appropriate, in taking account of State and regional needs and opportunities in the formulation of the Foundation's plans and programs;

(2) assist the States, including the furnishing of technical assistance, in establishing State science advisory programs pursuant to section 404;

(3) develop and furnish to the States, at their request, advisory guidelines for the formulation of civilian research and development priorities within each State and within each standard Federal region;

(4) review and evaluate the effectiveness of programs and activities assisted under this title; and

(5) prepare and furnish to the Director of the Foundation for incorporation into the annual report of the Foundation to the Congress, a report of the activities of the Committee under this title, together with such recommendations, including recommendations for additional legislation, as the Committee deems appropriate.

(c)(1) The Committee shall annually elect a Chairman from among its regional members.

(2) The Committee shall meet at the call of the Chairman, but not less than four times a year.

(3) The Foundation shall make available to the Committee such information and assistance as may be required to carry out its functions under this section.

ADMINISTRATIVE PROVISIONS

SEC. 403. (a) Subject to such rules and regulations as may be adopted by the Committee, the Chairman shall have the power to—

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

(2) procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5 United States Code.

(b) Each department, agency, and instrumentality of the executive branch of the Government, including independent agencies, is authorized and directed to furnish to the Committee, upon request made by the Chairman or Vice Chairman, such information as the Committee deems necessary to carry out its functions under this title.

GRANTS FOR STATE SCIENCE AND TECHNOLOGY PROGRAMS

SEC. 404. (a) The Director of the National Science Foundation, after consultation with the Intergovernmental Science and Technology Advisory Committee, is authorized to make grants of not to exceed $100,000 to any State to pay a part of the cost of establishing an Office of State Science and Technology.

(b) No grant may be made under this section unless an application is submitted at

such time in such manner and containing or accompanied by such information as the Director after consultation with the Committee requires. Each such application shall contain provisions to assure that—

(1) the office for which assistance is sought under the application will (A) be headed by an official who by reason of education and experience is qualified to advise the chief executive of the State and other State and local public officials on the application of science and technology to civilian needs relating to that State or locality and (B) have sufficient authority consistent with State law to carry out any functions assigned to that office pursuant to this title; and

(2) the State will assume the cost of the office established pursuant to this title no later than two years after the year in which the application is made.

(c) The Director shall approve any application which meets the requirements of subsection (b), and shall not disapprove any application without affording an opportunity for a hearing.

TITLE V—GENERAL PROVISIONS

DEFINITIONS

SEC. 501. As used in this Act:

(1) The term "Council" means the Council of Advisers on Science and Technology.

(2) The term "Foundation" means the National Science Foundation.

(3) The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

(4) The term "standard Federal region" means each of the following regions:

(A) Region I: Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont.

(B) Region II: the Commonwealth of Puerto Rico, New Jersey, New York, and the Virgin Islands.

(C) Region III: Delaware, the District of Columbia, Maryland, Pennsylvania, Virginia, and West Virginia.

(D) Region IV: Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee.

(E) Region V: Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin.

(F) Region VI: Arkansas, Louisiana, New Mexico, Oklahoma, and Texas.

(G) Region VII: Iowa, Kansas, Missouri, and Nebraska.

(H) Region VIII: Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming.

(I) Region IX: Arizona, California, Hawaii, and Nevada.

(J) Region X: Alaska, Idaho, Oregon, and Washington.

AUTHORIZATION OF APPROPRIATIONS

SEC. 502. (a) There are authorized to be appropriated $8,000,000 for the fiscal year ending June 30, 1976, of which $1,500,000 shall be available to carry out the provisions of section 107 of title I, $2,500,000 shall be available to carry out the other provisions of title I, $1,500,000 shall be available to carry out the provisions of title III, and $2,500,000 shall be available to carry out the provisions of title IV; and $14,000,000 for the fiscal year ending June 30, 1977, of which $5,000,000 shall be available to carry out the provisions of title I, $3,500,000 shall be available to carry out the provisions of title III, and $5,500,000 shall be available to carry out the provisions of title IV.

(b) Funds appropriated pursuant to subsection (a) of this section shall remain available for obligation, for expenditure, or for obligation and expenditure, for such period or periods as may be specified in Acts making such appropriations.

Mr. PELL subsequently said: Mr. President, I ask unanimous consent that S. 32, introduced earlier today, be referred jointly to the Labor, Commerce, and Space Committees of the Senate.

Mr. GRIFFIN. Mr. President, reserving the right to object, I understand this has been cleared with the ranking Republican members on the several committees?

Mr. PELL. This is what I was informed by the staff.

Mr. GRIFFIN. I have no objection, Mr. President.

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

By Mr. McGEE:

S. 33. A bill to establish a moratorium on Federal coal leasing. Referred to the Committee on Interior and Insular Affairs.

Mr. McGEE. Mr. President, I introduce today a bill that would suspend the discretionary powers granted to the Secretary of the Interior under the Mineral Leasing Act of 1920 and impose in its stead a moratorium on all Federal coal leasing until such time as the Congress and the President of the United States can reach agreement upon a suitable law for the regulation of surface mining. As some of my colleagues will remember, I first proposed this moratorium during final floor consideration of the conference report on S. 425, the surface mining bill, last December 16. At that time, I feared what has since proved to be true—that President Ford would veto this measure and again throw into doubt the fate of western coal lands.

The legislation I am introducing today is similar to that contemplated by the Senate conferees on the strip mining bill as a temporary stopgap in anticipation of a deadlocked conference. This stalemate, since broken, has shifted to a new and far more serious deadlock between the President and the Congress. The need for this measure has, I believe, been reestablished.

Not long ago, the White House began quoting the advice of Thomas Jefferson to George Washington made in 1792: "Delay is preferable to error," to explain its relative inaction in meeting the economic crisis. If there be wisdom in this, then I think its application is even more apparent in the case of western coal.

Recent events have shown that our ability to produce sufficient quantities of food is falling short of demand. We attempt to sell on world markets which prompts food shortages and in turn this results in increased demand and higher prices in our own Nation. Concomitantly, each year thousands of acres of arable land are irredeemably lost to urbanization and development. The President seems intent on committing thousands of acres of western agricultural lands to the mining of coal, without even the slightest effort or attempt to protect such lands.

In many ways, the results of this bill will be meager. Already some 22 billion tons of Federal coal are under lease and have hardly begun to be developed. Moreover, these leases represent in the coal-rich formations of Wyoming, Montana, and North Dakota, less than 12 percent of the coal currently under lease. But our circumstances are desperate, and I believe every effort we can make to protect the public trust must be undertaken. I urge the expeditious consideration of this proposal by the Interior Committee for reasons which are only too clear to them by their long experience with the problems of surface mining.

Mr. President, I respectfully request that my remarks of December 16 be inserted at this point.

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

Mr. McGEE. Mr. President, I am deeply concerned by recent reports that President Ford intends to veto the strip mining bill on which we are about to act. It has been suggested by White House sources that the President believes this bill subversive to his energy program and that he feels it would ultimately result in a delay of our need to develop the Nation's coal resources.

It is my belief that should this bill be vetoed, we immediately proceed to the consideration of a coal leasing moratorium on Federal lands, similar to that contemplated by Senate conferees on the strip mining bill as a stopgap measure in anticipation of a deadlock conference. This moratorium must continue until we can formulate an acceptable surface mining law.

While I do not question the President's sincere desire to provide a solution to the energy crisis, I am fearful that this action on his part may result in the sacrifice of the Western States. If we are to get on with the job of providing the coal that America needs then let us also get on with the job of protecting the lands that will be used.

While we in Wyoming are more than willing to do our share in seeking a solution to the Nation's problems, I do not intend to recklessly venture upon a course of action, the mistakes of which we will have to live with the rest of our lives. I am not willing to call upon my State or any other State to make this supreme sacrifice.

At a time when food production is becoming an increasingly critical issue, the President would risk the food-producing lands of America. He fails to realize that the first and most essential energy requirement for mankind is the food he eats. Does he realize that he risks aggravating one problem—an ultimately greater problem—in his hasty search for a solution to the energy crisis? Wyoming's lands have long been agriculturally productive. With the passage of this legislation, I believe they can remain so. The President's action, on the other hand, will render the lands of the Western States sterile and unproductive, seriously threatening America's ability to feed herself.

We must make it clear to the President that our only recourse in the face of his veto is to place a moratorium on Federal coal leasing. We must show him that his option will result in an even greater delay than that which he fears. We must show him that our concern for a productive economy and a livable environment will prevail over his immediate, and I believe ill-considered, search for a hasty conclusion to the energy crisis.

Mr. President, I therefore urge Senate approval of the conference report on S. 425, the Surface Mining and Reclamation Act of 1974. Indeed, if the coal resources of this country are to help us meet the energy crisis of this Nation, it is imperative that this legislation become law. Only then can we proceed in a sound way, socially and environmentally, to supply the Nation with adequate amounts of coal.

By Mr. HUMPHREY (for himself, Mr. KENNEDY, Mr. PHILIP A. HART, Mr. HATHAWAY, Mr. JAVITS, and Mr. SCHWEIKER):

S. 50. A bill to establish a national policy and nationwide machinery for guaranteeing to all adult Americans able and willing to work the availability of equal opportunities for useful and rewarding employment. Referred to the Committee on Labor and Public Welfare.

THE EQUAL OPPORTUNITY AND FULL EMPLOYMENT ACT OF 1975

Mr. HUMPHREY. Mr. President, today millions of Americans, who are both able and willing to work, find themselves without jobs and unable to find them.

In December, 6.5 million Americans, 7.1 percent of the labor force, were "officially" counted as unemployed. Of course, for members of minority groups conditions were much worse.

In the last 12 months "official" unemployment among blacks rose 50 percent, from 888,000 to 1.3 million people. Unemployment among black workers was 12.8 percent in December, 5.7 percentage points above the national figure. For black teenagers unemployment is at a socially disastrous level of 37.8 percent.

Yet, this is simply the tip of the iceberg. There is no question that a significant number of people are simply excluded from the "official" unemployment figures by a statistical "sleight of hand" that seriously understates the real numbers of the Nation's jobless.

It is particularly upsetting to consider this massive failure to keep our citizens at work, when one recalls all of the promises to do so.

In 1948, the "right to work" was clearly established in the Universal Declaration of Human Rights adopted by the United Nations. This reinforced a similar commitment made to all Americans in the Employment Act of 1946 and restated by every President since Franklin Roosevelt.

Despite the official declarations and the generally well-intentioned policy pronouncements, we have failed dismally to provide "jobs for all." Large segments of our population, especially women, the young, the old, the poorly educated, and ethnic minorities, have had their "right to work" ignored and, in many cases, the fact of their unemployment swept under the rug and conveniently out of sight by "official" statistics.

Mr. President, it is time to fulfill this promise of "jobs for all," a promise that far too long has gone unmet. We must guarantee an equal opportunity to work at fair wages to every person in our Nation who is able and willing to work.

Social justice demands and economic necessity requires that every American who is willing and able be provided with a job. Failure to provide "jobs for all" has not only had a tragic social cost on the unfortunate victims of unemployment, but it has also cost our Nation trillions of dollars in income, goods, and services.

At a time when extraordinary price increases are resulting from production bottlenecks and inadequate supply, the need to put every available hand into our Nation's production effort is most obvious.

Mr. President, today I am introducing for myself and Senators KENNEDY, HART, HATHAWAY, JAVITS, and SCHWEIKER the Equal Opportunity and Full Employment Act of 1975. This bill would make the "right to work" a fact of life for every American.

The personal right of every adult American to guaranteed employment, provided in this bill, is protected by eight major provisions:

First, a clear definition of full employment as useful and rewarding employment for all adult Americans able and willing to work, at a fair rate of compensation;

Second, the creation of local reservoirs of public service and private employment projects, developed by local planning councils in cooperation with community job boards. These are to be developed by local planning councils under the auspices of local governments, as provided for in the Comprehensive Employment and Training Act of 1973;

Third, the creation of a Job Guarantee Office able to fund public and private work projects developed through the local reservoirs;

Fourth, a standby Job Corps in which qualified job seekers may be temporarily placed, if no other suitable job opportunities are available;

Fifth, a requirement that the President annually submit to the Congress a nationwide full employment and production program to assure an adequate demand for labor;

Sixth, an expanded role for the congressional Joint Economic Committee in reviewing the full employment and production program of the President, or in initiating its own program;

Seventh, a newly formed National Commission for Full Employment Policy Studies, to study and evaluate full employment machinery in order to promote the maintenance of genuine full employment; and

Eighth, the opportunity for an appeal to the appropriate U.S. district court by any person who feels deprived of his or her job rights.

Mr. President, the Equal Opportunity and Full Employment Act of 1975, which we have introduced in the Senate today, has also been introduced in the House today by Congressmen HAWKINS, REUSS, and a large number of their colleagues. None of us would claim that this proposal is ready for the President's pen this afternoon, but we do believe it is an extremely important proposal and warrants careful analysis and discussion in the Congress, in the executive branch, and among the public. I do not claim that this bill is perfect. Rather, I expect that modifications will be needed. I also believe that such a measure must be coupled with a tough, comprehensive anti-inflation policy.

However, I do believe that Congress should take up this legislation promptly, begin the debate and examination, and aim toward enactment of a "true" full and equal employment law by 1976. This proposal compliments S. 1693—the Full Employment and Job Development Act of 1973, a bill which I will again join Senator JAVITS in offering in this Congress. Enactment of this proposal will be an important first step toward our full employment objective.

I can think of no greater monument to the spirit of 1776, no greater proof that the American Revolution is continuing, and no greater renewal of our Nation's commitment to economic and social justice, than to enact legislation by 1976 that will guarantee every American a decent job.

Mr. President, I ask unanimous consent that a section-by-section analysis of this bill be printed at this point in the RECORD.

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

EQUAL OPPORTUNITY AND FULL EMPLOYMENT ACT OF 1975—SECTION-BY-SECTION ANALYSIS

SECTION 1.—SHORT TITLE

Entitles this Act the "Equal Opportunity and Full Employment Act of 1975."

SECTION 2.—DECLARATION OF POLICY

(a) Declares that all adult Americans able and willing to work have the right to equal opportunities for useful paid employment.

(b) The right to full employment by all Americans is in the interest of the economy, the Nation, society and individuals.

(c) Only under full employment, can society's inequities be eliminated.

(d) Without full employment the country is deprived of goods, services, and tax revenues thus adding to inflationary pressures, reducing job security, and weakening individual freedoms and family strengths.

(e) The Federal Government is responsible for guaranteeing the right to equal opportunity for useful paid employment and for ensuring that national full employment is attained and maintained.

(f) Other national economic goals shall be pursued without limiting the rights established by this act.

SECTION 3.—THE FULL EMPLOYMENT AND PRODUCTION PROGRAM

(a) Requires that the President annually report to the Congress his or her full employment and production program including the estimated volume of goods and services necessary to meet human and national needs; the estimated level of employment necessary to meet that volume of goods and services; the estimated level of expenditures necessary to provide that level of employment the modifications in employment and expenditure patterns necessary to meet necessary conversions in military and industrial activities; a review of administrative and legislative action taken or contemplated; and a review of related economic considerations.

(b) Requires that the annual manpower reports of the President be renamed the Labor Reports of the President and provide detailed attention to the changing volume and composition of the American labor supply; the loss of productive labor power resulting from discrimination; the need for greater part-time employment opportunities; the implications of continuing full employment for increases in voluntary leisure time arrangements; the associated problems of the nature, environment and conditions of work; and the implications of the reservoir of public service and private employment projects developed by local planning councils.

SECTION 4.—LOCAL PLANNING COUNCILS

(a) Congress recognizes that local needs can best be identified by localities, and that to meet its functions, officials and agencies of the Federal Government need the con-

tinued involvement of local individuals, organizations, and governments.

(b) Amends the Comprehensive Employment and Training Act of 1973 by adding to the functions and responsibilities of the local Planning Councils, as part of local governments, the requirement to identify additional local public and private employment opportunities and to assist in the monitoring and evaluation of programs conducted under this act.

(c) Requires each Local Planning Council, under the regulations of the Secretary of Labor, to provide for the establishment of community job boards which would supply public service job opportunities at the community level through the creation of community public service work reservoirs and the establishment of the Standby Job Corps.

SECTION 5.—UNITED STATES FULL EMPLOYMENT SERVICE

(a) The U.S. Employment Service is renamed the U.S. Full Employment Service.

(b) Assigns to the U.S. Full Employment Service responsibility for assisting local planning councils in the establishment of the reservoir of public service and private employment projects.

(c) Creates a Job Guarantee Office within the U.S. Full Employment Service whose responsibilities it is to provide useful employment to all adult Americans willing and able to work.

(d) Requires that the Job Guarantee Office, in planning employment projects, ensure that adequate consideration be given to individuals and groups who have encountered special obstacles in finding and holding useful and rewarding employment.

(e) In order to draw upon the reservoir of public service and private employment projects, authorizes the Job Guarantee Office to enter into grants and contracts with public and private agencies and organizations, operating on a profit, nonprofit or limited profit basis; establishes certain conditions which must be met by agencies or organizations entering into such agreements.

(f) Requires that the Job Guarantee Office ensure suitable job opportunities, comparable to those afforded job seekers registered in the Standby Job Corps, for any persons willing and able to work and requires certain referral and registration procedures and regulations to ensure such action.

(g) States that any person who presents him or herself in person at the Full Employment Office shall be considered "willing and able" to work, regardless of physical or mental handicap; requires that regulations provide for an initial determination of a job seeker's ability to work; requires compliance with the Civil Rights Act of 1964; establishes administrative appeal procedures; and for termination of appeal procedure within 30 days; and it requires the placement of job seekers in Standby Job Corps despite any pending appeal or judicial reviews which may be made under these procedures.

(h) Requires that the Federal district courts have jurisdiction over actions which seek relief pursuant to this act.

SECTION 6.—STANDBY JOB CORPS

(a) Establishes a Standby Job Corps as part of responsibility of Job Guarantee Office to ensure suitable job opportunities for registered job seekers, who shall perform public service work upon projects that are part of community public service work reservoirs.

(b) Requires the Secretary of Labor to issue regulations which provide the means by which Corps members may maintain a status of good standing by, among other things, performance and attendance; to establish a system of compensation which meets certain provisions including pay relative to training and ability; to provide local planning and control, to the fullest extent possible, of local Standby Job Corps programs; to develop and enforce antidiscrimination provisions; to exercise reasonable oversight of Standby Job Corps projects; and to ensure that activities undertaken shall not adversely affect prevailing local wage rates.

SECTION 7.—CONGRESSIONAL JOINT ECONOMIC COMMITTEE

(a) Requires that the Joint Economic Committee shall review the activities of the executive branch in meeting the provisions of this act; conduct public hearings in as many local labor markets as feasible; and annually report upon the development and administration of the provisions of this act.

(b) Requires that, within 30 days of submission to Congress of the biyearly full employment and production program of the President, the Committee review the report and submit its proposed modifications, with comments to each House of the Congress; submit recommendations to the Congress on the sums necessary to finance such programs; that the President's report with the modifications, comments and recommendations of the Joint Economic Committee be forwarded to the Appropriations Committees of the respective Houses of Congress. It also specifies that after 30 days a motion for immediate consideration of the Joint Economic Committee's employment deficit recommendation shall be highly privileged; that after such a motion, it shall be in order to consider the employment deficit recommendation together with changes proposed by the Appropriations Committees; and that 3 days afterwards a vote on final passage shall be ordered.

SECTION 8.—STAGES OF IMPLEMENTATION

(a) Congress recognizes that the full objectives of this act cannot be immediately achieved; that considerable time will be needed for its full implementation; and that the act must therefore be implemented in stages.

(b) Requires that the President provide for the full implementation of this act within no more than 5 years after its enactment.

(c) Establishes as Federal policy that the objectives of this act be reached within 5 years of its enactment and that the annual Full Employment and Production Programs Report of the President, include targets for these objectives and that local job councils shall do likewise in their respective geographical areas.

SECTION 9.—NATIONAL INSTITUTE FOR FULL EMPLOYMENT

(a) Congress recognizes many Federal activities are based on a presumption of a lack of suitable employment opportunities for many people willing and able to work; that these Federal officials and agencies responsible for the implementation of this act need the benefit of studies of the changes necessary for Federal programs to more closely relate to and support the objectives of this act.

(b) Establishes a National Institute of Full Employment within the Department of Labor, headed by a Director.

(c) Provides that the Director shall serve for a term of 3 years; that compensation shall be at the rate of GS–18; that a Deputy Director shall be appointed; and that for a period of up to 3 years technical and professional employees may be appointed without regard to competitive civil service regulations but their numbers shall not exceed one-fifth of all regular full-time employees of the Institute.

(d) Creates a National Commission for Full Employment Policy Studies which shall be composed of broadly representative public and private members, provided with necessary staff, meet quarterly; select officers; advise and consult with the Director of the Institute, consult with the Council of Economic Advisors and perform other related functions.

(e) Authorizes and directs the Institute to make grants and enter into contracts with individuals and public and private agencies and organizations to study such subjects as activities to reduce inflationary pressures resulting from full employment; the identification of hidden human potentials, education and training programs necessary to help persons take advantage of employment opportunities; policies and programs necessary to eliminate substandard working conditions; measures to improve the quality of public and private employment; activities necessary to assist independent and small businesses to benefit from this act; alternative forms and organizations of local planning councils; criteria by which councils would monitor and evaluate programs under this act; special problems of priority individuals and groups; integration of existing human service programs; improved methods for conducting studies in all such areas; full employment and comprehensive programs for social and economic indicators for monitoring economic and social groups in American society.

(f) Requires the Institute to encourage divergent approaches to each area of policy study, to regularly consult with local planning councils, and to publicize research findings.

SECTION 10—GENERAL PROVISIONS

(a) Prohibits discrimination under any program or activity made possible by this act.

(b) Requires that all laborers and mechanics employed under this act be compensated at wages comparable to prevailing localities in accordance with the Davis-Bacon Act, as amended; requires that the Job Guarantee Office ensure that all agreements provide appropriate health and safety standards, workmen's compensation protection and protection of employed workers against displacement.

SECTION 11—DEFINITIONS

Defines the terms used in this act.

SECTION 12—AUTHORIZATIONS

Authorizes such sums as are needed to carry out the provisions of this act.

Mr. HUMPHREY. Mr. President, I also ask unanimous consent that the text of my testimony on this proposal before the Subcommittee on Equal Opportunities of the House Committee on Education and Labor on October 8, 1974, be printed at this point in the RECORD.

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

TESTIMONY OF SENATOR HUBERT H. HUMPHREY, MINNESOTA, BEFORE THE SUBCOMMITTEE ON EQUAL OPPORTUNITIES OF THE HOUSE COMMITTEE ON EDUCATION AND LABOR, OCTOBER 8, 1974

As Senate sponsor of the proposed "Equal Opportunity and Full Employment Act of 1976," let me commend this Subcommittee, and you Chairman Hawkins, for taking the initiative in considering this timely and far-reaching measure.

Since these are preliminary hearings, my testimony will be brief. I shall merely make a few introductory remarks on—

The essentially human nature of this economic measure,

Its relation to other legislation,

How much unemployment and employment actually exists, and

The kind of questions that might be explored during more intensive hearings.

The heart of this measure is the clear statement that *"All adult Americans able and willing to work have the right to equal opportunities for useful paid employment at fair rates of compensation."*

The present proposal, in fact may be regarded as a restatement of the right to job opportunities as set forth by Franklin Roose-

velt in his 1944 Economic Bill of Rights, by the original version of the Full Employment Act and by the United Nation's 1948 Declaration of Human Rights.

But, the new bill is based on much more than the high idealism of a previous era. It is based on almost 30 years of experience under the Employment Act of 1946. It is based on thirty or more years of struggle—sometimes bitter and fruitless struggle—for equal job opportunities for women, older people, younger people and racial, ethnic, national and religious minorities.

Above all, this is the first time that the Congress has ever had the opportunity to consider a legislative measure that not only sets forth in unmistakable terms every adult American's right to useful job opportunities at fair rates of compensation, but also *backs up those rights by explicit executive, legislative and judicial machinery.* I believe the bill expresses some of the deepest yearnings of the overwhelming majority of the American people.

This bill is not just another measure dealing with employment, unemployment, nonemployment and sub-employment. It is not just another bill dealing with "manpower" policies or public service employment—important though these subjects are. Like the Employment Act of 1946, it provides machinery for integrating *all* the many measures, policies and programs that bear directly or indirectly on the level and quality of employment. And like the Employment Act, it is oriented not merely toward employment but also to the quantity and quality of the many kinds of goods and services that are produced through employment.

The proposed bill provides much more than abstract, formal machinery for democratic, nation-wide and decentralized planning. *It is a job guarantee measure.* It is this element of guarantee—which parallels the many Federal guarantees on the operations of banks and corporations—that can make the right to job opportunities a reality instead of a vague ideal.

The human meaning of a true job guarantee is illustrated in a recent article by Andrew Levinson in the *New Yorker* of September 2, 1974:

"Until progressives deal seriously with the idea of full employment and government-guaranteed jobs, black representation in skilled jobs will remain a question of throwing a white carpenter out of work in order to employ a black, or making a Pole with seniority continue to tend the coke ovens while a black moves up to a better job." ("The Working Class Majority," p. 36–61)

Let me add, however, that this is not a problem of progressives alone. Conservatives also should deal seriously with the idea of guaranteed full employment. Otherwise, one may wonder how concerned they are with an American future in which the work ethic is to be conserved rather than undermined by the lack of useful work opportunities at fair wages or salaries.

Let me also point out that unless we all take guaranteed job opportunities seriously, proper jobs for *women* could mean throwing *men* out of work, suitable jobs for *older* people could deny jobs to *younger* people, and enough jobs for *younger* people could put *older* people on the shelf. Without a new departure along the lines suggested by the many sponsors of this bill, I fear that many of the government's so-called *affirmative* action programs will turn out to be negative.

In time, both progressives and conservatives, will realize that action along these lines transcends mere economics. By dealing with one of the most fundamental human rights, a guaranteed job program goes to the very heart of America's most complex social problem: the hopelessness and alienation, even drug addiction and crime, that often arise when human beings—no matter what their sex, age or ethnic background—are told that they are not needed.

THE RELATION TO OTHER LEGISLATION

There are two major dangers involved in the consideration of this proposal—and of the many variants of it that are bound to be suggested.

The first is that advocacy of job guarantee legislation may be regarded as downgrading the significance of legislation that is already on the books—namely, the Employment Act of 1946.

Second, some people may get the false impression that if the new bill is enacted in proper form no other legislation will be needed to prevent recession and assure genuine full employment without inflation.

A few comments to clarify each of these points is needed.

First of all, my sponsorship of the "Equal Opportunity and Full Employment Act of 1976" does not diminish one iota my conviction that the mandate of the 1946 law should be complied with by the President. Under section 2574 of title 42 of the United States Code, the President is instructed to develop every year and present to the Congress a program of "maximum employment, production and purchasing power."

In recent years this has not been done. Instead of maximum employment, we have had creeping unemployment and underemployment. Instead of maximum production, we have had recession in many sectors—and an actual depression in the crucial area of home building. Instead of maximum purchasing power, we have had an unprecedented inflation that has eaten into the pocketbooks and curtailed the savings of all low and middle income groups in the country.

This inflation has been fueled by 11 to 12 percent interest rates that push up the costs of almost everything that consumers and investors must buy. And now throughout the Administration we hear a chorus chanting the familiar dirge of the "old time economic religion" that the only way to bring prices down is to continue to permit increased unemployment. I believe that I can speak for all the sponsors of the pending measure when I say, as I did in my summation at the Economic Summit Conference, that all this adds up to the open violation of the Employment Act of 1946 by the Administration and the continuation of "old time sin."

Second, the new "Equal opportunity and Full Employment Act" is designed as a framework, not a substitute, for other legislation. The President's Full Employment and Production Program, required in Section 3, would most certainly have to include proposals for additional legislation.

I see a number of fields in which new legislation is needed, legislation which can be regarded a necessary accompaniment—or as indispensable companion measures—to the Equal Opportunity and Full Employment Act of 1976.

First and foremost is tough anti-inflation and price stability legislation which will serve as permanent protection against any and all inflationary outbursts such as we are now experiencing—whether they come from uncontrollable international or natural events, profiteering and speculation, price fixing by oligopolistic corporations, or credit policies that finance speculation, oligopoly and anti-competitive mergers.

Second, I see the need for a whole series of major measures in critical sectors of the economy—food, energy, transportation, housing, and regional development, to name a few. Today, we have no national food policy, no serious energy policy, no genuine transportation program, no meaningful housing program, no program of regional development, only token programs for the expansion of needed public services, and no concerted policy and program for the promotion of our fabulous potential for progress in civilian science and technology. New legislation is needed in all these fields.

Third, major legislative action is also required throughout the field of human services. Health legislation, of course, is one of the most obvious areas. Just as overdue, however, is genuine action to provide proper day-care facilities for younger children at both the nursery and kindergarten levels. This is one of the keys not only to allowing welfare mothers to get off the welfare rolls but, more broadly speaking, to release the great potentialities of the many millions of women who would thereby be available for full-time or part-time paid employment.

Fourth, there is the broad area of social insurance, retirement, pensions, unemployment compensation and welfare. In the past, many of these programs have been conceived of as crutches to help compensate for the lack of full employment. As we develop a genuine full employment program, many of these measures can at long last be humanized. Thus recipients of old age and survivors insurance could be allowed to work as much as they wanted and earn as much as they are able—with no pressure on them to retire from the labor market. And, at long last, the welfare rolls could be substantially reduced by the only measure that makes any economic sense—namely, the provision of suitable work opportunities at fair compensation. With this drastic reduction in the number of recipients of welfare and unemployment compensation, it would be possible to legislate much more generous benefits and less onerous eligibility requirements.

Fifth, there is the entire area of taxation and monetary and fiscal policy. Since this is a huge area, I shall merely make two points. One is that tax reform should be conceived of as an essential part of a genuine program of full employment without inflation. It is not something that we can afford to postpone year after year. The second is that the Federal Reserve Board should be clearly subject to the full employment policies legislated by the Congress.

Finally, the policy set forth in the "Equal Opportunity and Full Employment Act" imposes major burdens on the existing structure of government. To carry these burdens, new or improved planning instrumentalities may be needed. Many proposals are now pending before various Congressional committees for new planning machinery in the Executive Office of the President and for improved planning machinery by the States and local governments, including my Balanced National Growth and Development Act—S. 3050. Perhaps some of these measures could be considered as additions to this bill. Many of them, however, will have to be regarded as companion measures to build the kind to administrative structure that will facilitate speed and efficiency in attaining the objectives of this Act.

HOW MUCH UNEMPLOYMENT AND UNDEREMPLOYMENT?

On August 22nd of this year, when I introduced the "Equal Opportunity and Full Employment Act" in the Senate, I pointed out that the 5.4 million people officially reported as unemployed in June of this year were "just the tip of the iceberg."

Let me now expand on that comment.

First of all, most discussions of officially reported unemployment deal with the simple total and tell little, if anything, about the various groups that make up the total. Thus the August total, which appears in *Economic Indicators* of September 1974 shows unemployment for August of this year at a seasonally adjusted level of 4.9 million people—or 5.4 percent of the officially defined "labor force."

As you know, Mr. Chairman, that figure rose sharply and dangerously to 5.8 percent in September and many expect it to rise to 6.5 percent or even higher in the very near future. In response to this imminent threat to the economic future of millions of American families, I offered a $1 billion public service jobs amendment last Friday to

the Supplemental Appropriations Bill soon to come to the Senate floor. No new authority is needed, it's all on the books right now. Passage of my amendment this week can mean paychecks for 167,000 families from now until next July. I see no reason why it should not be enacted now.

But these total figures obscure the blunt fact that for many groups in the population unemployment has long been far higher than 6 percent. This is illustrated by the table entitled "Official Unemployment by Selected Categories, 1973," as prepared for me by the Urban Affairs Department of Hunter College, which is attached to my testimony. To avoid getting into seasonal variations, this table deals with 1973, the last full year for which such data is available.

Thus when official unemployment as a whole was 4.9 percent, female unemployment had already reached 6 percent. For single women the figure was 9.4 and for female teenagers 16–17, 17.7 percent.

Racial breakdowns show a still more disconcerting picture. When total unemployment was officially 4.9, the figure for nonwhites was 8.9—four percentage points higher. And for non-white teen-agers the unemployment figures rose to the socially disastrous twenties and thirties.

All of these figures, moreover, are merely the official reports for a so-called "average day," based on the number of reported job seekers on twelve such days throughout the year. They do not provide information on the total number of people who may have been unemployed at some time during the entire year. That figure is given in line 11 of the companion table entitled "Varying Estimates of Aggregate Unemployment, 1973," which is also attached to my testimony. *The total number of people officially unemployed at some time during 1973 was three and a half times higher—namely, 15.3 million people for the year as compared with 4.3 million people for the "average month," and 15.4 percent of the labor force as compared with only 4.9 percent.*

The way we are now going, with the official monthly figure already averaging about 5.3 percent and rising (or four points higher than the 1973 total), it seems likely that the total number of people unemployed at some time during the present year may well reach a staggering 18.6 million. While many of these would be single people, it is nonetheless obvious that many family members will be affected. If the ratio of unemployed to other family members is only one-to-one (which is a very conservative estimate), then it would seem that *more than 37 million people are likely to be directly touched by unemployment during the current year.* It is time that the American people and their leaders became aware of this convenient "shell game." It is time to stop pretending. It's time to stop sweeping millions of people "under the rug" through statistical sleight of hand.

Thus far, however, I have been discussing only those who are officially reported as unemployed. This leaves out of consideration the large number of adults who are not officially in the narrowly defined "labor force," which is composed of those reported as working for pay on either a part-time or a full-time basis and those reported as actively seeking work.

Unfortunately, there has never been a serious and continuing survey of the American labor supply—this is, of all adult Americans able and willing to work. If we are not to close our eyes to this huge labor reserve, we must make do for the time being with rough estimates, spot surveys and studies that merely scratch the surface. The results of some of these rough estimates are shown in the table "Varying Estimates of Aggregate Unemployment, 1973." The largest and most shocking figures are obtained when one concentrates upon the poverty areas of our big cities, estimates unofficial unemployment and then includes the number of people working at poverty level wages. This has been done in the "subemployment" estimates of the Senate Subcommittee on Employment, Manpower and Poverty under the chairmanship of Senator Gaylord Nelson. And under pressure from his committee the U.S. Census rather reluctantly included a calculation of this type in the 1970 Census. The results, which the Census Bureau has not been eager to advertise, show that in 60 poverty areas of 51 cities 30.5 percent of the measured labor supply were "subemployed", in 1970—that is, either unemployed or working at jobs that paid less than $4,000 a year.

Under this legislation, for the first time in our history, the statisticians would be directed to measure the changing volume and composition of the entire American labor supply.

SOME BASIS QUESTIONS

In conclusion, let me urge that the intensive hearings on this measure escape the narrow confines of technical economics.

If there are social, political and ethical issues in this measure—and I believe there are—they should be brought into the open and dealt with directly.

Naturally, this legislation raises extremely complex questions of an essentially economic nature. *How* genuine full employment could best be sustained without inflation? *What* the implications of genuine full employment might be for wage levels, business profitability and the distribution of income and wealth? *How* a full employment economy can best be managed so as to protect and conserve the physical environment? *What* the contribution of a fully employed America would be to the world economy?

But, the social aspects of full employment should receive at least as much attention. In recent years, as we have become accustomed to large amounts of hidden unemployment, we have tended to overlook the social costs of unemployment. People who have suggested there may be a connection between crime and youth unemployment have been accused of being "soft on crime." But during the past five years, as the New York Times pointed out in an editorial of September 26, 1974, which I ask to be made part of your hearing Record, there has been a 47 percent increase in officially reported violent crimes. "The long-term statistics," states the editorial, "leave little doubt that the most serious single factor in crimes of violence and against property is the dismally high rate of unemployment among youths, particularly minorities. Between one third and one half of the cities' post-adolescent black youths are out of school and out of work."

Political questions must also be raised. Many of our sharpest economic and social debates revolve around questions of political power. Just what would be the implications of this measure, when enacted, on the structure of political power in this country? Would it lead to undue concentration of power in Washington? I think not. But the question should be openly faced.

Finally, there are the most important questions of all—the questions of ethics, morality and religion. This is not a matter of rhetoric or glowing general ties. It is a matter of right and wrong.

Exactly thirty years ago, in his *Full Employment in Free Society*, Sir William Beveridge made an important distinction concerning employers and employees:

"A person who has difficulties in buying the labor he wants suffers inconveniences or reduction of profit. A person who cannot sell his labor is in effect told that he is of no use."

Today in our great Nation millions of men and women, young and old, black and white, are being told that they are now or may soon become of no use. Can we not build an America in which people, all our people, can find challenging and fulfilling opportunities to be useful? Is not this the kind of America in which our citizens—employers and employees alike—can best prosper?

In 1976 America will celebrate the 200th anniversary of its independence. And in February 1976, the Joint Economic Committee will commemorate the 30th anniversary of the Employment Act of 1946. By that time, let us hope that the Equal Opportunity and Full Employment Act—in improved and strengthened form—will be the law of the land and we shall be preparing ourselves for the various stages of its implementation. The enactment of this legislation by that time would be the best way of celebrating the commitment of the Founding Fathers to the "unalienable rights" of human beings. It would be the best way to prepare America for the challenges of the last quarter of this century.

Mr. Chairman, again I commend you for the farsighted leadership you are demonstrating by your initiative on this absolutely vital proposal. I thank you for the opportunity to testify on this legislation today and to work with you in the days ahead to make "full employment" not an unfulfilled promise of law, but a fact of life for every American.

(Attachments to testimony: table on selected categories of official unemployment, 1973; table on varying estimates of aggregate unemployment, 1973; with notes and sources; editorial from New York Times, September 26, 1974.)

Official unemployment, by selected categories, 1973

[Percent of officially defined labor force]

Male, 35–44	2.0
Male, married, wife present	2.3
Government workers	2.7
White Collar workers	2.9
Female, 35–44	3.9
Male	4.1
White	4.3
Female, married, husband present	4.6
Aggregate	4.9
Blue collar workers	5.3
Service workers	5.7
Female	6.0
Male Negro and other	7.6
Nonfarm laborers	8.4
Construction workers	8.8
Negro and other	8.9
Female, single	9.4
Male, single	10.4
Female Negro and other	10.5
Male, white 16–17	15.1
Male, 16–17	17.0
Female, 16–17	17.7
Male Negro and other, 18–19	22.1
Female Negro and other, 18–19	33.3
Male Negro and other, 16–17	34.4
Female Negro and other, 16–17	36.5

NOTE.—All these figures relate to officially reported unemployment calculated on the basis of an annual average of twelve monthly reports. While the aggregate average was 4.3 million unemployed in 1973, an estimated 15.2 million—more than three times as many—were reported as unemployed at some time during the same year. Therefore, all the above figures would have to be substantially increased to reflect the total number of people in each group unemployed at some time during the year.

Source: Manpower Report of the President, April 1974. Prepared by: Gross and Moses, Hunter College, September 1974.

VERYING ESTIMATES OF AGGREGATE UNEMPLOYMENT 1973

	Number (thousands)	Percent of labor force
1. Unemployment severity index		2.5
2. Recipients of unemployment compensation, weekly	1,783	2.7
3. Variable unemployment, monthly	4,304	4.3
4. Official unemployment, monthly	4,304	4.9
5. 4 above, plus "discouraged workers"	4,983	5.6
6. Recipients of unemployment compensation, annual total	6,200	8.5
7. "Alternative unemployment measure," 1st quarter, 1972	6,541	7.6
8. 5 above, plus part-time workers wanting fulltime work	7,502	8.5
9. 8 above, plus labor force drop outs, December 1970	8,100	19.4
10. Unemployment and earnings inadequacy, 1972	9,842	11.5
11. Official unemployment, annual	15,287	15.4
12. Real unemployment	25,600	24.6
13. Labor reserve of experienced unemployed, 1970 census	26,500	
14. Subemployment, lower level income, 1970 census		30.5
15. Subemployment, higher level income, 1970 census		61.2

NOTES

a. The percentages relate to different concepts of total labor force.

b. Estimates by sex, race and age not included.

c. Dates vary because estimates 7, 9, 10 and 13–15 have not been updated.

d. A few estimates, such as 6, may include a little double counting.

e. A small, but unknown, portion of the "unemployed" is engaged in illegal work.

SOURCES

1. Geoffrey Moore, *How Full Is Full Employment?* Washington, D.C.: American Enterprise Institute, 1973. Measures the number of days of unemployment per person in officially-defined labor force.

2. *Economic Indicators,* Sept. 1974, p. 12.

3. *Economic Report of the President,* 1974, p. 58–62. Also Geoffrey Moore, 1 above, p. 28–29. Adjusts official unemployment to changes in sex and age composition of labor force since 1955.

4. *Economic Indicators,* Sept. 1974, p. 10. Reported number of active jobseekers.

5. *Manpower Report of the President,* April 1974, p. 263. "Discouraged workers" is defined as jobwanters not in labor force because "they think they cannot get a job."

6. Gross-Moses estimate, to be revised.

7. William J. Abraham and A. J. Jaffee, "A Note on Alternative Measures of Unemployment and the Shortfall in Employment, 1970–72," *New York Statistician,* May-June 1972, p. 2–5. Adds to official unemployment an estimate of those who would seek jobs if full employment existed.

8. *Manpower Report of the President,* April 1974, p. 285.

9. Paul M. Sweeney and Harry Magdoff, *The Dynamics of U.S. Capitalism,* New York: Monthly Review Press, 1972, p. 45–49.

10. Sam A. Levitan and Robert Taggert, "Unemployment and Earnings Inadequacy: A New Social Indicator," *Challenge,* Jan.-Feb. 1974; 5 above, less over-65, 16–21 and currently unemployed with above-average income for year, plus the currently unemployed below a "poverty threshold."

11. *Manpower Report of the President,* April 1974, p. 310. Total persons experiencing some unemployment (as defined in 4 above) during year.

12. Bertram M. Gross and Stanley Moses, "How Many Jobs For Whom?", in Alan Gartner, et al., eds. *Public Service Employment,* New York: Praeger, 1973, p. 28–36. Includes rough estimates of jobwanters among so-called "Unemployables," housepersons, men 25–54, older people, students and manpower trainees.

13. U.S. Bureau of the Census, Census of Population, 1970: *Detailed Characteristics: U.S. Summary,* 1973, p. 706. Persons not in labor force who worked for pay in last 10 years.

14. Senate Labor Subcommittee on Employment, Manpower and Poverty, *Sub-employment Index,* November, 1972. 9 above, plus currently employed at less than 4,000 a year, 60 poverty areas in 51 cities.

15. Same as 14 for workers earning less than $7,000 a year.

[From the New York Times, Sept. 26, 1974]

THE REAL WAR ON CRIME

By any yardstick of reporting and bookkeeping, the 47 per cent rise in violent crime in the past five years constitutes an appalling record. The Nixon Administration's much-touted war on crime and the obedient legislative response by a "get-tough" Congress can now be put down as predictable failures. "No-knock" powers of police search and other authoritarian measures that were to unfetter the law in rooting out criminals did more to undermine the liberties of the innocent than to curb the illegal acts of the guilty.

There is small consolation in the fact that crime last year rose only slightly in the big cities—violent crime in New York actually registered a minuscule decline—while suburban and rural America bore the brunt of the year's jump. Yet the long-term statistics leave little doubt that the most serious single factor in crimes of violence and against property is the dismally high rate of unemployment among youths, particularly minorities. Between one-third and one-half of the cities' post-adolescent black youths are out of school and out of work.

A decade ago, Dr. James B. Conant warned that rising joblessness in that same group constituted nothing short of "social dynamite." The public and legislative response was a brief spasm of intensive effort to seek educational and economic remedies, largely as a means of heading off civil disorder. Similar conditions of despair today evoke little public action.

Attorney General Saxbe told the nation's big-city police chiefs that the need for more effective law-enforcement must run parallel with efforts to bring idle youths out of poverty and into society's mainstream. In terms reminiscent of Dr. Conant's warning in the early sixties, Mr. Saxbe invoked more extensive education and employment as combined strategies essential to eliminate a major breeding ground of violent crime.

These recommendations are more persuasive than the Attorney General's subsequent impromptu outburst against "bleeding hearts" who stress the need for the rehabilitation of criminals. A problem of such complexity ought not to be beclouded by simplistic political rhetoric. At the same time, as Mr. Saxbe said, a criminal justice system that fails to convict many who have been arrested for the commission of violent crimes must be improved. Without action on all fronts, recurrent political pledges of wars on crime will remain empty rhetoric.

By Mr. HUGH SCOTT (for himself, Mr. HUMPHREY, Mr. KENNEDY, and Mr. SCHWEIKER):

S. 57. A bill to establish a program of Federal assistance to provide relief from energy emergencies and energy disasters. Referred to the Committee on Interior and Insular Affairs.

Mr. HUGH SCOTT. Mr. President, I salute President Ford's state of the Union message and his blueprint for a plan of action to secure the future of our Nation.

I believe the Congress must move forward with two kinds of legislative initiatives for energy—methods to conserve and allocate present reserves and means of finding new energy sources. At this time, I wish to put forward two specific bills to deal with energy problems.

Today I will introduce along with nine of my colleagues in the Senate the Coal Research Laboratory and Energy Research Fellowship Act. The bill would establish coal research laboratories at selected universities to do much needed research into the characterization of coal. As our greatest source of national energy, coal must be more fully understood and these laboratories will help to produce that research. In addition, it will fund graduate fellowships for students who intend to go into the energy field. What we need now are more trained specialists to work with our multitude of energy problems. Increased emphasis on graduate level training of students who desire a place with private industry and government in the energy field must receive proper emphasis. In my introductory speech I will more fully outline the details of this proposal.

I would now like to propose a bill to provide relief for another area of the energy situation. This bill would effectively combat problems which arise during an energy shortage or emergency. It is entitled the Energy Disaster Assistance Act and I am delighted Senators KENNEDY and HUMPHREY have joined with me in sponsoring the legislation.

In the past Congress has been able to fashion an effective instrument to deal with natural disasters. The Federal Disaster Assistance Agency and its complements throughout the Government are now capable of dealing with any natural disaster. We have all learned a great deal from the worst of natural disasters which struck the Wilkes-Barre area in Pennsylvania just a few years ago.

I feel this kind of contingency planning and Federal coordination must exist in a period of an energy emergency or energy disaster. The events of the last 18 months have brought to a focus our great dependency on energy sources. We have begun to realize exactly how serious a lack or a shortage of energy can be for even a short period of time.

Lack of adequate statutory provisions in time of an energy disaster or emergency was brought to my attention only recently. During the early summer I was advised of the fact that there might be a shortage of over 250,000 tons of anthracite coal in northeastern Pennsylvania during this coming winter. This has been occasioned by a number of factors including the closing of the largest anthracite coal production facility in this area. I began immediately to try to rectify this situation, and I was amazed to learn that the Federal Government did not have the authority to deal directly with this potentially serious situation.

Fortunately, I was able to bring together members of the Pennsylvania delegation, the State government, and the Federal Energy Administration with other Government agencies to work on a voluntary solution to the problem. We were successful and it looks like there will be no serious shortages of anthracite coal in Pennsylvania this winter. This

situation did convince me, though, that special legislation was needed so we can effectively deal with energy problems in the future.

The bill I am introducing today defines two different kinds of potential problems; an energy emergency and an energy disaster. An energy emergency would be defined as a shortage of or a price level of energy supplies which the President or an appropriate agency determines has caused an inability to meet essential energy demands of a geographic area. An energy disaster would be a situation, as determined by the President, which exceeded in severity an energy emergency. An energy disaster would potentially cause immediate danger to public health or safety in any geographic area.

The bill's main thrust is to provide for Federal assistance in either an energy emergency or disaster when State or local efforts have been unsuccessful. A Governor of a State will, when he determines there is an energy emergency or disaster, approach the President of the United States or a Federal agency designated by the President for the purpose of this act. Once the President has determined that a serious energy problem does in fact exist, certain Federal powers will be available.

Immediately upon designation of an energy problem the Federal Government will dispatch to the local area a Federal coordinator who will be in charge of centralizing all the Federal efforts in that area and dealing with the Governor or his representative. The President will have the power to direct any Federal agency with or without reimbursement to utilize Federal personnel, equipment, supplies, facilities, and any other resources including technical service to support State and local energy disaster or emergency efforts.

In an energy emergency the appropriate agency is authorized to exercise any of the powers outlined in section 6 of this bill. This would include redirection of energy supplies from other areas, specific allocation of supplies among distributors to end users, energy conservation programs, emergency loans to individuals and families who cannot financially afford essential energy needs, and furnishing technical assistance and loans to reestablish disrupted sources of energy supplies. The bill later describes how these loans will be paid back and the method by which certain loans may be canceled or forgiven in designated circumstances.

In the case of an energy disaster, besides the powers enumerated in section 6 of the bill, there are additional powers which may be tapped. They are outlined under section 7 of this legislation. It should be noted that these powers include a number of the regulations presently exercised by the Federal Government under the Disaster Relief Act of 1974 for natural disasters.

I firmly believe this legislation is essential if we are to act in a responsive manner on potential future disruptions of our energy sources. This can come from any number of circumstances either foreseen or unforeseen at the present time. I hope we are never in a situation where the legislation has to be invoked. However, an energy problem, like natural disasters, can occur and we must be ready to cope with it in the most effective method possible.

In the near future I intend to introduce several legislative initiatives dealing with the energy crisis. One is called Project Search. It is a proposal conceveid by several renowned physical scientists who wish to catalog the total mineral resources within the Earth's crust in the United States. They feel it is impossible to plan our future energy needs and demands in a logical manner without knowing what resources this Nation possesses. Therefore, they advance a project to divide the United States into 20 mile by 20 mile grids and to drill 3-mile-deep exploratory holes at each point where the grids intersect. By studying those core samples, scientists would have a clear picture of any undiscovered resources and the extent of those now known to exist. My bill would only fund a study program and one test drilling project to examine the feasibility of such a nationwide undertaking.

A second bill I will introduce in the future will require registration of foreign individuals or groups who invest in the United States. Additionally, on a quarterly basis they will be required to report how much they invested, in what industries, and the percentage of the company's stock or interest held. I hope for good congressional response on both of these ideas. Each deals with a separate aspect of the total energy picture. Also, I plan to put forth several legislative proposals dealing with the full utilization of our Nation's most valuable energy resource: coal.

I believe Congress should look in the coming months at energy consumption and study methods to offer incentives for its most efficient use. Last month I outlined my thoughts on the need to explore a method of taxing automobiles by weight and horsepower. This would certainly act as an incentive for Americans to purchase and use automobiles that most efficiently burn petroleum products.

Natural gas supplies are another problem the Congress must reevaluate. The Commonwealth of Pennsylvania is today experiencing severe curtailments in its traditional supplies of natural gas. Last week I wrote to the Federal Power Commission, which regulates supplies and prices of natural gas, demanding it insure equitable distribution of existing reserves to all States. Pennsylvania and other States in the Northeast should not be grasping for any available natural gas while it is in abundant supply elsewhere. Ultimately, the exploration for natural gas must increase before the level of supply begins to approximate demand. Deregulation of price control on natural gas is certainly one possible way to encourage increased production. Whatever solution Congress finally reaches, we must be additionally concerned that these supplies of newly discovered natural gas be efficiently put to use. From an energy efficiency standpoint, gas used to fire boilers and generate electricity is energy wasted. Since the amount of gas Eavailable will always be finite, the more efficient end uses must be encouraged and wasteful methods be discarded.

I have been reviewing a proposal to determine the most efficient uses to which natural gas and other forms of energy can be applied in order to conserve gas and avoid wasteful uses. For more efficient uses the price would be lower than for other functions tending to be less efficient. Another proposal would grant each individual a certain basic energy allotment. If the amount of energy consumed was less than the allotment per person, the price of the energy would remain low. With excesses over the proportional allotment, costs would rise at an accelerating rate. I do not propose either of these approaches at this point. The ideas require more study and work before they approach the legislative forum. The crucial point is, though, no matter how much new energy we develop, we must conscientiously direct it to the best end conversion. For example, coal is more efficient in firing steam boilers than natural gas for a number of reasons. Therefore, by a system of incentives those who need steam boilers should be encouraged to use coal rather than natural gas as a fuel product.

I am continuing to work with the top energy officials of our Government on more short run problems. While we are developing a national energy policy, industry and the public should not be inconvenienced with unnecessary burdens. At a time when one of our national priorities is to increase output and capital expenditure, I will continue to work with all Government agencies to foster real growth of our gross national product.

Finally, I am hopeful actions of the 94th Congress will soon result in positive steps toward new energy alternatives. The Energy Research and Development Agency, ERDA, being set up now will be accelerating national energy research efforts. In addition, many solar, geothermal, sea thermal, and other energy projects are past the investigative stage. We must now move ahead on the construction of full scale prototype facilities. Atomic energy, for example, may well generate over half of our electrical capacity within 15 years. Coal gasification and liquefication plants are coming on line to utilize our tremendous domestic coal capacity.

I look forward to the future with optimism. If we continue to advance in the areas of current and potential energy resources with proper emphasis and funding, this Nation can reasonably expect to approach the goal of independence in the energy field. In fact, we have the potential to one day become a net exporter of energy to the world while still meeting all domestic requirements. I believe the coal research laboratory legislation and the Energy Disaster Assistance Act I am introducing today are two important steps.

By Mr. PEARSON:

S. 61. A bill to establish a Commission to study and appraise the organization and operation of the executive branch of the Federal Government. Referred to the Committee on Government Operations.

Mr. PEARSON. Mr. President, I introduce today for appropriate reference a bill to establish a Commission on the Operation of the Executive Branch. The purpose of this legislation is to gain the recommendations of a bipartisan panel on steps which might be taken to improve the administration and organization of the Federal Government. My bill closely parallels laws which created the highly successful Hoover Commissions of the 1940's and 1950's. It is similar to proposals which I have offered in the past and which have received widespread support.

In the last Congress, legislation was approved creating a Commission on Federal Paperwork. This legislation, which I supported, should go a long way toward helping define areas of Federal policy which contribute toward the accumulation of unnecessary or duplicative reporting procedures.

The recommendations of this Commission to bring reform in this area will be an important first step in government reorganization. But I believe we must go further in examining the impact of government on our lives. It is no secret that Americans are becoming more critical of their Government. It is not uncommon to hear citizens express less confidence in the capacity of Government to deal effectively with the many serious and potentially calamitous problems confronting this Nation and the world. And it is not a new charge that Government has become remote and unresponsive to the citizens it is meant to serve.

To determine whether these beliefs are based in fact is the purpose of the legislation I am offering today.

Mr. President, I believe that much support would be given to the establishment of such a Commission. Included among the reasons for such support are the concerns all thoughtful Americans have regarding Government spending, a troubled economy, and a Federal Government that has expanded since 1955 without a coherent, rational framework.

Some facts can be presented to substantiate these contentions. Since 1955, when the second Hoover Commission finished its work, Federal civilian employment in the executive branch has increased from 2.4 to 2.9 million workers, a rise of 17 percent. At the same time, payroll costs for this group have increased by almost 350 percent, from $8 to $27 billion annually. In the past two decades, hundreds of new programs and many executive agencies have been established, creating new layers of duplication and an uncoordinated bureaucracy. Since 1955, the Federal budget has increased from $70 to over $300 billion. Since 1969 alone, more than 70 new executive agencies have been established by acts of Congress, reorganization plans, executive orders, or executive directives.

The specter of Watergate also provides supporting arguments for the establishment of a new Commission. The first and second Hoover Commissions studied civil service law and regulations, conflicts of interest, and corrupt practices to upgrade the professional, nonpartisan, merit system principles often regarded as the underpinnings of honest, well managed government agencies. Past Hoover Commission recommendations contributed to the professionalization and removal from political influence of the Internal Revenue Service. A new Commission might consider proposals for strengthening and extending the civil service laws and other relevant statutes in that agency, as well as such key agencies as the Justice Department and the Executive Office of the President. Furthermore, such a study by a new Commission might aid in the successful enactment of some of the legislative proposals offered during the 93d Congress by the Senate Watergate Committee.

HISTORY OF GOVERNMENT REORGANIZATION

Mr. President, virtually every President since William McKinley has had a temporary working body of some form to study the organization of the executive branch of the Federal Government. Such bodies have also been charged with recommending structural and operational changes which could reduce the cost and increase the efficiency of the bureaucracy in the provision of services and activities.

These working bodies have been established by law or executive action. The findings and recommendations of the first and second Hoover Commissions are highly regarded by many political observers and students of public administration for their success in providing savings to the taxpayer and a more responsive Federal bureaucracy.

The first Hoover Commission emphasized in its studies the structural organization of Federal departments and agencies and their interrelated functions. Of the 273 recommendations offered by this Commission, over 200—or 75 percent—were implemented by legislative, administrative, or executive action. It has been estimated that the adoption of these recommendations has saved the U.S. taxpayer as much as $5 billion annually. The Commission operated for 2 years with appropriations totaling under $2 million. Its results demonstrate an excellent return on the taxpayer's investment.

The second Hoover Commission was more concerned with operating procedures and policy questions in the Federal agencies and bureaucracy, a reflection of the wider authority in the enabling legislation and expressions of congressional intent. Of the 314 recommendations offered by this Commission, some 225 of the total—or over 70 percent—have been implemented by legislative or executive action. It has been estimated that the adoption of these recommendations has saved the U.S. taxpayer as much as $4 billion annually and that the adoption of the remaining recommendations could yield an additional $3 billion annual savings. The second Hoover Commission received appropriations totaling $2,848,534 over a 2-year period, of which $83,527 of this amount was returned to the U.S. Treasury. Once again, this type of Commission proved to be an excellent investment of taxpayer dollars.

The success of these commissions—both of which were congressionally created, bipartisan, and highly visible—stands in stark contrast to the so-called "advisory committees, councils, or task forces on executive reorganization" which have been created solely by executive order to continue the work of the Hoover studies. Presidents Kennedy, Johnson, and Nixon have each sought to supplement the work of the Hoover Commissions in this manner. However, each President has had limited or no success in implementing recommendations which have been forwarded by such groups. President Kennedy created two bodies, one on Federal regulatory structures and another on executive departments, to study Federal organization and make attendant recommendations. The latter body established by President Kennedy, commonly known as the price reorganization task force or group, reported confidentially in 1964 to President Johnson. The price task force reportedly recommended a reorganization of the domestic cabinet departments into new Departments of Transportation, DOT, Education, Natural Resources, Economic Development, and Housing and Urban Development, HUD. HUD and DOT were subsequently established by Congress.

President Johnson established another task force, which reexamined the work of the price body and reported confidentially to the President in 1967. This so-called Heineman study recommended, in part, the establishment of Departments of Natural Resources, Social Services, and Economic Development. In 1967, President Johnson proposed that Congress establish a Department of Business and Labor, essentially a merger of the Departments of Labor and Commerce. This proposal closely paralleled the framework of a "department of economic development," a recommendation of the Heineman body. The proposal was coolly received in Congress and was subsequently deleted from the list of legislative goals of the administration.

Soon after becoming President, Mr. Nixon established his own study group, formally designated the President's Advisory Council on Executive Organization and popularly referred to as the Ash Council. In 1969 and 1970, the Ash Council submitted numerous confidential memoranda to the President recommending sweeping reorganizations of the executive branch, including the regulatory framework. Only three documents from the total work of the Ash Council were ever made public by the President.

Utilizing the Ash Council recommendations, President Nixon proposed that the 93d Congress establish four super-Cabinet departments, organized from the programs and components of the Departments of Agriculture, Commerce, HUD, Labor, Interior, Transportation, and HEW. These new departments were to be named the Departments of Community Development, Human Resources, Natural Resources, and Economic Development. The President and his advisers claimed that this reorganization, if approved by Congress, would provide better service delivery, give coherence and goal orientation to uncoordinated, duplicated Federal programs, and reduce the Federal budget by at least $5 billion annually. However, congressional reaction to these proposals was less than en-

thusiastic. None have been brought to the floor of either House for approval.

The Price, Heineman, and Ash studies have several common aspects: They made major departmental reorganization recommendations; they were not established by Congress; they provided for little or no congressional and public input; their reports and supporting documents were never made available to Congress or to the public for analysis and comment; and the recommendations of these studies were not enthusiastically received by Congress.

In marked contrast, Mr. President, the Hoover Commissions' recommendations have succeeded both legislatively and operationally. This success is due in large part to the following factors: Both Commissions were established by acts of Congress; Members of Congress, the Executive, and the public served on the Commissions, with bipartisan membership mandated by law; the Commissions encouraged participation from persons, groups, universities, and other interested bodies inside and outside of the Federal Government; Commission reports and supporting documents were either published or made available for analysis and commentary by Congress, the public, and all concerned parties; and the Commissions were chaired by a nationally known figure—former President Herbert Hoover—who had recognized experience in both national governmental and industrial management.

A NEW HOOVER COMMISSION

The mandate contained in the bill I am introducing is similar in most respects to the enabling legislation of the first and second Hoover Commissions. The bill establishes a commission of bipartisan membership to assist the Congress in the promotion of economy, efficiency, and improved services in the executive branch of the Federal Government. It requires that the Commission investigate the present organization and operation of all executive entities and report findings and recommendations intended to:

First. Reduce expenditures to the lowest amount consistent with the efficient performance of essential services, activities and functions;

Second. Eliminate duplication and overlapping of services, activities, and functions;

Third. Consolidate services, activities, and functions of a similar nature;

Fourth. Abolish services, activities, and functions not necessary to the efficient conduct of government;

Fifth. Define responsibilities of officials;

Sixth. Eliminate nonessential services, functions, and activities which are competitive with private enterprise;

Seventh. Relocate agencies now responsible directly to the President in departments or other agencies if it can be shown greater efficiency would result; and

Eighth. Improve the means by which intergovernmental relations between the Federal Government and the State and local governments are administered.

Mr. President, I have noted previously that this bill is similar in many respects to legislation I introduced in the 92d Congress. Although Congress did not approve that bill, comments were solicited from various agencies with the intent of improving the language of the proposal. Some of these agencies responded with what I believe are sound suggestions, and they have been incorporated in the bill.

It is my hope that the Senate will move expeditiously with this proposal. The times demand action which can make Government more responsive, more open, and more efficient. We must begin to cope with these problems, and I believe the approach outlined in my bill is a sound way in which to proceed.

Mr. President, I ask unanimous consent that my bill be printed in the RECORD at this point.

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

S. 61

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.

DECLARATION OF POLICY

SECTION 1. It is hereby declared to be the policy of Congress to promote economy, efficiency, and improved service in the transaction of the public business in the departments, bureaus, agencies, boards, commissions, offices, independent establishments, and instrumentalities of the executive branch of the Government by—

(1) recommending methods and procedures for reducing expenditures to the lowest amount consistent with the efficient performance of essential services, activities, and functions;

(2) eliminating duplication and overlapping of services, activities, and functions;

(3) consolidating services, activities, and functions of a similar nature;

(4) abolishing services, activities, and functions not necessary to the efficient conduct of government;

(5) defining responsibilities of officials;

(6) eliminating nonessential services, functions, and activities which are competitive with private enterprise;

(7) relocating agencies now responsible directly to the President in departments or other agencies if it can be shown to be more efficient as a result; and

(8) improving the means by which intergovernmental relations between the federal government and the state and local governments are administered.

ESTABLISHMENT OF THE COMMISSION ON THE OPERATION OF THE EXECUTIVE BRANCH

SEC. 2. (a) For the purpose of carrying out the policy set forth in Section 1 of this Act, there is hereby established a commission to be known as the Commission on the Operation of the Executive Branch (hereinafter referred to as the "Commission").

(b) Service of an individual as a member of the Commission or employment of an individual by the Commission as an attorney or expert in any business or professional field, on a part-time or full-time basis, with or without compensation, shall not be considered as service or employment bringing such individual within the provisions of chapter 11 of title 18 of the United States Code.

DUTIES OF THE COMMISSION

SEC. 3. (a) INVESTIGATION.—The Commission shall study and investigate the present organization and methods of operation of all departments, bureaus, agencies, boards, commissions, offices, independent establishments, and instrumentalities of the Government except the judiciary, the Congress of the United States, and the independent regulatory agencies, to determine what changes therein are necessary in their opinion to accomplish the purposes set forth in section 1 of this Act.

(b) REPORT.—The Commission shall submit an interim report to the Congress ninety days after the first day of the first calendar month which begins after the date of enactment of this Act and an interim report ten days after the end of each succeeding ninety-day period. The Commission shall make its final report of findings and recommendations to the Congress not later than two years after the date of enactment of this Act, at which date the Commission shall cease to exist. The final report of the Commission may propose such constitutional amendments, legislative enactments, and administrative actions as in its judgment are necessary to carry out its recommendations.

MEMBERSHIP OF THE COMMISSION

SEC. 4. (a) NUMBER AND APPOINTMENT.—The Commission shall be composed of ten members as follows:

(1) Two appointed by the President of the United States from private life;

(2) Four appointed by the President of the Senate, two from the Senate and two from private life; and

(3) Four appointed by the Speaker of the House of Representatives, two from the House of Representatives and two from private life.

(b) POLITICAL AFFILIATION.—Members of the Commission appointed from private life shall represent equally the majority and minority parties. With respect to members of the Commission appointed from the House of Representatives and the Senate there shall be a Representative and a Senator from the majority party and one each from the minority party.

(c) VACANCIES.—Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

ORGANIZATION OF THE COMMISSION

SEC. 5. The Commission shall elect a Chairman and a Vice Chairman from among its members.

QUORUM

SEC. 6. Six members of the Commission shall constitute a quorum.

COMPENSATION OF MEMBERS OF THE COMMISSION

SEC. 7. Members of the Commission who are members of Congress shall receive no compensation for their services as such, but shall be allowed necessary travel expenses (or in the alternative, mileage for use of privately owned vehicles and a per diem in lieu of subsistence not to exceed the rates prescribed in 5 U.S.C. 5702, 5704), and other necessary expenses incurred by them in the performance of duties vested in the Commission, without regard to the provisions of subchapter I, Chapter 57 of title 5 of the United States Code, the Standardized Government Travel Regulations, or 5 U.S.C. 5731. Members of the Commission appointed from outside the Federal Government shall each receive compensation at the rate of $100 for each day such member is engaged in the actual duties vested in the Commission in addition to reimbursement for travel, subsistence, and other necessary expenses in accordance with the provisions of the preceding sentence.

STAFF OF THE COMMISSION

SEC. 8. (a) The Commission shall have power to appoint and fix the compensation of such personnel as it deems advisable, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(b) The Commission may procure tempo-

rary and intermittent services of experts and consultants to the same extent as is authorized for the departments by section 3109 of title 5, United States Code, but at rates not to exceed $100 per diem for individuals.

POWERS OF THE COMMISSION

SEC. 9. (a) HEARINGS AND SESSIONS.—The Commission or, on the authorization of the Commission, any subcommittee or member thereof, may, for the purpose of carrying out the provisions of this Act, hold such hearings and sit and act at such times and places, administer such oaths, and require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memorandums, papers, and documents as the Commission or such subcommittee or member may deem advisable. Subpoenas may be issued under the signature of the Chairman of the Commission, of such subcommittee, or any duly designated member, and may be served by any person designated by such Chairman or member. The provisions of sections 102 to 104, inclusive, of the Revised Statutes (U.S.C., title 2, secs. 192–194), shall apply in the case of any failure of any witness to comply with any subpoena or to testify when summoned under authority of this section

(b) OBTAINING OFFICIAL DATA.—The Commission is authorized to secure directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality information, suggestions, estimates, and statistics for the purpose of this Act; and each such department, bureau, agency, board, commission, office, establishment, or instrumentality is authorized and directed to furnish such information, suggestions, estimates, and statistics directly to the Commission, upon request made by the Chairman or Vice Chairman.

(c) The Commission is authorized to enter into agreements with the General Services Administration for procurement of necessary financial and administrative services, for which payment shall be made by reimbursement from funds of the Commission in such amounts as may be agreed upon by the Chairman and the Administrator of the General Services Administration.

APPROPRIATIONS

SEC. 10. There is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, so much as may be necessary to carry out the provisions of this Act, except that such appropriations shall not exceed $2,500,000 for each fiscal year the Commission is in existence.

By Mr. HUGH SCOTT (for himself, Mr. BAYH, Mr. BELLMON, Mr. FANNIN, Mr. HUDDLESTON, Mr. METCALF, Mr. MOSS, Mr. SCHWEIKER, Mr. TAFT, Mr. TUNNEY, and Mr. YOUNG):

S. 62. A bill to establish university coal research laboratories and to establish energy resource fellowships, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

COAL RESEARCH LABORATORY AND ENERGY RESEARCH FELLOWSHIP ACT

Mr. HUGH SCOTT. Mr. President, I am delighted to introduce legislation today along with 10 of my colleagues to foster development of this Nation's most abundant energy resource—coal. Even though the United States possesses close to one-half of the world's reserves, it is not our primary energy source. In fact, coal plays a disproportionately small role in the overall energy picture.

A number of factors have contributed to the underutilization of our coal resources. To a large extent, the relatively easy access to cheaper and cleaner forms of energy like petroleum and natural gas has tended to lead to less reliance on coal. It goes without saying that events of the last year have changed this drastically. Petroleum and natural gas are no longer available in unlimited quantities or at inexpensive rates. This Nation must return to coal as a major source for our energy demands that continue to grow geometrically.

One of the most interesting aspects of coal is its unknown properties. Although man has used coal for thousands of years, we probably know less about its potential than we do of oil or natural gas. Gasification and liquefaction of coal is slowly, much too slowly, becoming an economic reality. There are essential components in the makeup of coal which scientists still cannot identify or evaluate. Therefore, coal may have valuable uses for our economy which we presently do not understand.

For these reasons, I am today introducing a bill to do two things. First, it would establish coal research laboratories at selected universities for research in coal characterization and development. And second, the bill would provide energy resource graduate fellowships for graduate students to learn skills which will enable them to enter the energy field as experts in the private sector. The fellowship programs would fund study in all areas of the energy field—a field which now lacks manpower with the proper expertise in industry to find practical approaches to the undiminished energy crisis.

I would like to point out that the Congress in the past has encouraged energy research. In my Commonwealth of Pennsylvania for example, there was a federally created and funded Anthracite Research Center at Schuylkill Haven until 1966. For almost 25 years this center did extremely valuable work on development of new uses, markets, and outlets for anthracite coal. Under the authority of the Department of the Interior the center carried out a broad and extensive mandate. The idea was conceived and helped through Congress by former Congressman Ivor D. Fenton of Mahanoy City, Pa. Congressman Fenton realized as early as 1939 that this country must somehow tap our abundant coal reserves. His observations continue to be accurate more than 30 years later. Unfortunately, on the recommendation of former Secretary of the Interior, Stewart Udall, the research center at Schukylkill Haven was discontinued in 1966.

My proposal for coal research laboratories would revitalize and continue the studies of anthracite started by Congressman Fenton. Moreover, it would go much farther by embracing bituminous coal research.

Presently, there is a Government policy encouraging power generation systems now utilizing fuel oil to switch to coal. A basic problem is that much of the coal which might be put to this purpose is not environmentally acceptable under standards set by the Congress and the Environmental Protection Agency. One proposed solution is to decrease these standards so all coal will qualify. This may be satisfactory as a very temporary measure, but it certainly will not meet this country's realistic desire for both clean air standards and adequate energy availability. The coal research laboratories established by this bill would be mandated to develop methods by which high sulfur coal could be made environmentally acceptable.

Mr. President, I ask unanimous consent to place in the RECORD at the end of my remarks a more detailed analysis of this bill. It will specifically outline how the bill would fund five coal research laboratories for in-depth coal research and would establish graduate fellowships to train professionals to work in industry on our general energy problem.

I hope additional Senators will join with me and the other sponsors of this legislation.

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

FACT SHEET

The bill has two titles. Title I establishes University Coal Research Laboratories, and Title II authorizes Energy Resource Graduate Fellowships.

The Director of the National Science Foundation after consultation will designate five institutions of higher education at which the Laboratories will be established. The bill outlines the steps required for an institution in application for designation. In designating, the Director of the NSF must consider the following criteria: The institution of higher education shall be located in a state with abundant coal reserves, the institution of higher education shall have previous experience in coal research and currently active programs in this area, and the institution must have the capacity and resources to operate a coal laboratory assisted by the bill.

The bill would authorize the Director of the NSF to pay the Federal share of the cost of establishing (including the construction of such facilities as may be necessary) and maintaining a coal laboratory. No institution may receive more than $4,000,000 for construction of its coal laboratory, including initially installed fixed equipment. It would not be allowed more than $1,500,000 for initially installed movable equipment and no more than $500,000 for new program start-up expenses. Each year for a minimum of five years the Federal government would provide no more than $1,500,000 per laboratory for operating expenses. The institution of higher education would have to insure matching amounts each year for operating expenses from non-federal sources.

Under Title I an Advisory Council on Coal Research would be established. Membership is outlined in section 105. The Council would provide advice on the general administration of the laboratories.

Title II outlines the Energy Resource Graduate Fellowships. The fellowships would be awarded by the Director of the NSF for periods designated not to exceed two years. They would be for graduate study and research in those areas of applied science and engineering that are related to the production, conservation and utilization of fuels and energy. To apply for a fellowship an individual must have been accepted by an institute of higher education for graduate study leading to an advanced degree or for a professional degree and the individual must plan a career in the field of energy resources.

production or utilization. The Director of the NSF should provide for equitable distribution of such fellowships throughout the nation. However, special attention should be given to research centers, archives, libraries, or institutes of higher education that have a demonstrated capacity for research or courses of study in the fields of energy resources, conservation, conversion and related disciplines.

The fellowships for individuals shall be stipends of $4,000 for each academic year of study plus an additional $500 for each dependent. The institution will be given 100% the amount paid to the fellowship holder less the amount paid on account of such person's dependents, less any amount charged such person for tuition.

The Coal Research Laboratories and the fellowships shall be funded by the legislation for a five year period. The Director of the NSF will be empowered to award up to 1500 fellowships per year.

By Mr. BEALL (for himself, Mr. MATHIAS, Mr. FONG, and Mr. STEVENSON):

S. 63. A bill to amend the Internal Revenue Code of 1954 to provide an exemption from income taxation for certain income of condominium housing associations, homeowner associations, and cooperative housing corporations. Referred to the Committee on Finance.

Mr. BEALL. Mr. President, I am today introducing legislation designed to exempt from income taxation the membership contributions in reserve funds accumulated by condominium housing associations, homeowner associations, and cooperative housing corporations in order to defray future, high-cost maintenance and repair bills. This measure is cosponsored by Senators MATHIAS, FONG, and STEVENSON.

This legislation, if enacted by the Congress, would overcome recent Internal Revenue Service rulings which held that condominiums and housing associations are in fact corporations under the law, and thus can be taxed at corporate levels. The practical effect of these rulings, if allowed to stand by the Congress, would be to severely hamper the development of such housing concepts by placing heavy tax penalties on the accumulation of reserve funds, and thus require associations to make heavy assessments on homeowners whenever extensive repairs must be made.

Mr. President, condominium and cooperative home ownership has become a most attractive—and often the only—way for many Americans to own a home. In urban areas, and other areas of dense population, such as resorts, condominiums, and cooperatives offer an efficient method of housing large numbers of people in a relatively small area.

A recent survey of 25 metropolitan areas revealed that half of all new housing units in these areas in 1973 were condominium units. At a time when this Nation is facing severe housing problems, particularly for low- and moderate-income persons, it seems to me highly unwise to lay tax barriers before the development of this promising concept.

In this period of spiraling inflation, especially in the housing market, single family homes are simply out of the reach of many Americans. In the Washington area an average existing home now sells at about $49,700, a 9.5 percent increase over 1973, and the average new home sells for $48,900, an 8.4 percent increase over the same period. Obviously, for young families, for retirees, for moderate-income people, such prices are completely out of reach. The condominium and cooperative concepts offer them the chance to be a homeowner. Congress has throughout our tax laws recognized the social good of homeownership, and has encouraged its development by allowing deductions for such things as mortgage interest and property tax payments. To permit these latest IRS decisions to stand would fly in the face of our effort to assist Americans in owning their home.

Let us look at what a condominium really is. A condominium is simply a plan of ownership which permits individuals to own directly a portion of the building in which they live, as well as part of the land underneath it. It provides for the separate ownership by each owner of a unit or apartment in the building and for the common ownership of the underlying land and public or commonly used improvements.

Owners typically are responsible for the maintenance of the interior of their units. But to meet the maintenance needs of commonly held areas, they form associations to handle these chores. Usually, this ownership management association takes the form of a corporation, in order to protect owners from unlimited liability.

Homeowner associations, usually found in planned unit developments, and cooperatives also make use of this vehicle to accomplish needed maintenance.

Unit owners then pay, usually in monthly installments, a sum to the management organization or the association to meet these maintenance costs. The bulk of the monthly assessment will be used for utilities, current maintenance and repairs, and capital replacement and repairs. However, a smaller portion of this fee will be set aside in a reserve for future capital replacement and repairs, such as for major repairs to roofs, sidewalks, heating and air conditioning equipment, and recreational facilities. Of particular note is that most lenders and private mortgage insurers require reserves. The same is true of secondary purchasers of mortgages such as the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation.

It is these reserve funds which will bear the burden of this capricious and unfair IRS decision. The amount of this tax involved could well be as high as 48 percent at the Federal level, in addition to any State corporation tax.

There are over 20,000 "community associations," which include condominiums, home associations in planned unit developments and townhouse communities, in the country today, a number I might add that is growing at a rate of about 4,000 associations per year. To allow these rulings to stand would be to force each and every owner to pay the high tax assessments on this reserve fund, an amount which is often in the tens of thousands of dollars.

And is it fair? I do not believe so. To prove my point, take this example:

If citizen A and citizen B decide to establish a joint bank account to pay for future repairs to their driveway, they will not be penalized for their thrift by having those deposited funds taxed.

Yet, when a condominium, homeowner, or cooperative housing association pools its resources, essentially for the same reason, it is taxed at corporate levels.

Additionally, such a tax is, in my judgment, double taxation on these residents. The owner has already paid income taxes on the money deposited with the association for maintenance, but he must in effect pay another higher tax when that money goes into the reserve.

So what we have, in fact, is a situation whereby Government and private lenders are requiring the maintenance of a reserve as a good, sound financial procedure, but another Government agency—the IRS—has decided, in effect, to preclude the development of such a viable fund by taxing it to death.

Some of my colleagues are probably asking themselves, "How did these associations get into this position?"

On January 15, 1974, the Internal Revenue Service, in Revenue Ruling 74–17, ruled that organizations—

> Formed by the unit owners of a condominium housing project to provide for the management maintenance and care of the common areas of the project, as defined by State statute, with membership assessments paid by the unit owners does not qualify for exemption under section 501(c)(4) of the code.

This decision reversed the traditional IRS interpretation which stated that organizations which are operated primarily for the purpose of bringing about civic betterment and social improvement, such as condominiums, were tax-exempt.

On March 6, 1974, much of the substance of Revenue Ruling 74–17 was applied to homeowners associations although not in such an all-inclusive order, as was the case with condominiums. In Revenue Ruling 74–99, a homeowners' association may qualify for exemption under section 502(c)(4) of the code, if, first, it serves a "community" which bears a reasonable recognizable relationship to an area ordinarily identified as governmental; second, does not conduct activities directed to the exterior maintenance of private residences; and third, offers the common areas or facilities it owns for the use of the general public.

Thus, although some homeowner associations will still be tax-exempt, most will no longer receive the exemption they also have previously enjoyed.

Cooperatives also face these same heavy tax burdens when they accumulate excess assessments. In *Park Place, Inc.* v. *Commissioner of Internal Revenue,* (57 T.C. 767 (1972)) the court found that excess assessments from members, over and above, those amounts used for current operating expenses, were taxable. Thus, this ruling also prohibits cooperatives from accumulating reserves necessary for the accomplish-

ment of long-term or costly maintenance tasks.

Mr. President, the individual homeowner does not have to pay a tax on the money he saves and expends for maintenance. But because of these rulings, the condominium, cooperative, and planned unit development homeowner does. In effect, the Internal Revenue Service has made the performance of these services much more costly to these homeowners than to other homeowners. The discrimination could not be clearer.

Mr. President, my bill seeks to end that discrimination. It would exempt from corporate taxes the income derived by condominium homeowners and cooperative housing associations from owner assessments for the purpose of maintaining, repairing, and replacing common property items. The measure requires that such corporation be operated exclusively for the preservation, maintenance, management, operation, and repair of the common buildings, grounds, and facilities of the association, and does not allow such associations to engage in any profitmaking ventures not connected with the performance of services for the benefit of individual members of the association.

Additionally, membership in these associations for the purposes of the bill, would be limited to owners or occupants of residential units in the condominium, housing development, or cooperative housing corporation. Thus, by inclusion of this standard, we are precluding the use of this exemption by commercial operations who might seek such favorable tax treatment.

Finally, to make absolutely certain that this new section will not be subject to abuse, my proposal includes a special rule applicable to such organizations as I have described which makes it unmistakeably clear that only membership income—that income derived from assessments, fees, or charges received from members of the association for maintenance and management of the development—is exempt, and that other income, from whatever source, including interest, is still subject to taxation.

In short, all this legislation does is exempt from tax those reserve funds accumulated by housing associations through membership assessments for the purpose of maintaining the common buildings, grounds and facilities of condominium, cooperative or homeowner associations.

Mr. President, condominiums, cooperatives, and homeowner associations are not organized for profit. They are organized for the mutual benefit of the association members, and for the community at large. A well-run, properly maintained condominium development improves the area in which it is located, as well as providing possibly the only opportunity for potentially millions of Americans to own a home.

My bill merely seeks to return things to the way they were prior to the time these two discriminatory tax rulings were made.

I do not believe Congress wants to place disincentives before potential homeowners, and thus I urge the Senate to rectify this situation by acting favorably on this legislation.

By Mr. STEVENS (for himself, Mr. FONG, Mr. GRAVEL, and Mr. INOUYE):

S. 64. A bill to provide for the addition of the names of the States of Alaska and Hawaii to the list of the 48 States inscribed upon the walls of the Lincoln National Memorial. Referred to the Committee on Interior and Insular Affairs.

Mr. STEVENS. Mr. President, as one of those deeply involved and committed to the cause of statehood for Alaska and Hawaii, I remember with pride the moment when Alaska became the 49th State in our Union. I remember a feeling of deep emotion as our flag was raised over Fort McHenry on July 4, 1959, and included in that flag was the 49th star representing my State.

As Alaska entered into statehood, Alaskans assumed the burdens and duties of citizenship along with its advantages. Alaskans are proud to be full citizens of the United States and proud of the heritage this country affords.

Part of that heritage is the dignity, courage, and grace of Abraham Lincoln. More than any other person, he was responsible for the preservation and perpetuation of the Union of our States. The names of the 36 States which were in the Union at the time of Lincoln's death are carved on the lintels in the memorial which bears his name. Above them are inscribed the names of 48 States of our Union. Missing are the names of the States of Alaska and Hawaii.

Accordingly I am introducing today a bill for myself, Mr. GRAVEL, Mr. FONG, and Mr. INOUYE which authorizes and directs the Secretary of the Interior to take such actions as may be necessary to inscribe on the Lincoln Memorial, at an approximate place and in a manner and style consistent with the existing inscription of the names of the 49th and 50th States, Alaska and Hawaii.

I ask unanimous consent that the bill be printed in the RECORD at this point.

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

S. 64

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purpose of adding the names of Alaska and Hawaii to the existing list of names of the forty-eight States inscribed on the walls of the Lincoln National Memorial, the Secretary of the Interior is authorized and directed to take such action as may be necessary to inscribe on the walls of such memorial, at an appropriate place and in a manner and style consistent with the existing inscriptions of the names of the forty-eight States, the names of the States of Alaska and Hawaii.

By Mr. KENNEDY (for himself, Mr. JAVITS, Mr. WILLIAMS, Mr. RANDOLPH, Mr. PELL, Mr. NELSON, Mr. MONDALE, Mr. CRANSTON, Mr. HATHAWAY, Mr. SCHWEIKER, and Mr. STAFFORD):

S. 66. A bill to amend title VII of the Public Health Service Act to revise and extend the programs of assistance under that title for nurse training and to revise and extend programs of health revenue sharing and health services. Referred to the Committee on Labor and Public Welfare.

NURSE TRAINING AND HEALTH REVENUE SHARING AND HEALTH SERVICES ACT OF 1975

Mr. KENNEDY. Mr. President, I am introducing today a bill which reflects over a year's deliberation by the Senate and the House of Representatives. It is identical to the House/Senate conference agreement on H.R. 14214, and on H.R. 17085. Both conference reports were accepted by the Senate and the House and sent to the President during the waning days of the 93d Congress. The bill I introduce today changes the terms and provisions of this legislation in no way, except to combine the two measures into one bill.

I am reintroducing the bills without change because I believe the Congress has a right to challenge the President's vetoes of these measures.

H.R. 14214, the Health Revenue Sharing and Health Services Act of 1974, was sent to the White House on December 11. By exercising his prerogative to 10 days for consideration of a bill, the President was able to out wait the 93d Congress by 24 hours. By using this narrow margin, the President was able to veto the bill after the 93d Congress had adjourned, and deprive us of the opportunity to challenge that veto. With respect to the Nurse Training Act, H.R. 17085, the margin was wider, but the principle is the same. Both of these pieces of legislation reflect the best judgment of the 93d Congress and deserve more than this preemptory treatment by the White House.

The measure I am introducing today, which embodies both the Nurse Training Act and Health Revenue Sharing and Health Services Act passed by the 93d Congress, is cosponsored by the vast majority of the members of the Committee on Labor and Public Welfare. I propose to ask the chairman of this committee to poll this bill out of committee for consideration by the Senate at the earliest possible date, based on the extensive record established on this legislation by the last Congress. I am hopeful that the Congress will pass this measure overwhelmingly. And I certainly hope the President will find it possible to enact it into law.

I do not believe the Senate should roll over and play dead before the barrage of vetoes which the President has hurled at important legislative actions in the last month. To accept the preemptory treatment he has given these two health bills would be to encourage further such actions and to deprive the Congress ultimately of its prerogative to challenge the President on vetoes.

Frankly, as a chairman of a subcommittee which handles an enormous amount of legislation, and requires endless hours from my colleagues on the Committee on Labor and Public Welfare, I am appalled that the White House seems to view our legislative activity as a giant game, and to seize on a margin of 24 hours to deprive Congress of the opportunity to challenge a veto of a measure into which legislators have

poured innumerable hours in the public interest. The bill that was vetoed is the best judgment of the House and Senate on what our Nation needs in the area of nurse training and health services. It was our best judgment on December 10. And the judgment is equally well founded on January 14.

Let me briefly describe the nurse training and health revenue sharing and health services provisions in the bill.

NURSE TRAINING

Mr. President, I now want to briefly describe title 1 of this bill.

CONSTRUCTION GRANTS

This provision remains essentially the same and authorized $25 million for fiscal year 1975 and for each of the 2 succeeding years. Priority in funding is established for expanding the capacity of schools to provide for the major expansion required if enrollments of nurses for advanced training are to be adequately expanded.

CAPITATION GRANTS

There are several significant changes from existing law in this section. For the first time there is a different amount designated for different types of nursing schools. The reason for this is to reflect the differences in costs as determined by the institute of medicine cost study. Capitation grants are restricted to undergraduate programs as there is a special section of this bill to fund advanced training.

Baccalaureate degree programs are eligible for $400 per student enrolled in the last 2 years of the program.

Associate degree programs—community or junior colleges—are eligible for $275 per student enrolled in the last year of the program.

Diploma hospital based schools are eligible for $250 per full-time student enrolled for each year of the program.

Authorizations for appropriations for capitation are $45 million in fiscal year 1975, $50 million for fiscal year 1976, and $55 million for fiscal year 1977. Provision is made for funds to be appropriated to continue payment for "enrollment bonus students" for students enrolled as first-year students in such schools for school years beginning before June 30, 1975.

FINANCIAL DISTRESS GRANTS

This program is continued to provide special assistance to schools of nursing that are in serious financial straits to meet operational costs required to maintain quality educational programs or which have special need for financial assistance to meet accreditation requirements.

The Secretary of the Health, Education, and Welfare must consult with the National Advisory Council on Nurse Training before approving or disapproving an application for a financial distress grant.

The authorization is $5 million for each of the 3 years 1975–77.

SPECIAL GRANTS AND CONTRACTS

This section has provided funds to schools and health agencies to try out better methods of teaching to better utilize faculty, increase enrollment and several other types of projects. The new provision makes some modifications providing funds for:

Mergers between hospital training programs or between hospital training programs and academic institutions, or

Other cooperative arrangements among hospitals and academic institutions leading to the establishment of nurse training programs;

Plan, develop, or establish new nurse training programs or programs of research in nursing education, significantly improve curriculums of schools of nursing, or modify existing programs of nursing education;

Increase nursing education opportunities for individuals from disadvantaged backgrounds, as determined in accordance with criteria prescribed by the Secretary, by:

Identifying, recruiting, and selecting such individuals.

Facilitating entry of such individuals into schools of nursing.

Providing counseling or other services designed to assist such individuals to complete successfully their nursing education, and

Providing, for a period prior to the entry of such individuals into the regular course of education at a school of nursing, preliminary education designed to assist them to complete successfully such regular course of education.

Paying such stipends—including allowance for travel and dependents—as the Secretary may determine for such individuals for any period of nursing education, and

Publicizing, especially to licensed vocational or practical nurses, existing sources of financial aid available to persons enrolled in schools of nursing or who are undertaking training necessary to qualify them to enroll in such schools;

Provide continuing education for nurses,

Provide appropriate retraining opportunities for nurses who—after period of professional inactivity—desire again actively to engage in the nursing professions; or

Help to increase the supply or improve the distribution by geographic area or by specialty group of adequately trained nursing personnel needed to meet the health needs of the Nation, including the need to increase the availability of personal health services and the need to promote preventive health care.

Again the National Advisory Council on Nurse Training must review all applications for these project grants.

ADVANCED NURSE TRAINING

This section provides funds for graduate programs and other advanced training programs to meet the costs of projects to plan, develop, operate, significantly expand enrollments and maintain existing programs, for the advanced training of professional nurses to teach, to serve as administrators of nursing services, or to practice in nursing specialties including nurse clinicians of various types determined by the Secretary to require advanced training. Authorizations are $20 million for fiscal year 1975, $25 million for fiscal year 1976, and $30 million for fiscal year 1977.

We have great hopes that the size of grants made to schools under this section will be adequate to provide for a very significant increase in those categories mentioned above by 1978.

NURSE PRACTITIONER PROGRAMS

The nurse practitioner and nurse clinician movements hold great potential for improving primary care to the American public. The early programs have ruled out appropriate teaching methods and have demonstrated the effectiveness of the care provided. The field is now ready for an increase in the number of nurse faculty prepared to teach in these special programs and for a major increase in the number of practitioners to be prepared, the time for these increases is now. I am gratified at the progress being made in this regard but there is a long way to go. The quality of these educational programs is important. We want only well-prepared nurses functioning as nurse practitioners. We want first-class health care provided by expert nurses working in cooperative relationships with physicians.

Just teaching by physicians and nurses needs to be provided first. Funds for such purposes are provided in this section of the bill.

Grants can be made to plan, develop, operate, significantly expand, or to maintain existing programs for training nurse practitioners.

Authorizations for this section are $20 million for fiscal year 1975, $20 million for fiscal year 1976, and $30 million for fiscal year 1977.

ASSISTANCE TO NURSING STUDENTS

There are currently some 26,000 nursing students receiving loans under the Nurse Training Act. Only 20,000 are now receiving scholarship aid since the President's budget eliminated any new awards. Some 3,800 R.N.'s are receiving traineeships for advanced training.

Authorizations for traineeships in H.R. 17085 are $20 million for the first year, $25 million for the second, and $30 million for the final year included in the bill.

Student loan authorizations are $30 million in fiscal 1975, $35 million in 1976 and $40 million in 1977.

The scholarship program has an open-ended authorization to cover the formula which is based on the number of students.

The total authorization for this title of the bill is $187 million as compared to $254.5 million for fiscal year 1974.

Last year, Mr. President, we made several important amendments to the Nurse Training Act in the Senate. And I want to specifically draw the attention of the Senate to them.

The House-passed nurse training bill contained a wholly new program to encourage the training of nurse practitioners. This is a most welcome development because there is reason to believe that increased numbers of high-quality nurse practitioners will be of assistance in providing more primary health care to the American people. Five of the amendments propose changes for this new program. First of all we propose to increase the range of eligible applicants

from just collegiate schools of nursing to all schools of nursing as well as schools of public health and medicine and public or nonprofit private hospitals.

Second, the amendment proposes to include pediatric and geriatric nurses within the scope of the program.

In addition the amendment liberalizes two provisions concerning the nurse practitioner course of study. It requires that not less than eight students be enrolled in an approved program and that the minimum course of study be 1 academic year of which at least 4 months must be classroom instruction.

And finally the amendment broadens the professional and educational groups with which the Secretary of HEW must consult in the development of guidelines for the program to include appropriate educational and medical organizations.

Mr. President, the Senate amendment also adds an additional program to the special project authority contained in the bill. This new authority is specifically designed to enhance professional mobility within the nursing profession by providing support for programs to upgrade nursing skills.

In addition the amendment adds authority in the special projects program to emphasize increasing the supply of nursing personnel who are bilingual.

Finally with regard to the special projects programs the amendment earmarks not less than 10 percent of the funds appropriated be reserved for programs to encourage the full utilization of educational talent in the nursing profession.

To insure that the level of support available for programs for the recruitment and retention of prospective students who are disadvantaged due to socioeconomic factors is maintained at least at the level of previous years, no less than 10 percent of the funds appropriated for special projects under the authority of the new subsection 820(d) are earmarked for this purpose.

The amendment finally proposed two technical and conforming changes to the Health Revenue Sharing and Service Act of 1974, H.R. 14214, which is now contained in title II of this bill.

HEALTH REVENUE SHARING AND HEALTH SERVICES

The bill includes 2-year extensions of three major existing health service authorities: the migrant health centers program, section 310 of the Public Health Service Act; the community health centers program, section 314(e) of the Public Health Service Act; and the community mental health centers program, authorized by the Community Mental Health Centers Act. All three of these programs have demonstrated their ability to respond to critical health service needs in our population. The migrant program reaches out to agricultural workers in our country who without this program might find it impossible to get decent health care. The community health center program has fostered the establishment of health centers in both inner-city areas and radically rural areas where it has proven almost impossible, without Federal assistance, to obtain the doctors, nurses, and facilities needed to supply health care. The community mental health center program, since its inception, has started 500 of the proposed 1,500 centers needed to make mental health services available in every community. When this bill was originally passed by the Congress, the objective of reaching every American community was clearly articulated. The program has performed well, and has even been praised by this administration which proposes to shut it down.

Each of these three centers programs has been subjected to careful scrutiny in the House and Senate committees. The measure which was sent to the White House on December 10, and which is contained in the bill I am introducing today, strengthens and improves the programs even further. The bill, for example, requires centers to improve their administrative efficiency and to collect every possible dollar of reimbursement for their services from insurance companies, from medicare and medicaid, and from individual patients on a fee schedule basis adjusted to family income. It also requires States to maintain their support of the centers. In other words, the bill goes as far as possible toward honoring the administration's insistence that service programs should be self-sufficient.

The bill also defines clearly, for the first time in legislation, what services these centers must offer and establishes conditions aimed at assuring these services are of the highest quality. During the early years of these three centers program there has been a good deal of experimenting with a variety of service packages and styles of operation. We have reached the point where we can define what services should be offered and standardize centers' operations so that both the Congress and the center itself understand the nature of the public investment.

Basically, the extension of these centers' programs aims at perfecting these institutions as health care providers, making them as self-sufficient as possible, and underwriting only those costs of operation which they have no reasonable chance of collecting from any source but the Federal Government. Existence of these uncollectable costs is a testimony to weaknesses in our health insurance coverages in this country and especially to the problems encountered by low-income Americans in obtaining health insurance.

The Congress is actively considering national health insurance proposals which would vastly improve these coverages. For example, most national health insurance proposals, including the administration's, would cover 92 percent of the average mental health center's costs of operation. We propose to continue these proven programs until that coverage is available. It would be foolish to allow centers to die or to cut back on their services at this time. Regardless of what national health insurance proposal ultimately passes the Congress, we will need all of the health services capacity we can muster, especially in rural and inner-city areas, and in the area of mental health.

The health services provisions of this bill would extend these center programs for 2 years. At that time the Senate can review the outlook for these programs and for national health insurance.

Ninety-eight percent of the $1,951,000 in authorizations in this bill are involved with the three centers' programs, plus family planning and the health revenue sharing program described below. The administration has proposed that the migrant health centers program be allowed to expire, and that these centers, along with family planning and neighborhood health centers be funded out of the very general authority for health services under section 314(e) of the Public Health Service Act. With respect to mental health centers, the administration has proposed to terminate any support of new mental health centers, and not to extend support for existing centers beyond the current 8-year limit.

The Health Subcommittee has considered these approaches, and find they simply do not reflect the original intent of these programs, nor do they allow the Congress to specify in sufficient detail the nature of the programs it wishes to be funded. The record of debate on the mental health center program establishes clearly that Congress intended to start up enough centers to serve every community in the Nation. We are one-third of the way to that goal. The administration agrees that the mental health center model has been successful and that the program has successfully started 500 centers across the country. This success argues in the committee's judgment for continuing this program until the goal is reached, rather than stopping the program and hoping that some other source of funds will appear to complete the job. The committee also believes that existing centers must be supported beyond the current eight-year limit. When the community mental health centers program was passed, the Congress expected that insurance coverages might expand sufficiently to allow these centers to become self-sufficient. That has simply not taken place. The committee believes it would be foolhardy to force centers to cut back on services or die for lack of a few more years of interim support when national health insurance is around the corner.

Neighborhood health centers and migrant health centers have taken a vast variety of forms since the programs were created. The committee feels it is time to define what the Congress looks for in such a center in terms of the type of services to be offered and the type of management and operation that is best for providing health care. Section 314(e) of the Public Health Service Act, under which the administration wishes to fund these centers, simply does not supply any of this specificity. Indeed, the Department of Health, Education, and Welfare has used this authority to start programs never intended by Congress—and even began making grants to health maintenance organizations under the authority while health maintenance legislation was under active review in this body. The committee insists on its prerogative to define the nature of this program and believes that even within the more de-

finitive structure of this bill, an enormous of flexibility is left to the Secretary of the Department to work with communities and neighborhood health centers. The committee also believes it is necessary to continue a separate migrant health program for fear that these already underserved and frequently forgotten Americans will once again be lost in the competition for funds for health services. Moreover, there are requirements associated with providing health services to migrants that require separate and specific definitions in the law.

I would argue, and I believe the Health Subcommittee and the Committee on Labor and Public Welfare would support me, that these centers' programs must be extended and that the programs we have sent to the President are a fair and thoughtful response to his priorities, as well as a legitimate representation of the interests of the Congress in defining these programs.

The health services portion of the bill I am introducing today also extends the authority to provide funds to States for public health services. The authority is increased from $90,000,000 to $160,000,000 because of the impact of inflation on the State public health budgets, and in order to initiate a hypertension screening and control program at the State level. 22 percent of the authorization is earmarked for hypertension programs. These vital programs offer an opportunity to bring to hundreds of thousands of Americans the benefits of advances in our medical technology with respect to heart disease. The program is retained in the bill I introduce today in exactly the form in which it was sent to the President on December 10.

The health services bill also contains a number of small but vital new programs aimed at investing very limited Federal dollars in areas of high demand more as an expression of intent and future direction than as a full scale program of support. For example, the bill calls for studies of Huntington's disease and epilepsy by the Department of Health, Education, and Welfare and of the mental health problems of the elderly in order that future Congresses can outline a meaningful program of support in these areas. Frankly, were the budget not so strained, more might have been done in these areas now based on existing knowledge.

The bill also contains a 1-year program of support for demonstration of home health agencies, a 2-year program of support for rape prevention and control programs in the National Institutes of Mental Health, and a 2-year program of support for blood fractionation and diagnostic centers for hemophilia. All three of these programs together involve barely $50 million over the period of the bill. I believe these programs are so modest that by eliminating them we would do little to change the cost of the bill, but would set back work in these vital areas of health care several years.

Finally, Mr. President, I want to reemphasize the fact that both of these bills were vetoed by the President after the 93d Congress had adjourned. I believe the Congress must have the opportunity to express its judgment on that action by the President. And that is what the introduction of this bill is all about.

Mr. JAVITS. Mr. President, I am pleased to introduce today with Senator KENNEDY the Nurse Training and Health Revenue Sharing and Health Services Act of 1975 (S. 66). The measure is identical to the conference substitute on H.R. 14214, Health Revenue Sharing and Health Services Act of 1974 and on H.R. 17085, Nurse Training Act of 1974, but combines them into a single bill.

Each of the bills combined into the measure introduced today expresses more than a year's careful legislative consideration in preparing each measure, and also was passed by the Senate and House in the 93d Congress—but pocket-vetoed by the President. Thus Congress did not have the opportunity to challenge the veto.

The White House memorandum of disapproval for each of the bills provided no new factor not previously considered by the Congress when it passed each bill. Therefore, I believe it appropriate for this Congress to consider the legislation as soon as possible—based on the legislative record established by the 93d Congress and the President's individual memorandum of disapproval when he pocket-vetoed each bill, which I ask unanimous consent be included in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. JAVITS. Mr. President, I am pleased to note that the course of procedure for prompt Senate action on the measure introduced today—polling the bill from committee to expedite prompt Senate consideration—which I support and detailed in Senator KENNEDY's introductory remarks—also has the support of the cosponsors of this bill, Senators WILLIAMS, SCHWEIKER, STAFFORD, RANDOLPH, PELL, NELSON, MONDALE, CRANSTON, and HATHAWAY.

Mr. President—with respect to nursing education and health service programs—I will not detail the provisions of each of the titles of the omnibus bill Senator KENNEDY and I today introduce, since he has described them in his introductory remarks. Rather, I will focus on why I believe, as previously stated, there is no new rationale in the President's disapproval memo with respect to either health service programs or nursing education which was not previously considered when these respective measures were first introduced; deliberated upon by the Committee on Labor and Public Welfare when ordered favorably reported; reflected upon when each bill was passed by the Senate and House; and carefully considered once again when the conference substitute was agreed to and adopted by the Senate and House.

NURSING EDUCATION

In regard to nursing education the thrust of the disapproval memo is opposition to categorical nursing student assistance and institutional support through capitation grants to nursing schools. This theme was at the heart of the administration position in 1971 and rejected by the Congress then, and culminated in the enactment into law of Public Law 92–158. The administration sought to frustrate the law through zero budget requests for capitation support but was overturned regularly by congressional annual appropriations of approximately $38,000,000 to carry out the purpose of the law, to provide nursing schools a stable source of financial support.

I believe the nursing education title of this bill is essential to meet the health needs of the American people. Health systems cannot operate, and quality programs of care cannot be developed, unless an adequate supply of this critical human resource is assured. As we consider national health insurance and pass other measures to improve health care, we must also act to insure that adequate numbers of nurses will be available to carry out our plans. Without the support of the nurse training provisions in this bill, the number of nursing students will decrease, even in the face of growing health care demands.

Last year, our committee studied in detail the current nursing crisis and heard expert witnesses forecast an even greater shortage in the coming years. At present, the Nation requires 150,000 additional nurses; by 1980, it is expected, there will be a need for over 1 million.

We need these nurses because their services are crucial to all medical care. Their work is focussed upon care of patients and upon assessment of patients' individual health needs. Their responsibilities include clinical services and also health counseling, public education, disease detection, and a variety of vital activities in the area of preventive medicine and general health promotion.

In performing these tasks, nurses work in physicians' offices and in patients' homes, in schools and in industry, in emergency rooms, and in chronic care centers. In each setting, they bring medical skill and personal attention to the population at large.

Nurses, in increasing numbers, are moving to fill our health care gaps. Already, they are bringing needed health services to people in remote rural communities and underdeveloped urban locations. Our committee knows of a number of exciting projects throughout the Nation, where nurse-practitioners are now caring for persons in desperate need of medical care and health education, and the bill responds to this need.

Our Nation faces a problem of specialty maldistribution, as well. Again, the nursing profession has assumed a leadership role in meeting this critical health need. Today, there are specialists in psychiatric nursing, family nursing, maternal, child and geriatric nursing. These nurses provide continuity of patient care, whether this be a preventive, curative or rehabilitative service.

Thus, the nursing profession has broadened its traditional role in a way which directly meets our most urgent health problems. But nurses can, and must, do more.

As our population increases and as

medical knowledge and technology expand, there develop new strains upon our medical resources. The demand for skilled nurses is increasing, and those nurses who are practicing are assuming new responsibilities. Medical care is becoming increasingly complex, and there is a special need for nurses trained in the management of medical programs. Most important, skilled nurses are needed to provide the personal link between the health care establishment and the people in need of care.

This bill provides basis Federal assistance to nursing health services, by promoting and supporting the growth of quality nursing care. It authorizes construction, startup, capitation, and special assistance grants which will encourage the expansion of nurse training enrollments, and facilitate the development of innovative curriculums. These and other grants provide educational assistance to upgrade the skills of nurses and paraprofessionals, and to train more nurses in the fields of greatest need. In addition, there are provisions in this bill to identify, and then support, students who are financially, culturally, or educationally needy and who show special potential for nursing.

I believe that this title of the bill represents our commitment to nursing education and our recognition that the nursing profession plays a vital role in providing health care to the American people.

HEALTH SERVICES PROGRAMS

In regard to the health revenue sharing and health services, the thrust of the disapproval memo is opposition to the carefully articulated categorical programs which Congress has chosen to support, as contrasted to the administration proposal to consolidate funding support for health service programs under broad generic authority, as for example at one time available under section 314(e) of the Public Health Services Act; and administration insistence that the community mental health center program is a demonstration program that has proven itself.

With regard to the community mental health center program, I believe in initiating the CMHC program in 1963, the Federal Government made a firm commitment to all Americans—that a nationwide system of community care, provided through approximately 2,000 community mental health centers which offer fully comprehensive services, would be in place by 1980. This commitment is clearly laid out in the legislative history of the CMHC Act and has encouraged communities in every State to apply for CMHC funding under the Federal program.

The Federal Government cannot and should not withdraw from its commitment, particularly where in the federally funded CMHC program we have a system of health delivery which can provide patients all the mental health services which they need within their own community at a cost they can reasonably afford.

I would remind my colleagues of the position of Congress summarized in National Council of Community Mental Health Centers against Weinberger:

> The Act was never viewed by Congress as a demonstration program to get communities to follow the examples of others and start their own centers, but rather a national effort to redress the present wholly inadequate measures being taken to meet increasing mental health treatment needs.

The disapproval memo fails to recognize that 98 percent of the $1,951,000,000 in authorizations in this bill are involved with the three centers' programs—strengthened and improved neighborhood health centers, migrant health centers, and community mental health centers—plus family planning and the health revenue sharing program hereinafter discussed. The administration has proposed that such centers programs—exclusive of its view to terminate any support of new mental health centers, and not to extend support for existing centers beyond the current 8-year limit, be allowed to expire—along with family planning and other programs, be funded out of the very general authority for health services under section 314(e) of the Public Health Service Act.

The Congress has considered these approaches and they do not allow the Congress to specify in sufficient detail the nature of the programs it wishes to be funded.

Neighborhood health centers and migrant health centers have taken a vast variety of forms since the programs were created. The Congress should define what the Congress looks for in such a center in terms of the type of services to be offered and the type of management and operation that is best for providing health care. Section 314(e) of the Public Health Service Act, under which the administration wishes to consolidate funding, does not provide this specificity. Indeed, the Department of Health, Education, and Welfare has used this authority to start programs never authorized by Congress.

I believe the Congress should insist on its prerogatives to define the programs it wishes to see supported. At the same time I believe it is necessary to continue a separate migrant health program lest these already underserved and frequently forgotten Americans will once again be lost in the competition for funds for health services. Moreover, there are requirements associated with providing health services to migrants that require separate and specific definitions in the law.

I believe the centers' programs must be extended and there should be a legitimate representation of the interests of the Congress in defining these programs.

The bill also extends the authority to provide funds to States for public health services. The authority is increased from $90,000,000 to $160,000,000 because of the impact of inflation on the State public health budgets, and in order to initiate hypertension screening, diagnosis, treatment, and control programs at the State level pursuant to provisions I authored in this regard.

Mr. President, hypertension is a silent killer and it is urgent that, as provided in this bill, we focus our Federal resources and launch the appropriate national attack on this disease which afflicts 23 million Americans.

The depth and breadth of the hypertension problem was set forth in a recent Time magazine cover story which I ask unanimous consent to be printed at this point of my remarks in the RECORD.

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

CONQUERING THE QUIET KILLER

(Fayore Curry, 47, a Chicago mental health worker whose unlined face and trim figure belie her age, knew from her first pregnancy at age 21 that she had high blood pressure. But it was not until two years ago that she realized what it meant. One day, a friend told her that she was slurring her words; her friend noticed that she was limping; she herself found that she could not comb her hair. She then drove to a hospital, where she learned that she had suffered a stroke.

(John Wilson, 57, a black construction worker from Katy, Tex., enjoyed vigorous good health until 1971, when he suddenly began complaining about feeling weak. A visit to his doctor quickly revealed why: his blood pressure was dangerously high, and unless it was brought down quickly, Wilson risked death from a stroke or heart attack.

(Ann Naan, 60, a secretary for the American Heart Association in New York City, learned from her doctor during a postoperative checkup that her blood pressure was slightly elevated. About a year later she began to be short of breath, and a screening of A.H.A. staffers revealed that her blood pressure had risen dangerously.)

Curry, Wilson and Naan, are all victims of hypertension, a medical term that seems to suggest nervous disorder but really means high blood pressure. They are more fortunate than most of the 23 million people in the U.S. alone estimated by the A.H.A. to be suffering from the disease. They know about their condition and are under treatment. Most hypertensives are not even aware that they are being stalked by a quiet killer that often produces no symptoms until its too late. The A.H.A. believes that less than half of all hypertensives know that they have high blood pressure. Even worse, according to the A.H.A., only half the hypertensives who are aware of their illness are under treatment to control their blood pressure, and of these, only half are getting the proper therapy.

For the remainder, the consequences can be fatal. The damage produced by hypertension may well be the nation's leading cause of death. Heart attacks and strokes kill more Americans than the other leading causes of death combined: cancer and accidents. High blood pressure alone is listed as the primary cause of only 60,000 deaths a year. But hypertension, which rarely appears on death certificates, is the underlying cause of hundreds of thousands of other deaths. Heart disease will claim an estimated 600,000 Americans in 1975, and hypertension is the major contributor to heart disease. Strokes will hit an estimated 2 million Americans and kill some 200,000 this year; hypertension is the leading cause of stroke. Kidney disease may account for as many as 60,000 deaths in 1975; hypertension is the major contributor to kidney disease. An untreated hypertensive is four times as likely to have a heart attack or a stroke as someone with normal blood pressure and twice as likely to develop kidney disease. Thousands of Americans will have their eyesight impaired, suffer from internal hemorrhages or miss work because of hypertension.

High blood pressure is no respecter of age or sex; men and women are almost equally susceptible to the disorder. It strikes the powerful as well as the poor. King Charles II

of England and his mistress Nell Gwynn both died from the complications of severe hypertension; so did such modern-day statesmen as Woodrow Wilson, Franklin Roosevelt, and Joseph Stalin. Hypertension hits the young as well as the middle-aged; doctors have found a surprising number of cases of high blood pressure among teen-agers and "swinging singles" and have even detected the disease in young children.

It is no surprise that for the nation's life insurance companies, measurement of blood pressure is the most important factor used in predicting life expectancy. Actuarial charts are based on figures that offer grim testimony to the effects of hypertension: at any given age, the higher the blood pressure, the shorter the life expectancy.

The irony is that many of the deaths that can be traced to high blood pressure are, in fact, avoidable. Doctors may not be able to cure cancer or the common cold, but modern medicine can now treat virtually every case of hypertension, from the mildest to the most severe, effectively and relatively inexpensively.

Much of the credit for this successful treatment belongs to a perky professor of medicine named John Henry Laragh. Best known for untangling the hormonal relationships that control blood pressure, Laragh, 50, pioneered in the treatment of high blood pressure by founding the nation's first hypertension center, at Manhattan's Columbia Presbyterian Medical Center in 1971. Now he is expanding both his research and clinical interests into new fields. Last week he left Presbyterian Hospital, where he was vice chairman of the board of trustees for professional and scientific affairs, to assume an endowed professorship at The New York Hospital-Cornell Medical Center. There he will intensify his assault on hypertension and other circulatory disorders as director of a new cardiovascular center that has been organized to study and treat the entire circulatory system.

Laragh's move comes at an appropriate time. Medicine is better equipped than it has ever been to handle hypertension. Yet the disease remains perhaps the most neglected of health problems. Many physicians, in fact, still believe that moderately elevated blood pressure need not be treated. Laragh is determined to change all that. "Hypertension does not have to be the single leading factor in disability and death in the U.S. today," he insists. "We have the means to control it. What we have to do is use them. We're ready for an all-out attack."

That attack has been a long time coming, for high blood pressure has been an enemy of man throughout recorded history. A Chinese medical text dating back to 2600 B.C. noted that a diet high in salt (now known to affect blood pressure) could cause changes in pulse and complexion. The Bible contains several accounts of paralysis and apparent stroke that may well have been the results of hypertension. But it was not until the 17th century that the great English anatomist William Harvey provided the foundation for the understanding of blood pressure by mapping the human circulatory system. And not until the beginning of the 20th century did physicians develop a practical means of measuring the pressure that pushes blood through the body: the sphygmomanomter. The link between high blood pressure and fatal illness was not documented until 1929, when a Harvard physician, Dr. Samuel Albert Levine, noted that of 145 heart attack patients, 60% had been hypertensive.

Until Levine's discovery, many doctors believed that elevated blood pressure was actually necessary to help force blood through aging arteries. Since then, they have become considerably more sophisticated about both blood pressure and its effects on the body.

The audit human body has some 60,000 miles of blood vessels. As the body's blood (five quarts or more in the average adult) is driven through a network of arteries, capillaries and veins by the pumping action of the heart, it exerts force on the walls of these vessels. Without the pressure generated by the heart, oxygen-carrying blood could not be forced up to the brain or out to the muscles; the blood could not be returned to the lungs for reoxygenation or passed through the membranes of the kidneys for filtration and excretion of wastes.

To function properly, the body must carefully control blood pressure through a number of complex mechanisms. Baroreceptors—clusters of pressure-sensitive cells scattered throughout the arterial system—respond to changes in pressure and signal the nervous system to make the necessary adjustments. The nervous system in turn helps lower or raise pressure by 1) expanding or dilating arterioles, the smallest branches of arteries, or 2) returning or speeding up the heart's beat and changing its force of contraction.

When these systems function normally, the circulatory system has few problems. Blood pressure rises during exercise or excitement, falls during sleep or relaxation. Like pipes in a plumbing system, the arteries can tolerate high pressure for brief "surges." But when the pressure persists, damage is likely.

One area where hypertension is particularly hazardous is the brain. High blood pressure can cause a rupture or blowout of an artery feeding the brain. When it does, part of the brain is deprived of its blood supply and thus its oxygen. The resulting damage is called a stroke. High blood pressure also forces the heart to work harder, for it must pump against increased resistance. The overworked organ may enlarge, demanding more oxygen than the system can provide, the chest pains of angina pectoris or even damage to irreplaceable heart muscle may soon follow. Or the enlarged heart may be unable to empty itself against the pressure of blood in the arteries, causing fluid to accumulate behind the heart, in the lungs and extremities. In either case, the result will be the same: a heart attack that can cripple or kill its victim. In a chicken-and-egg situation, high blood pressure can also trigger complex mechanisms that will reduce blood flow to the kidneys. That, in turn, reduces the capacity of the kidneys to help rid the body of its waste material, and the kidneys themselves may eventually fail.

For all their increasing ability to control high blood pressure, doctors are still not sure what causes it. Some cases of hypertension stem from kidney disease. Others can be traced to a condition called coarctation or pinching of the aorta, the main artery leading from the heart. A handful of cases have been attributed to pheochromocytomas and other tumors on the adrenal glands that cause overproduction of certain hormones involved in blood-pressure control. But all these conditions together probably do not account for more than 5% of hypertension victims. Most cases are described by doctors as "essential" —medical jargon meaning not that the condition is necessary or indispensable, only that its cause cannot be identified.

Nonetheless, researchers have discovered several factors that are almost surely involved in essential hypertension. Among them:

OBESITY

Excess weight, whether it is only a few extra pounds or many, may bring an increase in blood pressure. It takes a mile of capillaries to nourish each extra pound of fatty tissue. With each extra pound, there is a corresponding increase in blood volume. This means that the heart must work harder to pump more blood through a more extensive circulatory system.

HEREDITY

No researchers will go so far as to say that hypertension is inherited like, say, blue eyes or an aquiline nose. But most feel that heredity plays some role in high blood pressure. Those whose parents are hypertensive are far more likely to have high blood pressure than those whose parents have normal blood pressure.

DIET

Modern studies have strengthened the connection between salt intake and pulse changes. Tribesmen in Africa, who eat almost no salt, rarely if ever develop high blood pressure. But in northern Japan, where people eat around 50 grams of salt a day, half the population dies of strokes, a common complication of high blood pressure.

To Laragh, the explanation is obvious. "Salt is the hydraulic agent of life," he explains. "It is salt that holds the water in humans, causes swelling and a high fluid volume. This means an increased blood pressure." It does indeed. Doctors have known since 1900 that lowering salt intake drops a patient's blood pressure, and most doctors agree that Americans eat too much salt. One of the first things a doctor tells, or should tell, a hypertensive patient is to throw away his salt shaker.

RACE

For reasons that remain to be fully determined, blacks are particularly prone to hypertension. According to the A.H.A., one out of every four adult black Americans has high blood pressure, compared with one out of seven adult whites. Some scientists theorize that blacks are genetically incapable of handling the large amounts of salt that are found in a diet rich in pork and highly seasoned soul food. Others suggest that the pressures of being black in America are enough to cause the disease. Indeed, a common joke among blacks is "If you're black and you ain't paranoid or suffering from hypertension, you don't know what's going on."

STRESS

Though many of those with apparently complete control over their emotions have high blood pressure, researchers have found that there is a relationship between stress and hypertension. Blood pressure normally rises with excitement or alarm. In most people, the pressure drops when the excitement is over. But according to one theory, in many the level drops by smaller increments, eventually stabilizing at a higher level than before. Significant increases in blood pressure were recorded among Russians who survived the siege of Leningrad and Texans who survived the Galveston Harbor holocaust in 1970. Similar increases might well be found among people concerned by the current economic situation. A study has revealed that men facing the loss of their jobs experienced increases in blood pressure that lasted through the period of unemployment and did not drop until they found work again.

Until the end of World War II, doctors treated hypertensives, if they treated them at all, mainly by diet. Patients with high blood pressure were told to take off weight and lower their salt intakes. Some patients were put on an almost totally salt-free diet so unappealing that most of them abandoned it as soon as they left the hospital and medical supervision. A handful of doctors even tried surgery to depress blood pressure. The operation was called a sympathectomy; it cut certain nerves leading to the organs of the chest and abdomen on the theory that this would relax the arterioles. It did only temporarily; the arterioles soon responded to hormonal signals to constrict.

Today doctors treating hypertension rarely resort to surgery; drugs are the therapy of choice. One of the first of the new drugs in the medical armory was discovered by Dr. Edward Freis, a researcher with the Veterans

Administration. He had noted from test reports that large doses of an antimalarial drug called pentaquine dramatically lowered the blood pressures of normal men. Figuring that it might do the same for hypertensives, Freis administered it to a patient with severely elevated blood pressure. It worked, and although the patient eventually died of kidney failure (the organ had been badly damaged by his hypertension), his case demonstrated the practicality of drug treatment.

Since then, a host of other antihypertensive drugs have been introduced. Some, such as hexamethonium and chlorisondamine, are blocking agents. They work by interfering with the nerve signals and chemical reactions that cause blood vessels to constrict and raise blood pressure. Others, like hydralazine, are relaxers that seem to act directly on the muscle walls of the blood vessels, causing them to dilate and thus decrease pressure. Still others, such as guanethidine and reserpine—a drug extracted and purified from the Indian plant *Rauwolfia serpentina*—achieve the same effect by reducing the action of norepinephrine, the body chemical that causes blood vessels to constrict. Another class of drugs has proved equally useful. Diuretics decrease the kidneys' retention of salt. This in turn decreases the amount of fluid retained by the body. The volume of blood is lowered and blood pressure drops.

Used singly or in various combinations, these drugs have enabled physicians to offer the hypertensive something better and more certain than diet or surgery to control his disease. But they do not solve all the difficulties of dealing with high blood pressure. Many of the antihypertensive drugs can, and frequently do, produce undesirable side effects, such as impotence, dizziness and drowsiness. Doctors have learned to lessen these reactions by adjusting dosages or switching from one drug to another. Another problem was less easy to solve. Doctors had known for years that there are many forms of hypertension that affect different patients in a vast variety of ways. Some respond to one kind of treatment, others to something completely different. It remained for Dr. Laragh to show how to predict an individual patient's response to a particular drug.

In many ways, Laragh was an ideal man for the job. A native of Yonkers, N.Y. (his grandfather was mayor), Laragh had always admired his family physician and the seeming miracles he could perform. He soon found himself exposed even more closely to medicine; he and a younger sister were orphaned when they were in their teens and went to live with a physician uncle.

It semed only natural for Laragh himself to go into medicine. After Cornell University and Cornell University Medical College, he moved to Presbyterian Hospital for his internship. There he came under the tutelage of Dr. Robert Loeb, a great physician who co-edited what has since become one of medicine's standard texts: Cecil & Loeb's Textbok *of Medicine*. The association was a fortunate one for Laragh. "Loeb recalls. "He was fair benevolent one," Laragh recalls. "He was fair but demanding, and his standards were the highest." Loeb was also a first-rate teacher who did not believe in spoiling his pupils by assigning laboratory technicians to help them. "I had to do every experiment myself," says Laragh. "But it was worth it. I really learned about research."

After his internship, Laragh combined research with clinical practice ("You learn more from patients than you do from samples in a laboratory"). As a cardiologist, he concentrated most of his efforts on the workings—and failings—of the heart. But he also looked elsewhere in the circulatory system, and in 1955 he made an important discovery: he learned that increases in the blood levels of potassium can stimulate the production of aldosterone, an adrenal hormone that raises blood pressure by causing the kidneys to retain salt.

In the years that followed, Laragh made even more spectacular findings, which like so many other achievements in science, were serendipitous. Doctors had been aware of the role of aldosterone for some time. But they had been puzzled by the part played by renin,[1] a kidney hormone produced in response to a drop in blood pressure. Laragh solved the puzzle. In 1958 he and his colleagues began treating a man with malignant hypertension, a rare form of the disease that is characterized by kidney damage and usually kills its victims within a year. Tests showed that the man was, to their surprise, producing far more than the normal amount of aldosterone. This finding led to another series of tests that proved even more revealing. They showed that high aldosterone was probably due to increased secretion of renin.

Usually renin production ceases when blood pressure reaches the proper level. In this case, the cutoff mechanism had failed. The man's renin was triggering the production of excess aldosterone, which in turn was increasing the body's tendency to retain salt. The process caused fatally high blood pressure.

Laragh's discoveries, which won him a share in the $50,000 Stouffer Prize in 1969, explained the hormonal controls of blood pressure for the first time. They also permitted the development of a renin profile—a computer-aided analysis of the patient's hormonal output. There are patients with low renin levels who nonetheless have high blood pressure; excess of fluid is probably at the root of their problem. Diuretics counteract this tendency to store salt and fluids, thus lowering the blood pressure. Those with high renin levels can be best helped with renin inhibitors that will slow or even shut off production of the hormone. "Until we figured out just what renin did," says Laragh, "therapy was conducted on a hit-or-miss basis. You'd try a drug, see if it worked, and if it didn't, switch to something else. Now you know in advance what to try."

Laragh's finding also cleared up another of the mysteries surrounding hypertension. Many hypertensives dismiss the seriousness of their conditions by citing the case of a relative who lived to be 80 despite a blood pressure that nearly popped the mercury out of the doctor's sphygmomanometer. Laragh's work indicates that these exceptions, which seemingly violate the rule that high blood pressure is dangerous, were probably low-renin hypertensives. Patients with this condition are less likely to suffer strokes and heart attacks than high-renin types. But they do not escape hypertension's hazards, the damage merely takes longer.

Some physicians still challenge Laragh's theories. But many doctors now do, or plan to do, renin profiling on all their hypertension patients. Most physicians already follow Laragh's lead in another area. In 1967 Laragh discovered and reported a link between oral contraceptives and high blood pressure. Other researchers confirmed the connection, but it remained for Laragh to explain it: the Pill's estrogen-like substances stimulate the renin system, which in turn causes increased aldosterone production. The result in about 25% of all women who use the Pill: high blood pressure. Laragh and his colleagues now routinely recommend that victims of Pill hypertension try another method of birth control.

A quiet, modest man, Laragh credits his accomplishments to an open mind ("You have to consider every possibility") and painstaking research. "You learn more by studying a few patients in great depth than you do by studying thousands superficially," he says. "If your methods are good and your experiments carefully conceived, it doesn't matter whether you study a handful or a multitude; the results should be the same."

Laragh, like his mentor, also believes in hard work. He gets to his office by 7 o'clock most mornings and shuttles between there, the Hypertension Center and his laboratory until hunger, exhaustion or Jean Sealey—a biochemist and his bride of four months—forces him to stop. "We haven't even had a honeymoon yet," complains Jean in a soft burr that attests to her origins in Glasgow, Scotland. "The day after we were married we went off to a hypertension meeting in Milan." But Laragh, who has two sons by a previous marriage that ended in divorce, does find time to relax. His golf game is good enough (in the low 80s) to allow him to pair up occasionally with an acquaintance named Jack Nicklaus.

Many of Laragh's colleagues and coworkers at Columbia Presbyterian plan to follow him in the 100-block move to The New York Hospital because they like what one calls "the atmosphere of scientific ferment" that surrounds their leader. One female lab technician has another reason for tagging along with Laragh. "It's those Irish eyes," she says. Laragh's reason for taking his new post: "It's a chance to do more."

Whatever the reason, Laragh's move should come as good news for most victims of hypertension. The new cardiovascular center will not only treat but study hypertensives and all the problems caused by their disease; it should help to focus more attention on a controllable illness that has suffered from professional neglect for too many years.

Elsewhere, doctors, health officials and concerned citizens are also making a concerted effort to identify and treat as many victims of high blood pressure as they can find. Stanford University has been working through its Heart Disease Prevention program to acquaint people in three northern California cities with the dangers of high blood pressure. Baylor College of Medicine in Houston has just begun a massive education effort. Hospitals in some 20 cities are participating in the federally funded "Mr. Fit" program designed to prevent heart attacks in a test group of men between 35 and 57. It aims at identifying probable heart attack victims and helping them to reduce their risks by giving up smoking, losing weight, reducing cholesterol and bringing their blood pressure under control. The Chicago board of health has a mobile blood-pressure unit cruising the streets of the city giving free hypertension tests to all. Local health organizations are setting up sphygmomanometers in supermarkets to test shoppers; in some states dentists and dental technicians are taking their patients' pressures. The A.H.A. is urging both patients and their physicians to take blood pressure seriously. Do you have high blood pressure? asks an A.H.A. poster. Only your doctor can tell.

For those who have high blood pressure, the outlook is bright. Exercise and diet groups to help hypertensives shape up are in operation in most major cities and many smaller communities. Researchers at Rockefeller University and other institutions are experimenting with biofeedback[2] to teach hypertensives to dialate their arteries and lower their blood pressures slightly. A Boston physician, Dr. Herbert Benson, has taught some of his patients to reduce their blood pressure by means of what he calls "relaxation response," a sort of transcendental-meditation technique.

Drug treatments for hypertension continue to improve. Propranolol, a British-developed

[1] Not to be confused with rennin, an enzme or chemical catalyst used, among other things, in the manufacture of cheese.

[2] A technique that employs electronic monitoring devices to help patients learn how to control autonomic nervous system functions such as heartbeat and blood circulation.

drug licensed in the U.S. for use in heart problems other than hypertension, is nonetheless widely and successfully used to control high blood pressure. Other potential valuable drugs, though widely used in Britain, have not yet been approved by the Food and Drug Administration for use in this country. Reserpine remains an effective antihypertensive despite reports linking it with a slightly increased incidence of breast cancer in some women (TIME, Oct. 7).

Despite these encouraging advances, many hypertensives still fail to get treatment. Either their condition is not diagnosed, or their doctors do not realize the importance of mildly elevated blood pressure. Others, bored by the drug regimen and lulled into a sense of false security by a lack of symptoms, drop out of treatment programs. Such lapses can be lethal. Dr. Freis once treated a young, dangerously hypertensive law student by putting him on diuretics but could not induce him to continue with the medication. The patient died of a stroke at 29. Other dropouts have been more fortunate. Helga Brown, 46, of San Francisco, followed her doctor's orders carefully for a year after a fainting episode revealed that she had high blood pressure; then she dropped both the drugs and her diet. She suffered a recurrence of dizziness and was hospitalized. She recovered and now takes her medication faithfully.

Treatment for hypertension, whether by diet or drugs, cannot undo the damage that has already been done, but it can unquestionably prevent the disorder from getting worse. In a now classic study, Freis compared death rates from stroke, heart disease and other hypertension-related ailments among treated and untreated patients at 17 Veterans Administration hospitals. His findings showed that treatment can reduce the death rate from hypertension by half.

The lesson is one that should not be lost on anyone suffering from high blood pressure. Laragh and his colleagues have given medicine the weapons for conquering the quiet killer. All its potential victims must do is arm themselves.

Mr. JAVITS. Mr. President, the bill's provisions which I authored provide that 22 percent of the appropriations is set aside by each State for hypertension screening, treatment and diagnosis programs. Thus, we offer an opportunity to bring to hundreds of thousands of Americans the benefits of advances in our medical technology with respect to heart disease. The program is retained in the bill in exactly the form in which it was sent to the President on December 10.

Also, there are a number of small but vital new programs aimed at investing very limited Federal dollars in areas of high demand as expressions of future direction not as full-scale programs of support. For example, the bill calls for studies of Huntington's disease and epilepsy by HEW in order that future Congresses can outline a meaningful program of support in these areas.

The bill also provides a 1-year program of support for demonstration of home health agencies, a 2-year program of support for vitally needed rape prevention and control programs, as authored by Senator MATHIAS.

Rape is a problem of increasing significance. FBI statistics indicate that the number of reported rapes are increasing more than 10 percent a year, and the FBI adds that this is a markedly underreported problem. The woman who is a victim of rape may experience both physical and mental trauma, yet has problems acquiring adequate treatment. I believe that now is the time to begin to develop a nationwide response to this problem.

There is also a 2-year program of support for blood fractionation and diagnostic centers for hemophilia, all these programs involving approximately $50 million over the life of the bill.

Mr. President, I believe that the provisions of this bill can make an important contribution to the health of all Americans, and I urge its support.

EXHIBIT 1

THE WHITE HOUSE: MEMORANDUM OF DISAPPROVAL

I have withheld my approval from H.R. 17085, a bill that would amend Title VIII of the Public Health Service Act to provide support for the training of nurses.

This measure would authorize excessive appropriations levels—more than $650 million over the three fiscal years covered by the bill. Such high Federal spending for nursing education would be intolerable at a time when even high priority activities are being pressed to justify their existence.

I believe nurses have played and will continue to play an invaluable role in the delivery of health services. The Federal taxpayer can and should selectively assist nursing schools to achieve educational reforms and innovations in support of that objective. The Administration's 1976 budget request will include funds for this purpose. Furthermore, I intend to urge the 94th Congress to enact comprehensive health personnel training legislation that will permit support of nurse training initiatives to meet the new problems of the 1970's.

This act inappropriately proposes large amounts of students and construction support for schools of nursing. Without any additional Federal stimulation, we expect that the number of active duty registered nurses will increase by over 50 percent during this decade.

Such an increase suggests that our incentives for expansion have been successful, and that continuation of the current Federal program is likely to be of less benefit to the Nation than using these scarce resources in other ways. One result of this expansion has been scattered but persistent reports of registered nurse unemployment particularly among graduates of associate degree training programs.

Today's very different outlook is not reflected in this bill. We must concentrate Federal efforts on the shortage of certain nurse specialists, and persistent geographic maldistribution. However, this proposal would allocate less than one-third of its total authorization to these problems. Moreover, it fails to come to grips with the problem of geographic maldistribution.

Support for innovative projects—involving the health professions, nursing, allied health, and public health—should be contained in a single piece of legislation to assure that decisions made in one sector relate to decisions made in another, and to advance the concept of an integrated health service delivery team. By separating out nursing from other health personnel categories, this bill would perpetuate what has in the past been a fragmented approach.

The enrolled bill would also extend various special nursing student assistance provisions of current law. Nursing students are overwhelmingly undergraduates, and as such should be—and are—entitled to the same types of student assistance available generally under the Office of Education's programs for post secondary education. These include, in particular, guaranteed loans and basic educational opportunity grants for financially hard-pressed students. Categorical nursing student assistance activities are not appropriate and should be phased out, as the Administration has proposed.

GERALD R. FORD.

THE WHITE HOUSE, *January 2, 1974.*

THE WHITE HOUSE: MEMORANDUM OF DISAPPROVAL

I have withheld my approval from H.R. 14214, the "Health Revenue Sharing and Health Services Act of 1974."

H.R. 14214 conflicts with my strong commitment to the American taxpayers to hold Federal spending to essential purposes. The bill authorizes appropriations of more than $1 billion over my recommendations and I cannot, in good conscience, approve it. These appropriation authorizations are almost double the funding levels I have recommended for Fiscal Year 1975 and almost triple the levels I believe would be appropriate for 1976.

As part of my effort to see that the burden upon our taxpayers does not increase, I requested the Congress last month to exercise restraint in expanding existing Federal responsibilities, and to resist adding new Federal programs to our already overloaded and limited Federal resources. These recommendations reflect my concern with both the need to hold down the Federal budget and the need to limit the Federal role to those activities which can make the most necessary and significant contributions.

In H.R. 14214, the Congress not only excessively increased authorizations for existing programs but also created several new ones that would result in an unjustified expenditure of Federal taxpayers' funds. Although the purposes of many of the programs authorized in this bill are certainly worthy, I just cannot approve this legislation because of its effect upon the economy through increased unwarranted Federal spending.

Finally, it should be pointed out that the Federal Government will spend almost $20 billion in 1975 through Medicare and Medicaid for the financing of health services for priority recipients—aged and low-income persons. These services are provided on the basis of national eligibility standards in Medicare and State eligibility standards in Medicaid and therefore are available to individuals in a more equitable and less restrictive manner than many of the programs authorized in H.R. 14214.

GERALD R. FORD.

THE WHITE HOUSE, *December 23, 1974.*

By Mr. KENNEDY (for himself and Mr. BROOKE):

S. 67. A bill to establish the Nantucket Sound Islands Trust in the Commonwealth of Massachusetts, to declare certain national policies essential to the preservation and conservation of the lands and waters in the trust area, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

NANTUCKET SOUND ISLANDS TRUST

Mr. KENNEDY. Mr. President, I am introducing today for myself and Senator BROOKE legislation to establish the Nantucket Sound Islands Trust. The bill we introduce is the fourth version of legislation to preserve and protect a unique area of the United States and represents the work of the residents of the Cape Cod Islands, the extensive efforts of the Senate Interior Subcommittee on Parks and Recreation, and the testimony of concerned groups and citizens from

the islands and from across this Nation who are expert in the problems of preservation.

As I made clear when the legislation was first introduced on April 11, 1972, we have engaged in a process of change and refinement resulting in the bill we introduce today. It was clear from the outset that any plan or program to protect from overdevelopment an area comprising several islands, with several local government bodies, with problems unique to each locality would be necessarily complex in order to be comprehensive. The refinement process would be long and require a great deal of effort from the citizens involved. We have come a long way since April 1972 and the program outlined in the present legislation is the product of that long refinement process.

What we look forward to early in this session is a commitment by the Congress to underline the commitment by the residents of Nantucket and Martha's Vineyard and the Elizabeths to assure that to the next generation these islands will not look like every suburb in this Nation. The residents of the Vineyard were successful in carrying that message to the State legislature; and as a result a new State law is in effect and a new commission has begun its work to provide sensible land use planning for the Vineyard. On Nantucket, the residents voted in a referendum in November to support a Federal role in the protection and preservation of that island. And we are all familiar with the leadership of the residents of the Elizabeth Islands to make those islands one of the most beautiful areas of the country.

All of these efforts at the local level and at the level of State government do not mean that a role for the Federal Government is not needed or desirable. All of these efforts demand recognition by the Congress that there is a major effort required by the Federal Government if the job is to be completed. The former Governor of the Commonwealth pointed out in his testimony before the Senate Subcommittee on Parks and Recreation last August that there can be no real preservation without legislation at the Federal level.

Mr. President, I would like to say a word at this point about the work of the Senate Interior Committee and its Subcommittee on Parks and Recreation under the leadership of Senator JACKSON and Senator Bible who retired last month. Without the assistance and counsel of these distinguished Senators and their staffs, we would have been unable to develop the legislation we introduce today. Through hearings here in Washington and a trip to the islands to listen to the concerns of the residents, we have been able to refine and perfect this bill to reflect those concerns. Senator Bible and Senator JOHNSTON came to Nantucket and Martha's Vineyard and traveled to the islands to see firsthand the potential in protecting a rare and beautiful area; and we all learned from the residents how best to accomplish this.

There are two major myths involved in the consideration of Federal assistance to protect populated areas from overdevelopment. The first is that unless there is a large wilderness area which can be acquired and set aside by the Government for preservation the problems of dealing with local government and local concerns in a populated area are overwhelming. This is untrue.

Preserving and protecting the values of areas where generations have made their homes simply requires a more tailored solution designed to take into account the unique resources of the area. There is no place in this country in greater need of preservation areas than the East where the greatest numbers of families live, where the largest cities preclude adequate open spaces, where urban life without relief can be stifling. And without the expertise and experience of those in the Federal Government who have dealt with all these problems, we cannot expect to be successful in saving any part of the east coast from becoming one long megalopolis.

A second myth suggests that there is no national interest in orderly growth for communities across this Nation which happen to be situated in areas of dwindling and fragile resources. The residents of these special areas have been the caretakers of these resources for generations; and they face overwhelming development from interests who care little about the future of the area or the direction or pace of its growth. There is a national interest in halting the kinds of disorderly and unchecked growth that strangles communities who do not have the legal or statutory tools to plan their own destiny. There is a national interest in providing that those areas of this Nation which possess rare historical, cultural, and natural resources will not be propelled into the same senseless overdevelopment which plagues so many towns and cities in this country. There is a national interest in preserving the notion that local communities should be able to decide their own futures.

Congress has recognized these values in the national interest by establishing the Cape Code National Seashore and the Point Reyes National Seashore and the Grand Teton National Park. In the legislation we introduce today, the Congress will have the opportunity to consider an innovative and imaginative approach developed essentially by the residents of the Nantucket Sound Islands to protect the islands from overdevelopment. It sets up a partnership between Federal, State, and local governments to work together to solve problems at minimum costs at every level of government. It sets up a new decisionmaking process which allows local residents to play the major role in developing programs for orderly growth and conservation of resources. It removes the necessity of Federal Government day-to-day management responsibilities while at the same time taking advantage of Federal Government expertise in preservation.

During these opening weeks of the Congress, we will continue to work with the committee and the Department of Interior to perfect the language of this legislation so that the full Senate may have the opportunity at a very early date to consider this legislation which means a great deal to the residents of the Nantucket Sound Islands and could signal a renewed commitment by the Congress to assist our most vulnerable areas by listening to the concerns of those who live there.

I ask unanimous consent that the full text of the bill be printed at the conclusion of my remarks and Senator BROOKE's remarks.

Mr. BROOKE. Mr. President, I am pleased to introduce, together with Senator KENNEDY, a bill to preserve and protect the beautiful, historic Nantucket Sound Islands. This legislation is the product of years of effort to arrive at a means of protecting these lovely islands in a manner consistent with the rights of local citizens to govern themselves.

The Nantucket Sound islands, created nearly 50,000 years ago in the wake of giant glaciers form veritable jewels off the southern coast of Cape Cod in southeastern Massachusetts. Like so many coastal islands, they harbor a relatively small permanent population only to have that population swell dramatically with the coming of each new summer. Martha's Vineyard, for instance, has only 6,000 year-round residents but an astounding 40,000 to 50,000 summer residents. And as happens all too often in similar summer retreats the sheer numbers of people coming to these islands have posed a grave threat to the very things these people seek: the islands' natural beauty, serenity, and fragile ecology. Indeed burgeoning development now mortally threatens these once tranquil islands, development orchestrated by large developers who possess no sense of place with these islands, only a sense of profit.

The legislation we introduce today is part of a coherent, Federal-State-local response to this identifiable threat. And while it has taken years to iron out all the difficulties attendant to this kind of endeavor, I think we are very close to what will be the best possible solution.

Spearheading this effort has been an enthusiastic, inexhaustible local citizenry. Indeed, I can think of few issues where concerned citizens played as active a role in actually shaping State and Federal legislation. The State government has been equally admirable as it moved quite quickly to enact a State land use planning measure for the island of Martha's Vineyard.

Not only did this act open the door for even more meaningful citizen participation in the planning of the island's future, but more importantly it became the catalyst for the unique Federal-State-local partnership which we hope will inform the actions taken to preserve and protect these islands. While pleased with this State and local action, I can only add that I hope similar State land use measures can be enacted for Nantucket and the Elizabeth Islands.

The legislation we offer today is the capstone of the unique partnership which I have mentioned. It is so intended. Its basic intent is to afford islanders the needed tools with which to develop and implement a sound planning and preservation program. In contrast to previous legislative efforts, major responsibility in both the development

and the implementation of these programs lies with the local citizenry. In short, this bill helps islanders help themselves.

As I have said before, this bill is not so much a remedy as it is a challenge. And it is a challenge to which I am confident the residents of Martha's Vineyard, Nantucket, and the Elizabeth Islands can and will rise. For it is only through the efforts of these tireless citizens that Senator Kennedy and I can introduce this legislation today. And it will be because of their dedication and enthusiasm that this bill will achieve its goals.

Mr. President, I have no doubt that the bill we offer today will be the subject of further scrutiny. For instance the Department of Interior has been quite active in helping us devise a proper Federal role in this matter. We welcome their efforts for they will no doubt lead to further strengthening of our initiative. But, I believe that the bill which we introduce today sets forth the format by which we can best insure the Nantucket Sound Islands' preservation and protection from the kind of unchecked development which threatens so many of our Nation's scenic and historic islands. I look forward to its early enactment.

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

S. 67

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

FINDINGS AND STATEMENTS OF POLICY

SECTION 1. The Congress finds and declares—

(a) that the Nantucket Sound Islands in the Commonwealth of Massachusetts, known generally as the Islands of Nantucket, Tuckernuck, Muskeget, Martha's Vineyard, Noman's Land, and the group of islands known collectively as the Elizabeth Islands, possess unique natural, scenic, ecological, scientific, cultural, historic, and other values;

(b) that there is a national interest in preserving and conserving these unique values for the present and future well-being of the Nation and for present and future generations;

(c) that in some portions of the Nantucket Sound Islands these unique values are being irretrievably damaged and lost through ill-planned development, and that such development threatens heretofore successful local government and private voluntary preservation and conservation efforts;

(d) that the present State, regional, and local powers and authorities for controlling land and water uses are inadequate to preserve and conserve the unique values of the said islands;

(e) that the key to more effective preservation and conservation of the unique values of the Nantucket Sound Islands is a program encouraging coordinated action by Federal and State Governments to assist local governments, in partnership with private individuals, groups, organizations, and associations, to administer sound acquisition and management policies regulating ill-planned development;

(f) that such a program can protect the natural character and cultural and historic heritage of the Nantucket Sound Islands consistent with maintenance of sound local economies and private property values, thus preserving and conserving their unique values; and

(g) that because expanded access to the said islands would seriously impair their unique values and be in contravention to the purposes of this Act, it shall be national policy that no bridge, causeway, tunnel, or other direct vehicular access be constructed from the mainland to the islands.

NANTUCKET SOUND ISLANDS TRUST

SEC. 2. (a) In order to provide for the preservation and conservation in the national interest of the unique natural, scenic, ecological, scientific, cultural, historic, and other values of the Nantucket Sound Islands, there is established in the Commonwealth of Massachusetts the Nantucket Sound Islands Trust (hereinafter referred to as the "trust"), comprising the area described in section 4 herein.

(b) Guidelines contained in this Act shall be the basis for programs and policies to preserve and conserve the unique values of the trust area, and when such programs and policies have been adopted by the islands trust commissions as hereinafter provided, they shall be administered by those commissions. Such policies and programs shall protect the unique values of the trust area through land use controls designed to encourage wise and prudent stewardship of land and water resources consistent with maintenance of sound local economies.

NANTUCKET SOUND ISLANDS TRUST COMMISSIONS

SEC. 3. (a) There are hereby established the Nantucket Trust Commission, the Martha's Vineyard Trust Commission, and the Elizabeth Islands Trust Commission, to be known collectively as the Nantucket Sound Islands Trust Commissions (hereinafter referred to as the "commissions").

(b) NANTUCKET TRUST COMMISSION.—The Nantucket Trust Commission shall have the responsibilities as established herein over the lands and waters in Nantucket County, and shall be composed of seven members serving three-year staggered terms which shall commence on the first Monday in April. Members shall be selected as follows:

(1) a member appointed by the Secretary of the Interior (hereinafter referred to as the "Secretary");

(2) a member appointed by the Governor of the Commonwealth of Massachusetts (hereinafter referred to as the "Governor");

(3) two members appointed by the Board of Selectmen of the Town of Nantucket within two weeks after the annual town meeting, one of whom shall be a seasonal resident property owner;

(4) two members who shall be qualified voters of the town and shall be elected at the annual election which is a part of the annual town meeting; and

(5) a member appointed by the Nantucket Planning Board within two weeks after the annual town meeting, who shall be a qualified voter of said town. Not more than one member of the commission may serve simultaneously in any elective town or county office.

(c) MARTHA'S VINEYARD TRUST COMMISSION.—The Martha's Vineyard Trust Commission shall have the responsibilities as established herein over the lands and waters in Dukes County, excepting the Elizabeth Islands, and shall be composed of twenty-two members serving two-year staggered terms which shall commence on January 1 of each year. Members shall be selected as follows:

(1) a member appointed by the Secretary;

(2) a member appointed by the Governor;

(3) a member appointed by the board of selectmen of each town on Martha's Vineyard who may be a selectman, a member of a planning board, or of any other municipal agency board, department, or office of that town;

(4) a member appointed by the Dukes County commissioners, who may or may not be a Dukes County commissioner;

(5) nine members elected at large in an islandwide election, with not less than one member nor more than two members to be elected from any one town on Martha's Vineyard; elections held subsequent to the initial election of members shall be held concurrent with the biannual elections for State and county offices;

(6) four members whose principal residence is not on Martha's Vineyard but who pay taxes on property owned by them on Martha's Vineyard, two of such members to be appointed by the Secretary and two by the Governor: *Provided*, That such members shall have voice but no vote in deciding matters before the commission. Only the members selected under paragraphs (3) and (4) of this subsection may hold elective town or county office during their terms of office as commission members.

In the event that the laws of the Commonwealth of Massachusetts either before or after enactment of this Act provide for a new regional agency with planning or regulatory responsibilities for all or a part of trust lands and waters on Martha's Vineyard, such agency will, upon a majority vote of its members, serve as the Martha's Vineyard Commission herein established.

(d) ELIZABETH ISLANDS TRUST COMMISSION.—The Elizabeth Islands Trust Commission shall have the responsibilities as established herein over the lands and waters of the Elizabeth Islands, and shall be composed of seven members serving three-year staggered terms which shall commence on the first Monday in April. Members shall be selected as follows:

(1) a member appointed by the Secretary;

(2) a member appointed by the Governor;

(3) a member elected at the annual election which is a part of the annual town meeting;

(4) two members appointed by the board of selectmen to represent the island of Cuttyhunk, one of whom shall be a permanent resident of Cuttyhunk and one of whom shall be a seasonal resident of Cuttyhunk; and

(5) two members appointed by the board of selectmen to represent the other islands in the Elizabeth Islands, one of whom shall be a permanent resident of one of such other islands, and one of whom shall be a seasonal resident of one of such other islands.

(a) GENERAL PROVISIONS APPLICABLE TO COMMISSIONS.—(1) Each commission shall have a chairman. The chairmen of the commissions shall each be elected by the membership thereof for a term of not to exceed two years. Any vacancy in the commissions shall be filled in the same manner in which the original selection was made, except that interim appointments may be made by the remaining members of the commission.

(2) All members of the commission shall be paid at the rate of $50 per diem when actually serving. The Secretary is authorized to pay the expenses reasonably incurred by the commissions in carrying out their responsibilities under this Act on the presentation of vouchers signed by the chairmen.

(3) The commissions shall publish and make available to the Secretary and to the public an annual report reviewing matters relating to the trust, including acquisition of lands, progress toward accomplishment of the purposes of this Act, and administration, and shall make such recommendations thereto as they deem appropriate to the Secretary, Governor, and the towns.

(4) The commissions may employ such permanent or part-time professional, clerical, or other personnel as they find are required, and may engage such other professional services as they may reasonably require. Each commission shall have an office and a mailing address at a central location in the area of its jurisdiction, and such office shall be where its ordinary business is conducted and its maps and records kept.

(5) The commissions shall each have the authority to appoint commission advisory committees in their own discretion. Each

commission shall designate three members to serve on a coordinating committee with members of the other commissions to treat matters of common concern.

(6) At its first meeting each commission shall adopt bylaws and rules of procedure, which may include dates of meetings, public distribution of information relating to commission activities, disclosure of ownership interest in trust lands by commission members, and any other matters normal to the operation of such bodies and consistent with the purposes of this Act. The commissions shall comply with the provisions of the Massachusetts Open Meetings Law, and they shall be deemed to be "boards" within the meaning of said law. In exercising their management and administrative responsibilities under this Act the commissions shall not adopt regulations which are less restrictive than regulations in force and effect in the Commonwealth of Massachusetts or the respective towns within the trust area.

TRUST AREA

SEC. 4. (a) The area comprising the trust shall encompass the following lands and waters in the Commonwealth of Massachusetts:

(1) Nantucket Island, and the islands to westward called variously Smith's Island or Esther Island;

(2) Tuckernuck Island;

(3) Muskeget Island;

(4) Martha's Vineyard Island, and various islands appurtenant to it;

(5) Norman's Land Island;

(6) the Elizabeth Islands, including but not limited to the islands of Cuttyhunk, Nonamasset, Naushon, Pasque, Nashawena, Uncatena, Penikese, and the Weepeckets; and

(7) any other lands and waters in Nantucket County and Dukes County in the Commonwealth of Massachusetts.

(b) The area included in the trust may be changed only by an amendment to this Act, and only after petition therefor by the commissions with the concurrence of—

(1) the town or towns affected expressed by vote of a town meeting or meetings;

(2) the Governor; and

(3) the Secretary.

(c) NOMAN'S LAND.—The lands and waters of Noman's Land Island are hereby declared part of the National Wildlife Refuge System and the Secretary is directed to prepare and execute forthwith the necessary documentation to give effect to such declaration. The Secretary and the Secretary of Defense shall, within twelve months after the date of enactment of this Act, survey Noman's Land Island and the surrounding waters for unexplored military ordnance and render such ordnance, wherever it may be found, harmless; and thereafter, Noman's Land Island shall be administered pursuant to the National Wildlife Refuge System Administration Act (16 U.S.C. 668dd).

CLASSIFICATION OF TRUST LANDS

SEC. 5. (a) Lands and waters within the trust area shall all be assigned to the classifications established in subsection (b) of this section. Upon the date of enactment of this Act, such lands and waters shall be assigned to classifications as set forth in section 6 and section 17 of this Act.

(b) CLASSIFICATIONS OF TRUST LANDS.—

(1) CLASS A: OPEN LANDS.—Lands and waters so classified shall remain forever free of improvements, as defined hereinafter, of any kind except as provided herein. If improvements exist on any lands so classified on the date of enactment of this Act, then there shall be permitted a right of use and occupancy to the legal or beneficial owner or owners thereof, or their successors or assigns, for so long as such successors or assigns are members of the same family or families as the legal or beneficial owner or owners. If, however, the legal or beneficial owner or owners seek to sell or otherwise convey the improvement with or without the land thereunder to others than legal or beneficial owners or members of the same family or families as the legal or beneficial owner or owners, then the commissions and the Secretary shall have an exclusive option to purchase said improvement with or without the land thereunder at full and fair market value, which shall be promptly determined, and such option shall exist for sixty days after such determination. If such option is exercised, then the improvement may be moved or removed; if such option is not exercised, then the sale or other conveyance may proceed in the ordinary course. For the purposes of this paragraph, family shall mean siblings of a legal or beneficial owner or owners, lineal descendants natural or adopted, or relatives by marriage. Any change in access to and/or use of lands classified as "Class A: Open Lands" must first be approved by the commissions and the Secretary, except that uses shall be in a manner not less restrictive than permitted by general purpose local ordinances, bylaws, and regulations from time to time in effect. Owners of improvements may make necessary repairs, and may make replacements or extensions thereto which shall not alter the basic character of the lands, with the approval of the commissions and the applicable local government agency.

(2) CLASS B: RESOURCE MANAGEMENT LANDS.—Lands and waters so classified shall not be developed beyond their present intensity of use, except as provided in this paragraph. Owners of such lands, or of improvements thereon, or of both, may transfer, sell, assign, or demise such land or improvements, or both. Reasonable replacement and extension of improvements shall be permitted, under regulations issued by the commissions. Development on lands so classified beyond their present intensity of use shall be permitted only under regulations consistent with the following guidelines:

(i) the overall intensity must take into account the capability of the land for such development, which shall include consideration of existing land use, intensity of uses in the immediate vicinity, area-wide water quality and quantity, soil conditions, roadway utilization, and visual and topographic conditions;

(ii) the overall intensity guideline shall not be translated into uniform lot sizes and applied to the land so classified, but shall be applied with flexibility to encourage sound land use planning respecting the varying natural values of the different geographical areas of land; and

(iii) the area upon which intensity is calculated shall not include bodies of water or wetlands classified as such under Massachusetts Wetlands Protection Act (131 M.G.L. 40).

Regulations consistent with these guidelines shall be issued by each commission within three months, and shall become effective only after a public hearing or hearings thereon to be held within thirty days of issuance and after approval by the Governor and the Secretary. After such regulations have become effective, the provisions of section 16 herein as they apply to the lands covered by the regulations shall no longer apply; and construction of improvements on such lands shall thereafter be permitted so long as the appropriate commission has issued a permit therefor indicating satisfaction of the conditions of this paragraph.

(3) CLASS C: TOWN LAND.—Lands and waters so classified shall remain under the jurisdiction of the town in which located for purposes of planning and zoning ordinances and other land use regulations: *Provided*, That such planning and zoning ordinances and other land use regulations shall be reviewed and commented upon by the commissions and the Secretary as to consistency with the purposes of this Act prior to the adoption of such ordinances or regulations or amendments thereto: *And provided further*, That the commissions may review and comment upon variances proposed to be granted pursuant to any local zoning ordinance.

ASSIGNMENT OF TRUST LANDS

SEC. 6. (a) Assignment of lands and waters within the trust area to the classifications established by section 5 of this Act shall be as depicted on official Nantucket County and Dukes County Nantucket Sound Island Trust maps on file and available for public inspection in—

(1) the offices of the selectmen of the towns within the trust area;

(2) the offices of the commissions;

(3) the offices of the Massachusetts Secretary of Communities and Development; and

(4) the offices of the National Park Service, Department of the Interior.

(b) Changes to the maps indicating changes in such assignments to classifications shall be made after the date of enactment of this Act as follows—

(1) minor corrective adjustments in the location of boundary lines due to technical or clerical errors may be made within one hundred and eighty days after the first official meeting of a commission by vote of such commission and with the concurrence of the board of selectmen of the town affected;

(2) other changes in the location of boundary lines between classifications may be made by a commission acting pursuant to an affirmative vote thereon by a town meeting or meetings of the town or towns affected, with the concurrence of the Governor and the Secretary: *Provided*, That should either the Governor or the Secretary, or both, not concur, then such change shall become effective upon a subsequent two-thirds vote by the commission: *And provided further*, That no vote upon a proposed change shall be made at a town meeting until after a public hearing on such change has been held.

(c) Any changes to the maps changing the location of boundary lines between classifications shall be recorded on the official maps within seven days after such changes become effective, by the officials responsible for posting said maps.

ACQUISITION OF LANDS

SEC. 7. (a) GENERAL AUTHORITY.—(1) Within the area of the trust, the Secretary is authorized to acquire lands and waters and interests therein at fair market value for the purpose of this Act (i) by donation or transfer from any Federal agency, (ii) by purchase with donated or appropriated funds or transfer funds, or (iii) by exchange: *Provided*, That after the date of enactment of this Act, the Secretary may not purchase any lands or waters or interests therein without being authorized to do so by the majority affirmative vote thereon by the commission within whose jurdisdiction the lands or waters or interests therein are located. In exercising his authority to acquire property under the terms of this Act, the Secretary shall conform to the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act (42 U.S.C. 4601). Any voting member of a commission may recommend an area for purchase, and at a regular meeting of the commission shall be able to obtain a record vote on such recommendation.

(2) Any lands or waters or interests therein, owned by the Commonwealth of Massachusetts or any political subdivision thereof, may be acquired only by donation. Notwithstanding any other provision of law, any property owned by the United States of America on the date of enactment of this

Act, located within the trust area may, with the concurrence of the agency having custody thereof, be transferred without consideration to the administrative jurisdiction of the Secretary for use by him in carrying out this Act pursuant to its provisions.

(3) In exercising authority to acquire property under the terms of this Act, the commissions and the Secretary shall give immediate and special consideration to any offer made by an owner or owners of unimproved Class A: Open Lands or Class B: Resource Management Lands within the trust area to sell such lands to the Secretary. An owner or owners may notify the commissions and the Secretary that the continued ownership of those lands would result in hardship to such owner or owners, and the commissions shall immediately consider such evidence; and the Secretary shall, within six months following the majority affirmative vote thereon by the appropriate commission, and subject to the then current availability of funds, purchase the lands offered at the fair market value prior to April 11, 1972.

(4) In exercising his authority to acquire property by exchange, the Secretary may accept title to any non-Federal property located within such area and upon the majority affirmative vote of the appropriate commission, may convey to the grantor of such property any federally owned property held as in trust by the commission and the Secretary within such area. The properties so exchanged shall be approximately equal in fair market value: *Provided,* That the Secretary may accept cash from or pay cash to the grantor in such an exchange in order to equalize the values of the properties exchanged.

(b) TRANSFER TO COMMISSIONS.—(1) Upon acquisition by him of any lands or waters or interests therein, the Secretary shall concurrently or as soon as is practicable thereafter transfer without consideration an undivided one-half interest in such acquisition to the commission within whose jurisdiction the lands or waters or interests therein are located.

(2) Thereafter, such lands or waters or interests shall be held jointly by the appropriate commmission and the Secretary as in a public trust.

(3) The lands or waters or interests therein so held as in trust shall be administered as described in this Act, and the Secretary and the commissions may exchange any such lands or interests so held as in trust pursuant to the provisions of this section.

(c) TAXATION.—(1) Nothing in this Act shall be construed to exempt any real property or interest therein held by the commissions and the Secretary under this Act from taxation by the Commonwealth of Massachusetts or any political subdivision thereof to the same extent, according to its value, as other real property is taxed.

(2) Nothing contained in this Act shall be construed as prohibiting any governmental jurisdiction in the Commonwealth of Massachusetts from assessing taxes upon any interest in real estate retained under the provisions of this Act to the nonexempt owner or owners of such interest, nor from establishing and collecting fees in lieu of taxes upon any nongovernmental use of lands acquired pursuant to this Act.

LIMITATIONS AND DEFINITIONS

SEC. 8. (a) Not later than one hundred and eighty days after the enactment of this Act, the commissions and the Secretary shall notify an owner or owners of Class B: Resource Management Lands. other than property designated for fee acquisition, of the minimum regulations on use and development of such property under which such property may be retained in a manner compatible with the purpose for which the trust was established. If the owner or owners of any such lands agree to the use and development of the property in accordance with such regulations, the Secretary may not acquire, without the consent of such owner or owners, such property or interests therein for so long as the property affected is used in accordance with such regulations, unless the commissions determine that such property, or any part thereof, is needed for other purposes as described in this Act. Such lands shall be included in the area upon which intensity is calculated for purposes of section 5(b)(2) herein.

(b) With respect to that property which the Secretary is authorized by the commissions to acquire without the consent of the owner under the terms of this Act, the Secretary shall initiate no proceedings therefor until after he has made every reasonable effort to acquire such property or interest therein by negotiation and purchase at the fair market value prior to April 11, 1972. The certificate of the determination by the Secretary or his designated representative (which may be the commissions) that there has been compliance with the provisions of this paragraph shall be prima facie evidence of such compliance: *Provided,* That nothing in this Act shall be construed to prohibit the use of eminent domain as a means of acquiring a clear and marketable title, free of any and all encumbrances.

(c) The commissions and the Secretary shall furnish to any interested person requesting the same a certificate indicating, with respect to any property, which the Secretary has been prohibited from acquiring without the consent to the owner in accordance with the provisions of this Act, that such authority is prohibited and the reasons therefor.

(d) DEFINITIONS.—As used in this Act, the term "improvement" means a detached, residential one-family dwelling, construction of which was begun before April 11, 1972, or such a dwelling for which a certificate of need was voted pursuant to section 16(a) herein, together with—

(1) so much of the land on which the dwelling is situated, the said land being in the same ownership as the dwelling, as the commissions and Secretary shall designate to be reasonably necessary for the enjoyment of the dwelling and land for noncommercial residential or agricultural purposes, and

(2) any structures accessory to the dwelling which are situated on such land.

The amount of the land subject to such designation in Class A: Open Lands and Class B: Resource Management Lands shall in every case be at least three acres in area, or all of such lesser acreage as may be held in the same ownership as the dwelling. In making such designations, the commissions and the Secretary shall take into account the manner of noncommercial residential use in which the dwelling and land have customarily been enjoyed: *Provided,* That the commissions and the Secretary may exclude from the land so designated any beach lands, together with so much of the land adjoining such beach lands, as they may deem necessary for public access thereto. If they make such exclusion, an appropriate buffer zone shall be provided between any dwelling and the public access or beach.

(e) As used in this Act, the terms "development" and "developed" shall mean the construction of an improvement.

(f) Should a commercial use in existence prior to April 11, 1972, be included as part of such a dwelling, it shall be considered a nonconforming use.

(g) The commissions shall establish regulations consistent with the purposes of this Act governing the status of boathouses, camps, piers, and other nonresidential structures.

EROSION CONTROL AND POLLUTION

SEC. 9. (a) The commissions, together with the Secretary, the Governor, and the Secretary of the Army, shall cooperate in a study and shall formulate plans for beach and shoreline erosion control and restoration projects on the Nantucket Sound Islands, especially in those areas most immediately threatened. Any protective works, including water resource developments and navigation improvements, for such control undertaken by the Department of the Army shall be carried out only in accordance with a plan that is mutually acceptable to the commissions, the Governor, and the Secretary, and is consistent with both the purposes of this Act and the purposes of existing statutes dealing with water and related resource development.

(b) The commissions together with the Governor and the Secretary shall undertake a program of dune and headland erosion control, beginning with those dunes and headlands most immediately threatened and in need thereof. Such dune and headland erosion may be that caused by natural wind and water action, by motor vehicle passage, or by other factors, and such programs may have the purposes of restoring past and present damage and of preventing further damage.

(c) The commissions, together with the Governor and the Secretary, shall cooperate with the appropriate Federal, State, and local agencies to provide safeguards against pollution of the waters in and around trust lands. Such safeguards shall include an immediate survey of the quality of ground water conditions in all or any part of the area of the trust, and the necessary funds therefor may be drawn from the appropriations authorized by section 20 herein.

BEACHES

SEC. 10. (a) All beach lands within the trust area, with the exception of beach lands classified as "Class C: Town Lands", shall be classified as "Class A: Open Lands", notwithstanding that such beach lands may be classified as "Class B. Resource Management Lands" by other provisions of this Act.

(b) As used in this Act, the term "beach lands" shall mean the wet and dry sand area lying between the mean low water line and the base of the headlands, or the visible line of upland vegetation, whichever shall be closer to the mean low water line, and shall include dunes, rock beaches, wetlands, marshes, and estuarine areas adjoining tidal waters.

(c) There is herewith established a nonvehicular right of passage—

(1) in "Class A: Open Lands", at the high water line of sufficient width for a person to pass and repass; and

(2) in "Class C: Town Lands", at the high water line of sufficient width for a person to pass and repass, but only in those specified areas which each commission shall, within six months after its first meeting, establish as right of passage beach lands.

The rights of owners of residential improvements on beach lands as of April 11, 1972, shall be respected; and the commissions shall not permit the right of passage created in paragraphs (1) and (2) of this subsection where such right would interfere with the use and enjoyment of such improvements by the owners thereof.

(d) Upon agreement therefor by the commissions and the Secretary, the Secretary may acquire in any manner authorized by this Act lands and waters and interests therein in the trust area for the purposes of—

(1) establishing public beaches open to public use and enjoyment; and

(2) establishing access to such beaches.

Such public beaches may or may not be enlargements of existing public beaches, but in any case shall to as great an extent as

possible be located so as to be consistent with the conservation and preservation purposes of this Act. Access to such public beaches shall respect the rights of private property owners in the immediate vicinity, and shall be designed to protect the natural features of the land. The commissions shall establish limitations on the number of vehicles to be parked at public beach areas. Within twelve months after its first meeting, the Martha's Vineyard Commission shall designate two new public beaches on the southern or southwestern shoreline of Martha's Vineyard; neither of such new areas shall, however, be enlargements of existing beaches open to public use.

(e) Six months after the first meeting of each commission, motor vehicles, open fires, and camping shall be prohibited from beach lands within the area of its jurisdiction: *Provided,* That each commission may designate beach land areas open to such uses, and shall adopt regulations specifying the conditions of use within six months after its first meeting: *And provided further,* That until such regulations are adopted use of beach lands shall be as determined by existing State and local laws.

(f) The commission shall, within thirty days, develop plans for protection and litter prevention on beach areas. These plans will be implemented by funds as provided in section 20 of this Act.

ADMINISTRATIVE PROVISIONS

SEC. 11. (a) As to the responsibilities assigned to the Secretary by this Act, the same shall be administered in accordance with the provisions of this Act and the Act of August 25, 1916 (16 U.S.C. 1 et seq.), as amended and supplemented, except that the Secretary may utilize any other statutory authority available to him for the conservation, preservation, and management of natural resources to the extent he files such authority will further the purposes of this Act.

(b) The Secretary is authorized to provide technical assistance to the commissions and the towns and regional governmental entities, and to provide the same to private organizations and associations, for the purposes of establishing sound land use planning and zoning bylaws and other ordinances and regulations to carry out the purposes of this Act. Such assistance may include payments for professional services.

TRANSPORTATION AND GENERAL USES

SEC. 12. (a) The commissions, together with the Governor and the Secretary, shall make an immediate survey of public and private water and air access to lands in the trust area, including that by the Woods Hole, Martha's Vineyard, and Nantucket Steamship Authority, and by other public and private water and air carriers, and shall make such recommendations to the appropriate body or bodies for legislative or administrative action as they deem consistent with the preservation and conservation purposes of this Act. Such recommendations shall include specific measures to limit the number of motor vehicles and passengers such carriers might otherwise transport to the Nantucket Sound Islands. Thereafter, regular and frequent surveys of such access shall be conducted, and such recommendations shall be made as are deemed appropriate to maintain the unique values of lands and waters in the trust area. Such recommendations may include intra-island transportation programs and policies.

(b) No development of plan for the convenience of visitors to trust lands or waters shall be undertaken which would be incompatible with the preservation and conservation of the unique values thereof: *Provided,* That the commissions, the Governor, and the Secretary may jointly provide for the public enjoyment and understanding of the values of the Nantucket Sound Islands by establishing such public transportation systems, trails, bicycle paths, observation points, and exhibits, and by providing such services as they may deem desirable for such public enjoyment and understanding, consistent with the preservation and conservation of such values.

(c) In any such provision for public enjoyment or understanding, the commissions, the Governor, and the Secretary shall not unreasonably diminish for its owners or occupants the value or enjoyment of any improved property within the trust lands.

PRIVATE NONPROFIT ORGANIZATIONS

SEC. 13. (a) In order to encourage and provide an opportunity for the establishment of natural and scenic preserves by voluntary private action of owners of lands and waters in the trust area, and notwithstanding any provision in this Act or in any other provision of law, the authority established by this Act to acquire lands or interests therein without the consent of the owner shall be suspended when—

(i) lands or waters or interests therein which are designated as being presently or from time to time needed to carry out the purposes of this Act are irrevocably in the ownership of private nonprofit conservation, preservation, historic, or other organizations or associations, and the restrictions against the development of such lands meet the standards referred to herein; or

(ii) lands or waters or interests therein which are designated as being presently or from time to time needed to carry out the purposes of this Act are, to the satisfaction of the commissions, the Governor, and the Secretary and within twenty-four months after enactment of this Act, irrevocably committed to be sold, donated, demised, or otherwise transferred to such organizations or associations.

(b) Section 19 of this Act shall be suspended with respect to those lands and waters and interests to which subsection (a) of this section applies; and section 10 of this Act shall be similarly suspended whenever in the judgment of the commissions its applicability will contravene the purposes of this Act or any provision of law of the Commonwealth of Massachusetts.

(c) The provisions of this section shall be applied only to those organizations and associations which are determined to be bona fide and general purpose.

(d) All of the provisions of this Act, except sections 1, 2, and 3, shall be suspended with respect to any lands, waters, or interests therein so long as such lands, waters, or interests therein are within twenty-four months of the enactment of this Act irrevocably subject to a conservation restriction created, approved, and recorded under section 31 through 33 of chapter 184 of the General Laws of Massachusetts, which forbids, or in the judgment of the commissions, and the Secretary, as evidenced by their written approval of such restriction, substantially limits all or a majority of the land uses referred to in clauses (a) through (g) of the first paragraph of said section 31. Such conservation restriction shall be irrevocable unless notice of the intention to revoke is given to the commissions and the Secretary not less than twelve months prior to the proposed effective date of the revocation or unless the lands, waters, or interests therein are in whole or in part made subject to a taking by eminent domain.

COMPENSABLE LAND USE REGULATIONS

SEC. 14. The Secretary, after consultation with the commissions and the Governor and within six months after the date of enactment of this Act, shall issue proposed compensable land use regulations applicable to the trust, and after due notice shall cause public hearings to be held on such regulations. Thereafter, he shall issue compensable land use regulations applicable to the trust which shall—

(a) establish the manner in which the fair market value of lands or waters affected by the classification established in sections 5(b)(1) and 5(b)(2) and by the right of passage in section 10(c) shall be calculated where such classifications have caused a decrease in such value, and where the provisions of section 7(a)(3), 8(a), or 13(a) do not apply; and

(b) set forth the manner by which an owner or owners may pursue a right of action in any court of competent jurisdiction.

NEW EMPLOYMENT OPPORTUNITIES

SEC. 15. (a) The commissions are authorized and directed to examine the lands and waters and other resources of the trust area forthwith for the purposes of identifying and developing new employment opportunities of any kind for residents of the trust area appropriate to the purposes of this Act.

(b) As part of such examination, the commissions shall survey the lands and waters of the trust area for opportunities to experiment with and to encourage the development of aquaculture of all kinds, including but not limited to fish and shellfish and other associated activities.

(c) As soon as practicable but in no case later than six months after the date of enactment of this Act, each commission shall prepare a plan for the development of new employment opportunities which shall be adopted or amended only after public hearings have been held on the proposed plan or amendment. Such plan shall include—

(1) an identification of industries which should be established or enlarged to provide employment opportunities and of any training or retraining or public employment programs which should be established to further the goal of a sound local economy and the other purposes of this Act; and

(2) a schedule of specific activities to be undertaken to implement the goals included in the plan.

(d) The Secretary of the Interior, the Secretary of Commerce, and the Secretary of Labor are hereby authorized and directed to cooperate with the commissions in the implementation of the plans adopted in accordance with subsection (c) and in their other activities pursuant to the provisions of this section, and to provide technical assistance at the request of a commission, and are authorized to make available to the commissions for the purposes of this Act any funds appropriated to their respective departments under the authority of this or any other law without restriction.

(e) Any other provision of law to the contrary notwithstanding, the Nantucket Trust Commission, the Martha's Vineyard Trust Commission, and the Elizabeth Islands Trust Commission are hereby declared to be eligible applicants for any grant program administered by the Department of the Interior, the Department of Commerce, or the Department of Labor, for which applicants other than States are eligible; and the commissions may either carry out the activities under such grants themselves or arrange for activities under such grants to be carried out by the other entities in the trust area.

(f) The commissions shall to as great an extent as possible in the development of any regulations pursuant to this Act encourage the maintenance and commencement of agricultural uses of lands within the trust area.

FREEZE DATE

SEC. 16. (a) Beginning on April 11, 1972, no construction of any improvement, whether for residential, commercial, industrial, or any other purpose, shall be permitted to commence on any lands classified herein as "Class A: Open Lands". Construction of improvements shall be permitted on any lands classified as "Class C: Town Lands", only

upon the granting of specific approval therefor by the board of selectmen of the particular town, after a showing of the need therefor. Construction of improvements shall be permitted on any lands classified as "Class B: Resource Management Lands", only upon the granting of specific approval therefor by the board of selectmen of the particular town, after a showing of the need therefor. Approvals granted by a vote of board of selectmen pursuant to a finding of need therefor and pursuant to a statement of justification therefor, shall subsequently be deemed valid by the commissions, the Governor, and the Secretary.

(b) In the case of any hardship caused by the provisions of subsection (a) of this section, the commissions and the Secretary shall, on the basis of rules and regulations issued by the commissions and the Secretary, make a valuation thereof and shall award fair recompense to any individual for whom hardship is demonstrated.

INDIAN COMMON LANDS

SEC. 17. (a) The Martha's Vineyard Commission is directed to establish forthwith an orderly program for determining the precise extent of Indian Common Lands on Martha's Vineyard. The program shall include a survey or surveys, and such other research or field work as may be necessary to establish the boundaries of the Common Lands belonging to the Wampanoag Tribe of Indians and known generally as the Cranberry Bogs, the Clay Cliffs, and Herring Creek. The commission is further directed to determine the location, boundaries, and owners of record title of the monuments and burial grounds of the Wampanoag Tribe of Indians on Martha's Vineyard. Funds to carry out the program may be drawn from those authorized to be appropriated by section 20.

(b) Upon completion of the program described in subsection (a) of this section, lands determined to be Indian Common Lands shall be acknowledged as an Indian reservation owned by the Wampanoag Tribe of Indians, pursuant to confirmed Indian title and entitled to the full protection of Federal laws pertaining to Indian lands: *Provided,* That the provisions of section 5(b)(2) of this Act shall apply to such Indian reservation land, subject however to the sole administration and control of the Wampanoag Tribal Council of Gay Head. Lands determined to be Indian monuments or burial grounds which are found to be in private ownership shall be classified as "Class A: Open Lands", and such lands found to be in public ownership shall be transferred to the ownership of the Wampanoag Tribe of Indians and classified as "Class A: Open Lands".

(c) Nothing contained in this Act shall be construed to prejudice or limit any claims which the Wampanoag Tribe of Indians, or any member of that tribe, may have for past violations of their rights as Indians, including but not limited to claims arising under the Indian Trade and Intercourse Act (25 U.S.C. 177).

RESIDENT HOMESITES

SEC. 18. (a) Upon petition therefor by any town, acting pursuant to a vote of a town meeting, the appropriate commission shall, with the advice and assistance of the Governor and the Secretary and the Secretary of Housing and Urban Development, prepare a resident homesite plan.

(b) A resident homesite plan shall—

(1) state the reasons for the establishment of the plan;

(2) delineate the land area or land areas in the town intended to be utilized for carrying out the plan;

(3) define the criteria by which town residents may avail themselves of the plan;

(4) project the total number of sites envisioned by the plan; and

(5) establish the fair purchase value of such sites for qualified residents.

(c) Upon approval of a resident homesite plan by the appropriate town, and by the Governor and the Secretary, the Secretary is authorized to acquire for fair market value the land area or land areas specified in the plan by any manner authorized by this Act. The Secretary and the appropriate commission shall thereafter make resident homesites available for sale to qualified residents at the fair purchase value established in the plan. The difference between the fair market value and the fair purchase value shall be borne by the Secretary out of funds appropriated pursuant to section 20 of this Act.

(d) Any resident homesite sold under the authority of this section shall be subject to a right of first refusal in the Secretary and the appropriate commission.

(e) For the purposes of this section, the term "qualified residents" shall mean year-round residents who qualify for the plan under criteria established by the appropriate commission; and the terms "fair market value" and "fair purchase value" shall be determined by the criteria set forth by the appropriate commission.

HUNTING AND FISHING

SEC. 19. Hunting, fishing, and trapping on lands and waters within the trust area shall be permitted in accordance with the applicable laws of towns in the trust area, the Commonwealth of Massachusetts, and the United States, except that the commissions, the Governor, and the Secretary may designate zones where, and establish periods when, no hunting, no fishing, and no trapping shall be permitted for reasons of public health, public safety, fish or wildlife management, administration, or public use and enjoyment. Except in emergencies, any regulations prescribing any such restrictions shall be issued only after consultation with the appropriate agency of said Commonwealth and any political subdivision thereof which has jurisdiction over such activities.

APPROPRIATIONS

SEC. 20. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act; not to exceed, however, $20,000,000 for the acquisition of lands and interests therein, and not to exceed $5,000,000 for development both in April 1972 prices, for the first three years of the operation of the trust, plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs as indicated by engineering cost indices applicable to the types of construction involved herein: *Provided,* That there shall, within the total amounts authorized to be appropriated, be made available $300,000 for the development of the shellfish industry pursuant to section 15 of this Act, $500,000 for studies conducted pursuant to section 9(c) of this Act, and $1,000,000 for resident homesites programs pursuant to section 18 of this Act, and $100,000 for the implementation of plans to protect and provide litter prevention for all beach areas.

SEVERABILITY CLAUSE

SEC. 21. The provisions of this Act are hereby declared to be severable, and if any of its provisions are held to be invalid by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions.

By Mr. MONTOYA:

S. 68. A bill to establish a temporary special commission on Guadalupe-Hidalgo land rights. Referred to the Committee on the Judiciary.

Mr. MONTOYA. Mr. President, I am today introducing legislation to establish a temporary special commission to study and report on the land rights of descendants of land holders in the territories ceded to the United States by Mexico under the Treaty of Guadalupe-Hidalgo of 1848.

The controversy over these rights is not new. However, the deeply rooted feelings of bitterness and resentment among the approximately 11 million persons of Mexican-American descent is part of a growing disenchantment being expressed openly in many parts of the Nation, particularly in the Southwest. This is clearly manifest in the emergence of protest groups making demands upon State and Federal governments and upon "Anglo" communities.

The Government of the United States has been insensitive to this problem for many years. I think it is time for us to rethink the position of the Federal Government in this situation, and to search out the history and the record. If an injustice has been done, it is important that we right the wrong.

I would like to take this opportunity, Mr. President, to touch upon some of the history of the area concerned, and to explain to my colleagues the cultural and historical reasons for the resentment which so many Mexican Americans feel.

For the Spanish and the Indian peoples who settled originally on the land which is now the Southwestern part of the United States, the land itself was of great importance. Land, for these people, was more than just a commodity to be bought and sold. It was truly a part of the individual and the family, a part of the culture and the life, and a part of the tradition which had grown for centuries in importance. When this land was taken away from them, these people felt that life and tradition had also been taken away. With the land loss came poverty and a loss of pride and family honor.

The Treaty of Guadalupe-Hidalgo, signed in 1848, and ratified that same year by the Congress, guaranteed the property and civil rights of the people who lived on the land ceded to the United States. Despite this commitment by the Federal Government, the privilege of community landgrant ownership was denied to these people, and in many cases their rights were abrogated. Injustices did occur. It was a period of rapid expansion, of many misunderstandings, and of discrimination against the Spanish-speaking people of the Southwestern States.

Certainly, lack of land ownership is not the only problem of the Mexican American. Spanish-speaking citizens of the United States have historically been the victims of discrimination in almost every facet of their lives: in education, employment, housing, economic opportunities, and in the administration of justice. The confidence of these citizens in the fairness of our institutions is shaken. They doubt the sincerity of Government. Resentment and cynicism pervade their thinking.

In the last 10 years there has been a strong movement to eliminate discrimination for many groups in this Nation. The 1964 Civil Rights Act was designed to protect minorities and women from

the kind of discrimination which has tragically been a part of their lives for many years.

Great progress has been made in education, in employment, and in many other aspects of discrimination. However, nothing has ever been done to answer the questions which many Mexican Americans have pertaining to the rightful ownership of community land grants. The record is filled with case after case of gross abuse of the uneducated Spanish-speaking community by unscrupulous land grabbers. In some cases, sadly, the land grabber involved has been the Government.

Every attempt by the Spanish-speaking community to receive judicial or legislative review has failed. No attempt has ever been made to study the problem thoroughly.

Mr. President, if we are to fully restore the confidence of the Mexican-American citizen in the existence of equal justice under the law in the United States, we must take responsible action now. If certain lands have been wrongfully taken from these people, we must make amends.

The legislation I am introducing today would establish a Special Commission on Guadalupe-Hidalgo Land Rights. The commission would analyze specific provisions of the treaty to determine, among other things:

First, what property rights of land holders, their heirs and descendents, were protected by the treaty;

Second, whether those rights have been properly protected by the United States since 1848; and

Third, the most equitable means for settling claims for these land grant rights.

The commission will be asked to make interim reports to the Congress and the President, and to make a final report at the end of 18 months.

The purpose of this bill is not to dispossess those current legal landowners involved. Certainly those who have valid title to their property should not be concerned that the results of this study endanger their ownership or the value of their land.

However, approximately 100 million acres of the land in question is presently public land, mainly that of the Federal Government. It is possible that some restitution could be made where public land is concerned. The recommendations of the Commission would undoubtedly speak to the question of alternate compensation for those who are judged to have been wrongfully deprived of their rights under this treaty. That compensation would do much to restore confidence in the system to those in the Mexican-American community who feel themselves to be ignored today.

We must breathe new life into the concept of justice under law for the citizens of the United States who question its reality. We must find a way to prove to the Mexican-American citizen that his voice can be heard in an appeal to Government.

A public hearing on this question would allow the Nation to be fully informed about the position of all parties to this dispute and would allow the members of the Commission to question members of the Mexican-American community face to face.

This is a national problem, Mr. President. It is a national disgrace that we have so long ignored the feelings of the second largest minority in this country.

I urge the support of my colleagues for this bill. I ask unanimous consent that the bill be printed in the RECORD following my remarks.

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

S. 68

A bill to establish a temporary special commission on Guadalupe-Hidalgo land rights

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.

ESTABLISHMENT OF COMMISSION

SECTION 1. There is established a temporary commission to be known as the Special Commission on Guadalupe-Hidalgo Land Rights (hereafter referred to in this Act as the "Commission").

FINDINGS AND PURPOSE

SEC. 2. The Congress finds and declares that the property rights of persons living in territories ceded to the United States by Mexico pursuant to the Treaty of Guadalupe-Hidalgo, signed February 2, 1848, and the property rights of the heirs of such persons, are unclear. It shall be the purpose of the Commission to determine the nature and extent of such rights.

FUNCTIONS OF THE COMMISSION

SEC. 3. (a) The Commission shall make a comprehensive study and analysis of the provisions of the Treaty of Guadalupe-Hidalgo and shall determine—

(1) what property rights were vested by the treaty in private land holders and their heirs;

(2) whether those rights have been properly protected by the United States since 1848; and

(3) if the Commission finds that such rights have not been properly protected, the most equitable means of settling claims it deems meritorious.

(b) The Commission shall submit to the Congress and the President such interim reports as it deems advisable. Not later than eighteen months after the date of enactment of this Act, the Commission shall submit to the Congress and the President a final report, together with such recommendations, as it deems advisable.

(c) The Commission shall cease to exist sixty days after the submission of its final report.

MEMBERSHIP OF COMMISSION

SEC. 4. (a) The Commission shall be composed of five members appointed by the President, at least one of whom shall be an heir or descendant of a Mexican citizen whose property rights were affected by the Treaty of Guadalupe-Hidalgo.

(b) Three members shall constitute a quorum, but a lesser number may conduct hearings. The Chairman shall be selected by a majority of the members of the Commission.

(c) Members of the Commission shall, while serving on the business of the Commission, be entitled to receive compensation at a rate fixed by the Director of the Office of Management and Budget but not in excess of $125 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, as authorized by section 5703 of title 5, United States Code.

(d) All officers and employees of the Commission shall be subject to the provisions of sections 7324 through 7327 of title 5, United States Code, notwithstanding any exemption contained in such subsection.

POWERS AND ADMINISTRATIVE PROVISIONS

SEC. 5. (a) The Commission or, on the authorization of the Commission, any subcommittee thereof, may, for the purpose of carrying out the provisions of this Act, hold hearings, administer oaths for the purpose of taking evidence in any such hearings, take testimony, and receive documents and other matter. Any member authorized by the Commission may administer oaths or affirmations to witnesses appearing before a Commission, or any subcommittee thereof.

(b) Each department, agency, and instrumentality of the executive branch of the Federal Government shall furnish to the Commission, upon request made by the Chairman, such information as the Commission deems necessary to carry out its functions under this Act.

(c) The Commission, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and general schedule pay rates, shall have the power—

(1) to appoint and fix the compensation of such personnel as it deems necessary;

(2) to procure the services of experts and consultants in accordance with section 3109 of such title; and

(3) to adopt such rules and regulations as it deems necessary to carry out this Act.

AUTHORIZATION OF APPROPRIATIONS

SEC. 6. There are authorized to be appropriated to the Commission such sums as may be necessary to carry out the provisions of this Act.

By Mr. BIDEN:

S. 69. A bill to amend the Internal Revenue Code of 1954 to provide for a credit of $50 against the Federal income tax imposed for taxable year 1974. Referred to the Committee on Finance.

Mr. BIDEN. Mr. President, as we begin a new Congress, I think we all realize that there is an urgent need to take action on the economy. Every day we read of some economic indicator setting some sort of record—and it is always bad news. Unemployment is more than 7 percent and threatening to go to 8 or 9; retail sales have slipped drastically; bankruptcies, both personal and corporate are on the rise—yet so are food prices. We must take some steps to increase the purchasing power of the average American—and we must take those steps now.

Throughout the holiday season, we heard a lot of talk about a tax cut as a way to begin pulling us out of this recession. Now it is time to get down to specifics—if we are going to cut taxes, what is the best way to do it?

I feel that the legislation I am introducing represents the best approach to the problem. The bill simply provides that every individual taxpayer will receive a credit of $50 on his or her tax return for taxable year 1974—$100 for a joint return. If the return has already been filed, the taxpayer may simply file

for a refund. If he has not filed, he may claim the credit when he does file. If the taxpayer paid less than $50 in taxes—$100 on a joint return—he could only claim enough credit to reduce his tax to zero.

This bill seems superior to those measures calling for a permanent tax credit option or a permanent reduction in the withholding rates. Both the chairman of the House Ways and Means Committee and the Chairman of the Senate Finance Committee have indicated their desire to enact a substantive tax reform measure this year. I concur in their sentiments wholeheartedly. Since the prospects for tax reform are good, we should be tampering as little as possible with our system now. There is no point in rushing through a permanent change in our law if we are going to change it again shortly.

Representative ULLMAN, chairman of the House Ways and Means Committee has also indicated that he favors a short-term approach. We should provide tax relief now, then tax reform.

Proposals for a 1-year tax cut have centered around tax returns listing 1975 earnings. My proposal, on the other hand, deals with the return for 1974, the year just past.

Theoretically, by promising a tax credit on income a person is earning now will induce him or her to spend money in anticipation of the credit on income next year. The withholding reduction will probably not be noticeable. I question whether these psychological ploys will cause people to spend money.

Furthermore, what about the people who are unemployed? Since they pay no tax, they are not helped by the proposals on 1975 returns. A tax cut on the return for 1974, on the other hand, provides the taxpayer with an immediate cash payment. He or she need only file an amended tax return listing the amount of tax paid and the credit to be claimed. This benefit stretches to the person who was laid off in October, November or December of 1974. He or she probably worked most of the year, earning enough money to pay taxes and therefore eligible for the credit.

Although this proposal extends a credit to all taxpayers, the impact will clearly be felt most by those who earn the least. For instance, of the 77.7 million tax returns filed in 1973, 70.9 million listed income under $20,000. A $50 credit will not mean much to the person earning $100,000 a year, but will be very helpful to the person who earned $9 or $10 thousand before being laid off.

This proposal would increase the purchasing power of Americans by an estimated $5 billion. Some would argue that the figure is too low and that we should be providing relief in the neighborhood of $10 or $15 billion. It should be remembered that those proposals cover an entire year, while the $5 billion figure concentrates tax relief in the first quarter of this year, when we need it most. Additionally, I would remind my colleagues that we may already be facing a budget deficit of $30 billion and should be extremely wary of proposals which will push that deficit to $40 or $50 billion.

To summarize, Mr. President, the proposal I am offering provides immediate short-term relief to the American taxpayer, supplies needed purchasing power to increase demand and stimulate business and acts to help both the employed and unemployed. Additionally, by concentrating on providing cash in the first quarter of this year, it accomplishes the dual purpose of providing relief with fiscal stability—a goal which we must achieve.

Mr. President, I ask unanimous consent that the text of this bill be printed at this point in the RECORD.

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

S. 69

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (relating to credit allowable) is amended by redesignating section 42 as 43, and by inserting after section 41 the following new section:

"SEC. 42. BONUS CREDIT FOR TAXABLE YEAR 1974.

"There is allowed as a credit against the tax imposed by this chapter for the taxable year ending with or within calendar year 1974 an amount equal to $50 ($100 in the case of a joint return under section 6013).".

(b) The table of sections for such subpart A is amended by striking out the item relating to section 42 and inserting in lieu thereof the following:

SEC. 42. Bonus credit for taxable year 1974.
SEC. 43. Overpayments of tax.

By Mr. CRANSTON (for himself and Mr. TUNNEY):

S. 70. A bill to authorize the establishment of the Desert Pupfish National Monument in the States of California and Nevada, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

DESERT PUPFISH NATIONAL MONUMENT

Mr. CRANSTON. Mr. President, I introduce, on behalf of myself and Senator TUNNEY a bill to authorize the establishment of the Desert Pupfish National Monument in the States of California and Nevada. This bill is identical to measures I introduced in the 92d Congress (S. 2141) and the 93d Congress (S. 62) to set aside a 35,000-acre area to protect the few remaining desert pupfish.

The Ash Meadows area has been the home of the several species of pupfish for 20,000 years. During this time, the pupfish have adapted from the cold-water, postglacial lakes which covered the Western United States following the last ice age to a totally different and inhospitable environment, which is typified by Devils Hole—where the water is high in mineral content, low in oxygen, and 92° in temperature.

Yet the pumping of water by a local ranching operation has caused the water level in Devils Hole to drop to a dangerously low level. The desert pupfish may not survive another year unless steps are taken to preserve their unique habitat.

Saving the remaining species and subspecies of this endangered fish, along with the protection of their habitat, is of importance not only for the maintenance of nature's diversity, but because of their tremendous value for studies of genetic evolution. Already man's needless indifference has permitted the extinction of several subspecies, and two which live in the Ash Meadows area are on the brink of extinction.

In addition to the unique desert pupfish found in the Ash Meadows area, botanical research conducted by Dr. Janice C. Beatley of the laboratory of nuclear medicine and radiation biology of the University of California at Los Angeles, Assistant Professor of Botany James L. Reveal, of the University of Maryland, and others, has revealed unique species of plants growing in the Ash Meadows area—plants that are found in no other place in the world.

Some of these plants were restricted by evolution to this single area; most of them are entirely different from plants in surrounding areas of Nevada and California. If a Desert Pupfish National Monument were established, not only would the desert pupfish be rescued from extinction but these unique species of plants would be preserved. As Professor Reveal states—

We are fighting time. No advanced technology will ever replace an extinct species.

The desert region which I propose as the site of the Desert Pupfish National Monument, is a 40-acre parcel of hillside which is part of Death Valley National Monument, but separated by almost 20 miles of desert from the main body of the monument. The 40 acres was included in the national monument in 1952, because of a deep limestone chasm in the side of the hill at the bottom of which is a small warm water spring. It is called Devils Hole, and is surrounded by two chain link fences.

Outside of the fences the Park Service has erected a sign which reads as follows:

DEVILS HOLE

In the small pool at the bottom of this limestone cavern lives the entire population of *Cyprinodon diabolis*, one type of desert pupfish. These fish live in what is probably the most restricted environment of any animal in the world.

If the pupfish becomes extinct, it will be because of man's activities. On the southern slope below Devils Hole a ranching operation has been pumping to irrigate about 3,000 acres of land to grow fodder for 2,500 head of cattle. The land is not very productive—the fields are pockmarked with alkaline sections where nothing grows—and the cattle must rely on imported feed to supplement the Ash Meadows crop. Yet it is to provide some feed for these few head of cattle that we are on the brink of destroying the Devils Hole pupfish.

Mr. President, the little pupfish stands as both a concrete example of a living species about to become extinct as a result of man's reckless activities and as a symbol of what the environmental fight is all about. Few of us have ever seen a pupfish; unlike other fish, pupfish cannot be eaten; and most would, in con-

sidering my proposal, find a question on the tip of their tongues: "What good are they? Why should we worry?"

The answer to that question is that we cannot afford not to worry about the unforeseen future consequences of allowing the desert pupfish to die out as a living species on the planet Earth. Much of the environmental crisis today is the result of man's failure to see far enough ahead of his own nose to avoid some of the frightening consequences with which all of us are now faced. Not only are we faced with a tremendously costly cleanup job, but we are faced with a struggle over our own future survival.

I sincerely hope that my colleagues will join with me in this effort to save the tiny desert pupfish from total extinction.

Mr. President, I ask unanimous consent that the full text of my bill be printed at this point in the RECORD.

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

S. 70

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in order to preserve and protect several species of desert pupfish, and to interpret their evolution in areas of their natural environment, for the benefit and education of the people of the United States, the Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized to establish the Desert Pupfish National Monument (hereinafter referred to as the "national monument") in the State of California and Nevada. The boundary of the national monument shall be as generally depicted on the drawing entitled "Desert Pupfish National Monument," numbered NM–DP–91,000, and dated January 1971, which shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior.

SEC. 2. Within the boundary of the national monument, the Secretary may acquire lands, waters, and interests therein by donation, purchase with donated or appropriated funds, or exchange. Lands, waters, and interests therein owned by the States of California or Nevada, or any political subdivision thereof, may be acquired only with the consent of such owner. When the Secretary determines that lands, waters, and interests therein have been acquired sufficient to constitute an efficiently administrable unit for the purposes of this Act, he shall establish the national monument by publication of notice to that effect in the Federal Register. Pending such establishment and thereafter, the Secretary shall administer the lands, waters, and interests therein within the boundary of the national monument in accordance with the provisions of this Act and the Act of August 25, 1916 (39 Stat. 535), as amended and supplemented (16 U.S.C. 1 et seq.).

SEC. 3. Effective upon establishment of the national monument pursuant to section 2, the Devil's Hole portion of Death Valley National Monument, which was added to the Death Valley National Monument by Proclamation numbered 2961 of January 17, 1952 (66 Stat. c 18), is abolished, as such, and the lands, waters, and interests therein are made a part of the national monument established pursuant to this Act. Any funds available for the Devil's Hole portion of Death Valley National Monument on the date of such establishment shall be available for the purposes of the national monument established pursuant to this Act.

SEC. 4. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

By Mr. CRANSTON (for himself and Mr. TUNNEY):

S. 71. A bill to establish the California Desert National Conservation Area;

S. 72. A bill to designate certain lands in the Pinnacles National Monument in California as wilderness;

S. 73. A bill to designate certain lands in San Luis Obispo County, Calif., as the "Santa Lucia Wilderness";

S. 74. A bill to designate certain lands in the Angeles and San Bernardino National Forests as the "Sheep Mountain Wilderness"; and

S. 75. A bill to study certain lands in the Sierra National Forest, Calif., for possible inclusion in the National Wilderness Preservation System. Referred to the Committee on Interior and Insular Affairs.

CALIFORNIA DESERT NATIONAL CONSERVATION AREA

Mr. CRANSTON. Mr. President, I rise to introduce for appropriate reference a bill to establish the California Desert National Conservation Area.

This bill is nearly identical to legislation I have introduced in both the 92d and 93d Congresses to preserve, protect, and properly manage the California desert. Last year, the California desert bill (S. 63) was incorporated into the more comprehensive National Resource Lands Management Act (S. 424), a bill to provide for better management of our public domain lands. Unfortunately, while the Senate passed S. 424, the House failed to approve it before the end of the 93d Congress. Thus, no final action was taken on the California Desert National Conservation Area.

Because of the pressing need to act to protect the California desert and its precious resources, I am today reintroducing my California desert legislation. Senator TUNNEY has joined me as a cosponsor of this legislation.

Spreading from the Sierra Nevada and Death Valley south 240 miles to the Mexican border and from the San Bernardino and San Jacinto Mountain Ranges east to the Colorado River and adjacent watersheds, the 16-million-acre California Desert is one of America's most scenic, yet fragile natural resources.

This vast desert is an area of tremendous ecological diversity and rich in historical, scenic, archeological, environmental, biological, cultural, scientific, and educational resources. Physically, the California Desert ranges from snow-capped mountains to plateaus, basins, dry lake beds, rivers and washes. The desert has more than 700 species of flowering plants, of which 217 are found nowhere else in the world.

It contains rare and endangered species of wildlife and fishes such as the bighorn sheep and the desert pupfish that are unique to the California Desert. The California Desert is a total, complex ecosystem.

The fact that the California Desert lies so near the rapidly growing major population centers of southern California makes it an important recreational and educational resource. The California Desert is literally within minutes of 10 million people. Yet it is precisely this unique proximity to 10 million people which calls for the special protections which my bill would provide. Without protections, the recreational and educational resources will be short-lived.

From 1968 to 1972, the use of the California Desert by the American public doubled. The Bureau of Land Management anticipates that the California desert will receive close to 10 million visitor days this year. This figure is expected to reach 50 million by the year 2000.

The California Desert is so big, so vast, that it seems that there would be space for everyone and every activity. In fact, its resources are limited. Moreover, the desert's total ecosystem is extremely fragile, easily scarred and slowly healed. Today excessive and uncontrolled offroad vehicle use, improper grazing practices, careless mining operations, unplanned construction and road-building, and the pressures of growing recreational use are altering and destroying the fragile ecology of the California Desert.

If we are to preserve the unique and irreplaceable resources of the California Desert, man's activities will have to be limited to those which do not disturb the natural setting, destroy the scenic beauty, or upset the fragile ecology of the California Desert. It is not too late to save this beautiful area. But we must make decisions now to determine how we will use these lands and resources so that they will remain intact, not only for us, but also for future generations. If we fail to seize this opportunity and let present patterns of haphazard development and unwise recreational use continue, we may desecrate and irreversibly destroy the open space values of the California Desert.

The bill I am introducing today will establish the California Desert National Conservation Area and will direct the Secretary of the Interior to develop a comprehensive, long-range plan for the management, use and protection of the California Desert. The legislation provides $40 million for the next 5 years to complete this task.

Equally important, the bill establishes a citizens advisory committee to provide the public with a better opportunity to participate in the planning and development of the California Desert plan. The bill requires the Secretary to take into consideration the recommendations of the advisory committee. This committee is to be composed of representatives of all groups having an interest in the desert—Federal, State, and local governmental units administering lands in the desert, residents of the area, environmentalists, and those who use the desert for study and play, including offroad vehicle users and rock hounds.

In addition, the bill provides the Secretary with some new authorities to enable more effective implementation of the desert planning and management. The bill gives the Secretary the authority to acquire, through purchases or exchange,

additional lands for more economical and efficient management of the California Desert. It also provides for greater control over surface mining activities on the California Desert. Finally, the bill provides enforcement authority through the establishment of a uniformed ranger patrol and cooperation with local law enforcement agencies. This enforcement provision would be repealed upon future enactment of the National Resource Lands Management Act, providing such authorities generally.

Mr. President, I introduce for appropriate reference five bills to preserve five additional areas in California as wilderness. I am delighted that my colleague from California, Mr. TUNNEY, is joining me as cosponsor of all five bills. All five areas are entirely within the State of California. Two—Pinnacles and Yosemite—are within our national park system and three—Santa Lucia Sheep Mountain, and Kaiser—belong to the national forest.

Our wilderness areas are unique resources which Americans have long desired to protect. As early as the 19th century Americans recognized the need to set aside certain lands for public use and enjoyment when Yellowstone was made our first national park in 1872. More recently, a few farsighted men in the Forest Service, notably Aldo Leopold, conceived and implemented the idea of preserving our wilderness resources for future generations, and stimulated the public debate that resulted in the enactment of the 1964 Wilderness Act.

The overriding purpose of the Wilderness Act is to insure an enduring resource of wilderness for the Nation, not only for this, but also for future generations, so that they too may know what our land was like before man began to modify and alter his environment. As we continue to build roads and dams, cut trees, and pollute our air and streams, there is an increasing urgency to preserve what little wilderness remains, before their unique and unspoiled qualities are lost forever.

To date, Congress has set aside 21 wilderness areas in California, totaling 1,831,189 acres. The legislation I am introducing today would immediately add another 778,750 acres to the national wilderness preservation system and 28,000 acres to the wilderness study category.

There are other areas in California worthy of wilderness designation and for which Senator TUNNEY and I are considering additional legislation.

The Pinnacles wilderness bill was first introduced in the 90th Congress by my distinguished predecessor, Senator Thomas Kuchel. He had proposed five wilderness areas in California which had not been acted on when he left the Senate. Four have been established since 1969. The approval of the Pinnacles wilderness bill will complete Congressional action on all of Senator Kuchel's wilderness proposals. I hope this Congress will act quickly on the bill not only because it will preserve a unique and beautiful area in California, but also as a tribute to an outstanding Californian who served his State and Nation with distinction in the U.S. Senate.

The Pinnacles wilderness is within Pinnacles National Monument about 125 miles south of the San Francisco Bay area in one of the coastal mountain ranges, the Gabilan Mountains. Noted for its tall pinnacle rock structures, the monument was once the site of an ancient volcano which rose to the height of 8,000 feet. Wind and water erosion, combined with the movements of two large faults, carved the unique spires and created the narrow canyons which contain two talus caves. The semi-arid land is covered primarily by the dry, leathery chaparral which has been relatively untouched. Within the monument exist the habitats of many species of wildlife, including the endangered peregrine falcon and the golden eagle.

The legislation specifies the designation of 13,000 acres as the Pinnacles wilderness. However, I am reserving judgment on the acreage and proposed boundaries.

The Yosemite wilderness is located within Yosemite National Park.

Known as one of the most beautiful and scenic units of our national park system, Yosemite National Park in recent years has experienced tremendous increases in visitor usage resulting in congestion, intolerable crowding, and confusion around the campsites on the valley floor. Although Yosemite National Park is located in the central portion of the Sierra Nevada Mountains, in portions of Tuolumne, Mariposa, and Madera Counties, it draws visitors from Los Angeles and San Francisco, as well as from the rest of the State and the Nation.

Yet in areas away from the campsites, solitude and natural serenity is still possible in the valley. There are outstanding geological, biological, and scenic resources—exceptional glaciated topography, sheer massive granite walls, magnificent waterfalls, virgin conifer forests, mountain lakes, streams, and meadows. The park provides a home for mule deer, black bear, wildcat, and the rare mountain lion.

To insure that this rich resource is not endangered further, I am proposing the designation of two wilderness areas, to be known as Yosemite South and Yosemite North, totaling 692,500 acres,

The Santa Lucia wilderness lies within and adjacent to the Los Padres National Forest in San Luis Obispo County, along the central coast of California. The area of 22,250 acres is basically a wild, rough highland with numerous outcroppings of rock. Except for three flat, fern-covered valleys, the area is mostly covered with pine and oak and chaparral.

The late Dr. Robert F. Hoover, a former professor of botany at California State Polytechnic College, noted that the Santa Lucia area contains the only stand of knobcone pine between Monterey and the San Bernardino Mountains, one of the most extensive stands of bigcone pine in existence, extensive stands of two species of manzanita, especially fine groves of canyon oak, tan oak, maple, and sycamore, and at least 12 species of ferns—more than half the entire number known to exist in the country.

Dr. Hoover once described the delicate character of the Santa Lucia wilderness:

> In the upper end of the canyon, and probably in some of the tributaries, magnificent natural gardens including Woodwardia ferns, Aralia, maidenhair ferns, leopard lilies and wild orchids can be found. Accessibility of the area to large numbers of people could only lead to the destruction of this priceless and irreplaceable heritage.

A former regional forester of the Department of Agriculture has stated that Lopez Canyon "is by far the most attractive area between two existing wildernesses, the San Rafael and Ventana."

In the Senate Interior Committee hearings held in the 92d Congress on an earlier Santa Lucia wilderness bill, then called Lopez Canyon, there were some criticisms voiced about manmade imperfections, in particular a 70-kilovolt power transmission line within the boundaries I then proposed. I have revised my bill to exclude the powerline at the present time, but to provide that the area automatically receive wilderness designation when the transmission line is removed. The powerlines is a temporary easement granted for 50 years, ending in 1991. I also have revised the boundaries to exclude all roads which are now open to public vehicles. I am hopeful that with these changes we can move ahead and designate this unique and beautiful wilderness which is only 12 miles from the growing urban center of the city of San Luis Obispo.

The 52,000-acre Sheep Mountain wilderness in the Angeles and San Bernardino National Forest is one of the last remaining unprotected wilderness areas near urban southern California. Situated at the back of the Los Angeles Basin, contiguous to the existing Cucamonga wilderness, the Sheep Mountain area is within an hour's drive of 10 million people. It is a rugged, precipitous country. Five peaks dominate the area—Mount San Antonio, Dawson Peak, Pine Mountain, Mount Baden-Powell, and Sheep Mountain. There are beautiful waterfalls, and deep pools provide a habitat for substantial numbers of rainbow trout. Some of the canyons, in particular the Fish Fork of the San Gabriel River, are almost inaccessible and support perhaps the best wild trout fishery in southern California. The Sheep Mountain area also features unique alpine flora, including ancient limber pines.

In addition, the Sheep Mountain area serves as an important habitat for the Nelson bighorn sheep, now listed as an endangered species. Approximately 400 of these wild animals are making a list stand on the higher slopes of the mountains within the boundaries of the Sheep Mountain wilderness. These sheep have been isolated from others of their species and are now a stockier animal. However, they need wilderness for their survival. In order to provide adequate protection for the bighorn herds, I'm proposing wilderness boundaries which, according to available documents, coincide with

the boundaries of the actual range of the bighorn sheep.

Although the Forest Service presently is studying the possibility of wilderness status for some 32,000 acres as the Sheep Mountain wilderness, I am hopeful that with this legislation we can move forward to protect the entire 52,000-acre Sheep Mountain wilderness.

The Kaiser Area proposed for study comprises approximately 28,000 acres of roadless Sierra National Forest land. It is an area of high quality scenic beauty, with small lakes, grassy meadows, a glacial ridge, and snowcapped crest. The majority of the Kaiser Area is covered with a mixed conifer forest with vegetation varying from pine at the lower elevations to true fir at the higher elevations.

This wilderness environment is just 2 hours from Fresno and 5 hours from San Francisco and Los Angeles. More specifically, the Kaiser Area lies adjacent to the developed vacation community on the north shore of Huntington Lake—an area which annually serves 20,000 campers, 400 cabin owners and their families, and visitors to a Boy Scout camp, a religious retreat and several other organizational camps.

Because of its beauty and proximity to urban areas of California, the Kaiser Area has long been popular with hikers, backpackers, fishermen, and hunters. In addition, the accessibility from the Huntington Lake Basin development affords an excellent high Sierra wilderness experience for many who are unable to reach more remote forest lands. Here even an elderly person could spend an afternoon or an hour in the solitude of a virgin forest.

However, the future of this pristine region is in question. The Forest Service presently proposes two timber sales in the Kaiser Area—the north shore of Huntington Lake sales and the Aspen-Horsethief timber sales. If the logging takes place, long-term damage might well be done to the area and the opportunity for wilderness classification will be lost forever.

While wilderness designation was one of the alternatives considered by the Forest Service in the environmental impact statements on the proposed timber sales, many have expressed concern that this consideration was given only after a policy decision had been made to log large portions of the Kaiser roadless area.

Again, when the Forest Service inventoried national forest lands as part of its preliminary wilderness review, the Kaiser Area was not recommended for inclusion among the new study areas, in a large part because of the interest in the commercial timber in the area.

Given the strong local support for preservation of the Kaiser Area as wilderness, I believe the wilderness potential of the entire 28,000-acre area should be carefully and thoroughly studied, separate of any other contemplated action. The bill I am introducing today would provide for the study, on the basis of which we can more accurately determine the value of designating the Kaiser Area as wilderness.

Mr. President, I ask unanimous consent that the texts of the five bills be printed at this point in the RECORD.

There being no objection, the bills were ordered to be printed in the RECORD, as follow:

S. 71

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Congress finds that—

(1) the California desert contains historical, scenic, archeological, environmental, biological, cultural, scientific, and educational resources that are unique and irreplaceable;

(2) the desert environment is a total ecosystem that is extremely fragile, easily scarred, and slowly healed;

(3) the desert environment and its resources, including certain rare and endangered species of wildlife, plants, and fishes, and numerous archeological and historic sites, are seriously threatened by air pollution, inadequate Federal management authority, and pressures of increased use, particularly recreational use;

(4) because of the proximity of the California desert to the rapidly growing population centers of Southern California, these threats are certain to intensify.

(5) the Secretary of the Interior has initiated a comprehensive planning process and established an interim mangement program for the desert; and

(6) to insure further study of the relationship of man and the desert environment and preserve the unique and irreplaceable resources of the California desert, the public must provide with a better opportunity to participate in such planning and management, and additional maangement authority must be provided to the Secretary of the Interior to enable effect implementation of such planning and management.

SEC. 2. As used in this Act:

(a) "The Secretary" means the Secretary of the Interior.

(b) "National resource lands" means all lands and interests in lands (including the renewable and nonrenewable resources thereof) now or hereafter administered by the Secretary through the Bureau of Land Management, in the California Desert National Conservation Area established pursuant to section 3 of this Act.

(c) "Multiple use" means the management of the national resource lands and their various resource values so that they are utilized in the combination that will best meet the present and future needs of the American people; making the most judicious use of the land for some or all of these resources or related services over areas large enough to provide sufficient latitude for periodic adjustments in use to conform to changing needs and conditions; a combination of resources used that take into account the long-term needs of future generations for recreation, scenic values and nonrenewable resources and the achievement of diversity and balance for renewable resources; and harmonious and coordinated management of the various resources without permanent impairment of the quality of the land or the environment, with consideration being given to the relative values of the resources and to the ecological relationships involved and not necessarily to the combination of uses that will give the greatest economic return or the greatest unit output.

SEC. 3. (a) In order to carry out the purposes of this Act, the area generally depicted on a map entitled "California Desert National Conservation Area—Proposed", dated April 1974 is hereby established as the California Desert National Conservation Area (hereinafter referred to as the "conservation area").

(b) As soon as practicable after this Act takes effect, the Secretary shall file a map and a legal description of the conservation area with the Interior and Insular Affairs Committees of the United States Senate and the House of Representatives, and such description shall have the same force and effect as if included in this Act: *Provided, however,* That correction of clerical and typographical errors in such legal description and map may be made. To the extent practicable, the Secretary shall make such legal description and map available to the public upon request.

SEC. 4. (a) The Secretary shall prepare and implement a comprehensive, long-range plan for the management, use, and protection of the national resource lands within the conservation area in accordance with the principles of multiple use and maintenance of environmental quality.

(b) In the development and maintenance of the plan, the Secretary shall:

(1) use a systematic interdisciplinary approach to achieve integrated consideration of physical, biological, economic, and social sciences;

(2) consider all present and potential uses of the lands;

(3) consider the relative scarcity of the values involved and the availability of alternatives means (including recycling) and sites for realization of those values;

(4) weigh long-term public benefits, including those of outdoor recreation and scenic values, against short-term local and individual benefits;

(5) consider the requirements of applicable pollution control laws including State and Federal air or water quality standards, noise standards, and implementation plans; and

(6) take into consideration the proposals of the Advisory Committee, established pursuant to section 5 of this Act, and proposals of other Federal agencies and the State of California (or any political subdivision thereof) including recommendations from studies that have already been completed or are currently being prepared.

(c) The plan shall be completed and reported to Congress by June 30, 1979. In no event shall such plan become effective until after the expiration of the sixty-day period following the date of its submission to the Congress.

(d) During the period on the date of enactment of this Act and ending on the effective date of implementation of the comprehensive, long-range plan, the Secretary shall execute an interim program to manage and protect the conservation area resources now in danger of destruction, to provide for the public use of the area in an orderly and reasonable manner such as through the development of campgrounds and visitor centers, and to provide for a uniformed desert ranger force.

SEC. 5. (a) The Secretary, within sixty days of enactment of this Act, shall establish a California Desert National Conservation Area Advisory Committee (hereinafter referred to as "advisory committee") in accordance with the provisions of the Federal Advisory Committee Act (86 Stat. 770).

(b) It shall be the functions of the advisory committee to advise the Secretary with respect to the preparation and implementation of the comprehensive, long-range plan required under section 4 of this Act.

(c) The advisory committee shall terminate upon the expiration of sixty days following the date of the submission to the Congress of such plan.

SEC. 6. (a) The Secretary is authorized to acquire, by purchase, exchange, or donation, lands or interests therein where necessary for proper management of the conservation area: *Provided,* That interests in land may be acquired pursuant to this Act by eminent domain only if necessary in order to secure

access to national resource lands in the conservation area: *And provided further,* That such lands acquired by eminent domain shall be confined to as narrow a corridor as is necessary to serve such purpose.

(b) In exercising the exchange authority granted by subsection (a) of this section, the Secretary may accept title to any non-Federal land or interests therein and in exchange therefor he may convey to the grantor of such land or interests any national resource lands or interests therein which he classifies as suitable for exchange or other disposal. The values of the lands so exchanged either shall be equal, or if they are not equal, the values shall be equalized by the payment of money to the grantor or to the Secretary, as the circumstances require.

(c) Lands and interest in lands acquired pursuant to this section shall, upon acceptance of title, become national resource lands, and a part of the conservation area, subject to all the laws applicable thereto.

(d) Except where the Secretary finds that (a) there are no mineral values in the land or (b) reservation of the mineral rights in the United States would interfere with or preclude the appropriate development of the land and that such development is a more beneficial use of the land than mineral development, all conveyances of title issued by the Secretary under this section shall reserve to the United States all mineral deposits in the lands, together with the right to prospect for, explore for and remove the mineral deposits under applicable Federal law and such regulations as the Secretary may prescribe.

(e) The Secretary shall insert in any patent or other document of conveyance he issues under this title such terms, covenants, conditions, and reservations as he deems necessary to insure proper land use, environmental integrity, and protection of the public interest.

SEC. 7. The Secretaries of Agriculture and Defense shall manage lands within their respective jurisdictions located in or adjacent to the conservation area, wherever practicable and in accordance with the laws relating to such lands, in a manner consonant with the purpose of this Act. The Secretaries of the Interior, Agriculture and Defense are authorized and encouraged to consult among themselves and take cooperative actions to carry out this section.

SEC. 8. The use, occupancy, or development of any portion of the national resource lands contrary to any regulation of the Secretary or other responsible authority, or contrary to any order issued pursuant to any such regulation, is unlawful and prohibited.

SEC. 9. (a) Any violation of regulations which the Secretary issues with respect to the management, protection, development, acquisition, and conveying of the national resource lands and property located thereon and which the Secretary identifies as being subject to this section shall be punishable by a fine of not more than $1,000 or imprisonment for not more than twelve months, or both. Any person charged with a violation of such regulation may be tried and sentenced by any United States magistrate designated for that purpose by the court by which he was appointed, in the same manner and subject to the same conditions and limitations as provided for in section 3401 of title 18 of the United States Code.

(b) At the request of the Secretary, the Attorney General may institute a civil action in any United States district court for an injunction or other appropriate order to prevent any person from using the national resource lands in violation of laws or regulations relating to lands or resources managed by the Secretary.

(c) For the specific purpose of enforcing any law or regulation relating to lands or resources managed by the Secretary, the Secretary may designate any employee to (i) carry firearms; (ii) execute and serve any warrant or other process issued by a court or officer of competent jurisdiction; (iii) make arrests without warrant or process for a misdemeanor he has reasonable grounds to believe is being committed in his presence or view, or for a felony ii he has reasonable grounds to believe that the preson to be arrested has committed or is committing such felony; (iv) search without warrant or process any person, place, or conveyance as provided by law; and (v) seize without warrant or process any evidentiary item as provided by law.

SEC. 10. In connection with administration and regulation of the use and occupancy of the national resource lands, the Secretary is authorized to cooperate with the regulatory and law enforcement officials of any State or political subdivision thereof. Such cooperation may include reimbursement to a State or its subdivision for expenditures incurred by it in connection with activities which assist in the administration and regulation of use and occupancy of national resource lands.

SEC. 11. The Secretary shall report to the Congress no later than two years after the enactment of this Act and biannually thereafter on the progress in, and any problems concerning, the implementation of this Act, together with any recommendations for legislation which he may deem necessary.

SEC. 12. The Secretary is authorized to promulgate such rules and regulations as he deems necessary to carry out the purpose and provisions of this Act. The promulgation of such rules and regulations shall be governed by the Administrative Procedure Act (5 U.S.C. 553).

SEC. 13. There is authorized to be appropriated not to exceed $40,000,000 for the purpose of this Act, such amount to remain available until expended.

SEC. 14. The provisions of sections 9 and 10 shall be repealed upon the taking effect of any law providing similar authority to the Secretary concerning all national resource lands, including such lands located within the conservation area.

S. 72

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in accordance with section 3(c) of the Wilderness Act (78 Stat. 890), certain lands in the Pinnacles National Monument, California, which comprise about thirteen thousand acres and which are generally depicted on a map entitled "Pinnacles Wilderness—Proposed" and dated April 1968, are hereby designated as wilderness.

SEC. 2. As soon as practicable after this Act takes effect, a map and legal description of the wilderness area designated by and pursuant to this Act shall be filed with the Interior and Insular Affairs Committees of the United States Senate and House of Representatives, and such map and description shall have the same force and effect as if included in this Act: *Provided, however,* That correction of clerical and typographical errors in such legal description and map may be made.

SEC. 3. The wilderness area designated by this Act shall be known as the "Pinnacles Wilderness" and shall be administered in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness, except that any reference in such provisions to the Secretary of Agriculture shall be deemed to be a reference to the Secretary of the Interior.

S. 73

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in furtherance of the purposes of the Wilderness Act (78 Stat. 890) certain lands in and adjacent to the Los Padres National Forest, San Luis Obispo County, California, which comprise about twenty-one thousand two hundred and fifty acres and which are generally depicted on a map entitled "Santa Lucia Wilderness—Proposed" and dated January 1973, are hereby designated as wilderness; *Provided, however,* That the tract identified on said map as "Wilderness Reserve" is designated as wilderness, subject only to the removal of the existing and temporary nonconforming improvement, at which time the Secretary of Agriculture is directed to publish notice thereof in the Federal Register. Pending such notice, and subject only to the maintenance of the existing nonconforming improvement, said tract shall be managed as wilderness in accordance with section 3 of the Act.

SEC. 2. As soon as practicable after this Act takes effect, a map and a legal description of the wilderness area designated by and pursuant to this Act shall be filed with the Interior and Insular Affairs Committees of the United States Senate and House of Representatives, and such map and description shall have the same force and effect as if included in this Act: *Provided, however,* That correction of clerical and typographical errors in such legal description and map may be made.

SEC. 3. (a) The wilderness area designated by and pursuant to this Act shall be known as the "Santa Lucia Wilderness" and shall be administered by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness areas, except that portion outside the boundary of the Los Padres National Forest shall be so administered by the Secretary of the Interior.

(b) Notwithstanding the provisions of section 5 of the Wilderness Act, the Secretary of Agriculture, and, within the portion of such area outside the boundary of the Los Padres National Forest, the Secretary of Interior, are authorized to acquire by donation, purchase with donated or appropriated funds, exchange or otherwise any non-Federal lands located within the area designated as wilderness by this Act as the appropriate Secretary may determine necessary or desirable for the purposes of this Act and the Wilderness Act.

SEC. 4. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

S. 74

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in accordance with section 3(c) of the Wilderness Act (78 Stat. 890), certain lands in the Angeles and San Bernardino National Forests which comprise about fifty-two thousand acres and which are generally depicted on a map entitled "Sheep Mountain Wilderness—Proposed", and dated February 1974, are hereby designated as wilderness.

SEC. 2. As soon as practicable after this Act takes effect, a map and legal description of the wilderness area designated by and pursuant to this Act shall be filed with the Interior and Insular Affairs Committees of the United States Senate and House of Representatives, and such map and description shall have the same force and effect as if included in this Act: *Provided, however,* That correction of clerical and typographical errors in such legal description and map may be made.

SEC. 3. The wilderness area designated by this Act shall be known as the "Sheep Mountain Wilderness" and shall be administered in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness.

S. 75

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of Agriculture, in accordance with the provisions of subsection 3(d) of the Wilderness Act (78 Stat. 890, 892), relating to public notice, public hearings, and review by State and other agencies, shall review, as to its suitability or nonsuitability for preservation as wilderness, certain lands in the Sierra National Forest, California, which comprise approximately twenty-eight thousand acres, and which are generally depicted on a map entitled "Kaiser Wilderness Study Area", dated February 1974. The Secretary shall report his findings to the President on or before the expiration of the two-year period following the date of the enactment of this Act. The President shall submit promptly thereafter to the United States Senate and House of Representatives his recommendations with respect to the designation of such area or portion thereof as wilderness. Any recommendation of the President that such area or portion thereof shall be designated as wilderness and, therefore, as a component of the National Wilderness Preservation System shall become effective only if so provided by an Act of Congress.

SEC. 2. During the review period provided by this Act and for a period of four years after the recommendations of the President are submitted to the Congress, the Secretary of Agriculture shall manage and protect the resources of the lands depicted on such map in such a manner as to assure that their suitability for potential wilderness designation is not impaired.

SEC. 3. The review required by this Act, including any reports and recommendations with respect thereto, shall, except to the extent otherwise provided in this Act, be conducted in accordance with the applicable provisions of the Wilderness Act.

SEC. 4. There is hereby authorized to be appropriated such amount as may be necessary to carry out the provisions of this Act.

By Mr. BROOKE:

S. 77. A bill to amend the Internal Revenue Code of 1954 to provide for a tax on every new automobile with respect to its weight, and for other purposes; and

S. 78. A bill to increase the Federal excise tax on gasoline, to terminate the Highway Trust Fund, and to provide a refundable tax credit with respect to the increased tax paid on not more than 700 gallons of gasoline purchased each year. Referred to the Committee on Finance.

MANDATORY ENERGY CONSERVATION INITIATIVES

Mr. BROOKE. Mr. President, today I reintroduce the mandatory energy conservation legislation which I first proposed in the last months of the 93d Congress. This legislation would raise by 20 cents a gallon the Federal tax on gasoline; provide for a tax credit of up to $280 (1,400 gallons) for a household earning up to $15,000; end the Highway Trust Fund; and levy a progressively stringent tax on the weight of all new automobiles beginning in 1976.

It is with no joy that I reintroduce these initiatives for they entail hardship, sacrifice, and dislocation. But there is no alternative to this kind of tough, mandatory action if we are to come to grips with the grave threat posed by our energy situation.

This situation is critical and it worsens with each passing day. Future energy supplies are plagued with long lead times, skyrocketing costs, and complex environmental and social obstacles, and therefore cannot be readily increased. Existing energy supplies continue to dwindle. The result is a frightening reliance on foreign nations for this country's life blood.

The situation clearly compels conservation. We must conserve our present energy sources until more bountiful supplies can be unlocked and—hopefully—brought into the marketplace at a reasonable price. And since we are a "country that runs on oil," it is primarily oil that must be conserved.

Presently we rely upon oil to meet 50 percent of our energy requirements. Each day we consume some 17 million barrels. But our weathered domestic oil industry can only deliver 63 percent of this amount; hence, we are forced to contract abroad for the remaining 37 percent.

As my colleagues well remember, there was a time when foreign oil was a boon to this country—particularly for those of us in New England. Cheaper than domestic oil, it offered our fledgling independent network of oilmen the ways and means to compete with the domestic giants. But what once was a bargain is now a burden. Foreign oil costs as much as twice the U.S. equivalent. And this is raising havoc with our consumers, with our balance of payments, and indeed with the entire economic structure of the developed nations.

The perils that belie continuing reliance on high-priced foreign oil are, I think, perfectly clear to all Americans. What we need now is a candid, forthright policy to relieve us from this reliance. The legislation I offer today is intended as an important first step toward such a policy. It offers what I believe to be the most sensible, equitable approach to curing our current paralysis and forging a rational, long-term energy policy.

Any such policy must focus on ways to immediately reduce our oil consumption. And we cannot reduce this consumption without dealing squarely with our enormous gasoline consumption. Gasoline is all but a national opiate. Of the 17 million barrels of oil we consume each day, nearly 7 million wind up as gasoline.

This enormous consumptive level is necessary to satiate the needs of our private automobile. In 1972 alone nearly 75 billion gallons were required to fulfill the needs of over 100 million cars traveling over 1.2 trillion miles. Even more astounding is the fact that most of this travel was done alone as a means to get either to work or retail outlets.

Left to itself, the situation will only worsen. Currently 8 of every 10 American households own at least one car; 3 in 10 own at least 2 cars, and 1 in 10 own 3 cars or more. Moreover, some 10,000 new drivers are licensed each day just as a net total of 10,000 cars are added to our environment.

We are hooked on the automobile and the habit spreads despite the many problems it now represents for our society.

It is nearly impossible to overstate America's love affair with the automobile. It has so dominated our society that, as the distinguished scholar and former Ambassador George Kennan pointed out, it has lent a "terrible element of fragility to our civilization, placing us in a situation where our life would break down completely if anything ever interferred with the oil supply."

But it may just be that the luxuries offered by the private automobile are something we can no longer afford. As our oil resources dwindle, a social question arises as to whether we should squander them on the extravagance of a private transportation system. Oil after all can be used to make anything from food to fertilizer. Do we want to waste such a precious resource on our huge armada of autos?

The brief against the auto is telling. Only the airplane is a less efficient user of energy. Yet the auto accounts for 85 percent of all intercity travel and a whopping 95 percent of all intracity transportation. Rail and bus service, while four times as efficient, represent a meager 4 percent of intercity transport, and we all know the state of intracity mass transit. Here in this city there are some 1.2 million vehicle trips each day across this District's boundaries. Such is our attachment to this mode of transport.

The time has come to face the music. The automobile is the prime manifestation of waste and neglect which has dragged this Nation into its present energy crisis. If we are to recover our energy balance, then we must take swift, mandatory action to curb the waste incurred through its use.

Increasing the Federal tax on gasoline is the necessary first step in this effort. It has several advantages. It would cut our oil demand in the short-run by 600,000 to 1,000,000 barrels a day. This would improve our balance of payments picture by as much as $3.6 billion per year. It would reduce our long-run demand for gasoline by as much as 22 percent. And it would add some $17 billion to the Treasury's General Fund, much of which could—and should—be returned to those of us less able to endure the necessary sacrifices.

In addition to these crucial energy and economic benefits, there will be attendant environmental and social benefits of less automobile driving. When one remembers that as many as 4,000 deaths and 4,000,000 illness-restricted days per year might be attributed to automobile emissions, these attendant benefits are by no means irrelevant.

But, as with any new direction in social policy, there are several specific difficulties. We already know that 81 percent of the American people would prefer that the gas tax be left untouched. This in-and-of itself poses a very great problem. But I am confident that the Congress can provide the leadership necessary to inform the public on the merits of this case and thus turn this large percentage completely around.

Second, the tax will inevitably cause the Consumer Price Index to rise, even if every penny of the increased revenues could be redistributed evenly. This then will put further pressures on future wage demands. But such pressure will pale when compared to similar pressures arising from the imposition of oil tariffs and crude oil taxes.

Third, there is the very grave problem

of unemployment in the auto industry. There can be no doubt that a further increase in the price of gasoline would hit Detroit hard at a time when the industry is already reeling from its worst recession in 15 years. But I submit that the same difficulties will be visited upon the industry if alternative conservation plans are adopted or, conversely if nothing at all is adopted! I would also point out that the distinguished chairmen of the boards of Ford and General Motors have spoken favorably of a gas tax.

Finally, and most troublesome, is the possible regressive tendency of the tax. This has caused me a great deal of anxiety, for I know only too well of the burden which both inflation and recession now place upon our citizenry. To add unnecessarily to this burden would be both cruel and unconscionable. But I feel secure in the knowledge that sufficient mechanisms exist to combat any latent regressiveness. I would not consider reintroducing this bill if I felt otherwise.

Careful review of the evidence suggests that the tax is far less regressive than many assume. I would ask my colleagues to consider, for example, the fact that gasoline purchases represent 2.4 percent of a family budget of $10,941 whereas similar purchases are only 2 percent of a family budget of $7,214. Or the fact that the poor in this country spend roughly $101 per year on gasoline or 26 percent of their energy budget whereas wealthier families spend $533 per year or 38 percent of their energy budget. Or the fact that miles driven to work increase as income increases. Or the fact that while 50 percent of the Nation's poor own no car at all, 79 percent of the Nation's well-to-do own 2 cars or more. Or the fact that the poor account for only 9 percent of all cars owned in this Nation and only 5 percent of all gasoline purchases despite the fact that they account for 17 percent of all households. Or the fact that only one-third of all driving is to and from work. The facts are clear: the more money one has, the more he or she is likely to drive.

The following charts should give my colleagues a rough idea of the effect of a 20-cent increase in the gasoline tax. Table I indicates the burden borne by each income group while table II indicates the estimated amount of tax paid by the average household.

Table I

Adjusted Gross Income ($ thousands)	*20-cent tax increase* ($ billions)
0–3	0.5
3–5	.6
5–7	1.1
7–10	1.8
10–15	2.9
15–20	2.4
20–50	2.5
50–100	.2

Table II

Money Income:	*20-cent tax increase*
$5,000	$126
7,500	194
10,000	231
15,000	253
25,000	293

Despite the empirical evidence to suggest that the tax may not be as regressive as some fear, there is no denying that it will cause sacrifice among all Americans. That is its design. But to help those less able to endure these sacrifices, I have coupled the tax increase with a mechanism to compensate, through tax credits, those individuals who earn up to $12,000 per year, and those families who earn up to $15,000 per year.

The way this system works is really quite simple. Each individual taxpayer who earns $12,000 or less will be allowed a 20-cent per gallon credit on all gasoline purchases up to $140. In the case of a married couple filing jointly, the figure would be $280 and the income level would be raised to $15,000. This exempts some 700 gallons per person, or using 13 miles-per-gallon as the average auto efficiency rate, 9,100 miles of driving.

At the $15,000 level, the average American household is expected to balance increased expenditures with the credit. It is estimated that the increased expenditures will be $280, which would be offset by the accompanying credit. Below that level, the credit will be more than adequate to compensate for increased gasoline costs. The only requirement would be that a citizen itemize the gallonage consumed so that the appropriate amount can be credited to his tax.

Now, there are two problems. The first concerns the men and women who, like the travelling salesman, rely heavily on the automobile for a living. Under my proposal a choice will have to be made between utilizing available business deductions or filing for the tax credit. For those who do not qualify, the existing business deductions will have to suffice.

The second problem relates to those outside the reach of the income tax system. This is admittedly a terribly difficult problem. To deal with it I propose that the Treasury initiate a program to extend the credit to those who otherwise would not file an income tax form. Under this plan, people would go to the appropriate office and, with the help of Internal Revenue Service personnel, file an abbreviated 1040 Form which will have a provision for the tax credit. Upon filling out the form and producing proper proof of vehicle ownership, those entitled to credit will receive the appropriate amount in check form from the Treasury. Certainly much will depend on the success of the Treasury and the IRS in publicizing the availability of this credit to eligible citizens, but I believe that the system can and will work fairly and equitably.

Mr. President, I firmly believe that the relative merits as I have discussed them argue persuasively for an increased gasoline tax. And the case is further strengthened by the lack of suitable alternatives. Earlier this week the President unveiled one such alternative: his proposal to implement import tariffs and domestic excise taxes on all crude oil and oil products. The tariffs and taxes are designed to raise the price of all oil products to such a point that citizens would have no choice but to conserve. But the fallacy of this approach is best revealed by a quick glance at the facts concerning New England's oil situation. We in New England have already cut back our home heating oil consumption by 20 percent, a figure nearly three times above the national average. In addition, we have reduced residual oil consumption by nearly 13 percent which is nearly twice the national figure. That there is further room for conservation of these critical fuels is possible but not probable.

Yet it is precisely these fuels which will bear the brunt of the increased costs incurred through tariffs and taxes. That this will come to pass has been pointed out by several economists and our own Joint Economic Committee, all of whom have indicated that the increased costs to oil companies stemming from the tariffs will be attached to those products which have a more or less fixed demand. Residual and heating oils are just such fuels, and regions of the country like New England and the east coast will pay dearly for these products since they use them in far greater proportion than any other regions of the country. Hence the net effect of the President's proposal will not be to conserve oil but rather to inflate oil prices. And this will be particularly burdensome to those citizens with low and fixed incomes.

Interestingly enough, gasoline—the one oil product which is consumed in roughly proportional quantities throughout this Nation—is left relatively unscathed. Yet it is the one oil product whose use is significantly discretionary and it is the one oil product most in need of conservation, as I have indicated above. I understand that the President's program will raise the cost of gasoline by 7 cents per gallon, but this is clearly not enough to stimulate the kind of conservation that is so desperately required of this fuel.

We have got to face the fact that you cannot talk about oil conservation without talking about gasoline conservation. After all, half of every barrel of crude oil is made into this fuel. And I think the American public, if given the option of steep increases in gasoline prices or substantial price increases in all oil products, will opt for the former—especially since the former is equally proficient, if not more so, at reaching the needed goal of reduced oil imports.

Another proposal which has received attention in recent weeks is gasoline rationing. But it, too, suffers from a number of drawbacks. It will be difficult to establish and manage. It is easily susceptible to political pressures which in themselves could lead to gross inequities. It possesses some of the regressive tendencies of the gasoline tax in that it will cut into the leisure travel of low-income citizens and hurt those with large cars—and this without any of the attendant economic benefits supplied by the gas tax.

But most importantly rationing is nothing more than a short-term solution to what is definitely a long-term problem. It betrays its affinity to the kind of crisis/solution syndrome which has transfixed so much of our current politics. If ever we are to free ourselves from this debilitating, haphazard approach to public policy, now is the time. The situ-

ation clearly dictates a long-term solution through a long-term energy policy. A permanent increase in the gasoline tax offers an appropriate first step in such a policy.

However, more is needed. And today I have included two additional initiatives which are necessary if we are to forge a meaningful conservation policy.

First, I advocate an end to the Highway Trust Fund. Not only is this desirable from a procedural standpoint since all revenues generated by gasoline taxes must now go directly into the Fund; but, from the even more important standpoint of social policy, the proliferation of highway construction is contrary to the needs manifested by our energy problems. Highway construction is simply no longer a high priority item for this country. If future moneys are needed for highway construction—and I assume they will be—then I say let the case be made before the Public Works and Appropriations Committees and let them compete actively with other social programs such as health care, defense, education, veterans' benefits, and mass transit to name but a few.

Second, I advocate a progressively stringent tax on automobile weight to be borne by that auto's manufacturer or importer. Such a step is necessary to insure that the growing trend toward producing smaller cars becomes the norm among all auto manufacturers. For it is time to see our large cars—the very symbols of our voracious energy appetite—for what they truly are: a cost too expensive for this Nation to bear.

In discussing the correlation between fuel economy and automobile weight, the Environmental Protection Agency has stated that "vehicle weight is the single most important factor affecting passenger car fuel economy." A 5,000-pound car, reports EPA, "demonstrates 50 percent lower fuel economy than a 2,500-pound vehicle." If energy conservation is our goal, then clearly production and purchase of the large auto must be discouraged. And here again, I believe the tax mechanism offers the best method of achieving this goal. The tax I propose should, when coupled with the gas tax, provide automakers with sufficient incentive to produce lighter, more effective automobiles. It would be administered in two phases. The first phase—from July 1, 1976 to June 30, 1980—would leave untaxed automobiles weighing less than 2,500 pounds while levying progressively stiffer taxes on all higher weight classes. The second phase—from July 1, 1980 onward—would again leave the smallest cars untaxed while increasing the severity of all other taxes. For instance, after 1980 any car weighing more than 5,000 pounds would be subject to a tax of $1,200.

Mr. President, rhetoric is a politician's stock in trade. But no amount of rhetoric can bring home the need for tough, mandatory energy conservation steps. Our energy, economic, and environmental policies cry out for them.

The Congress, paralyzed by opinion polls, has steadfastly refused to act. But now, in the 11th hour, it must rise to the challenge. The President has stepped forward with his proposal for energy action. Yet I have serious doubts as to its adequacy and its impact upon inflation.

The legislation I propose today is offered as an alternative. It will jar; it will jolt; it will inconvenience.

It will not be popular. Nothing will that burdens an already burdened citizenry. But we simply cannot afford to wait any longer. We must act. And this legislation offers what I believe to be the most propitious action we can take

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By Mr. MATHIAS:

S. 79. A bill to establish the U.S. Science and Technology Board. Referred to the Committee on Government Operations.

SCIENCE AND TECHNOLOGY BOARD

Mr. MATHIAS. Mr. President, in the latter days of the 93d Congress, the Senate passed S. 32, the Science and Technology Board bill. That bill provided, inter alia, for the establishment of a scientific advisory capability at the highest level of Government, a proposal which I had also made in the introduction of my bill, S. 3980. S. 32 did not receive action in the House before the close of the 93d Congress. We, therefore, have another opportunity to consider this problem and to take action of a kind which will be responsive to the pressing needs of this particular time.

For that reason, I am resubmitting the legislation I proposed in the 93d Congress. I hope that this legislation will be considered in conjunction with the version of S. 32 that I anticipate will be introduced again in this Congress by Senator KENNEDY.

As we address ourselves to the task of formulating sound science policy, Mr. President, I hope that we shall have a dialog which will reflect the deeper issues involved. That dialog should include not only those of us in the Congress, but should include commentary by interested parties of all persuasions. In that vein, Mr. President, I ask unanimous consent that an excellent article on this subject, written by Sanford A. Lakoff entitled "Congress and National Science Policy," and appearing in the fall, 1974, issue of Political Science Quarterly, be inserted in the RECORD at the close of these remarks. I think that some of the considerations raised by Mr. Lakoff are met by my legislation and will have to be dealt with in any final bill that we pass.

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

(See exhibit 1.)

Mr. MATHIAS. Mr. President, it is 17 years since sputnik shocked the Nation into an awareness of the challenges posed to our national security, to our role in outer space, and to our position of scientific leadership among the family of nations.

Our response caused the mobilization of technological resources and resulted in a miracle of global communications as man set foot for the first time on the Moon.

In meeting this early challenge, actions were taken in order to improve the bonds between the Executive and the Nation's scientists. President Eisenhower created the post of special assistant to the President for science and technology and named Dr. James R. Killian to fill it. He also created the President's Science Advisory Committee to which he appointed leading nongovernmental scientists. Several years later, President Kennedy established the Office of Science and Technology—OST—in the Executive Office of the President.

These new mechanisms were responsible for inducing changes which encouraged scientific creatively and technical inventiveness. NASA was created as a civilian space effort. Major advances were made in the long range ballistic missile program and their warning capabilities. Other studies led to the atmospheric test ban treaty. A comprehensive report on the environment was initiated and later became a guide for policy decisions and legislation. World planning was triggered, because major studies on the use of the sea's resources and the world food crop were completed. These and other major developments were mobilized by a group which seldom exceeded 25 full-time professionals, operating on a budget that rarely became greater than $2 million annually.

In 1966, the American method of managing and supporting science was considered the best in the world and reached a standard emulated by all. Over the past few years, however, the national science and technology thrust has been critically weakened. President Nixon abolished the PSAC and the OST and replaced the special assistant with a science advisor remote from the White House in the National Science Foundation. The fiscal 1975 Federal research and development effort involving $20 billion lacks effective central leadership.

These and a spate of related developments have raised serious questions about our commitment—and our capacity—to meet pressing problems. And they occur at a time when we face new challenges that are no less formidable and infinitely more complex to solve. The future and quality of life of our society is at stake. Our actions are also of major concern to people everywhere who are dependent on what we do.

These challenges include the spectrum of widespread famine, the deterioration of our environment, the growing scarcity of raw materials, and the need to find new energy sources. National health, the decay of the cities, and the modernization of transportation are also involved. Our ability to overcome these challenges and others depends a great deal on the revived life of our science and technology efforts.

Yet, last fall 23 presidents of scientific societies met and concurred that "without more top level coordination of Federal efforts in science and technology, solving problems such as energy and food shortages will be difficult."

Robert Sarnoff, chairman of the board of the RCA Corp., recently noted a major decline in Government support for science and technology in the last 9 years, from more than 12 percent of the budget to less than 6 percent in 1974.

Dr. Edward David, Jr., the last Director of OST, warns:

Governments are inevitably tempted to concern themselves with short run returns rather than the long term strength of scientific and educational institutes.

Dr. Philip Handler, president of the National Academy of Sciences, has pointed out:

There is no capability within the White House for evaluating technical programs posed by the agencies . . . no place where individuals with technical expertise may be expected to integrate the multifaceted technical problems of our time and thus avoid fragmented and possibly counter-productive approaches . . .

Dr. Sanford A. Lakoff, chairman of the political science department at the University of California, San Diego, stated, in the article mentioned above:

That there has been a failure to develop and maintain a continuous, comprehensive, and internally consistent approach to the variety of elements that make up science policy.

These observations—and they are only a sampling—would seem to bear out Mr. Sarnoff's observation that "matters affecting the organization, staffing, financing, and direction of the Nation's efforts in science and technology are still being treated piecemeal and by improvisation."

I hope that the Congress will agree that in light of the challenges, the effort we are now making is not good enough. We are going to have to do more, and better, and with better planning.

The bill I am introducing would create a U.S. Science and Technology Board as an independent mechanism of the executive branch. The Chairman, appointed by the President with the advice and consent of the Senate together with 10 other Board members, would serve as science and technology adviser to the President, and also would be available to the Congress for advice and consultation.

The functions of the Board basically would be as follows:

First. To determine the major problems likely to confront the United States in the next 25 years and to establish priorities for their solution.

Second. To determine whether and to what degree such problems can be resolved or ameliorated through science and technology.

Third. To ascertain what nontechnological factors could affect or be affected by any of the technological solutions.

Fourth. To review, coordinate, and authorize all federally financed nondefense research and development programs in light of the priorities.

Fifth. To stimulate new research and development where they are needed and where no existing operation, Government or private, can undertake the task.

Sixth. To recommend to the Congress special incentives to private enterprise to undertake needed research and development, and to encourage private industry to put the results to swift practical use.

Seventh. To help coordinate research and development in and out of Government, and to review the coordination of domestic and foreign programs where they are international in character.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD at this point.

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

S. 79

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 "United States Science and Technology Board Act".

STATEMENT OF PURPOSE

SEC. 2. (a) It is the purpose of this Act to establish a United States Science and Technology Board for the purpose of consolidating in one governmental unit responsibility for—

(1) determining the most critical long-range problems facing the Nation, including but not limited to, the social, economic, health, education, environmental and resources areas;

(2) evaluating the potential contributions of science and technology to the solution of such long-range problems;

(3) measuring the probable scope, intensity, and duration of such problems and establishing time scales and priorities for coping with them;

(4) establishing optimum levels of funding of all federally financed nondefense research and development programs in the context of the time scales and priorities established;

(5) reviewing and authorizing all federally financed nondefense research and development programs; and

(6) insuring the coordination of scientific and technological efforts in the United States and with the scientific and technological efforts of other nations.

THE ESTABLISHMENT OF THE BOARD

SEC. 3. (a) There is established as an independent establishment of the executive branch of the Government, the United States Science and Technology Board (hereinafter in this Act referred to as the "Board") which shall be composed of eleven members who shall be appointed by the President, by and with the advice and consent of the Senate, from among distinguished individuals in government, industry, and the academic community who are experienced in the practice and management of basic science, biomedical and clinical research, applied research, the principal engineering disciplines, educational research, and such social sciences as economics and sociology. The membership of the Board should reflect the broadest possible balance of experience in these fields. Not more than six members of the Board shall be members of the same political party. The President shall select one of the members to serve as chairman of the Board, and the member so selected shall serve as chairman for the duration of his term of appointment as a member.

(b) The Chairman of the Board shall serve as science and technology adviser to the President, shall be a member of the Domestic Council and shall be available to Congress for advice and consultation.

(c) Members of the Board shall serve for terms of four years, except that—

(1) the members first taking office shall serve as designated by the President at the time of appointment, three for a term of four years, three for a term of three years, three for a term of two years, and two for a term of one year; and

(2) any member appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall serve for the remainder of such term.

(d) Each member of the Board shall be compensated at the rate provided for GS–18 under section 5332 of title 5 of the United States Code.

(e) Vacancies in membership of the Board as long as there are six members in office shall not impair the powers of the Board to execute the purposes, functions, and powers of the Board. Six members of the Board shall constitute a quorum for the transaction of business.

(f) Vacancies in membership of the Board shall be filled in the same manner in which the original appointment was made.

(g) Members of the Board shall have no other employment, public or private, during their tenure as members.

FUNCTIONS

SEC. 4. (a) It shall be the function of the Board—

(1) to determine by measurement and analysis the major problems likely to confront the United States, including, but not limited to, the social, economic, health, education, environmental, and resources areas, in the year of enactment of this Act and the twenty-five years thereafter, and to establish priorities for the solution of such problems;

(2) to review and update annually the analysis of each such problem;

(3) based on the analysis of such problems, to determine whether, and to what degree, such problems are susceptible to solution or amelioration through the application of science and technology;

(4) to ascertain which federally funded programs already in existence contribute to the solution of such problems;

(5) to keep informed of research and development programs related to the national defense which are of potential value to the civilian sector and to encourage, consistent with national security, civilian application of any such developments;

(6) to initiate systems studies to determine the nontechnological factors that may affect or would be affected by any proposed technological or scientific solution to any such problem;

(7) to review all federally financed nondefense research and development programs and to approve or disapprove the inclusion of each such program in the appropriate section authorization;

(8) to establish optimum levels of funding for research and development programs for the purpose of establishing a balanced approach to solving such problems based on the priorities established by the Board, and to advise the appropriate Government authorities on allocation of such funds;

(9) to stimulate, where appropriate, the initiation of research and development programs and, when the Board determines that no existing public or private research operation is capable of developing and operating a major research and development program, to recommend the establishment of a special organization for such purpose;

(10) to recommend to the Congress, through the President, special incentives to encourage private industry to enter into needed research and development activities and to encourage private industry to put into use important technological developments as quickly and widely as possible.

(11) to determine the degree of coordination of the research and development efforts among the various departments and agencies of the Government, private industry, and academic institutions and to foster coordination of such efforts; and

(12) to foster and review the coordination of domestic and foreign research and development efforts relating to problems of an international character.

POWERS OF THE BOARD

SEC. 5. (a) The Board may delegate any of its functions to officers and employees of the Board as the Board may designate, may authorize such successive redelegations of such functions as it may deem desirable, and may make such rules and regulations as may be necessary to carry out its functions.

(b) Subject to such rules and regulations

as may be adopted by the Board, the Board shall have the power—

(1) to appoint and fix the compensation of an executive director and such additional personnel as it deems necessary; and

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

(c) The Board is authorized—

(1) to accept donations of services;

(2) to utilize on a reimbursable basis the services, equipment, personnel, and facilities of any other department or agency of the United States; and

(3) to take such other action as may be necessary to carry out the functions of the Board.

(d) The head of each department, agency, and independent instrumentality of the United States shall cooperate with the Board to the fullest extent consistent with the law in the carrying out of its functions under this Act.

REVIEW OF RESEARCH AND DEVELOPMENT PROGRAMS

SEC. 6. (a) Within six months after the designation of long-term problems facing the United States and the establishment of priorities for dealing with such problems by the Board under this Act, the head of each department, agency, and independent instrumentality of the United States having authority to support research and development activities shall submit to the Board for its review and approval all federally financed nondefense research and development programs. Notwithstanding any other provision of law, no such program shall be included by any such authority in its allocation of funds or its budget requests after such date unless the Board has reviewed each program and made a determination thereon.

REPORTS

SEC. 7. (a) In addition to any report required to be prepared by the Board, the Board shall prepare and submit to the President and the Congress not later than January 1, 1977, and annually thereafter, a report on the technological state of the Nation.

(b) The Board may issue such special and supplementary reports as it deems necessary to describe the nature and status of the long-range problems facing the Nation and recommend appropriate measures for Government and private action.

COMPENSATION OF EXECUTIVE DIRECTOR

SEC. 8. Section 5316 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(132) Executive Director, United States Science and Technology Board.".

AUTHORIZATION OF APPROPRIATIONS

SEC. 9. There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

EXHIBIT 1

CONGRESS AND NATIONAL SCIENCE POLICY

(By Sanford A. Lakoff)

The recent efforts by Congress to reassert some of its constitutional prerogatives, which began with the reaction against involvement in Vietam and continues in the wake of the Watergate affair, have made the role of the legislative branch a more lively issue than it has been at perhaps any other time in this century. The degree of legislative involvement affects many areas of government policy, including the complex of issues and activities that together make up "science policy." The role of Congress in setting and maintaining science policy has never been very well defined or delimited. Congressional influence has often been felt in specific cases, such as the development of atomic energy, the Apollo project, and controversial and expensive weapons systems. In general, however, the pattern and direction of federally supported research and development has been set in the executive branch and embodied in the budget presented annually to Congress.

As the deployment of scientific resources becomes a critical instrument of government in virtually every area of public concern, science policy has come to be regarded as one of the vital levers of social action. For this reason, it is entirely possible that Congress may take advantage of the present climate of political uncertainty to try to assert more authority in this area of public policy than it has had either the will or the opportunity to do since the end of World War II.

OPPORTUNITIES FOR INCREASED CONGRESSIONAL INFLUENCE

In at least two respects, conditions for improvement are propitious. First, the executive apparatus for setting science policy, laboriously built up since the sputnik crisis of 1957, has been dislodged and dismembered, though not destroyed. In the aftermath of that crisis, President Eisenhower made two moves aimed at improving the links between the White House and the nation's scientists. At the suggestion of James R. Killian, Jr., he created the post of special assistant to the president for science and technology. Along with it, he created the President's Science Advisory Committee (PSAC), to which he appointed leading nongovernment scientists, mainly from the universities. In time, a third element was put in place when the staff which served both the special assistant and PSAC was converted by a reorganization plan into the Office of Science and Technology (OST). In 1973, however, President Nixon decided to abolish both PSAC and OST and to replace the special assistant with a science adviser located in the National Science Foundation (NSF) rather than in the White House. In place of OST, a new Science and Technology Policy Office (STPO) has been created within the NSF.

The relocation of the science-policy apparatus not only deprives its directors of a relatively exalted place in the executive hierarchy but also of whatever small degree their predecessors could claim of that precious quality known in Washington as political "clout." In theory, the special assistant and PSAC had direct access to the president, and in practice the staff offices of OST were located in the Executive Office Building along with the president's other advisers and the Office of Management and Budget (OMB). The new STPO reports only indirectly to the president, is housed with the other offices of the NSF, and must attempt to influence the activities of other agencies of government from a notch in the bureaucratic hierarchy considerably lower than that occupied by OST.

The termination of PSAC cuts even the tenuous connection to the presidency previously enjoyed by the leaders of the scientific community. For the past several years, moreover, many of these same leaders have found Congress more receptive than the executive on such matters as arms control and the ABM issue. In a limited but significant sense, therefore, a power vacuum has been created in science policy. It is conceivable that Congress may now seek to enter that vacuum, as part of a larger effort to challenge the expansion of executive power and to recover some of the ground the legislative branch had lost.

The second reason for anticipating an increase of congressional concern with science policy has to do with the well-known sensitivity of members of the legislative branch to shifts in public opinion. A few years ago, when there was considerable popular frustration over some of the uses to which science had been put, as well as the unforeseen social and environmental problems brought about by the introduction of new technology, congressmen were apt to be sympathetic to the charge that science was more a part of the problem than of the solution. Now, however, with the energy shortage causing hardships, and with the association between research and the so-called military-industrial complex somewhat attenuated, there is reason to think that congressmen and their constituents will once again seek counsel and practical help from scientists and engineers.

Several signs clearly indicate serious congressional interest in asserting more control over science policy. In both houses, proposals have appeared calling for the declaration of a statutory national science policy, coupled with appropriate administrative machinery. [One of these proposals, Senate Bill 32, passed the Senate by a margin of 70 to 8 late in 1972, but failed to reach the floor of the House. Nevertheless, this particular bill may have served its purpose—to warn the administration to do something about the deteriorating state of nonmilitary research or else Congress would take the initiative.] In its proposed 1975 budget, the administration recommended an increase in appropriations for civil research of 20 percent over the previous year's expenditures. This will probably be enough to appease the present Congress, but it is not out of the question, if the November elections should produce a harvest of new Democratic seats, that S. 32 will be revived and passed, given the proclivity of liberal Democrats for declared commitments and positive action by the federal government.

Congress has already taken one potentially important step, which in itself could well be considered positive action, in creating a congressional Office of Technology Assessment (OTA). Technology assessment, in the words of the first director of the new agency, former Congressman Emilio Q. Daddario, is supposed to provied an "early warning system to protect man against his own inventions." The new office was established after many congressmen had come to feel a need for expert guidance in considering such new departures as the proposal to subsidize development of a supersonic civilian airliner. OTA presumably would identify likely new technological opportunities and investigate them to determine both benefits and costs, including the external costs that usually are neglected by their promoters but in the end must be borne by the public.[1]

Other developments may also affect the ability of Congress to pronounce on matters of science policy. These include the reorganization proposals which have now been tabled by a Select Committee on Committees in the House and the recently adopted Budget Reform Act of 1974 designed to enhance congressional influence over the budgetary process, even to the extent of creating a new legislative office to serve as a counterpart of the executive's budget agency.

Are these developments likely to coalesce to the extent that they will enable Congress to define and develop a lasting role in science policy? To answer this question we need to consider what role Congress has actually played in relation to science policy and then to consider whether, in view of the formidable obstacles to the reversal of the recent tendency toward the accretion of executive power, these new opportunities are likely to prove meaningful or largely illusory.

CONGRESS' PAST RECORD

Since the turn of the century, when the United States first began to assume a role as a world power, the presidency has become the focal point of popular demands for ac-

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tion in one area after another. To be able to respond to these demands, the president had to be provided with the capacity to control his own expanding administration. Minimally, this required that the president be in a position to set the legislative agenda, submit a budget reflecting his view of national priorities, and use his appointive power to assure compliance with his policies. Congress became the instrument, however reluctantly, through which much of the president's control was established and maintained. On the whole, the activities of Congress with respect to science policy serve to illustrate this general tendency.

Indeed, an unsympathetic critic reviewing the performance of Congress in connection with science policy might well decide that in this area as in others, Congress has been suffering from a kind of constitutional amnesia. In fairness, it should be noted that at least one disinterested appraisal does not reach such a negative conclusion. In its 1968 review of the American effort to cope with the challenges posed by advances in science and technology, the Organization for Economic Cooperation and Development (OECD) found reason to praise the achievements of the legislative branch. Congress, the OECD report declared, "has gone further than any other parliament in seeking to respond to these challenges by equipping itself with a new set of bodies, most of which have brilliantly performed the role assigned to them by taking advantage of the instruments made available to them by Congressional institutions." In particular, the report singled out the accomplishments of the Joint Congressional Committee on Atomic Energy, citing an American study rating it as "probably the most powerful Congressional Committee in the history of the nation." [2]

In 1966, when the OECD examiners made their inquiry, the American way of managing and supporting science was still considered the best in the world. The "American model" had become a standard for worldwide emulation. Because the United States was devoting 3 percent of its gross national product to research and development, this became a target figure everywhere else. The high ratio of support allotted to development in the United States was thought to be responsible for America's ever-increasing lead in high-technology industry, and more often than not, the fact that the bulk of this expenditure had only indirect and sometimes distorting effects on the civilian sector of the economy went unnoticed.[3] The key to America's success was thought to be its political, economic, and institutional pluralism, which encouraged a wholesome competition in scientific creativity and technical inventiveness, as opposed to the stultification that plagued more highly centralized systems. The American legislature, standing free of the executive, and organized internally so as to allow for a decentralized examination of the particular aspects of science policy, seemed a perfect illustration of this dynamic pluralism at work.

The role of Congress must have seemed all the more impressive when contrasted to the role of parliaments in systems of government where the separation of powers is not the constitutional norm. Set alongside the inherently limited role open to parliamentary bodies in which the center of gravity is anchored firmly in the cabinet and the leadership of the party in power, the performance by Congress of even a modest proportion of its potential constitutional authority was bound to seem relatively significant.

The OECD appraisal points up one of the fundamental dilemmas in any assessment of the role of Congress in general, and with respect to science policy in particular. Congress actually is assigned two different and sometimes contradictory roles in the American scheme of government. One of these is to share in the setting of public policy, a function which it performs by exercising its power to legislate and appropriate. The other is to check the executive by seeing that the president and the agencies for which he is responsible follow the legislative mandate of Congress and do not administer the laws in an arbitrary, partial, or corrupt way. Congress does this by invoking its authority to interrogate administrators and to investigate allegations of wrongdoing and partiality. To appraise the performance of Congress in terms of its role in the American system, rather than in comparison with the role played by other legislative bodies operating according to a completely different constitutional principle, it is necessary to ask how well both of these functions actually are performed

The case of the Joint Congressional Committee on Atomic Energy is a good example of how an overemphasis of one function can lead to an atrophy of the other, but the problem it illustrates is widespread. It is a common tendency for congressional committees to develop close relationships with the executive agencies they are supposed to oversee. The Joint Committee is so closely involved in the day-to-day management of the Atomic Energy Commission that Congressman Melvin Price, the present committee chairman, once described it as a kind of board of directors for the AEC.[4] Even in the early years of the committee's existence, Senator Henry M. Jackson went still further, observing that in the field of atomic energy, "the Committee made the decisions, with the advice and consent of the executive branch." [5]

Behind the pluralistic facade, in other words, lies the reality of an arrangement whereby members of the legislature have been virtually co-opted into the executive. This arrangement has enabled the committee to exert very strong, even determining influence in the development of atomic weapons and atomic power, and it has also made it a target of criticism from opponents of AEC policies who point out that the intimacy of the committee and the commission makes the former less the AEC's congressional watchdog than its "Siamese twin," as Ralph Nader has called it.[6] The result, the critics contend, is that instead of reviewing and monitoring the AEC's behavior, the committee is always ready to defend it from attack, whether against those who find its standards for radiation safety inadequate or those who question its encouragement of duopoly in the industrial development of atomic power.[7]

Critics of the way Congress works have often complained that such relationships vitiate the intention behind the separation of powers. The committees acquire an overly protective interest in the agencies and so long as the administrators take care to mend their fences on Capitol Hill, they can expect to be defended against any drastic budget cuts the president may seek to impose and against reorganization efforts which could weaken or eliminate the agency. The more narrow the jurisdiction of the committee, or the more its role is to supervise a particularly important agency, the more threatening such assaults are likely to be viewed by the members of the committee, for they come to feel that their own status and power are tied to the fortunes of the agencies they supervise. In the postwar struggle over unification of the military services, for example, the House and Senate Naval Affairs Committees were as protective of the organizational position of the navy in the proposed unified Defense Department structure as were the admirals and the Navy Department civilian officials such as Secretary James Forrestal.[8] On the other hand, it is easier for a committee to influence policy if it develops the kind of specialized expertise the members of the Joint Committee have acquired because of their unique access to the AEC.

Nor is this the only difficulty the committee system poses for the ability of Congress as a whole to fulfill its two major functions. Another problem is that the very diffusion of responsibilities among the committees and their powerful chairmen, which appears to have so impressed the OECD examiners, hinders Congress from performing a role as a corporate body, whether as partner or critic of the executive. The fragmentation of responsibility among committees and subcommittees results in such a wide distribution of the law-making and overseeing functions that the strings cannot be drawn together very easily.

With respect to science policy, the result is that Congress has taken no position whatever, either constructive or critical, except insofar as it is called upon to endorse the work of the committees. Since concern for science and technology is parceled out to the committees—and is in most cases only an incidental concern—there is no practical way for Congress as a body to make comparative judgments or to become involved with imbalances. Instead, some projects flourish while others languish, and in general the fate of particular projects requiring large-scale support is determined not in some comprehensive assessment but in accordance with the specific policy concerns of the committees and of powerful individual members of Congress. The fact that the United States had not even begun to pursue a broad program of research on energy until it was seized by an "energy crisis" is due not simply to a general lack of foresight in government; it also is due partially to the fact that the only committee assigned a primary concern for energy is the one devoted to a particular kind of energy, the Joint Congressional Committee on Atomic Energy. Nor is it wholly in response to the "felt needs" of the electorate that Congress should authorize billions for a space shuttle but only a pittance for mass transit. There is a Committee on Science and Astronautics in the House and on Aeronautical and Space Sciences in the Senate, but none with a comprehensive responsibility for all transportation technologies.

CONGRESSIONAL INITIATIVES: THE PROBLEM OF PARTICULARISM

It would not be correct to conclude that Congress has taken no initiatives in science policy; however, the initiatives that have been taken usually have been in isolated cases rather than in some broad comparative context. Certain highlights stand out in the record. In the immediate post-war period, Congress did not simply put into law the proposals for the control of atomic energy advanced by the president. Under the leadership of Senator Brian McMahon, Congress made its own inquiry, listened to the views of the scientists who had been associated with the Manhattan Project and wrote its independent conclusions into the Atomic Energy Act. Years of debate and deadlock preceded the creation in 1950 of the National Science Foundation, which also bore the stamp of congressional scrutiny and compromise, not to mention congressional hostility and suspicion. During the cold war paranoia of the 1950s, Congress may not have exercised a particularly benevolent role with respect to science and scientists, but it certainly made its views felt on the subjects of loyalty and security in government-sponsored research, ignoring the scientists' complaint that an obsession with negative security was counter-productive because it undermined the positive security that could come only from the encouragement of researchers. But the same Congresses which demoralized and alienated some scientists encouraged and supported others, notably by endorsing Edward Teller's crash program to develop the hydrogen bomb and Admiral Hyman Rickover's preference for nuclear-powered submarines over conventional naval vessels.

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The record is replete with other examples of specific initiatives. In certain areas of health research, especially in connection with diseases likely to affect people of their own age, congressmen have been known to vote more financial support than the agencies have requested. During the "sputnik crisis," it was Congress, under the leadership of then Senator Lyndon Johnson, which took the initiative in creating the space program at a time when the administration was more anxious to balance the budget than to compete with the Russians in a contest that one official derided as a "celestial basketball game." The Space Act, as George Reedy has observed, "was one of the few examples in the last forty years of a major statute originating on the Hill rather than in the White House." [9] The role of a bipartisan group of mid-western congressmen in overcoming President Johnson's reluctance to approve plans for the 200-BEV accelerator, now located in Illinois, is well documented.[10] More recently, Congress has played an important role in the debate over the antiballistic-missile program and in the rejection of the proposal to subsidize development of the supersonic airliner. In adopting the Mansfield Amendment to the Military Procurement Act of 1970 (which prohibits the military services from supporting research unless it is directly relevant to a "service mission"), Congress responded to the objections of academic critics to the channeling of funds for basic research through the defense agencies. Typically, however, Congress did not at the same time direct that these funds be reassigned to the NSF and other nonmilitary agencies. The result was that in answering one need it created another.

COMPENSATING FOR STRUCTURAL WEAKNESSES

No one reviewing this record would be justified in concluding that Congress has been entirely subservient to the executive in matters involving science and technology. Clearly, the weakness in congressional efforts has been the failure to develop and maintain a continuous, comprehensive, and internally consistent approach to the variety of elements that make up science policy. Because the Congress is a far less unified branch than the executive, which is itself fragmented to no small extent, it cannot easily develop such a comprehensive perspective. The difficulties that confront a president in developing and imposing a single set of national policies are easier to overcome than those facing Congress. The president can formulate his objectives and take steps to assure that they are observed by the agencies his appointees direct. With the considerable help of the Office of Management and Budget, he can expect to maintain a reasonable degree of control and integration, especially by the level of funding he assigns to different programs in his annual budget. Since he is usually in office for a fixed term, and possibly for as long as two terms, the president can set relatively long-range objectives. Because he and his staff have direct access to information from the agencies, they need not be handicapped by ignorance of the real conditions as the agencies perceive them.

Congress, on the other hand, has no effective way of integrating the work of its committees. The legislation and appropriations arrived at during the legislative session are inevitably the work of many hands. In effect, the results seal the bargains among interests, regions, and powerful legislators. Unlike the policies set down by the executive, they do not reflect a single point of view or a single source of responsibility. To be sure, interest groups often exert pressure on the executive as well, and there is a certain amount of "horse trading" among the agencies, but at least the presidency provides a single focus of authority—from which ultimate decisions can emanate, and to which appeals can be carried. There is no such single focus in either house of Congress. Budgetary responsibility is divided among the appropriations committees and the authorization committees, and is split off from the legislative authority of the substantive committees. Although powerful appropriations committees in each house must assemble the budget, either of them can give it the detailed and informed scrutiny the OMB imposes in reviewing agency submissions.

The only committee with a general responsibility for examining expenditures is the Joint Committee on the Economic Report, but it is not authorized to exercise any controlling influence over the powerful appropriations committees in both houses. In contrast to the ability of the executive to conceive of long-term program objectives, Congress is virtually a prisoner of the annual budget cycle. This is particularly unfortunate in the case of research projects, which usually require long-term commitments and are sensitive to sharp fluctuations in funding. As Philip Handler, president of the National Academy of Sciences, has rightly pointed out, "There is no relation between the useful life of a laboratory or scientific project and the time required for the Earth to complete one orbit around the sun."[11] Far from having the easy access of the executive to information, Congress has to pry information loose whenever the agencies suspect it may be used against them. When the president cloaks the activities of his staff with the mantle of executive privilege, inquisitive congressmen must rely on informal briefings or leaks that may or may not yield genuine information.

There are also other reasons why it is virtually impossible for congressmen to devote themselves to the determination of any broad national interest in the fullest and most objective sense. Congressmen are bound to be especially sensitive to the interests and needs of their particular constituencies. Not only does this color their perception of the public welfare, but it also forces them to spend a good deal of their time providing services to constituents.

No group is more aware of all these difficulties than congressmen themselves. Some seem to have concluded that the best way they can influence the framing of public policy is not so much by making policy as by improving the decision-making system in the executive branch. This tendency was expressed with rare clarity as it pertains to science policy in an exchange between Congressman Ken Hechler and the last director of OST, Edward David, Jr., during a hearing to consider the president's reorganization plan abolishing the office. Dr. David warned that governments are inevitably tempted to concern themselves with short-run returns rather than with the long-term strength of scientific and educational institutions. Congress, he added, ought to be apprehensive about what might happen to these long-term considerations now that the functions of OST were to be transferred to the STPO in the NSF. Congress, and in particular the committee before which he was testifying, might well wish to monitor the activities of the new office, he said, to make sure that these interests were well served. Congressman Hechler responded:

"You are very charitable in using the word "monitor." We have the power of suggesting, occasionally, and we pass legislation, which results frequently in impoundments when there's a philosophic difference with what we do. I think you're attributing a great deal of power of this committee when you say we are to monitor this situation. *What the committee wants to do is to try to see that the structure is sound in the first place so that we don't have to spend all our time monitoring it.*" [12]

The idea that the best way for Congress to influence the executive is by concerning itself with organization has the endorsement of at least one leading student of Congress. James A. Robinson even urges that Congress "concentrate on finding oganizational devices to encourage the Executive to plan ahead in such a way as to represent the kind of values Congress favors." [13]

Critics of the "imperial presidency" may consider this advice a counsel of abdication, but they might bear in mind that Congress has found it difficult thus far to do even this much. In practice, Congress has deferred to the wishes of the president at every stage in the organization and reorganization of the administrative structure for science policy. By presidential decision, the post of Special Assistant to the President for Science and Technology was established within the executive branch in 1957, followed shortly afterward by the appointment of the President's Science Advisory Committee (PSAC). Congress had no direct role in either decision. In 1962, in what was described at the time as a move designed to give more permanent status to the role of the science adviser and his staff, the Office of Science and Technology was established within the executive branch. Although this was done at least partly in deference to the congressional desire to be able to summon the science advisor to testify, it was accomplished by a presidential reorganization plan. In 1973, in accordance wtih the principle that what the president can create he can also destroy, the office was abolished by another reorganization plan. The use of this device is another of the techniques developed by presidents to bypass Congress, or at least to reverse the ordinary legislative process. In using this procedure, as Michael Reagan has pointed out, the president "does not just *propose* a statutory change in administrative organization, but he *declares* that the change and his decision become law without further legislative approval. Only if Congress (currently, a majority of either house of Congress) disapproves and vetoes the President's action does it fail to become law. Thus the burden of proof is shifted. . . ." [14]

Venturesome committees which have shown a serious interest in fundamental issues of science policy have not been taken altogether seriously by their congressional colleagues, as is illustrated by the fate of the Subcommittee on Government Research of the Senate Committee on Government Organization. Chaired by Senator Fred Harris, this subcommittee was appointed in 1966 and spent a busy three years reviewing and analyzing some of the most important questions affecting the government's programs in science and technology. Valuable reports were produced on a number of issues, including the payment of indirect costs in sponsored research, the usefulness of social indicators, and the future of biomedical research. The subcommittee deliberately "chose to serve as a forum of debate and to encourage the discussion of high level policy issues with profound moral and social implications. . . . The main intention was to discuss the long-term implications of scientific research with those who came before the Committee." In 1969, this subcommittee was disbanded, ostensibly as a result of a decision to economize, but also because the Senate had lost interest in science policy,[15] and because Senator Harris had become unpopular with the senatorial establishment. Alternatively, we may explain its demise as a result of the inability or unwillingness of either its parent committee, or Congress as a whole, to make use of its findings.

Another case in point is provided by the experience of the Subcommittee on Science, Research, and Development of the House Science and Astronautics Committee. Under the leadership of Representative Daddario,

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this equally active subcommittee produced a series of major proposals in 1971.[16] The subcommittee recommended that Congress formally enact a National Science Policy, to be drafted by a special task force, as a matter of statutory law. In addition, the subcommittee proposed that OST be upgraded so that it would no longer serve merely as the staff for the science adviser, PSAC, and the Federal Council for Science and Technology (FCST). Instead it was to be given the responsibility for formulating science policy, under the broad terms of the new statute, and of monitoring the activities of the federal agencies in all appropriate areas. It was also to prepare an annual report on the scientific state of the nation. In the same report, the subcommittee endorsed the proposal, which had been approved after much detailed consideration, for a National Institute for Research and Advanced Studies (NIRAS) to encompass the NSF. None of these proposals was acted upon, in part because Congressman Daddario vacated his seat in the House, but also because the committee's recommendations do not carry great weight compared to proposals from other more powerful committees.

Significantly, the one recommendation which has come to fruition is the proposal for a congressional Office of Technology Assessment. Congress, it would seem, cannot foist a scheme of executive organization on an unwilling president, but it can reorganize itself to improve its own ability to contend with executive policy proposals. The same motive led earlier to the establishment of the Science Policy Research Division in the Congressional Reference Service (CRS), which was created to answer the common complaint of congressmen and their staffs that they were unable to cope with many of the technical issues that came before them. Both the CRS and the General Accounting Office (GAO), the other external arm of the legislature, have been specifically requested to provide not only information but "policy analysis" as well. Congress has also called upon the help of the National Academies of Science and Engineering, a development which, if expanded, could vastly improve the congressional capacity to act with more confidence in areas requiring scientific expertise. The new Office of Technology Assessment will add another important resource. The preamble of the act establishing OTA stresses the need for Congress to obtain "timely and unbiased" information from a source "independent" of the executive agencies; [17] it is clear from the language that the intention behind the establishment of OTA is to reduce the need for congressmen to rely upon the administrators and industrial lobbyists, who are usually more anxious to stress the benefits than the costs of the innovations they are promoting, for information on new technologies. It remains to be seen whether the new agency will be permitted to tackle highly controversial issues or whether, as skeptics anticipate, it will be compelled, in order to survive, to perform studies which will not risk offending powerful interests or competing with the investigative jurisdictions already well staked out by congressional committees.

Internal reorganization may soon be taken still further in the House, where consideration will shortly be given to a set of reorganization proposals drafted by a Select Committee on Committees, chaired by Representative Richard Bolling.[18] The draft report contains four recommendations which could enhance the ability of the lower chamber to deal with issues of science policy. One of the proposals would transform the present Committee on Science and Astronautics into a Committee on Science and Technology, presumably to signify a reduced concern for the space program and an increased concern for the general state of science and technology, including, for the first time, the military applications, which have previously been the exclusive preserve of the Armed Services Committee. A second element is contained in the proposal to reorganize several other committees. Thus, the Interior Committee would become the Committee on Energy and Environment, the Committee on Public Works would become the Committee on Public Works and Transportation, the Committee on Interstate and Foreign Commerce would become the Committee on Commerce and Health. A third element is that each House committee would be required to create a subcommittee on "oversight and forward planning," the second function to enable the committee to undertake "on a continuing basis, futures research and forecasting. . . ." [19] The fourth relevant innovation is the proposal for a new Budget Committee designed to serve the function of comprehensive policy planning which, as previously noted, has been the major weakness in the organization and operation of Congress as a legislature. This new committee would be expected to "develop criteria of choice among alternative uses of Federal funds in terms of collective policy preferences and priorities. . . ." [20] Specifically, the committee would be charged with reviewing the five-year projections that must be presented by the president, in accordance with a provision of the 1970 Legislative Reorganization Act, with every request for funds to create or expand a program. The Bolling Committee explicitly urges appointment of such a committee as a way of increasing the ability of Congress to share in the setting of general national policy by undertaking "periodic assessment of national goals, priorities, and future program costs." [21]

FUTURE PROSPECTS: THE CAMPAIGN FOR A STATUTORY NATIONAL SCIENCE POLICY

Some of those keenly concerned with the federal government's science policies, having failed to persuade the current administration of the wisdom of declaring a national commitment to the support of science and technology, are turning to Congress in the hope that in its current mood of self-assertion, it will impose such a formal commitment upon the executive. This campaign has had an initial, if as yet incomplete, success with the passage by the Senate of the bill (S. 32) introduced by Senator Edward Kennedy, "The National Science Policy and Priorities Act of 1972." The Kennedy bill had three key provisions.[22] One of these would have declared a statutory national science policy providing that expenditures for nonmilitary research and development should grow at the same rate as the GNP and that they should reach a level of parity with expenditures for military research and development. The second would have greatly expanded the traditional emphasis of the NSF on the support of basic research, especially in the nonbiomedical areas, to make the foundation responsible for establishing priorities in nonmilitary research and development and for devising programs to assist industries in converting to high-priority activities. The third key provision calls for the creation of a "Civil Science Systems Administration" to be located in the NSF. This new agency would be charged with promoting the development of technology aimed at meeting public needs in such areas as transportation, health care, and sanitation.

The Kennedy bill was introduced in response to a belief fairly widespread within the scientific community that the nation's scientific capabilities had been so heavily committed to military programs and to space exploration that other vital public needs were being neglected. The bill evoked considerable support, largely because of concern over the acute unemployment among scientists and engineers caused by cutbacks in government contracting with the aerospace and other defense-related industries. An analysis prepared for the Kennedy subcommittee projected the creation of 200,000 new jobs through programs to be fostered by passage of the bill. (Whatever the exact figure, there can be no doubt that if the key provisions of the bill were to be adopted, there would indeed be a great expansion in nonmilitary research and development. Even in fiscal 1974, the budget for military research and development is estimated at $9.3 billion, whereas nonmilitary programs, excluding space, are estimated at $5.8 billion.)

Objections to the Kennedy bill were lodged by sixteen federal agencies whose representatives complained that NSF was being asked to take on responsibilities already assigned to them. The president's science adviser, Dr. David, argued that the setting of priorities should be done at a higher level than that of the NSF, and that the administration was already taking steps to give greater emphasis to civilian research and development. The director of the NSF, H. Guyford Stever, expressed misgivings over the broadening of the foundation's responsibilities, lest it be diverted from its primary role as the overseer and supporter of basic research.

Supporters of the bill responded that too little had been done by the administration to redirect scientific capabilities to civilian needs. They pointed out that the budget for research and development had declined from 2.6 percent of the total federal budget in 1963 to 1.6 percent in 1971. If the bill had been in force, the percentage decline would have been lower and funds saved because of cutbacks in the space budget would have been transferred to other types of research. The bill's major draftsman, Ellis Mottur, of Senator Kennedy's staff, defended the call for parity between military and nonmilitary research funding as a "symbol . . . of the necessity for reordering national priorities." [23]

The campaign for the declaration of a single coherent national science policy, to which the Kennedy bill was a response, has been led by many of the leading spokesmen for the scientific community and institutions of higher education. They began to urge this course even when research budgets were expanding, both because they knew that the day would come when the budgets would have to level off and perhaps even decline, and also because they thought it was a bad idea to allow priorities in science and technology to be determined in response to particular pressures or dramatic and popular needs. Now that there is more intense competition for smaller allocations, it is said to be even more imperative that the government adopt a declared and carefully constructed national science policy. A Washington magazine writer recently concluded an article on the unhappy relations between scientists and the federal government by summarizing what he had learned after interviewing a number of leading scientists: "Most of all, the federal government must for the first time in history frame an overall policy that eliminates crash-basis science, erratic funding, and submission to faddish enthusiasms, and that substitutes consistency, continuity, balance between research and application, and long-range planning relating science/technology to national needs and goals." [24]

Because this campaign for a national science policy is now being directed almost exclusively at Congress, and has a reasonable chance of success, it is appropriate to ask whether this should be thought of as a logical next step in the extension of congressional authority over science policy. We have already noted that Congress is not well organized to make comparative and comprehensive judgments in this or other areas of

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policy. This remains a serious objection which would not be vitiated simply by the passage of a bill declaring such a policy to be in existence. The policy would still need to be put into effect by a fragmented and unequally powerful set of committees. Would the Senate Labor and Public Welfare Committee, the parent of the Kennedy subcommittee, prove willing and able to enforce the legislation it has sponsored? Would it have the power to secure the cooperation of the appropriations committees in both houses to undertake the rather massive shifts of funding the policy would require? And if an administration opposed in principle to such legislation chose not to apply it with utmost diligence, would Congress be ready to compel stricter compliance? It can be argued that in this case as in others to pass legislation which risks being treated as an empty gesture is no way to reassert congressional authority.

There are other objections to the very concept of a single coherent national science policy which Congress would do well to ponder. The belief that such a policy would provide an answer to the shortcomings of the present ad hoc approach can arouse excessive expectations which almost surely would not be fulfilled. It is not possible by declaring a fixed set of priorities to remove science and technology once and for all from the continuing struggle to determine these priorities that is after all the essence of democratic politics. Even those who have advocated such a policy do not generally harbor ecstatic visions of what it could accomplish. Most of these advocates do not couple their support of the principle with a preference for a highly centralized method for assigning research priorities and for managing the government's extremely diversified system for supporting and performing research. Very few have declared support for a cabinet-level Department of Science and Technology; even those who do support this proposal acknowledge that many important scientific programs are best left to be managed by the mission-oriented agencies they now serve. They are well aware that the present system, despite the criticisms it has received, enables scientists to appeal to a variety of agencies for support and to exercise a certain degree of control over the pattern of allocations by serving as advisers to the agencies and in some cases by supervising the distribution of grants through peer-review panels. A system which would centralize control over allocations and reduce the role that specialists in particular fields now play therefore holds no great appeal for the scientists, especially since a single agency would be highly vulnerable to "political accidents and personalities in the administration or the Congress." [25] Paradoxically, therefore, many of the same scientists who would prefer to see the declaration of a national science policy are not enthusiastic about the appointment of a single scientific czar or a single committee of national science policymakers. They seem to want to retain the pluralistic system at the same time as they decry the fragmentary, ad hoc character of the policy that results from the operation of this system.

There is little if anything to be gained by belaboring the inconsistency in this tendency to argue for a national science policy but against the machinery to create and enforce it. A few of the advocates do hold with both the principle and the practice. The others might explain that it is not necessarily inconsistent to believe in the development of a single national science policy by means of a diversified system of decision making and admistration. It is not so much the discrepancy between theory and practice which is a cause for concern as the validity of the theory taken in its own terms. Some of the difficulties with it have frequently been pointed out, if not always in testimony before congressional committees. Several years ago, the secretary-general of the OECD convened a group of leading scientific administrators for the purpose of reconsidering the meaning of science policy in the light of experience. Their report admits candidly that "some observers have even questioned whether it makes sense to conceive of a science policy as a distinct and separate area of policy." [26] Especially in recent years, they observe, it has become increasingly hard to divorce policy for science from public policy generally. For better or worse, public support of research and development is shaped by the public perception of social needs. Since science and technology have become instruments of public policy, science policy must be thought of not as an independent, but as a dependent, variable of other public policy."

The OECD conferees do not concede that it is altogether meaningless to think of science policy as an autonomous issue. Science and technology, they contend, need to be considered "in their entirety as a set of means to other goals, having some coherence within itself across the functions that it serves." [27] This redefinition considerably narrows both the scope and the significance of the concept of science policy. If it is to be understood as a means rather than an end, there is no justification for assigning it a fixed level of support or for making level proportional to the size of the GNP. The level might as well approach zero or rise considerably higher, depending upon social objectives. Nor does it make sense to set an ideal ratio for the division of funds into such categories as basic research, applied research, and development, or between military research and all the varieties of nonmilitary research. Ideally, "big science" projects in different fields would not be compared with each other but with other program elements in the sector of social need which they are designed to serve.

The resulting disaggregation of science policy into a set of instrumental sectoral policies rests on the recognition that science and technology are too pervasive and too differential to be treated as a single coherent entity. The result, as Herbert E. Carter, chairman of the National Science Board, has candidly admitted, is that a national science policy becomes "at best an umbrella that covers a wide variety of policies, all of which affect the course of scientific activities, but many of which are directed to quite different ends." [28]

In an effort to meet such objections, a distinction has often been drawn between two aspects of science policy, usually referred to as "policy for science" and "science in policy." The first refers to the effort to develop and maintain a set of capacities in science and technology; the second refers to the effort to make use of this capacity in achieving social objectives. The trouble with this distinction is that the two aspects are often so intimately related as to make it impossible to treat one in isolation from the other. It is not easy to launch a grand national program aimed at improving health care—which would be one example of "science in policy"—if the medical schools have not previously been enabled—by "policy for science"—to produce enough doctors. Conversely, the funds made available for socially useful projects will influence and to some extent determine the directions pursued by researchers and the careers chosen by students. This relationship has been most dramatically evident in the important fields of engineering, mathematics, and the physical sciences known collectively as "EMP." As Harvey Brooks has pointed out, the expansion of university enrollments and staffs in EMP in the 1960s was influenced strongly by the employment opportunities and the availability of research support reflecting the high priority established by the federal government for military and space technology. Now that the size of the commitment has been significantly reduced and EMP faces a "glum future," the universities have found themselves overextended in these fields.[29] If science were an undifferentiated entity to be mobilized for a given set of purposes one year and a completely different set the next, the distinction between the two aspects of science policy would be a helpful one, but as this is hardly the case, it cannot rescue the concept of a single coherent science policy from its critics.

In view of its difficulties, the suspicion is bound to arise that the main reason this distinction has been introduced is to support the proposition that the needs of basic research and higher education should be provided for on a continuing and stable basis, while practical projects are treated more flexibly. The distinction then, serves to narrow the effective meaning of the call for a national science policy to a concern for a "policy for science"—a policy that makes basic research and the education of scientists safe from the budget cutters. Even if we agree that the objective is desirable, we cannot conclude that such a conception of science policy is what it claims to be—namely, a better-balanced and more rational way of ordering the ensemble of activities in science and technology than short-sighted, pragmatic politicians are inclined to follow. Still worse, it will almost surely antagonize industrial researchers who are likely to see it, with reason, as a device for promoting the special interests of university scientists to the detriment of a genuinely balanced national program.

ALTERNATIVE ROLES FOR CONGRESS

If, for all these reasons, it would not be advisable for Congress to embrace the campaign for a declared national science policy, there are alternatives open to congressmen anxious to meet some of the serious concerns that have inspired this campaign. One such alternative would be to recognize that the call for a national science policy is perhaps better understood as a plea for an improved system of establishing the social priorities which science and technology are thought to serve. No single institutional device will satisfy this need, but it would be helpful if the executive were to create an office—preferably one that would be independent of the OMB, and possibly one that would serve as a kind of common staff and unifying agent for the existing councils—which would serve a general policy planning function. The purpose of such a general policy planning staff, which has been proposed before,[30] would be to undertake fairly long-term planning so as to complement the necessarily more immediate focus of the OMB. Congress could perform a useful service by persuading the executive of the need for such an office, which might be thought of as a broadened Office of Science and Technology to serve at the level of the executive office. Such an office would be staffed by people in a variety of disciplines. Like the Office of Technology Assessment, it could seek outside assistance. OST, despite the best efforts of its staff, may have been too narrowly construed to serve such a general purpose. Similarly, PSAC could be reconstructed with a broader membership to restore communication between the academy and the executive and to provide the president with relatively disinterested counsel on the technical merits of proposals advanced by the executive departments and agencies.

On a more continuing and less institutional level, congressmen might also consider that they perform an essential and unique func-

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tion in the American system simply by serving as the national platform for the debate of public issues concerning science and technology. Congress, precisely because it is designed more for deliberation than for action, and because it is a cockpit for contentious and ambitious politicians, is ideally suited to serve, as John Stuart Mill put it in describing the role of legislatures, as a "congress of opinions." The success of Congress in performing precisely such a function in the ABM debate and in the inquiry that led to the rejection of the SST could serve as a valuable precedent. The executive is almost bound to enlist experts who share its ruling perspectives. Congress, on the other hand, ought to aim at regularizing and institutionalizing the adversary process. As more and more issues require resolution in the light of the best technical advice rather than by compromise among interested groups, the effort to publicize and to come to terms with the conflicting views of experts becomes more and more imperative. Congress offers an ideal forum for the exposure of public issues involving conflicting expertise.

At present, as in the recent past, most such debates are likely to revolve around the role of science and technology in relation to the two key concerns of national policy: defense and the economy. In these areas, it is expected that the executive will exercise initiative and Congress will serve as consultant and critic. By encouraging thoughtful debate on new technologies, Congress performs an essential democratic function. And if we take seriously the predictions of those who argue that the preoccupation with national security and economic growth is being superseded by a concern for the quality of life, then it may well follow that the role of Congress will become even more significant in the life of the nation than it has been in recent years. If the issues of national security and economic management are debatable, as they surely are, the issues that arise in defining what is meant by the quality of life are even more debatable. Defense and the economy, moreover, are areas of policy which involve vital international issues in very complex ways—ways which may elude the grasp of congressmen whose careers are mainly dependent on their attention to domestic needs. The quality of life, however, is far more amenable to treatment in the light of domestic values and needs than these other issues.

The role of Congress in science policy has to be seen in the light of the larger role of Congress in the American political system and in the light of the critical importance of science and technology to the achievement of social objectives in virtually every area of public policy. The case for a larger role for Congress rests on the essential principle that decisions concerning the uses of science and technology are so vital to the citizenry that they should not be made in secret or bureaucratically or by the executive alone. The fact that this principle has been so egregiously violated in recent years should spur rather than deter congressional efforts to subject major policy issues to informed legislative scrutiny. Scientists should not expect Congress to take on a responsibility for leadership that is best exercised by the executive,[31] but they ought to insist that Congress improve its performance as a representative assembly and watchdog of the executive.[32]

FOOTNOTES

[1] Anne H. Cahn and Joel Primack, "Technological Foresight for Congress," *Technology Review* (March/April 1973), 41.

[2] OECD, *Reviews of National Science Policy: United States* (Paris, 1968), pp. 86–87. The comment on the JCCAE is from Harold P. Green and Alan Rosenthal, *Government of the Atom* (New York, 1936), p. 226.

[3] For a fuller discussion of the impact of the American model, see Sanford A. Lakoff, "The Vicissitudes of American Science Policy at Home and Abroad," *Minerva*, XI, no. 2, (April 1973), 175–190.

[4] Subcommittee on Science, Research, and Development, House Committee on Science and Astronautics, 91st Congress, second session, *Toward a Science Policy for the United States* (Washington, D.C., 1970), p. 109 n.

[5] Henry M. Jackson, "Congress and the Atom," *Annals of the American Academy of Political and Social Science* (November 1953), 76. Cited in Harold Orlans, *Contracting for Atoms* (Washington, D.C., 1967), p. 161.

[6] Testimony before the Joint Congressional Committee on Atomic Energy, Washington, D.C., January 28, 1974.

[7] For such criticism see H. Peter Metzger, *The Atomic Establishment* (New York, 1972); and Richard S. Lewis, *The Nuclear Power Rebellion* (New York, 1972).

[8] See Demetrios Caraley, *The Politics of Military Unification* (New York, 1966), especially chap. 7.

[9] George Reedy, *The Twilight of the Presidency* (New York, 1970), p. 54.

[10] See Daniel S. Greenberg, *The Politics of Pure Research* (New York, 1967), pp. 207–265; and Allan Rosenbaum, "Decisionmaking, Expertise, and the Processes of Federal Policy Formation: The Atomic Energy Commission, Congress and the National Accelerator Laboratory," forthcoming in Sage Professional Papers in Policy and Administration.

[11] Quoted in *Toward a Science Policy for the United States*, p. 37.

[12] House Committee on Science and Astronautics, Hearings, *Federal Policy, Plans, and Organization for Science and Technology* (Washington, D.C., 1973), p. 143. Emphasis added.

[13] James A. Robinson, "Decision Making in Congress," in Alfred de Grazia (ed.), *Congress: The First Branch* (Washington, D.C., 1966), p. 292.

[14] Michael D. Reagan, "Toward Improving Presidential Level Planning," reprinted in Thomas E. Cronin and Stanford D. Greenberg (eds.), *The Presidential Advisory System* (New York, 1969), p. 267.

[15] Dennis W. Brezina, "Rise and Demise of the Senate Subcommittee on Government Research," *Federation Proceedings*, 29, no. 5 (September–October 1970), 1829.

[16] *Toward a National Science Policy.*

[17] Technology Assessment Act of 1972 (Public Law 92–484); see especially preamble, "Findings and Declaration of Purpose." Reprinted in Senate Committee on Rules and Administration, *Technology Assessment for the Congress* (Washington, D.C., 1972), p. 44.

[18] House Select Committee on Committees, *Committee Structure and Procedures of the House of Representatives*, Committee Print (Washington, D.C., 1973).

[19] Ibid., p. 7.

[20] Ibid., p. 89.

[21] Ibid.

[22] In this and the ensuing discussion I have drawn on the valuable report by Claude E. Barfield, "Congress Moves to Reset Priorities in Federal Research and Development," *National Journal*, 4, no. 40 (September 30, 1972), 1524–1533.

[23] Ibid., p. 1529.

[24] Vernon Pizer, "Who Unplugged America's Science Machine?" *Washingtonian* (February 1974), 108.

[25] Harvey Brooks, "The Physical Sciences: Bellwether of Science Policy," in James A. Shannon (ed.), *Science and the Evolution of Public Policy* (New York, 1973), p. 129. The view cited is that of the dissenting minority on the National Science Board commenting on the recommendation for a National Institution for Research and Advanced Studies.

[26] The Secretary-General's Ad Hoc Group on New Concepts of Science Policy, *Science, Growth and Society* (Paris, 1971), p. 37.

[27] Ibid., p. 38.

[28] Quoted in *Toward a Science Policy for the United States*, p. 27.

[29] Brooks, "The Physical Sciences," p. 111.

[30] Among a number of such proposals is one calling for a presidential office for "strategic policy assessments" which emerged out of discussions in a Government Policy Forum at the Woodrow Wilson International Center for Scholars, Washington, D.C., in 1973. For a similar proposal, see also the report of an ad hoc committee appointed by the National Academy of Sciences, "Science and Technology in Presidential Policymaking: A Proposal" (Washington, D.C., June 1974) pp. 34–35.

[31] G. B. Kistiakowsky, "Presidential Science Advising," *Science*, 184, no. 4132 (April 5, 1974), 40.

[32] An earlier version of this article was presented at the annual meeting of the American Association for the Advancement of Science in San Francisco, February 27, 1974. For research support, the author is indebted to the University of Toronto, the Canada Council, and the Woodrow Wilson International Center for Scholars. Colleagues at the center, John Logsdon in particular, make helpful comments on an earlier draft.

By Mr. MATHIAS (for himself, Mr. BEALL, Mr. HUMPHREY, Mr. JAVITS, Mr. MCINTYRE, and Mr. THURMOND):

S. 80. A bill to prevent the estate tax law from operating to encourage or to require the destruction of open lands and historic places, by amending the Internal Revenue Code of 1954 to provide that real property which is farmland, woodland, or open land and forms part of an estate may be valued, for estate tax purposes, at its value as farmland, woodland, or open land (rather than at its fair market value), and to provide that real property which is listed on the National Register of Historic Places may be valued, for estate tax purposes at its value for its existing use, and to provide for the revocation of such lower valuation and recapture of unpaid tax with interest in appropriate circumstances. Referred to the Committee on Finance.

SAVING FARMLAND AND HISTORIC SITES

Mr. MATHIAS. Mr. President, wise land use has become a central focus for those who care deeply about environmental quality. The Senate has passed and the House is now considering strong measures designed to foster a more rational land use policy. While I support these efforts to improve our regulatory mechanisms, I most strongly urge Congress to examine not only how the States and counties have managed their land, but also what impact Federal laws have on land use. The starting point for such an examination should be the Federal Tax Code. In this regard, I firmly believe that the Federal estate tax actually compels the elimination of many thousands of acres of agricultural land annually throughout the United States. If Senators are committed to halting unplanned, urban sprawl, then a serious effort to revamp the estate tax laws is in order.

Existing estate tax laws require valuation of farmland, woodland, and open space at its market value for estate tax purposes. This means that when a farmer dies, his land—that may be assessed at $500 an acre for agricultural purposes—will automatically be increased to a com-

mercial market value of $2,000 to $3,000 or more per acre, if the land is close enough to a metropolitan area to be affected by speculative values. The farmers' heirs are forced to sell off the property to pay the taxes, even though they may wish to keep the land in agricultural production.

The very same problem exists for historical properties. This at a time when it is the stated Federal purpose through the National Register of Historic Places and other programs to preserve such valuable landmarks. Historic houses in cities, for instance, are destroyed because of appraisals for Federal estate tax purposes on the lot's value for highrise apartments.

The following, entirely realistic example, illustrates the impact of the estate tax on farmland, woodland, open space, or historical property: Farmer Jones, a widower, dies, leaving his estate equally to his two sons, who wish to continue living on and farming the land. Farmer Jones' estate consists of his farm—300 acres—and farm equipment and other personal property valued at $50,000. Used as a farm, the land is worth $500 an acre. If the Federal estate tax were based on an assessment for that use, Jones' estate would be valued at $200,000 and the tax payable would be $32,700—a very large sum for the Joneses, but one which the family might be able to pay and still retain at least most of the farm. However, the farm is within 25 miles of a large city, and speculators and developers have driven up the current price of land in farmer Jones' area to $2,000 per acre. Such prices, of course, assume conversion of the land to nonfarm use—a conversion which the Jones boys have no desire to see happen. Nonetheless, the Internal Revenue Service under existing law assesses the farm at $2,000 an acre. The result is a valuation of Jones' estate at $650,000, and a Federal tax payable of $117,200.

Obviously, the family is compelled to sell the farm, probably to a speculator or developer, in order to pay the tax. The result is federally compelled destruction of farmland and open space in a critical environmental area on the border of a metropolitan region, and the acceleration of urban or suburban sprawl with no thought for proper land-use planning. If farmer Jones' house is a historic one, the result is the federally compelled destruction of a historic house, or at least of its surroundings—the very thing the Federal Government is supposedly trying to prevent through its National Register and other programs. And the result for the individual family is the gross injustice of being forced off their farm and being compelled to pay an estate tax amounting to a confiscatory 89 percent of the value of what the estate is worth to them for the purpose to which they wish to put it.

On December 18, 1973, I introduced S. 2822 and on May 28, 1974, I introduced with 10 other Senators S. 2541, which represented a refinement of S. 2822. I today introduce with a number of other Senators a similar measure. It only changes the approach of S. 3541 by providing a new method for computing interest that will make the recapture provisions of the bill more equitable.

It provides that should a farmer's family wish to continue the farming operation they would have the option of having the decedent's interest in farmland, woodland, or open space determined by its fair market value, as at present, or by its value as farmland, woodland, or open space.

In order to qualify for this option, the property must have been devoted to one of these above-named uses for a period of 5 years preceding the death of the decedent. Obviously, qualifying for and electing to take the lower valuation will result in a significant tax saving and for so long as the land remains as qualified farmland, woodland, or open space, the tax saving will continue. But should any of the land be converted to a nonqualifying use or zoning be requested by the owner to permit a nonqualifying use, the tax saving will be recaptured by the Government. If all the land is converted or requested rezoned, then the entire tax saving will be recaptured by the Government. If only a portion of the land is involved, then only a portion of the tax savings will be owing to the Government. Determinations as to the extent of recapture in individual cases will be made in the same fashion as such determinations are made for capital gains.

Historic property will be treated in a similar fashion. If the property is listed on the National Register of Historic Places then an election can be made to value the property at its value for historical purposes and not at its market value. The tax saving will continue for so long as the property remains on the National Register. If the property is delisted the tax will fall due.

Should the heirs make a bona fide sale of the property or a portion thereof the tax savings may or may not be partially or totally recaptured depending on the sale price. If the price is below or equal to the low valuation in the original estate then there will be no recapture. If the sale price is equal to or greater than the fair market valuation then there is total recapture of the tax savings. Sale prices falling between the high and low valuations in the original estate will result in partial recapture. In such a case, the tax due at the time of the sale shall be that part of the tax saving which is proportional to the gain realized on the sale. For this purpose, the gain realized shall be expressed as a fraction, the numerator of which is the amount by which the actual sale price exceeded the land's original valuation as farmland and the denominator of which is the amount by which the fair market value of the land exceeded its value as farmland at the time of the original valuation. In no case, however, shall this fraction exceed the value 1.

In all cases where recapture takes place, interest on the tax saving is also due. Such interest is at 9 percent running from the filing date when the election of the lower valuation takes place for a period of 10 years or until revocation takes place. The tax saving and the interest thereon constitute a lien on the property and can be discharged at any time by payment in full.

At a time of world food shortages and environmental destruction it is critical that we structure our tax laws to encourage good husbandry, agricultural and conservation practices. This measure offers hope of preserving not only our valuable farmland and the farming way of life, but our heritage as well. I am afraid that America is an increasingly rootless society and therefore it has never been more important to safeguard the landmarks of our past. These landmarks nourish the human spirit in countless ways.

There is a strong incentive for compliance in this bill. It affords no tax relief to the undeserving. The fairness of this proposal is clear. It has been recognized in other forms throughout our country. I hope we can act now to solve this problem.

Mr. President, I ask unanimous consent that a number of articles detailing the scope and severity of this problem be included in the RECORD at this point. The first article is by David A. Adelman in the New York Times of May 14, 1972. The second appeared in the Wall Street Journal of May 15, 1974, and was written by Gail Bronson. The third article is by Michael Burns and appeared in the Baltimore Sun of May 19, 1974. The fourth article was written by Isaac Rehert for the Baltimore Sun of February 19, 1974. The final article is by Steven Norwitz and is from the Baltimore News American. I also ask unanimous consent that the bill be printed immediately following these articles in the RECORD.

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

S. 80

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 2031 of the Internal Revenue Code of 1954 (relating to definition of gross estate) is amended by adding at the end thereof the following new subsection:

"(c) ALTERNATE VALUATION OF CERTAIN REAL PROPERTY.—

"(1) IN GENERAL.—If the executor of an estate so elects, the value of any qualified real property included in the estate shall be determined by its value for the use under which it qualifies, under paragraph (2), as qualified real property.

"(2) DEFINITION OF QUALIFIED REAL PROPERTY.—For purposes of this subsection, the term 'qualified real property' means real property substantially all of which is, and, for the 60 months preceding to the date of death of the decedent, has been, devoted to—

"(A) farming (including the production of agricultural commodities and the raising of livestock),

"(B) woodland (including land used for the commercial production of trees and land used for scenic and recreational purposes),

"(C) open space, or

"(D) any use, provided that the property is listed in the National Register of Historic Places, either separately or as part of a district so listed.

Such real property shall include residential buildings and related improvements occupied on a regular basis by the owner or lessee of such property or by persons employed by such owner or lessee for the purpose of

operating or maintaining the real property and improvements described in this paragraph (2), and roads, buildings, and other structures and improvements functionally related to the uses listed in this paragraph (2).

"(3) ELECTION REQUIREMENTS.—An election under this subsection shall be filed with the Secretary or his delegate at such time and in such form and manner as he may prescribe and shall contain, in addition to any other matter, the name, address, and taxpayer identification number of the person or persons to whom any interest in the property passes under the terms of the decedent's will or by operation of law.

"(4) DEFINITION OF OWNER.—For purposes of this subsection, the term 'owner' means those persons identified in paragraph (3).

"(5) REVOCATION OF ELECTION UPON CONVERSION, REZONING, OR REMOVAL FROM NATIONAL REGISTER.—Upon the occurrence of an event described in paragraph (6), there shall be imposed on the owner a tax equal to:

"(A) the excess of—

"(i) the estate tax computed in accordance with section 2001 with respect to the decedent's taxable estate based on a valuation of the decedent's gross estate made as if the election provided in paragraph (1) had not been made with respect to such portion of the real property as is subject to an event described in paragraph (6), over

"(ii) the estate tax computed in accordance with section 2001 with respect to the decedent's taxable estate but based on a valuation of decedent's gross estate made after taking into account the election provided in paragraph (1) with respect to such real property; plus

"(B) interest on such amount at 9 percent running from the filing date prescribed in section 6075 with respect to the return from the decedent's estate (taking into account any extension of time granted pursuant to law for the filing of the return) for a period of 10 years or until a revocation of election occurs pursuant to paragraphs 6 or 7.

"(6) EVENTS CAUSING REVOCATION OF ELECTIONS.—The tax described in paragraph (5) shall be imposed upon the occurrence of any of the following events:

"(A) the conversion by the owner of the real property with respect to which the election provided in paragraph (1) was made, or any portion thereof, to a use other than one or more of the qualified uses described in paragraph (2); or

"(B) the rezoning of such property to permit a use other than one or more of the qualified uses described in paragraph (2), if such rezoning occurs at the request of the owner; or

"(C) if such property qualified for the election only pursuant to paragraph (2)(d), removal of such property from the National Register of Historic Places.

"(7) REVOCATION OF ELECTION UPON SALE.—If the owner sells an interest in real property with respect to which the election provided in paragraph (1) was made, there shall be imposed on such owner a tax equal to:

"(A) the excess of—

"(i) the estate tax computed in accordance with section 2001 with respect to the decedent's taxable estate based on a valuation of the decedent's gross estate made as if (a) the election provided in paragraph (1) had not been made, or (b) such real property had been valued at an amount equal to the price for which the property is sold, whichever valuation is lower, over

"(ii) the estate tax computed in accordance with section 2001 with respect to the decedent's taxable estate but based on a valuation of decedent's gross estate made after taking into account the election provided in paragraph (1) with respect to such real property; plus

"(B) interest computed as provided in paragraph (5)(B).

"(8) DUTY TO FILE RETURN.—Prior to or upon the occurence of an event described in paragraph (6) or a sale described in paragraph (7), the owner subject to the tax imposed by paragraph (5) or paragraph (7) shall file a return with respect to such tax. Such return shall be made within 30 days after the end of the calendar quarter in which such event occurs.

"(9) LIEN TO SECURE TAX.—If the executor of an estate makes the election provided by paragraph (1), there shall be a lien on the real property with respect to which such election was made in the amount of the tax saving realized by the estate by virtue of such election. Such lien shall be extinguished upon payment of all taxes which become due pursuant to paragraph (5) or paragraph (7) or at such time at which the possibility that any such taxes shall become due terminates, whichever time is later."

"(b) Section 1014(a) of such Code (relating to basis of property acquired from a decedent) is amended by inserting before the period at the end thereof a comma and the following: 'or in the case of an election under section 2131(c) (relating to alternate valuation of certain real property), the value thereof as determined under such section for the applicable valuation date, including any increased value on which a tax is paid as required by paragraph (5) or (7) of that subsection'."

"(c) The Amendments made by this Act shall apply with respect to the estates of decedents dying after the date of enactment of this Act.

[From the New York Times, May 14, 1972]

ESTATE TAXES DRIVE FARMERS OFF LAND

(By David A. Andelman)

Thousands of American farmers are being driven off their lands—forced to sell their farms to real estate speculators, some of them say, because of the method used by the Internal Revenue Service to assess inheritance taxes.

Such taxes are assessed on what the land could be sold for, rather than what it is worth as farmland. Thus, many people who have inherited farms have had to sell them to developers simply to pay the taxes.

As a result, the revenue service is being termed partly responsible for destroying a segment of American agriculture and, at the same time, accelerating the spread of the suburbs to the rural areas of the United States.

Over the last decade, the value of agricultural lands in wide sections of the nation within easy access to metropolitan areas has skyrocketed as land speculators have bought up every available piece of property. The value of this land for agriculture, however, has largely remained constant or has declined.

The Internal Revenue Service insists on assessing all agricultural land at the "price at which property would change hands between a willing buyer and a willing seller."

The result has been that farmers holding property whose value for development is five to 10 times its agricultural worth have been forced to sell their property to the waiting speculators simply to pay their inheritance taxes, which run as high as 25 per cent. Children who would have remained on the land are being forced off.

Most of this pressure has been focused on the spreading areas on the fringes of the suburbs where metropolitan America is pushing out to meet rural America—areas such as the farther reaches of Suffolk County, L.I.; suburban Phoenix, Ariz.; the extreme northwestern part of Cook County in Illinois, and the Sierra Foothills region of California.

"Once farmland is given to the speculators, that's the final step as far as agriculture is concerned," said James E. Cross, a farmer in semirural Cutchogue, L.I. "You're taking land that took 25,000 years to develop, an amazing land that is rich and fertile, and overnight you bring in bulldozers and sock houses on it. We all pay for it in the long run."

Another Cutchogue farmer, John Wickham, cited the situation of a neighbor with a 60-acre farm in one of the best potato-producing areas in the United States.

The neighbor, who had asked not to be identified by name, inherited the farm from his mother two years ago upon her death. The farm was worth about $800 an acre if used for agriculture. But the revenue service valued it at $3,500 an acre, which Mr. Wickham noted "is the fair development value," and the tax alone came to about $1,200 an acre.

CALLS SALE "FORCED"

"This means that this chap is a very good farmer," he added, "but he had to take out a tremendous mortgage to pay the inheritance taxes, a mortgage with 9 or 10 per cent interest, and he simply can't pay it off—not with today's price of potatoes. So he has to sell it. In actuality, they [the Federal Government] forced its sale, very simply."

In Barrington, Inn., Xaver Schmid, a 72-year-old farmer who is worried about the problem that will arise when he dies, cited the case of a 90-year-old neighbor who died and left a 500-acre farm to his wife.

"They haven't sold the farm yet," Mr. Schmid said, "as the estate is still in probate. But his wife is nearly 90, and when she dies taxes will be levied all over again and the sons will have to sell the farm for sure to pay taxes."

That the situation became most acute very recently is largely attributable to the newly developing pattern of change in suburban America.

GROWTH ON FAR FRINGE

The 1970 census revealed that the fastest growing segment of the United States was the suburbs and the fastest shrinking was the rural areas. But of even greater significance was the evidence that the fastest growing segment of the suburban population was in the so-called "exurban areas"—those counties on the far fringe of the suburbs, between suburbs and countryside.

It is here that the real estate speculators are most busily at work and where the pressures on the remaining farmers are the strongest.

There are no statistics to show how many farms are going to speculators. Many are quietly sold but continue to be farmed for several years, even decades, under "lease-back" arrangements, until the land becomes so valuable that the speculator finally moves in and puts a halt to the farming.

NEED FOR LEGISLATION SEEN

A spokesman for the Internal Revenue Service, Edward Work, said, "We've been aware of the problem really for several years and, of course, what it boils down to is that under the law we have no alternative but to set the tax on the value the land sells for rather than on the value the property would be used for.

"It would take legislation to change the practice."

The legislation on which the current revenue service practices are based dates to the Revenue Code of 1916. Section 203.1, of which says that property must be valued at its fair market value. A service spokesman said, "It has been applied consistently since that date."

There have been numerous attempts at reform. Representative Graham Purcell of Texas, sixth-ranking Democrat on the House Agriculture Committee, has introduced each year for the last four years a bill providing for a change of the valuation criteria.

At last count, there were six bills before

the House Ways and Means Committee and one in the Senate, all waiting for action that their sponsors generally believe will probably never come.

"Each year they get buried in the hearings on general tax reform," Mr. Purcell said in a recent interview. "Ways and Means just happens to like the extra revenue the law pulls in the way it stands."

The extent of the problem and the concern it has aroused in agricultural America is indicated by the search for the methods to circumvent the revenue regulations.

In the Dade County area surrounding Miami, almost all farms have by now been incorporated. The corporate farmer is able each year to transfer a small amount of stock—up to $3,000 apiece is tax-exempt under gift tax statutes—to his children as gifts, easing the final impact of inheritance taxes when he dies.

A few states, including New Jersey, California and Maryland, have either set up or given serious consideration to establishing agricultural land use districts. They require farmland under regulation to remain in farming for a certain period of years, usually at least 10, or indefinitely. But in many areas, the revenue service has not chosen to recognize these districts for estate tax purposes.

ACCEPTED BY GOVERNMENT

In California, the Land Conservation Act of 1965 enables a farmer to contract with the county government not to put farmland up for sale for at least 10 years, enabling the state to assess the land at agricultural rates. And, state officials said, the Federal Government has accepted the state assessments for Federal purposes.

But a new and more recent law may change this. It provides that if not enough of this restricted land is sold in an area, the county assessor may use the income of the land as a means of determining its value for assessment purposes.

Joseph A. Janelli, governmental affairs specialist of the California Farm Bureau Federation, is concerned that "the I.R.S. just might say this new law is a temporary expedient and we do not have the right to do it this way."

ARRANGEMENTS ARE URGED

Mr. York, the revenue service spokesman, said "there is a possibility" that an agricultural land use district "could affect the valuation—in effect discounting the valuation in some situations." But he said, even so, the value would never reach the agricultural value.

So, the California federation has begun to advise members to make their proper arrangements well in advance of death—giving land or corporate shares in land to their children over the years to take advantage of the gift tax exemption.

"All this is fine," said Mr. Wickham, the Long Island farmer. "But I can't do this. I need cash loans on my property each year in order to operate. If I go to a bank and say I've given shares to my children, that I don't have clear title, they'll throw me right out."

Dean F. Tuthill, a professor of agricultural economics at the University of Maryland, said that there were only a handful of states that had been able to figure out any method of easing the burden of estate taxes for their farmers.

COAST LAW CITED

Most special agricultural taxing districts set up to help farmers are applied only to local property taxes and not to federally administered estate taxes.

Professor Tuthill cited, as one attempt to ease Federal taxes, California's statute, which he said was a prototype for other methods of "preventing intensive development of farmland," including a bill in Maryland last year that would have allowed farmers to sell their development rights to the local county, farming it themselves but paying considerably lower taxes.

Systems such as this or one newly instituted in Suffolk County, L.I.—where the county plans to purchase, at the start, some 3,000 acres of prime farmland at speculative prices from the farmers, then lease it back to the owners—are other solutions proposed by agricultural economists in place of changes in the revenue law.

"There are so few ways open to preserve this valuable resource," Mr. Wickham concluded. "If the I.R.S. continues to follow this policy, it will put all agriculture out of business on Long Island within a generation. And who knows what will happen everywhere else in this country?"

[From the Wall Street Journal, May 15, 1974]

THE 251-YEAR-OLD MANSION PROVIDES FEELING OF "ROOTS" BUT DOMINATES THEIR LIVES

(By Gail Bronson)

SHIRLEY PLANTATION, Va.—To walk inside the venerable brick mansion here with its paneled rooms and its oil portraits of long-dead ancestors, is to enter into the measured pace of the 18th Century.

It is easy, in the shadowy half-light of a fading afternoon, to envision a style of life two centuries removed from the busy world outside—to imagine squires with powdered wigs gathered around the Chippendale dining table, drinking sherry from graceful crystal glasses. Thomas Jefferson dined at Shirley. Robert E. Lee's mother was born here.

But C. Hill Carter, the 20th Century owner of Shirley, is not a squire, and he doesn't have a powdered wig. He has a crew cut, and should you visit his 251-year-old mansion 25 miles east of Richmond in the Virginia tidewater country, you may find him in paint-spattered shoes and baggy overalls, touching up an outbuilding. He often does such work himself—to save money.

Nor do Mr. Carter, his wife, Helle (rhymes with Nellie), and their three children dine very often at that splendid table of polished mahogany on the main floor. They usually eat at a picnic-type table in the basement, seated on folding chairs beneath the bare pipes that service their 1910 sink. They eat in the basement because they want to maintain the main floor in all its 18th Century elegance, full of valuable antique furniture and American art.

RUINOUS TAXES

That is the commitment that has shaped the lives of Hill and Helle Carter—a commitment to maintain and preserve an 18th Century mansion on a 20th Century income. More than that, they are committed, despite rising expenses and the threat of ruinous taxes to pass Shirley on to their children and their children's children. They intend to keep Shirley in the Carter family, where it has remained for nine generations.

"In our society nobody has any roots," Mr. Carter drawls. "Everybody's mobile. When people come here and tell me how lucky I am to own Shirley, I'm right proud. We're determined to stay and keep these things."

Plenty of folks come to see Shirley. To help offset expenses, Mr. Carter opened Shirley to tourists some years back, posting a billboard near Williamsburg and distributing brochures locally. Last year, more than 10,000 people visited the plantation, often getting a guided tour by Mr. Carter himself, who clearly relishes the opportunity to take time off from endless odd jobs around the plantation to recall his family history and the glories of the past.

The white porticoed mansion dates back to 1723, but Shirley Plantation itself is even older. It was founded in 1613, only six years after the colonists arrived at Jamestown. While the land belonged to tobacco farmer Edward Hill, the Shirley mansion wasn't built until his daughter Elizabeth married John Carter, the son of a giant in colonial Virginia, William Robert (King) Carter.

RANDOLPHS, LEES, AND BYRDS

Contemporaries called him King because he owned a huge chunk of what is now the state of Virginia. King Carter amassed his wealth by deeding defaulted land to himself as land agent for Lord Fairfax and England. He lived quite comfortably on another plantation, cultivating tobacco with the help of 1,000 slaves. Over the years, his descendants intermarried with such leading Virginia families as the Randolphs, Lees and Byrds.

By comparison, King Carter's ninth-generation descendant has come down in the world—although, on paper at least, Hill Carter is a wealthy man.

"I reckon I'm worth $1.5 million," he mutters bashfully. "But I still feel like I'm scrambling to pay the grocery bills." Despite his assets, Hill Carter barely nets $15,000 a year, mainly from his tourist trade and some land he rents to a gravel company. To convert his assets to spendable cash he'd have to do the one thing he is committed not to do: sell Shirley Plantation.

The problem of maintaining a large estate isn't unique to the Carters. Many families find the financial burden too much or the way of life unappealing; usually, they sell their property for development or for some sort of institutional or foundation use. In Britain, the National Trust accepts country estates from owners who provide endowments to maintain the property in perpetuity for public access. In return the family may live there rent-free. The National Trust for Historical Preservation in the United States accepts property gifts with endowments, and Colonial Williamsburg buys land for the tourist trade. But Hill Carter wouldn't consider passing Shirley out of strict family control.

As a result, Hill and Helle struggle hard to keep Shirley both livable for the family and attractive to tourist. For Hill, life is a

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walls that need spackling and plumbing that needs fixing; currently, he's trying to complete some formal gardens around the house and build a driveway to the main highway. Helle opened a gift shop last year in one of the outbuildings and also hopes to start a small restaurant operation in another building.

Shirley Plantation mirrors much of Southern history in its evolution from tobacco plantation to wheat farms to the homestead that Hill Carter inherited. "My grandfather was wounded at Chancelorsville and was forced to quit working around 1884," says Hill, "so my dad started farming when he was 16. He never got an education, and financial things weren't easy for him. He spent all his time farming just to feed his family through the Depression."

Hill inherited the estate in 1952 through an elaborate plan to keep Shirley in the family; soon, the farmland was leased to others, a gravel mining company had leased several hundred other acres, and the Carters were seeking to build up tourist traffic to the house itself. "When other people are out on Sunday drives, I'm showing people around the house," says Hill.

Still, life at Shirley has its compensations. Hill and Helle enjoy sitting out back watching the historic James River roll by; many evenings are spent entertaining friends in Shirley's stately and ornate dining and drawing rooms. Though the family usually eats in the basement, the children, Charles, 11, Randy, 10, and Harriet, 9, are allowed the run of the house and property. "I don't want to turn this place into just a museum," says Helle.

Whether Hill Carter will succeed in his

ambition to keep Shirley intact for his children—and whether they will want to stay at Shirley—is open to question. Hill figures the inheritance tax alone on Shirley would be about $650,000 at present rates.

But Hill and Helle figure it's worth the effort. "If money was the only thing in the world, I'd leave," says Hill. "But it's not. Most of the important things in the world can't be bought and sold," Helle adds. "It's gratifying when people come and appreciate this as part of their heritage."

[From the Baltimore Sun, May 19, 1974]

DISAPPEARING FARMS

(By Michael K. Burns)

In the years of agriculture abundance, not so long ago, United States farm policy was aimed at moving land out of production. That policy did not seem to work so well then but its effects are being felt today when the nation is realizing it might be better off with more farms and farmers.

Rising prices at the supermarket reflect the world's demand for more food. And the environmental movement has inculcated a reverence for open space and a revulsion against the devastation of suburban sprawl. Expansion of the domestic farm system seems to answer these non-farmer needs of society.

Forces are at work to create a coalition between the farmer and the environmentalist to preserve farmland as a privately held public heritage. But the alliance is still in the formative stage. Farmers distrust the conservationist who would freeze the value of his land under land-use laws, and chafe at his efforts to restrict uses of chemical and pesticides. Conservationists and consumers are wary of the producers of ever-more-expensive food and the owners of large spreads of high-priced rural real estate.

Land speculators have perhaps been the key element in the forging of the common interest. Population pressures and the ever-growing highway system created new fortunes for property holders who stood in the path of progress. Farmers did not create the boom, but they were quick to appreciate its possibilities for a windfall. A glut of reckless, shotgun speculation in farms throughout the state followed. And those farmers who sold out made it even harder for their neighbors to resist.

Some 2.7 million acres in the state, or 40 per cent of the land, are in farm production. By one estimate, that amount will dwindle to 1 million acres by the year 2000. Recognizing this undesirable trend, the Maryland Senate last year ordered the Secretary of Agriculture, Y. D. Hance, to make a study of means to preserve farmland. Mr. Hance appointed an 18-member commission with Frank L. Bentz, Jr., University of Maryland vice president for agricultural affairs, as chairman.

The commission has set as a goal the preservation of 2.5 million acres of agricultural land. Members are uncertain how fast farmland will be eaten up in the future: one subcommittee suggests 35,000 acres a year, another 62,000 acres. But they seem to agree that speculation, or investment, is a greater factor than the immediate demand for housing or commercial development. "Agricultural and commercial forest land acreage will decrease more than three times as much as urban-related land commitments will increase" by 2000, the group said in an interim report. Some of that land will be granted a temporary reprieve, as speculators rent it to farmers, but its fate is sealed. This despite the fact that there will be 50 per cent more people living on an acre of Maryland in 26 years than there are today.

As a commission subcommittee noted, preserving agricultural land can only be based in part on the actual demands of future population growth. Unrelated economic factors influence a number of individual decisions to give up farming and to take advantage of the speculator's offer. Farm prices are expected to increase and provide a return of about 15 percent on capital (exclusive of land), the commission reported. But a shortage of labor, heavy indebtedness and taxes may encourage all but the dedicated to give up.

Farm prices have shot up all over the state with little relationship to productivity and food prices. Farms that sold for $200 an acre in Frederick county 15 years ago are now worth $30,000 an acre by the new shopping mall. Even residential lots, minus sewer and water, are selling at $4,500 an acre.

In Anne Arundel county, developers are paying $3,000 an acre for average farmland as they leapfrog over sewer-connection bans in Montgomery and Prince Georges counties.

Partially influenced by the expanding Black & Decker power-tool plant, land in the Hempstead area of carroll county is selling for an unheard of $7,000 an acre. "A couple of years ago, $1,000 was high for land in this area," recalled Paul R. Albaugh, a dairy farmer. "Now, I don't know of any land sold that's going to other farmers . . . they can't afford it."

"I don't think you can talk to a farmer who hasn't lost ground over the last five years," said Carroll Leister, whose grandfather bought the land he farms today. The small parcels of land a farmer rents for $15 to $20 an acre are sold off each year as land values rise, he explains. "The by-pass is going through 25 acres of our land and that will bring more houses," Mr. Leister said. "I guess in five years after the road is built we'll be out of here."

Developers and farmers covet the same type of land, Mr. Leister added. "That's the thing that hurts: they're buying good flat, cleared land, not the woods or the hilly areas," he said. According to the state, more than 20 per cent of Maryland's "prime" farmland has been lost to urban use.

The commission headed by Dr. Bentz is to make final recommendations on legislation to Mr. Hance next month. So far, the group has explored several possibilities which have been discussed at a series of hearings in the state. The revision of federal estate taxes and state inheritance tax is one promising idea. Senator Charles McC. Mathias Jr., (R., Md.) and Representative Goodloe E. Byron (R., 6th) have introduced bills to change the estate tax, so that heirs are taxed on the agricultural value of farmland instead of on "fair market value." The lower valuation would make it easier for heirs to pay the taxes without selling the farm; if they did or if they developed the land, they would be subject to a retroactive higher levy. The chairman of the Maryland Environmental Trust and the Maryland Historical Trust support the measure as a valuable open-space tool.

The loss of farmland due to the estate tax valuation has not been extensive. Many heirs are all too willing to sell and farmers do the same thing to create heir retirement annuity. But it does help to keep farms in the hands of those families who want to continue at it, and they are becoming more rare. Herbert and John Wisner of Mt. Zion worked their father's farm since they were children, but had to form a corporation to save the land with a mortgage when it was inherited as an estate. "They should have done something to help the farmer in a situation like this," Herbert Wisner said.

Other plans considered by the agricultural land preservation commission include variations on programs in New York and New Jersey. New York permits farmers to create agricultural districts with powers to prohibit certain local ordinances that interfere with farming, to bar the use of public funds for utilities installation and to receive favorable tax assessment treatment.

The New Jersey plan, which is only a proposal made to the governor, calls for each municipality to set aside a certain percentage of prime farmland for preservation. A state tax on real-estate transfers would pay farmers for the loss of their development rights by having the land use frozen in preserves. Under the New Jersey plan, farmland owners could claim their development-right payment today, or wait on the chance that their rights will appreciate in the future. Speculation could continue in these rights or easements and investors could become richer. But the public would not be the poorer.

Maryland was the first state to pass a preferential farm property tax assessment law, taxing farmland at a lower rate than residential or commercial property. Economists claim the law has helped to keep land in production, though the evidence is tenuous. There is a tax recapture provision penalty if the use is changed, but that is a weak restraint against development.

This year the legislature enacted a law permitting farmers to give the development rights to the state. In exchange for freezing the use of his land in farming, the owner would reduce his local property taxes and reduce the value of his estate for federal taxes upon his death. Without any purchase agreement, however, its chances of success are slim.

From this mix of interests, and of economic incentives, the attrition of farms and farmers may be stemmed. The benefits of open space will be shared by all. Phillip Alampi, New Jersey's agriculture secretary, recently explained how self-interest can work constructively in this field. "Farmers have a selfish interest in preserving open space," he said. "Without it, they will go out of business. Urban and suburban people have a selfish interest in preserving open space. Without it, they may exist, but they will not live."

[From the Baltimore Sun, Feb. 19, 1974]

ENDANGERED LABEL ON EAST COAST FARMS

(By Isaac Rehert)

The East Coast farmer has been changing to a rare and endangered species just when a crowded congested society has come to need him most.

For decades, while built-up concrete areas have been growing around big cities like warts, farmers, caught in the crunch of fast-rising costs and shrinking profits, have been abandoning agriculture.

The old-timers are carrying on, expanding and consolidating their holding, but with the increased capitalization, it becomes almost impossible for a youngster to break in unless he inherits. And increased valuation of land for development purposes is a continuing temptation to the farmer simply to sell his holdings for the building of supermarkets and retire from the field.

As if crowding by urban areas, skyrocketing capitalization and the cost-price squeeze were not enough, certain government tax policies have also tended to pressure farmers into getting out; and now, land-use legislation, one version of which has already been introduced into the Maryland General Assembly, has farmers worried. They fear that by legislative fiat, their equity, their security, their retirement bank account that they keep deposited in land, may be wiped out.

The extinction of the East Coast farmer, like the extermination of other rare and endangered breeds, is more a problem for the public than it is for the breed. Quite aside from the production of food (which for the first time in memory is becoming increasingly critical), quite apart from nostalgia for "old time rural values" and a way of life that keeps looking better the further we pass from it, farms—at least green open spaces—are essential to ecology, to keeping a balanced environment, to maintaining an esthetic harmony.

Whereas in other areas real estate taxes are based on the highest market value of land—which usually would be its speculative value for development—in Maryland, farm land is taxed as farm land—which means lower rates, commensurate with its lower earning ability when used for growing crops.

But the federal government has not seen fit to follow a similar practice. There are no federal real estate taxes, but there is a federal estate inheritance tax, and the Internal Revenue Service insists on assessing all agriculture land at the "price at which property would change hands between a willing buyer and a willing seller."

Any land within easy access to metropolitan areas can attract numerous willing buyers eager to acquire all they can for speculative purposes. The result has been that in some areas, land values have skyrocketed to five to ten times what they would be for agricultural land.

And so, when parents die and their children inherit the land, they find themselves billed for a federal inheritance tax—which may run as high as 25 per cent—that is so high they are forced to sell the land to speculators in order to pay it.

In one instance, land that was worth $800 an acre for agricultural purposes was valued by the IRS at $3,500 an acre, which was its "fair development value." The tax alone came to about $1,200 an acre, and the farmer had no choice but to sell it for development in order to pay. In fact, the federal tax laws had simply forced the farmer off the farm and the land out of farm production.

It is not merely IRS administrative policy but explicit legislation that says that property must be valued at its fair market value, and so it will take new legislation to make a change.

This year, Senator Charles McC. Mathias, Jr., (R., Md.) introduced a bill that would change the practice, bringing it into line with that used in Maryland and other states, so that the IRS, in considering the value of land for tax purposes, would use its value as an actual earning resource rather than its market value.

In a Senate statement, Mr. Mathias pointed out that without such legislation, every time a farm passed to an heir, the heir would be paying most or all of the income he could earn from his farm land just to pay the taxes. The situation is impossible, and "the effect of this (IRS) policy is to force many farm families to sell their farms in order to pay the estate tax—regardless of their attachment to the land or to the occupation of farming. And the result of such forced sales is, in the end, a grave and immeasurable cost to the community."

His bill includes safeguards that prevent land held by speculators from qualifying at the lower rate of tax, namely that the property must have been used as farm, wood or open scenic land for at least five years prior to and must continue to be used that way for five years after the estate tax return is filed.

One of the interesting developments in the farm land picture is that because of the world-wide food shortage and the energy and fertilizer shortages, farm commodities have been increasing in value so rapidly that with next year's harvest the value of farm land may nearly equal its value for development.

From the public's point of view, at least one aspect of the situation has become perfectly clear. Despite the name "agribusiness," farms are not merely business; they are a natural and esthetic resource of the entire community, and the East Coast farmer, who is their steward, as a rare and endangered species, needs some help to be saved.

[From the Baltimore News American]

FEDERAL TAX GRAB COUNTERED: STATE ACTS TO SAVE FARMS

(By Steven Norwitz)

In upper Harford County, John Brown (not his real name) tills a 650-acre farm he'd like to turn over to his children when he dies.

But farmer Brown estimates that when he passes on, his family will face a federal estate (inheritance) tax of $400,000.

As a result, the Brown family will be forced to do what the Johnson family did with their 100-acre farm in Havre de Grace a few years back—sell it to developers.

The federal estate inheritance tax, which often amounts to a third of the development value of a farmer's land, is one reason why Maryland loses an estimated 35,000 acres of farmland a year to development, according to the state Department of Agriculture.

In 1969, the latest year for which figures are available, 44 percent of Maryland's land areas, or about three million acres, was devoted to agricultural use.

It is projected that the amount of farmland in the state will drop to 2.4 million acres, or 38 percent of the state's land area, by 1986.

To help slow the trend, the Maryland legislature this year passed a bill designed to aid the farming family that wants to pass its farm down from one generation to the next.

For farmers who agree to permanently turn over the development rights of their land to the state, the bill provides that the farms would be assessed at their agricultural value, about $600 an acre, instead of potential development value, now ranging from $2,000 to $3,000 an acre.

The aim is to significantly cut the federal estate tax on the property, enabling the family to keep the land for its agricultural use.

"This would help people who have had farms that have been in the family for generations and want them to be kept in the family," says T. Allan Stradley, president of the Maryland Farm Bureau.

The state, meanwhile, would preserve some of its open spaces and maintain a $425 million a year industry.

While the bill is considered a good concept, its effective implementation hinges on two unknowns.

"First," says state Sen. James Clark, Jr., D-Howard, a co-sponsor of the bill, "we're not absolutely certain the IRS (Internal Revenue Service) will recognize this."

The federal government does its own assessing of property when calculating the estate inheritance tax.

"Second," Clark adds, "if you give up the development rights to your property and the property all around you is turned into subdivisions, the plan won't work."

If these roadblocks are worked out, however, Clark feels "there are a good many people who will go for it." Clark himself would be one of them.

The senator runs a 500-acre farm on Rt. 108 across the road from Columbia. "The estate tax on this would definitely cause us to lose the land," he says.

"But I wouldn't hesitate a minute (to give up the development rights to the property) if I was assured I wouldn't have development all around me. Agriculture is all we've ever done; that's all we want to do."

While many farmers will be leery of giving away the huge profit potential of their property. Sen. William S. James, D-Harford, co-sponsor of the bill and president of the Maryland Senate, says the bill is "just a start" in the state's effort to preserve its agricultural land.

Eventually, James notes, Maryland may adopt a plan similar to one in New Jersey which authorizes the state to purchase outright the development rights to a farmer's land.

"The New Jersey green acres program," James says, "has permanently preserved one million acres (of its 1.4 million acres of farmland) by this approach."

This summer a state Commission on the Preservation of Agricultural Land is to offer sweeping recommendations on steps the state should take to accomplish this purpose.

By Mr. MATHIAS (for himself, Mr. BROOKE, Mr. CRANSTON, Mr. KENNEDY, and Mr. HOLLINGS):

S. 81. A bill to provide the Governors of coastal States with a delay mechanism so as to protect coastal States from adverse environmental or economic impacts and other damages associated with the development of oil and gas deposits in the Outer Continental Shelf and for other purposes. Referred to the Committee on Interior and Insular Affairs.

COASTAL STATES OFFSHORE ENERGY ACT

Mr. MATHIAS. Mr. President, there is much discussion in the administration of leasing vast new areas of the Outer Continental Shelf for oil exploration and development. In the Last Congress comprehensive legislation was offered to govern the OCS and I offered an amendment to that legislation. It is critical that we establish a coherent national policy with regard to our resources on the Outer Continental Shelf. As we define a national policy in these waters, we must be ever mindful of the protection of our valuable coastal zone.

I now introduce for myself and Senators BROOKE, CRANSTON, KENNEDY, and HOLLINGS, my amendment in the form of a bill.

It is entirely possible to work toward energy self-sufficiency and at the same time harmonize those efforts with ongoing State programs, specifically the coastal zone management program, so that the many difficult problems which are associated with oil and gas development can be solved rather than exacerbated.

Our bill will greatly strengthen present coordination procedures. Our bill will allow the Governor of a coastal State, following the announcement of a lease sale in waters adjacent to that State, to request a postponement of up to 3 years of the Secretary of the Interior should the Governor feel that such a sale and the anticipated and actual oil and gas production would have an adverse environmental or economic impact, or cause other damage to the State.

Some of the coastal States are in the very formative stages of providing coastal zone management programs. Others are now exploring the possibility of enacting powerplant and refinery-citing legislation. Others are just now exploring the question of what the proper standards of liability for environmental damage should be.

In short, there are States with individual circumstances which need additional periods of time to determine how best to plan for offshore oil and gas production.

In hearings before the National Ocean

Policy Study, of which I am a member, on offshore drilling, there has been testimony that if proper planning and precautionary measures are not implemented prior to exploration and development of these resources, severe adverse environmental and economic impacts can be experienced. But just as we can predict with certainty the severe effects of improper planning of oil rigs, pipelines, docking facilities, refineries, and all the other activities that take place when oil and gas is produced, transported, and refined, I think we can also look forward to demonstrations of sound planning where every safeguard is utilized and a situation where the economic and environmental well-being of the adjacent coastal State has been fully protected.

Our proposal will insure that the Governor has the proper opportunity and forum for presenting his views as to when lease sales should occur in waters adjacent to the State. Under our bill the Governor may request up to a 3-year delay in any lease sale in waters within 300 miles of his State's jurisdiction if in the Governor's opinion such a lease sale could adversely impact his State. The Secretary must act within 30 days to either grant this request in full, provide a shorter period of time should he feel that such is adequate for study and provision to ameliorate any adverse economic or environmental effects or deny the Governor's request for postponement if he finds that the State is already adequately protected.

Should the Secretary fail to grant the Governor's request, the Governor may appeal within 30 days to the National Coastal Resources Appeals Board which is established by our amendment. This Board shall include the Vice President, who shall be Chairman of the Board, the Secretary of the Interior, the Administrator of the National Oceanic and Atmospheric Administration, the Administrator of the Environmental Protection Agency and the Chairman of the Council on Environmental Quality. They shall hear the appeal within 30 days and render a decision after an adjudicatory proceeding within 90 days. That decision shall be reported in detail to the Congress.

There is precedent for this Board. I refer Senators to the report of the Senate Committee on Commerce on S. 3507, the National Coastal Zone Management Act of 1972. S. 3507, as passed by the Senate, would have established in section 311(a) a new National Coastal Resources Board within the Executive Office of the President.

The Board was designed to provide an effective coordination mechanism between programs of Federal agencies within the coastal zone, to be a forum for the resolution of serious disagreement between any Federal agency and the coastal State regarding the development of a coastal zone management program, and finally to hear appeals by an aggrieved areawide entity or unit or local government from a decision or action of the Secretary, or an areawide planning entity. It was a good idea then, and it is an even better idea now.

Basically, we have taken the proposal which was passed by the Senate, but dropped in conference with the House, and tailored it to the situation we find ourselves in with regard to offshore oil development. We have included only those members of the old National Coastal Resources Board on our National Coastal Resources Appeals Board as are necessary for the proper hearing of these appeals. We have included the Vice President, as Chairman, because of his important functions in the dynamic relationship between the States and the Federal Government.

We have included the Secretary of the Interior, who has prime management responsibilities for land on the Outer Continental Shelf. We have included the Administrator of the National Oceanic and Atmospheric Administration who oversees the coastal zone management program, which is severely impacted by activities in the Outer Continental Shelf. The Administrator of NOAA will be of great assistance in evaluating the States' coastal zone management program and determining whether it is adequate to deal with the impacts of off-shore drilling.

The Administrator of the Environmental Protection Agency would also be a member of the Board because of his important responsibilities for water and air quality. Oil and gas production, transport, and refining raise important questions of water and air quality and the Administrator must play an important part in any decision that is made.

Finally, the Chairman of the Council on Environmental Quality will be a member of the Board. As a member of the national ocean policy study, I have been most impressed by the work done at CEQ on offshore drilling. Their study of potential leasing areas in the Atlantic and in the Gulf of Alaska at the request of the President represents some of the finest work that has been done in this field. We very much need CEQ to translate that study into meaningful decisions and bring to bear their expertise in evaluating the adequacy of environmental impact statements.

Our legislation creates a mechanism which does not permit unnecessary or unsubstantiated postponement. The final decision as to whether the lease sale will take place is still in the hands of the agencies of the Federal Government which have primary responsibility in this area. The bill provides a forum for the Governor to make his case. It brings together in one forum all the agencies which have responsibility for OCS activities. It provides a broad review with congressional oversight to produce a comprehensive result.

As the national ocean policy study has grappled with the question of State participation in what is primarily a Federal decision, we have examined a number of alternative ways of providing this participation. Our amendment steers a middle course. It rejects giving the Governor of a coastal State a veto over OCS development. It also rejects vague urgings that the Federal Government coordinate with the States. The first would be disruptive; the second inadequate. Our amendment is a compromise that should be supported by not only Senators who represent coastal States, but by all Senators who recognize that more needs to be done to provide a working relationship between the States and the Federal Government.

The offshore leasing program will only be considered a success if all parties are adequately protected in the timing of lease sales. Not all wisdom is found in the Nation's Capital so let us provide a mechanism for State participation in these important decisions.

Mr. President, I ask unanimous consent that the bill appear at this point in the RECORD.

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

S. 81

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) Section 8 of the Outer Continental Shelf Lands Act of 1953 is amended by adding a new subsection to read as follows: "(k)(1) The Secretary shall give notice of the sale of each lease pursuant to this Act to the Governor of any coastal state, the lands of which state are within 300 statute miles of the land to be leased. At any time prior to such sale the Governor so notified may request the Secretary to postpone such sale for a period of not to exceed 3 years following the date proposed in such notice if he determines that such sale will result in adverse environmental or economic impact or other damage to the State or the residents thereof. In the event of any such request, the Secretary shall postpone the sale until proceedings under this subsection are completed.

"(2) The Secretary shall, not later than 30 days from the receipt of such request:

"(A) grant the request for postponement;

"(B) provide for a shorter postponement than requested provided that such period of time is adequate for study and provisions to ameliorate any adverse economic or environmental effects or other damage and for controlling secondary social or economic impact associated with the development of Federal energy resources in, or on, the Outer Continental Shelf adjacent to the submerged lands of such State; or

"(C) deny the request for postponement if he finds that the State is in fact adequately protected from potential adverse environmental and economic impacts and other potential damages.

"(3) The Governor of a State aggrieved by the action of the Secretary shall have 10 days to appeal directly to the National Coastal Resources Appeals Board established pursuant to paragraph (4) of this subsection. Such Board shall hear the appeal within 15 days of its receipt and shall render a final decision within 45 days of such hearing. The Board shall overrule the action of the Secretary if it finds that the Secretary's action does not adequately protect the State from potential adverse environmental and economic impacts and other damages.

"(4)(a) There is hereby established, in the Executive Office of the President, the National Coastal Resources Appeals Board (hereinafter called the "Board"), which shall be composed of the following, or their designees—the Vice President, who shall be Chairman of the Board, the Secretary of the Interior, the Administrator of the Environmental Protection Agency, and the Chairman of the Council on Environmental Quality.

"(b) The Board shall:

"(1) transmit a written report to the appropriate committee of Congress as to the basis for any decision rendered; and

"(2) conduct such hearings pursuant to Section 554 of Title 5, U.S.C.

"(3) For the purposes of this section, an aggrieved State is defined as being one which has requested a postponement of a lease sale but has been denied such postponement or provided a shorter period of time than requested in which to ameliorate adverse impacts associated with development of the Outer Continental Shelf and the Governor has determined that such period of time is not adequate.

By Mr. MATHIAS (for himself and Mr. BEALL):

S. 82. A bill to repeal certain provisions of the act entitled "An act to provide for the establishment of the Assateague Island National Seashore in the States of Maryland and Virginia, and for other purposes," approved September 21, 1965, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

AMENDMENT OF ASSATEAGUE ISLAND NATIONAL SEASHORE ACT

Mr. MATHIAS. Mr. President, on behalf of Senator BEALL, I introduce a bill to protect the Assateague Island National Seashore from development and to compensate Worcester County, Md., for the loss of tax revenues, which this development might have provided. Assateague is a barrier island of breathtaking beauty, great expanses of beach, dunes, and sheltered marshes. It dominates the Maryland Atlantic shoreline and provides needed sanctuary for many species of wildlife. The barrier island shelters Chincoteague and Sinepuxent Bays, which together support an irreplaceable, seafood resource. Assateague is vital to migratory waterfowl, marsh birds, and shorebirds which depend on east coast wetlands for food, rest, and protection during their period away from normal breeding grounds.

The national seashore was created by the Congress in 1965. That was a farsighted act on the part of the Congress, for Assateague is a fragile resource, which must be protected from development. But all legislation should be periodically reviewed to determine whether its purposes have been accomplished. Sometimes in hindsight, certain provisions may seem impractical or unwise. This is true of Public Law 89–195, which created the Assateague Island National Seashore. Section 7 of that act provides as follows:

SEC. 7. (a) In order that suitable overnight and other public accommodations on Assateague Island will be provided for visitors to the seashore, the Secretary shall select and set aside one or more parcels of land in Maryland having a suitable elevation in the area south of the island terminus of the Sandy Point-Assateague Island Bridge, the total of which shall not exceed six hundred acres, and the public use area on the Chincoteague National Wildlife Refuge now operated by the Chincoteague-Assateague Bridge and Beach Authority of the Commonwealth of Virginia, and shall provide or allow the provision of such land fill within the area selected as he deems necessary to permit and protect permanent construction work thereon: *Provided*, That the United States shall not be liable for any damage that may be incurred by persons interested therein by reason of the inadequacy of the fill for the structures erected thereon.

(b) Within the areas designated under subsection (a) of this section the Secretary shall permit the construction by private persons of suitable overnight and other public accommodations for visitors to the seashore under such terms and conditions as he deems necessary in the public interest and in accordance with the laws relating to concessions within the national park system.

(c) The site of any facility constructed under authority of this section shall remain the property of the United States. Each privately constructed concession facility, whether within or outside an area designated under subsection (a) of this section, shall be mortgageable, taxable, and subject to foreclosure proceedings, all in accordance with the laws of the State in which it is located and the political subdivisions thereof.

(d) The Secretary shall make such rules and regulations as may be necessary to carry out this section.

(e) Nothing in this section shall be deemed to restrict or limit any other authority of the Secretary relating to the administration of the seashore.

The Congress was correct in providing that Worcester County could tax the accommodations to be located on Federal land. Reference to section 7 indicates how this was to be accomplished. A number of events and changing attitudes toward the propriety of developing Assateague have combined to make this approach now seem misguided.

In March of 1972 the Joint Executive-Legislative Committee on Assateague Island reported to the Governor of Maryland. Their recommendation was that section 7, providing for overnight and other public accommodations, be deleted from the act. They stated in connection with this recommendation that compensation should be provided. Senator BEALL and I support those recommendations. I have also been informed by Maryland officials that Worcester County might be unable to realize tax revenues from development on Assateague Island, because of existing provisions in the State law. While it was clearly that intent of the Federal legislation that these improvements be taxable as if they were on private land, the Maryland law casts considerable doubt on whether the State of Maryland or any of its counties has the power to exact such a tax.

The combination of these two factors create a totally unsatisfactory condition. If indeed the Assateague Island National Seashore Act and Maryland law work at cross purposes, we will have created a tax-free haven for environmentally destructive development. This was not the purpose of the Congress.

The bill which Senator BEALL and I propose will eliminate section 7 and provide for an orderly and expeditious procedure for determining what compensation should be paid to the county.

Section 9 of the enabling act provides as follows:

SEC. 9. (a) The Secretary of the Interior is authorized and directed to construct and maintain a road from the Chincoteague-Assateague Island Bridge to the area in the wildlife refuge that he deems appropriate for recreation purposes.

(b) The Secretary of the Interior is authorized and directed to construct a road, and to acquire the necessary land and rights-of-way therefor, from the Chincoteague-Assateague Island Bridge to the Sandy Point-Assateague Bridge in such manner and in such location as he may select, giving proper consideration to the purpose for which the wildlife refuge was established and the other purposes intended to be accomplished by this Act.

Most people have come to realize in the years since 1965 that construction of a major roadway on such a fragile, shifting island would be an environmental disaster. Under these circumstances, it is entirely appropriate that section 9 be stricken from the act. Since the road was never proposed as compensation to Worcester County, its deletion does not in any way affect the compensation procedures provided in our bill.

Maryland is a coastal State. We have a great and bounteous estuary, but we have little land abutting the Atlantic. Ocean City has grown rapidly to become a major resort community. With only 32 miles of Atlantic shoreline, we must be very careful to create a proper mix of recreational and commercial activity. Such a mix must include significant, unspoiled areas. Assateague is such an area and it deserves our constant care and protection. We must preserve the island for future generations. I have heard it said that to some "Assateague Island is a barren place swept by wind and sun, its solitude broken only by the shrill cry of wheeling gulls and the metronome boom of the surf." To others, who take the time to look, listen, and understand, the island pulses with a rhythm of life and change at a place where the demanding ocean meets a determined strip of sand.

Senator BEALL and I today introduce a bill which has broad public support in the State of Maryland. It has been recommended by a committee composed of distinguished Maryland public officials in both the executive and legislative branches of Government. Under these circumstances, we are hopeful that our proposal will receive speedy and favorable consideration. I ask unanimous consent that the text of the bill be printed at this point in the RECORD.

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

S. 82

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That sections 7 and 9 of the Act entitled "An Act to provide for the establishment of the Assateague Island National Seashore in the States of Maryland and Virginia, and for other purposes", approved September 21, 1965, are hereby repealed.

SEC. 2. (a) The Secretary of the Interior is authorized to receive, consider, hold public hearings, and act upon any claim filed by the County of Worcester, Maryland, within the twelve-month peroid following the date of the enactment of this Act for compensation for damages or other losses incurred by such County arising out of or in connections with the repeal of section 7 of the Act of September 21, 1965, relating to the authority to establish suitable overnight and other public accommodations within the Assateague Island National Seashore.

(b) The Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, such sum as may be certified to him by the Secretary of Interior on the basis of any claim filed pursuant to subsection (a).

By Mr. MATHIAS (for himself, Mr. TUNNEY, and Mr. BAYH):

S. 84. A bill to enforce the first amendment and fourth amendment to the Constitution and the constitutional right of privacy by prohibiting any civil officer of the United States or any member of the Armed Forces of the United States from using the Armed Forces of the United States to exercise surveillance of civilians or to execute the civil laws, and for other purposes. Referred to the Committee on the Judiciary.

FREEDOM FROM MILITARY SURVEILLANCE ACT OF 1975

Mr. MATHIAS. Mr. President, I am introducing today, along with my distinguished colleagues, Senators TUNNEY and BAYH, a bill to impose statutory sanctions against surveillance of civilian political activity. The version we introduce today represents the refinement and strengthening of two earlier bills and the culmination of more than 4 years of unceasing effort on the part of former Senator Sam Ervin, and the Subcommittee on Constitutional Rights to insure that each and every citizen of this Nation can exercise his first amendment right of expression without fear of harassment and without fear of reprisal. The right of peaceful dissent is such an integral part of our democracy that to attempt to subtly impose official restraints upon it is to tamper very seriously with the very fabric of our free government.

Senator Ervin has now retired from this body. While here, he accomplished much in the area of civil liberties and protection of American citizens. But, some of his work remains undone and my colleagues and I, who have worked with him on this particular facet of the Ervin legacy, wish to see these accomplishments continue.

Disclosures by the Secretary of the Army over this past weekend have only added to the urgency for this legislation. In 1971, as a result of hearings held by the Subcommittee on Constitutional Rights, the Department of the Army announced the formulation of regulations prohibiting the involvement of military personnel in any surveillance of civilian activity. In addition, the Army authorized the destruction of all information which had been amassed as a result of prior surveillance activity. I trust that this pledge was made in good faith. It has, however, come to light that certain of the information contained in now-destroyed files had been placed on microfilm and that this microfilm is still in existence. While I commend the Secretary of the Army for his immediate public acknowledgement of this fact, we must not lose sight of the fact that had legislation such as that I propose been in effect, more careful and complete procedures might have been utilized to insure that all information was destroyed.

During the late 1960's and early 1970's, our Nation faced a questioning and reevaluating process perhaps unprecedented since our earliest days. Social values and public policies were changing and a wide spectrum of the population was actively calling for more and more change. Whether it was the urgency of the call or the variety of sources from which the call emanated, it is clear that our Government's reaction was one of fear—fear of disorder, perhaps fear of revolution, certainly fear of change.

We now know that during this period, the Army engaged over 1,500 agents throughout the United States to monitor and record the political activities of countless civilians and civilian organizations. Their observations were stored in numerous data centers at Army installations around the country. In addition, the information recorded was ambiguous, often unsubstantiated, full of irrelevant personal information, and bore little relationship to the claim that it was being recorded in preparedness for possible civil disturbances. Those individuals and organizations who were the target of this surveillance included educators:

Jerome B. Wiesner, president of the Massachusetts Institute of Technology, testified:

I know that many, many students are afraid to participate in political activities of various kinds ... it might possibly cost them a job or at least make their clearance for a job more difficult to obtain ... I might add here that I am not referring to confrontations or planned violence, but participation in seminars, political study groups, etc., that were seriously questioning governmental and social arrangements or policies.

MINISTERS

The Reverend Jesse Jackson testified:

Our organization's success, its life, is directly related to the confidence that the people have in us ... and for them to assume that we are surveyed by the Army, gives them the impression that we are engaging in subversive activity.

LAWYERS

Jay Miller, executive director of the Illinois American Civil Liberties Union testified:

I think it's (military surveillance) demoralizing to our staff ... and then, finally, I think there is a phenomenon that goes on (in the public's mind) where there's smoke there's fire.

LEGISLATORS

Abner J. Mikva, former Representative from Illinois and a subject of surveillance testified:

Even the possibility of surveillance raises the specter of subtle political interference ... Fear or suspicion that one's speech is being monitored by a stranger ... can have a seriously inhibiting effect upon the willingness to voice critical and constructive ideas.

Mr. President, on January 14, 1784, the Congress of the United States met to ratify the Treaty of Paris recognizing this Nation's independence from Great Britain. On January 14, 1975, as we convene the 94th session of that Congress, I would urge that we reflect upon the ideals and goals of our infant days. It is essential that we continue to believe in the right to free expression for all citizens, but especially for those whose expression finds itself at odds with existing theories of government and social order. Our Nation cannot afford the loss of growth and creativity that springs from such peaceful dissent. In a famous court case, Robert H. Jackson observed:

Freedom to differ is not limited to things that do not matter. That would be a mere shadow of freedom. The test of its substance is the right to differ as to things that touch the heart of the existing order.

The test is now before us; history will record our answer.

Mr. President, I ask unanimous consent that the text of this bill be printed at this point in the RECORD.

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

S. 84

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 "Freedom From Military Surveillance Act of 1975".

SEC. 2. (a) Chapter 67 of title 18, United States Code, is amended by adding at the end thereof the following new sections:

§ 1386. Use of the Armed Forces of the United States for surveillance prohibited

"(a) Except as provided in subsection (b) of this section or otherwise required by statute, whoever being a civil officer of the United States or a member of the Armed Forces of the United States willfully causes any part of the Armed Forces of the United States to conduct investigations into, maintain surveillance over, or maintain records regarding the beliefs, associations, political activities, or private affairs of any citizen of the United States who is not a member of the Armed Forces, or regarding the beliefs, membership, or political activities of any group or organization of such citizens, shall be fined not more than $10,000, or imprisoned not more than two years, or both.

"(b) Nothing contained in the provisions of this section shall be deemed either to limit or to enlarge such legal authority of the Armed Forces of the United States as may exist to:

"(1) collect, receive, or maintain information relevant to a criminal investigation, the conduct of which has been lawfully charged to the Armed Forces of the United States;

"(2) collect, receive, or maintain information relevant to lawful investigations of persons who are applicants for employment with the Armed Forces of the United States, who are employees of the Armed Forces of the United States, or who are contractors, or prospective contractors, with the Armed Forces of the United States;

"(3) collect, receive, or maintain information necessary and proper to the restoration of public order once the Armed Forces of the United States have been deployed under the provisions of title 10, United States Code, sections 331, 332, 333, and 334: *Provided, however,* That such information shall be destroyed no later than sixty days after the withdrawal of such Armed Forces.

"(c) As used in this section the term—

"(1) 'civil officer of the United States' means any civilian employee of the United States;

"(2) 'Armed Forces of the United States' means the Army, Navy, Air Force, Marine Corps, Coast Guard, and the militia of any State when in Federal service;

"(3) 'militia' has the same meaning as that set forth in section 311, title 10, United States Code;

"(4) 'investigations' means any oral or written inquiry directed to any person, organization, or agency of Government;

"(5) 'surveillance' means any monitoring of persons, places, or events by means of electronic interception, overt and covert infiltration, overt and covert observation, photography, and the use of informants;

"(6) 'records' means records resulting from any investigation or surveillance conducted by the Armed Forces of the United States, or resulting from any investigation or surveil-

lance conducted by any governmental agency of the United States or any State;

"(7) 'private affairs' means the financial, medical, sexual, marital, or familial affairs of an individual."

(b) The analysis of chapter 67 of such title is further amended by adding at the end thereof the following new item:

"1386. Use of Armed Forces of the United States for surveillance prohibited.".

SEC. 3. (a) Title 28, United States Code, is amended by adding after chapter 171 the following new chapter:

"Chapter 172. ILLEGAL SURVEILLANCE

"Sec.

"2691. Civil actions generally; illegal surveillance.

"2692. Special class actions; illegal surveillance.

"2693. Venue; jurisdictional amount.

"§ 2691. Civil action, generally; illegal surveillance

"(a) Except as provided in subsection (b) of section 1386, title 18, United States Code, or otherwise required by statute, whoever being a civil officer of the United States or a member of the Armed Forces of the United States causes any part of the Armed Forces of the United States to conduct investigations into, maintain surveillance over, or maintain records regarding the beliefs, associations, political activities, or private affairs of any citizen of the United States who is not a member of the Armed Forces, or regarding the beliefs, membership, or political activities of any group or organization of such citizens shall be liable for damages to any person, group, or organization that has been the subject of a prohibited investigation, surveillance, or recordkeeping in an amount equal to the sum of—

"(1) any actual damages suffered by plaintiff, but not less than liquidated damages at the rate of $100 per day for each day the prohibited activity was conducted;

"(2) such punitive damages as the court may allow, but not in excess of $1,000; and

"(3) the costs of any successful action, including reasonable attorneys; fees.

"(b) Any person, group, or organization that has been the subject of any investigation, surveillance, or record-keeping in violation of subsection (a) of this section may bring a civil action against the United States for such equitable relief as the court determines appropriate to enjoin and redress such violation.

"§ 2692. Special class actions; illegal surveillance

"Any person, group, or organization that has been the subject of an investigation, surveillance, or record-keeping in violation of subsection (a) of section 2691 of this chapter, may bring a class action against the United States on behalf of himself and others similarly situated for such equitable relief as the court determines appropriate to enjoin and redress such violations.

"§ 2693. Venue; jurisdictional amount

"(a) A person may bring a civil action under this chapter in any district court of the United States for the district in which the violation occurs, or in any district court of the United States for the district in which such person resides or conducts business, or has his principal place of business, or in the District Court of the United States for the District of Columbia.

"(b) Any Federal court in which a civil action under this chapter is brought pursuant to subsection (a) shall have jurisdiction over such action regardless of the pecuniary amount in controversy."

(b) The analysis of part VI of such title 28 is amended by adding immediately after item 171 the following new item:

"172. Illegal surveillance---------- 2691".

(c) Section 1343 of title 28, United States Code, is amended by redesignating paragraph (4) as paragraph (5) and by inserting immediately after paragraph (3) the following new paragraph:

"(4) To recover damages or to secure equitable or other relief under chapter 172 of this title;"

SEC. 4. The civil actions provided by the amendments to title 28, United States Code, made by this Act shall apply only with respect to violations of subsection 2691(a) of title 28, United States Code, as added by this Act, arising on or after the date of enactment of this Act.

SEC. 5(a) Section 1385 of title 18, United States Code, is amended by striking out "the Army or the Air Force" and inserting in lieu thereof the following: "the Armed Forces of the United States".

(b)(1) The section heading 1385 of such title is amended to read as follows:

"§1385. Use of Armed Forces of the United States as posse comitatus"

(2) Item 1385 of the analysis of chapter 67 is amended to read as follows:

"1385. Use of Armed Forces of the United States as posse comitatus".

By Mr. MATHIAS (for himself and Mr. BEALL):

S. 85. A bill to reimburse the city of Frederick, Md., for money paid saving harmless valuable military and hospital supplies. Referred to the Committee on the Judiciary.

FREDERICK REPARATIONS BILL

Mr. MATHIAS. Mr. President, early on the morning of July 9, 1864, Gen. Jubal A. Early rode into the city of Frederick, Md., from his Confederate headquarters at the city perimeter, his thousands of troops being deployed to the north and the south of the area for the engagement with Union forces at the Monocacy River. On this day, the following demand was presented to the mayor of Frederick:

> By order of the Lt. General Cm'd'g, we require of the mayor and town authorities of Frederick City Two Hundred Thousand Dollars ($200,000) in current money for the use of this Army.

Frederick met this demand, and as a result, supplies vital to the Union cause were not confiscated.

On October 1, 1951, only 14 years ago, the last of the debt incurred by the city because it paid the money demanded by Confederate General Early was finally liquidated by the citizens of Frederick.

These two occurrences, separated by the passage of time, are the events which outline the creation of a just and equitable claim by the people of Frederick against their Federal Government, a claim which has gone unfulfilled, a claim which is a blemish on the record of justice we value as a nation.

The people of Frederick saw the possible adverse consequences to the causes, maintaining their loyalty to the Federal Government, they saved these vital Union supplies. This act of patriotism was costly to the people of Frederick. With a town tax revenue of only $8,000 per year at the time, they nevertheless pledged the ransom in order that Government supplies valued between $1 million and $1.5 million remain unmolested by the Confederacy. The city of Frederick carried the financial burden of the Government supply ransom for 87 years and the cost to the city of the forced debt entailed deprivation of municipal services except through higher taxes and borrowed money. I know of no other city, North or South, which can make this claim.

The time has come for the Federal Government to reimburse Frederick. The Federal Government should pay Frederick value for the value it received as a result of the patriotic acts of this city. The bill I introduce today will allow such payment and right this long overdue injustice.

Mr. President, Frederick is not making a claim for the value of private property damaged or destroyed by the enemy, although the Congress has enacted bills on numerous occasions authorizing the claims of private citizens for the value of their private property destroyed by the enemy. Frederick protected and saved very valuable Government property.

The Congress has for many years recognized the merits of claims by the American Indian that arise from colonial days and has reimbursed owners of fishing vessels for fines which had to be paid for the violation of fishing area limitations of various South American countries.

Frederick is justly entitled to reimbursement for the actual costs of the following items:

One. Bonds and certificates issued to the five banks from which the General Early money was obtained as security for the loan to the city on July 9, 1864, held by banks 1868–88.

Two. Interest paid at 6-percent per annum by the city upon the bonds and certificates to the banks, 1868–88, such interest being derived from taxes imposed by the city.

Three. Interest on the tax loss to pay interest 1868–88, at 4 percent per year.

Fourth. Tax exemption granted five banks from general special tax levy of 20 cents per $100 on capital stock, 1868–88.

Fifth. Interest at 4 percent on tax loss in granting exemption to banks, 1868–88.

Sixth. Interest at 4 percent per annum on above costs to city to repay five banks for their respective loans, the bank loans having been made to the city 1864, and compromise settlement agreement on debt payment of $125,225.21 of above bonds and certificates accepted July 1, 1868, paid July 1, 1888, by refunding debt, 1888–1970.

Seventh. Interest paid by city on 24 percent of refunding bond issues of 1888 in amount of $512,500 at 4 percent interest, bank bonds refunded in amount of $123,000, 1888–1917.

Tax loss to pay interest on 24 percent at 4 percent, 1888–1917.

Eighth. Interest at 4 percent per annum on tax loss to pay 24 percent of interest 1888–1917, bonds having been partially amortized, 1888–1917.

Ninth. Interest at 4 percent on interest paid on bonds and on tax loss incurred to pay interest, 1917–70.

Tenth. Interest paid on 24 percent of refunding bond issue of October 1, 1917, at 4½ percent, attributable to refunded

bank bonds, of issue of $380,000, October 1, 1917, to October 1951.

Tax loss to pay interest on 24 percent at 4½ percent, 1917–51.

Twelfth. Interest at 4 percent on interest paid on bonds and on tax loss incurred to pay interest, 1951–70.

History records that many cities were destroyed during the Civil War, yet few of them incurred such a prodigious debt as that of Frederick in its attempt to protect supplies for which there was a dire need. Frederick sacrificed money which it did not have in order to defend Federal supplies at a time when President Lincoln indicated to Union generals the critical need of clothing and supplies for Union troops engaged in defensive deployment.

The bill I propose will terminate the financial obligation for the genuine service to the country by the city of Frederick. Mr. President, I ask unanimous consent that the text of this bill be printed at this point in the RECORD.

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

S. 85

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to the city of Frederick, Maryland, a sum not to exceed the actual cost to the city, including interest thereon when incurred, to make the payment as hereinafter stated, on the debt incurred until October 1, 1951, and simple interest at the rate of 4 per centum per annum on the cost to the city to liquidate the debt as incurred, until reimbursement is paid of the amount determined by the Secretary of the Treasury to be due as defined herein, as of the date of payment in full satisfaction of the claim of the city against the United States for reimbursement for the money paid by the city on July 9, 1864, upon demand of Lieutenant General Jubal A. Early (commanding general of the Confederate Armed Forces of over twenty thousand troops then surrounding the city) and under rumored threats that all property in the city would be destroyed;—the demand having specified $200,000, and in the alternative medical supplies of $50,000 at current prices, commissary supplies to the same amount, ordnance supplies with the same, and quartermaster's supplies of a like amount (all of such being the property of the United States Government as part of the supply depot and hospital of the command headquarters of the Union Armed Forces in Frederick for the deployment of Union troops at strategic points along the Maryland shores of the Potomac River in western Maryland as a defense against invasion by Confederate troops across the Potomac and in defense of Washington from attack through Maryland, and to supply Union troops moved through the command area during the war; none of such demanded supplies being the property of Frederick)—and with all Federal troops, (including advance guard and their mobility supplies) having evacuated the city to be deployed for the imminent battle of the Monocacy, the city and the Government supply depot being left defenseless; after pleading negotiations throughout the day with the Confederate command, which failed, and under stress of the rumored threats of destruction, the city demanded the money required of the banks of the city to be delivered to the Confederate general, the city promising the lending banks that the citizens of the city would be taxed to reimburse the banks, and taxes were imposed over a long period by the city to amortize the debt and through a series of refunding bond issues of the city, finally liquidated in the year 1951, at rates of interest of 6 per centum, 4 per centum, and 4½ per centum and upon delivery of the money by the banks to the city and delivered to the Confederate general late in the day, by orders of the Confederate general none of the Government property was destroyed nor molested and not only was Government property saved harmless, but the daylong negotiations, between city officials and Confederate officers, gave time for better strategic deployment of the limited Union Armed Forces at the Monocacy and the arrival of some reinforcements, and most importantly the relatively short battle of Monocacy, together with the stubborn resistance and difficulty of Frederick in raising the $200,000 demanded, lost a day in the march upon Washington by the Confederate Armed Forces and gave time for the successful reinforcement of the Union defense of Washington—thus the claim of Frederick is for action taken not only to save United States Government property from being destroyed, but also, at great financial cost to the citizens of Frederick to carry the debt, which contributed greatly in saving Washington from direct attack by over twenty thousand of the Confederate Armed Forces and allowed time for arrival of reinforcements for the Union Armed Forces for the defense of Washington.

By Mr. MATHIAS:

S. 86. A bill to establish a Conference on the Antitrust Laws. Referred to the Committee on the Judiciary.

Mr. MATHIAS. Mr. President, there has been a rebirth of interest in antitrust law. This is welcome, although the economic difficulties of our Nation which brought it about are hardly to be desired.

But, Mr. President, I fear that we are ill prepared for this new period. I fear that our understanding of antitrust theory and the operation of our economy has not kept pace with events. I fear that our purpose has become confused over the years, if indeed it was ever clear. I believe that through exception and compromise, the antitrust statutes have become riddled with uncertainty and ambiguity. I believe that inadequate attention has been paid to the possibilities of State enforcement and other means of enforcement.

For instance, in the last few years, we have vacillated between widely varying degrees of control of prices and wages under the apparent delusion that freely competitive prices and wages are not acceptable to the American people. This erosion of the basic assumptions behind our antitrust laws has gone largely undiscussed, although there has been much attention-calling to the inconsistency between the antitrust laws and most of our Federal regulation of transportation and other public utilities.

These are some of my views. In this regard, I am like almost every other person who has had some experience with the antitrust laws. All have views about what needs to be done and sometimes these conflict.

In any case, I believe that we need to attempt to provide some answers and to reach some decisions about how to proceed. For that reason, I am today reintroducing legislation which I introduced in the 93d Congress (S. 2659) and which I have introduced in previous Congresses, including those in which I served as a Member of the House of Representatives.

In introducing this bill calling for a conference on the antitrust laws, I submit that it is high time that we create the mechanism for a thorough thoughtful review by an expert but sufficiently broadbased body as to give to the Congress some real help in evaluating the adequacy of our present statutes and their administration.

Work of the conference would be directed by a council composed of 12 members, 6 from various branches of the Government and 6 from private life. General membership of the conference would include, in addition to members of the council, at least 61 additional members whose knowledge and experience would qualify them to assist the conference in a thorough and objective analysis and evaluation of our existing antitrust statutes and their enforcement. These statutes, passed by the Congress in 1890, 1914 1936, and 1950, are said by some to contain inconsistencies. There are also those who argue that the conditions of our basic economy and of the world economy in which U.S. businesses must compete have so changed that some of these laws are now out of date.

It is also suggested that these laws, because of inherent weaknesses and alleged lack of vigorous enforcement, have failed to prevent increasing concentration of control of U.S. industry and have permitted the development of conditions in a number of so-called oligopoly industries in which competition does not now adequately serve the interests of the consumers, taxpayers, businessmen, or of the Nation as a whole. And it is suggested that they work different results depending upon the form of business to which they are applied. Our system is further being tested in competition with other economic systems with different approaches to control of monopoly. These are matters of great controversy among economists, politicians and lawyers inside and outside the Government.

It is also true that, whether justified or not, much of the reporting in the press of principal antitrust cases in recent years has been such as not to inspire confidence in the public that the welfare of the Nation is truly being served.

Mr. President, I ask unanimous consent that the text of this bill be printed at this point in the RECORD.

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

S. 86

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there is hereby established a Conference on the Antitrust Laws of the United States (in this Act referred to as the "Conference"), composed of a general membership and a Council constituted in the manner hereinafter provided.

PURPOSE OF THE CONFERENCE

SEC. 2. The purpose of the Conference shall be to—

(a) study the operation of existing antitrust statutes, as interpreted by judicial, executive, and administrative decisions, and their effect upon competition, price levels, employment, profits, production, consumption, and the capability of the economy to best sustain the Nation at home and abroad;

(b) study the enforcement procedures of the Department of Justice, the Federal Trade Commission, and other agencies of Government as they relate to the antitrust laws; and

(c) make recommendations for improvement in the statutory framework as well as in enforcement administration and procedures wherever appropriate.

MEMBERSHIP OF THE COUNCIL

SEC. 3. (a) NUMBER AND APPOINTMENT.—The Council shall be composed of twelve members as follows:

(1) Four appointed by the President of the United States, two from the executive branch of the Government, and two from private life.

(2) Four appointed by the President of the Senate, two from the Senate, and two from private life.

(3) Four appointed by the Speaker of the House of Representatives, two from the House of Representatives, and two from private life.

(b) POLITICAL AFFILIATION.—Of each class of two members mentioned in subsection (a), no two shall be from the same political party.

(c) VACANCIES.—Vacancies in the Council shall not affect its powers but shall be filled in the same manner in which the original appointment was made.

(d) The Council shall elect a Chairman and a Vice Chairman from among its members.

MEMBERSHIP OF CONFERENCE

SEC. 4. The general membership of the Conference shall consist of members of the Council, and at least sixty-one additional members of the public, including businessmen, lawyers, both government and private, scholars, and others specially informed by knowledge and experience with respect to antitrust laws and the economy. The composition of the membership and its total number shall be determined from time to time by the Council.

COMPENSATION OF MEMBERS OF THE CONFERENCE

SEC. 5. (a) MEMBERS OF CONGRESS.—Members of Congress, who are members of the Conference, shall serve without compensation in addition to that received for their services as Members of Congress, but they shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of the duties vested in the Conference.

(b) MEMBERS FROM THE EXECUTIVE BRANCH.—Any member of the Conference who is in the executive branch of the Government shall receive the compensation which he would receive if he were not a member of the Conference, plus such additional compensation, if any, as is necessary to make his aggregate salary not exceeding $36,000; and he shall be reimbursed for travel, subsistence, and other necessary expenses incurred by him in the performance of the duties vested in the Conference.

(c) MEMBERS FROM PRIVATE LIFE.—The members from private life shall each receive not exceeding $200 per diem when engaged in the performance of duties vested in the Conference, plus reimbursement for travel, subsistence, and other necessary expenses incurred by them in the performance of such duties.

STAFF OF THE CONFERENCE

SEC. 6. Subject to such rules and regulations as may be adopted by the Conference, the Chairman shall have the power to—

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

(b) procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code, but at rates not to exceed $200 a day for individuals.

EXPENSES OF THE CONFERENCE

SEC. 7. There is hereby authorized to be appropriated out of any money in the Treasury not otherwise appropriated, so much as may be necessary to carry out the provisions of this Act.

EXPIRATION OF THE CONFERENCE

SEC. 8. Sixty days after the submission to Congress of the report provided for in section 9, the Conference shall cease to exist.

DUTY OF THE CONFERENCE TO REPORT

SEC. 9. The Conference shall transmit to the Congress not later than two years after the first meeting of the Council a final report containing a detailed statement of the findings and conclusions of the Conference, together with such recommendations as it deems advisable. The Conference may also submit interim reports prior to submission of its final report.

By Mr. MATHIAS:

S. 88. A bill to amend the Internal Revenue Code of 1954 to provide for an 8-percent reduction in the amount of income tax withholding. Referred to the Committee on Finance.

STIMULATING THE ECONOMY

Mr. MATHIAS. Mr. President, last night President Ford explained to the American people the need for stimulating the economy by means of a recession-fighting tax cut. I believe the President was correct in his recognition that the Federal Government must take an active role in insuring that production and jobs in America go up.

I do regret, however, that action of a more limited nature could not have been taken earlier so that this huge drain in revenues would be unnecessary today. Last March, I proposed that we change the withholding tables attached to the Federal income tax to eliminate the massive overwithholding that has occurred in recent years. This change would have meant that a large part of the refunds that millions of taxpayers normally receive in April would have been retained by the taxpayers during each pay period throughout the year. The economic effect, as explained by economists at CRS and using the facilities of Data Resources, Inc., would have been to increase GNP, produce almost 200,000 new jobs, and reduce the real Federal deficit because of the added revenues spawned by the more active economy. This proposal would also have reduced inflation by insuring a more adequate supply of goods.

The Congress, in its wisdom, did not act on my proposal or on any significant tax measures. Thus today, we are told we need an immediate and large, tax cut. We are told that this tax cut should be retroactive and limited to 1974 income. This may well be the case, but it behooves us, I believe, to insure that this type of unnecessary overwithholding, which has been such a fiscal drag, is not continued in the future.

For that reason, I introduce again today a bill to cut withholding rates by 8 percent. Such a reduction would free approximately $10 billion a year to flow through our economy producing jobs, goods and services. This proposal deserves to be enacted forthwith. The problem of excessive, and unnecessary, overwithholding on a massive scale must be attended to by us in any tax bill which is enacted this year. It is my intention to insure that as we make any tax adjustment we also adjust the corresponding withholding tables.

Last year, an estimated $22.2 billion had to be refunded to American taxpayers at the end of the tax year. This is close to one-fourth of the total Federal income tax owned by American citizens. This pattern has been prevalent for years. It is a situation which was exacerbated by changes made as part of the 1971 Revenue Act which were designed at the time to solve limited cases of underwithholding, but resulted in increasing overwithholding by approximately $8 to $10 billion.

Accordingly, last year almost 80 percent of American taxpayers received refunds. The average refund in recent years has been close to $350. Many taxpayers prefer a system which results in overwithholding. They would rather that Uncle Sam owe them in April than they owe Uncle Sam. The size and number of the refunds due each April, however, suggests that withholding could be modestly reduced without resulting in underwithholding for most Americans. In other words, the average American would still overwithhold, but not as much as now. I believe it is hard to justify any system which withholds from taxpayers more money than the Government is ultimately entitled to.

I was pleased last year that George Schultz, who was then Secretary of the Treasury, indicated his support for a reform such as I have proposed. I would hope similar support would be forthcoming from both the administration and the Congress.

Mr. President, I ask that an additional analysis of this proposal which was prepared by the Congressional Research Service last spring be printed in the RECORD. I have asked CRS to update this study, and I will share this additional information with my colleagues as soon as it is available. I also ask unanimous consent that a copy of the bill I am introducing be printed in the RECORD following the CRS study.

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

ECONOMIC EFFECT OF CORRECTING THE OVERWITHHOLDING IN THE INDIVIDUAL INCOME TAX

What would be the economic impact of the Federal government's collecting 10 billion dollars less annually in withheld taxes, while not changing the tax liability? In other words, personal tax withholding would decrease, but income tax refunds would decrease also by the same amount. Would this

temporary increase in spendable income help the economy avoid the 1974 slump that is now being predicted?

In order to analyze the effects of this change, the Data Resources Inc. Quarterly model of the economy was used. The model solution (called "Control 1/30") assumes for 1974 as 1 percent annual rate of growth of real Gross National Product (real GNP), an increase in the Consumer Price Index of 8.9 percent and a three-month curtailment of oil imports. The solution of Control 1/30 and a new solution, "overwithholding," which shows the effect of the withholding schedule change, are compared in Table 2.

In 1972 the tax laws were changed, allowing larger personal exemptions. At the same time, however, the withholding schedules were changed to correct for previous underwithholding. (Table 1 shows the percentage change between the old withholding schedules and the 1972 withholding schedules.) That is, effective tax rates were lowered at the same time that withholding rates were increased. The amount of overwithholding that resulted far exceeded anyone's expectation. The intended stimulation of the economy from the tax cuts was more than offset by the change in the withholding schedules. Income tax refunds for 1972 increased 10 billion dollars—from 14 billion dollars in the spring, 1972, to 24 billion dollars in the spring of 1973.

The withholding schedule of 1972 is still in effect, resulting in an annual overwithholding of 10 billion (in today's dollars). If withholding rates were changed back to pre-1972 levels, a 10 billion dollar annual cut in withholding could be achieved. The economic effect would be that of a temporary tax cut, while the budgetary effect would be, at the worst, null, since tax liabilities would not decrease as they would if an actual tax cut were made.

A permanent change in the withholding schedules will only create a temporary "tax cut" effect. In 1974, taxes would appear lower, reflecting the lower withholding rates. Since taxpayers would have more income in 1974, they would presumably spend more. The economy would then expand to meet this demand; GNP would rise and more jobs would be created. But in 1975, the 1974 income tax refunds will also be lower. Thus, the effect of the continued lower withholding in 1975 is cancelled out by the decrease in income tax refunds from the previous year. This economic "tax cut" will stimulate the economy in the first year, but not in subsequent years. It will have the effect of a tax cut in 1974 only.

PERCENTAGE CHANGE IN AMOUNT OF INDIVIDUAL INCOME TAXES WITHHELD, BY SELECTED ANNUAL WAGES, MARITAL STATUS, AND FAMILY SIZE, 1971–72

Annual wages	Single person	No children	2 children
$3,600	14.8	23.0	(1)
$6,000	6.0	3.8	−0.9
$8,400	7.7	2.4	−1.1
$10,000	6.2	1.8	−.9
$14,400	5.6	7.1	2.0
$20,400	15.9	12.7	9.0

[1] Withholding was increased from zero to $0.60 a month.

Sources: Commerce Clearing House, "New Federal Graduated Withholding Tax Tables Effective Jan. 16, 1972" (CCH, 1971), pp. 14, 15, 24, 25; CCH, "New 1971 Federal Graduated Withholding Tax Tables Effective Jan. 1, 1971" (CCH, 1970), pp. 14, 15, 24, 25.

The economic impact can be measured by adding the assumption of a temporary "tax cut" to the economic assumptions of the DRI model. However, because it's too late for this withholding schedule's change to be made in the first quarter of 1974, it was assumed that the new schedules would go into effect the second quarter of 1974, resulting in a decrease in taxes withheld in 1974 of 7.5 billion dollars, or three-quarters of the 10 billion dollar decrease (at annual rates) in withholding. In other words, personal taxes would be $2.5 billion lower in each of the last three quarters of 1974. In 1975, $10 billion fewer taxes would be withheld, $2.5 billion in each quarter of 1975. However, because the refunds from 1974, received in 1975, had been decreased by $7.5 billion, the net effect in 1975 would be only a $2.5 billion decrease in individual taxes withheld. In 1976, the full $10 billion decrease in 1975 tax refunds would completely cancel the economic effect of the new withholding rates. The above "tax cuts" were substituted in the DRI model, and a new prediction for 1974 and 1975 simulated.

As is seen from the accompanying tables, the cut in withholding results in an immediate rise in real GNP for 1974. It should be noted that the DRI forecast, "Control-1/30", differs somewhat from the official administration forecast. Because the DRI forecast is less optimistic than the administration's, the "overwithholding" solution, which shows a much better economic climate than "Control 1/30", may not look very different from the administration's forecast. However, "overwithholding" is based on the DRI assumptions. The important thing to look at is not the *level* of GNP, unemployment, etc., in the "overwithholding", but the difference between "overwithholding" and the DRI forecast. For example, what is important is that GNP is $5.8 billion higher in 1974 in the "overwithholding" solution (assuming the change in the withholding schedules) than it is in the DRI control solution, as is shown in Table 2. The price level, measured by the GNP deflator, is about the same for both solutions.

The "tax cut" directly affects disposable income, since it lowers taxes. Personal income is also, higher, however. This is not caused directly by the change in taxes; it is caused by the overall stimulation of the economy, which raises GNP and lowers the unemployment rate. This "multiplier" effect raises disposable income $9.4 billion above the control solution in 1974 while the tax cut accounts for only $7.5 million of this difference.

This stimulation of the economy feeds back to increased tax receipts. Total federal tax receipts appear to decrease in 1974 not by the $7.5 billion but by $5.8 billion. Because the $7.5 "cut" is not a cut in personal tax liability, the net effect is to increase revenues by $1.7 billion. This increase in revenues is caused by higher corporate profits and higher personal income, providing a higher tax base.

The effects of the change in overwithholding in 1975 are smaller and in 1976 no significant difference is found between the control solution and the overwithholding solution.

In effect, a permanent change in the overwithholding will provide a temporary stimulus to the economy at a time when a recession is being predicted.

TABLE 2

	1974	1975
Gross national product (GNP):		
Overwithholding	1,398.6	1,533.6
Control Jan. 30	1,392.7	1,532.1
Difference	5.8	1.6
Percent difference	.42	.10
GNP in 1958 dollars (real GNP):		
Overwithholding	849.6	882.9
Control Jan. 30	845.5	881.6
Difference	4.1	1.3
Percent difference	.48	.14
GNP deflator (1958=1.00):		
Overwithholding	1.646	1.737
Control Jan. 30	1.647	1.737
Difference	−.001	−.001
Percent difference	−.07	−.04
Unemployment rate:		
Overwithholding	5.6	5.6
Control Jan. 30	5.7	5.7
Difference	−0.1	−0.1
Percent difference	−1.91	−1.77
Personal income:		
Overwithholding	1,140.8	1,241.0
Control Jan. 30	1,138.3	1,240.5
Difference	2.4	0.6
Percent difference	.21	.05
Disposable income (personal income minus taxes):		
Overwithholding	978.0	1,056.0
Control Jan. 30	968.6	1,052.7
Difference	9.4	3.3
Percent difference	.97	.31
Consumption (personal consumption expenditures):		
Overwithholding	880.1	957.6
Control Jan. 30	874.5	955.4
Difference	5.6	2.2
Percent difference	.64	.23
Total Federal tax receipts:		
Overwithholding	280.2	313.8
Control Jan. 30	286.0	316.5
Difference	−5.8	−2.6
Percent difference	−2.03	−0.83
Federal personal taxes:		
Overwithholding	118.1	133.2
Control Jan. 30	125.3	136.1
Difference	−7.2	−2.9
Percent difference	−5.72	−2.13
Federal corporate profits taxes:		
Overwithholding	48.0	52.2
Control Jan. 30	47.0	52.1
Difference	1.0	.2
Percent difference	2.05	.35

S. 88

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 3402(a) of the Internal Revenue Code of 1954 (relating to income tax collected at source) is amended by striking out "The amount of income tax to be withheld shall be:" in each of the tables contained therein and inserting in lieu thereof "The amount of income tax to be withheld is 92 percent of:".

(b) The amendment made by subsection (a) shall apply with respect to wages paid on or after the thirtieth day after the date of the enactment of this Act.

By Mr. MATHIAS (for himself, Mr. BEALL, Mr. TUNNEY, and Mr. CRANSTON):

S. 89. A bill to provide that income from entertainment activities held in conjunction with a public fair conducted by an organization described in section 501(c), (3) and (5) shall not be unrelated trade or business income and shall not affect the tax exemption of the organization. Referred to the Committee on Finance.

SAVING STATE AND COUNTY FAIRS

Mr. MATHIAS. Mr. President, on behalf of Senators BEALL and TUNNEY, I am today introducing a bill to continue the Federal income tax policies which have traditionally applied to State and local fairs. I am also introducing this bill as an amendment to the pending legislation, which concerns the debt ceiling limit.

The purpose of this bill is to insure the continued financial viability of these fairs—which are so much a part of our history and culture, and which are today threatened by a cloud raised by the Internal Revenue Service. The IRS has, on its own volition, recently changed its traditional policy that income from entertainment activities during a State fair are within the ambit of the tax exemption which has been accorded these fairs under the Internal Revenue Code. The bill which I send to the desk would provide that income from such enter-

tainment activities would continue to be tax exempt.

This bill is designed to be narrow in scope. Its purpose is to cover activities that are an integral part of the fair. It would not extend to activities that do not occur during the fair. Our goal is to insure that these fairs, which are attended by many millions of Americans, are not taxed out of operation.

State and county fairs in almost every State in our country will be protected by this legislation.

I ask unanimous consent that there be printed in the RECORD at this point a copy of the bill which we are introducing today, a brief summary of the current problem, and the prepared testimony of Jacques T. Schlenger, Esq., of Maryland, before the House Committee on Ways and Means in support of similar legislation introduced in that chamber, and a listing of some of the largest fairs in the United States.

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

S. 89

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 513 of the Internal Revenue Code of 1954 (relating to the definition of an unrelated trade or business) is amended by adding the following subsection 513(d):

"(d) SPECIAL RULE FOR FAIRS AND EXPOSITIONS.—The term 'unrelated trade or business' shall not include the operation of a public entertainment activity in conjunction with a National, State, local, regional, or international fair or exposition conducted by an organization described in section 501 (c), (3) and (5); nor shall the operation of any such public entertainment activity prevent, or cause the denial of, the exemption of such organization otherwise exempt under section 501(c), (3) and (5).".

SEC. 2. The amendment made by the first section of this Act shall apply with respect to taxable years beginning after December 31, 1959.

FACT SHEET ON TAXATION OF MARYLAND STATE FAIRS AND OTHER STATE FAIRS

I. Brief Statements of Legislative History of the Unrelated Trade or Business Tax as Applied to State and County Fairs and Expositions:

State Fairs and other agricultural and charitable organizations have been exempt from taxation since the inception of the Federal income tax in 1913. Entertainment income integrally related to the operations of such organizations has also historically been exempt.

II. Facts about Maryland State Fair:

The Maryland State Fair has been conducted for over 80 years in substantially the same manner. Benefits to agricultural and related fields in the State of Maryland have been significant. The State of Maryland itself subsidizes the Fair, and the horse racing activities and income therefrom are authorized by State statutes and regulated by State agencies.

III. Facts Relating to Other Fairs and Expositions:

Over 300 state and county fairs are conducted in at least 46 states. Almost all have some form of entertainment revenue.

IV. Current Internal Revenue Service Position:

The Internal Revenue Service, despite losing in Court in its case against Maryland State Fair, is actively attempting to tax entertainment income integrally related to fairs.

V. Effect of Successful Maintaining of Internal Revenue Service Position Without Remedial Legislation:

If the IRS is successful in its attempts to tax entertainment revenue of fairs, especially without permitting an offsetting deduction for other aspects of fair operations conducted at a loss, the effect will certainly be to eliminate the existence of fairs in their present form.

VI. Solution:

Specific legislation is required to state that such income shall not be subject to taxation and shall not affect the exempt status of fairs.

STATEMENT BY JACQUES T. SCHLENGER, ESQ., ON BEHALF OF MARYLAND STATE FAIR AND AGRICULTURAL SOCIETY, INC., IN SUPPORT OF PROPOSED ADDITION OF SECTION 513(d) TO INTERNAL REVENUE CODE OF 1954, AS AMENDED

PROPOSED SECTION 513(d)

"(d) SPECIAL RULE FOR FAIRS AND EXPOSITIONS.—The term 'unrelated trade or business' shall not include the operation of a public entertainment activity in conjunction with a national, state, local, regional or international fair or exposition conducted by an organization described in Secton 501(c)(3) or (5); nor shall the operation of any such public entertainment activity prevent, or cause the denial of, the exemption of such organization otherwise exempt under either Section 501(c)(3) or 501(c)(5)."

I. Brief Statement of Legislative History of the Unrelated Trade or Business Tax as Applied to State and County Fairs and Expositions:

Section 501(c)(3) grants income tax exemption to, among others, corporations organized and operated exclusively for charitable, or educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Section 501(c)(5) grants income tax exemption to labor, agricultural or horticultural organizations.

The Revenue Act of 1913 provided for the exemption from taxation of labor, agricultural and horticultural organizations. Also made exempt were charitable and educational organizations, although their exemption, as distinguished from agricultural, etc., organizations, was conditional on the filing with the Collector of Internal Revenue of an affidavit setting out the character and purposes of the organization, showing that no part of income inured to the benefit of any private stockholder or individual and that such income was used exclusively for the promotion of the purposes for which it was organized. See Section 11G(a)[2][a] and [f], and Regulations No. 33, Articles 67 and 68, issued in 1918 under the Revenue Act of 1916.

Regulations 45, Article 512, issued in 1921 under the Revenue Act of 1918, provided as follows:

"Agricultural and horticultural organizations.—Agricultural or horticultural organizations exempt from tax do not include corporations engaged in growing agricultural or horticultural products or raising livestock or similar products for profit, but include only those organizations which, having no net income inuring to the benefit of their members, are educational or instructive in character and have for their purpose the betterment of the conditions of those engaged in these pursuits, the improvement of the grade of their products, and the encouragement and promotion of these industries to a higher degree of efficiency. Included in this class as exempt are organizations such as county fairs and like associations of a quasi-public character, which through a system of awards, prizes, or premiums are designed to encourage the production of better livestock, better agricultural and horticultural products, and whose income, derived from gate receipts, entry fees, donations, etc., is used exclusively to meet the necessary expenses of upkeep and operation. Societies or associations which have for their purpose the holding of annual or periodical race meets, from which profits inure or may inure to the benefit of the members or stockholders, do not come within the terms of this exemption. A corporation engaged in the business of raising stock or poultry, or growing grain, fruits, or other products of this character, as a means of livelihood and for the purpose of gain, is an agricultural or horticultural society only in the sense that its name indicates the kind of business in which it is engaged, and it is not exempt from tax."

These regulations were continued in substantially identical form until 1958, when the Internal Revenue Service adopted regulations under the corresponding provision of the 1954 Code, which regulations were substantially abbreviated and eliminated all references to racing.

An unrelated business income tax on exempt organizations was first proposed by the Treasury Department in 1942, and was again recommended in 1950, when legislation was passed.

Section 511(a) imposes a tax on the "unrelated business income" of most exempt organizations, including those described in Sections 501(c)(3) and (5).

The legislation was intended to apply to income derived from a trade or business "regularly carried on" by a tax exempt organization if the business is not "substantially related" to the performance of the functions upon which the organization's exemption is based. See H.R. 2319, 81st Cong., 2d Sess., 1950–2 Cum. Bull. 380, 409 and S. Rep. No. 2375, 81st Cong., 2d Sess., 1950–2 Cum. Bull. 483, 505.

II. Facts about Maryland State Fair:

The Maryland State Fair (sometimes also refered to as Timonium) has been conducted in Baltimore County at the same location (Timonium) in substantially the same manner in every year since 1878, except for the years 1941 through 1945, when the fair grounds were turned over to the United States Army. The Fair is held for ten or eleven days each summer. A Catalogue and Daily Program is published for each fair, which contains over 200 pages listing the events and participants. The Maryland State Fair also publishes annually over 10,000 copies of a 200-page "premium list", describing the contests, judging criteria, and prizes to be offered that year, which is distributed throughout the State of Maryland and to other states.

* * * * *

On each day of the fair, the number of people attending the fair far exceeds the number of people attending the races. A substantial number of the patrons who attend the racing also attend the fair, and in fact, all of the persons attending the racing events must purchase a ticket to the fair.

In addition to the activities carried on during the fair itself, the fair's facilities are made available for a wide variety of activities throughout the year, including the meetings of the Association of Maryland Horse Shows, the Maryland-Delaware Brown Swiss Sale, meetings of the State Fair Board, Maryland Conservation Council, Maryland Agricultural Extension Service, Maryland Swine Producers, the McDonogh School Fair, Maryland Horse and Pony Measuring Show, 4–H meetings and fair, Girl and Boy Scout meetings, etc.

The Maryland State Fair receives an appropriation of State funds, which has been approximating $100,000 for the past several years. This grant has been necessary for the fair to maintain and improve its facilities

and to continue to conduct the fair in the manner in which it has been conducted since 1878.

The operations of the State Fair are governed by a Board of 31 Directors, almost all of whom are farmers or engage in related businesses. For example, of the 31 members of the Board during 1966, no less than 20 (including former Senator Brewster) owned and operated farms in the State of Maryland. The Board includes the Dean of the School of Agriculture of the University of Maryland, the Master of the State Grange, the President and Vice President of the Esskay Meat Company (a large beef consumer), several horse breeders, nurserymen, and representatives from the legal, medical, banking, journalism and political fields.

The conduct of thoroughbred horse racing at the fair serves two purposes: as an attraction to encourage greater attendance at the State Fair, and as a part of the Maryland horse breeding industry. The integral role played by the racing has been described by many leading authorities, an example being the statement made by Dr. Gordon M. Cairns, Dean of the School of Agriculture of the University of Maryland, testifying at a trial involving a local real property tax assessment on the track area, which was held to be improper by the highest court of the State of Maryland because the racing area was found to be an integral part of the fair:

"Any fair exists primarily for an educational function and purpose. This is to acquaint the people of the area through demonstrations, through exhibits, displays and the like. Secondly, the competitions that are held there are the basis for the development of the various aspects of our livestock and agricultural industry.

* * * * *

"Basically all fairs are created with the objective—with two objectives. The one is education and the other is how to get the people there to show them what is educational and they have to have the traditional, shall we say, entertainment features associated therewith to help draw the crowds to those attractions.

* * * * *

"In fact, you take Illinois, Indiana, Ohio, New York, all of those would have trotting races there rather than running races, but the amusement feature is there in the same pattern."

* * * * *

Horse racing at county fairs in Maryland is under the supervision of the Maryland Racing Commission. In contrast with commercial racing at the mile tracks, the Commission has long recognized that the racing conducted at Timonium is an integral part of the fair itself; since the Racing Commission's inception in 1920, Timonium's racing license has by State Statute been conditional upon the maintenance of a bona fide fair, featuring agricultural exhibits and competition. See Art. 78B, § 15(a), Annotated Code of Maryland (Repl. Vol. 1965). Thus, the Commission's 1921 report noted that:

"Twelve County Fairs [including Timonium] were granted licenses . . . *the main purpose of which was,* in the judgment of the Commission, *the encouragement of agriculture . . .*". (Emphasis added.)

Again, in 1924, the Racing Commission reported that:

"The County Fairs, which have become a valuable asset to the State, enjoyed a successful season, and each year are *doing more and more to benefit and promote the agriculture and breeding industries of the State. Racing constitutes an important event at each of the fairs,* and the Commission is constantly seeking to improve the conditions under which it is conducted." (Emphasis added.)

In keeping with these statements, the Racing Commission has been alert to maintain its policy that "[t]hese associations should not conduct racing as their primary attraction, but racing should be secondary to the real purpose for their existence." [1946 Report.] That Timonium has more than adequately met this standard is seen from the following year's report:

"The Commission is trying to emphasize and give effect to the requirement that the half-mile tracks must have a bona-fide, well organized and well-supported agricultural fair as a condition of a license to hold a race meet. . . . The agricultural exhibits and activities held in connection with the fair at Timonium were outstanding and have *won Timonium recognition as one of the best country fairs in the country.*" (1947 Report, emphasis added.)

In the early 1960's, another Maryland county fair was unable to conduct its racing and the State Racing Commission urgently requested Timonium to conduct such racing at its facilities for the other fair. To assist the State with its revenue needs, Timonium reluctantly agreed. The Maryland State Fair voluntarily paid Federal and state income taxes on the profits of such additional twelve racing days. These additional racing days are not involved in the present legislative proposal on unrelated business income.

It is obvious, but merits emphasis, that no part of the net profits of the Maryland State Fair insures to any individual. All funds go to support and improve the fair.

III. Facts Relating to Other Fairs and Expositions:

* * * * *

IV. Current Internal Revenue Service Position:

In 1955, the Internal Revenue Service compelled the Maryland State Fair to litigate in the United States District Court for the District of Maryland to obtain a decision that income from its horse racing was an integral part of the fair and not subject to the unrelated business income tax. The decision in favor of the Maryland State Fair is reported in 48 AFTR 1725. This decision did not end the question, however, since the Internal Revenue Service has continued to attempt to tax this income in subsequent years, and has even gone so far as to propose the revocation of the exemption of the entire fair. This case is, and has been for a considerable time, pending in the National Office of the Internal Revenue Service, presumably along with similar problems of other fairs.

This latest Revenue Agent promulgated this report on September 9, 1966, and the Maryland State Fair then attempted to preserve what the District Court had decided by appealing to the National Office Internal Revenue Service. After eight years of considering the matter, apparently in some detail, the National Office proclaimed that Maryland State Fair's tax exemption remained intact but that all of its income from horse racing was subject to unrelated business income tax. This matter continues like *Jarndyce v. Jarndyce* before the appellate division of the Internal Revenue Service and in future decades litigation looms. The Los Angeles County Fair has during the same period of time been subjected to the same attack by the Internal Revenue Service, and settlement efforts having failed, the Los Angeles Fair has been compelled to litigate the issue before the United States District Court in California, the decision of which the parties are awaiting.

In 1968, the Internal Revenue Service issued regulations intended to clarify the meaning of "related" activities of an exempt organization. Treas. Regs. § 1.513–1(d)(2) states that a business is considered "related" if its conduct—

"Has casual relationship to the achievement of exempt purposes . . .; and is 'substantially related', for purposes of section 513, only if the causal relationship is a substantial one."

Based on the long history of the relationship between the racing activities as an integral part of the fair, it might be imagined that the Internal Revenue Service would accept such a relationship under the language of this regulation. In October, 1968, however, the Internal Revenue Service issued Rev. Rul. 68–505, 1968 IRB–38, 16, which takes the position that income from the operation of racing in conjunction with a fair is unrelated business income subject to Federal income tax. The reasons given in this ruling are:

(1) That the races are carried on in a manner similar to commercial race tracks;

(2) That the conduct of the races is not related to the organization's exempt purpose because it does not contribute importantly to the educational objectives of the fair; and

(3) The races are not a type of recreational activity that is intended to attract the public to the fair's educational features.

This ruling involved an organization stated to be exempt as an educational organization under Section 501(c)(3), such as the Internal Revenue Service alleged Timonium to be. The ruling does not reach the question of whether the racing activities are related to the agricultural purposes of an organization such as Timonium except under Section 501(c)(5). Presumably, the Internal Revenue Service would take a similar position. In all events, why some fairs have been granted exemption under Section 501(c)(3) and others, under Section 501(c)(5) is an administrative mystery. Timonium applied for an exemption under Section 501(c)(5), but the Internal Revenue Service insisted on an exemption under Section 501(c)(3)! As noted above, the Internal Revenue Service now proposes no exemption.

Anyone who attends the races at a state fair can easily see the difference between the races conducted at the fair and races conducted by profit making organizations. Tracks operated as part of the fair are generally smaller, the horses are not nearly as advanced, the bettors generally bet only $2.00 per race, and the entire atmosphere is different. The races do attract people to the fair, as is borne out by attendance records maintained by the Maryland State Fair. Finally, the exempt purposes of the fair, i.e., agricultural and educational activities, are substantially advanced because of the conduct of racing activities.

Even though the finally adopted amendments to Section 513(c), included in the 1969 Tax Reform Act, rejected the attempted inclusion by the Treasury of the "conduct of horse races at a fair" within the designated activities constituting an unrelated trade or business, the Treasury is attempting to turn history around to match its intention by claiming that this is exactly what the legislation did. The Conference substitute specifically rejected that attempt to designate such activity as an unrelated trade or business, so leaving the Treasury's position bereft of fact or truth.

V. Effect of Successful Maintaining of Internal Revenue Service Position Without Remedial Legislation:

The managers of various fairs across the country are in agreement that if fairs are held liable for Federal income taxes, they will no longer be able to operate, and an important segment of United States economy and history will be eliminated. Significantly, the Internal Revenue Service position, when tax exemption is not denied, is to tax racing and other entertainment income without

even permitting any offset for losses realized on the operation of other aspects of the fair. Generally, the only profitable part of the operation of the fair is the horse races or other entertainment activity, whereas the other activities of the fair will operate at a loss. To simply segregate the profitable part of the fair and attempt to tax it is wholly unjust and would have disastrous results. Even if the tax exemption of fairs were eliminated altogether, so that the income on the profitable operations could be offset by the loss operations, it is extremely doubtful that the majority of fairs would be able to continue in the present form, because, instead of using net profits of the fair for maintaining quality and improving the fair, such funds would have to be used to pay income taxes.

VI. Solution:

The position of the Internal Revenue Service, allegedly taken under existing law, would, if sustained, mark the end of fairs throughout the nation, or at the least, require resort to local governmental financing, which in today's straightened circumstances cannot be realistically anticipated. Since administrative judgment has been so misdirected, the only feasible solution is remedial legislation not subject to administrative whim. The Maryland State Fair has learned that even successful litigation will not deter the Internal Revenue Service.

Accordingly, the Maryland State Fair, on behalf of itself and the hundreds of fairs, throughout the nation, respectfully urges the enactment of the suggested amendment to Section 513(d). In the proposed legislation, the term "public entertainment activity" is intended to cover the entertainment activities of fairs, be they midway rides, plays, vocalists or horse racing.

In order to eliminate current and costly disputes between the fairs and the Internal Revenue Service, it is required that the new Section 513(d) be effective for all tax years beginning on or after January 1, 1960.

SUMMARY DATA FOR CERTAIN LARGE FAIRS

[Prepared from data furnished by the respective fairs]

Location and name of fair	Midway	Name shows	Other entertainment	Estimated percentage of gross revenue from entertainment	Legal organization
Arkansas:					
Fort Smith: Arkansas-Oklahoma Livestock Exposition District Free Fair.	Yes	Grand Ole Opry	Rodeo, thrill shows	25.0	Chamber of Commerce.
Little Rock: Arkansas Livestock Exposition.	Yes—Royal American Shows		Rodeo, grandstand shows		Nonprofit corporation; State subsidized.
California:					
Pomona: Los Angeles County Fair	Yes	None	Horseracing, rodeo, circus	50.0	Nonprofit corporation.
Santa Rosa: Sonoma County Fair	Yes		Rodeo, horseracing, teen show, custom auto show, destruction derby.	82.7	Subsidized county agency.
Stockton: San Joaquin County Fair	Yes	Yes	Rodeo, horseracing	9.0	State agency.
Colorado: Pueblo: Colorado State Fair	Yes	Rex Allen	Rodeo, horseracing, Mexican rodeo.	21.0	Subsidized State agency.
Connecticut: Danbury: Great Danbury State Fair.	Yes	Yes	Thrill shows, animal and horse shows.	10.0	Taxable corporation.
Florida:					
Orlando: Central Florida Fair	Yes	None			Corporation.
West Palm Beach: South Florida Fair and Exposition.	Yes		Autoracing thrill show	23.0	Nonprofit corporation.
Georgia:					
Columbus: Chattahoochee Valley Fair	Yes—Goodling's Million Dollar Midway.	The Charlies, The Great Erick, The Gutis Family, The Claytons, Welde's Bears. The Sensational Leighs.			Private nonprofit corporation. Operate on city property.
Macon: Georgia State Fair	Yes—Carnival	None	None	None	Operated by chamber of commerce through agent association.
Illinois:					
DuQuoin: DuQuoin State Fair	Yes—Olsen Shows	Eddie Arnold, Bob Hope, Perry Como, Red Skelton, Ernie Ford, Andy Williams, Nat King Cole, Steve Lawrence and Edye Gorme.	Harness racing (Hambletonian), auto racing.	80.0	Corporation; § 501(c)(5) exemption.
Peoria: Heart of Illinois Fair	Yes—Century 21 Shows	Pat Boone, Allen and Rossi, Eddy Arnold.	Pony show, horse show, antique auto show, "dancing waters," "Skipper the porpoise."	20.0	Nonprofit corporation.
Springfield: Illinois State Fair	Yes—Olson Shows	Herb Alpert and Tijuana Brass, Bob Hope, Paul Revere and the Raiders, Eddy Arnold, Grand Ole Opry.	Harness racing, rodeo, auto and stock car racing, quarter horse racing, Indian show, fireworks.		Subsidized State agency.
Indiana: Indianapolis: Indiana State Fair	Yes—Gooding's Million Dollar Midway.	Lawrence Welk, Eddy Arnold, Herman's Hermits, Tijuana Brass	Horseracing, rodeo, auto racing, thrill show.	20.0	Do.
Iowa:					
Davenport: Great Mississippi Valley Fair	Yes—Bluegrass Midway	Yes	Quarter horse racing, auto racing, horse shows, thrill shows.		Nonprofit corporation; State and local support.
Des Moines: Iowa State Fair	Yes—Century 21 Shows	Ernie Ford, Andy Williams, Lawrence Welk.	Rodeo, harness racing, auto racing, thrill show, horse shows.	32.0	Subsidized State agency.
Spencer: Clay County Fair	Yes—Thomas Shows	Pat Boone, Kids Next Door	Rodeo, harness racing, midget and big car auto racing, chuckwagon races, destruction derby.	40.0	Corporation; nominal State and local support.
Waterloo: National Dairy Cattle Congress	Yes	Arthur Godfrey	Rodeo, dogracing, midget auto racing, horse pulling.	20–25.0	Corporation.
Kansas: Hutchinson: Kansas State Fair	Yes—Royal American Midway	Morey Amsterdam, New Christy Minstrels, Grand Ole Opry.	Autoracing	28.0	Subsidized State agency.
Kentucky: Louisville: Kentucky State Fair	Yes—Deggeller	Eddy Arnold, New Vaudeville Band, Pat Boone, Skitch Henderson, Lassie, Dale Robertson.	Country and Western music show, rodeo, circus.		Corporation.
Maryland: Baltimore: Maryland State Fair	Yes	Yes	Music shows, horse shows, horseracing.	75.0	Nonprofit corporation.
Massachusetts:					
Marshfield: Marshfield Fair	Yes—Playtime Shows	Adams and Soper stage shows	Horseracing	50.0	Corporation.
Topsfield: Topsfield Fair	Yes—Dean and Flynn Midway	Sam Howard's Water Show	Dogracing	Substantial	Nonprofit corporation; State support.
West Springfield: Eastern States Exposition	Yes	Supremes, Victor Borge, Hollywood Palace.	Rodeo, autoracing, horse show	17.0	Corporation.
Dighton: Rehoboth Fair	Yes		Dog racing, stage shows	Substantial	Do.
Northampton: Three County Fair	Yes	Dennis Day, Buddy Rich	Horseracing, thrill show	80.0	Corporation; § 591(c)(5) exemption.

Location and name of fair	Midway	Name shows	Other entertainment	Estimated percentage of gross revenue from entertainment	Legal organization
Michigan:					
Detroit: Michigan State Fair	Yes—W. G. Wade Show	Supremes, Brasil '66, Sandpipers.	Circus, music shows	5.4	Self-supporting State agency.
Saginaw: Saginaw County Fair	Yes	No		15.0	Corporation.
Minnesota: St. Paul: Minnesota State Fair	Yes	Yes	Rodeo, autoracing, youth center	35.0	Self-supporting State agency.
Mississippi: Tupelo: Mississippi Alabama Fair	Yes—Olson Shows	Yes	Rodeo, livestock show	15.0	Nonprofit corporation.
Missouri: Springfield: Ozark Empire Fair	Yes—Century 21 Shows	Sonny James, Bobby Vinton, Brenda Lee.	Autoracing	25.0	Nonprofit corporation; some State and local support.
Montana:					
Billings: Midland Empire State Fair and Rodeo.	Yes—Frazier's World Fair Shows—Carnival.	Wayne Newton, Jimmy Dean, Jodie Gray.	Rodeo, horseracing	29.8	Self-supporting State agency.
Great Falls: (Montana) State Fair	Yes	Lawrence Welk, Ernie Ford	do	55.0	Subsidized county agency.
Nebraska: Lincoln: Nebraska State Fair	Yes	Ernie Ford, Lawrence Welk	Horseracing, autoracing, circus	30.0	State-sponsored association.
New Jersey: Succasunna: Morris County Fair	Yes—Amusements of America	Harris & Jaeger	Stage shows and concerts		Nonprofit corporation.
New Mexico: Albuquerque: New Mexico State Fair.	Yes	Dale Robertson, Ernie Ford, Marty Robbins, The Frontiersman, The Harmonicats.	Horseracing, rodeo	75.0	State-affiliated corporation §501 (c)(5) exemption.
New York: Syracuse: New York State Fair	Yes		Autoracing		Subsidized State agency.
North Carolina:					
Raleigh: North Carolina State Fair	Yes—James E. Strates Show	Jimmy Dean	Rodeo, autoracing, thrill show	NA	Self-supporting State agency.
Winston-Salem: Dixie Classic Fair	Yes		Auto thrill show		Trust of private foundation.
North Dakota: Minot: North Dakota State Fair	Yes	Country and Western Stars	Autoracing, destruction derby, thrill show, tractor pulling.	25.0	Subsidized State agency.
Ohio: Columbus: Ohio State Fair	Yes	Bob Hope, Andy Williams, Ernie Ford, Tijuana Brass, Herman's Hermits, Supremes, New Vaudeville, Band, Sonny and Cher, Sandpipers.	Horseracing, autoracing, horse shows.		Do.
Oklahoma: Oklahoma City: State Fair of Oklahoma.	Yes—Royal American Show	Ice Capades, Grand Ole Opry	Rodeo, motorcycle races, auto races, midget auto races, thrill show.	35.0	Nonprofit corporation.
Oregon: Salem: Oregon State Fair	Yes—West Coast Shows	Jimmy Rodgers	Rodeo, horseracing, skydivers, animal village.	.5	Self-supporting State agency.
Pennsylvania:					
Clearfield: Clearfield County Fair	Yes—James E. Strates Show	Al Hirt, Little Jimmy Dickers, Hip Nelson, Hardy Family, The Electric Prunes.	Harness racing, auto thrill show	30.0	Corporation; nominal State and local support.
Meadville: Crawford County Fair	Yes	Chitwood Thrill Show, Ken-Penn Amusement.	Harness racing, stock car racing	25.0	Nonprofit corporation.
South Carolina: Columbia: South Carolina State Fair.	Yes—Gooding's Million Dollar Midway.	None	None	38.0	Eleemosynary Corporation.
South Dakota: Huron: South Dakota State Fair	Yes	Kids Next Door, Baja Marimaba Band, George Kirby.	Rodeo, harness and running horseracing, autoracing, thrill show destruction derby.	38.0	Subsidized State agency.
Vermont: Rutland: Rutland State Fair	Yes—Gooding's Million Dollar Midway.	Grand Ole Opry, James Nelson, Howard Harris.	Rodeo,, harness racing, thrill show, auto racing, vaudeville.		Nonprofit corporation; State supported.
Washington:					
Spokane: Spokane Interstate Fair			Horseracing, autoracing, stage show.	1.0	Municipal corporation.
Yakima: Central Washington Fair	Yes—Meeker shows	Rex Allen, Nitty Gritty Dirt Band, Fossettes, The Wheelers, Sonny Moore's Roustabouts.	Rodeo, variety show	17.0	Corporation.
Wisconsin:					
Milwaukee: Wisconsin State Fair	Yes—Royal American Shows	Herb Alpert, Jack Benny, King Family, Art Linkletter.	Autoracing, grandstand shows	25.0	Self-supporting State agency.
Chippewa Falls: North Wisconsin State Fair.	Yes—C-21 Show		Autoracing		Separate corporation.

Note: Other large fairs not responding but believed to have substantial entertainment gross receipts: California State Fair, Sacramento, Calif.; Florida State Fair, Tampa, Fla.; Southeastern Fair, Atlanta, Ga.; State Fair of Louisiana, Shreveport, La.

By Mr. MATHIAS:

S. 90. A bill to amend title 5, United States Code, to provide that certain service be considered as creditable service for purposes of civil service retirement. Referred to the Committee on Post Office and Civil Service.

CIVIL SERVICE RETIREMENT AMENDMENT

Mr. MATHIAS. Mr. President, I am introducing a measure today which would amend the Civil Service Code regarding the computation of years of Government service toward retirement, in order to give fair consideration to all U.S. citizens who served their country during World War II.

Currently, Civil Service regulations allow all years of employment in the U.S. military to be counted toward Government retirement. Therefore, all Americans who fought in World War II, and then worked for the Federal Government, were able to include those years toward Civil Service retirement—all, that is, except one narrow category of American citizen.

This inequity, which I wish to correct with this legislation, was brought to my attention by one of my constituents, who appears to be a simple victim of circumstances. At the outbreak of World War II, he volunteered for service in the American Armed Forces, but was refused on the grounds of possible physical deficiency. Then, in the true spirit of concern for the defense of his country and with the permission of the U.S. Government, he subsequently served honorably in the forces of an allied nation who would accept him for service.

For patriotic citizens in circumstances such as these, I do not think it would be too much to ask that they be allowed to count their time of service in the allied effort of World War I or II as creditable service for purposes of Civil Service retirement just as if they had served in the U.S. Armed Forces. That is the basic thrust of the legislation I am introducing today. In this small way, we may contribute some small measure of recognition to those Americans who served the allied effort in the only way their circumstances would permit.

Mr. President, I ask unanimous consent that the full text of this bill be printed at this point in the RECORD.

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

S. 90

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 8332(b) of title 5, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (8);

(2) by striking out the period at the end of paragraph (9) and inserting in lieu thereof a semicolon and the word "and"; and

(3) by adding immediately below paragraph (9) the following:

"(10) subject to sections 8334(c) and 8339(i) of this title, service in the armed forces of a country allied with the Government during World War I or II, if the employee (A) was rejected for military service in any of the uniformed services of the Government, (B) was a citizen of the United States at the time of rejection, (C) performed at least 2 years of service with such an armed forces, and (D) was separated from that service under honorable conditions."

SEC. 2. Any period of service which is creditable as the result of the amendment made by the first section of this Act shall be included in the computation of the annuity of an employee or annuitant, or the survivor of the employee or annuitant, only with respect to any month commencing on or after the date of enactment of this Act with respect to which a monthly installment of annuity is to be paid.

By Mr. MATHIAS (for himself and Mr. BEALL):

S. 91. A bill to provide for the expansion of the Antietam National Battlefield Site in the State of Maryland, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

Mr. MATHIAS. Mr. President, I am pleased today to introduce, on behalf of myself and Senator BEALL, revised legislation for the expansion and protection of the Antietam Battlefield in the State of Maryland.

This bill is substantially similar to legislation we have introduced in the 92d and 93d Congress.

This measure will authorize the expansion of the national battlefield, now about 1,100 acres, to a total of 3,260 acres. This would include the 1,440-acre site of the actual battle, as well as an environmental protection zone of 1,820 acres, so as to preserve the present, largely rural scenery around the battlefield and along lower Antietam Creek to its junction with the Chesapeake and Ohio Canal National Historical Park.

The history of this legislation reaches back several years, and I believe the revised bill we are introducing today is worthy of strong congressional support. Senator BEALL and I first introduced such legislation on September 18, 1969, on the 107th anniversary of the historic battle. We revised and reintroduced it on April 15, 1971, in the 1st session of the 92d Congress.

Thereafter, an Antietam National Battlefield Advisory Committee was formed at my request, to discuss and evaluate the legislation, and to offer recommendations for refinement and improvement of the original proposals. The committee was appointed by the Washington County Commissioners and chaired by Commissioner Rome Schwagel.

I would like to take this opportunity to offer some well-deserved praise to Commissioner Schwagel and all the members of the advisory committee for their dedicated efforts over a span of 3 years in considering and recommending improvements in this legislation. The committee met and consulted with a broad range of local citizens and landowners interested in and affected by the proposed legislation, and carefully examined all the property in the area on a parcel-by-parcel basis. Every single owner of affected land was notified and given an opportunity to meet with the committee to discuss the best disposition of his or her property—an opportunity of which the majority of landowners took full advantage. Representatives of the National Park Service were also in attendance at every committee meeting and have thus had a full opportunity to offer their own suggestions and gain a clear understanding of all the local issues which might arise. The Park Service has indicated that this has been the most desirable approach yet developed for park land acquisition. I thoroughly concur.

Indeed, the committee's role serves as a model which I hope may be followed for the development of any other legislation which seeks to preserve and protect our precious national heritage through park land acquisition.

In May of 1972, the committee issued its basic report of findings and recommendations, which I inserted in the CONGRESSIONAL RECORD on May 22, 1972. The thrust of these suggestions, and others which have been offered since that time, are incorporated in the legislation we introduce today.

Under this bill, owners of residential or agricultural properties within the expanded area would, in most cases, have the option of retaining the rights of use and occupancy of their properties for purposes compatible with the project. If a scenic easement is recommended on a parcel of property by the Advisory Committee in its report, however, and the property owner wishes to sell his land to the Park Service with no residual rights, the new bill will grant any such landowner the option of a fee simple acquisition or scenic easement.

Another recommendation of the Advisory Committee which we have made part of the present legislation involves the appointment of two nonvoting members to the permanent advisory commission which the bill establishes, in addition to the seven voting members.

These two nonvoting appointees will serve in 1-year terms and will be appointed by the Board of Commissioners of Washington County for the specific purpose of advising the National Park Service on the administration of scenic easements.

A third recommendation of the committee which we have adopted in this legislation, is a provision which would transfer 549 acres of land at Fort Ritchie, Md., from the Department of Defense to the Interior Department. This land would then be available for exchange for Antietam property to be acquired from private landowners, or for sale to any member of the public. This will help to maintain privately owned property on the local tax rolls.

Mr. President, because this legislation incorporates the recommendations and enjoys the support of the broad range of public officials, historical societies and concerned citizens in western Maryland, I believe that it merits wide support here in Congress, and we will press for its enactment at the earliest possible time. It is becoming increasingly clear that the survival of the Antietam Battlefield in the face of encroaching development can no longer be entrusted purely to chance or private action.

In this regard, however, I am encouraged by the creation of a new nonprofit corporation, Antietam Battlefield Protectors, Inc., which has been formed by local citizens to help buy land to protect Antietam from commercial encroachment. Their efforts demonstrate clear local support for the principle of preserving Antietam, and the lands thus purchased may later be donated to the National Park Service upon enactment of the legislation we are introducing today.

In concluding, Mr. President, I would simply like to point out that the beautiful Antietam area has attracted well over a million visitors in the past 3 years alone. Many of the historical sites they have come to see, such as Dunkard Church, the Sunken Road, and the fields southeast of Sharpsburg, where A. P. Hill's men rebuffed the advance of Union troops to end the battle, are outside of the current Federal property. The need to encompass these historical portraits in an enhancing and protective frame is apparent to all who visit Antietam. I therefore, hope that we will be able to obtain approval of this important bill in the coming year.

Mr. President, I ask unanimous consent that the full text of this legislation, S. 3876, be printed at this point in the RECORD.

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

S. 91

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) in furtherance of the purposes of the Act entitled "An Act to provide for the protection and preservation of the Antietam Battlefield in the State of Maryland" approved April 22, 1960 (74 Stat. 79), and other Acts relative thereto, and additionally to provide for the protection and preservation of the historic field hospital site where Clara Barton, founder of the American Red Cross, served, the Secretary of the Interior is hereby authorized to acquire, by purchase, exchange, or donation, additional lands and interests therein over and above the limitations as previously authorized: *Provided,* That the total of lands previously acquired and currently included within the Antietam National Battlefield Site and Antietam National Cemetery, plus such lands as may be acquired under authority of this Act, shall together not exceed three thousand two hundred and sixty acres: *Provided further,* That, within the total acreage as herein authorized, one thousand four hundred and forty acres shall be identified by the Secretary of the Interior as comprising the historic battlefield scene

and the same shall be protected and preserved as such for the cultural benefit and inspiration of the public through the acquisition of fee simple title thereto; and the remaining one thousand eight hundred and twenty acres shall be contiguous to the historic battlefield and shall provide environmental protection thereto through the acquisition of less-than-fee interests therein. Notwithstanding the foregoing limitation, the Secretary may acquire the fee simple title to any property in lieu of a less-than-fee interest upon the request of the owner.

(b) The Antietam National Battlefield site established pursuant to such Act of April 22, 1960, including lands acquired by the Secretary pursuant to subsection (a) of this section, is hereby redesignated the Antietam National Battlefield Park".

SEC. 2. (a) With the exception of property that the Secretary of the Interior determines is necessary for purposes of administration, preservation, or public use, any owner or owners (hereinafter in this section referred to as "owner") of improved property on the date of its acquisition by the Secretary may retain the right of use and occupancy of the improved property for noncommercial residential or agricultural purposes as hereinafter provided, for a term, as the owner may elect, ending either (1) upon the death of the owner or owner's spouse, whichever occurs later, or (2) not more than twenty-five years from the date of acquisition. The Secretary shall pay to the owner the fair market value of the property on the date of such acquisition, less the fair market value on such date of the interest in such property retained by the owner. Such right (1) shall be subject to such terms and conditions as the Secretary deems appropriate to assure that the property is used in a manner compatible with the purposes of this Act, (2) may be transferred or assigned, and (3) may be terminated with respect to the entire property by the Secretary upon his determination that the property or any portion thereof has ceased to be used for noncommercial residential or agricultural purposes, and upon tender to the holder of the right of an amount equal to the fair market value, as of the date of the tender, of that portion of the right which remains unexpired on the date of the termination.

(b) As used in this section, the term "improved property" means (1) a detached year-round dwelling which serves as the owner's permanent place of abode at the time of acquisition, and construction of which was begun before January 1, 1971, together with so much of the land on which the dwelling is situated, the said land belonging in the same ownership as the dwelling, as the Secretary shall designate to be reasonably necessary for the enjoyment of the dwelling for the sole purpose of noncommercial residential use, and (2) any property that is used exclusively for agricultural purposes and continues in such use, including housing directly incident thereto: *Provided*, That the Secretary, in consultation with the Commission as hereinafter authorized to be established, may exclude from any improved property any waters or land fronting thereon, together with so much of the land adjoining such waters or land as he deems necessary for public access thereto.

SEC. 3. The Secretary of the Interior is hereby authorized to undertake such research as is necessary to define those lands actually comprising the historic Antietam Battlefield scene and to identify them as such for protection and preservation within the purposes of this Act; to undertake research, including archeological investigations, as necessary to identify the actual site of the historic Clara Barton field hospital for purpose of acquisition and protection and preservation as provided herein; and to enter into such agreements with affected property owners as may be necessary to carry out such research and field studies.

SEC. 4. The administration, protection, preservation, and such minimal development as is necessary to provide for public use and enjoyment of the Antietam National Battlefield Park shall be exercised by the Secretary of the Interior in accordance with provisions of the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (39 Stat. 535), as amended and supplemented.

SEC. 5. To carry out the purposes of this Act, those lands situated in Washington County, Maryland, and identified as "Fort Ritchie—Site B" as indicated on county tax maps numbered 67 and 72 and currently under the jurisdiction of the Department of Defense and administered by the commanding officer at Fort Ritchie, Maryland, containing approximately five hundred and forty-nine acres, are hereby transferred to the jurisdiction of the Secretary of the Interior, and shall be utilized in acquisition of lands as authorized by this Act, either through exchange upon the basis of equal value, or sold under sealed bid at not less than a fair market value as shall be determined through appraisal, with monetary proceeds therefrom to be applied directly toward purchase of land as herein authorized.

SEC. 6. (a) In carrying out the purposes of this Act, including historic preservation and restoration, environmental protection, and historical interpretation for the benefit and enlightenment of the public, the Secretary of the Interior is hereby authorized and directed to consult at least semiannually with the advisory commission established under subsection (b) of this section, and also to consult and cooperate with appropriate agencies and officials of the State of Maryland, Washington County, Maryland, and interested local governments, and with interested organizations, groups, and individuals.

(b) (1) There is hereby established an Antietam National Battlefield Park Advisory Commission (hereinafter referred to as the "Commission") to assist the Secretary in developing policies and programs pursuant to this Act, and to promote the coordination of those policies and programs with relevant Federal, State, local, and private efforts in historic preservation and interpretation, environmental protection, and related fields.

(2) The Commission shall be composed of seven voting members and two nonvoting members. The voting members shall be appointed by the Secretary for terms of five years, as follows:

(A) Two members to be appointed from recommendations submitted by the Board of County Commissioners of Washington County, Maryland;

(B) Two members to be appointed from recommendations submitted by the Governor of the State of Maryland; and

(C) Three members to be appointed by the Secretary, one of whom shall be designated Chairman of the Commission, and at least two of whom shall be members of regularly constituted historical or environmental organizations.

(3) The nonvoting members shall be appointed by the Board of County Commissioners of Washington County, Maryland, for terms of one year and shall act in an advisory capacity with the National Park Service in administration of the scenic easement.

(4) Any vacancy in the Commission shall be filled in the same manner in which the original appointment was made.

(5) Members of the Commission shall serve without compensation, but the Secretary is authorized to pay, upon vouchers signed by the Chairman, the expenses reasonably incurred by the Commission and its members in carrying out their responsibilities under this Act.

(6) The Commission shall act and advise by affirmative vote of a majority of the members thereof.

SEC. 7. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

By Mr. MATHIAS (for himself, Mr. BEALL, and Mr. JAVITS):

S. 93. A bill to amend the Internal Revenue Code of 1954 to provide that a married individual who files a separate return shall be taxed on his or her earned income at the same rate as an unmarried individual. Referred to the Committee on Finance.

FAIR TAX TREATMENT FOR MARRIED WORKERS

Mr. MATHIAS. Mr. President, 6 years ago, as today, the attention of the Congress and the Nation was focused on the need for tax reform. It was, and is, our desire to further equalize our growing tax burden, thereby creating a more equitable system in which each individual will pay his fair share.

The culmination of this widespread concern over tax equity was the Tax Reform Act of 1969, legislation which proved to be a big step forward in providing much-needed relief for overburdened American workers. One of the objectives of the Reform Act was the reduction of tax rates applied to single wage earners, a burden considered too heavy when compared to that imposed on married couples earning similar incomes who enjoy the tax benefits of income splitting.

An unfortunate byproduct of these efforts to lessen the tax load of single individuals was, in effect, the creation of a "tax on marriage." As a result of the Reform Act, married couples in which both parties earn similar incomes are taxed at a rate substantially higher than are two single individuals earning comparable incomes.

The "marriage tax" can be severe, even at low incomes. For example, if one spouse earns $2,000 a year and the other earns $3,000, together they will pay $184 more in Federal income taxes than they would if they were single. This is equivalent to 60 percent of their total tax liability. Married individuals earning salaries in the $12,000 to $26,000 range are taxed at a rate that is 7½ to 19 percent higher than that applied to single individuals. Two persons, each of whom earns $12,000 a year, would owe up to $1,000 less tax if they were single than if they were married.

Part of the original rationale for lowering the tax rate for single individuals was that single persons have higher living costs than married couples. If this were true at some time in the past, it does not seem to be necessarily true today.

Moreover, the current tax laws may even be interpreted as a symbolic, or even real, policy declaration by the Congress that marriage is to be discouraged. We all know that an increasing number of young couples live together today without becoming married. We may or may not approve of this trend, but I see no reason for the Congress to subsidize it.

The bill which I am introducing today, for myself and Senator BEALL, will help to equalize tax burdens. It will not increase the taxes paid by single persons, or any other taxpayers; it will bring

about more justice in our tax laws and our society.

I ask that unanimous consent be given that the text of this bill be printed at this point in the RECORD.

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

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. Section 1 of the Internal Revenue Code of 1954 (relating to tax imposed) is amended by adding at the end the following new subsection:

"(c) EQUALIZATION RATE FOR WORKING SPOUSES.—If for any taxable year two taxpayers are eligible to make a single return jointly under section 6013 and each has earned income, and the total tax payable by the two without regard to this section is greater than the total of the taxes that each would pay if each filed as a single individual, then (unless the taxpayers have chosen the benefits of part I, subchapter Q, relating to income averaging) there shall be subtracted from the total tax otherwise payable by such taxpayers an amount computed as follows:

"(1) There shall first be computed the lower of the total tax payable by such taxpayers without regard to this section on the basis of either a joint return or separate returns, excluding all income other than earned income;

"(2) There shall then be computed the total tax payable by such taxpayers if each had been entitled to file a return as a single individual, but excluding all income other than earned income. In making such computation, either itemized deductions must be claimed on both returns or the standard deduction or low income allowance shall be subject to the restrictions imposed under section 141 in the case of a separate return by a married individual;

"(3) The result of the computation provided in (2) shall be subtracted from the result of the computation provided in (1), and the difference shall reduce the total tax otherwise payable under this chapter.

In any case where earned income is community income under community property laws applicable to such income, the amount of such income which is considered the earned income of a taxpayer for purposes of the computations under this subsection shall be the amount of such income which would be the earned income of that taxpayer if such income did not constitute community property."

SEC. 2. The amendment made by section 1 of this Act shall apply to taxable years ending after the date of the enactment of this Act.

By Mr. MATHIAS:

S. 94. A bill to amend title 5, United States Code, to provide for grade retention benefits for certain Federal employees whose positions are reduced in grade, and for other purposes. Referred to the Committee on Post Office and Civil Service.

JUSTICE FOR FEDERAL EMPLOYEES

Mr. MATHIAS. Mr. President, I am pleased today to reintroduce a bill which would bring about a long-overdue reform in our current civil service system. The provisions of this legislation are essentially identical to those of the bill I introduced in the 93d Congress, S. 3693. By reintroducing it today, early in this session, I hope to underscore my conviction that the new Congress must give a high priority to the consideration of a bill which would clearly recognize the legitimate need for security and justice among Government employees who are performing their jobs with distinction and diligence.

In my communications with Federal employees throughout my own State of Maryland, I have been frequently struck by the thought that these past few years must have been a most difficult time to be a Federal civil servant. For all too long, the uncertainties we came to know as "Watergate" hung like a cloud, paralyzing the highest councils of our Government and often making thoughtful policy direction almost impossible. During this time, public respect and personal pride in working for the Federal Government were probably at a low ebb.

More recently, the transition to an entirely new administration—which is a complex enough process when it takes place at the natural end of a President's term of office, but is even more so under circumstances such as we have experienced in the past year—posed yet another challenge to the stability of our Federal workforce. Nevertheless, our career civil servants have carried on admirably throughout this difficult period.

Indeed, that the Government has functioned so well in these troubled and hectic times is an eloquent tribute to the dedication and loyalty of the millions of nonpartisan Federal employees, who have been simply doing their jobs and doing them well, providing much-needed consistency and continuity at a time when public attention was fastened on the more glamorous issues of the day.

It is even more crucial now, therefore, that we in Congress recognize their unique contribution to the public interest and spare no effort to assure that our Federal employees are treated like human beings, and not simply abstract digits on a balance sheet.

PERILS OF DOWNGRADING

The bill I am introducing today would severely limit the effects of the practice of arbitrary downgrading on our Government employees. This is the practice whereby a worker finds his job downgraded, not because he or she is not doing it well, but because some job classifier decides the job description really belongs at a different level.

This practice clearly undermines the dignity and security of any worker who falls victim to it—to say nothing of other workers who live in fear that theirs will be the next job to be downgraded through no fault of their own.

Downgrading is defended, of course, as an aspect of the merit system—a device to protect the principle of equal pay for equal work, whenever a job description is found to have been "mistakenly" classified at too high a level.

If such "mistakes" can thus be "corrected" at any time during a worker's career, however, an employee is never safe in the knowledge that his job is secure, no matter how well the employee is performing the job, and no matter how long. He or she will never know when the downgrading ax is going to fall. I am sure my colleagues can well imagine the debilitating effect that this can have on the morale of the Federal work force.

Furthermore, at a time of acknowledged budgetary stress, the suspicion has been expressed by some that downgrading has been used, not merely to correct a classification error in order to maintain the merit system, but also as a simple budget trimming device.

OMB, for example, often gives agencies actual target quotas for grade reductions in an effort to reduce Federal expenditures. To the degree that these quotas cannot be met by attrition or retirement, some agencies may find it quite tempting to use the practice of downgrading instead—as if any number of misclassifications could simply be discovered upon demand.

If so, this would represent an end-run around the very civil service protections which we have written into law. Federal employees cannot and must not be permitted to be singled out to pay for a given agency's poor planning, mismanagement, or maladministration.

Hearings before the House Subcommittee on Manpower and Civil Service on this issue in the last Congress revealed a number of typical instances of arbitrary downgrading which should be of concern to us all. For example, it appears that a new Civil Service Commission standard for machinists has threatened to bring about the downgrading of more than 2,000 Federal employees across the country, many of whom have occupied their positions for as long as 10 to 15 years. They now face the prospect of a one or two grade reduction, not because they are performing fewer duties, not because of incompetence, but because somebody in Washington made an "error" or changed his mind.

I know this problem is particularly acute at a number of Federal installations in Maryland. My office is already looking into the effects of a substantial number of downgradings of employees at the General Services Administration in Baltimore, at Fort George C. Meade, and at the Aberdeen Proving Ground, among others.

For example, I recently received a petition signed by 26 highly skilled technical employees at Aberdeen who are facing imminent downgrading. They represent a total of 675 years of experience in their field, and several of them have already satisfactorily served in excess of 15 years in grade. It is difficult for me to imagine what considerations of efficiency or equity could justify the downgrading of those Government workers.

Under the bill I am introducing today, an agency would have up to 3 full years to discover an improper classification and downgrade a given job. After that time, if an error is discovered, an incumbent jobholder would be protected from downgrading as long as he or she remains in that job. The job could then be downgraded only after the employee left or was promoted. Nothing in this legislation, of course, would in any way limit the Government's existing ability to demote an employee for cause or in a reduction in force.

The procedure embodied in this legislation will thus provide ample opportunity to discover and correct genuinely mistaken job classifications, without sub-

jecting Federal employees to a lifetime of uncertainty as to when the other shoe is going to fall.

Mr. President, I ask unanimous consent that the text of this bill be printed at this point in the RECORD.

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

S. 94

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subchapter VI of chapter 53 of title 5, United States Code, is amended by adding at the end of such subchapter the following new section:

"§ 5366. Retained grade of employee on grade reduction of his position

"Under regulations prescribed by the Civil Service Commission, an employee as defined by section 5102 of this title, or a prevailing rate employee as defined by section 5342(a)(2) of this title, who holds a career or a career-conditional appointment in the competitive service or an appointment of equivalent tenure in the expected service and whose position is reduced in grade on or after the date of enactment of this section, shall retain the grade which he held immediately before the reduction in grade of such position so long as he—

"(1) continues in the same agency, including an agency to which he is transferred in a transfer of function, without a break in service of one workday or more;

"(2) is not reassigned or promoted; and

"(3) is not demoted (A) for personal cause, (B) at his request, or (C) in a reduction in force.

The provisions of this section shall apply only to a position that has been classified at the grade from which the position was reduced for a continuous period of at least three years immediately prior to the reduction of such position to a lower grade.".

(b) The table of section of subchapter VI of chapter 53 of title 5, United States Code, at the beginning of such chapter 53, is amended by adding, immediately below the item relating to section 5365 thereof, the following new item:

"5366. Retained grade of employee on grade reduction of his position.".

By Mr. MATHIAS (for himself, Mr. PELL, Mr. GOLDWATER, Mr. BAYH, Mr. BROCK, and Mr. ROTH):

S. 95. A bill to guarantee the constitutional right to vote and to provide uniform procedures for absentee voting in Federal elections in the case of citizens outside the United States. Referred to the Committee on Rules and Administration.

OVERSEAS CITIZENS VOTING RIGHTS ACT OF 1975

Mr. MATHIAS. Mr. President, I introduce, with my distinguished colleagues Senators PELL, GOLDWATER, BAYH, ROTH, and BROCK, a bill to extend effectively the Federal franchise to American citizens overseas.

At this point, I ask unanimous consent to insert the text of this bill in the RECORD following my remarks.

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

(See exhibit 1.)

Mr. MATHIAS. Mr. President, the Senate, in the 93d Congress, passed by unanimous consent S. 2102, a bill similar to the one we are introducing today. The bill had been reported without opposition by the Rules and Administration Committee, under the chairmanship of my distinguished colleague from Nevada, Senator CANNON. The Privileges and Elections Subcommittee of that committee, under Senator PELL, held extensive hearings on S. 2102, and the bill had been reported out by his committee without opposition.

Although S. 2102 was reported (as H.R. 16817) by the House Administration Committee in the last Congress, the bill was one of several meritorious Senate bills on which the House was not able to act at the end of last year because of the Rockefeller nomination, the trade bill and other urgent measures.

We reintroduce the Overseas Citizens Voting Rights Act today because some 750,000 American civilians residing abroad still are barred from participating in Presidential or congressional elections. These civilians include thousands of businessmen, as well as church officials, teachers, lawyers, accountants, engineers, and other professional people serving the interests of their country abroad and subject to U.S. tax laws and the other obligations of American citizenship.

The legislation we propose today would allow the American citizen residing outside the United States to vote in Federal elections in the State in which the citizen was last domiciled prior to his departure from the United States, as long as (a) he has complied with all applicable State absentee ballot qualifications and requirements (other than those inconsistent with this legislation); (b) he intends to retain that State as his voting residence and voting domicile for purposes of voting in Federal elections; (c) he does not maintain a domicile, and is not seek- to vote, in any other State, territory, or possession of the United States and (d) he has a valid U.S. passport or card of identity and registration issued by the Secretary of State.

At present, a typical American citizen residing overseas in a nongovernmental capacity finds it difficult and confusing, if not impossible, to vote in Federal elections in his prior State of domicile; that is, the State in which he last resided. The reason is that many of the States impose rules which require a voter's actual presence, or maintenance of a home or other abode in the State, or raise doubts of voting eligibility of the overseas citizen when the date of his return is uncertain; or which have confusing absentee registration and voting forms that appear to require maintenance of a home or other abode in the State.

I have recently been given the following illustration of a typical disenfranchised American residing overseas:

A qualified voting resident left the State a number of years ago to work overseas in a business or professional capacity. His former home in the State has been sold and he now only has a physical residence in a foreign country. He looks upon this as temporary and intends eventually to return to the United States, although he does not know to which State he will return. He may be working overseas for as many as 5 or 10 years. He considers that his last residence before his departure from the State remains his bona fide residence for voting in Federal elections, even though he has no present place of abode within the State and is unable to state an intent to return to the State.

What are his chances for voting in Federal elections back home?

First, it would appear that, in every State and the District of Columbia, the typical American citizen overseas would not be able to register and vote absentee in Federal elections unless he specifically declared, and could prove, an intent to return to the State. If the citizen did not have such an intent to return to the State, he could not make this declaration without committing perjury. There is, in effect, a legal presumption that such a citizen does not retain the State as his voting domicile unless he can prove otherwise.

Second, even if such a citizen could honestly declare an intent to return to the State of his last residence, his chance for voting in Federal elections would be improved in only about half of the States. These 29 States—including the District of Columbia—appear to have statutes which expressly allow absentee registration and voting in Federal elections for "citizens temporarily residing abroad," that is, citizens residing overseas for a short time who can declare an intent to return to the State. Even in some of these States, however, the absentee registration for such citizens may be ambiguous.

Third, 12 States appear to have statutes which generally allow absentee registration and voting in Federal elections, but which do not have specific provisions governing nongovernmental overseas voters. Many of these 12 States impose burdensome residency requirements, including in some cases maintenance of a home or abode in the State.

Fourth, eight States appear to have statutes which allow absentee voting, but not absentee registration, by nongovernmental overseas voters in Federal elections. Many of these States also have burdensome residency requirements.

Fifth, two States require that all nongovernmental overseas voters register and vote in person.

The situation with respect to Presidential elections has been ameliorated somewhat as the result of the efforts of Senators GOLDWATER and PELL, during the debate on the Voting Rights Act Amendments of 1970. However, it appears that in the 1972 election only a few States specifically allowed an overseas citizen to vote for President solely on the basis of the Goldwater-Pell legislative history. Even these few States required the voter to be able to prove a definite intent to return to the State.

The figures I have given on voting in Federal elections by U.S. citizens overseas are based primarily on the most recent report of the Federal Voting Assistance Task Force in the Department of Defense. These figures have also been reviewed by the Bipartisan Committee

on Absentee Voting, an organization of distinguished business, professional, and religious leaders who have been seeking the enfranchisement of American citizens residing overseas.

It should be noted that virtually all States have statutes expressly allowing military personnel, and often other U.S. Government employees, and their dependents, to register and vote absentee from overseas. In the case of these Government personnel, the legal presumption is that the voter does intend to retain his prior State of residence as his voting domicile unless he specifically adopts another State residence for that purpose. This presumption in favor of the Government employee operates even where the chances that the employee will be reassigned back to his prior State of residence are remote. The result is continuing discrimination in favor of Government personnel and against private citizens overseas who are seeking access to the Federal franchise. Such discrimination certainly appears questionable as a matter of public policy, and may very well be suspect under the equal protection clause of the 14th amendment.

The need for specific new legislation to enfranchise overseas Americans was pointed out before the last Presidential elections in an opinion letter sent by the Department of Justice to the Bipartisan Committee on Absentee Voting. In brief, the Department concludes that a State may still require maintenance of an abode or other address as a requirement for voting in Presidential elections "in the absence of clear and unequivocal language" in the statute. It is the purpose of our legislation to provide this clear and unequivocal statutory language for congressional as well as Presidential elections. At this point, I ask unanimous consent to insert this opinion letter from the Justice Department in the RECORD following my remarks.

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

(See exhibit 2.)

Mr. MATHIAS. Mr. President, the U.S. District Court for the Southern District of New York also considered the question, in *Hardy* v. *Lomenzo*, 349 F. Supp. 617 (S.D.N.Y. 1972), whether the 1970 amendments could limit a State's statutory standards of bona fide residence, such as the New York State requirement that the overseas nongovernmental voter maintain a fixed, permanent and principal home in the State. The court rejected the legislative history developed by Senators GOLDWATER and PELL and held that "the remedy lies with the legislature and not in judicial elision." At this point, I ask unanimous consent to insert the text of the Hardy against Lomenzo opinion in the RECORD following my remarks.

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

(See exhibit 3.)

Mr. MATHIAS. Mr. President, our bill would also establish as Federal law, in clear and unequivocal statutory language, the principle that the exercise of the right to register and vote in Federal elections by a U.S. citizen abroad, and the retention by him of any State as his voting residence or voting domicile solely for this purpose, should not affect the determination of his place of residence or domicile for purposes of any tax imposed under Federal, State, or local law. This provision would enact existing Internal Revenue Service interpretations into law for Federal income tax purposes and would assure that the States would not make an inconsistent interpretation of their own tax laws. The provision is not meant to create any new tax exemption for the overseas citizen. It is designed only to assure that he will not be subjected to any Federal or State tax liability solely by exercising his right to vote absentee in Federal elections under this legislation.

I ask unanimous consent at this time to have printed in the RECORD following my remarks, an August 28, 1972, letter from the Internal Revenue Service to Senator GOLDWATER ruling that the exercise of absentee registration and voting rights will not jeopardize the nonresident Federal income tax exclusions currently available to a U.S. citizen residing abroad.

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

(See exhibit 4.)

Mr. MATHIAS. Mr. President, strong enforcement provisions are contained in the bill to guard against fraudulent voting. I might add, however, that the potential of voting fraud in the implementation of this legislation is remote and speculative. The Federal Voting Assistance Task Force has not reported a single case of overseas voting fraud in the entire 19 years in which that task force has surveyed the situation.

It is evident, I think, that if someone wanted to commit voting fraud, the mechanisms provided by this bill would hardly be the way to do it. Many of the States require notarization by a U.S. official of at least one of the voting documents. As I have stated, the overseas citizens seeking to vote under the bill must have a valid U.S. passport or other official State Department card of identity.

Distinguished constitutional authorities have already given the Subcommittee on Privileges and Elections their opinion that if the pending legislation were subjected to challenge after enactment, the Supreme Court would have an appropriate constitutional basis on which to uphold the legislation.

My distinguished friend from Arizona, Senator GOLDWATER, has submitted a detailed and scholarly memorandum of law confirming the congressional power to protect the vote of U.S. citizens overseas in Federal elections.

This legislation, as adopted by the Senate last year, has generated tremendous enthusiasm and support from American citizens residing in all parts of the world. Hundreds of these citizens have sent letters and returned questionnaires stating their support of the legislation and detailing their individual voting problems. We have also received many communications in support of the legislation from friends, relatives, and colleagues of these citizens in the various States. The large number of business, civic, professional, and religious organizations represented at the Privileges and Elections Subcommittee hearings gives further indication of the desire for this legislation.

I am pleased at the progress made in Maryland and other States, and the good work of the Federal Voting Assistance Task Force, in encouraging the enfranchisement of U.S. citizens overseas. And I know that all Americans residing abroad are enormously grateful to Senator GOLDWATER and Senator PELL for their efforts in connection with the Federal Voting Rights Act Amendments of 1970. It is apparent, however, that much more needs to be done until we reach the time when every American citizen residing abroad may actively participate in the election process at the congressional as well as the Presidential level. We hope that the legislation being introduced today will be a helpful step in that direction.

EXHIBIT 1

S. 95

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 "Overseas Citizens Voting Rights Act of 1975."

CONGRESSIONAL FINDINGS AND DECLARATIONS

SEC. 2. (a) The Congress hereby finds that in the case of United States citizens outside the United States—

(1) State and local residency and domicile requirements are applied so as to restrict or precondition the right of such citizens to vote in Federal elections;

(2) State and local election laws are applied to such citizens so as to deny them sufficient opportunities for absentee registration and balloting in Federal elections;

(3) State and local election laws are applied in Federal elections so as to discriminate against such citizens who are not employees of a Federal or State Government agency, or who are not dependents of such employees; and

(4) Federal, State and local tax laws are applied in some cases so as to give rise to Federal, State and local tax liability for such citizens solely on the basis of their voting in Federal elections in a State, thereby discouraging such citizens from exercising the right to vote in Federal elections;

(b) The Congress further finds that the foregoing conditions—

(1) deny or abridge the inherent constitutional right of citizens to vote in Federal elections;

(2) deny or abridge the inherent constitutional right of citizens to enjoy their free movement to and from the United States;

(3) deny or abridge the privileges and immunities guaranteed under the Constitution to citizens of the United States and to the citizens of each State;

(4) in some instances have the impermissible purpose or effect of denying citizens the right to vote in Federal elections because of the method in which they may vote;

(5) have the effect of denying to citizens the equality of civil rights and due process and equal protection of the laws that are guaranteed to them under the fourteenth amendment to the Constitution; and

(6) do not bear a reasonable relationship to any compelling State interest in the conduct of Federal elections.

(c) Upon the basis of these findings, Congress declares that in order to secure, protect, and enforce the constitutional rights of citizens outside the United States it is necessary—

(1) to require the uniform application of

State and local residency and domicile requirements in a manner that is plainly adapted to secure, protect, and enforce the right of such citizens to vote in Federal elections;

(2) to establish uniform standards for absentee registration and balloting by such citizens in Federal elections;

(3) to eliminate discrimination, in voting in Federal elections, against such citizens who are not employees of a Federal or State Government agency, and who are not dependents of such employees; and

(4) to require that Federal, State and local tax laws be applied so as not to give rise to Federal, State and local tax liability for such citizens solely on the basis of their voting in Federal elections in a State.

DEFINITIONS

SEC. 3. For the purposes of this Act, the term—

(1) "Federal election" means any general, special, or primary election held solely or in part for the purpose of selecting, nominating, or electing any candidate for the office of President, Vice President, Presidential elector, Member of the United States Senate, Member of the United States House of Representatives, Delegate from the District of Columbia, Resident Commissioner of the Commonwealth of Puerto Rico, Delegate from Guam, or Delegate from the Virgin Islands;

(2) "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam and the Virgin Islands;

(3) "United States" includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, and the Virgin Islands, but does not include American Samoa, the Canal Zone, the Trust Territory of the Pacific Islands, or any other territory or possession of the United States; and

(4) "citizen outside the United States" means a citizen of the United States residing outside the United States whose intent to return to his State and election district of last domicile may be uncertain, but who does intend to retain such State and election district as his voting residence and domicile for purposes of voting in Federal elections and has not established a domicile in any other State or any other territory or possession of the United States, and who has a valid Passport or Card of Identity and Registration issued under the authority of the Secretary of State.

RIGHT OF CITIZENS RESIDING OVERSEAS TO VOTE IN FEDERAL ELECTIONS

SEC. 4. No citizen outside the United States shall be denied the right to register for, and to vote by, an absentee ballot in any State, or election district of a State, in any Federal election solely because at the time of such election he does not have a place of abode or other address in such State or district, and his intent to return to such State or district may be uncertain, if—

(1) he was last domiciled in such State or district prior to his departure from the United States;

(2) he has complied with all applicable State or district qualifications and requirements and concerning registration for, and voting by, absentee ballots (other than any qualification or requirement which is inconsistent with this Act);

(3) he intends to retain such State or district as his voting residence and voting domicile for purposes of voting in Federal elections;

(4) he does not maintain a domicile, and is not registered to vote and is not voting in any other State or election district of a State or territory or in any territory or possession of the United States; and

(5) he has a valid Passport or Card of Identity and Registration issued under the authority of the Secretary of State.

ABSENTEE BALLOTS FOR FEDERAL ELECTIONS

SEC. 5. (a) Each State shall provide by law for the registration or other means of qualification of all citizens outside the United States and entitled to vote in a Federal election in such State pursuant to section 4 who apply, not later than thirty days immediately prior to any such election, to vote in such election.

(b) Each State shall provide by law for the casting of absentee ballots for Federal elections by all citizens outside the United States who—

(1) are entitled to vote in such State pursuant to section 4;

(2) have registered or otherwise qualified to vote under section 5(a);

(3) have submitted properly completed applications for such ballots not later than seven days immediately prior to such election; and

(4) have returned such ballots to the appropriate election official of such State not later than the time of closing of the polls in such State on the day of such election.

(c) In the case of any such properly completed application for an absentee ballot received by a State or election district, the appropriate election official of such State or district shall as promptly as possible, and in any event, no later than—

(1) seven days after receipt of such a properly completed application, or

(2) seven days after the date the absentee ballots for such election have become available to such official,

whichever date is later, mail the following by airmail to such citizen:

(A) an absentee ballot;

(B) instructions concerning voting procedures; and

(C) an airmail envelope for the mailing of such ballot.

(d) Such absentee ballots, envelopes, and voting instructions provided pursuant to this Act and transmitted to citizens outside the United States, whether individually or in bulk, shall be free of postage to the sender including airmail postage, in the United States mail.

(e) Ballots executed by citizens outside the United States shall be returned by priority airmail wherever practicable, and such mail may be segregated from other forms of mail and placed in special bags marked with special tags printed and distributed by the Postal Service for this purpose.

ENFORCEMENT

SEC. 6. (a) Whenever the Attorney General has reason to believe that a State or election district undertakes to deny the right to register or vote in any election in violation of section 4 or fails to take any action required by section 5, he may institute for the United States, or in the name of the United States, an action in a district court of the United States, in accordance with sections 1391 through 1393 of title 28, United States Code, for a restraining order, a preliminary or permanent injunction, or such other order as he deems appropriate.

(b) Whoever shall deprive or attempt to deprive any person of any right secured by this Act shall be fined not more than $5,000, or imprisoned not more than five years, or both.

(c) Whoever knowingly or willfully gives false information as to his name, address, or period of residence for the purpose of establishing his eligibility to register, qualify, or vote under this Act, or conspires with another individual for the purpose of encouraging the giving of false information in order to establish the eligibility of any individual to register, qualify, or vote under this Act, or pays or offers to pay or accepts payment either for registration to vote or for voting shall be fined not more than $10,000, or imprisoned not more than five years, or both.

SEVERABILITY

SEC. 7. If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the validity of the remainder of the Act, and the application of such provisions to other persons or circumstances, shall not be affected.

EFFECT ON CERTAIN OTHER LAWS

SEC. 8. (a) Nothing in this Act shall—

(1) be deemed to require registration in any State or election district in which registration is not required as a precondition to voting in any Federal election, or

(2) prevent any State or election district from adopting or following any voting practice which is less restrictive than the practices prescribed by this Act.

(b) The exercise of any right to register or vote in Federal elections by any citizen outside the United States, and the retention by him of any State or district as his voting residence or voting domicile solely for this purpose, shall not affect the determination of his place of residence or domicile for purposes of any tax imposed under Federal, State, or local law.

AUTHORIZATION OF APPROPRIATIONS

(a) Section 2401(c) of title 39, United States Code (relating to appropriations for the Postal Service) is amended—

(1) by inserting after "title" a comma and the following: "the Overseas Citizens Voting Rights Act of 1975,"; and

(2) by striking out "Act." at the end and inserting in lieu thereof "Acts.".

(b) Section 3627 of Title 39, United States Code (relating to adjustment of Postal Service rates) is amended by striking out "or under the Federal Voting Assistance Act of 1955" and inserting in lieu thereof "under the Federal Voting Assistance Act of 1955, or under the Overseas Citizens Voting Rights Act of 1975,".

EFFECTIVE DATE

SEC. 10. The provisions of this Act shall take effect with respect to any Federal election held on or after January 1, 1976.

EXHIBIT 2

DEPARTMENT OF JUSTICE,
Washington, D.C., March 13, 1973.

J. EUGENE MARANS, Esq.,
CLEARY, GOTTLIEB, STEEN & HAMILTON,
Washington, D.C.

DEAR MR. MARANS: This is in response to your discussion with members of my staff on February 1, 1972, and your letter of February 3, 1972, concerning the Voting Rights Act Amendments of 1970, 42 U.S.C. 1973aa–1, particularly the provisions of Sections 202(d) and (f) pertaining to absentee registration and absentee balloting in presidential elections. As counsel for the Bipartisan Committee on Absentee Voting, you have asked whether, in our judgment, the 1970 Amendments require a state to provide absentee registration procedures and absentee ballots to former residents of that state now temporarily residing abroad.

In brief, our conclusions are (1) that the 1970 Amendments do not *per se* preclude a state from applying a requirement of residency to those seeking to register within that state and (2) that the question of whether a person outside a state is a resident of that state for voting purposes is, at least in the first instance, a question of that state's law.

The United States Constitution reserves to the federal government the power to regulate the time and manner of federal elections (Article 1, section 2; Article I, section 4; Article II, section 1) while reserving to the states the power to determine voter qualification. (*Beachman* v. *Braterman*, 300 F. Supp. 182 (S.D. Fla.), affirmed 396 U.S. 12 (1969); *Lassiter* v. *Northampton County Board of Elections*, 360 U.S. 45, 50–51 (1959)). Traditionally, this right has included the power to determine bona fide residency. (*Hall* v. *Beals*,

396 U.S. 45, 53 (1969) (Marshall, J., dissenting); *Carrington* v. *Rash*, 380 U.S. 89 (1965)). The Congress and the states acting together have, through amendment process, placed additional restrictions on the powers of the states so that they may not now establish procedures violative of the equal protection clause nor deny or abridge the right to vote on account of race, color, or sex or age if the age is eighteen or more. Legislation passed by Congress to implement the equal protection clause and voting amendments, such as the suspension of literacy tests, has placed additional limitations on the powers of the state. It is with this constitutional scheme in mind that we must look to the 1970 Amendments to determine what, if any, limitations Congress placed upon the traditional right of the states to determine voter qualifications.

At the beginning, it is necessary to distinguish between two general types of voter qualifications, durational residency requirements and bona fide residency. The former require an individual to have resided in a certain state or political subdivision for a specified length of time before he can be qualified to vote, while the latter is a determination of whether an individual is a bona fide resident of the state or political subdivision regardless of the length of his residency.

Congress expressly dealt with durational residency requirements in Section 202(c) of the 1970 Amendments (hereafter cited by section only) by prohibiting a state from imposing such a requirement to deny or abridge the right of a citizen otherwise qualified to vote in a presidential election. The Amendments provide that applications for registration or other means of qualification must be accepted up to the 30th day before the presidential election. (Section (d)). The limitation of this section, however, does not supersede the power of the states to require a citizen to be a bona fide resident of that particular state as a qualification for registration and voting in that particular state.

Section (e) is, to a limited extent, a restriction on the power of the states to require bona fide residency as a condition to obtaining a ballot. Under that Section, when a citizen moves from one state or political subdivision to a new state or political subdivision within 30 days of a presidential election and is unable to register at his new residence because the registration deadline has passed, he must be allowed to vote, either in person or absentee, in the place of his former residence. Section (e) did not expand or qualify the concept of bona fide residency in any other manner.

With regard to the absentee provisions, Section (c) provides that if a citizen of the United States has complied with the requirements of state law providing for the casting of absentee ballots, no state may deny such citizen the right to vote in a presidential election because of his failure to be physically present in such state or political subdivision at the time of such election. A state is, accordingly, prohibited from restricting the availability of absentee ballots to persons or classes absent for particualr purposes, but this language does not appear to preclude a state from establishing bona fide residency as a requirement for obtaining an absentee ballot in that state.

Sections (d) and (f) establish standards for absentee registration and the casting of absentee ballots. Under Section (f) each citizen "who is otherwise qualified to vote by absentee ballot in any State or political subdivision" in an election for electors for President or Vice-President must be given the opportunity, if registration or other qualification is necessary, to register or qualify absentee. The provision applicable to absentee balloting, Section (d), requires each state to provide procedures for the casting of absentee ballots by "all duly qualified residents of such state" who will be absent from the state on election day and who have applied for an absentee ballot not later than seven days prior to a presidential election and return the ballot up to the time of the closing of the polls.

Since anyone who is qualified to vote absentee may also register absentee, we must look to Section (d) to determine which citizens are covered by the absentee provisions of the Amendments. This Section requires the state to provide absentee ballots to each "duly qualified resident of such state." While Sections (c) and (e), by prohibiting durational residency requirements, as discussed above, expressly limit the power of the states in certain situations, there is no language in Section (d) placing additional limitations on the right of the states to ascertain the residency of an individual. Since there is no language in Section (d) restricting the states' right to determine bona fide residency, we must, under this Section, follow the constitutional scheme of reserving to the states the power to determine which citizens are "duly qualified residents" according to state law.

From our reading of the legislative history of the 1970 Amendments, it appears that Senator Goldwater was, among other things, concerned with instances in which states did not accord civilians the same absentee registration and voting privileges they gave military personnel. However, in light of the general reservation of power to the states to determine voting qualifications, we do not consider it appropriate to assume Congressional intent to preclude the states from having a requirement of bona fide residency, or enact a federal standard for measuring bona fide residency, in the absence of clear and unequivocal language. While a state may not conclusively presume that a certain class of citizens may never be considered bona fide residents, each state must determine, on a case-by-case basis, the true intent and residency of the individual requesting to register absentee or obtain an absentee ballot. (See *Carrington* v. *Rash, supra*). Under Sections (c), (d) and (f) a state may not deny absentee registration procedures and absentee ballots to individuals outside the country if such person has been determined by the state or local officials to be a "duly qualified resident of such state."

Sincerely,

DAVID L. NORMAN,
Assistant Attorney General,
Civil Rights Division.

EXHIBIT 3

HARDY V. LOMENZO

(Cite as 349 F.Supp. 617 (1972))

(Jack G. Hardy and Ralph S. Von Kollorn on Behalf of Each and on Behalf of All Others Similarly Situated, Plaintiffs, *v.* John P. Lomenzo, Secretary of State of the State of New York, et al., Defendants, No. 72 Civ. 3965, United States District Court, S.D. New York, Oct. 2, 1972, on reargument Oct. 18, 1972.)

Action was brought for declaratory relief in regard to the plaintiffs' right to participate in the presidential election. The District Court, Cannella, J., held that the Voting Rights Act of 1970 while abolishing durational residency requirements in no sense abrogates the rights of the several states to enact bona fide residence requirements, that the word "deemed," in the New York Election Law provision relating to qualifications of voters and requiring state residency creates a presumption only, which is effective only on presentation of suitable evidence of continued residence, and that the statute did not abridge the plaintiffs' constitutional rights.

Complaint dismissed.

New York Civil Liberties Union, by Burt Neuborne, New York City, for plaintiffs.

Louis J. Lefkowitz, Atty. Gen., of the State of New York, by A. Seth Greenwald, Asst. Atty. Gen., New York City, for defendants Rockefeller and Lomenzo and pro se.

John J. S. Mead, Westchester County Atty., by John J. Sherlock, Senior Asst. County Atty., White Plains, N.Y., for defendants Van Wart and Hayduk, Commissioners of the Westchester County Board of Elections.

CANNELLA, District Judge.

This matter came originally before the Court on motion of plaintiffs for an order, pursuant to Title 28 U.S. Code Section 2281 and 2284, convening a statutory three judge court to hear and determine this action or in the alternative for appropriate relief declaring plaintiffs' rights and the defendants' responsibilities herein. On the hearing plaintiffs withdrew the request for a three judge court, and submitted the case to this court with the stipulation that declaratory as opposed to injunctive relief is sought.

The plaintiff's claims are that defendants' refusal, under color of Sections 150 and 151 (b) of the New York Election Law, McKinney's Consol. Laws, c. 100, to permit plaintiffs to participate in the November 7, 1972 Presidential election is violative of plaintiffs' rights under the First and Fourteenth Amendments to the Constitution of the United States; and that defendants' refusal, under color of Section 151(b) of the New York Election Law to permit plaintiffs to participate in the Presidential election abridges their right to participate in the electoral process in violation of the Voting Rights Act of 1970 (42 U.S.C. § 1973aa–1).

Defendants Rockefeller and Lomenzo and the New York Attorney General, on their part, move for an order pursuant to Rules 12(b)(1) and (6) of the Federal Rules of Civil Procedure, dismissing the complaint upon the grounds that the court lacks jurisdiction, and further that the complaint fails to state a claim upon which relief may be granted and that the complaint is banned by laches.

The motion addressed to the court's jurisdiction is without substantiation and is denied. The motion based on laches although of some merit also is denied. That part of the defendants' motion which is addressed to the sufficiency of the complaint is granted for reasons hereafter discussed.

The facts as taken from the submitted papers are as follows: Plaintiff, Von Kohorn resided in Westchester County, New York, from 1938 to 1963 when he moved from Westchester County to New Zealand where apparently he has since remained, except for a visit to the Westchester County Board of Elections on or about April 11, 1972 where he submitted an application for absentee registration which was on the same day rejected. He abides in New Zealand and his future domiciliary plans are uncertain but he does wish to vote in the 1972 Presidential election.

Plaintiff, Hardy, resided in Scarsdale, Westchester County, New York, until December 1964 when he moved to Brazil because of business obligations. He intends to return to Westchester County upon completion of his business obligations but has no nexus with New York or the county except that he maintains a telephone listing at his mother's home in Westchester. His request for absentee registration to vote in the 1972 Presidential election was rejected by the Westchester County Board of Elections early in 1972.

[1] The claim of Von Kohorn may be disposed of summarily. After a temporary residence in Westchester County, New York, he moved to Wellington, New Zealand. The reason for his move is not assigned and he evinces no intention ever to return to New York, or, indeed, to the United States. His

expressed desire to vote in the 1972 Presidential election gives him no grievance against the defendants or any of them. He is for the purposes of the present record a resident in Wellington and so far as known intends so to remain.

Hardy's claim requires an examination of the statutes here involved. New York Election Law Section 151(b) provides as to residence for the purpose of registering and voting:

"(b) As used in this article, the word 'residence' shall be deemed to mean that place where a person maintains a fixed, permanent and principal home and to which he, wherever temporarily located, always intends to return."

[2] The question first to be considered is whether or not the Voting Rights Act of 1970, 42 U.S.C. § 1973aa–1, is preemptive of that definition. The avowed purpose of the Voting Rights Act is to abolish durational residency requirements as a precondition to voting for the offices of President and Vice President and to prescribe uniform opportunities for absentee registration and absentee balloting in presidential elections. 42 U.S.C. § 1973aa–1 (a), (b); Oregon v. Mitchell, 400 U.S. 112, 134, 236, 286, 287 (1970). The rationale is that the imposition of parochial durational residency requirements unreasonably burdens the privilege of taking up residence in another state. It seems clear, however, that the Voting Rights Act did not intend to abrogate the power of the several states to define residence so as to insure that voting be limited to bona fide residents. The sole exception is found in 42 U.S.C. § 1973aa–1, Subd. (e) which permits persons moving within 30 days prior to election to vote in the State of prior residence.

Thus, with particular reference to the present case the Voting Rights Act, 42 U.S.C. § 1973aa–1(c), provides:

". . . nor shall any citizen of the United States be denied the right to vote for electors for President and Vice President, or for President and Vice President, in such election because of the failure of such citizen to be physically present in such State or political subdivision at the time of such election, *if such citizen shall have complied with the requirements prescribed by the law of such State or political subdivision providing for the casting of absentee ballots in such election.* (Emphasis supplied).

Similarly, subdivision (d) provides:

"For the purposes of this section, each State shall provide by law for the registration or other means of qualification *of all duly qualified residents of such State* . . .; and each State shall provide by law for the casting of absentee ballots . . . *by all duly qualified residents of such State* who may be absent . . .". (Emphasis supplied).

Plaintiffs urge that the emphasized phrases of the Act should be ignored in its construction, but the court cannot take the view that this recurrent language was inserted into the Act without meaning. If, as suggested the language is inadvertent, the remedy lies with the legislature and not in judicial elision.

The court finds that the Voting Rights Act of 1970 while abolishing durational residency requirements, in no sense abrogates the rights of the several states to enact bona fide residence requirements. The distinction is clearly recognized in Dunn v. Blumstein, 405 U.S. 330 at 343, 92 S.Ct. 995 at 1003–1004, 31 L.Ed.2d 274 (1972).

". . . We emphasize again the difference between bona fide residence requirements and durational residence requirements. We have in the past noted approvingly that the States have the power to require that voters be bona fide residents of the relevant political subdivision. E.g. Evans v. Corman, 398 U.S. 419, at 422, 90 S.Ct. 1752, 26 L.Ed.2d 370; Karmer v. Union Free School District, *supra*, 395 U.S. 625, 89 S.Ct. 1886, 23 L.Ed.2d 583; Carrington v. Rash, 380 U.S. 89, at 91, 85 S.Ct. 775, 13 L.Ed.2d 675; Pope v. Williams, 193 U.S. 621, 24 S.Ct. 573, 48 L.Ed. 817 (1904). An appropriately defined and uniformly applied requirement of bona fide residence may be necessary to preserve the basic conception of a political community, and therefore could withstand close constitutional scrutiny. But *durational* residence requirements, representing a separate voting qualification imposed on bona fide residents, must be separately tested by the stringent standard. Cf. Shapiro v. Thompson, *supra*, 394 U.S. 618, at 636, S.Ct. 1322, 22 L.Ed.2d 600 (Emphasis in original).

[3] The court finds that the defendants' refusal under Section 151(b) of the New York Election Law, to permit plaintiffs to participate in the 1972 Presidential election does not abridge the plaintiffs' rights under the Voting Rights Act of 1970.

This conclusion requires consideration of plaintiffs' remaining claims namely, that defendants' refusal under color of Sections 150 and 151(b) of New York Election Law, to permit plaintiffs to participate in the November 7, 1972 Presidential election denies them equal protection of the laws and abridge their privileges and immunities in violation of the Fourteenth Amendment of the United States Constitution and abridges their right to participate in the electoral process in violation of the First Amendment.

New York Election Law, Section 150, relates to qualifications of voters requiring among other things residency of the State. The definition of "residence" is set forth in Section 151(b) and is quoted above. Plaintiffs' memorandum makes clear, however, that the claim of unconstitutionality derives from New York Election Law, Section 151(b), which provides, in part, as follows:

"(a) For the purpose of registering and voting no person shall be *deemed* to have gained or lost a residence by reason of his presence or absence while employed in the service of the United States, nor while engaged in the navigation of the waters of this state, or of the United States, or of the high seas; nor while a student of any institution of learning; nor while kept at any welfare institution, asylum or other institution wholly or partly supported at public expense or by charity; nor while confined in any public prison . . .". (Emphasis Supplied).

[4, 5] The argument in that "no rational basis exists for such an arbitrary discrimination which acts to disenfranchise Americans residing abroad simply because they are employed in a private rather than a governmental capacity". In the opinion of the court, however, no such arbitrary discrimination is made. The word "deemed", given proper cognizance, creates a presumption only and the further provisions of the quoted subdivision make it clear that the presumption is effective only upon presentation of suitable evidence of continued residence. Thus:

" . . Any person applying for registration who claims to belong to any class of persons mentioned in this section shall file with the board taking his registration a written statement showing where he actually resides and where he claims to be legally domiciled, his business or occupation, his business address, and to which class he claims to belong . . .".

The court finds that the New York statutory requirements serve a legitimate purpose in seeking to ensure that voters be bona fide residents and do not discriminate against or abridge the plaintiffs' rights under the Constitution of the United States. The complaint, accordingly is dismissed.

So ordered.

ON REARGUMENT

The motion to reargue is granted and on reargument the court adheres to its opinion of October 2, 1972. For the purposes of reargument, the court by order of October 12, 1972, on consent granted the application of United States Senator Barry Goldwater to intervene *amicus curiae* in behalf of plaintiffs and has considered the brief submitted in his behalf, as well as the brief and affidavits of plaintiffs and the opposing brief of defendants Lomenzo and Rockefeller.

The basis of submission of this action to the court is set forth in the court's original opinion. On reargument plaintiffs address themselves specifically to the Equal Protection clause of the Fourteenth Amendment. (Petitioner's memorandum of law, p. 2). The intervenor asks review of all aspects of the case as originally submitted.

[6] It is noted that with plaintiff's memorandum plaintiff, Von Kohorn, has submitted an affidavit stating, among other things, "I intend to reestablish a domicile in White Plains although my future domiciliary plans are still uncertain." This differs little from Von Kohorn's original position and is utterly lacking of that element of present intent required to establish voting residence. See Ramey v. Rockefeller, 348 F.Supp. 80 (E.D. N.Y. 1972).

[7] Recognizing fully the intervenor's position that the legislative history of the Voting Rights Act Amendments of 1970, and his personal purpose show a clear intent to provide the broadest possible opportunity to citizens to register to vote in a Presidential election, the court finds no reason to alter its original opinion that this objective, by the terms of the Act, does not transcend the power of the States to require that voters be bona fide residents. See Dunn v. Blumstein, 405 U.S. 330, 343, 92 S.Ct. 995, 31 L.Ed.2d 274 (1972).

On October 3, 1972, the day following this court's opinion of October 2, 1972, a statutory three judge court convened for the United States District Court for the Eastern District of New York, handed down an opinion in which Sections 151(a) and 151(b) of the New York Election Law are considered learnedly and at length. Ramey v. Rockefeller, 348 F.Supp. 780 (E.D.N.Y. 1972). These are the sections of the New York Law here under assault on constitutional grounds. The case arose in different context (dormitory students physically present in New York), but it is noted the court found no inconsistency between the sections and no reason to declare the New York statutes unconstitutional.

Relevant to the claim of the plaintiff Hardy is the following, taken from *Ramey:* "The objective is to determine the place which is the center of the individual's life now, the locus of his primary concern. The determination must be based on all relevant factors; . . . *the state may insist on other indicia* . . .". (Emphasis supplied). Hardy moved from New York to Brazil in 1964. In the years intervening, until his present application never has he offered to vote in New York. His professed intention to return at some indeterminate time is bolstered only by a telephone listing at his mother's home. The court is of the opinion that under section 151(b), even as modified in *Ramey*, New York is entitled to stronger evidence of allegiance than that here presented.

The court does not consider this a class action. For evident reasons each application to register to vote is distinct and requires separate consideration.

The court having granted and considered the motion to reargue adheres to its opinion of October 2, 1972.

EXHIBIT 4

DEPARTMENT OF THE TREASURY,
INTERNAL REVENUE SERVICE,
Washington, D.C., August 28, 1972.

Hon. BARRY GOLDWATER,
U.S. Senate,
Washington, D.C.

DEAR SENATOR GOLDWATER: This is in reply to your letter dated August 16, 1972, re-

garding the possible effect that voting by absentee ballot by United States citizens residing abroad may have on their claiming the exclusion from gross income provided by section 911(a)(1) of the Internal Revenue Code of 1954.

Section 911(a)(1) of the Code provides, in relevant part, that the following items shall not be included in gross income and shall be exempt from Federal income taxation. In the case of an individual citizen of the United States who establishes to the satisfaction of the Secretary or his delegate that he has been a bona fide resident of a foreign country or countries for an uninterrupted period which includes an entire taxable year, amounts received from sources without the United States (except amounts paid by the United States or any agency thereof) which constitute earned income attributable to services performed during such uninterrupted period.

You forwarded with your letter a copy of a report prepared by the American Chamber of Commerce of Venezuela. That report and your letter indicate concern that if a United States citizen residing abroad signs an application for registration to vote in one of the States and represents in such application no more than that he intends to return to that State as his domicile, he may thereby jeopardize or forfeit his entitlement to the section 911 exclusion from gross income based on his claim of bona fide residence in a foreign country. You are referring in particular to Internal Revenue Service Publication 54(10–71) *Tax Guide for U.S. Citizens Abroad,* 1972 Edition, which provides on page 4:

"A U.S. citizen living abroad may vote by absentee ballot in elections held in the United States (national, State, and local) without jeopardizing his eligibility for tax exemption as a bona fide resident of a foreign country. Such voting will not of itself, nullify the taxpayer's status.

"However, where a U.S. citizen makes a representation to the local election official regarding the nature and length of his stay abroad that is inconsistent with his representation for purposes of the tax exclusion, the fact that he made the representation in connection with absentee voting will be considered in determining his status for the exclusion, but will not necessarily be conclusive."

You are concerned that the "inconsistent representation" language of the above-quoted material might be interpreted to mean that a representation by a taxpayer of domicile in a State and of an intent to ultimately return there is not compatible with the taxpayer's claim of bona fide residence in a foreign country for purposes of section 911 of the Code. The Service has held in a recently published ruling, Revenue Ruling 71–101, C.B. 1971–1, 214:

"[G]enerally the excercise by a citizen of the United States of his right to vote in National, state, or local elections in the United States by absentee ballot is not an action that would affect the length or nature of his stay outside the United States and consequently would not jeopardize the exemption under section 911(a)(1) of the Code. However, where absentee voting in the United States involves a representation to the local election official regarding the nature and length of the taxpayers' stay abroad that is inconsistent with the taxpayer's representation of intention for purposes of section 911 of the Code, the fact that he made the representation in connection with absentee voting will be taken into account in determining his status under section 911 of the Code, *but will not necessarily be conclusive.*" (Emphasis added.)

It is our conclusion that "inconsistent representation" as referred to in the above cited publications does not refer to a mere statement by a taxpayer that he considers himself a voting resident of a State and ultimately intends to return to that State as his domicile. Such a statement is not incompatible with a taxpayer's claim of bona fide residence in a foreign country. Instead, "inconsistent representations" refer to other representations which the taxpayer may have made to the Service regarding the *specific* nature and length of his stay in a foreign country. If a taxpayer in support of his claim to the section 911 exclusion from gross income makes certain *specific* representations as to the purpose, nature, and intended length of his stay in the foreign country, and in an application for absentee voting makes other statements which appear inconsistent with those specific representations, the Service must take such inconsistent statements into account *in determining the true facts* upon which the taxpayer bases his claim to bona fide residence in a foreign country. Further, as stated in Revenue Ruling 71–101, even such inconsistent statements will not necessarily be conclusive.

However, the mere representation by a taxpayer made in support of an application for absentee voting that he considers himself a voting resident of a particular State and that he intends to ultimately return to that State, will not by itself in any way affect his claim to the section 911 exclusion from gross income based on bona fide residence in a foreign country.

We hope that this letter will clarify any ambiguities that may have existed with respect to this situation. We hope that no United States citizen living abroad will hesitate to exercise his voting right out of concern that this action may jeopardize his claim to the section 911 exclusion from gross income.

Sincerely yours,

F. FEIBEL,
Acting Chief, Corporation Tax Branch.

By Mr. STEVENS (for himself, Mr. GRAVEL, Mr. JACKSON, and Mr. MAGNUSON):

S. 98. A bill to establish the Klondike Gold Rush National Historical Park in the States of Alaska and Washington, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

Mr. STEVENS. Mr. President, on behalf of myself, my colleague from Alaska, (Mr. GRAVEL), and the distinguished Senators from Washington (Mr. MAGNUSON and Mr. JACKSON), I am introducing today legislation to create a Klondike Gold Rush National Historical Park. This is a unique concept. Portions of the park will be in Alaska and other portions will be in the State of Washington. It is eventually hoped that portions of the park will become international and will cross into Canada from Alaska.

This bill is a joint effort by the Alaska and Washington delegations in the Senate and the House. It will mean a great deal to both States and will also affect British Columbia and the Yukon Territory in Canada. Hopefully, it will provide a much needed influx of tourists into the Pacific Northwest. It will provide an on-the-spot education to people from all over the world who are interested in the Klondike gold rush of 1893.

Mr. President, last Congress the Alaska and Washington delegations strongly supported the Klondike Gold Rush National Historical Park. Shortly before adjournment a favorable report was received from the Department of the Interior. The bill this year is identical except the changes suggested by the Department of the Interior have been incorporated into the bill. Mr. President, I am hopeful that this important measure will receive prompt consideration by Congress this session.

I request unanimous consent that a summary of the legislation be printed in the CONGRESSIONAL RECORD at this point.

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

SUMMARY OF PROPOSED KLONDIKE GOLD RUSH NATIONAL HISTORIC PARK

The proposed Klondike Gold Rush National Historical Park will consist of a Seattle Unit, located in the Pioneer Square Historic District in Seattle, Washington; a Skagway Unit, located in Skagway, Alaska; a White Pass Trail Unit, located near Skagway on the upper reaches of the Skagway River; and a Chilkoot Trail Unit, located near Skagway in the Taiya River Valley. The total area of the four units combined is less than 13,300 acres.

SEATTLE UNIT

The Seattle Unit will consist of a site located in the Pioneer Square Historic District. The square is entered on the National Register of Historic Places and is specially zoned as a historic district under a municipal ordinance. The site will be selected by the Secretary of the Interior after the proposed park is authorized by Congress. The site will be in leased space within one of the historical buildings in the district. It will have approximately 3,000 square feet and will contain an exhibit room, a small theater, and administrative quarters. The exhibits will consist of photographic murals and other photographic displays, artifacts, models and other materials illustrating the effect of the gold rush on Seattle and the outside and illustrating the story of transportation to and from the North. The theater will be used for films and slide shows about the gold rush and about the historical park. It will also be used from time to time for live performances of the historic period.

The Park Service plans to enter into a lease agreement for five years, renewable for another five. Under the lease, the lessor will rehabilitate the leased space for occupancy and recover his costs over the period of the lease. In this way, no substantial Federal investment is required to initiate the project. Costs will be handled out of annual operating programs.

SKAGWAY UNIT

The Skagway Unit is located in Skagway, Alaska, and includes 55 wooden, one- and two-story houses and residences, some partially vacated, which are the remaining evidence of the goldrush town of Skagway. The unit is located along Broadway and its side streets between First and Seventh Avenues, largely coinciding with the Skagway Historical District (city ordinance adopted in October 1972). The unit is the focal point of the Skagway business district, is a major tourist attraction, and is listed in the National Register of Historic Places.

The purpose of the Skagway Unit is to preserve and, where necessary, restore historic structures and to provide interpretation and interpretive displays therein so as to provide a comprehensive living history program. To achieve this purpose, up to 22 structures would be acquired for renovation and adaptive restoration. Insofar as private capital is utilized for the same purpose, the Federal program would be reduced proportionately. Most of the refurbished structures will be sold or leased back for private businesses, which will serve resident and visitor uses. For interpretive programs, up to eight of the structures would be retained by the govern-

ment. However, if cooperative agreements can be reached with private parties to achieve the same purpose, several of these structures would also be sold or leased back. At least one structure, and perhaps two, would have to be retained to provide a visitor center, museum, and theater.

Restoration work undertaken at Skagway will be accomplished by Park Service employees. It is not feasible to contract for this work. It will be done over a period of years and will not require large appropriations in any single year for acquisition and development. The construction of modest maintenance and shop facilities will probably be by contract.

CHILKOOT TRAIL UNIT

The Chilkoot Trail Unit consists of a corridor of park land approximately one mile in width and 16 miles in length paralleling the entire length of the Chilkoot Trail within the United States. It lies principally in a north-south direction, with the south boundary including the historic townsite of Dyea about three miles (eight, by road) northwest of Skagway. The park unit includes the "slide" cemetery, the Chilkoot Trail and all related historic sites and artifacts found along the trail. The north boundary of the corridor is Chilkoot Pass on the international boundary.

The National Park Service intends to restore the Chilkoot Trail to its most representative location, protect structural ruins along the trail, record and protect all artifacts in the corridor, and provide modest camping facilities for the public hiking the trail. Interpretation of this portion of the gold rush story will primarily be through graphics. A trail and two log shelters already exist in the corridor.

Almost all of the work to be undertaken in the Chilkoot Trail Unit will be accomplished by Park Service employees. Full development of modest camping and attendant facilities in the Dyea vicinity in the future will be by contract. The costs in any single year should be relatively small.

WHITE PASS TRAIL UNIT

The White Pass Trail Unit consists of a corridor of park land approximately one mile in width and five miles in length paralleling important remnants of the White Pass Trail. The unit lies in a north-south direction, the south boundary beginning eight miles northeast of Skagway. It includes remnants of the White Pass Trail and the ruins of White Pass City. The north boundary of the unit is White Pass on the international boundary.

The National Park Service intends to restore a portion of the White Pass Trail, stabilize ruins, record and protect all artifacts within the park, and provide modest camping facilities for the public as needed. Interpretation of the White Pass Trail will be accomplished through means of signs along the trail, overlooks beside the Skagway-Carcross Highway, and interpretive talks on the White Pass and Yukon Route. The White Pass is listed in the National Register of Historic Places.

All of the work to be undertaken in the White Pass Trail Unit during the first five to ten years will be by Park Service employees. The annual costs should be modest. At some time in the future, an overnight facility in the vicinity of the White Pass could be developed if demand warrants. Such a facility would require contracting.

INTERNATIONAL HISTORIC PARK

In British Columbia and the Yukon, the National and Historic Parks Branch of Canada is planning park units based on the Klondike Gold Rush similar to the proposed American park. Preliminary arrangements have been made for the two proposed parks to be designated as the Klondike Gold Rush International Historic Park. Because the respective Chilkoot Trail Units join together and hikers will travel through both countries, preliminary arrangements have been made for integrated management of the Chilkoot Trail. Preliminary arrangements have also been made for developing an integrated interpretive program so that interpretation at the units in each country will complement that in the other.

Canadian preservation and restoration work is already underway. Substantial funds have already been invested in restoration of historic buildings in Dawson and additional work is underway and programmed at Dawson, on the Klondike, and on the Chilkoot Trail.

INTERGOVERNMENTAL COOPERATION

The National Park Service and the National and Historic Parks Branch have developed the park plans in cooperation with the State, Provincial, Territorial, and municipal governments involved. An international working committee composed of officials from the United States, Canada, Alaska, British Columbia, and the Yukon Territory oversees the planning and develops arrangements for international and intergovernmental cooperation. Additionally, the National Park Service had made preliminary arrangements for cooperative management agreements with Skagway, the State of Alaska, and the Forest Service in relation to the park units in and near Skagway.

By Mr. HUMPHREY:

S. 99. A bill to establish a Joint Committee on National Security. Referred to the Committee on Armed Services.

Mr. HUMPHREY. Mr. President, I am introducing a bill today which would establish a permanent Joint Congressional Committee on National Security.

I believe this committee will enable Congress to address itself in a more comprehensive way than ever before to a thorough and ongoing analysis and evaluation of our national security policies and goals.

If the 94th Congress has one important objective, it should be to redress the imbalance between the executive and legislative branches relating to both domestic and foreign policy.

I propose that the committee have these main functions:

First, to study and make recommendations on all issues concerning national security. This would include review of the President's report on the state of the world, the defense budget, and foreign assistance programs as they relate to national security goals, and U.S. disarmament policies as a part of our defense considerations.

Second, to conduct a thorough and timely study and analysis of the intelligence agencies in order to determine whether their charters, organization and operations are consistent with national security needs. Many of our intelligence agencies were created at the height of the cold war nearly 30 years ago. It is important that we review their functions in light of our needs for the remainder of this century.

Third, to study and make recommendations on Government practices of classification and declassification of documents.

For too many years, the Congress has had inadequate information on matters concerning national security. We in the Congress have had to accept partial information, often in limited context, and as a result have been unable to weigh the total picture.

The consequence of this situation has been a continuing dimunition in the foreign policy role of the Congress.

It is often difficult for Congress to obtain adequate disclosure of Government documents. On several important occasions heads of the Defense and State Departments and members of the National Security Council have claimed executive privilege and have refused to answer congressional inquiries on matters concerning our national security.

While the President and key Government officials meet occasionally with the leaders of the Senate and the House of Representatives on an informal basis, there is no forum for a regular and frank exchange between the Congress and the executive branches on the vital issues affecting our national security. I am particularly sensitive to this missing link, having had the special experience of serving as a U.S. Senator for 20 years and as Vice President for 4 years.

The Joint Committee on National Security would provide that link.

It would function in the national security field in a manner comparable to the Joint Economic Committee, which conducts a systematic review and analysis of the President's annual economic report.

Its unique feature would be the composition of its membership. It would have representation from committees that have primary responsibility in defense and foreign relations matters and from the congressional leadership.

It would include the President pro tempore of the Senate; the Speaker of the House; the majority and minority leaders of both Houses, and the chairmen and ranking minority members of the Committees on Appropriations, Foreign Relations, and Armed Services, and the Joint Committee on Atomic Energy.

It would not usurp the legislative or investigative functions of any present committees, but supplement and coordinate their efforts in a more comprehensive framework.

I want to emphasize this last point. The proposed Joint Committee on National Security is not being created as a competing force with the Armed Services Committee or the Foreign Relations Committee on which I am proud to serve. It will be a way to coordinate the information which the Congress so desperately needs to carry out its oversight responsibilities of the executive branch in the field of national security.

Nor is it designed to usurp the President's historic role as Commander in Chief, or to put the Congress in an adversary relationship with the executive branch.

It is, rather, a new body, to be composed of members of both parties and both Houses of Congress, that will make possible closer consultation and cooperation between the President and the Congress.

In recent years, we have seen a gradual isolation and insulation of power within the executive branch. The Constitution, I suggest, intended something quite dif-

ferent when it called for a separation of powers.

We have not had the mechanism in our national security apparatus for adequate consultation between the two branches in the formulation of national security policy.

As one observer of the foreign policy process observed, "national security is too important to be left to the national security apparatus." I concur with this view. The President and his national security advisers have a duty and constitutional obligation to relinquish some part of the initiative which they now command in the conduct of American foreign policy.

There are reasons for the concentration of power which has developed within the executive branch which are quite understandable considering our experience in World War II and afterward. But times change, and so must our institutions and responses.

In an article in Foreign Affairs, July 1959, I expressed my concern over this development. I noted that the Congress "with its power of the purse, and through the right to investigate, to criticize, and to advocate—does exert a significant influence on the quality and direction of U.S. foreign policy."

I found that the Congress must have its own vehicle for educating itself and expressing ideas on this question and the more general issue of national security.

I wrote:

> Such independent expertise is absolutely necessary if the House and Senate are to fulfill their Constitutional responsibility of surveillance and initiative. Without competent independent sources of fact and wisdom they cannot make discriminating judgments between alternative programs and proposals.

I, therefore, suggested that "the Congress prompt the executive to put its house in order by itself creating a Joint Committee on National Strategy, to include the chairman and ranking minority members of the major committees of the House and the Senate."

Such a committee's purpose would be to look at our total national strategy—military, political, economic, and ideological. This committee would not usurp the functions of any of the present committees, but supplement them by endowing their work with a larger frame of reference. As I said in 1959:

> The Chairmen of the Committees represented would come away from the meeting of the new Joint Committee with a greater appreciation, for instance, of the relationship between fiscal policy and national productivity and how both factors relate to our defense posture and our negotiating position. Responsible statesmanship consists precisely in the capacity to see complex relationships in a perspective as broad as the national purpose itself.

Mr. President, I made that proposal in 1959. Had it been adopted, perhaps the history of the past 16 years might have been different. I cannot help but believe that if we had shared more fully in momentous decisions, like those in Vietnam, we would be less divided as a Nation by the bitterness and hatreds that confront us today.

But I submit, Mr. President, that now is not the time for regrets. It is a time for careful and responsible decision; it is a time to adapt our institutions to change; above all, it is a time to act.

It is not enough for the Congress to insist upon its prerogatives if it is not prepared to cope with its responsibilities.

The executive branch, recognizing the deep interrelationships between issues of foreign affairs, military policy, and some crucial domestic issues, prepared itself to fulfill its responsibilities to the Constitution by forming a National Security Council.

It is fitting, therefore, that the Congress adopt a similar, parallel and counterpart mechanism: a Joint Congressional Committee on National Security, which could draw on the experience and expertise of legislative leaders in various national security areas.

Our existing congressional committees lack coordination. The joint committee would not, under my proposal, usurp any of the functions of these committees of the two Houses, but would address itself to the broad-gaged issues that overlap their jurisdictions and thereby assist the congressional and executive decision-making process.

Issues of defense, arms control, oversight of intelligence agencies, foreign development and security assistance, national priorities, foreign policies, the development of a global concept for our national interests, and a simultaneous evaluation of our security interests, classification and declassification procedures—all these and many more issues require coordination and a broad focus.

The joint committee I am proposing would concentrate on these and other topics. Let me summarize why I believe such a committee is desirable:

First, it would provide for a total analysis and evaluation of national security jointly by both Houses of Congress.

Second, it would permit closer consultation and cooperation in national security planning with the executive branch than is now possible. This, I believe, would help restore the intended balance of power between the two branches and strengthen the decision-making process.

Third, it would conduct an exhaustive review of all the intelligence agencies and departments to determine whether significant reorganization is needed.

Fourth, the committee will have the power to review and simplify classification procedures and to declassify documents whose contents should not be withheld from the public. Thus, we can achieve greater understanding, support, and public participation in the establishment of our objectives and policies.

The composition of the joint committee can be summarized as the following:

First, there will be 25 members with fully bipartisan representation. The majority party will have three members more than the minority party.

Second, the experienced authority of the Congress would be fully represented on the joint committee.

Third, each House also would have the opportunity to be represented by outstanding members who are not chairmen or elected leaders, through the provision for membership of two majority and one minority member from each House.

Mr. President, I ask unanimous consent that the text of the bill to establish a Joint Committee on National Security be printed at this point in the RECORD.

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

S. 99

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress declares that—

(1) it has been vested with responsibility under the Constitution to assist in the formulation of the foreign, domestic, and military policies of the United States.

(2) such policies are directly related to the security of the United States;

(3) the integration of such policies promotes our national security; and

(4) the National Security Council was established by the National Security Act of 1947 as a means of integrating such policies and furthering the national security.

The Congress further declares that the integration of such policies and furthering the national security also require oversight and monitoring by the Congress of activities of the intelligence agencies of the United States.

SEC. 2. (a) In order to enable the Congress to more effectively carry out its constitutional responsibility in the formulation of foreign, domestic, and military policies of the United States and in order to provide the Congress with an improved means for formulating legislation and providing for the integration of such policies which will further promote the security of the United States, there is established a joint committee of the Congress which shall be known as the Joint Committee on National Security, hereafter referred to as the "joint committee." The joint committee shall be composed of twenty-six Members of Congress as follows:

(1) the Speaker of the House of Representatives;

(2) the President pro Tempore of the Senate;

(3) the majority and minority leaders of the Senate and the House of Representatives;

(4) the chairmen and ranking minority members of the Senate Committee on Appropriations, the Senate Committee on Armed Services, the Senate Committee on Foreign Relations, and the Joint Committee on Atomic Energy;

(5) the chairmen and ranking minority members of the House Appropriations Committee, the House Armed Services Committee, and the House Foreign Affairs Committee;

(6) three Members of the Senate appointed by the President of the Senate, two of whom shall be members of the majority party and one of whom shall be a member of the minority party;

(7) three Members of the House of Representatives appointed by the Speaker, two of whom shall be members of the majority party and one of whom shall be a member of the minority party.

(b) The joint committee shall select a chairman and a vice chairman from among its members.

(c) Vacancies in the membership of the joint committee shall not affect the power of the remaining members to execute the functions of the joint committee and shall be filled in the same manner as in the case of the original appointment.

SEC. 3. (a) The joint committee shall have the following functions:

(1) to make a continuing study of the foreign, domestic, and military policies of the United States with a view to determining whether and the extent to which such poli-

cies are being appropriately integrated in furtherance of the national security;

(2) to conduct in a timely fashion a thorough review and analysis of activities of the intelligence agencies of the United States in order to determine whether their charters, organization and operations are consistent with the national security needs of the Government;

(3) to make a continuing study of the recommendations and actions of the National Security Council relating to such policies and activities, with particular emphasis upon reviewing the goals, strategies, and alternatives of such foreign policy considered by the Council; and

(4) to make a continuing study of Government practices and recommendations with respect to the classification and declassification of documents, and to recommend certain procedures to be implemented for the classification and declassification of such material.

(b) The joint committee shall make reports from time to time (but not less than once each year) to the Senate and House of Representatives with respect to its studies. The reports shall contain such findings, statements, and recommendations as the joint committee considers appropriate.

SEC. 4. (a) The joint committee, or any subcommittee thereof, is authorized, in its discretion (1) to make expenditures, (2) to employ personnel, (3) to adopt rules respecting its organization and procedures, (4) to hold hearings, (5) to sit and act at any time or place, (6) to subpena witnesses and documents, (7) with the prior consent of the agency concerned, to use on a reimbursable basis the services of personnel, information, and facilities of any such agency, (8) to procure printing and binding, (9) to procure the temporary services (not in excess of one year) or intermittent services of individual consultants, or organizations thereof, and to provide assistance for the training of its professional staff, in the same manner and under the same conditions as a standing committee of the Senate may procure such services and provide such assistance under subsections (i) and (j), respectively, of section 202 of the Legislative Reorganization Act of 1946, and (10) to take depositions and other testimony. No rule shall be adopted by the joint committee under clause (3) providing that a finding, statement, recommendation, or report may be made by other than a majority of the members of the joint committee then holding office.

(b) Subpenas may be issued over the signature of the chairman of the joint committee or by any member designated by him or the joint committee, and may be served by such person as may be designated by such chairman or member. The chairman of the joint committee or any member thereof may administer oaths to witnesses. The provisions of sections 102–104 of the Revised Statutes (2 U.S.C. 192–194) shall apply in the case of any failure of any witness to comply with a subpena or to testify when summoned under authority of this section.

(c) With the consent of any standing, select, or special committee of the Senate or House, or any subcommittee, the joint committee may utilize the services of any staff member of such House or Senate committee or subcommittee whenever the chairman of the joint committee determines that such services are necessary and appropriate.

(d) The expenses of the joint committee shall be paid from the contingent fund of the Senate from funds appropriated for the joint committee, upon vouchers signed by the chairman of the joint committee or by any member of the joint committee authorized by the chairman.

(e) Members of the joint committee, and its personnel, experts, and consultants, while traveling on official business for the joint committee within or outside the United States, may receive either the per diem allowance authorized to be paid to Members of the Congress or its employees, or their actual and necessary expenses if an itemized statement of such expenses is attached to the voucher.

By Mr. PELL (for himself and Mr. INOUYE):

S. 100. A bill to provide a national program in order to make the international metric system the predominant but not exclusive system of measurement in the United States and to provide for converting to the general use of such system within 10 years. Referred to the Committee on Commerce.

METRIC CONVERSION ACT OF 1975

Mr. PELL. Mr. President, I am introducing today, for myself and the distinguished junior Senator from Hawaii (Mr. INOUYE), a bill to make the metric system of weights and measures the predominant system of measurement within the United States.

It has become increasingly clear that the United States is moving, inexorably and inevitably, along the road of conversion to the metric system of weights and measures.

Indeed, it is today an accepted conclusion that the United States will become a Nation in which the metric system will be the predominant system of measurements.

The real question is not whether the United States will become a metric nation, but how we will manage the conversion. Will the change to metric measurements be conducted in an orderly, planned, and efficient manner, or will the Congress, by inaction, simply permit the change to take place. In my view, the choice is between a coordinated, efficient conversion and a chaotic, confusing, and costly conversion to metric measurements.

During the past several years, the country has been drifting toward greater use of the metric system. That drift has now become a strong national current, evident in industry, consumer goods, in government, and in our educational systems.

What is now needed is an explicit national policy of metric conversion and a coordinated national plan of metric conversion to guide the strong national movement, already underway, toward predominant use of metric measurements.

The Congress, under the Constitution, has the express power to establish a system of weights and measures. The Congress, accordingly, also has a constitutional responsibility for our national system of weights and measures. I believe the Congress will be delinquent in its responsibilities if it does not recognize the realities of metric conversion and provide the national policy and guidance needed to implement the conversion in the most efficient manner possible.

The history of the movement in the United States toward use of the metric system goes back more than 150 years. It was Thomas Jefferson who first proposed that Congress fulfill its constitutional responsibility for establishing weights and measures by considering the metric system.

During the past decade, however, great progress has been made toward metric conversion. When I came to the Senate 14 years ago, one of the first legislative proposals I introduced was a metric conversion bill. Seven years ago, in 1967, the Congress enacted a bill, sponsored by former Representative George P. Miller of California and myself, requiring the Department of Commerce to undertake a broad study of advantages and disadvantages of the United States converting to a predominantly metric system.

In August of 1971, at the conclusion of that comprehensive study, the Secretary of Commerce transmitted to the Congress a report entitled: "Metric America: A Decision Whose Time Has Come."

In summary, the conclusions of that study were as follows:

First, that an increased use of the metric system in the United States is inevitable;

Second, that a carefully planned transition on a national basis would achieve maximum efficiency while minimizing economic dislocation;

Third, that a changeover period of 10 years to a predominantly metric system was the most desirable;

Fourth, that a broadly representative body should be established to plan and coordinate the changeover.

Based on those recommendations, I introduced in 1971, a metric conversion bill designed to implement those recommendations, and in 1972, the administration sent to the Congress its own recommendations for metric conversion legislation. Late in the final session of the 92d Congress in 1972, the Senate passed my metric conversion bill with amendments taking into account the Administration's proposals.

In the 93d Congress, I reintroduced the metric conversion bill, and there were strong hopes for congressional action, but in the House of Representatives, the metric conversion legislation became enmeshed in procedural controversy.

I am hopeful that this 94th Congress will be the Congress which finally will provide the direction and guidance needed for a planned conversion to the metric system of measurements.

While the Congress has been considering the issue, industry, and other Government institutions have been moving ahead as best they can without Federal Government coordination.

In industry, such major corporations as General Motors, Caterpillar Tractor, Honeywell, International Harvester, IBM, Ford, and Sears, Roebuck & Co. have metrication programs underway and are supporting metric conversion. At least two States, Maryland and California, have adopted plans for teaching the metric system in their State education systems. Four States now include metric measurements on their highway signs.

In the Federal Government, the Treasury Department recently announced a phased program requiring wines to be

packaged in metric sizes, and the Agriculture Department has begun to present agricultural statistics in metric measurements.

I am happy to say that the Congress has given some recognition to the accelerating shift to metric measurements by adopting, as part of the Education Amendments of 1974, my proposal for a metric education program to be administered through the U.S. Office of Education.

The United States is moving toward metric measurements none too soon, for the movement toward metric measurements is worldwide, and the United States stands in some danger of finding itself isolated as the only non-metric industrialized nation.

During the past decade, at least 25 nations have decided to convert to the metric system. Indeed, the only nations, other than the United States, that have not adopted the metric system are Brunei, Burma, Liberia, the Yemen Arab Republic, and the Yemen People's Democratic Republic.

During the past several years, on the other hand, the nations that have decided to convert to metric measurements and are in various stages of conversion include Great Britain, Australia, South Africa, Canada, New Zealand, and Zambia.

No report on the movement toward metrication would be complete without a mention of the American National Metric Council, established by the American National Standards Institute, which, in the absence of a coordinated, congressionally mandated conversion program, has done an excellent job in providing guidance and information to industries and institutions interested in moving on their own initiative toward metrication.

Mr. President, the bill I am introducing today (S. 100) is identical to the legislation I presented in the 93d Congress, except that I have deleted from the bill provisions for a metric informational and educational program in recognition of the adoption of similar provisions in the Education Amendments of 1974.

There are four basic purposes of the legislation: First, the conversion to the metric system within a period of 10 years; second, the creation of a National Metric Conversion Board to plan and implement metric conversion; third, the requirement that the conversion plan include provisions for an appropriate appeals process to grant exemptions from the use of metric units and standards in cases of unforeseen hardship; fourth, the provision of financial assistance to small businesses and individuals severely effected by metric conversion.

The National Metric Conversion Board would consist of nine members appointed by the President and in addition one member each from the House of Representatives and the Senate. The Board would have the responsibility initially to submit within 18 months for the approval of Congress a comprehensive plan for moving the United States to a predominantly metric system of weights and measures.

In the development of the plan the Board would be required to consult with all sectors of the American economy including small business, science, engineering, labor, education, consumer organizations, Government agencies at all levels, as well as recognized standards developing and coordinating organizations and individuals or groups as are considered appropriate by the Board.

To stimulate industry to metric conversion and to encourage the purchase of new American-made machinery, my bill provides for businesses which purchase new equipment for purposes of metric conversion to be allowed a double rate of depreciation for tax purposes on that machinery.

Depending on the pace of metric conversion, machinists and automobile repairmen may have to purchase new sets of tools. The costs of tools to these tradesmen sometime reach nearly $2,000 a person. My bill would allow the Small Business Administration to provide grants up to that amount to any individual whose trade would be severely affected by metric conversion. The bill also provides for loans to be made to small businesses similarly hurt by metric conversion.

Mr. President, most of the controversy over conversion to the metric system is behind us. I think it is time to leave behind us, for once and for all, the awkward and archaic system of English weights and measures. It is time to discard the inch-by-inch movement toward metric conversion and move forward with a full-metered stride, in step with the rest of the world.

Mr. President, I ask unanimous consent that the text of the bill, the Metric Conversion Act of 1975, be printed in full at the conclusion of my remarks.

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

S. 100

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 "Metric Conversion Act of 1975".

FINDINGS

SEC. 2. The Congress finds that—

(1) the United States is the only industrially developed nation which has not established a national policy committing itself to and facilitating conversion to the metric system; and

(2) as a result of the study to determine the advantages and disadvantages of increased use of the metric system in the United States authorized by Public Law 90-472 (82 Stat. 693), the Secretary of Commerce has found that increased use of the metric system in the United States is inevitable, and has concluded that a national program to achieve a metric changeover is desirable; that maximum efficiency will result and minimum costs to effect the conversion will be incurred if the conversion is carried out pursuant to a national plan; that the changeover period be ten years, at the end of which the Nation would be predominantly, although not exclusively, metric; that a central planning and coordinating body be established and assigned to plan and coordinate the changeover in cooperation with all sectors of our society; and that immediate attention be given to education of the public and to effective United States participation in international standards making;

(3) the adoption of the metric system would result in new jobs in the United States;

(4) the adoption of such system would enhance our position in world trade markets;

(5) the benefits of conversion would offset the cost of conversion;

(6) conversion to such system would be a stimulus to the economy and to new investment in plant equipment;

(7) the language and tools of our scientific community are already using such system;

(8) a common system of measurement would improve international communication;

(9) the Nation is already heading toward such system slowly and haphazardly;

(10) such system is based on fundamental relationships and is easily understood and would be an aid to our educational system;

(11) small business and self-employed craftsmen would benefit from a coordinated conversion program;

(12) new international standards are currently being developed into such system and the United States is not fully participating in such development;

(13) the use of the metric system of weights and measures in the United States was authorized by the Act of July 28, 1866 (14 Stat. 339);

(14) the United States was one of the original signatories to the Convention of the Meter (20 Stat. 709), which established the General Conference of Weights and Measures, the International Committee of Weights and Measures, and the International Bureau of Weights and Measures; and

(15) the metric measurement standards recognized and developed by the International Bureau of Weights and Measures have been adopted as the fundamental measurement standards of the United States and the customary units of weights and measures used in the United States have been since 1893 based upon such metric measurement standards.

SEC. 3. (a) It is therefore declared that the policy of the United States shall be—

(1) to establish the metric system of measurement as the sole language of measurement in the United States within ten years from the date of the enactment of this Act except for exemptions granted pursuant to the provisions of this Act:

(2) as part of the plan establishing such system, to provide a method of appeal under which exemptions may be granted to persons and businesses upon proof of excessive costs substantially outweighing benefits to the Nation, custom and tradition as a member of a class outweighing such benefits, or other factors determined as part of such plan;

(3) to facilitate and encourage the substitution of metric measurement units for customary measurement units in education, trade, commerce, and all other sectors of the economy of the United States with a view to making metric units the predominant, although not exclusive, language of measurement with respect to transactions occurring after ten years from the date of the enactment of this Act;

(4) to facilitate and encourage the development as rapidly as practicable of new or revised engineering standards based on metric measurement units in those specific fields or areas in the United States where such standards will result in rationalization or simplification of relationships, improvements of design, or increases in economy;

(5) to facilitate and encourage the retention in new metric language standards of those United States engineering designs, practices, and conventions that are internationally accepted or embody superior technology;

(6) to cooperate with foreign governments and public and private international organizations which are or become concerned with the encouragement and coordination of in-

creased use of metric measurements units or engineering standards based on such units, or both, with a view to gaining international recognition for metric standards proposed by the United States;

(7) to assist the public through information and educational programs to become familiar with the meaning and applicability of metric terms and measures in daily life, including—

(A) public information programs conducted by the Board through the use of newspapers, magazines, radio, television, other media, and through talks before appropriate citizens groups and public organizations;

(B) counseling and consultation by the Secretary of Health, Education, and Welfare and the Director, National Science Foundation with educational associations and groups so as to assure that the metric system of measurement is made a part of the curriculum of the Nation's educational institutions and that teachers and other appropriate personnel are properly trained to teach the metric system of measurement;

(C) consultation by the Secretary of Commerce with the National Conference of Weights and Measures so as to assure that the State and local weights and measures officials are appropriately informed of the intended metric changeover and are thus assisted in their efforts to bring about timely amendments to weights and measures laws; and

(D) such other public information programs by any Federal agency in support of this Act which relate to the mission of the agency;

(8) to accomplish a changeover to the greatest practical extent within ten years by Federal agencies to the metric system of measurement pursuant to the comprehensive plan developed by the Board; and

(9) to utilize Federal procurement activities to encourage the general use of the metric system of measurement.

(b) It is the purpose of this Act—

(1) to provide for the formulation and initial effectuation of a plan for conversion to the metric system;

(2) to establish a National Metric Conversion Board to develop and implement a metric conversion plan for the United States;

(3) to provide limited assistance to businesses and individuals, substantially effected by metric conversion, in bearing the cost of such conversion; and

(4) to provide for the establishment of a national information program about metric conversion.

DEFINITIONS

SEC. 4. For the purpose of this Act—

(a) The term "metric system of measurement" means the International System of Units as established by the General Conference of Weights and Measures in 1960 and interpreted or modified for the United States by the Secretary of Commerce.

(b) The term "engineering standard" means a standard which prescribes a concise set of conditions and requirements to be satisfied by a material, product, process, procedure, convention, test method, and the physical, functional, performance and/or conformance characteristics thereof.

(c) The term "changeover period" means the length of time for the United States to become predominantly, although not exclusively, metric.

ESTABLISHMENT OF NATIONAL METRIC CONVERSION BOARD

SEC. 5. There is hereby established a National Metric Conversion Board (herein referred to as the "Board") to implement the policy set out in this Act.

COMPOSITION OF BOARD

SEC. 6. The composition of the Board shall be as follows:

(a) Nine members shall be appointed by the President, with the advice and consent of the Senate, from among those persons with experience and competence in the following areas: business, labor, education, consumer protection, science, and technology. The President shall designate one member appointed by him to serve as Chairman. The members first appointed under this section shall continue in office for terms of 1, 2, 3, 4, or 5 years, from the date this section takes effect, the term of each to be designated by the President at the time of nomination. Their successors shall be appointed each for a term of five years from the date of the expiration of the term which his predecessor was appointed. No more than five of the members shall be appointed from the same political party;

(b) One Member of the Senate shall be appointed by the President of the Senate; and

(c) One Member of the House of Representatives, who shall not be a member of the same political party as the Member of the Senate, shall be appointed by the Speaker of the House of Representatives.

VACANCIES AND VICE CHAIRMAN

SEC. 7. No vacancy on the Board shall impair the right of the remaining members to exercise all the powers of the Board. Six members of the Board shall constitute a quorum for the transaction of business. The Board shall annually elect a Vice Chairman to act in case of the absence or disability of the Chairman or in case of the vacancy in the Office of the Chairman.

PLAN

SEC. 8. (a) Within eighteen months after funds have been appropriated to carry out the provisions of this Act the Board shall, in furtherance and in support of the policy expressed in section 3 of this Act, develop and submit to the President and the Congress a comprehensive plan to accomplish a changeover to the metric system of measurement in the United States. Such a plan may include recommendations for legislation deemed necessary and appropriate. Such a plan shall include proposed Executive orders or other directives, which the President is authorized to promulgate and make effective, requiring such conversion activities of the Federal Government, including procurement, in accordance with an appropriate time schedule and pursuant to the comprehensive plan. In developing this plan the Board shall—

(1) consult with and take into account the interests and views of the United States commerce and industry, including small business; science; engineering; labor; education; consumers; government agencies at the Federal, State, and local level; nationally recognized standards developing and coordinating organizations; and such other individuals or groups as are considered appropriate by the Board to carry out the purposes of this section;

(2) consult, to the extent deemed appropriate, with foreign governments, public international organizations and, through appropriate member organizations, private international standards organizations. Contact with foreign governments and intergovernmental organizations shall be accomplished in consultation with the Department of State.

(b) Any amendment to the plan shall be submitted by the Board to the President and the Congress under the provisions set out in subsection (a) of this section and section 9 of this Act.

IMPLEMENTATION

SEC. 9. (a) The Board shall begin implementation of the plan at the end of the first period of sixty calendar days that Congress is in continuous session after the date on which the plan is transmitted to it and to the President unless between the date of transmittal and the end of the sixty-day period, either House passes a resolution stating in substance that it does not favor the plan or the President disapproves the plan and gives his reasons therefor.

(b) For the purpose of subsection (a) of this section—

(1) continuity of session is broken only by an adjournment of Congress sine die; and

(2) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the sixty-day period.

POWERS

SEC. 10. In carrying out its duties, the Board is authorized to:

(a) enter into contracts in accordance with the Federal Property and Administrative Services Act of 1949, as amended, with Federal or State agencies, private firms, institutions, and individuals for the conduct of research or surveys, the preparation of reports, and other activities necessary to the discharge of its duties;

(b) conduct hearings at such times and places as it deems appropriate;

(c) establish such committees and advisory panels as it deems necessary to work with the various sectors of the American economy and governmental agencies in the development and implementation of detailed changeover plans for those sectors; and

(d) perform such other acts as may be necessary to carry out the duties prescribed by this Act.

COMPENSATION OF BOARD

SEC. 11. Members of the Board who are not in the regular full-time employ of the United States shall, while attending meetings or conferences of the Board or otherwise engaged in the business of the Board, be entitled to receive compensation at a rate of $100 per day, including traveltime, and, while so serving on the business of the Board 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 employed intermittently in the Government service. Payments under this section shall not render members of the Board employees or officials of the United States for any purpose.

DIRECTOR AND CONSULTANTS

SEC. 12. (a) The Board is authorized to appoint an Executive Director who shall serve full time and receive basic pay at a rate not to exceed the rate provided for GS–18 in section 5332 of title 5, United States Code, and to appoint and fix the compensation of such staff personnel as may be necessary to carry out the provisions of this Act.

(b) The Board is authorized to employ experts and consultants or organizations thereof as authorized by section 3109 of title 5, United States Code, compensate individuals so employed at rates not in excess of the rate prescribed for grade 18 of the General Schedule under section 5332 of such title, including traveltime, and allow them, while away from their homes or regular places of business, travel expenses (including per diem in lieu of subsistence) as authorized by section 5703 of said title 5 for persons in the Government service employed: *Provided, however,* That contracts for such employment may be renewed annually.

STAFF SERVICES

SEC. 13. Financial and administrative services (including those related to budgeting, accounting, financial reporting, personnel, and procurement) and such other staff services as may be requested by the Board shall be provided the Board by the Secretary of Commerce, for which payment shall be made in advance, or by reimbursement, from funds of the Board in such amounts

as may be agreed upon by the Chairman of the Board and the Secretary of Commerce. In performing these functions for the Board, the Secretary is authorized to obtain such information and assistance from other Federal agencies as may be necessary.

GIFTS

SEC. 14. (a) The Board is hereby authorized to accept, hold, administer, and utilize gifts, donations, and bequests of property, both real and personal, and personal services, for the purpose of aiding or facilitating the work of the Board. Gifts and bequests of money and the proceeds from sales of other property received as gifts or bequests shall be deposited in the Treasury in a separate fund and shall be disbursed upon order of the Board.

(b) For the purpose of Federal income, estate, and gift taxes, property accepted under subsection (a) of this section shall be considered as a gift or bequest to or for the use of the United States.

(c) Upon the request of the Board, the Secretary of the Treasury may invest and reinvest in securities of the United States any moneys contained in the fund herein authorized. Income accruing from such securities, and from any other property accepted to the credit of the fund authorized herein, shall be disbursed upon the order of the Board.

ANNUAL REPORT

SEC. 15. The Board shall submit annual reports of its activities to the President and the Congress with respect to (1) progress being made under such plans; (2) tangible costs and benefits being incurred thereunder; and (3) any additional legislation needed to carry out the policy stated in this Act.

AUTHORIZATION

SEC. 16. There are hereby authorized to be appropriated, for the preceding sections, not to exceed $3,000,000 for the fiscal year beginning July 1, 1973, not to exceed $4,000,000 for the fiscal year beginning July 1, 1974, and for each of the following three fiscal years not to exceed $4,500,000. Appropriations to carry out those provisions may remain available for obligation and expenditure for such period or periods as may be specified in the Acts making such appropriations.

TAX ASSISTANCE

SEC. 17. (a) Section 167 of the Internal Revenue Code of 1954 (relating to depreciation) is amended by redesignating subsection (m) as (n) and by inserting after subsection (l) the following new subsection:

"(n) PROPERTY NECESSARY FOR METRIC CONVERSION.—

"(1) USEFUL LIFE.—At the election of the taxpayer, the useful life of property described in paragraph (2) shall, for purposes of this section other than for purposes of subsection (c), be one-half of the useful life determined without regard to this subsection.

"(2) PROPERTY TO WHICH APPLICABLE.—Paragraph (1) shall apply only to personal property which is—

"(A) manufactured in the United States and substantially all of the component parts of which are manufactured in the United States, and

"(B) placed in service in replacement of other property in order to carry out the requirements of the national plan for metric conversion submitted under the Metric Conversion Act of 1975.

"(3) ELECTION.—An election under paragraph (1) with respect to any property shall be made at such time and in such manner as the Secretary or his delegate prescribes by regulations.

"(4) REGULATIONS.—The Secretary or his delegate shall, after consultation with the Secretary of Commerce, prescribe regulations to carry out the purposes of this subsection."

(b) As soon as practicable after the submission of the national plan for metric conversion under this Act the Secretary of the Treasury shall submit to the Congress recommendations for additional changes in the Federal income tax laws which he considers necessary to assist in carrying out the national plan. Before submitting recommendations under this subsection the Secretary of the Treasury shall consult with the Secretary of Commerce and the Secretary of Labor, and with such other officers of the United States and such private individuals and organizations as he deems desirable.

CONVERSION ASSISTANCE TO BUSINESS AND INDIVIDUALS

SEC. 18. (a) Section 7(b) of the Small Business Act is amended by adding after paragraph (7) a new paragraph as follows:

"(8) to make such loans (either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis) as the Administration, in consultation with the Secretary of Commerce, determines to be necessary or appropriate to assist any business concern to make changes in its equipment, facilities, or methods of operation to conform to the national plan of metric conversion submitted under the Metric Conversion Act of 1973, if the Administration determines that such concern is likely to suffer substantial economic injury without assistance under this paragraph."

(b)(1) The Administrator of the Small Business Administration is authorized, under terms and conditions prescribed by him, to make grants to individuals to defray nonreimbursable expenses which must be incurred by them for the purpose of acquiring tools or instruments which are necessary to their continued employment in a trade or business and are required as the result of the implementation of the national plan of metric conversion submitted under the Metric Conversion Act of 1975. The amount of any such grant to any individual shall not exceed $2,000.

(2) There are authorized to be appropriated to the Small Business Administration such sums as may be necessary to carry out this subsection.

By Mr. DOLE:

S. 102. A bill to provide price support for milk at not less than 85 per centum of the parity price therefor, and for other purposes. Referred to the Committee on Agriculture and Forestry.

PRICE SUPPORTS

Mr. DOLE. Mr. President, last year, the Senate passed a bill to increase dairy price supports to 85 percent of parity on a voice vote and the House of Representatives passed the same measure overwhelmingly by a vote of 205 to 58. I suggested the level of 85 percent of parity in the Agriculture Committee before we reported the bill and I feel that this level of price support is noncontroversial.

Dairy producers still have the same high cost of production they had last month when we passed the previous bill. I believe that 85 percent of parity is greatly needed and is more appropriate to the situation than 80 percent.

With the rate of inflation as high as it is today, the price support declines at a rate of about 1 percent per quarter. We have included in this measure a provision to readjust the price support quarterly so that dairy farmers will receive the level of parity Congress intended and not something substantially lower.

Dairy farmers work 365 days a year. They have to. A dairy cow has to be milked every day, 7 days a week, twice a day. They have to be milked in rain, snow, and shine. They must be taken care of in hot weather or in freezing weather. Dairy farmers face a rigorous day-in day-out schedule.

They have faced rising expenses and declining market prices for many months. Many Kansas dairy farmers have contacted me to indicate that they are and have been operating at a deficit. Many of them are facing bankruptcy.

It is my feeling that that we should do something to insure that consumers have a continuous, steady supply of milk and other dairy products. We can do that by raising price supports to 85 percent of parity.

REALISTIC LEVEL

It is my feeling that this level of price support is not excessive. It is a realistic figure that would benefit dairy farmers. It is not so high that it would result in a tremendous increase in expenditure of Federal tax funds.

The trend in milk prices indicates that an increase in price supports is greatly needed. The manufacturing milk price declined by more than $1 per hundredweight between December 1973 and December 1974. At the same time, the expenses of dairy farmers have risen sharply. The simple economic fact is that dairy income does not match dairy costs. The only possible result is for dairy farmers to go out of business.

DAIRY FARMERS DECREASING

Recent figures from the Department of Agriculture show that the number of dairy farmers is declining. In 1974, about 50,000 dairy farmers went out of business. That is more than 13 percent of the total number of dairy farmers in business in 1973. Between 1972 and 1973, an even larger number of approximately 57,000 dairy farmers went out of the business.

These figures are sobering, but the most critical fact is not shown by the figures. That is the number of dairy farmers who are on the verge of going out of business right at this point. With dairy farmers losing money all over the country, it seems highly possible that dairy farmers could begin going out of business en masse. The result would be smaller supplies of dairy products, leading to possible shortages for consumers.

Another aspect of the declining number of dairy farmers is that smaller farmers and family farmers are being replaced by large corporate operations. Family farmers have always kept a competitive element in the market. In the interest of keeping dairy prices competitive, we should give family farmers and smaller operators an opportunity to stay in business. The increase in dairy price supports to 85 percent of parity would help many of them survive this crisis.

Until recently, the price support level was about 73 percent of parity. Although the President recently took action raising the support level to about 80 percent, I believe a further increase to 85 percent is still warranted. Expenses for dairy farmers have risen very sharply in the past year. On April 1, 1974, the U.S. Department of Agriculture established dairy

price supports at the level of 80 percent of parity, but by the end of the year, these rising costs had brought the price support protection effectively down to the equivalent of about 73 percent.

This kind of discrepancy between the actual level and what is required by law would be resolved by this measure. This bill provides for a readjustment of price supports on a quarterly basis, instead of the annual basis that is presently provided in the law. This provision would be of great benefit to dairy farmers and would insure that the intent of the law is more consistently carried out.

MULTIFACETED PROBLEM

The difficulties facing dairy farmers are complex. For example, they have sought relief from dairy imports for many months and the Congress has done nothing to relieve their difficulties. Under the threat of countervailing duties, the European economic community lifted their dairy export subsidies a few months ago. It is my understanding that dairy imports are presently declining substantially. This should benefit the domestic industry. But when a dairy farmer is facing bankruptcy, it is hard for him to understand why our Government is permitting any dairy imports at all.

I understand this concern and feel that it is justified. I have attempted to get legislation passed to halt or limit dairy imports. The Senate has not been responsive to my proposals, but it is my feeling that the legislation I am introducing today could reduce the difficulties being faced by dairy farmers.

Mr. President, dairy farmers need a meaningful program to help them get through the crisis they are presently facing. The price support at 85 percent of parity would give some meaningful assistance, and I hope this measure will receive prompt and favorable consideration by the Senate.

I ask unanimous consent that the bill be printed at this point in the RECORD.

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

S. 102

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembeld, That section 201 of the Agricultural Act of 1949 (7 U.S.C. 1446), as amended, is further amended by adding at the end thereof a new subsection as follows:

"(d) Notwithstanding the foregoing provisions of this section, effective for the period beginning with the date of enactment of this subsection and ending on March 31, 1976, the price of milk shall be supported at not less than 85 per centum of the parity price therefor. The parity price for milk shall be adjusted by the Secretary at the beginning of each quarter, beginning with the second quarter of the calendar year 1975, to reflect any change during the immediately preceding quarter in the index of prices paid by dairy farmers for production items, interest, taxes, and wages rates.".

By Mr. DOLE:

S. 103. A bill to provide for reimbursement of extraordinary transportation expenses incurred by certain disabled individuals in the production of their income. Referred to the Committee on Labor and Public Welfare.

THE DISABLED WORKERS TRANSPORTATION ASSISTANCE ACT

Mr. DOLE. Mr. President, I introduce today legislation to help solve one of the most difficult problems faced by many disabled Americans. The problem to which I refer is the extraordinary transportation expenses incurred by certain handicapped individuals as they attempt to pursue gainful employment to support themselves and their families.

Transportation has always been a very critical problem for the handicapped. Many efforts have been made to improve the accessibility and availability of transportation for them. These efforts have been conducted on private and public levels. And many who otherwise would be deprived of vital mobility have been served and are now able to move about their cities and towns and enjoy a more normal existence at work or at leisure.

These programs have been invaluable to many, but they have not been able to serve the group of employed or employable handicapped whose disabilities prevent them from using public transportation. These individuals require personalized services or facilities which simply cannot be provided by mass public transportation. They must, therefore, try to make private transportation arrangements. Where this is possible, it often costs as much as $50 to $75 a week. This is a significant impact for anyone and particularly for most of the handicapped workers who are unable to use public transportation and whose wages are generally quite low.

Clearly, this is a deplorable situation. Here are men and women who want to work, who are in fact able to work, but their ability to earn and to contribute to their support and to the self-esteem which comes from being a contributing member of society is stifled or severely restricted by the cost and practicality of getting to and from jobs. This situation is one of the most disturbing wastes of human resources of which I am aware, and it demands prompt and strong action to provide a remedy. This bill is a step toward that remedy by alleviating the financial impact of their special transportation expenses.

TRANSPORTATION REIMBURSEMENTS

Cash reimbursements would be provided to certain disabled persons who incur extraordinary transportation expenses in the production of their income solely because of the limitations imposed by their disability. Reimbursements would not exceed 50 percent of the handicapped person's gross income, or $50 per week, or $2,500 per year, whichever is less. Payments would be made either quarterly or in advance, if proper application based on estimated expenses is submitted.

This measure directs the Secretary of Health, Education, and Welfare to prescribe standards for the submission of applications and to set up provisions for the renewal of applications. The Secretary would utilize the facilities and services of State vocational rehabilitation agencies to process and verify statements made by applicants.

I believe this legislation will pay priceless dividends. It will enable individuals who want to work to travel to and from their jobs. It will enhance the incomes of persons whose unique needs demand special expenditures over and above those incurred by most individuals—even those with handicaps. It will supply a significant measure of self-respect and self-confidence to the lives of the people it will benefit. And it will end the continuing waste of these precious human resources and potentials.

MAKING WAY FOR FULL POTENTIAL

It would seem to me that there is no more valuable action that Congress can take than to remove impediments to the realization of our citizens' potentials and inner worth—whether in the field of civil rights, equality of the sexes, or, as here, the handicapped. This is what America is all about—the freedom for everyone to live up to his God-given abilities. Neither race nor sex nor frailty of body or mind should be allowed to stand as an impediment to that fundamental fulfillment. This bill is a step toward removing one barrier. I ask unanimous consent that the text of this bill be printed at the conclusion of my remarks and invite my colleagues to join in support of this important measure.

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

S. 103

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 "Disaabled Workers Transportation Assistance Act".

PURPOSE

SEC. 2. It is the purpose of this Act to provide for cash reimbursement to certain disabled workers who incur extraordinary transportation expenses in the production of their income solely because of the limitations imposed on them by their disability.

DEFINITIONS

SEC. 3. For the purposes of this Act—

(1) The term "transportation-handicapped worker" means an individual with a physical or mental disability, as defined by the Secretary, who—

(A) is employed part or full time in a gainful occupation:

(B) because of his disability, has only limited ability to use available mass public transportation facilities with reasonable ease or safety for the journey-to-work;

(C) because of his disability, is expected to be static or to be only slowly progressive in acquiring the ability to use available mass public transportation facilities with reasonable ease or safety; and

(D) because of his disability, training or practice is not expected to improve significantly his ability to use available mass public transportation facilities.

(2) The term "employed" means being engaged in a gainful occupation which is remunerated in cash or in kind of services rendered.

(3) The term "journey-to-work" means the total amount of travel from the place of residence to the place of employment and return therefrom.

(4) The term "mass public transportation facility" means regularly scheduled services provided by bus or rail, or similar vehicle, which are available to the public at large under an established schedule of fares.

(5) The term "extraordinary transportation expenses" means the total expense (including expenses for personal assistance when

required) incurred by any individual in his journey-to-work that is in excess of 3 percent of such individual's adjusted gross income (as defined in the Internal Revenue Code of 1954), reduced by—

(A) the amount of any deductions claimed under section 212 or 214 of the Internal Revenue Code of 1954; and

(B) any amount received as reimbursement for or subsidy of such transportation expenses.

Reimbursement shall not be made for extraordinary transportation expenses which exceed actual expenses incurred, or an amount that is in excess of 50 percent of such individual's gross income (as defined in the Internal Revenue Code of 1954), or $50 per week, or $2,500 per year, whichever is less.

(6) The term "Secretary" means the Secretary of Health, Education, and Welfare.

(7) The term "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and a territory or possession of the United States.

REIMBURSEMENT

SEC. 4. (a) The Secretary shall reimburse each transportation-handicapped worker for extraordinary transportation expenses incurred by him upon a declaration by such worker that he is entitled to such reimbursement under the provisions of this Act.

(b) Reimbursement payments under this Act shall be made quarterly and may be made in advance upon application therefor, except that—

(1) in the case of any transportation related expenses which cannot be attributed entirely to the journey-to-work, reimbursement shall be made only to the extent that such expenses are directly attributable to the journey-to-work; and

(2) any transportation expenses incurred by an individual who uses, unassisted, available mass transportation facilities as his sole mode of transportation in his journey-to-work shall not be reimbursable under this Act.

(c) Application for reimbursement under this section shall be made in such manner and contain such information as the Secretary shall by regulation require, including in the case of advance payments, an estimate of expenses to be incurred during the period for which such advance payments are requested. The Secretary shall prescribe standards for the submission of applications and periods for renewal of such applications.

(d) The Secretary is authorized to cooperate with and utilize the facilities and services of appropriate State vocational rehabilitation agencies to process applications and verify, on a continuing basis, the statements made by any applicant for reimbursement payments under this Act.

INCOME DISREGARD

SEC. 5. (a) In order for any State to receive any payment or other benefit under any title of the Social Security Act, with respect to expenditures for any quarter beginning on or after the date on which this Act becomes effective, such State must have in effect an agreement with the Secretary under which it will (1) disregard any amount received by an individual under this Act in determining eligibility for or the amount of any benefit paid under any public assistance program, and (2) disregard any amount received by an individual under this Act in determining the amount of such individual's income for the purpose of computing State income tax liability if such State imposes a tax on personal income.

(b) Any amount received by an individual under this Act shall be disregarded in determining eligibility for or the amount of any benefit paid under any Federal assistance or aid program and in determining the amount of such individual's income for the purpose of computing his liability for personal income tax under the Internal Revenue Code of 1954.

EVALUATION AND REPORT

SEC. 6. The Secretary, or his delegate, shall conduct a thorough and complete study of the impact of the cash reimbursement program provided for under this Act on the rehabilitation of disabled individuals to determine the program's merits and cost-effectiveness as compared to other possible approaches to the problem of the transportation-handicapped worker and shall report his findings and recommendations to the Congress not later than January 1, 1978.

AUTHORIZATION OF APPROPRIATIONS

SEC. 7. There are hereby authorized to be appropriated for the fiscal year beginning July 1, 1975, and for each of the next succeeding four fiscal years such sums as may be necessary to carry out the purposes of this Act.

By Mr. INOUYE:

S. 104. A bill to amend the Social Security Act to provide for inclusion of the services of licensed registered nurses under medicare and medicaid. Referred to the Committee on Finance.

Mr. INOUYE. Mr. President, nurses and midwives have played a vital role in the delivery of health services during the early stages of our country's medical history. There have been numerous tales of these valiant women who brave natural and manmade dangers to assist in the delivery of health services. Florence Nightingale and Clara Barton have become part of our folk history.

In remote areas of our country, where a shortage of doctors exists, nurses continue to perform those services which were historically performed by midwives. These services include prenatal and postnatal care, the treatment of many childhood illnesses, preventive health care, and many home health services which are now unavailable from most highly complex medical centers.

Unfortunately, during these days of advanced technical knowledge and highly specialized training, in places where these complex medical centers abound, the nurses have been relegated to the very minor roles of caretakers and administrators. Despite their increased knowledge and training, these highly skilled professionals are allowed to perform very few services without the direct supervision of a medical doctor. In addition, many nurses spend more hours per week in administrative or clerical roles than in direct patient care. This results in an underutilization of many qualified professionals with an accompanying overdemand of medical doctors. With doctors performing so many services which could readily be performed by trained nurses, the cost of medicine has skyrocketed.

In view of the high cost of medical care throughout our Nation, I propose that we now release the nursing professionals from the bondage of the direct supervision of medical doctors and allow them to perform those services for which they have been trained and have proven themselves fully capable of performing. By allowing the nurses to participate more fully in the delivery of home health care and preventive services, the scope of available health care will greatly expand, yet the total cost of these services would be greatly reduced.

In addition to the reduced cost and the expanded services, the all-important personal contact with the patient would greatly increase. This resulting morale boost would decrease recovery time and improve the image of the entire health profession.

To encourage this change toward a less expensive and more effective health care system, I am introducing this bill to amend the Social Security Act to provide for inclusion of the services of licensed registered nurses under medicare and medicaid. I hope my colleagues will join me in recognizing the importance and far-reaching implications of this trend in health care and will act to secure an early consideration and passage of this bill.

By Mr. INOUYE:

S. 105. A bill to authorize the Secretary of the Army to make available to the State of Hawaii or through it to the Queen's Medical Center physical facilities not needed by the Army at Fort DeRussy, Hawaii, for the purpose of establishing a mental health clinic in such facilities. Referred to the Committee on Armed Services.

Mr. INOUYE. Mr. President, the Division of Mental Health of the State of Hawaii operated a clinic in the Waikiki area of Honolulu. This location was ideal for reaching the many visitors to Waikiki as well as those who reside in the area, for, unfortunately, the reality of Waikiki does not equal the Utopian dreams which many have of this area. One of the unhappy truths of Waikiki is the high cost of living or operating a business there. These expenses forced the mental health clinic to close its doors.

In the heart of Waikiki is an Army post, Fort DeRussy, which would be an ideal location for a new mental health clinic. I have been informed that the Department of the Army has no objection to the use of certain office space on this installation by the State of Hawaii for the mental health clinic. The only obstacle to the clinic is a provision in the law that restricts the use of Fort DeRussy. I am, therefore, introducing a bill to authorize the Secretary of the Army to make available to the State of Hawaii certain physical facilities not needed by the Army at Fort DeRussy for the purpose of establishing a mental health clinic.

This clinic is a much needed facility which will greatly expand the services by the Department of Health to the people and visitors of Hawaii. I hope my colleagues will act with all due consideration to approve this measure.

By Mr. INOUYE:

S. 106. A bill to amend the Internal Revenue Code of 1954 to provide credit against income tax for an employer who employs older persons in his trade or business. Referred to the Committee on Finance.

Mr. INOUYE. Mr. President, the role of the elderly in American society has been

drastically altered over past years. For many of our older citizens, retirement from our work force has not met the promise that had been made of comfort and dignity in the twilight of their years.

While most of the Nation has been enjoying a rising prosperity even into the beginning of our current recession, the aged have remained a pocket of poverty with little means of helping themselves. The economic growth and industrial expansion of past decades have not solved the basic economic problems of the retired aged; instead, these problems have been aggravated. The rising tide of inflation has diminished severely the purchasing power of social security and pension payments.

The economic difficulties facing our elderly population are often accompanied by emotional, psychological and physical problems. Our system of mandatory retirement can result in ill health, increasing medical needs and other problems which have caused the aged to grow apart from much of the rest of society. These people who have a lifetime of valuable knowledge and experiences to share are being pushed into isolation. This isolation can be a wrenching and profound shock as families may fail to keep in touch, as no one seeks their advice or counsel, and as the few friends who do maintain a relationship begin to die off.

The tragedy of this isolation is, in my view, shared by our entire society. The skills, insights, moral force and cultural heritage which the aged are so qualified to pass on are lost forever.

The rapidly rising numbers of unemployed which includes thousands of elderly men and women do not reflect the rising number of forced retirements that normally accompany an economic downturn.

The legislation I am introducing today is designed to provide businesses with the economic incentives required to keep those older employees on the job who might otherwise be put out of work and when possible to hire these experienced aged persons whose potential productivity is quite high. I believe that such an incentive is justified. The fiscal impact of this measure will be minimal in that the Federal dollars that are expended will be offset by decreased welfare and economic assistance outlays which would otherwise be necessary. Also, government revenues would be increased as the gainfully employed individuals pay their fair share of taxes. By providing an economic initiative to businesses, they need not displace younger workers in order to employ the elderly.

I believe this measure can serve to stimulate necessary employment in our economy by putting to work elderly men and women who have a great deal to contribute and to do this in a fiscally responsible manner. We have instituted policies to stimulate capital investment by our Nation's businesses many times. It is time to stimulate their investment in programs to utilize the tremendous skills and experience of older workers who have many more productive years to give to our economy. We cannot allow these scarce resources to be wasted by forcing these men and women into disuse and isolation.

I urged speedy consideration of this measure as we put together a comprehensive and coherent economic package to restore stability and growth to our industry and businesses.

By Mr. INOUYE (for himself, Mr. ABOUREZK, Mr. MCINTYRE, Mr. PASTORE, and Mr. RANDOLPH):

S. 107. A bill to allow an additional income exemption for a taxpayer or his spouse who is deaf or deaf-blind. Referred to the Committee on Finance.

Mr. INOUYE. Mr. President, on November 15, 1973, I introduced S. 2711, a bill to provide an additional exemption for a taxpayer or his spouse who is deaf or deaf-blind. This bill was introduced after I realized that the Internal Revenue Service provides an additional exemption for blind taxpayers and their spouses, but that Hawaii is the only State to provide this same exemption for the deaf.

Despite the support that members of the deaf community have shown for this bill, it has remained in the Committee on Finance without receiving any action.

I am now reintroducing this bill because I believe that it will be quite beneficial in alleviating some of the economic discrimination with which the deaf are faced. This includes the exorbitantly high costs of hearing aids, the extra high costs of automobile insurance which many insurance companies require of their deaf customers, and the higher costs of education. Combine these expenses with the fact that most deaf individuals are underemployed given their abilities and education.

In addition, I believe that there is no cause for a fear that this will result in a great amount of lost revenue for the U.S. Treasury. There are approximately 450,000 profoundly deaf persons in this country. This number is only slightly less than the 470,000 legally blind persons. Of this 470,000, only 145,000 persons claimed the additional exemption in 1971. It is reasonable to assume that approximately the same proportion of the deaf would claim the deduction.

Mr. President, I hope that my colleagues will give early and favorable consideration to this humanitarian measure.

By Mr. INOUYE:

S. 108. A bill to amend the Internal Revenue Code of 1954 to allow a deduction from gross income for social agency, legal, and related expenses incurred in connection with the adoption of a child by the taxpayer. Referred to the Committee on Finance.

Mr. INOUYE. Mr. President, today I am introducing a bill which would allow a taxpayer who adopts a child to receive a deduction from gross income for the medical, legal, and other expenses incurred in the adoption process. As you are aware, natural parents are permitted to deduct the medical expenses incurred in the birth of their child. Since their expenses are often substantial, the natural parents of a child often receive a sizable deduction. The costs of adopting a child have risen steadily and according to recent figures, its is not unlikely that these costs are becoming prohibitive and discouraging many from the adoption of a child. Since parents are permitted to deduct the medical costs related to the birth of their child, I believe that adoptive parents should be given equal treatment to that afforded natural parents. Therefore, this measure would permit a maximum deduction of $1,000 for expenses incurred in the adoption of a child.

I believe that the passage of this measure will facilitate the placement of homeless children in adoptive homes. Not only is there a need for a child to have a home of his own, but the costs of raising a child in foster homes and in State and local government institutions are steadily rising. This measure will partially help to accelerate the placement process for homeless children and reduce some costs incurred by State and local government agencies.

This bill has received the endorsement of numerous adoption agencies throughout the Nation. I hope that Congress gives this bill serious study and favorable consideration in this session.

By Mr. INOUYE (for himself, Mr. KENNEDY, Mr. RANDOLPH, Mr. STAFFORD, and Mr. STEVENS):

S. 109. A bill to amend chapter 55 of title 10, United States Code, to require the armed forces to continue to provide certain special educational services to handicapped dependents. Referred to the Committee on Armed Services.

Mr. INOUYE. Mr. President, in August 1973, the Office of the Civilian Health and Medical Program of the Uniformed Services announced that it would discontinue the funding of special educational services to military dependents. Effective immediately, no further applications for special educational services were to be accepted, and those applications which had been approved would be provided funds only until December 31, 1973.

Upon inquiry, I learned that this change in service was not due to the cost of these services, but because there was no legal basis which required CHAMPUS to provide such services. In fact, CHAMPUS was unable to provide me with any figures on the cost or on the number of children who were affected by this change in policy. As of December 13, 1973, CHAMPUS did not know who would be losing benefits a mere 3 weeks later. I need not tell you of the financial hardship that was thrust upon the affected families with so little warning.

In addition to the burden that was placed upon the families which were involved is the burden placed upon the States to absorb these students in the middle of the school year and the fiscal year.

This problem is acute in my own home State of Hawaii. To cite one example, there is a private school located on Pearl Harbor which has been providing special education for military dependents with learning disabilities. This school, the Armed Services Special Education and Training School, known as ASSETS, has been under serious financial strain since virtually every one of their students received aid from CHAMPUS.

If these students at ASSETS and other special students elsewhere throughout the country are forced to discontinue their education prematurely, or if they are placed in an average public school

classroom which does not provide them with the special services which their diabilities require, it will result in a rapid regression of their condition.

CHAMPUS claims that these services are strictly educational in nature, and not medical. I personally believe, and it can be documented by professionals in the field, that no such clear distinction is possible.

My colleagues who are joining me as cosponsors of this bill and I see a great need to continue this service for the dependent children of active duty military personnel, and we urge rapid passage of this bill.

By Mr. INOUYE:

S. 110. A bill to amend chapter 13 of title 38, United States Code, to make eligible for dependency and indemnity compensation widows of veterans who die of non-service-connected causes but who were at the time of death totally disabled as a result of one or more service-connected disabilities; and

S. 111. A bill to authorize the widows of certain former members of the Armed Forces of the United States to use the services and facilities of post exchanges and commissaries. Referred to the Committee on Veterans' Affairs.

Mr. INOUYE. Mr. President, over the past several years I have come across several situations where laws, which were written with the best of intentions, often contained inherent weaknesses which were unfair to those covered by the law. This is especially true when one reviews the law regulating the benefits for veterans with 100-percent service-connected disabilities and their families. Both the totally disabled veteran and the wife or widow of such a veteran, whose whole life was changed due to her husband's handicap and who also pays a very high personal price indirectly in service to her country through caring for her disabled husband, often find that Government assistance fails to provide adequate support. This is brought about because the law is broadly written and the personal lives and situations of disabled families are specific and individual by nature. Thus, in certain cases where the law should apply, it does not, and for some families of disabled veterans the results of service to their country is economic hardship and bureaucratic confusion. This should not be so. A few examples of such unfortunate situations will well illustrate my point.

A widow of a serviceman on active duty who died as a result of a service-connected cause is not entitled to exchange and commissary privileges. However, if the serviceman had lived long enough to have been honorably discharged with a 100-percent disability as a result of his injury, and then died, the widow would be entitled to unlimited exchange and commissary privileges. In these times of higher prices and shrinking buying power for fixed incomes, access to military exchanges and commissaries often marks the difference between economic survival or relegation to substandard living.

In another situation the widow of a 100-percent disabled veteran who died of his service-connected injuries is eligible to receive death compensation or dependence and indemnity compensation. Unfortunately, in the case of a 100-percent disabled veteran who dies of a cause unrelated to his service disability and who during his life-time is unable to be gainfully employed, the widow finds that she is not eligible for compensation.

To alleviate the obvious unfairness in such situations, I am introducing two bills. The first will authorize the widows of certain former members of the Armed Forces to use the services and facilities of post exchanges and commissaries. The second bill will make eligible for dependency and indemnity compensation the widows of veterans who die of non-service-connected causes, but who were at the time of their death officially 100 percent disabled as the result of one or more service-connected disabilities. In many cases the actual cause of death is directly or indirectly connected with the disability, but it may not always be.

These measures will help only a small number of people. But it is this very group which has paid such an extraordinarily high price on behalf of their country, and whose lives thereafter have been dictated by their disabilities. In their national service these veterans gave literally all that they had and became 100 percent disabled. Due to these disabilities these men could no longer properly care for their families or themselves. Their wives usually spend much of their lives tending and caring for their broken husbands and find it difficult if not impossible to work outside the home. Therefore, they cannot build up their social security credits which for most older Americans is vitally important for self-sufficiency. For these widows and families, it is a vicious circle which must not be allowed to continue. I, therefore, ask that my colleagues give their full support to these two bills.

By Mr. INOUYE:

S. 112. A bill to amend section 1003 of title 38, United States Code, relating to memorial areas and appropriate memorials to honor the memory of certain deceased members of the Armed Forces whose remains were buried at sea, have not been identified, or were nonrecoverable. Referred to the Committee on Veterans' Affairs.

Mr. INOUYE. Mr. President, it has long been our tradition to honor those who have served our Nation in time of war. We now have many cemeteries throughout the world where many of these men and women now lie in rest. For those whose bodies were never recovered, we have required that all national cemeteries have certain special areas which contain memorial plaques to honor the memory of these gallant men and women.

It has recently come to my attention; however, that there are certain veterans who have every right to be honored by burial in a national cemetery, but who are presently ineligible to receive the honor which they deserve. I am referring to those veterans who are eligible to be buried in a national cemetery, but who continue to serve our Nation and humanity even after their deaths, by donating their bodies for use in medical research or training. I believe that the Congress of the United States should act to give them the recognition and honor which they deserve, and by right is theirs. I am introducing at this time a bill to amend section 1003 of title 38, United States Code, relating to memorial areas and appropriate memorials to honor the memory of certain deceased members of the Armed Forces whose remains were buried at sea, have not been identified or were not recoverable.

I hope that my colleagues will recognize the justice of allowing these veterans the honor of memorial plaques in their memory, and will act with favor upon this bill.

By Mr. INOUYE:

S. 113. A bill to amend section 1002 of title 38, United States Code, to authorize the burial in a national cemetery of the parents of certain members of the Armed Forces who die in active service. Referred to the Committee on Veterans' Affairs.

Mr. INOUYE. Mr. President, the United States has established national cemeteries around the world to honor those who have defended our Nation. The spouse and children of these veterans have been permitted to join their sponsors in their final resting places. Unfortunately, I have found that these provisions often do not include those who were closest to the veterans.

I have been acquainted with several situations in which the veteran was an only child who died in the service of his country. Quite often, the bereaved parents wish to lie at rest near the body of their child. The present regulations do not permit these parents to be granted their final wish.

I am now introducing a bill to amend that section of the United States Code on veterans benefits to authorize the burial in a national cemetery of the parents of a veteran who is an only child, in such cases where the veteran died while serving on active duty, provided that his death precedes the death of his parents. I hope my colleagues will assist me in fulfilling this last wish of the parents of some of our veterans by supporting this bill.

By Mr. INOUYE:

S. 114. A bill to amend the Social Security Act to provide that certain persons, who have innocently entered into a legally defective marriage to an insured individual and have lived with such individual as his husband or wife for at least 5 years, shall be treated, for benefit purposes, as if such marriage had been legally valid. Referred to the Committee on Finance.

Mr. INOUYE. Mr. President, today I am introducing a bill to amend the Social Security Act to provide that an individual who has innocently entered into a legally defective marriage to an insured individual, and who has lived with such individual as husband or wife for at least 5 years, shall be treated, for purposes of qualifying for benefits, as if such marriage had been legally valid.

This legislation was promoted by a problem which faces a constituent of mine. Mrs. X had lived with her husband for over 25 years, and then found that she was ineligible for social security benefits even though all agree that she had acted in good faith. To quote the Social Security Administration:

I would like to say at the outset that Mrs. X's case merits sympathy. . . . It would appear that she may have been grossly deceived in 1943, and was, in consequence, inveigled into an invalid marriage by deliberate misrepresentation. . . . Since it was determined in February, 1969, that Y is the legal wife of X, only she could be paid wife's benefits for months thereafter.

Thus, after living with her husband for over 25 years, Mrs. X found herself ineligible for social security benefits because she was not legally married.

Mr. President, in reviewing this bill, you will note that both wives will be treated as if their marriage were, in fact, valid. Accordingly, benefits paid to one would not affect the eligibility status or extent of coverage which the other is entitled to receive. Further, a clause is included which would penalize the individual responsible for his deception by reducing his old-age benefit by an amount equal to that paid to his "second" wife.

Mr. President, I hope you will recognize the need which is felt by those who would benefit by this legislation, and will assist in its speedy passage.

By Mr. INOUYE:

S. 115. A bill to amend section 17 of the Airport and Airway Development Act of 1970 in order to change the U.S. share of development costs for certain airports. Referred to the Committee on Commerce.

Mr. INOUYE. Mr. President, today I am introducing legislation to modify the Airport and Airway Development Act of 1970 so as to make its implementation more consistent with the actual intent of Congress.

During the past session, the Congress passed the Airport Development Acceleration Act of 1973 because we felt that it was the Federal Government's responsibility to assist the States and local communities in developing viable air transportation networks. Further, because large airports tend to be financially self-sufficient, wording was developed such that the Federal Government's share of allowable projects costs "may not exceed 50 percent for sponsors whose airports enplane not less than 1 per centum of the total annual passengers enplaned by air carriers certified by the Civil Aeronautics Board." This is in contrast to a 75-percent maximum of those sponsors who enplane less than 1 per centum.

Hawaii, being a small island State, has recognized for many years the great advantage in having an integrated transportation facilities system and has organized its Department of Transportation to foster this goal. At the present time, there are 14 existing airports and one heliport located throughout the State with plans for developing three additional airports in the making. Honolulu International Airport is the only one which enplanes more than the 1 per centum noted in the law.

Yet, since we have an integrated system with the State being the primary sponsor, all of Hawaii's airport construction is limited by the 50 percent ceiling. Thus, Hawaii has been penalized for having the foresight to plan an integrated system. Yet, I am confident that this state of affairs was not the intent of Congress, and I am hopeful that my colleagues will concur in the desirability and propriety of a bill which seeks to rectify this undue penalty.

I would like to further emphasize that my State faces an unusual and disproportionate share of our Nation's airport expenses in having to provide Federal border clearance agency facilities for the third largest number of foreign arrival passengers in the Nation, a $75,000,000 reef runway for the military as well as commercial aircraft, and agriculture inspections for the Southwestern States. As these circumstances have necessarily imposed some unusual burdens on the State of Hawaii and its air transportation system, I hope the Congress shall see fit to lift the unnecessary and unintential burden that my bill seeks to eliminate.

At this time, I ask unanimous consent to enter in the RECORD a report prepared by the State which delineates Hawaii's airport system in more detail.

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

THE HAWAII STATE AIRPORTS SYSTEM

The Hawaii Revised Statutes provide that the Department of Transportation of the State of Hawaii shall establish, maintain and operate transportation facilities of the State including highways, airports, harbors and such other transportation facilities and activities as may be authorized by law. The Department is headed by a single executive known as the Director of Transportation.

The activities of the Department of Transportation are carried out through three divisions: Airports, Highways and Harbors. Through the Airports Division, the Department exercises jurisdiction over and control of all State airways and all State airports and air navigation facilities, except those under military jurisdiction and control, and has general supervision over aeronautics within the State of Hawaii.

The Department is authorized by statute to receive federal-aid for airports within its jurisdiction and is the sponsor for all public airports in the State of Hawaii.

The Airports Division operates and maintains fourteen existing airports and one heliport located throughout the State and has plans for three other airports in the State. The existing airports and heliport are shown on the attached map.

The two principal existing airports which provide commercial facilities for long-distance overseas flights (i.e., other than inter-island within Hawaii) are Honolulu International Airport on the Island on Oahu and General Lyman Field at Hilo on the Island of Hawaii.

The other existing airports in the airports system are Lihue and Port Allen Airports on the Island of Kauai; Ala Wai Heliport, Dillingham Field, and Ford Island (the latter two are U.S. Air Force and U.S. Navy properties, but the State has an arrangement whereby civilian light planes may use the runways) on the Island of Oahu; Kahului and Hana Airports on the Island of Maui; Ke-ahole, Waimea-Kohala and Upolu Airports on the Island of Hawaii; Lanai Airport on the Island of Lanai, and Molokai and Kalaupapa Airports on the Island of Molokai. All these facilities are utilized by certificated scheduled and non-scheduled operators, general aviation operators, and military, with the exception of the Ala Wai Heliport, Dillingham Field, Ford Island, Kalaupapa, Port Allen, and Upolu Airports which are used principally by general aviation and occasionally by military aircraft.

Honolulu International Airport is located approximately five miles by highway from the metropolitan area of Honolulu. Its principal runway (12,380 feet) is one of the Nation's longest and occupies land at both Honolulu International Airport and Hickam Air Force Base which is adjacent to the airport. Serving both the inter-island and the overseas air traffic, Honolulu International Airport is the most important in the statewide system. It serves all foreign commercial flights to and from Hawaii and provides border inspection facilities at no cost to the Federal Government.

The following twenty airlines are authorized to serve Hawaii with scheduled overseas flights: Air Micronesia, Air New Zealand, Air Siam, American Airlines, Braniff International Airlines, British Overseas Airways Corporation, Canadian Pacific, China Airlines, Continental Airlines, Japan Air Lines, Korean Air Lines. Northwest Airlines, Pan American World Airways, Philippine Air-Lines, Qantas Airways, Trans World Airlines Union de Transports Aeriens, United Air Lines, Varig Airlines, and Western Airlines. Interisland service is provided by Aloha Airlines, Hawaiian Airlines and several air-taxi and commuter airlines.

During calendar year 1972, the following numbers of passengers were enplaned at the air carrier airports:

Honolulu Intenational Airport, 3,994,255.
General Lyman Field, 587,082.
Kahului Airport, 827,158
Lihue Airport, 758,655.
Ke-ahole Airport, 307,058.
Waimea-Kohala Airport, 43,768.
Molokai Airport, 74,076.
Lanai Airport, 19,094.

Honolulu International Airport is the only airport in the State of Hawaii which enplanes more than one per centum of the total annual passengers enplaned by air carriers certificated by the Civil Aeronautics Board and is classified as a large hub airport by the Federal Aviation Administration in the 1972 National Airport System Plan.

For the short-range period of 0 to 5 years, the FAA 1972 National Airport System Plan for Hawaii, Volume APC Pacific Region, recommends the following sums for improvements which are eligible for Federal-aid under the Airport Development Aid Program:

Honolulu International Airport	$71,544,000
General Lyman Field	10,128,000
Kahului Airport	4,471,000
Lihue Airport	6,562,000
Ke-ahole Airport	1,006,000
Waimea-Kohala Airport	4,833,000
Molokai Airport	6,303,000
Lanai Airport	2,490,000
General Aviation and Reliever Airports	6,496,000
Total	113,829,000

Under the provisions of the Airport Acceleration Development Act of 1973, Hawaii is eligible for not more than 50 percent Federal participation and the State's share in the projects would be $56,914,500.

If the airports in Hawaii were sponsored by the local community served by the airport, the sponsor's share in project costs would be $46,343,250.

During the fiscal year ending June 30, 1973, the total revenues of the Airports Division was $30,105,830. Of this amount $26,151,473 was generated at Honolulu International Airport. Revenues collected at air-

ports other than Honolulu International Airport are insufficient to meet the operating and maintenance expenses of these airports.

By Mr. INOUYE:

S. 116. A bill to provide for the conveyance of the island of Kahoolawe to the State of Hawaii, and for other purposes. Referred to the Committee on Armed Services.

Mr. INOUYE. Mr. President, I am today introducing a bill which I have previously introduced in both the 92d and 93d Congresses to effect the transfer of the island of Kahoolawe from the U.S. Government to the State of Hawaii. It is my hope that this Congress shall see fit to take the action which the people of Hawaii have so long awaited.

Kahoolawe is the smallest island of the eight major Hawaiian Islands. It is approximately 45 miles square and is located approximately 8 miles off the coast of the island of Maui.

Kahoolawe is also the site of an aerial bombing target and a shore bombardment area. In fact, as a result of the activities conducted by the Navy, Kahoolawe has the dubious distinction of being one of the most bombed islands in the Pacific.

While it is true that there are other areas within the territorial boundaries of the United States used for similar purposes, Kahoolawe is different from these locales. The State of Hawaii retains residential rights over Kahoolawe since it had formerly owned the island, subject only to "temporary" military exigencies enumerated in the Executive order reserving use of the island to the U.S. Government. Furthermore, Kahoolawe is located near populated areas on the island of Maui, and the people of Maui have long complained of the effects of aerial and shore bombardment. Finally, Kahoolawe was once usable for other purposes. It is now rapidly being destroyed and rendered unfit for human habitation. This erosion is an unforgivable waste of resources in a State where land is at a premium.

The island of Kahoolawe is an integral part of the Hawaiian Archipelago and has always been considered so in the past. Unlike the other major islands, Kahoolawe is presently uninhabited. As a result of naval and air bombardment, the State of Hawaii is currently deprived of Kahoolawe's scenic resources and agricultural space.

However, Kahoolawe has uses other than as a target for aerial and naval bombardment. There still is potential for development as a resort area, with its beaches, valleys, cliffs, and ravines. It was previously used for ranching, and there is reason to believe that the island can again be used for this purpose with proper care. It has also been proposed that Kahoolawe be utilized as a site for a central thermonuclear powerplant and aqua agricultural development. At least one company has expressed great interest in conducting a salvage operation on the island to recover casings and unexploded ordnance.

Mr. President, I am reviewing these facts at length in response to the oftenmade Navy allegation that the island is a "hell hole," unfit for any use except for target practice. It is true that it is becoming unfit for anything except bombardment unless we reverse Navy policies of neglect and destruction.

Kahoolawe was not always the victim of defense demands. Through most of our history as a territory, Kahoolawe was owned by the territorial government and leased to private parties for grazing. In 1919 and again in 1933, the territory leased most of the island to a private ranch. In 1940, the Navy obtained a sublease to the island. Then in 1952 the original lease was canceled by the territory. In 1953 the area that was not being used for a lighthouse, which was already Federal property, was taken by the United States under the controversial Presidential Executive Order 10436.

Under the terms of the Executive order, when the Navy decided that the area was no longer needed, the island would be rendered reasonably safe for human habitation without cost to Hawaii and returned to the latter's jurisdiction. Moreover, the Navy was to either eradicate all goats from the island or strictly control their number. Finally, the Navy was to permit the then territory to enter and inspect the island and take appropriate measures to conduct a program of soil conservation.

What has happened in the years since the Navy secured control of the island? Kahoolawe is rapidly deteriorating between the Navy's bombardment and the animals that are stripping away the natural covering. In an era of environmental concern, Kahoolawe stands as mute testimony to the failure of the Federal Government to practice what it preaches. Soon, between the animals and the Navy, Hawaii will be left with nothing except outcroppings of rock from the Pacific.

Kahoolawe was and remains an integral part of Hawaii. Under the terms of the Admission Act, all lands reserved to the United States remained Federal property. However, the Executive Order reserved only use, and the order's drafters clearly foresaw eventual return to the State. Thus title remains vested in Hawaii, which has granted the Federal Government use of the island.

The people of Hawaii have shown remarkably good faith and tolerance for the Navy's activities. We have recognized the fact that security requirements can demand a sacrifice on our part. However, the limits of our tolerance have long been exceeded, and the Navy has failed to prove that our defense posture will be undermined by the cessation of the bombardment of Kahoolawe.

Aside from the actual physical ruin of Kahoolawe itself, which is proceeding apace, the bombing constitutes a serious danger to the people of Maui. In September 1969 unexploded ordnance was discovered buried in the pasture of the mayor of the county of Maui. After an investigation, the Navy determined that the bomb had been dropped in 1966 but was in no danger of detonating.

However, this has not been the only incident. Residents have often complained about the noise from aircraft utilizing Kahoolawe. Because the population of Maui is expanding and the use of Kahoolawe is very heavy, the odds of an accidental bombing of Maui are very high. In the interest of the safety and comfort of the citizens of Maui, the policies of the Navy must be reserved.

For several years I have been concerned about the dangers presented by the Navy's bombing of Kahoolawe. I have made several discreet inquiries with the Navy to reach an accommodation that would insure the safety of Hawaii's citizens while meeting any national security needs. Unfortunately, these efforts have been fruitless.

In a letter to me dated December 11, 1969, Rear Adm. D. C. Davis, Commander, Hawaiian Sea Frontier, reached the following conclusions: First, he stated that the Navy has taken and will take all possible precautions to prevent undue harassment of the citizens of Maui because of the bombardment.

Second, he alleged that—

> The ravages of over a quarter of a century of air and surface bombardment have probably irrevocably eliminated the possibility of future safe, domestic use of the island.

He continued:

> This element has not been realistically faced in years past.

In his response to my inquiry, Admiral Davis added—

> The time has come to inform the local public that Kahoolawe should remain for the indefinite future an uninhabited monument to the requirements of our national security.

Admiral Davis should be commended for his frankness in stating that Navy utilization has rendered Kahoolawe barren and useless, but this candor was long overdue. I cannot believe that this discovery was suddenly made in 1969 only at my urging. Where was this candor during the previous 29 years of Navy use?

The Navy has claimed that there are no alternate sites available, but no one in the civilian sector really knows what efforts have been made to locate a less objectionable location. In fact, the Navy already uses the uninhabited island of Kaula, which is farther away from population centers and which is totally useless for any future development.

Furthermore, Mr. President, what are the people of Hawaii to make of the Executive order which promised to return Kahoolawe to the State after it was no longer required and to provide conservation programs for the island? The Navy Department obviously is saying in effect that it may some day return this ravaged "uninhabited monument" after it renders it sterile, but there is no indication when, if ever, we can expect this action.

We hear much about the credibility gap, and it is precisely this kind of callous disregard for the safety of civilians that contributes to the growing alienation of civilians from the Armed Forces. Regrettably this is not the only instance or example of indifference which the Navy has exhibited toward the interests of the citizens of Hawaii. Prior to dropping its lease in 1970, it also insisted on using the South Kona bombing range, which lies adjacent to the fishing village of Milolii, off the island of Hawaii. Even if we were to assume—which I am not—that Kahoolawe were absolutely necessary to the defense requirements of our country, the Navy should have consoli-

dated its training by restricting aerial bombardment to Kahoolawe. However, it obstinately refused to take this sensible step.

Throughout this entire episode, the Navy has been extremely evasive in facing its responsibilities to the people of Hawaii. Nothing has contributed more to the deteriorating confidence in the Navy than its stubbornness. Indeed, some of Hawaii's citizens feel that its response has been the "height of arrogance."

Therefore, I am again moved to introduce this bill which would require the Department of the Navy to convey the island of Kahoolawe to the State of Hawaii by the end of the current calendar year. The bill also authorizes the expenditure of necessary funds in fiscal year 1976 to help clear the island surface of an estimated 10,000 tons of unexploded ordnance.

Mr. President, the people of Hawaii have been patient with the Navy's use of Kahoolawe for 35 years but that patience has worn thin. I believe that we are entitled to a return of this land, which is so greatly limited in Hawaii, and to security in our homes. I strongly urge that Congress pass this bill as soon as possible.

By Mr. INOUYE:

S. 117. A bill to amend chapter 67 of title 10, United States Code, to grant eligibility for retired pay to certain reservists who did not perform active duty before August 16, 1945, and for other purposes. Referred to the Committee on Armed Services.

Mr. INOUYE. Mr. President, the present regulations governing retirement pay to reservists do not allow a member of a Reserve unit who did not serve on active duty prior to August 16, 1945, to receive benefits. This was intended to prevent those reservists who failed to serve their country during its time of greatest need from enjoying the benefits which were provided to those who fought to protect their homeland.

A number of situations have come to my attention in which an individual was a member of the Reserves, but through no fault of his own, he did not serve on active duty during World War II, but he did serve during the Berlin crisis, the Vietnam war, or for an extended period of time since the end of World War II.

On April 1, 1974, I introduced S. 3283, to amend chapter 67 of title 10, United States Code, to grant eligibility to certain reservists who did not perform active duty before August 16, 1945, and for other purposes. S. 3283 was designed to make this law more equitable. The Department of Defense gave its approval to this bill. The Office of Management and Budget also had no objections as it would require no additional appropriations.

On the basis of this support, the Senate Armed Services Committee acted favorably on S. 3283 and it was reported to the Senate with amendments on December 12, 1974. The Senate passed S. 3283 by unanimous consent on December 14, 1974, after first agreeing to the amendments recommended by the committee. Unfortunately, there was insufficient time remaining in the 93d Congress for action to be taken by the House of Representatives prior to adjournment sine die.

In view of the unanimous action taken by the Senate on S. 3283, I wish to urge my colleagues to give early and favorable consideration to this bill which I am now introducing which is identical to that bill which passed last month.

By Mr. INOUYE:

S. 118. A bill to incorporate the Pearl Harbor Survivors Association. Referred to the Committee on the Judiciary.

Mr. INOUYE. Mr. President, today I have introduced a bill to incorporate the Pearl Harbor Survivors Association. This measure would bestow Federal recognition on this private nonprofit association but would not affect its legal, corporate, or other status.

The association is comprised of men and women who defended our Nation against the historic Japanese attack on the U.S. Pacific Fleet and bases around Pearl Harbor on December 7, 1941. Since 1941, survivors of the Pearl Harbor attack have formed many local and regional groups, and there are now 101 active chapters located in almost every State. Their national organization, the Pearl Harbor Survivors Association, was incorporated in Missouri in 1958.

An estimated 12,500 surviving members of the U.S. Armed Forces served at Pearl Harbor and in the area of Oahu Island during the December 7 attack. Of that number, the Pearl Harbor Survivors Association has an active membership of 5,259 men and women. Anyone who was a member of the Armed Forces on Oahu or who was stationed aboard a ship located within 3 miles of the island on December 7, 1941, is eligible to join. Members must either have been honorably discharged or still be a member of our Armed Forces. The association conducts regular chapter, district, and State meetings, and a biennial national convention.

The motto of the organization is "Keep America Alert," which the association seeks to accomplish by: First, preserving historical mementos and chronicles of the Pearl Harbor attack; Second, protecting graves of Pearl Harbor victims; and Third, stimulating Americans to take a more active interest in the affairs and future of the United States. The association has been particularly active in veterans causes and national preparedness.

The association is unique because it will exist only as long as there are Pearl Harbor survivors. In order for the association to be more effective, it is imperative that it be recognized through the granting of a Federal charter. I believe the association fulfills all of the necessary requirements.

I am proud to sponsor this legislation. I ask unanimous consent to insert in the RECORD a statement by the Pearl Harbor Survivors Association. I believe it best summarized the purpose of the organization.

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

REMEMBER PEARL HARBOR

On that peaceful Sunday morning, December 7th, 1941, an enemy attack force hit Pearl Harbor with all its fury of death and destruction. In only thirty short minutes the attackers accomplished their most important mission; they had wrecked the battle force of the United States Pacific Fleet. We also lost half of the military aircraft on the island. We accounted for ourselves as military, by fighting back, not yet aware that history had been thrust upon us. Pearl Harbor was the actual beginning of the great war which was to change the entire political structure of the world. We Americans who were there demonstrated that we were prepared to give our lives, and did give them when necessary. Our sacrifices at Pearl Harbor united the nation and gave rise to a determination to protect and keep the American freedom. Our sacrifice alerted a relaxed nation, brought it to its feet and caused it to win World War. II. The lesson we learned by our sacrifice will not be easily forgotten. Many of us are no longer of use as sailors, soldiers, marines and airmen. We must make ourselves useful at home, by dedicating ourselves to the principles of freedom; by doing everything within our power to bring about a commitment of patriotism. We survivors who are still alive, for those who did not survive, can never permit ourselves to become vulnerable again.

By Mr. INOUYE:

S. 119. A bill to amend the Tariff Schedules of the United States to accord to the Trust Territory of the Pacific Islands the same tariff treatment as is provided for insular possessions of the United States. Referred to the Committee on Finance.

Mr. INOUYE. Mr. President, although I was pleased to join with the overwhelming majority in securing passage of the Trade Reform Act during the final hours of the historic 93d Congress, my enthusiasm was tempered by certain inadequacies in that legislation. Among my chief disappointments was the lack of recognition of our responsibilities to the citizens of the Trust Territory of the Pacific Islands.

We have a special obligation to the inhabitants of the Trust Territory of the Pacific. Under a United Nations mandate, we are responsible for the welfare of the people there. Many, if not most, Americans are probably unaware that the United States even has a trusteeship for this vast area. Fewer still know that we have not fulfilled our fiduciary responsibilities in a manner that befits the wealthiest and most powerful nation in the world. The economy of the scattered islands is poorly developed, as are educational and sanitation facilities.

As a first step to remedy that situation, I am today again introducing legislation to exempt most goods of the trust territory from the tariffs and duties now imposed on such goods entering the United States from this area. American Samoa, Guam, and the Virgin Islands currently enjoy tariff preferences for the entry of their goods into the United States. When the Senate Finance Committee put together the Trade Reform Act, it had before it legislation identical to that I am now introducing. Unfortunately, it

chose not to include these provisions in that important bill. Equal treatment for the people of the trust territory is long overdue, and I urge expeditious consideration of this bill.

The trust territory has few duties, and these apply only to specific commodities such as tobacco, liquors, and petroleum. Of the $13,572,052 imported into the trust territory in fiscal year 1968, the American share was approximately 50 percent. Trade is not a one-way street, and reciprocal treatment of trust territory products is only just.

Concern in the past has been expressed about the possibility that tariff preference areas will become an assembly point for foreign produced goods, thereby giving them an advantageous position in the American market. To prevent this, the bill would provide for a 50-percent foreign materials limitation on the duty-free goods imported into the United States. Similar restrictions exist on goods imported from Guam and the Virgin Islands.

We can demonstrate our intent to fulfill our obligation to the people of these islands and to end the neglect which has marred our past relationship. The time to act is now.

By Mr. INOUYE:

S. 120. A bill to authorize reduced postage rates for certain mail matter sent to Members of Congress. Referred to the Committee on Post Office and Civil Service.

Mr. INOUYE. Mr. President, I rise today to introduce a bill to provide for the issuance of a special 1-cent postage stamp to be used for correspondence with Members of Congress.

The introduction of this legislation emanates from my firm belief that the essence of our democratic system is the continuing operation of a two-way communication system between the people of this country and their elected representatives.

Each Member of Congress is directly responsible to those people in his State or district which he represents. He must not only keep communication channels open, but more importantly, he must be responsive to the opinions he receives through these channels. The most practical means of transmitting these signals is through the mail. It is most difficult for many of us to imagine ourselves in a situation where the desire to express an opinion is frustrated because we must think twice about spending money on a postage stamp. Unfortunately, we must face the fact that many of our Nation's citizens are forced to consider the purchase of postage stamps for the purpose of expressing a grievance to their representatives as something beyond their means.

The issuance of a 1-cent stamp for this purpose would effectively remove this prohibition and allow any citizen to advise their representatives of their individual opinions on the issues facing our Nation. I cannot overestimate the importance of this concept of individual expression. Every citizen has the right and the responsibility to participate in the democratic system through both the ballot box and the use of correspondence. This measure would amend the Postal Reform Act of 1970 to provide for the issuance of these 1-cent stamps to be sold only at U.S. Post Offices. The bill also authorizes appropriations necessary to account for the difference in postal revenue resulting from the sale of 1-cent stamps as opposed to prevailing postage rates for mail matter addressed to Congressmen, which does not exceed 4 ounces in weight. In view of the franking privileges available to Members of Congress, this measure would effectively equalize the treatment of mail from both the Congress and its constituency.

By Mr. INOUYE:

S. 121. A bill to restore the wartime recognition of certain Filipino veterans of World War II and to entitle them to those benefits, rights, and privileges which result from such recognition. Referred to the Committee on Veterans' Affairs.

Mr. INOUYE. Mr. President, the legislation I introduce today would restore the wartime recognition of certain Filipino veterans of World War II and entitle them to those benefits, rights and privileges which result from such recognition.

This legislation is long overdue; 27 years is a rather long time for men who risked their lives on our behalf to wait for proper recognition. I find it rather baffling that the question of the recognition of Filipino veterans has yet to be resolved. Since our Government struck out thousands of names from official U.S. Army records in 1948, numerous efforts were made to restore some names that were incorrectly stricken out. We now have available a systematically reconstructed list of veterans who have not been given their proper rights and privileges.

This legislation would permit these veterans to submit their claims to the appropriate authorities for resolution on a case-by-case basis. Upon the submission of reliable documentation of service with the U.S. Army or guerrilla forces, these veterans would be duly recognized and become eligible for assistance from the U.S. Government.

The removal of their names from Army records was a travesty of justice. For those who have since died, this bill is too late. Its enactment would serve, however belated, to confirm our commitment to these men, who fought so hard so that we might remain free.

By Mr. INOUYE:

S. 122. A bill to amend title 39 of the United States Code to provide that Federal income tax returns may be mailed free of postage. Referred to the Committee on Post Office and Civil Service.

Mr. INOUYE. Mr. President, over the years, such literary giants as Daniel DeFoe and Benjamin Franklin have agreed only two things in life are inevitable. One is death. And the other, as most Americans realize this time of year, is taxes.

The Internal Revenue Service estimates that between now and April 15, some 83 million Americans will file personal income tax returns. Payments on these returns, the Treasury Department tells us, will generate $125 billion, over three-fourths of the money the Federal Government expects to collect from income taxes this year.

Since most other revenue comes to the Government earmarked for a specific program or trust fund, such as social security, personal income taxes provide the bulk of funds available to the Government for ongoing operations and new programs. The payments of 83 million citizens help the United States maintain its defenses, feed its hungry, and clean up its environment. Those payments finance a system of agencies, bureaus, and regulators that enforce standards for everything from meat to auto emissions.

Since individual taxpayers play such a large role in maintaining the financial solvency of the Federal Government, Congress has an obligation to make it as easy as possible for Americans to pay their taxes. And over the years, Congress has done this. We have simplified the return itself. We have financed the establishment of IRS field offices throughout the country, making it easy and free for people to get expert tax advice. A toll-free telephone service gives persons additional access to free advice.

Continuing in this vein, I propose Congress amend chapter 34, title 39 of the United States Code to permit postage-free mailing of Federal income tax returns. This would permit people to meet —their legal obligation without the ever-rising cost of a stamp. Making tax returns postage-free would recognize the vital role individual taxpayers play in financing their Government and, in this light, might be seen as a small token of appreciation from that Government.

Over the years, we in Congress have enjoyed franking privileges that allow us to mail free of charge. The taxes of our constituents pay for this privilege. It seems only fair to me that we extend our constituents the opportunity once a year to share the privilege their taxes allow us to enjoy year-round.

By Mr. INOUYE:

S. 123. A bill to amend title XVIII of the Social Security Act to provide for the coverage of certain clinical psychologists' services under the supplementary medical insurance benefits program established by part B of such title. Referred to the Committee on Finance.

Mr. INOUYE. Mr. President, today I am introducing legislation which would amend the Social Security Act of 1972 by authorizing payment for therapeutic services provided by a licensed or certified clinical psychologist.

There presently is a growing consensus that we will soon pass a comprehensive national health insurance bill. I fully support this important development, but to be honest, I have been distressed to note that nearly every one of the proposed bills have limited the scope of their mental health coverage to only those services provided under the supervision of a physician. In taking this position, we have not provided our citizens

with a true "freedom of choice" to chose the practitioner that they might desire. I would further point out that in recently amending the Federal employee health benefits program by passing Public Law 93–363, the Congress clearly indicated that we saw no need for physician supervision of psychological services. Yet, under the present medicare legislation, a psychologist can only be reimbursed if he is directly supervised by a physician.

In the mental health field, psychologists have long possessed recognized expertise. Members of that profession hold positions of major administrative and clinical responsibility including the chief of a State mental health division, heads of hospital units, and chiefs of comprehensive community health centers. As a profession they also serve as expert witnesses and on the sanity commissions of our courts. In 47 States and the District of Columbia, psychologists are licensed or certified under statute. In their daily functioning, they simply do not require physician supervision.

In my State of Hawaii, our largest insurance company has recognized psychologists as independent practitioners for the past 3 years. Combining their coverage and that of the Department of Defense's CHAMPUS program, approximately 80 percent of our State population has ready access to psychological services. Personally, I have been very impressed by the harmony that exists between our psychological community and its medical counterparts.

We are all aware of the staggering costs of health care in our Nation today. In calendar year 1973, our health expenditures grew to $94.1 billion or 7.7 percent of our gross national product. This represented an 11-percent increase over the previous year. The most recent employment figures available further indicate that in 1971, over 4.4 million people were employed in health occupations; this was 5 percent of our civilian labor force and made the health industry the third largest in the Nation. There is no question that today health is a major concern for all of us and I feel it is now time to look much more closely at exactly how we have been utilizing our precious and very expensive health resources.

However, the most important benefit to be derived from this legislation will be the effect on our elderly. It is a sad commentary to note that although our senior citizens today constitute approximately 10 percent of our population, in the past they have received only 2 percent of the total outpatient mental health services, but at the same time make up 30 percent of the resident population of our mental health facilities. Further, the Department of Health, Education, and Welfare recently testified that 50 percent of the elderly in nonpsychiatric institutions have significant mental disabilities and that approximately 3 million noninstitutionalized elderly suffer from moderate to severe psychiatric disorder. Thus, in the twilight of their lives, when they have frequently lost their best friends and their most cherished possessions and when one would logically assume that our mental health experts could be most helpful, these services are simply not available.

Accordingly, I would strongly urge my colleagues to give their most serious consideration to the merits of this legislation.

By Mr. INOUYE:

S. 124. A bill to amend the Public Health Services Act to provide for financial grants to States in order to insure the delivery of high quality health services for persons who have recently immigrated to the United States. Referred to the Committee on Labor and Public Welfare.

Mr. INOUYE. Mr. President, today I am introducing legislation entitled "The New Americans Health Service Act of 1975."

The lack of adequate public health care for the approximately 4 million aliens residing in the United States concerns all Americans.

Immigrants often come from regions where exposure to communicable diseases—some of them rare in this country—is universal. For them, life in the United States, a new country, is made up of emotional and economic stress that complicates their health problems.

Unaccustomed to preventive health services, and painfully aware of the high costs of medical care, many immigrants do not seek aid until health problems have reached crisis proportions. This situation is not only a threat to the immigrants, but also inflict harm on uncounted thousands of Americans.

I am well aware of the problems arising from inadequate health care for these people. Resident aliens account for well over 6 percent of the population in my State of Hawaii. The rate of immigration in Hawaii as a percent of the population is more than twice as high as any other State.

Moreover, the immigrants and American Samoans represent the highest percentage of residents in Hawaii treated for leprosy, tuberculosis, pediculosis, underweight children, mental health, and congenital malformation.

As you may know, over 70 percent of our immigrants reside in six States. Thus, we have a situation in which a few States are being asked to bear a disproportionate share of a national responsibility.

Mr. President, the bill I am proposing is long overdue. It will bridge the gap that has arisen between the awesome health problems of recent immigrants, and the insufficient health care provided. It will provide health services, and links to those services, for people who desperately need them. And, by helping them, we help those who are more fortunate to have been here since birth, by maintaining a more healthy general environment.

It is our national policy to allow immigrants into this country. We should not desert them. I hope my colleagues will join me in recognizing the importance of this bill and will act to secure its early consideration and passage.

By Mr. INOUYE:

S. 125. A bill to establish an Economic Adjustment Corporation to provide financing to business enterprises, financial institutions, and public agencies which are unable to obtain essential financing on reasonable terms from other sources. Referred to the Committee on Banking, Housing and Urban Affairs.

ECONOMIC ADJUSTMENT CORPORATION ACT OF 1974

Mr. INOUYE. Mr. President, last month, in his year-end statement, Henry Ford II, chairman of the board of Ford Motor Co., made the observation that—

> We have never before faced such confusion over the appropriate directions of economic policy or such uncertainty that we can find out a way out.

The truth of this statement has come home to all of us with varying degrees of impact in the past year. Striding inflation in some sectors of our economy has left most Americans with sharply reduced buying power; severe recession in other sectors has left many other Americans with the prospect of having no buying power at all. At the same time that we concern ourselves with the multiplicity of factors which have contributed to our present high prices—from the omnipresent energy shortage to the unchallenged sway of market monopolies—we receive daily reminders of an increasingly severe recession, as seen in our declining national product, massive layoffs in major industries, and a falloff in aggregate investment.

It is an understatement to say that we find ourselves in an uncommon economic situation, and it is my feeling that an uncommonly bold solution is indicated. In the hope of contributing to such a solution, I am today introducing legislation which would create a Federal corporation empowered to extend credit to commercial, agricultural, and public enterprises for the purpose of remedying some of our economic troubles. The proposed corporation, which would be known as the Economic Adjustment Corporation, would have the means and the flexibility to make fine-tuned credit adjustments on a case-by-case basis, something which Congress cannot and, in my opinion, should not attempt to do on its own. Moreover, it would have the ability by virtue of its lending authority to make loans which might appear to carry some moderate risk but which in fact are essentially sound—loans which lending institutions are loath to underwrite in this period of accentuated credit squeeze.

In the same year-end statement, Mr. Ford emphasized the need for precisely this sort of a Federal corporation. It's purpose, he stated.

> Would be to make large amounts of capital available to industrial firms, utilities and banks which are unable to obtain badly needed financing today, even though their business is in sound condition, because of the collapse of equity markets and shortages of loan funds.

As enumerated in my bill, loans would be issued for that purpose and for the purposes of helping to increase productivity, increase employment levels, reduce energy consumption, create a favorable balance of payments, promote competition, prevent major dislocations in sectors of our economy, or otherwise help achieve and maintain a stable, pro-

ductive economy. In short, the EAC would take both a long- and short-term approach to problem areas while remaining sensitive to the particular inflationary or recessionary bases of those problems.

As the Senate will note, the EAC is similar in function to the Reconstruction Finance Corporation which our distinguished majority leader recently proposed to revive. Senator MANSFIELD has come forward with a timely and promising legislative proposal, and I wish to congratulate him for it. As he has pointed out with particular reference to Pan American Airways, there is need for an institution which can assist companies in financial distress, and the RFC is well-tailored to meet that need.

It is my desire, however, to add to the mandate of such an institution, and I am hopeful that the EAC authorization would do so. Thus, in addition to making loans which would enable businesses to weather these difficult times, the EAC would be enjoined to make loans which would positively contribute to the long-term health of the economy by treating the causes and symptoms of inflation and recession. My bill does not explicitly set up any system of priority loans, such as loans to increase grain production or loans to convert factories to alternate energy sources; it was not my wish to set up any such rigid categories. But it is my wish that the EAC legislation be generally directed toward encouraging just those sorts of loan requests; that is why I have chosen in this bill to emphasize the loan purposes that I enumerated earlier.

Mr. President, I am hopeful that the administration and our colleagues will concur on the need for this legislation. The past months have demonstrated that our economic woes cannot be handled facilely, but they must be handled nonetheless. It behooves us now to give forthright and serious consideration to that task.

By Mr. STEVENS (for himself and Mr. GRAVEL):

S. 129. A bill to authorize construction of the Devil Canyon and Denali units of the Upper Susitna River Basin project and related transmission facilities. Referred to the Committee on Interior and Insular Affairs.

Mr. STEVENS. Mr. President, I am today introducing a bill that would authorize construction of the Devil Canyon and Denali units of the Upper Susitna River Basin hydroelectric project and related transmission facilities.

The Susitna River Basin hydroelectric project is situated midway between Anchorage and Fairbanks; Alaska's two major population centers. It will entail the construction of four dams on the Susitna River in several stages. Devil Canyon Dam and Denali Dam are seen as a logical first stage development for the project, with possible future additions of two more dams, identified by the 1961 U.S. Bureau of Reclamation project feasibility study as the Vee and Watona projects.

The major features of the Devil Canyon project include the Devil Canyon Dam and powerplant, with installed generating capacity of 600 megawatts; the upstream Denali Dam which is needed primarily for storage and electric power transmission facilities to Fairbanks, Anchorage, and other Railbelt Centers.

Geographically, the Devil Canyon Dam would be located at mile 134 on the Susitna River, approximately 14.5 miles upstream from the Gold Creek Station on the Alaska Railroad. The Denali Dam would be located at river mile 249, a few miles downstream from the Denali highway crossing of the Susitna River.

Mr. President, it is imperative that construction of this project be initiated as soon as possible. At present, most of the power in the railbelt area is generated by fossil fuels. With the immense potential for hydroelectric power in Alaska, this is an unnecessary use of critically short fossil fuels.

The Devil Canyon project has the best potential for hydro development and would maximize benefits for the bulk of the population of the State of Alaska. It does not have the serious detrimental environmental-ecological problems associated with fossil fuel plants or other potential hydro projects. The project is designed for stage development in substantial increments beneficial to total energy marketing. It is designed to be wholly utilized between the interior south-central regions. Access to the site and interconnecting facilities is provided by both road and railroad. Projected delivered costs to the interior would allow present fossil fuel stations to go on reserve-standby basis. This would allow the fuel currently used for power generation to be used in areas where fossil fuels are the only feasible forms of fuel.

In addition to saving fossil fuels which would be otherwise used for electrical generation, the Devil Canyon project would provide power for the possible electrification of the trans-Alaskan pipeline pumping stations as well as the Alaska railroad. This would result in additional savings of petroleum.

Not only will the Devil Canyon project represent a substantial savings in fossil fuels, it is critical if the future needs of Alaska's railbelt are going to be met. The regional studies for the Alaska power survey indicate 1972 railbelt energy requirements of about 2 billion kilowatt hours. This amounts to approximately 77 percent of Alaska's energy requirements for 1972, including utility, national defense, and industrial loads. Midrange estimates from the power survey indicate annual requirements of 5 billion kilowatt hours by 1980, and nearly 10 billion kilowatt hours by 1990. The Devil Canyon project would provide 2.9 billion kilowatt hours per year, and the completed Upper Susitna River system would provide 7 billion kilowatt hours per year—or nearly all the 1990 projected railbelt requirement.

The benefits to Alaska include improved access to the river area, new recreation opportunities, plus environmental benefits at the load center. There has been much public support voiced for the project in Alaska.

Mr. President, the language of this bill is fairly simple and includes straightforward assignments of construction authority to the Corps of Engineers and assignment of operation, maintenance, and power marketing responsibilities to the Department of the Interior.

Section 1 of the bill states its purpose, makes assignment of the responsibilities, describes the features of the project, and asks the Secretary of the Interior to make a determination on necessary and feasible transmission facilities.

Sections 2 and 3 relate to power marketing authorization, and the general authorizations to the two Departments to insure capability to complete the project.

Section 4 is added to indicate the need to complete an environmental impact statement and to finalize transmission plans prior to the actual start of construction.

Mr. President, I urge quick action on this bill. The Devil Canyon project including the Denali storage portion could probably be completed before 1985, and full development of the Upper Susitna project could be accomplished by 1990. The sooner the project is started, the sooner we are going to realize the savings in fossil fuels that this project will bring.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD following my remarks.

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

S. 129

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 "Devil Canyon Authorization Act".

SECTION 1. In order to provide essential power and a backbone transmission grid for south-central and interior Alaska, and to develop and utilize available renewable energy resources to assist in meeting long-range national objectives for conservation of petroleum and natural gas supplies, and for other purposes, the Secretary of the Army, acting through the Chief of Engineers, is authorized to construct and the Secretary of the Interior is authorized to operate and maintain the Devil Canyon and Denali units of the Upper Susitna River Basin project, substantially in accordance with the plans presented in the March 1961 project report of the Commissioner of Reclamation. Project works shall consist of the Devil Canyon Dam, Reservoir, and powerplant, the Denali Dam and Reservoir, and related facilities, and transmission facilities which are determined by the Secretary of the Interior to be necessary and feasible to distribute and market project power to the Anchorage and Fairbanks areas and other power market areas of south-central and interior Alaska. Federal investment in these facilities is estimated at $750 million on the basis of January 1973 price levels.

SEC. 2. Electric power and energy generated at the Upper Susitna River Basin project, except that portion required for Project Operation, shall be disposed of by the Secretary of the Interior in such a manner as to encourage the most widespread use thereof at the lowest possible rates to consumers consistent with sound business principles. Rate schedules shall be drawn having regard to the recovery of the costs of producing and transmitting the power and energy, including the amortization of the capital investment over a reasonable period of years, with interest at the average rate (which rate shall be certified by the Secretary of the Treasury) paid by the United States on its marketable long-term securities outstanding on the date of this Act and adjusted to the

nearest one-eighth of 1 per centum. In the sale of such power and energy, preference shall be given to Federal agencies, public bodies, and cooperatives. It shall be a condition of every contract made under this Act for the sale of power and energy that the purchaser, if it be a purchaser for resale, will deliver power and energy to Federal agencies or facilities thereof within its transmission facilities. All receipts from the transmission and sale of electric power and energy generated at said division shall be covered into the Treasury of the United States to the credit of miscellaneous receipts.

SEC. 3. The appropriate Secretary is authorized to perform any and all acts and enter into such agreements as may be appropriate for the purpose of carrying the provisions of this Act into full force and effect, including the acquisition of rights and property, and the Secretary of the Army, when an appropriation shall have been made for the commencement of construction, or the Secretary of the Interior in the case of operation and maintenance of said division, may, in connection with the construction or operation and maintenance of such division, enter into contracts for miscellaneous services for materials and supplies, as well as for construction, which may cover such periods of time as the appropriate Secretary may consider necessary but in which the liability of the United States shall be contingent upon appropriations being made therefor.

SEC. 4. The Secretary of the Army is directed to proceed with preparation of project designs and an environment impact statement in accordance with the National Environmental Policy Act, and the Secretary of the Interior is directed to proceed with a determination of necessary and feasible electric power transmission facilities and power marketing studies. The environmental impact statement and the determination of necessary electric power transmission facilities are to be completed within not more than two years of the date of this Act and transmitted to the Congress prior to appropriation of funds for construction of project works. The sum of $1,000,000 is authorized to be appropriated for the environmental and other studies required by this section.

By Mr. STEVENS:

S. 130. A bill to authorize certain revenues from leases on the Outer Continental Shelf to be made available to coastal and other States.

Mr. STEVENS. Mr. President, I am introducing a bill today to provide for revenue sharing from Outer Continental Shelf leases of oil, gas, and other minerals.

This bill will distribute the royalties from Outer Continental Shelf lands to the adjacent coastal State, 25 percent; the other States, 25 percent; and the U.S. Treasury, 50 percent.

Federal public lands producing royalty revenues already require royalty revenue distribution to the State on which the lands are located. (See 30 United States Code, section 191.)

For a number of years, the various States have sought a royalty revenue distribution from Outer Continental Shelf lands. In the 93d Congress, for example, several bills were introduced on this subject in the House of Representatives.

Mr. President, although these minerals are located within Federal lands—the Outer Continental Shelf—the adjacent State provides considerable governmental services to the industries and people engaged in exploration and production. Such State governments must incur substantial expenses in connection with these activities. But they receive no share of the royalties. This is particularly unfair in view of the fact that States on which royalty producing Federal public lands are located share in such royalties.

Mineral exploration, whether it be from Federal public lands or Outer Continental Shelf lands, is really a cooperative venture with private industry, State, and local governments, and the Federal Government all lending a hand. Because Federal royalties now are deposited in the General Treasury, the adjacent coastal States must bear and unfair burden.

The funds involved are not inconsiderable. The total Outer Continental Shelf revenues, including royalties, bonuses, and rentals for 1973 totaled almost $3½ billion. In 1971, the figure was over $2½ billion. These figures do not reflect the very considerable royalties that will accrue after oil and gas production begins on the Outer Continental Shelf in other areas. The Council on Environmental Quality in their April report to the President estimated that the Gulf of Alaska has a higher potential yield of oil and gas than any of the other areas studied. The report also noted the environmental, social, and economic problems that would confront Alaska, if and when these vast resources in the Gulf of Alaska are developed.

My bill will, for the first time, provide that royalties will be shared directly with the other nonadjacent States—inland as well as coastal. It provides a fair revenue sharing formula and will be easily administrable. I also noted that the Review Committee of the National Academy of Sciences and the National Academy of Engineering while analyzing the recent report of the Council on Environmental Quality noted the need for some form of revenue sharing from development of the Outer Continental Shelf. The committee opined:

. . . [t]hat royalties and/or bonuses, whichever are applicable, should be distributed as benefits to those by whom the costs are borne. Because many of the costs of environmental protection and degradation are incurred locally, some portion of the dollar royalty benefits of OCS development should be returned by the Federal Government to these locales to offset coastal planning, regulatory, and other associated costs.

I urge the Senate to consider this concept as soon as possible and avert needless litigation and delay.

I ask unanimous consent that the bill itself be printed in the RECORD at this point, along with a table of Outer Continental Shelf receipts for fiscal years 1953–73.

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

S. 130

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. That the Congress hereby finds and declares that—

(1) all States which contain public lands of the United States within their boundaries receive certain revenues produced from bonuses, royalties, and rentals of such lands in accordance with the Mineral Leasing Act of 1920 (30 U.S.C. 191);

(2) such sharing of revenues is based on the equitable consideration that these States furnish governmental services to the industries and people engaged in the exploration and production of minerals from such lands and accordingly such States are entitled to be reimbursed for such services;

(3) coastal States perform identical governmental services to the industries and people engaged in the exploration and production of minerals from the portion of the seabed, which adjoins each coastal State but to which such States do not have title, yet these States now receive no share of the revenue produced;

(4) coastal States in addition to providing governmental services, are subject to other burdens not financially measurable, such as the risk and the actuality of oil spills, movement of population of low coastal areas where hurricane dangers are greatest, and modification of coastal ecology;

(5) basic justice requires that coastal States should share revenues from the aforesaid portion of the seabed at least on the same equitable grounds on which States with Federal lands within their boundaries now share such revenues with the Federal Government, and

(6) the bonuses, royalties, and rentals of public lands can provide a practical way in which Federal revenue sharing with all States can be accomplished.

SEC. 2. Section 9 of the Outer Continental Shelf Lands Act (43 U.S.C. 1338) is amended to read as follows:

"SEC. 9. DISPOSITION OF REVENUES—(a) All rentals, royalties, or other sums paid to the Secretary or the Secretary of the Navy under or in connection with any lease on the Outer Continental Shelf for the period beginning June 5, 1950, and ending with the day preceding the date of the enactment of this subsection shall be deposited in the Treasury of the United States and credited to miscellaneous receipts.

"(b) All rentals, royalties, or other sums paid to the Secretary or the Secretary of the Navy under or in connection with any lease on the Outer Continental Shelf on and after the date of the enactment of this subsection shall be deposited in the Treasury of the United States; and of the amount of the revenues so deposited in each fiscal year which are attributable to the portion of the Outer Continental Shelf adjacent to any State—

"(1) 25 per centum shall be paid by the Secretary of the Treasury to such adjacent State;

"(2) 25 per centum shall be paid by the Secretary, in equal amounts, to each of the several States other than such adjacent State; and

"(3) 50 per centum shall be deposited in the Treasury of the United States and credited to miscellaneous receipts.

"(c) Any moneys paid to the Secretary or the Secretary of the Navy under or in connection with a lease but held in escrow pending the determination of a controversy as to whether the lands on account of which such moneys are paid constitute part of the Outer Continental Shelf shall, to the extent that such lands are ultimately determined to constitute a part of the Outer Continental Shelf, be distributed—

"(1) in accordance with subsection (a) if paid before the date of the enactment of this subsection, and

"(2) in accordance with subsection (b) if paid on or after the date of the enactment of this subsection.".

SEC. 3. (a) Nothing contained in this Act or in the amendments made by this Act shall be construed to alter, limit, or modify in any manner any right, claim, or interest of any State in any funds received before the date of the enactment of this Act, or of any funds held in escrow pending the determination of any controversy as to whether the submerged lands on account of which such funds

were received constitute a part of the Outer Continental Shelf.

(b) Nothing contained in this Act or in the amendments made by this Act shall be construed to alter, limit, or modify any claim of any State to any right, title, or interest in, or jurisdiction over, any submerged lands.

OUTER CONTINENTAL SHELF REVENUE AND PRODUCTION VALUE—PERCENTAGE CUMULATIVE REVENUE OF CUMULATIVE PRODUCTION VALUE, CALENDAR YEARS 1953–73

Year	Royalties	Total revenue
All States:		
1953	$967,892	$2,358,172
1954	2,748,977	147,660,265
1955	5,140,006	117,197,082
1956	7,629,383	11,715,526
1957	11,391,245	14,840,216
1958	17,423,878	20,150,076
1959	26,539,977	118,828,715
1960	37,095,301	232,781,831
1961	47,920,332	51,345,414
1962	66,096,334	564,569,574
1963	76,999,225	98,963,285
1964	88,400,230	194,939,272
1965	102,862,540	146,445,376
1966	136,987,537	354,465,657
1967	157,607,609	675,859,202
1968	201,136,931	1,558,052,293
1969	240,090,666	362,029,240
1970	283,494,568	1,237,527,860
1971	350,042,488	456,012,307
1972	363,556,339	2,624,957,875
1973	401,126,114	3,494,981,440
Total, all States	[1] 2,625,000,000	[1] 12,577,000,000

[1] Rounded off to nearest million.

By Mr. STEVENS:

S. 131. A bill to authorize the Secretary of the Interior to enroll certain Alaskan Natives for benefits under the Alaska Native Claims Settlement Act and for other purposes. Referred to the Committee on Interior and Insular Affairs.

Mr. STEVENS. Mr. President, it is estimated that approximately 1,000 Native people who should be enrolled for benefits under the Alaska Native Claims Settlement Act have not been included in the final role because they missed the March 30, 1973, deadline. I have had correspondence with the Bureau of Indian Affairs to determine what action could be taken on behalf of these people.

In a letter to me Commissioner of Indian Affairs Morris Thompson stated that the Bureau was aware of the fact "that there are a number of otherwise eligible Natives who filed late applications, or did not file at all." The Bureau's position on this matter is that it would be inequitable to those who did file on time to reopen the roles. In my opinion, it is only fair and equitable to insure that all Alaskan Natives share in the benefits of the land claims settlement regardless of a failure to meet a technical deadline imposed on submission of applications.

Originally when I introduce a similar bill in the 93d Congress, it primarily focused on the issue of Native enrollment. During consideration of this measure the Interior Committee added several provisions dealing with other matters still unsettled for the Native villages and corporations and the bill in this modified form passed the Senate.

I have kept the bill in the modified form except that there is no reference to the 13th Regional Corporation. This matter is currently in the courts and I do not feel that it would be appropriate to address the issue in this legislation.

Besides extending the time frame in which otherwise qualified Natives could enroll under the Alaska Native Claims Settlement Act, this bill would: First, direct the Secretary of the Interior to establish an escrow fund for revenues received by the Department for activities on Federal lands subsequently patented to Natives; second, insure that payments under the Claims Act are disregarded when determining the eligibility of any household to participate in the food stamp program; and third, exempt Native corporations from the Investment Company Act of 1940 through December 31, 1976.

Mr. President, I ask unanimous consent that news articles on this subject be printed in the RECORD immediately following my remarks and that the text of my bill be printed at this point in the RECORD.

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

NATIVES VOW FIGHT OVER LATE CLAIM DEADLINE

(By Donn Liston)

The Department of Interior has ruled tardy Natives will not receive their land claims, and Alaska Federation of Natives leaders say they will continue to fight.

On December 18, 1973, Interior certified 75,853 Alaska Natives for settlement under the claims act. About 8,000 persons were deemed eligible and another 828 were enrolled between Dec. 17 and March 30, 1973.

But late last week Secretary Morton's office notified enrollment officials those 828 late filers would not be qualified under the land claims act.

"It's Interior's responsibility to enroll all Natives, not Natives' responsibility to find Interior," said John Shively, AFN executive vice president of Alaska Federation of Natives, and "They're saying because you missed an arbitrary deadline, you aren't Native."

Deadline for final roll was changed to June 1, allowing the enrollment office to correct any mistakes and deal with a change in policy regarding Natives living outside Alaska.

"The Secretary says the number of affected is less than one per cent," added Shively. "But that isn't the issue. If someone is entitled to settlement then he should be able to enroll."

Although the Alaska Native Land Claims Act allows two years for enrollment, much of that time was spent establishing an agency to do the work. Within 11 months, the enrollment office took 95,000 applications. Native regional corporations were contacted to carry out enrollment in specific areas.

"It's a (expletive deleted) decision based on no consultation with either the regional corporations or the individuals involved," said Roger Lang, AFN president. "Again it will cost us money to prove Interior wrong in court."

Lang said AFN was concerned; if so much as one Native was "denied his heritage—it's enough to go to battle."

If approved the roll would have been delayed for confirmations, hindering the next payment due in July. Any newly accepted individuals would be identified by respective villages within another 30-day period. If declared ineligible by their claimed village, applicants would have 45 days to protest. The village would then have another 30 days to appeal any decision by the enrollment office to override a village rejection.

Now Native leaders say the process will be necessary anyway—after another Natives vs. Interior court battle.

WHOSE FAULT?

Natives have a good point when they argue that it's the Interior Department's responsibility to enroll all Natives, not the Natives' responsibility to find Interior, if the land claims settlement is to work fairly.

A minor controversy with major possibilities has erupted over the deadline for filing individual claims. Interior Secretary Rogers C. B. Morton has ruled that 828 persons who filed after the December 1972 deadline will not be eligible under the claims act.

It is unfortunate because the 828 Natives are qualified for claims act benefits; they simply missed a prescribed date.

John Shively, Alaska Federation of Natives executive vice president commented: "They're saying because you missed an arbitrary deadline, you aren't Native."

Surely, if Interior followed the spirit of the claims act, this enrollment problem could be rectified.

Moreover Congress allowed two years for the Natives to enroll for claims, yet much of that precious time—13 months—ticked away as Interior established the framework to accomplish the enrollment work. Even now, Interior has established a June 1 deadline to deal with mistakes in the final rule. Why couldn't the late filings be considered "mistakes?"

The Natives have vowed to fight Interior's decision. Unfortunately, the court battles between Native organizations and the federal bureaucracy are becoming more and more frequent as implementation of the land claims settlement progresses. It is a costly and devisive trend that shouldn't be.

S. 131

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. That the Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized to review those applications submitted within one year from the date of enactment of this Act by applicants who failed to meet the March 30, 1973, deadline for enrollment established by subsection (a) of section 5 of the Alaska Native Claims Settlement Act, 85 Stat. 688, (hereinafter referred to as the "Settlement Act"), and to enroll those Natives under the provisions of that Act who would have been qualified if the March 30, 1973, deadline had been met: Provided, That Natives enrolled under this Act shall be issued stock under the Settlement Act together with distributions from Corporations adjusted so as to make distributions to such Natives equal to distributions to Natives originally enrolled under the Settlement Act: Provided further, That land entitlement of any Native village, Native group, Village Corporation, Regional Corporation, or Corporation organized by Natives residing in Sitka, Kenai, Juneau, or Kodiak, all as defined in said Act, shall not be affected by any enrollment pursuant to this Act, and that on tribe, band, clan, group, village, community, or association not otherwise eligible for land or other benefits as a "Native Village" as defined in said Act, shall become eligible for land or other benefits as a Native village because of any enrollment pursuant to this Act: *Provided further*, that no tribe, band, clan, village, community, or village association not otherwise eligible for land or other benefits as a "Native group" as defined in said Act, shall become eligible for land or other benefits as a Native group because of any enrollment pursuant to this Act: And, provided further, That any "Native group" as defined in said Act, shall not lose its status as a Native group because of any enrollment pursuant to this Act.

SEC. 2. (a) From and after the date of enactment of this Act, any and all proceeds derived from contracts, leases, permits,

rights-of-way, or easements pertaining to lands or resources of lands withdrawn for Native selection pursuant to the Settlement Act shall be deposited in an escrow account which shall be held by the Secretary until lands selected pursuant to that Act have been conveyed to the selecting corporation or individual entitled to receive benefits under said Act. As such withdrawn or formerly reserved lands are conveyed, the Secretary shall pay from such account the proceeds which derive from contracts, leases, permits, rights-of-way, or easements, pertaining to the lands or resources of such lands, to the appropriate corporation or individual entitled to receive benefits under the Settlement Act together with interest. The proceeds derived from contracts, leases, permits, rights-of-way, or easements, pertaining to lands withdrawn or reserved, but not selected or elected pursuant to said Act shall, upon the expiration of the selection or election rights of the corporations and individuals for whose benefit such lands were withdrawn or reserved, be deposited in the Treasury of the United States or paid as required by law were it not for the provisions of this Act.

(b) The Secretary is authorized to deposit in the Treasury of the United States such escrow account proceeds referred to in subsection (a) of this section and the United States shall pay interest thereon semiannually, from the date of deposit to bear simple interest at the rate as may be determined by the Secretary of the Treasury: Provided, however, That the Secretary in his discretion may withdraw from the United States Treasury such proceeds received by him under this Act and reinvest such proceeds in the same manner provided for by section 162a of title 25, of the United States Code: Provided further, That this section shall not be construed to create any trust relationship between the United States and any corporation or individual entitled to receive benefits under the Settlement Act.

SEC. 3. Any and all proceeds from public easements reserved pursuant to paragraph (3) of subsection 17(b) of the Settlement Act shall be paid to the grantee of such conveyance in accordance with such grantee's proportionate share.

SEC. 4. Any and all income on all earnings from contracts, leases, permits, rights-of-way, or easements issued for the surface or minerals covered under a conveyance prior to the issuance of such conveyance under the Settlement Act, shall be paid to the grantee of such conveyance on that portion of the lands conveyed pro-rated from the date of enactment of this Act, or from the date of conveyance under the Settlement Act, whichever occurs first.

SEC. 5. Any distribution of funds from the Alaska Native Fund pursuant to subsection (c) of section 6 of the Settlement Act made by the Secretary or his delegate prior to enactment of this Act on the basis of the final roll certified on December 18, 1973, shall not be affected by the provisions of this Act. Immediately upon certification of the amended final roll pursuant to this Act, the Secretary shall make any necessary adjustments in future distributions of funds pursuant to subsection (c) of section 6 of the Settlement Act to accommodate the changes in the final roll made by the amended final roll: *Provided*, That such adjustments shall not take effect until the next regularly scheduled distribution period following certification of the amended final roll.

SEC. 6. The Settlement Act is amended by adding a new section 28, to read as follows:

"SECTION 28. Any corporation organized pursuant to this Act shall through December 31, 1976, be exempt from the provisions of the Investment Company Act of 1940 (54 State 789), as amended. Nothing in this section shall, however, be construed to mean that any such corporation shall or shall not after such date be subject to the provisions of the Investment Company Act of 1940."

SEC. 7. The Settlement Act is further amended by adding a new section 29 to read as follows:

"SECTION 29. (a) The payments and grants authorized under this Act constitute compensation for the extinguishment of claims to land, and shall not be deemed to substitute for any governmental programs otherwise available to the Native people of Alaska as citizens of the United States and the State of Alaska.

"(b) Notwithstanding subsection 5(a) and any other provision of the Food Stamp Act of 1964 (78 Stat. 703), as amended, in determining the eligibility of any household to participate in the food stamp program, any compensation, remuneration, revenue, or other benefit received by any member of such household under the Settlement Act, in connection with an aboriginal land claim of such person, shall be disregarded."

SEC. 8. Except as specifically provided in this Act, (i) the provisions of the Settlement Act are fully applicable to this Act, and (ii) nothing in this Act shall be construed to alter or amend any of such provisions.

By Mr. STEVENS:

S. 132. A bill to amend title 5, United States Code, to provide additional cost-of-living adjustments in civil service retirement annuities of certain retired employees in Alaska as long as retired employees continue to reside in Alaska, and for other purposes. Referred to the Committee on Post Office and Civil Service.

Mr. STEVENS. Mr. President, I wish to introduce today a bill to extend cost-of-living adjustments in civil service retirement annuities to certain retired employees residing in Alaska.

Mr. President, under this bill the annuity of each retired employee, who has already performed 10 years of service in Alaska prior to separation, and, after commencing his annuity continues to reside in Alaska, shall be increased by 25 percent so long as he continues to reside in Alaska. Survivors are similarly covered. Persons previously retired are covered, but annuities are not retroactive.

Civil Service Commission records show as of February 31, 1974, there were about 2,802,589 Federal employees in the United States, of which approximately 14,500 were stationed in Alaska. Additionally, on July 1, 1974, there were 2,469 employee annuitants and survivors residing in Alaska and are receiving monthly annuities totaling approximately $833,024. The additional 25 percent cost of living for these needed recipient allowances would thus total about $208,256 monthly.

This increased retirement annuity is a just increase and is needed by Alaskans. The United States has granted Alaska a cost-of-living pay increase of 25 percent for Government employees, yet has not followed through and considered that the same high cost of living exists in their retirement.

Based on an average U.S. cost-of-living index of 100 for an intermediate budget family of 4, the index in Anchorage in the autumn of 1973 was 131, more than 25 percent above the average. With a lower budget family, the cost of living in Anchorage is almost 1½ times the national average, at 147, more than 25 points above any other State in the Union.

In most areas of the United States, as one moves away from the urban areas, the cost-of-living decreases. However, in Alaska, the exact opposite is true; Anchorage is one of the less expensive places to live in the State while other sections have a cost of living two to three times the national average.

Thus, Mr. President, an inequality presently exists in our Nation. Alaskans who have rendered a great service to our Government are forced to retire on minimum wages while the cost of living in Alaska continues to leap upward at a much faster rate than in the rest of the Nation. This bill will dissolve this inequality; it is a bill that will provide a long overdue justice to Alaskans, and I ask that it be considered as such in this session of Congress.

Mr. President, I ask unanimous consent that the bill be printed in its entirety in the RECORD at this point.

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

S. 132

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. That section 8339 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(n) Notwithstanding any other provisions of this subchapter and in addition to the amount of annuity to which he otherwise is entitled under this subchapter, the annuity of each retired employee who has performed ten years of service in Alaska prior to separation and who, after the commencing date of his annuity, continues to reside in Alaska, without break in time after his separation, shall be increased by 25 per centum so long as he continues to reside in Alaska. This annuity differential is applicable to the annuity of any survivor of such retired employee."

SEC. 2. The amendment made by this Act shall apply to persons retiring or retired prior to, on, or after the date of enactment of this Act, and their survivors; but no annuity differential shall be payable by reason of such amendment for any period prior to the first day of the first month which begins after the date of the enactment of this Act.

By Mr. STEVENS:

S. 133. A bill to amend the Internal Revenue Code of 1954 to permit a deduction from gross income based upon the cost of living in certain States; and

S. 134. A bill to amend the Internal Revenue Code of 1954 to exempt from tax a portion of the income of individuals not employed by the Federal Government who live in a State in which Federal employees receive an allowance based on living costs and conditions of environment. Referred to the Committee on Finance.

Mr. STEVENS. Mr. President, today I am introducing legislation to allow a taxpayer a deduction from gross income based upon the cost of living in certain States and an additional bill to exempt from Federal taxation a portion of the income of non-Federal employees living in a State in which Federal employees receive an allowance based on living costs and other conditions.

The taxpayers of Alaska and other States where living costs are significantly above the national average, have been unreasonably burdened by virtue of their residences. The first bill would allow an individual to deduct a percentage of the total amount of personal exemption equal to the percentage by which the cost of living in his State exceeds the average national cost of living for that taxable year. The deduction would be limited to the percentage of time during which the taxpayer resided within the State on which he bases the deduction. The Secretary of the Treasury would be delegated the authority of determining whether a particular State's cost of living significantly exceeds the national average.

The most current Bureau of Labor statistics reveal that Alaska and Hawaii rank as the areas in which it costs the most to live and maintain a family at any income level. Anchorage, Alaska, ranks as the most expensive city in the entire Nation in which to live. Honolulu, Hawaii, ranks second in this regard with all other cities significantly below these top two. The Alaskan price structure, which is largely due to the tremendous costs incurred in transporting goods and material to Alaska, has imposed a hardship on citizens with fixed incomes and deters prospective residents and business concerns from settling within the State.

Now with the trans-Alaska oil pipeline under construction, the prices for shelter, food, and essential services are rising at a faster rate in Alaska than the rest of the country.

My alternative bill providing tax equality between Federal and non-Federal employees would rectify a long-standing inequity in States with high living costs. At present, the Federal Government provides a 25-percent cost-of-living adjustment to civil service employees who reside in Alaska. This nontaxable adjustment is added to the base pay of Federal employees, but is not available to non-Federal employees. Therefore, the tax burden upon workers in the private sector is inequitably repressive and relief is required to equalize their tax responsibility with those federally employed. Both bills which I have introduced in this regard contain limitations upon Federal employees who receive a nontaxable cost-of-living allowance.

I believe that the combination of these two bills will provide much needed Federal tax relief to the beleaguered taxpayer of my State and certain other States where the cost of living is significantly above the national average. Moreover, these bills should help to accelerate the economic and social progress of these States by stimulating business relocation therein and not discouraging prospective residents from moving thereto. Accordingly I urge the careful consideration of this legislation.

I ask unanimous consent that these bills be printed at this point in the RECORD.

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

S. 133

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) part VII of subchapter B of chapter 1 of the Internal Revnue Code of 1954 (relating to additional itemized deductions for individuals) is amended by redesignating section 218 as 219, and inserting after section 217 the following new section:

"SEC. 218. Cost-of-living deduction.

"(a) ALLOWANCE OF DEDUCTION.—In the case of an individual, there shall be allowed as a deduction a percentage of the total amount of the personal exemptions to which he is entitled equal to the percentage (determined by the Secretary or his delegate under subsection (c)) by which the cost of living in the State in which he resides during the taxable year exceeds the average cost of living in the United States for that year.

"(b) LIMITATIONS.—The amount of the deduction allowable under subsection (a) shall be adjusted appropriately for any period of time during a taxable year during which the taxpayer was not residing in the State on which he bases his deduction under such subsection. In the case of a taxpayer who, during any taxable year, resides in more than one State which qualified him for such deduction, the amount of the deduction shall reflect the proportionate periods of time during which he resided in such State. In the case of a taxpayer whose taxable year is not the calendar year, the amount of the deduction shall reflect proportionately the calendar years which fall within his taxable year.

"(1) FEDERAL EMPLOYEES.—The provisions of subsection (a) shall not apply to amounts received by an employee of the Government of the United States as pay and allowances from the Government.

"(c) DETERMINATIONS BY THE SECRETARY.—On or before December 1 of each year, the Secretary or his delegate shall determine with respect to each State whether the cost of living in such State is greater than the average cost of living in the United States. If the Secretary or his delegate determines that the cost of living in any State is greater than the average cost of living in the United States, he shall determine and make available the percentage (rounding off to the nearest whole percent) by which the cost of living in such State exceeds the average cost of living in the United States. The determination shall be made for each year on the basis of indices and other information available from all departments and agencies of the Government covering the first 9 months of such year, and the determination of the cost of living in each State shall be made on the basis of such indices and information applicable to the 3 largest cities or metropolitan areas in such State.

"(d) FINALITY OF DETERMINATIONS.—Determinations by the Secretary or his delegate under subsection (c) shall be final and shall not be subject to review by any other officer of the United States or by any court.

"(e) REGULATIONS.—The Secretary or his delegate shall prescribe such regulations as may be necessary to carry out the purposes of this section."

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

"Sec. 218. Cost-of-living deduction.
"Sec. 219. Cross references."

SEC. 2. Section 62 of such Code (relating to the definition of adjusted gross income) is amended by inserting after paragraph (9) the following new paragraph:

"(10) COST-OF-LIVING DEDUCTION.—The deduction allowed by section 218."

SEC. 3. The amendments made by this Act shall apply with respect to taxable years beginning after December 31, 1974.

S. 134

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) part III of subchapter B of chapter 1 of the Internal Revenue Code of 1954 (relating to items specifically excluded from gross income) is amended by redesignating section 124 as 125, and inserting after section 123 the following new section:

"SEC. 124. PARTIAL EXCLUSION OF INCOME OF INDIVIDUALS RESIDING IN CERTAIN STATES.

"(a) GENERAL RULE.—In the case of an individual who resides and is employed in a State in which employees of the Government of the United States receive an allowance under section 5941 of title 5, United States Code, gross income does not include a percentage of income received during the taxable year as compensation for personal services (including fees, commissions, and similar items) equal to the percentage of basic pay received by employees of the Government of the United States as an allowance under such section.

"(b) LIMITATIONS.—

"(1) FEDERAL EMPLOYEES.—The provisions of subsection (a) shall not apply to amounts received by an employee of the Government of the United States as pay and allowances from the Government.

"(2) RESIDENTS FOR LESS THAN A TAXABLE YEAR.—If an individual does not reside in such a State for the entire taxable year, the provisions of subsection (a) shall apply only to compensation attributable to the period during which such individual resides in such State.

"(c) REGULATIONS.—The Secretary or his delegate shall prescribe such regulations as may be necessary to carry out the provisions of this section."

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

"Sec. 124. Partial exclusion of income of individuals residing in certain States.
"Sec. 125. Cross references to other Acts."

SEC. 2. The amendments made by this Act shall apply to taxable years beginning after December 31, 1974.

By Mr. STEVENS:

S. 135. A bill to amend title II of the Social Security Act to adjust the earnings exemption, applicable to recipients of monthly benefits thereunder, for individuals in Alaska or Hawaii so as to take into accounnt the higher cost of living in such States. Referred to the Committee on Finance.

Mr. STEVENS. Mr. President, in the past few years the Congress has become increasingly sensitive to the needs of our senior citizens. Legislation has been introduced to increase benefits to these citizens and to increase the opportunities for them to provide their services in businesses and community organizations throughout the country.

I like to think that the retired people in Alaska are a unique breed of individuals. Their intense desire for self-sufficiency and self-reliance has been conditioned by a lifetime spent in a very rugged and demanding area. The bill which I am introducing is a step toward allowing them to maintain this self-reliance. The bill provides for an increase in the exempt earnings under the social security law in proportion to the salary adjustments currently made for Federal employees.

We are asking that our senior citizens be given an opportunity to engage in satisfying work experiences which contribute to the economy of the country.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD at this point.

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

S. 135

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 203(f) of the Social Security Act is amended by adding at the end thereof the following new paragraph:

"(9) For special provisions applicable to individuals in Alaska or Hawaii, see subsection (m)."

(b) Section 203(h) of such Act is amended by adding at the end thereof the following new paragraph:

"(4) For special provisions applicable to individuals in Alaska or Hawaii, see subsection (m)."

(c) Section 203 of such Act is further amended by adding at the end thereof the following new subsection:

"SPECIAL RULE APPLICABLE TO INDIVIDUALS IN ALASKA OR HAWAII

"(m) In applying the provisions of subsections (f) and (h) to any individual with respect to any period (consisting of one or more complete calendar months) for all of which he is physically present in Alaska or Hawaii, the figure "$200" and the term "exempt amount" (as referred to in paragraphs (1), (3), and (4)(B) of subsection (f), and in paragraph (1)(A) of subsection (h)) shall be deemed to be such figure, or such exempt amount, as the case may be, plus a per centum thereof equal to the per centum applicable, as of the beginning of such period, in determining the amount of the allowance payable under section 5941 of title 5, United States Code, to Federal employees serving in such State."

By Mr. MONTOYA:

S. 137. A bill to amend the Internal Revenue Code of 1954 to require judicial confirmation of the need for a jeopardy assessment. Referred to the Committee on Finance.

JUDICIAL OVERSIGHT OF INTERNAL REVENUE SERVICE JEOPARDY ASSESSMENTS

Mr. MONTOYA. Mr. President, today I am introducing a bill to amend the Internal Revenue Code of 1954 to require judicial confirmation of the need for jeopardy assessment. This bill, along with several others which I will introduce, is the result of 2 years of hearings into taxpayer service procedures and practices. It will provide a much needed correction in the tax laws.

The jeopardy assessment power of the IRS is an unusual governmental power—a special power, given to the Secretary of the Treasury or his delegate, to protect the Government against loss of revenue. The IRS is given the power to take immediate action through assessment if it is believed that revenue will be jeopardized by delay. When the legislation was originally written it was the intention of Congress that this power be used in only the most extreme circumstances, when the IRS believed the taxpayer was preparing to flee the country to avoid payment of taxes or that the taxpayer was divesting himself or herself, or a business, of assets in order to avoid payment of taxes.

In order to prevent jeopardy to revenue, therefore, the Secretary of the Treasury, or his delegate—in actual fact, of course, the Commissioner of IRS or his deputy, an IRS agent—is given the authority to assess an immediate deficiency, seize assets, and demand payment. He is authorized to do these things solely on his own "belief" that refraining from taking this action would cause loss to the Government. The power is not limited by any need for judicial review, and has been called "a weapon with atomic potentialities in the arsenal of the tax gatherer" by Chief Judge John R. Brown of the Fifth Circuit Court of Appeals.

There have been repeated questions raised in the past about the constitutionality of this section of law, and although the Supreme Court has upheld the law as written where the question of due process is concerned, there seem to be serious questions which could be raised in connection with equal protection guarantees and concerning the discretionary power given to the Secretary. The American Law Division of the Library of Congress has researched this question, and I ask unanimous consent that the report of Howard Zaritsky, Legislative Attorney for the Law Division, be entered in the RECORD following my remarks.

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

(See exhibit 1.)

Mr. MONTOYA. Mr. President, certainly there is no attempt in the legislation I am proposing today to remove from IRS a tool which they consider to be important in the successful completion of their work. Jeopardy assessment is, as the Supreme Court has noted (House report No. 2, 70th Congress, First session, December 7, 1927, pp 31–32):

A very effective and necessary method of stopping tax evasion through the various favorite methods recognized by everyone.

The legislation introduced today seeks to amend the code by providing necessary protection for the civil rights of taxpayers while at the same time preserving the jeopardy assessment tool for the tax gatherer.

Specifically, this legislation would:

First. Require the IRS to file a petition in U.S. District Court within 5 days after an assessment for approval of the assessment, setting forth the reasons for making it.

Second. Allow the taxpayer against whom an assessment has been made to file with the appropriate district court a request for a hearing, to be held within 5 days following such request.

Third. Require that the court approve the reasonableness of both the basis of need for the assessment and the amount of the assessment.

Fourth. Require IRS to notify the taxpayer on the day of the filing of the petition—within 5 days after assessment—of the provisions of the law and to provide a form for requesting a hearing if he/she so desires.

These provisions do not weaken the power of the IRS to act promptly and effectively in cases of jeopardy. They do protect the taxpayer against arbitrary or capricious decisions made by agents in the field. They do reinforce the civil rights of taxpayers by returning due process to them in this kind of case. They do provide taxpayers with recourse in case of a wrongfully made decision—and recourse which is timely, so that financial loss is not permanent or irreparable.

There have been numerous cases reported to my committee of jeopardy assessments made without normal consideration for the rights of taxpayers or without normal presumption of innocence until proven guilty. In many cases—too many, in recent years—the assessment made is far more than the tax which might eventually be proven to be due. Witnesses before my committee have testified that in some cases the amount of the assessment is made purely on the basis of total assets of the taxpayer, being always set slightly higher than any possible bond which could be obtained by such taxpayer. This kind of action was never the intent of Congress, of course, and has no justification. A very pertinent column was written for the Wall Street Journal on September 25, 1974, concerning this kind of jeopard assessment. I ask consent that the article be printed in the RECORD following my remarks.

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

(See exhibit 2.)

Mr. MONTOYA. Mr. President, the Supreme Court has stated the heart of the problem in a finding concerning the relative interests of personal property and the Federal Government's interest in securing revenues:

Where only property rights are involved, mere postponement of the judicial enquiry is not a denial of due process if the opportunity given for the ultimate determination is adequate . . . (283 U.S. at 596–597)

The key words in that finding are "if the opportunity given for the ultimate determination is adequate." As the law now stands, the taxpayer is afforded little protection against an error in judgment by the agent of the Commissioner of IRS, acting as delegate of the Secretary of the Treasury. The provisions of the amendment I am offering today would provide that protection without in any way damaging the legimate power of the IRS to take immediate action to protect the Government against revenue loss. It in no way endangers the powers of a public servant to be required to explain his actions, or to promptly notify citizens of action taken against them and their rights under the law.

I urge the support of the Senate for this portion of the corrective legislation I am introducing today, and request that the bill be printed in the RECORD at this time.

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

S. 137

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) part II of subchapter A of chapter 70 of the Internal Revenue Code of 1954 (relating to jeopardy assessments) is amended by renumbering section 6864 as 6865, and by inserting after section 6863 the following new section:

"SEC. 6864. JUDICIAL OVERSIGHT OF JEOPARDY ASSESSMENT.

"(a) PETITION FOR APPROVAL.—Within 5 days after an assessment is made under section 6861, the Secretary or his delegate shall file in a United States district court a petition for approval of such assessment, which shall set forth the reasons for making such assessment. Such petition may be filed in any United States district court in which the taxpayer against whom such assessment is made may bring a suit for refund of any amount collected under such assessment. If the petition is not filed within such 5-day period the assessment under section 6861 shall immediately be abated.

"(b) REQUEST FOR HEARING.—Upon the filing of a petition under subsection (a) the taxpayer against whom the assessment is made, or the Secretary or his delegate, may file with the appropriate district court a written request for a hearing on such petition. Within 5 days after the filing of such request, the court shall hold a hearing on such application and, if a hearing is not held within such 5-day period, the assessment shall immediately be abated.

"(c) BURDEN OF PROOF.—No petition filed under subsection (a) may be approved by the court unless the Secretary or his delegate establishes to the satisfaction of the court—

"(1) that the belief of the Secretary or his delegate that the collection of the deficiency or tax involved will be jeopardized by delay is reasonable in light of the factual basis for such belief, and

"(2) that the amount of such assessment is reasonable in light of the factual basis for assessing such amount.

If a court disapproves a petition filed under subsection (a), the assessment under section 6861 shall immediately be abated. The district courts of the United States shall have jurisdiction over petitions filed under subsection (a) and shall, in the case of each petition, approve or disapprove such petition within 5 days after it is filed. Each such decision of the court shall include a finding with respect to paragraphs (1) and (2) of this subsection.

"(d) NOTICE TO TAXPAYERS.—On the same day on which a petition is filed under subsection (a) with respect to an assessment under section 6861, the Secretary or his delegate shall furnish to the taxpayer against whom such assessment is made written notice of the provisions of this section and a form for requesting a hearing under subsection (b).".

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

"Sec. 6864. Judicial oversight of jeopardy assessment.

"Sec. 6865. Termination of extended period for payment in case of carryback."

SEC. 2. The amendments made by this Act shall take effect on the first day of the third month which commences after the date of enactment of this Act.

EXHIBIT 1

CONSTITUTIONAL QUESTIONS RAISED BY THE JEOPARDY ASSESSMENT PROCEDURES

The Secretary of the Treasury is vested by Congress with the authority to end a taxpayer's taxable year, assess an immediate deficiency and demand payment, under Internal Revenue Code of 1954, as amended to date [hereinafter the Code] sections 6851 and 6861. 26 U.S.C. §§ 6851 and 6861. It may be thought that such procedures raise constitutional questions of due process and, perhaps, equal protection, and these contentions have been the subject of a number of judicial opinions. Because, however, all the opinions subsequent to 1931 which deal with the constitutional questions raised by the jeopardy assessment, rely substantially upon the Supreme Court's decision in *Phillips* v. *Commissioner*, 283 U.S. 589 (1931), it is this primary Supreme Court case which will be discussed in full herein. See *Continental Products Corp.* v. *Commissioner*, 66 F.2d 434 (Cir. 1, 1933); *Harvey* v. *Early*, 160 F.2d 836 (Cir. 4, 1947); *Dyer* v. *Gallagher*, 203 F.2d 477 (Cir 6. 1953); *Lloyd* v. *Patterson*, 242 F.2d 742 (Cir. 5, 1957); *Homan Manufacturing Co.* v. *Long*, 242 F.2d 645 (Cir. 7, 1957); *Ginsburg* v. *United States*, 278 F.2d 470 (Cir. 1, 1960) cert. den. 364 U.S. 878.

In *Phillips* the taxpayer was the successor-in-interest to a corporation, Coombe Garment Company, which had dissolved in 1919. Pursuant to section 280(a)(1) of the Revenue Act of 1926, c.27, 44 Stat. 9, 61 the stockholders who had received assets of a corporation during its dissolution were subjected to an assessment for the unpaid corporate taxes. The procedures under section 280(a)(1) were essentially summary processes not very distinct from the jeopardy assessment of today. Section 280(a)(1) stated only that these procedures applied to the case of an individual successor-by-dissolution of a corporate taxpayer.

Taxpayer, in *Phillips*, raised the argument that the summary procedures practiced under the Revenue Act violated the due process clause of the 5th amendment to the United States Constitution. The Court noted:

"The contention mainly urged is that the summary procedure permitted by the section violates the Constitution because it does not provide for a judicial determination of the transferee's liability at the outset. The argument is that such liability (except where a lien had attached before the transfer) is dependent upon questions of law and fact which have heretofore been adjudicated by the courts; that to confer upon the Commissioner power to determine these questions in the first instance, offends against the principle of the separation of the powers; and that the inherent denial of due process is not saved by the provisions for deferred review in a suit to recover taxes paid, or, in the alternative, for an immediate appeal to the Board of Tax Appeals [today, the Tax Court] with the right to review its determination in the courts because there are limitations and conditions in either method of judicial review." 283 U.S. at 593–594.

The Court disagreed.

Speaking through Mr. Justice Brandeis, the Supreme Court first reviewed the Congressional declaration of purpose behind the statute. It quoted from the House Report, H. Rept. No. 2, 70th Cong., 1st Sess., December 7, 1927, pp. 31–32, issued one year after the statute's enactment, which stated:

"Section 280 of the 1926 Act has proved a very effective and necessary method of stopping tax evasion through the various favorite methods recognized by everyone prior to the 1926 Act. The enforcement of the liability through court process had been ineffective and the amount of revenue lost through mala fide transfers or through corporate distributions of assets was admittedly large."

Furthermore, the Court quoted from the Conference Report on the enactment of the 1926 act, H. Rep. No. 356, 69th Cong., 1st Sess., February 22, 1956, p. 44, which stated:

"[The section] makes the procedure for the collection of the amount of the liability of transferees conform to the procedure for the collection of taxes . . . for procedural purposes the transferee is treated as a taxpayer would be treated."

After analyzing the legislative intent behind the provision the Court affirmed Congress's authority to utilize summary procedures for the collection of taxes. Citing a series of cases and Federal taxing acts dating to 1815, the Court stated that:

"The right of the United States to collect its internal revenue by summary administrative proceedings has long been settled. Where, as here, adequate opportunity is afforded for a later judicial determination of the legal rights, summary proceedings to secure prompt performance of pecuniary obligations to the government have been consistently sustained. . . . Property rights must yield to governmental need. Thus, while protection of life and liberty from administrative action alleged to be illegal may be obtained promptly by the writ of habeas corpus (citations omitted) the statutory prohibition of any "suit for the purpose of restraining the assessment or collection of any tax" postpones redress for the alleged invasion of property rights if the exaction is made under color of their offices by revenue officers charged with the general authority to assess and collect the revenue. . . . This prohibition of injunctive relief is applicable in the case of summary proceedings against a transferee." 283 U.S. at 596–597.

The Court weighed the relativity of personal property interests with the Federal government's interest in securing revenues promptly and found that:

"Where only property rights are involved, mere postponement of the judicial inquiry is not a denial of due process, if the opportunity given for the ultimate determination is adequate." 283 U.S. at 596–597.

Examining the procedures of the Revenue Act of 1926 in light of this standard for post-payment resolution of the liability, the Court noted that:

"The procedure provided in § 280(a)(1) satisfies the requirements of due process because two alternative methods of eventual judicial review are available to the transferee. He may contest his liability by bringing an action, either against the United States or the Collector, to recover the amount paid. This remedy is available where the transferee does not appeal from the determination of the Commissioner, and the latter makes an assessment and enforces payment by distraint; or where the transferee voluntarily pays the tax and is thereafter denied administrative relief. . . . Or the transferee may avail himself of the provisions for immediate redetermination of the liability by the Board of Tax Appeals, since all provisions governing this mode of review are made applicable by § 280." 283 U.S. at 587–588.

The taxpayer noted that one could only get to the Board of Tax Appeals by filing a bond equal to the amount of the tax liability, but the Court determined that the government's requirement of immediate payment was paramount to the taxpayer's requirement of retention of assets prior to suit:

"The privilege of delaying payment pending immediate judicial review, by filing a bond, was granted by the sovereign as a matter of grace solely for the convenience of the taxpayer." 283 U.S. at 599–600.

The opinion of the Court in *Phillips* has been cited as controlling as recently as 1960, in *Ginsbury* v. *United States*, 278 F.2d 470 (Cir. 1, 1960) cert. den. 364 U.S. 878. However, the Supreme Court does not appear to have decided another case on the *Phillips* problem of constitutionality of jeopardy assessments since that determination in 1931, and no cases decided by the Court appear to undermine the current validity of the 1931 holding. Consequently, arguments raised against the constitutionality of the jeopardy assessment provisions of 26 U.S.C. §§ 6851 and 6861 would, while possibly arguable, face a large obstacle to success where predicated upon denial of due process guaranteed by the Fifth Amendment to the United States Constitution.

Other than the due process arguments which appear to lack supportable precedents

in light of the Court's ruling in *Phillips*, discussed heretofore, arguments against the jeopardy assessment procedures and laws would appear appropriate when couched in terms of the equal protection guaranty of the Constitution. The applicable code provisions give the Secretary of the Treasury broad discretion in determining when a jeopardy assessment may be made and, while the courts have been reluctant to review this discretion, there is authority to believe than an argument might be made that a specific jeopardy assessment could be in abuse of such discretion.

The only equal protection clause in the Constitution is contained in the 14th Amendment, which is not applicable to the Federal government; however, the courts have held that the basic prohibition against discriminatory action is incorporated into the due process clause of the Fifth Amendment of the Constitution, and thereby applies to the Federal government. *Bolling* v. *Sharpe*, 347 U.S. 497, 500 (1954). Therefore, where a specific determination to issue a jeopardy assessment is found to be arbitrary or capricious, it may be argued to deny the equal protection of the laws so embodied in the due process clause of tne Fifth Amendment. This would appear relevant in spite of some courts' refusal to review the jeopardy determination as an absolute discretion of the Secretary or his delegate. *Publishers New Press, Inc.* v. *Moysey*, 141 F. Supp. 340 (D.C.N.Y., 1956) dism'd 2d Cir; *Brown-Wheeler Co.*, 21 BTA 755; *Estate of W. S. Tyler*, 9 BTA 255; *California Association Raisin Co.*, 1 BTA 1251. It should be noted, however, that a number of courts which have upheld the determination by the Commissioner or Secretary have found that there were specific grounds for the jeopardy, thereby implying that failure to find such grounds may give rise to a finding or arbitrary or capricious invalidity of the assessment. *Veeder* v. *Commissioner*, 36 F.2d 342 (4 Cir. 1933); *Foundation Co.* v. *United States*, 15 F. Supp 229 (Ct. Cl. 1936); *James Couzens*, 11 BTA 1040. Therefore, it would not appear wrong to argue that a specific determination of the Secretary or his delegate that jeopardy should attach was unconstitutional as violative of equal protection of the laws. However, it should be noted that this would only strike a specific assessment and not the process as a whole.

These two bases for argument would appear to hold the essential grounds for a constitutionality challenge to the jeopardy assessment provisions of 26 U.S.S. §§ 6851 and 6861.

HOWARD ZARITSKY,
Legislative Attorney.

EXHIBIT 2

TAX REPORT: A SPECIAL SUMMARY AND FORECAST OF FEDERAL AND STATE TAX DEVELOPMENTS

Another circuit rules against the IRS on tax seizures in drug cases.

The Fifth Circuit appeals court has joined the Sixth Circuit in overturning the IRS position, while the Second and Seventh have sustained it. With appeals pending in the Third, Fourth and Ninth circuits, the issue seems destined for the Supreme Court. The sharp controversy involves so-called "jeopardy assessments" against narcotics suspects. The IRS terminates their tax year, declares a huge sum in taxes immediately due, and seizes their assets.

One main issue concerns whether the IRS must then promptly issue a "deficiency notice." The notice is required before a taxpayer may appeal to the Tax Court, the only forum where one may contest a tax before paying it. The IRS has argued the notice isn't due until the drug suspect's regular tax year ends and he files a return. In a lengthy opinion by Chief Judge John R. Brown, however, the Fifth Circuit cited "clear congressional intent" that taxpayers be able to contest taxes prior to payment. The court didn't see how any legitimate government interest would be hurt by requiring prompt notice.

One big factor in the decision was the drastic impact of a jeopardy assessment. Judge Brown called it "a weapon with atomic potentialities in the arsenal of the tax gatherer."

Jeopardy assessments often seem entirely arbitrary, the Fifth Circuit says.

Somehow the tax assessments seem to total whatever funds are available for seizure. In a companion case (see preceding item), the Fifth Circuit ruled in favor of a Mexican trucker who was arrested as he crossed into Laredo, Texas, with $11,270 in cash (to buy auto parts, he said). The IRS promptly hit him for $12,774 in taxes, seized the cash and sold the truck, then refused to say how it figured he owed that much.

"A non-resident alien," Judge Brown recited, "has money and truck taken preemptorily from him with no more than a vague suggestion that the government 'suspected' these strangers were trafficking in drugs. Adding to the mystery of that 'suspicion' is the total—the word is total—lack of any basis for computing the tax to be $12,774—almost the precise total of the money and the value of the truck—a pattern followed often in contemporary (IRS) practice," the judge declared.

By Mr. MONTOYA:

S. 138. A bill to amend the Internal Revenue Code of 1954 to revise the provisions relating to property exempt from seizure for collection of taxes. Referred to the Committee on Finance.

NEW AMOUNTS EXEMPT FROM LEVY BY IRS

Mr. MONTOYA. Mr. President, the final amendment I am offering today to correct what I perceive to be problems in our Internal Revenue Code concerns the amount exempted from levy by the IRS on any taxpayer.

In the hearings held before my committee, Mr. Alex J. Soled, representing the American Bar Associatioin, made a most persuasive statement concerning this matter and submitted a copy of the recommendations of the committee on collections and limitations of the tax section of the American Bar Association, which also recommended action.

The legislation I am offering would do the following things:

First. Create a schedule of income exempt from levy based on the number of dependents in a taxpayer household.

Second. Keys the schedule to the Consumer Price Index, so that changes resulting from inflation will be reflected in the income exempted.

Third. Increases the dollar value of fuel, provisions, furniture, and personal effects from $500 to $1,000 in value which will be exempt from levy.

Fourth. Makes other technical and minor adjustments in the exemption section of the tax code.

The purpose of the exemption from levy, of course, is to assure that no taxpayer is deprived of basic essentials for life for himself or his family. To quote the Bar Association report:

In an era where a succession of laws has been enacted providing for support and subsidy payments by governments to low income individuals and families who are living at poverty or bare subsistence levels, it is anachronistic for the Treasury to levy on a taxpayer's total earnings where to do so would take all funds even if committed to other creditors, and could leave such a taxpayer living at a sub-subsistence level.

Clearly the maximum exemption levels presently in the law were put there when inflation had not yet changed the value or our dollar or the dollar value of our goods. The exemption level presently on the books is simply inadequate to provide the protection to the taxpayer which it was intended to do.

Mr. President, I ask that the statement of Mr. Soled be printed in the RECORD at the close of my remarks, and that the bill be printed in the RECORD at the same time.

I urge the support of my colleagues for this and the other three bills which I have presented today as a package. It is essential that we immediately move to make these very necessary changes in our tax procedures.

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

STATEMENT OF ALEX J. SOLED, AMERICAN BAR ASSOCIATION, BALTIMORE, MD.

I am an attorney practicing in Baltimore, Maryland with the law firm of Smith, Somerville & Case. My area of practice is now confined to Estate Planning and for almost 15 years has been limited (with minor exceptions) to Federal and State Taxation as well as Estate Planning. At the present time I am Chairman of the Committee on Collections and Limitations of the Section of Taxation, American Bar Association.

I appear here today officially on behalf of the Section of Taxation of the American Bar Association with respect to two specific Legislative Recommendations proposed by the Section and approved as official policy of the Association.

In connection with what culminated as the Federal Tax Lien Act of 1966, the American Bar Association appointed a special committee under the name of the Committee on Federal Liens. While this Committee confined its studies to the area of priorities, obligations and procedural rights of third parties who become enmeshed with federal tax liens, the Committee did call attention to, among other items, questions relating to the coverage of the federal tax lien. 84 A.B.A. Rep. 680–684 (1959). This call for attention to other questions was repeated by William T. Plumb, Jr., Esq., of Washington, D.C. (who was one of the members of the special committee) in his now famous three part article in 77 Yale Law Journal (1968).

Before we reach these questions, it will undoubtedly be helpful to restate that a lien for Federal taxes arises when a taxpayer's liability is assessed and he neglects or refuses to pay the same after demand, which lien attaches to all of the property and rights to property he then owns or subsequently acquires. One of the strongest means available to collect the tax is by levy upon such property which includes the power of distraint and seizure by any means. A judgment or other court order is not required before levy action is taken.

One of the questions raised, noted that while wages are subject to levy there is no minimum exemption for subsistence. The property that is exempt from levy for federal taxes is set forth in § 6334 of the Internal Revenue Code of 1954 and is extremely limited. For example, the statute provides, at subsection (a) (3) thereof, that there shall be exempt so many of the books and tools necessary for the trade, business or profession of the taxpayer as do not exceed in the aggregate $250 in value. Obviously a lawyer, medical doctor or dentist, practicing privately

for his own account, cannot earn a living when the excess of such items above $250 are sold pursuant to levy.

At any rate, § 6334 further goes on to provide that no other property not there listed should be exempt from levy; even if other federal laws provide exemptions. Thus, old age assistance, disability insurance proceeds, veterans' benefits and other rights otherwise commonly exempted from execution, are subject to levy for federal taxes.

In 1971, the Committee on Collections and Limitations, whose chairman was then Douglas L. Barnes, Esq., of Chicago, Illinois, addressed itself to a study of the extremely limited nature of the exemptions from levy as it affected wages.

The Committee found that while Congress enacted a liberal statute exempting earnings from garnishment for debt (15 U.S.C.A. § 1671, et seq.) the statute specially excepted from such provisions any debt due for any Federal tax. The Committee determined that "[i]n an era where a succession of laws has been enacted providing for support and subsidy payments by governments to low income individuals and families who are living at poverty or bare subsistence levels, it is anachronistic for the Treasury to levy on a taxpayer's total earnings where to do so would take all funds even if committed to other creditors, and could leave such a taxpayer living at a sub-subsistence level. It is believed that no public necessity can be demonstrated whereby the fisc should be so favored."

By reason of its study the American Bar Association has now approved and recommended to the Congress Tax Section Recommendation No. 1972–1, a copy of which is annexed hereto, which would provide a new minimum exemption from each Federal tax levy on earnings, including disability and retirements. The amount proposed to be exempt from each levy is, in general, $100 per week for up to four weeks, net of all amounts withheld from such earnings under various tax laws and any required support payments for minor children.

Nothing has happened since the date when the American Bar Association approved this proposal in August of 1972 which should cause this honorable body pause in urging the entire Congress to enact the substance of such proposal. To the contrary, recent developments indicate that concern about the problem causing its adoption of the proposal was not misguided.

One of the elements in the entire picture which cause the Committee to question the necessity for such legislation was the salutary and enlightened position of the Internal Revenue Service as set forth by Commissioner Thrower in 1969. As stated by him [(see 24 Tax Lawyer 218 1971)], the Internal Revenue Service, administratively, exempts "salaries and wages in definite hardship cases" and as a general rule they "do not serve successive levies on wages".* In the Committee's deliberations, while it appreciated and recognized the commendable position of then Commissioner Thrower, it was the Committee's position that his policy was his administration's position which was subject to change with a change in administrations, and that even if such position was not to change it did not provide ascertainable and published standards for the guidance of I.R.S. collection officers, taxpayers and their representatives. Considered in light of the standards set forth in the present Internal Revenue Manual, the Committee's opinion can be considered to be prescient. In pertinent part, the Manual provides:

"The levy authority is far reaching. It permits attaching the total wage or salary payment due the taxpayer at the time of service of a notice of levy and the seizure and sale of all of his assets except certain property that is specifically exempt by law."

§ 5312.1 (2)

"Except for . . ., no other property or rights to property are exempt from levy. No provision of State law can exempt property or rights to property from levy for the collection of Federal taxes. The fact that property is exempt from execution under State personal or homestead exemption laws does not exempt the property from Federal levy."

§ 5313.1 (3)

We occasionally hear reports of an I.R.S. collection officer who has been censured for failure to take appropriate levy action. While these probably do not always involve wage levies, I do call to your attention that under the Manual it is a collection officer's duty to level on the "total wage or salary payment due the taxpayer" and he might therefore be subject to censure for failure to carry out that literal requirement.

Many other instances of wage levy action taken by the I.R.S. have been reported to me where such action created for the taxpayer a genuine hardship. While such reports are not documented, I am of the opinion that the reporters are sufficiently authoritative as to bring such matters to this honorable body's attention.

In 1971 Congress introduced into the Internal Revenue Code § 6331(d) which required the Secretary, before levying on a taxpayer's salary or wages, to give such taxpayer a ten day notice of such proposed action. While this enactment and the enactment of restrictions on garnishments as provided by 15 U.S.C.A. § 1671, et seq., evidences Congress' concern about such levies it should further implement such concern by enlarging the exemptions from levy in accord with the American Bar Association's referred to proposal.

I should like to bring to the attention of this honorable body one other matter involving I.R.S. collection procedures which deserve your consideration. This involves the situation where I.R.S., inadvertently to be sure, levies on property which it believes belongs to the taxpayer but in fact does not. Where this has occurred the wronged party frequently sustains damages for which there is no relief available to him; his remedy being limited by the provisions of § 7426 of the Internal Revenue Code. In substance this section limits such relief to the return of the property if still in the Government's possession and the amount received on the sale if sold. Since the property may have been lost or destroyed or its value depreciated while in the Government's possession, the price at which it was sold may not have realized its true fair value (having been sold under distress conditions), consequential damages may have been sustained by reason of the withholding of such property, and expenses may have been incurred for lawyers, accountants and expert witnesses to enable the true owner (the non-taxpayer) to secure redress, the relief accorded by § 7426 was considered by the Committee to be inadequate. To secure to such wronged party adequate relief, in 1973 the Committee, whose chairman was then Phillip L. Mann, Esq., then of Houston, Texas, now of Washington, D.C., recommended amending § 7426 to provide for the relief referred to in the next preceding sentence. This proposal, contained in Tax Section Recommendation No. 1973–1, a copy of which is annexed hereto, has received the approval of the American Bar Association's Section of Taxation as well as the American Bar Association. Its recommendation by this honorable body and its enactment by the Congress is urged.

Finally, I wish to thank this Subcommittee and its Chairman, Senator Joseph M. Montoya, for their interest in this subject and giving me the opportunity to present these views.

*A statement of this policy now appears in I.R.S. Publication 586 (January 1974), at page 5 thereof.

S. 138

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 6334 (a) of the Internal Revenue Code of 1954 (relating to property exempt from levy) is amended to read as follows:

"(a) EXEMPT PROPERTY.—

"(1) GENERAL EXEMPTION—The following items are exempt from levy:

"(A) WEARING APPAREL AND SCHOOL BOOKS.—Such items of wearing apparel and such school books as are necessary for the taxpayer or for members of his family.

"(B) FUEL, PROVISIONS, FURNITURE, AND PERSONAL EFFECTS.—If the taxpayer is the head of the family, so much of the fuel, provisions, furniture, and personal effects in his household, and of the arms for personal use, livestock, and poultry of the taxpayer, as does not exceed $1,000 in value.

"(C) BOOKS AND TOOLS OF A TRADE, BUSINESS, OR PROFESSION.—The books and tools necessary for the trade, business, or profession of the taxpayer.

"(D) UNDELIVERED AND UNOPENED MAIL.—Mail addressed to any person, which has not been delivered to the addressee.

"(2) EXEMPTIONS RELATED TO INCOME.—

"(A) GENERAL RULE.—There is exempt from levy so much of the income of the taxpayer as does not exceed the amount determined under the following table:

"(B) EXEMPTION TABLE.—

If the number of the taxpayer's dependents is—	The amount of the exemption for the year is—
0 or 1	$4,000
2	5,000
3	7,000
4	9,100
5	10,200
6	12,000
More than 6	To be determined

The amount of the exemption computed on a monthly, weekly, or other basis, and the amount of the annual exemption for a taxpayer with more than 6 dependents shall be determine by the Secretary or his delegate by regulation. In applying the table, the Secretary or his delegate shall take into account the taxpayer's rate if income at the time of the levy as well as amounts of income received prior to levy during the taxable year during which levy is made.

"(C) DEFINITION OF INCOME.—For purposes of this paragraph the term 'income' includes—

"(i) any amount payable to the taxpayer with respect to his unemployment (including any portion thereof payable with respect to dependents) under an unemployment compensation law of the United States, any State, the District of Columbia, or the Commonwealth of Puerto Rico,

"(ii) annuity or pension payments under the Railroad Retirement Act, benefits under the Railroad Unemployment Insurance Act, special pension benefits received by a person whose name has been entered on the Army, Navy, Air Force, and Coast Guard medal of honor role (38 U.S.C. 562), and annuity payments based on retired or retainer pay under chapter 73 of title 10, United States Code,

"(iii) any amount payable to the taxpayer as workmen's compensation (including any portion thereof payable with respect to dependents) under a workmen's compensation law of the United States, any State, the District of Columbia, or the Commonwealth of Puerto Rico, and

"(iv) salary, wages, and other income of a taxpayer (other than so much of the taxpayer's salary, wages, or other income as is necessary to comply with a judgment of a court of competent jurisdiction entered prior to the date of levy, against the tax-

payer under which he is required to contribute to the support of his minor children).

"(D) COST OF LIVING INCREASES.—At the beginning of each fiscal year (commencing with the fiscal year beginning on October 1, 1976), as there become available necessary data from the Bureau of Labor Statistics of the Department of Labor, the Secretary of Labor shall certify to the Secretary of the Treasury or his delegate, and publish in the Federal Register, the percent difference between the price index for the 12 months preceding the beginning of such fiscal year and the price index for the base period. Each dollar amount contained in the table in subparagraph (C), and in regulations promulgated by the Secretary or his delegate under such subparagraph and in effect prior to October 1, 1976, shall be increased by such percent difference. Each amount so increased shall be the amount in effect for the calendar year which begins during such fiscal year. For purposes of this subparagraph—

"(i) the term 'price index' means the average over the 12 month period commencing on October 1 of each year of the Consumer Price Index (all items—United States city average) published monthly by the Bureau of Labor Statistics, and

"(ii) the term 'base period' means the 12 month period commencing on October 1, 1974.".

SEC. 2. The amendments made by this section apply to any levy made more than 30 days after the date of enactment of this Act..

By Mr. MONTOYA:

S. 139. A bill to amend section 7802 of the Internal Revenue Code of 1954 to define the term of the Commissioner of Internal Revenue. Referred to the Committee on Finance.

ESTABLISHMENT OF A 5-YEAR TERM FOR COMMISSIONER OF INTERNAL REVENUE

Mr. MONTOYA. Mr. President, as a part of the package of bills I am introducing today to revise the Internal Revenue Code, I am introducing an amendment which would set a term of 5 years for the Commissioner of Internal Revenue.

This legislation will "depoliticize" the top official of our tax collection system, and will insulate him against political pressure from any source. In addition, the establishment of a definite term of service for this very important office will provide a more orderly and professional administration, with the Commissioner having the opportunity to develop and maintain procedures and policy within a definite time frame. The Internal Revenue Service is a complex and complicated part of our Government and certainly should be administered without any fear that unexpected or unwarranted personnel changes at the top level could disrupt the steady and businesslike work of the Service.

Unfortunately, in recent years, we have seen a serious effort made to bring partisan politics into the IRS. The Watergate investigations may have made no more important contribution than that of alerting us to the possibility of partisan pressure being put on the Commissioner of Internal Revenue or on his agents.

In book VIII, Internal Revenue Service, a report of the Committee on the Judiciary hearings of the House of Representatives, it is significant to note that clear evidence is presented of the effort to use the IRS for partisan political purposes. Former Commissioner Randolph Thrower has stated, as reported in book VIII, that he had to threaten to resign in order to prevent White House interference. When Commissioner Thrower did resign in 1971 he attempted to express to the President his concern that political influence into the IRS would be very damaging to the revenue system.

In spite of the warnings of Commissioner Thrower, however, the House Judiciary Committee report makes clear that pressure was put on the IRS to act in what was clearly an unethical and unfair manner. Tax returns were examined and their contents used for political information. For example: a memorandum from John Caulfield to John Dean, dated October 6, 1971, lists charitable contributions from a tax return. Caulfield sent another memorandum to Dean on September 30, 1971, reporting on tax audit information about Rev. Billy Graham. In these and other cases cited before the House committee, there was clear evidence of individual income tax return information being released improperly.

Former Commissioner of Internal Revenue Johnnie Walters, who followed Commissioner Thrower in this difficult job, resigned in April of 1973. In an affidavit dated June 10, 1974, he stated that in 1972 he was asked to check on the tax return of Lawrence O'Brien. Because of the very revealing statements made in his affidavit, I ask unanimous consent that Commissioner Walters' affidavit be printed in the RECORD at this point.

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

AFFIDAVIT

Johnnie M. Walters, being duly sworn, deposes and says:

1. This statement is made upon my best recollection of the facts as they occurred, without my having had the benefit of reference to files and other materials in the possession of the Internal Revenue Service (IRS) which might permit a more precise statement.

2. I served as Commissioner of Internal Revenue from August 6, 1971 through April 30, 1973.

3. Beginning late in 1971 or early in 1972 the IRS began an intensive investigation of the Howard Hughes organizations and operations. During the course of that investigation, IRS learned that some fairly substantial amounts of money had been paid by the Hughes organization to Lawrence O'Brien and his associates. Sensitive case reports with respect to the Hughes investigation reflected the O'Brien payments. (Sensitive case reports are sent to the Commissioner from the field each month to keep him and the Secretary of the Treasury advised of IRS investigations or proceedings relating to prominent persons or sensitive matters.) A Special Assistant to the Commissioner (during my tenure as Commissioner, Roger Barth) regularly delivered to the Secretary of the Treasury the monthly sensitive case reports.

4. During the summer of 1972, Secretary Shultz informed me that someone in the White House (subsequently identified as John Ehrlichman) had information that Mr. O'Brien had received large amounts of income which might not have been reported properly. The Secretary asked whether IRS could check on the matter, and I advised that IRS could.

5. I thereupon requested Assistant Commissioner Hanlon (Compliance) to determine whether Mr. O'Brien had filed returns which reflected substantial amounts of income. After a few days, he reported orally that Mr. O'Brien had filed returns which reported large amounts of income during the preceding years, that IRS had examined the returns for 1970 and 1971, that Mr. O'Brien had paid a small deficiency for one year, and that the examinations were closed. I reported this to Secretary Shultz.

6. Thereafter, from Secretary Shultz I learned that Mr. Ehrlichman was not satisfied with the report on the status of Mr. O'Brien's returns. I informed Secretary Shultz that Mr. O'Brien would be interviewed in connection with the Hughes investigation. I do not recall specifically whether scheduling of the interview of Mr. O'Brien originated in the Field investigation independently of Secretary Shultz's inquiries or as a result of Secretary Shultz's inquiries, but, in any case, IRS needed the interview and would have scheduled it. During 1972, however, it was IRS policy to postpone investigations involving sensitive cases, to the extent possible without loss of position or revenue, until after the election. In line with that policy, IRS probably would not have interviewed Mr. O'Brien prior to the election; however, because of the indicated inquiries, IRS did interview Mr. O'Brien during the summer of 1972.

7. To the best of my recollection, the IRS field personnel had some difficulty in scheduling an interview with Mr. O'Brien and at one point they agreed to interview his son instead (who had informed the IRS agents that he had information about his father's financial matters). Before that interview took place, however, I was informed by Secretary Shultz that Mr. Ehrlichman thought IRS should interview Mr. O'Brien, not his son. I agreed with that and directed that IRS interview Mr. O'Brien rather than his son. I do not know how Mr. Ehrlichman learned of some of the details of which he had knowledge.

8. IRS interviewed Mr. O'Brien on or about August 17, 1972. Mr. O'Brien was cooperative although the interview was limited timewise, and Mr. O'Brien suggested that any further interview be postponed until after the election. My recollection is that IRS furnished a copy of the Conference Report to Secretary Shultz. A short time thereafter, Secretary Shultz informed me that Mr. Ehrlichman was not satisfied and that he needed further information about the matter. I advised the Secretary that IRS had checked the filing of returns and the examination status of those returns (closed) and that there was nothing else IRS could do.

9. On or about August 29, 1972, at the request of Secretary Shultz, I went to his office with Roger Barth so that we could conclude review of the O'Brien matter and dispose of it. Secretary Shultz, Mr. Barth and I discussed the matter and agreed that IRS could do no more. We then jointly telephoned Mr. Ehrlichman. Secretary Shultz informed Mr. Ehrlichman of that; I stated that IRS had verified that Mr. O'Brien had filed returns, that those returns reflected large amounts of income, that IRS already had examined and closed the returns, and that we (Shultz, Walters and Barth) all agreed that there was nothing further for IRS to do. Mr. Ehrlichman indicated disappointment, and said to me "I'm goddamn tired of your foot dragging tactics." I was offended and very upset but decided to make no response to that statement. Following the telephone conversation, I told Secretary Shultz that he could have my job any time he wanted it.

10. The meeting with the Secretary and telephone conversation with Mr. Ehrlichman stand out in my recollections as the final incidents in the O'Brien matter, however, in concluding the matter, I may have furnished some data with respect to Mr. O'Brien's re-

turns to Secretary Shultz shortly after (5 or 6 days) that encounter (some questions posed seem to indicate this).

Mr. MONTOYA. Mr. President, the legislation I am introducing today may not completely protect future Commissioners from pressure. However, it will change their status, as it now exists, of serving at the pleasure of the White House. It is an important first step in providing insulation against pressure. It will remove temptation from those who find the tax information held under the control of the Commissioner irresistible for political use.

Nothing is more important in a nation which supports government through voluntary self-assessment of taxes than trust in the tax collector—in his integrity, in his decency, in his fairness. We have been fortunate, indeed, to have men who refused to go along, in most cases, with the pressure from political operators. However, we may not always be that fortunate—and the very existence of that pressure mandates a protection for the men whom we ask to accept the responsibility of running our internal revenue system.

I ask unanimous consent that the bill be printed in the RECORD following my remarks.

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

S. 139

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 7802 of the Internal Revenue Code of 1954 (relating to Commissioner of Internal Revenue) is amended to read as follows:

"SEC. 7802. COMMISSIONER OF INTERNAL REVENUE"

"(a) Establishment.—There shall be in the Department of the Treasury a Commissioner of Internal Revenue, who shall be appointed by the President, by and with the advice and consent of the Senate. The Commissioner of Internal Revenue shall have such duties and powers as may be prescribed by the Secretary.

"(b) Term of Office.—The Commissioner of Internal Revenue shall serve for a term of 5 years.

"(c) Vacancies.—An individual appointed to complete any term of the Commissioner of Internal Revenue shall be appointed only to complete the unexpired portion of such term. If such vacancy should be for a period of less than six (6) months, the Deputy Commissioner, or, if the position of Deputy Commissioner be vacant, that person holding the highest, non-appointed official position in the Internal Revenue Service shall act during the unexpired portion of such term, and no Commissioner shall be appointed. No person may serve as Commissioner of Internal Revenue for a period of time in excess of 5 years.

"(d) Removal.—An individual who is the Commissioner of Internal Revenue may be removed from such office only for malfeasance in office.

(b) The amendments made by this Act shall take effect on the date of enactment of this Act.

(c) Notwithstanding the provisions of section 7802 of the Internal Revenue Code of 1954, as amended by this Act, any individual who holds the office of Commissioner of Internal Revenue on the day before the date of enactment of this Act and who has been appointed by and with the advice and consent of the Senate may continue to hold such office without regard to such section as amended by this Act.

By Mr. PELL:

S. 140. A bill to require congressional approval of oil import fees. Referred to the Committee on Finance.

Mr. PELL. Mr. President, I am deeply cognizant of the grave energy situation which confronts our Nation. I appreciate the fact that there are no easy solutions, and that the President in presenting his program had to make difficult choices.

I believe the Congress should give careful and expeditious consideration to the broad program which the President has outlined in his state of the Union address.

But I am very deeply troubled at the President's announced intention to move forward with extremely important portions of his energy program, under emergency Executive authorities, and without congressional approval.

The President announced that he will impose higher import fees on oil beginning February 1 and will decontrol domestic oil prices as of April 1.

Mr. President, these policies, if they are desirable at all, can only work equitably as part of an overall energy program. If these changes are instituted alone, the result will be a harsh, discriminatory, and unjust burden on oil consumers, industry, and homeowners in New England, which is not only most heavily dependent on oil as an energy source, but most heavily dependent on imported oil.

The entire question of whether excise and import taxes on oil is the best way to reduce energy consumption is debatable. And it is a question of such importance, with such profound implications for our entire economy that I believe this policy should not be pursued without the explicit and expressed approval of the Congress of the United States.

For that reason, I am today introducing legislation to prohibit any increase in oil import fees until and unless those increases are approved by the Congress.

As I said at the outset, I believe the Congress should give full, fair, and prompt consideration to the entire energy program proposed by the President. But I do not believe that isolated and highly important parts of that program should be instituted, unilaterally, by the executive branch.

New England stands to suffer more than any other region of the Nation under the President's program. I cannot and will not stand by and permit the price of oil for every Rhode Island homeowner and buisnessman to be boosted by simple Presidential decree.

Any energy program enacted must be fair and just and must impose no unfair or disproportionate burdens on any one region of the Nation or on any one class of people. The only way to guarantee that the burdens of energy conservation are fairly distributed is to consider the program as a whole.

Congress must be given that opportunity. Indeed, Congress has a responsibility to consider the oil conservation program in its entirety. It is to preserve that opportunity, to permit the Congress to fulfill its responsibility, and to protect the economy of New England from a Presidentially imposed disaster that I introduce this legislation.

Mr. President, I ask unanimous consent that the text of my bill, prohibiting increases in oil import fees without the expressed approval of the Congress, be printed at this point in the RECORD.

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

S. 140

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

The provisions of Section 232 of the Trade Expansion Act of 1962 notwithstanding, import fees and import license fees on crude oil or petroleum products in effect on January 15, 1975, shall remain in effect until increased, reduced or eliminated by an act of the Congress.

By Mr. McCLURE (for himself, Mr. FANNIN, and Mr. GARN):

S. 141. A bill to repeal the Gun Control Act of 1968; and

S. 142. A bill to amend chapter 44 of title 18 of the United States Code (respecting firearms) to penalize the use of firearms in the commission of any felony and to increase the penalties in certain related existing provisions, to lower certain age limits from 21 years to 18, and to eliminate certain recordkeeping provisions with respect to ammunition. Referred to the Committee on the Judiciary.

Mr. McCLURE. Mr. President, on many occasions I have addressed this body regarding the ever-continuing erosion of individual liberties which is taking place in this country. I have often brought to attention the ever-increasing intervention of the Federal Government into the lives of our citizens through the expansion of bureaucracies and the thousands of regulations which they promulgate as a result of the many laws passed here in Congress. One such law which has done nothing but further harass millions of Americans—the Gun Control Act of 1968—remains on the books as an example of a dangerous threat to the basic constitutional right of every American—the right to bear arms. The Gun Control Act of 1968, a law passed at a moment of national hysteria, has proved to have no adverse affect on anyone other than the law-abiding citizen while the crime statistics continue to rapidly rise. Today I am reintroducing a bill to repeal this Gun Control Act.

To possess and use firearms is historically, legally, and constitutionally recognized in this Nation. The second amendment clearly proclaims "the right of the people to keep and bear arms shall not be infringed." I observe with interest that rarely does anyone argue with the inviolability of the first amendment guaranteeing freedom of speech and the press but yet many times those same champions of the first amendment are often the first to recommend restrictive legislation which moves to disregard those guarantees of the second amendment. Our major television networks all push for more gun controls and even recommend confiscation at times. An FCC Commissioner recently stated that he was convinced of the correlation between violence on the tube and violence in the streets. He was not denying or suggest-

ing to deny the broadcast of such programing but just pointing out a correlation that might well exist and perhaps should be dealt with.

I agree with his observation for it points out that there may be other points to attack in attempts to solve our crime problem than just the firearm. As John R. McClory recently stated in an article on gun control in "Shooting Times":

> You are treating the symptom, not the cause, by attempting to reduce crime by focusing upon one of the many instruments which may be used to commit a crime. The answer to violent crimes, if one exists, is a change in the attitude of the population—the elimination or sublimation of the desire in any man to injure or kill another.

Mr. McClory points out that Switzerland "makes every male citizen above the age of 16 a member of the militia and requires that each keep a firearm and ammunition in his home. Yet the incidence of the use of firearms in the commission of crimes in that country is almost nil. The difference is not the availability of weapons but the general sociological attitude toward crime."

Gun control advocates conveniently forget that crime flourishes when courts are lenient and when controls on police officers hamper effective law enforcement. All of the firearm laws in the world are not going to deter crime until there is a change in attitude toward the role of law enforcement and a rekindling of a universal respect for the laws of the land. I do not minimize for a moment the seriousness of the crime situation in this country. Neither do I minimize the danger of the 1968 gun control laws on our personal liberties or the threat further firearms control can bring as an effort by those who want to disarm the private citizen. I feel it is a myth that no guns means no crime.

The Gun Control Act of 1968 has not worked. It is ineffective in preventing crime as witnessed by the staggering increase in the crime rate that has taken place within the 7 years this law has been on the books. Crime statistics clearly indicate that it is the cities, not the hunting areas where the misuse of firearms occurs. For example, the FBI reports that in 1973 two-thirds of all robberies occurred in the big cities. These statistics also show that our less densely populated areas have the lowest homicide rate. Coincidentally, these areas usually have the least restrictive laws on the possession of firearms. It is unnecessary to penalize the outdoorsman for the crime-in-the-streets problem that exists elsewhere. Further, it has been proven in many cities that restrictive gun legislation has not solved their problem. John McClory in his article concludes and I agree, that "national firearms legislation that may appear to be a solution to a problem in one part of the country may have no practical application in another." I am convinced, as are many of my fellow Idahoans, that legislation curbing the purchase of guns will neither prevent a man bent on committing a crime from doing so, nor promote safety by disarming the law-abiding citizen.

The laws against ownership of weapons by law-abiding citizens do not reach criminals. Instead, restrictions on ownership and use of firearms discriminate against honest citizens. Often they actually aid the criminal by disarming his victim. So the strongest argument against gun laws is their utter futility in reducing armed crimes. In this country today we do not have a gun problem; we have a crime problem. The FBI in its reports on crime reserve pages upon pages for the explanation of the many ingredients and motivations behind criminal activity—"size, composition and relative stability of the population, climate, education, recreation, religions, characteristics, effective strength and standards of police force, policies of the prosecuting officials and courts, public attitude toward law enforcement problems," to name a few.

One further point of importance is reflected in the cost to the taxpayers of the Gun Control Act of 1968. The Citizens Committee for the Right To Keep and Bear Arms very adeptly pointed this factor out in a letter to the New York Times recently.

In that letter it was pointed out that a repeal of the 1968 Gun Control Act would reduce the financial burden on the taxpayer. This makes commonsense for the tax dollars used in administering an ineffective law during times of great economic stress might be more effectively used elsewhere in the fight against crime.

We in Congress need to take a more practical approach to crime in which a gun is used. The most effective method of deterring crime is to deal swiftly and sternly with criminals. In this light, I am today also reintroducing a bill which provides that the use of a firearm in the commission of any Federal crime is a separate Federal offense. A mandatory sentence of from 5 to 10 years imprisonment would be imposed upon criminals convicted of using a gun while committing a Federal felony. A second conviction would result in a mandatory 10-years-to-life sentence. Courts would neither suspend the sentence nor allow it to run concurrently with any other sentence. In addition, the bill removes registration requirements from certain ammunition. I fully believe that this legislation if enacted will operate as a more effective deterrent to the use of firearms by criminals than all the rules and regulations which have emanated from the Gun Control Act of 1968.

Idaho led the fight against gun controls back in 1968, and time has proven us right. Existing laws are little more than harassment of honest citizens. Crime statistics, where a gun is involved, are no lower. It is time to shift this burden from the shoulders of the lawful to the criminal.

By Mr. McCLURE:

S. 144. A bill to prohibit the banning of lead shot for hunting. Referred to the Committee on Commerce.

Mr. McCLURE. Mr. President, for nearly a year now, the Bureau of Sport Fisheries and Wildlife has been attempting to give reason to a decision to ban the use of lead shot in waterfowl hunting—a proposal the Bureau threatens will become the rule in the late spring. But for all its efforts, the proposal ban, which would be absolute in the Eastern United States—in the Atlantic and Mississippi flyways—would apply to a large number of States where the problem it is intended to cure simply does not exist. In short, the proposed action is both precipitous and unjustified. For all the effort, it cannot be justified by science, by fact, or by simple commonsense.

There is indeed a problem associated with lead shot in waterfowl hunting. But that problem—which involves the poisoning of waterfowl when birds ingest shot pellets—can only exist or be of serious consequence when a wide range of physical, biological, and ecological conditions exist in concert. Those special conditions and factors range from the diets of birds, to hunting pressure, to species, to water depth, and marsh bottom composition.

Among biologists, there is little argument over the existence of the problem in some specific areas of the Nation. But there is a raging controversy over the extent, magnitude, and most importantly, over the drastic nature of the Bureau's proposed ban—which is offered without reasonable alternative, and again, without a firm basis in fact.

None of the Nation's four flyway councils, which represent individual State fish and game department interest in waterfowl management, has endorsed the Bureau's action. The Pacific and Atlantic Flyway Councils, in fact, have flatly opposed any Federal action. Those flyways, under the ban proposal would be covered only on a partial "hot-spot" basis. The Atlantic Flyway Council, which represents the Eastern States, has opposed the imposition of the proposed ban. And the Mississippi Flyway Council says any complete ban should be put off until 1980—so that the data necessary to locate and measure areas where poisoning indeed exists can be collected, and so that a suitable alternative to lead can be found and substituted only in those locations where there is justification.

And, in that last point, lies the scientific and commonsense rub. The Bureau scientists by their own admission, say the problem has not grown in the past 25 years. The scientists cannot and will not say at all or with any conviction what the extent, magnitude, and nature of the lead poisoning problem is. They just do not have the information. Yet the politicians in the Bureau are forging ahead with a crisis answer to a problem which is by no means a crisis—and all this is rationalized with worst and most irresponsible rhetoric. The ban could have hunters risk danger mandating the substitution of steel shot for lead. Steel is damaging to shotgun barrels and potentially dangerous, and for the sake of saving waterfowl is so ballistically inferior as to raise the very real possibility of inflicting losses to the resource that would far outweight any gains over poisoning losses.

In fact, the danger to hunters and the damage inflicted to shotguns—while dismissed as inconsequential in the proposed environmental impact statement filed last year—was stressed in experi-

ments over the use of steel shot conducted by the Bureau this past season. Top Bureau officials admit that hunters given the steel shot during the tests were warned not to use it in any double barrel guns. Doubles and expensive shotguns especially are subject to severe stress with steel loads.

In light of the shoddy justification put forth by the Bureau, I am today introducing a simple measure that, in essence, gives the Bureau an opportunity to go to the drawing boards—not go back, because they have never been at them—and come up with a solution that will be acceptable to State fish and game departments, to waterfowl hunters, and which will be assured to help heal the problem where it indeed exists. The problem has not grown in 25 years, according to the Bureau, and it will not grow in the next 4 years. But our knowledge of that problem, our ability to find a nondangerous and effective alternative to steel shot as a replacement for lead where it is called for, and our ability to provide other means of dealing with the problem will certainly grow.

The Nation's waterfowl hunters are already dues payers when it comes to preservation and conservation of the wildlife resource. Through Federal duck stamps, through the purchases of firearms and ammunition, they pay for key wildlife projects. Hunters have asked to be taxed, so that the resource will be preserved.

And on this issue, hunters have proven that they are willing to forgo use of lead shot where it can be justified. But only where it can be justified.

In one area of Oregon, for example, lead shot has been banned. The ban was accepted readily, because there was a need for it. But hunters will not begin to accept this proposed national ban. Those hunters from States where there is little or no evidence of any lead poisoning problems will never accept a harsh cure for a malady which does not exist. And that is commonsense.

We must, here in the Congress, prevent a terrible misjudgment from being inflicted, and we must mandate that reason, science, and commonsense prevail. If after all, a ban of lead shot is justified, with a suitable alternative available, then I will support it. But today, none of the scientists in the Bureau of Sport Fisheries and Wildlife will say with any amount of certainty that they have the answer to any of the key questions. No segment of our society can match the record of hunters in efforts to promote wise management of our wildlife resources. I believe we in the Congress have an opportunity to help solve this problem. I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 144

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior or any other officer or employee of the United States is hereby expressly prohibited, at anytime prior to January 1, 1980, from issuing, promulgating, publishing, or carrying out any order banning the use of lead shot for the otherwise lawful hunting of waterfowl.

By Mr. PACKWOOD:

S. 146. A bill to further the purposes of the Wilderness Act by incorporating French Pete Creek and adjacent roadless lands in the Three Sisters Wilderness, Oreg., and for other purposes. Referred to the Committee on Interior and Insular Affairs.

Mr. PACKWOOD. Mr. President, today I am introducing legislation to protect the unique scenic and wilderness values of the French Pete Creek and adjacent roadless forest lands of Rebel, Walker, and Mosquito Creek drainage basins located within the Blue River District and lying 60 miles east of Eugene, Oreg. Under my legislation, these areas would be protected and preserved for the enjoyment of present and future generations. In the 91st and 92d Congresses, I introduced similar legislation which would have created the French Pete Creek Intermediate Recreation Area. In both instances, however, the legislation died with the adjournment of those Congresses. During the 93d Congress, I introduced legislation providing for the designation of French Pete Creek and the three aforementioned drainages as wilderness, adjoining the Three Sisters Wilderness Area. Unfortunately, this legislation also died with the adjournment of Congress and it is with a reaffirmation of this area's pristine qualities that I am again introducing legislation to provide for the preservation of these unique Oregon Cascade lands, so highly prized by thousands of Oregonians.

The areas which I have proposed for wilderness designation are currently being studied as part of the land-use plan for the entire Willamette National Forest. The draft environmental impact statement for the management alternatives will be made public around April of this year.

Despite the fact that the French Pete drainage itself contains only 1 percent of the timber in the Willamette National Forest, efforts by hundreds of dedicated citizens have not succeeded in gaining an enduring preservation status for the area's esthetic magnificence. No other place in the Central Oregon Cascades offers the solitary visitor a sweeping view of the lush, unbroken canopy covering the valley, and I am earnestly opposed to those who would deprive the public of such a wonderful experience in this natural country, country which would otherwise be lost to the ravages of timber harvest.

I am vividly reminded of the numerous attempts which have been made to draw the attention of the Forest Service to the invaluable qualities of these lands which I seek to protect. In the 91st Congress, I introduced legislation to protect the 19,200-acre French Pete drainage. When no legislative action was taken, people responded emphatically and expressed their concern over the disposition of the area through thousands of handwritten, individually conceived letters and cards. Oregon's youth became actively involved and some 500 University of Oregon students rallied to dramatize the critical issue at stake. National headlines were inspired by this youthful grassroots support for the preservation of French Pete, a relatively small Oregon watershed. Public sentiment grew rapidly, and continues to favor preservation of the 39 square miles of unlogged, virgin Oregon wilderness named after a shepherd who grazed his sheep in the rich valley, a common endeavor until about 1914.

Although the area is presently being studied as an unofficial roadless area by the Forest Service in preparing the land-use plan for the Willamette National Forest, I cannot help but recall the urgings from growing numbers of citizens who wanted French Pete preserved as Wilderness and received not so much as a perfunctory glance from the Forest Service in 1973.

Ideally, French Pete and Walker, Rebel, and Mosquito Creek drainage basins should be incorporated as part of the Three Sisters wilderness—all of which were once protected as part of the old Three Sisters Primitive Area. My legislation will accomplish this, by setting aside these areas in their natural condition, as wilderness, while much of the land surrounding the area which is already roaded and logged is still used to provide timber.

I would certainly hate to look back a few years from now and see that what is now so inspiring in its simple magnificence, had been terribly and irretrievably lost to the need for a short-term revenue. As many have demonstrated before, the amount of timber which could be cut in French Pete is insignificant when compared with all the available, harvestable timber in Oregon. This is why I would be in adamant disagreement with a Forest Service decision to even manage the area for limited harvest and am introducing legislation to establish the area as a wilderness. The public has already shown firm support for preserving these wild lands, both in Oregon's active environmental groups as well as the informed rank and file Oregonian.

This measure should receive full hearings, after which it would be my urgent hope that we in Congress might provide the honest, open debate which is so necessary in decisions of this nature. Mr. President, I ask unanimous consent to have the entire text of my bill printed in the RECORD.

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

S. 146

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in furtherance of the purposes of the Wilderness Act (78 Stat. 890), certain lands in the Willamette National Forest, Oregon, which comprise about forty-two thousand acres and which are generally depicted on a map entitled "French Pete Creek and Other Proposed Additions, Three Sisters Wilderness", and dated January 1975, **are hereby designated** as wilderness. The map referenced in this section shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture.

SEC. 2. As soon as practicable after this Act takes effect, a map and a legal description of the Three Sisters Wilderness incorporating

the addition thereto designated by this Act shall be filed with the Interior and Insular Affairs Committees of the United States Senate and House of Representatives and such map and description shall have the same force and effect as if included in this Act: *Provided, however,* That correction of clerical and typographical errors in such legal description and map may be made.

SEC. 3. (a) The lands designated as wilderness by this Act are hereby incorporated in, and shall be deemed to be a part of, the Three Sisters Wilderness as designated by subsection 3 (a) of the Wilderness Act and, except as otherwise provided by this Act, shall be administered by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness areas.

(b) Notwithstanding the provisions of paragraphs (2) and (3) of subsection 4 (d) of the Wilderness Act and subject to valid existing rights, federally owned lands within the Three Sisters Wilderness, including the addition thereto designated by this Act, or hereafter acquired within the boundaries of such area are hereby withdrawn from all forms of appropriation under the mining laws, and from disposition under all laws pertaining to mineral leasing, and all amendments thereto.

(c) Notwithstanding the provisions of section 5 of the Wilderness Act, the Secretary of Agriculture may acquire, by purchase with donated or appropriated funds, by gift, exchange, condemnation, or otherwise, such lands or interests therein within the boundaries of the Three Sisters Wilderness, including the addition thereto designated by this Act, as he determines necessary or desirable for the purpose of this Act and the Wilderness Act.

By Mr. MONTOYA (for himself and Mr. WEICKER):

S. 136. A bill to amend the Internal Revenue Code of 1954 to require the establishment of formal procedures and criteria for the selection of individual income tax returns for audit, to inform individuals of the reasons why their returns were selected for audit, and for other purposes. Referred to the Committee on Finance.

TAXPAYER AUDIT DISCLOSURE ACT OF 1975

Mr. MONTOYA. Mr. President, on December 12 of last year Senator LOWELL WEICKER, my distinguished colleague from Connecticut, introduced a Taxpayer Audit Disclosure Act with my support. Because of the pressure of other legislation, no action was taken on this measure during the final days of the 93d Congress.

Today, Senator WEICKER and I are introducing this legislation again, with the firm conviction that this Congress will act upon it with dispatch. The abuses we seek to correct are clear and well known to the public.

During oversight hearings on IRS taxpayer services in the past 2 years, my committee uncovered the need for legislation which would: First, require better procedures and regulations within IRS itself for the selection of returns for audit; second, require IRS to disclose fully to taxpayers the reasons for audit; and third, require IRS to furnish publication 556 (Audit of Returns, Appeal Rights and Claims for Refunds) or a similar publication, to the taxpayer 2 weeks before an audit so that he is properly informed of his rights at the time he needs the information. Surely, Mr. President, the American taxpayer is entitled to this minimum assistance at the earliest possible time, and should not have to request it as is now the case. Too often the taxpayer is not even aware of the existence of publication 556 until it is too late to help.

The legislation proposed today will provide these two changes. In addition it requires the continued public disclosure of IRS audit statistics in a publication called "The Audit Story" and it requires that IRS report to the tax committees of the Congress concerning its audit selection, criteria, and the post audit revenue level changes. These last two requirements were repeatedly emphasized as necessary during the hearings we held, and I concur with those who testified to their importance for tax experts and for the Members of Congress in assessing IRS accomplishments.

I would like to note that I have repeatedly told Commissioner Alexander and IRS audit officials that I have not and will not consider increased audit-generated revenue as justification for agency appropriations. To do so would be to insure abuse of taxpayers. On the other hand, it is necessary for the Congress to know precisely how the audit process is working. We must therefore possess current data showing what kind of taxpayers are being audited, and the amount of change in their taxes after audit. Such information will not encourage tax evasion, but rather will demonstrate that the audit program is being properly administered.

Secrecy in the area of tax procedures and regulations is unwarranted and inexcusable. No national security danger is present when either the American citizen or the American Congress is informed fully about the operating procedures of the tax system of the United States. On the contrary, as the Freedom of Information Act already makes clear, it is to the advantage of government to operate in the open as often as possible. It is only through this kind of openness and candor that we can ever hope to restore complete faith in government to the people of this Nation—the taxpayer of this Nation.

In addition to the concern which all of us have for open government wherever practical and possible, our experience with the use of an "enemies list" by personnel in the White House and IRS itself in the past few years ought to lend us to provide real protection to the taxpayer against discriminate selection of tax returns for audit. The audit power is, in itself, awesome. It should be carefully circumscribed so that no misuse is possible. This can only be done through vigorous pursuit of oversight responsibility by the Congress.

The legislation proposed today will assure that the Congress has the power to oversee the criteria for selection of returns for audit. The public will be better informed about actual audit methods, and reassured that Congress is keeping a close watch on the IRS audit program.

I want to take this opportunity to thank Senator WEICKER for the excellent work he has done in this area. He was a leader in exposing IRS abuses during our hearings before the Senate Select Committee on Presidential Campaign Activities, and he initiated investigations of his own which uncovered much of the material leading to public awareness of the need for corrective legislation.

Taxpayers deserve to be heard, to be listened to, and to be protected against abuses. When we have the opportunity to take such definite steps toward rebuilding trust in government through adjustments in our tax service laws. I believe we must not delay in taking action. No taxpayer should ever again feel either frustrated or frightened by the tax agency of the Government he supports through his voluntary self-assessment and trust.

I urge full and immediate support of the Senate for this essential piece of tax service legislation. I ask unanimous consent that the text of the bill be printed at this point in the RECORD.

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

S. 136

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 "Taxpayer Audit Disclosure Act of 1974".

SEC. 2. (a) Section 7602 of the Internal Revenue Code of 1954 (relating to examination of books and witnesses) is amended—

(1) by inserting immediately before the first sentence thereof the following: "(a) IN GENERAL.—"; and

(2) by adding at the end thereof the following new subsections:

"(b) SELECTION OF INDIVIDUAL RETURNS FOR AUDITS.—

"(1) CRITERIA.—The Secretary or his delegate shall report to the Joint Committee on Internal Revenue Taxation the specific criteria by which the Internal Revenue Service selects returns of tax made by individuals with respect to taxes imposed under subtitle A for audit. For purposes of this paragraph, the term 'specific criteria' means nature of employment or occupation, dollar amounts of gross and taxable income, dollar amounts and types of deductions, random probability, and all other factors which are used to select returns for audit.

"(2) PROCEDURES.—The Secretary or his delegate shall report to the subcommittees on Treasury, United States Postal Service, and General Government of the Committees on Appropriations of the House of Representatives and the Senate (and shall publish such report, and any supplements thereto, in the Federal Register) the procedures followed by employees of the Internal Revenue Service with respect to individual returns of tax during the period beginning with the time such Service receives such return from the taxpayer and ending with the time such taxpayer is contacted for the purpose of an audit or other disposition is made of the return.

"(c) WRITTEN NOTICE OF REASONS FOR AUDIT.—Before taking action under paragraph (1), (2), or (3) of subsection (a) for the purpose of determining the liability for tax of any individual under subtitle A, the Secretary or his delegate shall provide such individual a written notice which clearly specifies the reasons for, and manner in which, the return of such individual was selected for audit.

"(d) FURNISHING OF PUBLICATIONS.—At least 14 days before taking action under paragraph (1), (2), or (3) of subsection (a) for the purpose of determining the liability for tax of any individual under subtitle A, the Secretary or his delegate shall furnish to such individual a written explanation (such as publication 556) which describes the audit procedure, the rights which a taxpayer may

exercise during such procedure, the right of the taxpayer to make an administrative or judicial appeal from an adverse decision at the end of such procedure, and the right of the taxpayer to claim a refund.".

(b) The reports required by the amendments made by subsection (a) shall be made within 90 days after the date of enactment of this Act. Additional reports shall be made within 10 days after any change occurs in the criteria referred to in section 7602(b)(1) of the Internal Revenue Code of 1954 (as added by subsection (a) of this section) and after any change in the procedures referred to in section 7602(b)(2) of such Code (as added by such subsection (a)). The requirements of subsections (c) and (d) of section 7602 of such Code, as added by subsection (a) of this section, apply to actions taken under subsection (a) of such section 7602 more than 90 days after the date of enactment of this Act.

SEC. 3. The Secretary of the Treasury or his delegate shall publish a publication containing the subject matter previously contained in the publication entitled "The Audit Story". The Secretary of the Treasury or his delegate shall make such publication available to the public and shall revise such publication whenever necessary and make such revised publication available to the public.

SEC. 4. The Secretary of the Treasury or his delegate shall submit to the Joint Committee on Internal Revenue Taxation, before September 30 of each year, a report setting forth—

(1) the number of individuals whose returns were selected for audit during the previous 12-month period,

(2) a classification of individuals whose returns were audited during the previous 12-month period by, among other factors, income levels, geographic distribution, and profession,

(3) the number of individuals audited during the previous 12-month period who were found to have made underpayments or overpayments of tax, together with summary statistics reflecting the percentage of such number, by income category, who made underpayments or overpayments of certain ranges of amounts (to be determined by the Secretary or his delegate), and

(4) such other information as may be requested by the joint committee in accordance with the purposes of this Act.

By Mr. HANSEN (for himself and Mr. MCGEE):

S. 151. A bill to authorize the Secretary of the Interior to construct, operate, and maintain the Polecat Bench area of the Shoshone extension unit, Pick-Sloan Missouri Basin program, Wyoming, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

Mr. HANSEN. Mr. President, today I am introducing a bill for myself and my distinguished colleague, Mr. MCGEE, to provide for the authorization of the Polecat Bench Reclamation Project. The project is a physical extension of the existing Shoshone project which was planned originally in 1904. The Shoshone Extension unit was authorized for construction as a part of the comprehensive plan for the Missouri River Basin by the Flood Control Acts of 1944 and 1946. Construction of the unit was not initiated before 1964, however, and reauthorization is therefore necessary under the provisions of the act of August 14, 1964.

Feasibility studies have been conducted for the project and the results appear quite promising. The Polecat Bench area would be supplied water from the Shoshone River through joint use of Buffalo Bill Reservoir, Shoshone Canyon Conduit, and Heart Mountain Canal, which are existing facilities of that project and have surplus capacities. Heart Mountain Canal, after minor modification, would deliver water to the proposed Polecat Canal, which would terminate in and deliver water to the proposed offstream Holden Reservoir near midpoint on Polecat Bench, capacity 9,900 acre-feet, and this would be followed by Holden Canal. Other features would include two small pumping plants, laterals, drains, and recreational facilities at Holden Reservoir. Drains on Polecat Bench would be arranged to capture virtually all return flows and surface runoff for reuse within the project area, reducing the demand on the Shoshone River. In addition to water service for 19,200 irrigable acres of grazing land, a new fish and wildlife resource would be engendered and recreational opportunities provided, primarily at Holden Reservoir. Under the bill which I am introducing today, the city of Powell, Wyo., will receive municipal water from the project, which will increase the cost-benefit ratio of the project.

This project envisions the addition of about 80 new farm units to this area. There is no doubt the project will provide new and increased farm production, stimulate increased business activities in the area, increase gross and net incomes, provide new employment opportunities on the farms and in surrounding towns and cities and with an expanded tax base, provide for new and improved community facilities, such as schools, roads, medical facilities, public utilities, recreational facilities, and other benefits. In short, this project will increase productivity and employment, which this Nation so urgently needs at this time. It is with this in mind that I would hope this project is authorized early in the coming session, so its construction might begin.

By Mr. HANSEN (for himself and Mr. HARTKE):

S. 153. A bill to amend part B of title XI of the Social Security Act, professional standards review, to provide for the review of dental services by dentists. Referred to the Committee on Finance.

Mr. HANSEN. Mr. President, the American Dental Association has a rightful interest in the professional standards review organizations procedures under terms of the Social Security Act.

Because of that interest and concern, I am introducing legislation today addressed to that problem.

Representatives of the American Dental Association testified before the Senate Finance Committee, that while the law establishing professional standards review organizations applies to "health care services for which payment may be made, in whole or in part," under the Social Security Act, it excludes members of the dental profession from any meaningful participation in the program.

The concern of the association is serious and substantive since a significant number of its members are providing several hundreds of million dollars in dental services under titles V, XIX, and XVIII.

With respect to institutional services, inpatient hospital admissions for dental care are well over a million per year.

Additionally, as my colleagues know, the law contemplates and permits expansion of PSRO's to ambulatory services which eventually will involve all of the Nation's 100,000 practicing dentists in the PSRO program.

The direct effect upon the dental profession would increase manyfold if any of the major pending national health insurance bills should be enacted since all of them have a tie-in with the PSRO provisions of title XI.

It does not seem reasonable or sensible that the dental profession should be subjected to this highly complicated and exacting "peer" review system without having any representation in its development, operation and adjudicatory functions.

The report of the Senate Finance Committee on the original PSRO bill clearly indicates an intent that only dentists should review the work of dentists, but unfortunately this was not carried over into the language of the law.

In order to remedy this problem, the ADA has proposed a suggested amendment which would provide: First, that in order to be approved a PSRO would be required to have a formal arrangement with dentists in a given area that is coextensive in all respects with the requirements relating to medical services; second, that dentists be appointed to the statewide councils and the national council; and third, that dentists be included in the limitation of liability section of the law.

Mr. President, I am introducing the proposed amendment because it is essential if dentists are to be required to meet the requirements of the law.

I am pleased to introduce this proposed amendment to PSRO language to provide for the review of dental services by dentists and I urge its timely consideration.

By Mr. HANSEN:

S. 154. A bill to authorize the granting of mineral rights to certain homestead patentees who were wrongfully deprived of such rights. Referred to the Committee on Interior and Insular Affairs.

Mr. HANSEN. Mr. President, I send to the desk for appropriate reference a bill to enable certain homesteaders or their successors in title to obtain equity from their Government.

The bill would accomplish this purpose by authorizing a homestead titleholder who has been wrongfully deprived by the Government of the minerals in his land to apply to the Secretary of the Interior for conveyance to him of those minerals. The homesteader shall submit proof that the withholding of the minerals was the result of error, whether intentional or not, or that he was unduly pressured into waiving his mineral rights through ignorance or fear; or that there was some other wrongful or mistaken act on the part of the Federal officials involved in the issuance of the homestead patent.

If the homestead titleholder's proof is accepted, the Secretary is to convey the minerals to the surface owner. The burden of proof is on the homesteader. All existing rights of all persons, whether under the mining laws or under the mineral leasing laws, are fully protected.

As was pointed out in the recent report of the Public Land Law Review Commission, a great many laws were enacted in years gone by under which a citizen could go out on vacant, unappropriated public lands, make an "entry," and by performing certain work and complying with specific procedures, he could get title to a given tract, the size of which might vary from 160 acres to 640 acres.

Under certain of these homestead laws, title to the minerals passed with the surface to the homesteader, provided the land had not been classified as having known mineral values. Under other laws, the Government was required to reserve coal, oil, and gas deposits whether or not there was any reason to believe such deposits did in fact exist.

The variety of laws, procedures, and situations led to a great deal of confusion and there were instances in which a homesteader did not get the minerals in his land to which he was rightfully entitled under the law and facts at the time he acquired title to the surface. On occasion, Congress has passed and the President has signed private laws for the relief of individual homesteaders or for specified groups, such as the Kenai homesteaders in Alaska.

The bill I am introducing today is for a general law to provide for rectification of this situation and enable homestead titleholders to obtain equity if they were wrongfully deprived of the minerals in their lands. No existing rights acquired by others, such as those of a Federal lessee on the land or a claimant under the mining laws, would in any way be interfered with or invalidated.

By Mr. BAYH (for himself, Mr. ABOUREZK, Mr. BAKER, Mr. BEALL, Mr. BELLMON, Mr. BROOKE, Mr. BURDICK, Mr. CHURCH, Mr. CLARK, Mr. CRANSTON, Mr. DOLE, Mr. FORD, Mr. GLENN, Mr. GRAVEL, Mr. GRIFFIN, Mr. GARY W. HART, Mr. PHILIP A. HART, Mr. HARTKE, Mr. HATFIELD, Mr. HATHAWAY, Mr. HASKELL, Mr. HUDDLESTON, Mr. HUMPHREY, Mr. INOUYE, Mr. JACKSON, Mr. JAVITS, Mr. KENNEDY, Mr. MAGNUSON, Mr. MANSFIELD, Mr. MATHIAS, Mr. MCGOVERN, Mr. MCINTYRE, Mr. MONDALE, Mr. MONTOYA, Mr. MOSS, Mr. NELSON, Mr. PACKWOOD, Mr. PASTORE, Mr. PEARSON, Mr. PELL, Mr. PROXMIRE, Mr. RANDOLPH, Mr. RIBICOFF, Mr. SCHWEIKER, Mr. STAFFORD, Mr. STEVENSON, Mr. TUNNEY, and Mr. WILLIAMS):

S.J. Res. 1. A joint resolution proposing an amendment to the Constitution to provide for the direct popular election of the President and the Vice President of the United States. Referred to the Committee on the Judiciary.

A PROPOSAL FOR DIRECT POPULAR ELECTION OF THE PRESIDENT

Mr. BAYH. Mr. President, nothing is more important to the confidence of the American people and to the permanence and stability of our Government than the just and equitable selection of the President and Vice President. For more than 9 years I have fought for enactment of a constitutional amendment allowing direct popular election of the President and Vice President. And in the 94th Congress I am introducing my proposal for electoral reform once again.

As in previous years, the proposal is based on the fundamental principle of election directly by the people, the only system that is truly democratic, truly equitable, and truly reflective of the will of the majority.

But this proposal again eliminates the feature of direct election which provoked the most vocal and repeated criticism—the runoff election. Instead, in the unlikely event that no candidate receives 40 percent of the popular vote, the President and Vice President would be selected in the alternative manner originally suggested by Senators GRIFFIN and TYDINGS.

Arthur Krock wryly commented more than 20 years ago:

> The road to reform in the method of choosing the President and Vice President of the United States is littered with the wrecks of previous attempts.

For more than a century and a half, Mr. President, we have recognized the perils of a system that leaves the choice of President to a group of independent electors—electors whose freedom to disregard the will of the people is presently guaranteed by the Constitution. We have recognized the inequities in a scheme that allocates all of a State's electoral votes to the candidate who wins a popular vote plurality in that State, regardless of whether that plurality is one vote or 1 million votes—a scheme I should add, that is nowhere to be found in the Constitution itself. We have recognized the grave risks that the popular will of the people can easily be thwarted, either by the strange arithmetic of the electoral system or by the mischievous deeds of a handful of power brokers.

Having long recognized these obvious inadequacies, we have yet to correct them. Why? Because repeatedly in the past we have failed to achieve agreement as to the most desirable route to reform.

For that matter, there has always been near unanimous agreement as to the need for reform, but never before has there been a national consensus as to what specific type of reform was needed.

Today we have that elusive national consensus. That is why now is the best time to reform.

In February 1966, Mr. President, the American Bar Association established a special commission on electoral reform. As some Members of this body will recall, the American Bar Association, with a similar commission, was very helpful to us in preparing the groundwork for the consideration of the 25th amendment, and I thought it would be helpful, and indeed it has proved to be very helpful, for the bar association to appoint another such commission to help us with this different constitutional problem.

The commission was composed of distinguished political scientists, lawyers, legal scholars, public officials, and other leaders from every section of the country and reflecting various political views. It studied the present electoral system and considered all of the various proposals for reform. After an extensive 10-month study, the commission concluded that:

The existing electoral system is archaic, undemocratic, complex, ambiguous, indirect, and dangerous.

The bar association's blue ribbon commission further concluded that—

> While there may be no perfect method of electing a President, we believe that direct, nationwide popular vote is the best of all possible methods. It offers the most direct and democratic way of electing a President and would more accurately reflect the will of the people than any other system.

In urging the abolition of the present electoral system and replacing it with direct popular election, the commission foreshadowed an emerging national consensus on the question of electoral reform.

The Harris and Gallup polls have shown, for example, that 78 percent and 81 percent of the American people, respectively, favor direct popular election. The extent of this feeling, it is important to note—is nationwide—and fairly evenly distributed throughout the country. To quote excerpts from one of Mr. Gallup's polls, the figures reveal that 82 percent of the people in the East, 81 percent in the Midwest, 76 percent in the South, and 81 percent in the West think direct popular election is both desirable and necessary.

In addition, direct popular election has been publicly endorsed by a unique and formidable array of national organizations, among them the American Bar Association, the Chamber of Commerce, the AFL–CIO, the United Auto Workers, the National Federation of Independent Business, the National Small Business Association, and the League of Women Voters—indeed a rather prestigious group of organizations representing broad philosophical and nationwide support.

For years, one of the arguments often raised against direct popular election was that it could not be ratified by the legislatures of three-fourths of the States. In fact, even a few direct popular election supporters, including the late Senator Estes Kefauver and Senator Henry Cabot Lodge, were deterred from pushing it because of their doubts as to whether direct election could be ratified.

Several years ago, the distinguished Senator from North Dakota (Mr. BURDICK) dramatically refuted this argument by polling 8,000 State legislators and finding that of the 2,500 who responded, nearly 60 percent favored direct election. The results, once again, revealed very little variation from State to State. Senator GRIFFIN also polled 4,000 legislators from the 27 States thought most likely to oppose direct election—and 64 percent of those responding endorsed direct election.

In September 1969 the House of Representatives reflected this national consensus by approving a constitutional amendment for direct election by an overwhelming 339-to-70 vote. And during Senate debate on Senate Joint Resolution 1 in 1970—which was cosponsored by 43 Members of the Senate—we came within a handful of votes of breaking the filibuster which denied the American people even a vote on this crucial issue. I believe that only the extreme time pressure at the end of the session kept us from coming to a vote. I believe that in this Congress, now that we have the pressure of the Presidential campaign behind us, we can break the filibuster and gain the support to get final passage of this important reform. The people of the United States will not put up with the electoral roulette of the present system. They want reform. They want direct popular election of the President. Now is the time for reform. Now is the time for direct popular election.

We must take an ounce of prevention now, before the antiquated electoral college backfires, and it is too late for the proverbial pound of cure.

I am sure that some of our colleagues not only will express reservations with respect to certain sections dealing with technicalities and how the mechanics of this proposal are to operate, but also will express broad philosophical disagreement with the right of the people to vote directly on a one-man, one-vote basis for the President.

I think there is room for difference of opinion in this body. But today, perhaps more than ever before in the history of our counrty—at least, since the great War Between the States—the ability of our system to respond and to be a viable system of governing 200 million people is being tested. Some very critical questions are being asked now that were not asked 20 years ago. Hopefully, they will not be asked 20 years from now. But they are being asked today.

Mr. President, what I should like to do now, if I may, is to touch on and briefly review some of the obvious defects and deficiencies of the electoral college that make it such a clear and ever-present danger.

DEFICITS AND DEFICIENCIES IN THE ELECTORAL COLLEGE

There is no need for me to dwell on the historical accidents that led the Framers to compromise on the hybrid electoral college system, but it is interesting to note what a makeshift arrangement the Framers were forced to devise.

The appearance of political party candidates as early as 1800, for example, meant Alexander Hamilton's original design of a select assembly of independent electors already had lost its purpose only a decade after its embodiment in the Constitution. Alexander Hamilton was one of the original Founding Fathers and he wanted to create electors to be an elite group that had complete freedom of choice. He made no apologies for this. But 10 years after the measure was put on the books, parties developed that had not been anticipated by the Founding Fathers. When the party system did develop, Alexander Hamilton's idea of a select assembly went out the window. A Senate report published in 1826 caustically noted that—

> The free and independent electors had degenerated into mere agents in a case which requires no agency and where the agent must be useless if he is faithful and dangerous if he is not.

But today, more than 160 years later, the elector still retains his constitutionally guaranteed independence.

The elector is to the body politic what the appendix is to the human body. As Henry Cabot Lodge said:

> While it does no good and ordinarily causes no trouble, it continually exposes the body to the danger of political peritonitis.

The prospect of unknown electors auctioning off the Presidency to the highest bidder remain all too real. That is the lesson of 1968, when the present electoral system brought us to the brink of constitutional crisis. With a shift of only 42,000 popular votes in three States no one would have had an electoral majority on election day. It would have given Wallace, with his 46 electoral votes, the balance of power.

Let me add there that a recent study showed that a change of less than 1½ percent of the vote in one State alone—in California—would have produced the same outcome.

Of course, we could avoid this danger simply by eliminating the independence of the elector. But eliminating the independent role of the elector is not a cure-all for what ails our present electoral machinery. The elector, in fact, is merely a symptom of more fundamental flaws in our system of electing the President. We desperately need basic and complete reform of this system.

Among other things, the present system can elect a President who has fewer votes than his opponent and thus is not the first choice of the voters. The present system awards all of a State's electoral votes to the winner of the State popular vote, whether his margin is 1 vote of 1 million votes. It cancels out all of the popular votes cast for the losing candidates in a State and casts these votes for the winner; it assigns to each State a minimum of three electoral votes regardless of population and voter turnout; and provides for a patently undemocratic method for choosing a President in the event no candidate receives an electoral majority. How can we possibly justify the continued use of such a patchwork of inequity and chance?

One of the major difficulties of the present electoral system is the unit rule, which is not even a constitutional provision. I wonder whether all our colleagues realize that this is the way we operate and have been operating for some time. The State of Maine made a change quite recently. How permanent that will be we do not know, but prior to that time all of the States operated on the winner-take-all unit system, although it is not provided for in the Constitution.

In effect, millions of voters are disenfranchised if they vote for the losing candidate in their State because the full voting power of the State—its electoral vote—is awarded to the candidate they opposed. The obvious injustice of this was pointed out by Thomas Hart Benton—a former U.S. Senator—over a century ago. He said:

> To lose their votes is the fate of all minorities, and it is their duty to submit; but this is not a case of votes lost, but of votes taken away, added to those of the majority and given to a person to whom the minority is opposed.

One practical consequence of this disenfranchisement is that it discourages the minority party in traditionally one-party States. Simply stated, where there is no hope of carrying the statewide popular vote, the size of the voter turnout for the likely loser is meaningless. This necessarily leads to the atrophying of the party structure in many States. By the same token, the prospective winner has little incentive to turn out his vote because the margin of victory likewise is meaningless. In sum, the unit rule has the unhealthy political effect of both maintaining a weak second party and discouraging voting. This is reflected most clearly in the poor vote turnout in the U.S. Presidential elections in comparison to most other democratic nations.

Another byproduct of the unit rule is the distortions it produces in the value of individual popular votes. The unit tends to inflate the voting power of a small number of well-organized voters in the handful of large, closely contested States where blocks of electoral votes can be won on the basis of narrow popular vote margins. A candidate, for example, could win an electoral majority by capturing slim statewide pluralities in the 11 largest States—even if he did not receive a single popular vote in all of the other States. This means, in effect, that under the present system 25 percent of the popular vote could have elected a President. For these reasons, some of those opposed to direct election urge that the present system be retained because it represents the only effective hold on power that the urban population centers have in the Federal Government today.

On the other hand, some spokesmen for rural America have suggested that the present electoral vote formula should be preserved because it enhances the voting power of citizens of the less populous States. This argument has, I admit, a certain theoretical appeal. The ratio of electoral votes to population indicates that the smaller States would have a voting advantage, because each State is entitled to at least three electoral votes regardless of its size. On this basis, it would appear that a voter in Alaska has five times the power of a voter in California. This argument, however, completely ignores the practical advantage of the unit rule. A careful analysis will show that because of the unit rule an individual voter in a more populous State has greater voting power than his small State neighbor, since his vote could swing a much larger number of electoral votes.

But even if one could conclude—as some apparently have—that the present system favors one citizen over another, one region over another, or one group over another, that would not be the end of the question. There is something more important at stake in the debate over electoral reform—a fundamental question of national fairness. The President

represents every American, regardless of region or State, and he should be elected by all Americans, fairly and equitably. Every vote should count the same, urban or rural, black or white, rich or poor, north, south, east or west. Any system which favors one citizen over another or one State over another is inherently inconsistent with the most fundamental concept of a democratic society.

But despite the seriousness of these defects in the electoral college system, they are not so dangerous as the most fundamental flaw: The fact that the present system cannot guarantee that the candidate with the most popular votes will be elected. This dangerous prospect, more than anything else, condemns the present system as a faulty device for recording the sentiment of American voters. In 1824, 1876, and again in 1888, this system produced Presidents who were not the popular choices of the voters. On seven other occasions in this century, a shift of less than 1 percent of the popular vote would have produced an electoral majority for the candidate who received fewer popular votes.

To give an example of how extreme this can be, in 1948, a shift of less than 30,000 popular votes in three States would have given Governor Dewey an electoral vote majority—despite President Truman's 2 million-plus popular vote margin. I suggest to my colleagues that is the type of malfunctioning which would bring our Nation to its knees.

Good fortune, not design, has produced Presidents who were the popular choices of the people. A glance at past elections reveals that there have been very few elections where the candidates' percentage of the electoral vote reasonably resembled their percentage of the popular vote.

In runaway elections, like that of 1972, any system will produce an electoral victory for the popular vote winner. It is the accuracy of the results produced in closely contested elections, however, that determines the true soundness of an electoral system. Based on this criterion, the present system is clearly defective. A recent computer study of Presidential elections over the last 50 years revealed, for example, that in elections as close as 1960 the present system offered only a 50-to-50 chance that the electoral result would agree with the popular vote. For an election as close as 1968, where some 500,000 popular votes separated the candidates, there was one chance in three that the electoral vote winner would not be the popular vote winner as well. According to the evidence, the danger of an electoral backfire is clear and present. And as former President Nixon said during the 1968 campaign:

> If the man who wins the popular vote is denied the Presidency, the man who gets the Presidency would have very great difficulty in governing.

The tests of an equitable modern electoral system are threefold. First, it must insure that the man who receives the most votes is elected President. Second, it must count every vote equally. Third, it must provide the people themselves with the right to make the choice directly. Only direct popular election meets all three tests.

DESCRIPTION OF SENATE JOINT RESOLUTION 1

Senate Joint Resolution 1 proposes an amendment to the Constitution of the United States to abolish the antiquated electoral college system and undemocratic unit vote system and substitute direct popular election of the President and Vice President. The proposed amendment contains several major features worthy of discussion at this time.

First, the amendment requires the winning candidate to obtain at least 40 percent of the total popular vote. During the last few years, questions have been raised as to what percentage of the popular vote, if any, should be required for election. On the one hand it is necessary to establish a reasonable plurality requirement indicating a legitimate mandate to govern. On the other hand, such a requirement should not be set so high that it would disrupt the stability of our political system.

Requiring a majority of the popular vote for election might too easily proliferate the party system and needlessly trigger the runoff. Historically, 15 Presidents have been elected with less than 50 percent of the popular vote. But only once in our history has no candidate for President received 40 percent of the popular vote: In 1860, Lincoln received 39.79 percent of the vote, although his name did not appear on the ballot in 10 States.

Mr. President, I believe that a 40 percent plurality requirement would assure a reasonable mandate to govern, while not unnecessarily triggering the alternative election procedures. It is extremely unlikely that neither major party candidate would receive a 40 percent plurality—even with a third-party candidate in the race. In 1968, for example, the most significant third-party bid since 1924 could only produce 13.5 percent of the popular vote for George Wallace.

Even more to the point, in 1912, in the face of challenges by an incumbent President and a popular former President, Woodrow Wilson still received more than 40 percent of the popular vote. It should be pointed out that in 1912, 1 million votes went to the Socialist candidate, Eugene V. Debs. Yet the winner, Woodrow Wilson, had more than the 40-percent mark provided in Senate Joint Resolution 1. The four-way race in 1948, involving Truman, Dewey, Thurmond, and former Vice President Wallace, likewise produced a candidate with well over 40 percent of the popular vote. The likelihood of a major party candidate receiving the required plurality, therefore, is not confined merely to three-party races but to multiparty contests as well.

The 40-percent requirement, in short, is a prudent cutoff point because it avoids the likelihood of frequent standoffs, places reasonable limits on the growth of third parties, and provides a sufficient mandate to govern.

Since a 40-percent plurality requirement was established, a contingent election procedure was necessary in the unlikely event that no candidate received the requisite 40 percent. During the debate in 1970 it became clear that there was considerable opposition to the runoff originally provided for in Senate Joint Resolution 1. Some people talked of the mechanical problems of staging a second national election on very short notice, although I am convinced that the experience of many individual States—and several foreign countries—demonstrates that this would not be a problem. Other opponents made the claim that the possibility of a runoff election would convince more candidates to join the race on the assumption that they could keep any candidate from gaining 40 percent of the vote. These opponents argued that the runoff would lead to the growth of third parties and the destruction of our two-party system. I believe that this theory has no merit. The overwhelming weight of the evidence we obtained from political scientists and others about the experiences of individual States and foreign countries leads me to conclude that the runoff would not in any way have weakened—but would in the long run have served to strengthen—the growth of a responsive two-party system.

However, I realize that in trying to get final passage of any important piece of legislation—and most especially when dealing with a constitutional amendment—those of us in the Congress have a duty not to let our personal views predominate. Instead we must seek out and develop a broad national consensus of support for the best plan which both achieves the necessary reform and which can be adopted.

I for one do not plan to allow the cause of electoral reform to flounder because of disagreement over relatively minor details.

Therefore, the runoff provision has been eliminated, and the alternative plan first introduced by Senator GRIFFIN which gathered wide bipartisan support during the Senate debate, has been substituted in its place. Under this plan, if a pair of candidates joined together and running for President and Vice President obtains at least 40 percent of the votes cast, they will be elected President and Vice President.

If no pair of candidates is selected under either of these alternatives, the final selection would be made by the new Congress, meeting in special session for this and only this purpose. Each Member of both Houses would choose between the two pairs of candidates with the largest numbers of popular votes. Allowing the selection to be made in this way by the newly elected Congress would both insure that the popular will of the majority of the voters would be taken into account and also make sure that the President who was elected would be one who was able to work with the new Congress.

The proposed amendment strikes a necessary balance between traditional State authority and compelling Federal interests in the conduct of Presidential elections. I believe such a balance is workable and sound. The proposed amendment empowers the States to establish voter qualifications and election machinery similar to the responsibilities the States now exercise for the election

of Senators, Representatives, and for electors of the President and Vice President. Senate Joint Resolution 1 provides that the qualifications for voting in Presidential elections are to be prescribed by State law and shall be the same as those voting for members of the most numerous branch of the State legislature. These provisions are identical to the present constitutional requirements spelled out in article I, section 2 and the 17th amendment relating to the qualifications for voting for Members of Congress.

The States are further authorized to prescribe less restrictive residence requirements. This authorization is necessary in order to prevent invalidation of relaxed residence requirements already or hereafter adopted by the States for voting in Presidential elections. The Congress is also empowered to establish uniform residence qualifications. This provision does not modify or limit in any way existing constitutional powers of the Congress to legislate on the subject of voting qualifications. This authority would in no way alter the provisions dealing with residence requirements in Presidential elections adopted as part of the Voting Rights Act of 1970. The Voting Rights Act abolished residence requirements for voting in Presidential elections and established nationwide, uniform standards relating to registration, absentee registration, and absentee voting in Presidential elections.

The mechanical details of providing for a direct popular election are left to Congress to legislate.

Prescribing the times, places, and manner of holding such elections and provision for inclusion on the ballot remain the primary responsibility of the States. The Congress, however, is given a reserve power to make or alter such regulations. In the event a State attempts to exclude the name of a major party candidate from the ballot, for example, the Congress would have the authority to prevent such arbitrary action. Furthermore, such action appears unlikely in view of the Supreme Court's decision in *Williams* v. *Rhodes*, 393 U.S. 23 (1968), holding that the equal protection clause of the 14th amendment and the right of assembly guaranteed by the first amendment impose limitations upon a State's freedom to restrict parties in their access to the ballot.

Mr. President, we must face up to the fact that the State legislatures and the Congress should be given a 2-year period after ratification to pass the legislation necessary to implement direct popular election. Thus we cannot realistically proceed on the assumption that direct election will govern immediately upon ratification. It is for this reason that I am proposing a 2-year period for the passage of implementing legislation.

Mr. President, as the chairman of the Senate Subcommittee on Constitutional Amendments, I have been engaged in a thorough study of our electoral system for more than 9 years. As a result of that study, I have concluded that direct popular election is the only authentic reform proposal, the only proposal that guarantees the election of the popular choice, counts every vote equally, and works in the manner in which most Americans expect the electoral process to work directly and democratically.

ALTERNATIVE PLANS

There can be no disagreement that direct popular election would produce these results though some may disagree as to the desirability of such a basic reform. Over the years, several other major plans have been offered. I would like to discuss the drawbacks in these other proposals.

THE DISTRICT PLAN

The district plan would retain the electoral vote, with electors chosen from single-member districts within each State and two electors running at large statewide.

The district plan, like the present electoral system is based on the winner-take-all principle—merely shifting its application from the State level to the district level. As a result, the district plan would continue to produce significant disparities between the popular vote and the electoral vote. A number of comments have been expressed suggesting that the district plan might even produce a popular vote loser or a minority vote winner. We can play all sorts of games with figures. The best example I found of the disparity which can be produced in any one election was brought to our attention in the 1964 election. To cite just one example of the consequences of the district plan, compare the returns for the 1st and 15th Illinois Congressional Districts in 1964. These were adjoining congressional districts. President Johnson carried the first district by 167,458 votes. Senator GOLDWATER, in contrast, won the 15th District by only 71 votes. Under the district plan, each candidate would have received one electoral vote. The unit rule operating at the district level would have wasted a net popular vote margin of 167,387 votes for President Johnson. By wasting large numbers of popular votes, the district system can easily elect a President who is not the popular choice of the voters.

As in the case of the present system, the district plan would discourage the minority party's voters within each electoral district, thus reducing the incentive to work. The district plan, in fact, would operate even more effectively to discourage voters because a larger proportion of congressional districts are safely controlled by one party than are States. Defining a "safe" State or district as one carried by 60 percent of the vote or more, for example, 32 percent of the districts were safe in 1960 and only 10 percent of the States.

Furthermore, despite the specific requirement of the district plan that electoral districts be compact, contiguous, and nearly equal in population, it still would be possible for partisan State legislatures to gerrymander electoral units. The impracticality of enforcing this vague constitutional standard is another major obstacle to the district plan.

THE PROPORTIONAL PLAN

The proportional plan would retain the electoral vote, but replace the unit rule with a proportional division of a State's electoral vote on the basis of the popular vote in that State.

Had the proportional system been in effect in 1969, it would have produced the following distortions in two States having the identical number of electoral votes:

First, President Nixon captured 43 percent of the popular vote in Virginia and under the proportional plan this would have produced 5.2 electoral votes. Vice President HUMPHREY's 43 percent of the popular vote in Missouri likewise would have produced 5.2 electoral votes. President Nixon, however, only required 590,315 popular votes, whereas HUMPHREY had to poll 791,444 votes in order to produce 5.2 electoral votes—a startling difference of 201,129 popular votes.

A similar distortion can be found in both Idaho and Utah, which have four electoral votes. In both States, Nixon captured 56 percent of the statewide popular vote, and this would have entitled him to 2.2 electoral votes under the proportional plan. The interesting point is that it required 238,728 popular votes in Utah to produce the same number of electoral votes as 165,369 popular votes in Idaho.

The practical political consequence of the proportional plan is that it enhances the political influence of the safe States, which traditionally have had poor voter turnouts. Simply, a popular vote in a State where the voter turnout is poor is worth more than a vote in a State of equal size with heavy voter turnout.

States sharing marked sectional interests, moreover, would have a great incentive to maximize their electoral influence by encouraging one-partyism. As a result, regional third party challenges are likely to be encouraged. In 1948, for example, the States Rights Party polled only 2.4 percent of the total popular vote, but under a proportional plan, it would have received more than three times that percentage of the electoral vote.

Under certain political conditions, the proportional plan would produce a President who was not the popular choice of the voters. If one candidate won handily in most of the States where the turnout was poor and the results in the remaining States were almost evenly divided, it is likely that the electoral winner would have been the popular vote loser. A perfect example of this division occurred in the election of 1896. Bryan captured 46.7 percent of the popular vote and McKinley won 51.1 percent. McKinley's majority of the popular vote under the present system produced 61 percent of the electoral vote. Under a proportional plan, however, Bryan would have won a six-vote victory—despite being a popular vote loser.

A recent computer study presented to the committee examined the electoral results produced under a proportional system in close popular election. The random survey, based on several thousand two-candidate races with a popular vote distribution varying from a wide 60-to-40 split to a 50-to-50 division, revealed that with a plurality of less than 1 million votes, there was a 14 percent chance of an electoral mishap. In an

election as close as 1968, moreover, there was a 25 percent chance—1 in 4 of electing the popular vote loser.

AUTOMATIC PLAN

The automatic plan would write into the Constitution for the first time the major defect of the present system—the unit rule. It would leave the election of the President to the strange arithmetic of the unit rule and perpetuate the other inequities in the present system—including the distortions in voting power, the built-in advantage for low voter turnout, and above all, the great risk of electing a candidate who is not the first choice of the voters. The adoption of the automatic plan would not only write into the Constitution the evils of the winner-take-all rule, but also would be likely to preclude meaningful reform indefinitely.

THE FEDERAL SYSTEM PLAN

The Federal system plan would provide that in order for a candidate to be elected he would have to receive at least 40 percent of the popular vote and have confirmed his mandate by achieving a plurality of the votes in more than one-half of the States or in States having at least one-half of the total number of voters. If no candidate received such a plurality, the decision would be made on the basis of the distribution of the popular vote in accordance with the present electoral college system. If none of the candidates received a majority of the electoral vote under this proposal, the electoral votes received by candidates other than the two receiving the greatest number of popular votes would be divided among the first two candidates in accordance with the proportion of the popular vote these two candidates received in the State.

This would be an extremely complicated and confusing method of electing the President and Vice President. Moreover, the plan might tend to fragment the Presidential election process, with one candidate hoping to confirm his victory by concentrating on the most populous States and the other by concentrating on the smaller States. Such divisiveness should be minimized, not magnified, by the system of selecting our President. Finally, and above all, the plan does not correct the fundamental flaw in the electoral system. It would not prevent the possibility of electing a President and Vice President who had not received the most popular votes.

CONCLUSION

Mr. President, these are the alternative plans. None of them has the slightest possibility of securing passage by a vote of two-thirds of the Members of the Senate and the House. None of them would be ratified by three-fourths of the States.

Indeed, Mr. President, if one of these plans were somehow to be adopted, it would in my opinion foreclose all possibility of reform in this Congress—perhaps in this generation.

These are reforms that the Nation desperately needs. We have stalled too long, we have talked too long, we have fought too long. Now is the time to revise our electoral system for 1976, and for generations of Americans to come.

Mr. President, I ask unanimous consent to print in the RECORD the complete text of the proposed amendment and a section-by-section analysis.

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

S.J. RES. 1

Joint resolution proposing an amendment to the Constitution to provide for the direct popular election of the President and Vice President of the United States

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress:

"ARTICLE —

"SECTION 1. The people of the several States and the District constituting the seat of government of the United States shall elect the President and Vice President. Each elector shall cast a single vote for two persons who shall have consented to the joining of their names as candidates for the offices of President and Vice President. No candidate shall consent to the joinder of his name with that of more than one other person.

"SEC. 2. The electors of President and Vice President in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislature, except that for electors of President and Vice President, the legislature of any State may prescribe less restrictive residence qualifications and for electors of President and Vice President the Congress may establish uniform residence qualifications.

"SEC. 3. The persons joined as candidates for President and Vice President having the greatest number of votes shall be elected President and Vice President, if such number be at least 40 per centum of the total number of votes cast.

"If, after any such election, none of the persons joined as candidates for President and Vice President is elected pursuant to the preceding paragraph, the Congress shall assemble in special session, in such manner as the Congress shall prescribe by law, on the thirty-fourth day after the date on which the election occurred. The Congress so assembled in special session shall be composed of those persons who are qualified to serve as Members of the Senate and the House of Representatives for the regular session beginning in the year next following the year in which the election occurred. In that special session the Senate and the House of Representatives so constituted sitting in joint session, each Member having one vote, shall choose immediately, from the two pairs of persons joined as candidates for President and Vice President who received the highest numbers of votes cast in the election, one such pair by ballot. For that purpose a quorum shall consist of three-fourths of the whole number of Senators and Representatives. The vote of each Member of each House shall be publicly announced and recorded. The pair of persons joined as candidates for President and Vice President receiving the greater number of votes shall be elected President and Vice President. Immediately after such choosing, the special session shall be adjourned sine die.

"No business other than the choosing of a President and Vice President shall be transacted in any special session in which the Congress is assembled under this section. A regular session of the Congress shall be adjourned during the period of any such special session, but may be continued after the adjournment of such special session. The assembly of the Congress in special session under this section shall not affect the term of office for which a Member of the Congress theretofore has been elected or appointed, and this section shall not impair the powers of any Member of the Congress with respect to any matter other than proceedings conducted in special session under this section.

"SEC. 4. The times, places, and manner of holding such elections and entitlement to inclusion on the ballot shall be prescribed in each State by the legislature thereof; but the Congress may at any time by law make or alter such regulations. The days for such elections shall be determined by Congress and shall be uniform throughout the United States. The Congress shall prescribe by law the times, places, and manner in which the results of such elections shall be ascertained and declared. No such election shall be held later than the first Tuesday after the first Monday in November, and the results thereof shall be declared no later than the thirtieth day after the date on which the election occurs.

"SEC. 5. The Congress may by law provide for the case of the death, inability, or withdrawal of any candidate for President or Vice President before a President and Vice President have been elected, and for the case of the death of both the President-elect and Vice President-elect.

"SEC. 6. Sections 1 through 4 of this article shall take effect two years after the ratification of this article.

"SEC. 7. The Congress shall have power to enforce this article by appropriate legislation."

SECTION-BY-SECTION ANALYSIS OF THE RESOLUTION

The resolution contains the customary provisions that the proposed new article to the Constitution shall be valid as part of the Constitution only if ratified by the legislatures of three-fourths of the State within 7 years after it has been submitted to them by the Congress.

Section 1 of the proposed article would abolish the electoral college system of electing the President and Vice President of the United States and provide for their election by direct popular vote. The people of every State and the District of Columbia would vote directly for President and Vice President. This section prevents a candidate for either office from being paired with more than one other person. Candidates must consent to run jointly.

Section 2 provides that voters for President and Vice President in each State must meet the qualification for voting for the most numerous branch of the State legislature in that State. The term "electors" is retained, but instead of referring to the electoral college, the term hence forth means qualified voters, as it does in existing provisions dealing with popular election of Members of Congress. This clause also permits the legislature of any State to prescribe less restrictive residence requirements and is necessary in order to prevent invalidation of relaxed residence requirements already or hereafter adopted by the States for voting in presidential elections.

The Congress is also empowered to establish uniform residence qualifications. This authority would in no way affect the provisions dealing with residency requirements in presidential elections adopted as part of the Voting Rights Act of 1970. The Voting Rights Act abolished residency requirements for voting in presidential elections and establishes nationwide, uniform standards relating to absentee registration and absentee voting in presidential elections. The provision, moreover, does not modify or limit in any way existing constitutional powers of the Congress to legislate on the subject of voting qualifications, nor in anyway limit the Supreme Court's decision in *Dunn* v. *Blumstein*, 92 Sup. Ct. 995 (1972) which held State resi-

dency requirements in excess of 30 days to be unconstitutional. The District of Columbia is not referred to in section 2 because Congress now possesses the legislative power to establish voting qualifications for the District under Article I, section 8, clauses 17 and 18.

Section 2 is modeled after the provisions of article I, section 2, and the 17th amendment to the Constitution regarding the qualifications of those voting for Members of Congress. As a result, general uniformity within each State regarding the qualifications for voting for all elected Federal officials is retained. Use of the expression "electors of the most numerous branch of the State legislature" does not nullify by implication or intent the provisions of the 24th amendment that bar payment of a poll tax or any other tax as a requisite for voting in Federal elections. The Supreme Court, moreover, has held that a poll tax may not be enacted as a requisite for voting in State elections as well, *Harper* v. *Board of Supervisors,* 383 U.S. 663 (1966).

Section 3 requires that candidates obtain at least 40 percent of the whole number of votes cast to be elected President and Vice President. The expression "whole number of votes cast" refers to all valid votes counted in the final tally. The term "whole number" is consistent with prior expressions in the Constitution, as in the 12th amendment. Section 3 further provides that if no pair of candidates receives at least 40 percent of the whole number of votes cast for President and Vice-President, then the selection will be made by a joint Session of the newly elected Congress meeting only for this purpose thirty-four days after the election. They shall choose the President and Vice-President from among those two pair of candidates which received the largest popular vote total.

Section 4 embodies provisions imposing duties upon the Congress and the States in regard to the conduct of elections. The first part of this section requires the State legislatures to prescribe the times, places, and manner of holding presidential elections and entitlement to inclusion on the ballot—subject to a reserve power in Congress to make or alter such regulations. This provision is modeled after similar provisions in article I and the 17th amendment dealing with elections of members of Congress. States will continue to have the primary responsibility for regulating the ballot. However, if a State sought to exclude a major party candidate from appearing on the ballot—as happened in 1948 and 1964—the Congress would be empowered to deal with such a situation.

Section 4 also requires that Congress shall establish the date for the regular election, that such date will be uniform throughout the country, and that in no event shall such an election be held later than the first Tuesday after the first Monday in November. This conforms to the present constitutional requirement for electoral voting (Article II, section 1), to which Congress has responded by establishing a uniform day for the election of electors. (3 USC 1)

Section 4 further requires Congress to prescribe the time, place, and manner in which the results of such election shall be ascertained and declared. The mandatory language is comparable to the mandatory duties imposed upon the States to provide popular election machinery for Members of Congress. In implementing this section, Congress may choose to accept State certifications of the popular vote as it now accepts electoral vote certifications under the provisions of 3 U.S.C. 15. Federal enabling legislation will be required to provide the specific legislative details contemplated in the broad constitutional language of the amendment.

Section 5 empowers Congress to provide by legislation for the death, inability, or withdrawal of any candidate for President and Vice President before a President or Vice President has been elected. Once a President and Vice President have been elected, existing constitutional provisions would apply. Thus, the death of the President-elect would be governed by the 20th amendment and the death of the Vice President-elect would be governed by the procedure for filling a Vice Presidential vacancy contained in the 25th amendment. Section 5 also empowers the Congress to provide by legislation for the case of the death of both the President-elect and Vice President-elect.

Section 6 provides that the article shall take effect 1 year after ratification. The committee was of the opinion that since legislation will be necessary to fully implement and effectuate the purposes of the proposed amendment, a reasonable period of time should be provided between the date of ratification and the date on which the amendment is to take effect. The committee believes that this provision affords both the Congress and the States an adequate opportunity to legislate, but does not foreclose the possibility of securing ratification in time for the proposed article to be in effect before the 1976 Presidential election.

Section 7 confers on Congress the power to enforce this article by appropriate legislation. The power conferred upon Congress by this section parallels the reserve power granted to the Congress by numerous amendments to the Constitution. Any exercise of power under this section must not only be "appropriate" to the effectuation of the article but must also be consistent with the Constitution.

By Mr. BROOKE (for himself, Mr. BURDICK, Mr. BENTSEN, Mr. CASE, Mr. CLARK, Mr. CRANSTON, Mr. FONG, Mr. GLENN, Mr. HANSEN, Mr. GARY W. HART, Mr. PHILIP A. HART, Mr. HARTKE, Mr. HASKELL, Mr. HATFIELD, Mr. HUMPHREY, Mr. JAVITS, Mr. KENNEDY, Mr. MCGOVERN, Mr. MONDALE, Mr. MONTOYA, Mr. MUSKIE, Mr. PELL, Mr. PERCY, Mr. RIBICOFF, Mr. HUGH SCOTT, Mr. STAFFORD, Mr. STEVENS, Mr. SCHWEIKER, Mr. STEVENSON, Mr. TUNNEY, Mr. WEICKER, and Mr. WILLIAMS):

S.J. Res. 2. A joint resolution designating January 15 of each year as "Martin Luther King Day." Referred to the Committee on the Judiciary.

MARTIN LUTHER KING DAY

Mr. BROOKE. Mr. President, today, January 15, marks the 46th anniversary of the birth of Dr. Martin Luther King, Jr. It is a most appropriate time to honor this great man and the dream he articulated for all Americans.

1968, the year of his death, seems very far behind us today. In large part, passions have cooled and the flames of anguish, bitterness and frustration that consumed the Nation in that tumultuous year have died away. What is left to us, in the perspective of history and of our image of ourselves as a Nation and a people, is the vision that Martin Luther King lived for, the dream for which he died.

That vision was not just for black Americans, or for oppressed minorities, or even just for the poor. It embraced all Americans in the quest to bring to full fruition our fundamental principles, that "all men are created equal," and with an equal right to "life, liberty, and the pursuit of happiness." Dr. King's vision was an America purged of racial prejudice, hatred, and fear; at peace with itself and united by new bonds of Christian brotherhood and reconciliation.

In the face of every threat to his life and safety, and those of his friends and family, and despite all the violence and humiliation to which he and his followers were subjected, Dr. King held to his belief in nonviolence.

Some have said that Dr. King had a naive optimism in nonviolence. But his militant nonviolence accomplished more in his short lifetime than all the violence of the racists, black or white. He set the civil rights movement on a new course in the United States, and it will yet prevail. He helped to unify the races by showing what one man could do by believing in brotherhood. Others are continuing, and will continue, his work. The dream of true equality of rights and opportunities without regard to race is nearer because of Martin Luther King.

In this Bicentennial era, I can think of no man whose life better symbolizes the principles on which this Nation was founded—the principles of freedom for which generations of Americans have fought and died—for which Martin Luther King fought and died.

Today, Mr. President, as one way of insuring renewed dedication to his goals of freedom and equality, I would like to introduce, as I did in 1968, 1969, 1971, and 1973, a resolution making the birthday of Martin Luther King, Jr., January 15, a national day of commemoration. This day of commemoration will always remind us of how we must respect and understand one another if we are ever to realize the principles upon which this Nation was established.

I urge my colleagues to join me in the swift enactment of this legislation.

I ask unanimous consent that the text of this resolution be printed at this point in the RECORD.

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

S.J. RES. 2

Whereas the United States of America was deeply grieved by the vicious and senseless act which ended the life of the Reverend Martin Luther King, Junior, this country's apostle of non-violence;

Whereas the United States of America, and its Senators and Representatives in Congress, recognize and appreciate the immense contribution and sacrifice of this dedicated American;

Whereas the American people are determined that the life and works of this great man shall not be obscured by violence and anger, but rather that they shall remain a shining symbol of the Nation's non-violent struggle for social progress;

Whereas it is incumbent upon us to recognize that violence, hatred, and national division do no honor to the man who has been taken from us;

Whereas mutual respect and a firm commitment to the ideals of non-violence for which he labored will be the most lasting memorial to the life of the Reverend Doctor Martin Luther King, Junior;

Whereas it is fervently hoped that his death may serve to reconcile those among us who have harbored hatred and resentment for their fellow Americans, to the end that our country may at last realize the ideal of equality set forth in our Constitution: Therefore, it is hereby

Resolved by the Senate and House of Representatives of the United States of America

in Congress assembled, That, in honor of the Reverend Doctor Martin Luther King, Junior, who was born on January 15, 1929, January 15 of each year is hereby designated as "Martin Luther King Day". The President is authorized and requested to issue a proclamation each year calling upon the people of the United States to commemorate the life and the service to his country and its citizens of the Reverend Doctor Martin Luther King, Junior, and to observe that day with appropriate honors, ceremonies, and prayers.

By Mr. KENNEDY (for himself, Mr. CHILES, Mr. MCINTYRE, Mr. HATHAWAY, Mr. PELL, Mr. PASTORE, Mr. RIBICOFF, Mr. BROOKE, Mr. MUSKIE, Mr. HOLLINGS, and Mr. LEAHY):

S.J. Res. 3. A joint resolution to require the submission and approval by the Congress of fees on oil imports. Referred to the Committee on Finance.

Mr. KENNEDY. Mr. President, although I support the main goals of the President on the economy and energy, the specific proposals are seriously flawed in many basic respects.

The proposal for an immediate tax cut is a welcome about-face in the administration's original position, but the amount of the cut is too small, its two-stake timing is unwise, and the distribution of the benefits is excessively generous to the rich.

Although I support many of the details of the energy package, I am adamantly opposed to the exorbitant new taxes proposed on domestic and foreign oil, and I am today introducing legislation to block any such action by the President without the approval of Congress. The President is tragically wrong in asking the country to accept $30 billion in higher prices for gasoline and fuel and he is wrong in giving the oil companies such a major role to play in the vital energy decisions that must be made.

The President's energy tax program is both inflationary and recessionary. Not only will it drive prices up by $30 billion, but it will also drain $30 billion from other areas of the economy. It is wishful thinking to believe the administration can devise a tax rebate policy to cushion the enormous and unfair burden that will be imposed on millions of individuals.

Especially harsh is the proposal to limit the increase in social security benefits to 5 percent this year. Why does the President single out the Nation's 25 million elderly for special hardship in the fight against inflation. The President spoke not a single word about price and wage restraint in the private sector. And, among Federal spending programs, why is social security the first to feel the knife? What about the fat in the defense budget? What about all the other sacred cows of the special interests?

Sadly, the social security moratorium is a clear symbol of the over-all proposals—windfalls for the well off, but heavy new hardships for everyone else.

Overall, the program is unfair—unfair to the elderly, unfair to the poor, unfair to workers, unfair to New England, and unfair to two hundred million average American citizens.

It is up to Congress now to act. We have a mandate of our own to bring the economy back to health. We are ready to meet the challenge and we shall meet it in a way that is both more effective for the country and fairer to the average citizen than the program we heard today.

By Mr. INOUYE:

S.J. Res. 4. A joint resolution to authorize and request the President of the United States to issue a proclamation designating September 17 as "Constitution Day." Referred to the Committee on the Judiciary.

Mr. INOUYE. Mr. President, today I am introducing a resolution that will proclaim each September 17 as "Constitution Day."

The Declaration of Independence which was signed on July 4, 1779, by the 56 members of the Continental Congress marks the birth of our Nation and sets forth the basic philosophical beliefs upon which this country was founded. It is the Constitution of the United States, however, which was signed on September 17, 1787, by 39 delegates to the Constitutional Convention that inaugurated the birth of our Government by providing the legal framework for all its operations. The Constitution defines our National Government's form and functions and specifies the duties of and restrictions on the Federal Union and the individual States.

Each July 4 this Nation marks the day it became a free Nation. And in 1976 a nationwide bicentennial celebration will take place commemorating the Declaration of Independence and the historical significance of our breaking free from the chains of British suppression.

I believe the Constitution deserves similar national recognition. Gladstone, the eminent English jurist, believed our Constitution to be "the most wonderful work ever struck off at a given time by the brain and purpose of man." The Founding Fathers who drafted the Constitution included George Washington, Benjamin Franklin, James Madison, James Wilson, Edmund Randolph, and John Rutledge. Thomas Jefferson referred to these men as "an assembly of demigods." And it is the genius of their work that has served this Nation in times of war and peace, economic hardship and prosperity, political chicanery and virtue, governmental crisis and fortune. For almost 200 years of rapid, revolutionary, and unpredictable change in American society those few thousand words have directed the growth of this Nation toward greatness as the world's leader and champion of freedom.

In 1966, when Constitution Week was proclaimed by the late President Lyndon B. Johnson, he eloquently noted the historical and intellectual threads that were woven into the fabric of our governmental charter by those wise and learned men who met in Philadelphia during the hot summer of 1787. President Johnson stated:

> Our Constitution did not spring forth in a single moment of inspiration. Rather, it was the culmination of man's long struggle for freedom, justice, equality, and recognition of the dignity of man. It reflects the wisdom of the Old and New Testaments, the democratic principles of ancient Greece, the justness of the Roman law, the concept of constitutional liberty as guaranteed to Englishmen by the Magna Carta, and the dedication that caused our Founding Fathers to forsake the security of civilization to seek liberty, justice, and opportunity in the wilderness of the New World.

In recent years, however, there has been growing concern and a widespread belief that our Government has been undergoing a constitutional crisis. The form and functions which the Constitution defined for the various branches and levels of government have been criticized. The constitutional concepts of supreme law of the land, popular sovereignty, checks and balances, separation of powers, judicial supremacy, freedom of the press, and rights of free speech and assembly have all been challenged by various public officials, group spokesmen, and women and private citizens.

This crisis is reflected in a diminishing respect for our entire governmental and political system. Recent public opinion surveys show a large majority of Americans give our Government fair or poor marks for honesty, fairness, justice, efficiency, consideration, and responsiveness. One-third of the public have no or not very much trust or confidence in local government, 31 percent lack faith in State government, 30 percent give little or no credence to the Congress, 25 percent express doubts about the functioning of the Federal judiciary, and almost one-fourth of the public lacks trust in the executive branch.

In this atmosphere of alienation and frustration, the Constitution has too often been ignored or distorted rather than used as a guide for resolving our differences. Public officials have been denied their constitutional rights of free speech by bellowing hecklers. In return, public officials have attempted to deny or curtail protestors' constitutional rights of peaceable assembly. The free press has been assailed at the highest levels of government. And many citizens seem willing to see the "bearers of bad tidings" punished as if newsmen are responsible for the events they report.

The decrees of the Supreme Court have been decried, disregarded, or defied by private citizens and elected representatives alike. Constitutionally guaranteed civil rights and liberties have come under attack by advocates of law and order, while constitutional law and civil order have been ridiculed by proponents of anarchy.

The growth of Executive power has also become an issue of great concern over the past two decades in the Halls of Congress and across the Nation. The constitutional concepts of checks and balances and separation of powers have been weakened with the acquiescence of the Congress as successive administrations have sought more power. The much noted conflicts over Executive privilege, impoundments, the war powers, and the power of the purse are not new—they are a natural outgrowth of the history of congressional-Executive relations since the years of the New Deal. Even the triumph of our constitutional processes during the Watergate tragedies has not dissolved the concern of many citizens.

Leaders of both major political parties

and various academic and journalistic analysts have argued the need for a strong President in the present technological age. The structural inability of Congress to respond quickly and effectively to momentary crises has been called the "deadlock of democracy." Congress has been identified as "an obstacle to modern policymaking," and the Presidency has been labeled "as near perfection as can be achieved in an imperfect world." As Republican and Democratic Presidents have made successive incursions into the constitutional domain of the Congress, rationales have been provided by liberal and conservation commentators and by members of both parties.

The separation of powers was carefully designed by the delegates to the Constitutional Convention. The members of that assembly had two unhappy recollections which made real the theoretical teachings of Montesquieu and Blackstone that—

> In any government the powers of the legislative, executive and judicial departments should be separate so that the whole could be kept in order by a system of checks and balances.

The first recollection was the tyanny and repression that the colonists suffered under the excess of authority practiced by King George of England. The second recollection was the anarchic deficiencies in governmental power experienced under the Articles of Confederation.

So the separation of powers made each branch of the government interdependent and not independent. This interdependence was felt necessary to insure majority rule without tyranny over the minority. As President Kennedy remarked, the separate branches should not be "rivals for power, but partners for progress."

Daniel Webster said:

> It is the people's Constitution, the people's government, made for the people, made by the people, and answerable to the people.

Any American who finds fault with our governmental system should understand the provisions for amending the Constitution. George Washington warned:

> If in the opinion of the people the distribution or modification of the Constitutional powers be in any particular wrong, let it be corrected by an amendment in the way which the Constitution designates. But let there be no change by usurpation; for though this in one instance may be the instrument for the good, it is the customary weapon by which free governments are destroyed.

Likewise, each judicial officer, legislator, or government executive should understand that to war against the Constitution violates his or her solemn oath to support it.

None of us can maintain "what I like is constitutional, what I dislike is unconstitutional." Down that path lies tyranny or anarchy.

In making formal recognition of September 17 as "Constitution Day" the people of the United States and those elected and appointed officials who hold office under constitutional aegis should turn our thoughts to the important lessons of that document.

"Constitution Day" should become a day, not necessarily a holiday, but a day where each American may take a few minutes out to read over the Constitution and to think about what it means in our everyday life. By reading the Federalist papers, which Chief Justice John Marshall called "a complete commentary on our Constitution" we can understand the thoughts and ideas that form the foundation of "the most revolutionary document ever written." By considering the basic governmental framework of modern day life, we can realize how relevant those concepts still are today and we can begin to think through ways in which government's operations can be reformed in keeping with constitutional precepts, yet cognizant of technological advancement. Justice Learned Hand called the Constitution "the best political document ever made." Each American should understand and reflect on the wisdom of that statement.

The 84th Congress by a similar joint resolution designated the week of September 17 as "Constitution Week." My resolution would replace "Constitution Week" with "Constitution Day." I believe this change is desirable in that a single day will provide for a more concentrated observance of the importance of that epochal document. I am afraid that the spreading of previous ceremonies and activities over a period of several days has served to diffuse the impact upon our people that such a celebration should entail. "Constitution Day," for reasons of history and tradition, may never stand in the minds of our citizens on a par with July Fourth. I should, however, receive the recognition of those officials who hold their authority under its mandate. We should reflect on its purpose "to form a more perfect Union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty."

I hope that my congressional colleagues will consent to proclaim September 17, 1975, and each September 17 thereafter as "Constitution Day," so that appropriate ceremonies and activities may be observed.

On that date in 1787, as George Washington directed his fellow delegates to place their signatures on the parchment which presented the Constitution to the American public, Benjamin Franklin noted a painting of the Sun hanging on the Philadelphia State House wall, just over General Washington's shoulder. Mr. Franklin expressed his hope that "it is a rising and not a setting Sun." If each American, especially those of us in position of public trust, will rededicate ourselves to "preserve, protect, and defend the Constitution of the United States," perhaps we can feel more certain that the Sun will continue to rise.

SENATE RESOLUTION 5—SUBMISSION OF A RESOLUTION FOR THE RELIEF OF COMDR. EDWARD W. RAWLINS

(Referred to the Committee on the Judiciary.)

Mr. MATHIAS submitted the following resolution:

S. RES. 5

Resolved,

Whereas S. 881, Ninety-first Congress, for the relief of Commander Edward White Rawlins, United States Navy (Retired), was referred to the Chief Commissioner of the U.S. Court of Claims by Senate Resolution No. 96 of the same Congress, approved by the Senate on September 3, 1969; and

Whereas the Chief Commissioner, pursuant to said S. Res. 96, and following detailed, adversary proceedings, reported favorably to the Senate on February 24, 1972, "that Commander Edward White Rawlins, the plaintiff, has an equitable—but not a legal—claim against the United States," and that "there is equitably due the plaintiff a retroactive promotion to the grade of captain on the active list of the Regular Navy as of July 1, 1947, and a retroactive retirement in that grade as of" (a date yet finally to be determined by currently pending litigation still before the Chief Commissioner); and

Whereas Commander Rawlins' advancing age—seventy-two years—clearly warrants some immediate remedial action without further aggravating the injustice of delay: Now, therefore, be it

Resolved, That as an interim measure in the name of partial equity and justice, and pending a final determination by the Chief Commissioner of the full and final remedies warranted in the case, it is the sense of the Senate that by executive appointment of the President the said Commander Rawlins should be deemed to have been advanced to the grade of captain on the active list of the Regular Navy for all purposes effective from July 1, 1947; and be it further

Resolved, that this action shall in no way prejudice full retroactive, compensatory determinations yet to be made by the Chief Commissioner.

SENATE RESOLUTION 6—SUBMISSION OF A RESOLUTION TO ESTABLISH A SELECT COMMITTEE TO CONDUCT A STUDY OF INTELLIGENCE OPERATIONS

(Referred to the Committee on Armed Services.)

Mr. SCHWEIKER. Mr. President, on behalf of myself and Mr. PROXMIRE, I send to the desk for appropriate reference a resolution to create a select committee of the Senate to investigate the activities of the intelligence community of the Federal Government, to evaluate the charter of the Central Intelligence Agency, and to request the appointment of a special prosecutor by the President of the United States to act on any violations of existing Federal statutes by persons acting for, or on behalf of, the intelligence community.

I am particularly pleased that my good friend and distinguished colleague from Wisconsin, Mr. PROXMIRE, has joined me as the primary cosponsor of this measure. Senator PROXMIRE has established a reputation for speaking frankly, forcefully, and intelligently on issues facing the Senate and the country; he was among the first to raise serious questions concerning the composition of the so-called "blue ribbon commission" named to investigate the CIA, and he has consistently fought to improve civilian control over intelligence operations. I am delighted to be joined by Senator PROXMIRE in introducing this important measure.

It is clear that something is wrong at the Central Intelligence Agency. We have learned of the CIA involvement in over-

throwing the Chilean Government, the CIA involvement in Watergate, the apparent CIA involvement in domestic surveillance, and, most recently, the CIA involvement in industrial espionage against our closest NATO allies which I disclosed last week. So something is wrong, Mr. President—it seems to me the CIA has either become a runaway bureaucracy, or it has, at the request of other Government agencies or officials, become a sort of shadow government engaged in nonintelligence activities solely to expedite action or minimize congressional oversight.

The CIA, however, is only a small part of the entire intelligence community of the Federal Government. It employs fulltime less than 15 percent of the persons employed fulltime in intelligence activities by the Federal Government, and its budget, by best estimates, is slightly more than 10 percent of the entire Federal intelligence community budget. So it does not make sense to examine the CIA in a vacuum, and the resolution we introduce today will permit the Senate to study the entire Federal intelligence community.

Equally important, our resolution requests that the President appoint a special prosecutor to investigate and to act on any violations of law which have occurred in the Federal intelligence community. A free nation must have an effective intelligence service, and effective intelligence may involve some actions which are repugnant to a free society. But if such actions are necessary, they must be conducted within precisely defined statutory limits—and the integrity of our institutions requires that any violations of these statutory limits be vigorously prosecuted.

Moreover, it is clear that a special prosecutor, from outside of Government is required because of the repeated allegations that other agencies of Government, including the Justice Department, have been involved in CIA excesses. Only last week, it was reported that the Justice Department supplied the CIA with names of domestic dissidents for surveillance overseas; it was also charged that the CIA surveillance was not confined to overseas. So we believe a special prosecutor, guaranteed to have the independence which marked the Watergate prosecutor's office, is required.

Mr. President, I ask unanimous consent that this resolution be printed in full at this point in the RECORD.

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

S. RES. 6

Resolved, That (a) there is established a select committee of the Senate, to be known as the Select Committee on Intelligence Operations and Activities (hereinafter referred to as the "select committee"), to conduct a study and investigation of the intelligence operations and activities carried out by, under the direction or supervision of, or on behalf of the intelligence community of the Federal Government with a view to determining whether, and to what extent, illegal, improper, or unethical actions, have been engaged in by any persons, acting either individually or in combination with others, while carrying out intelligence operations or activities or while acting under the guise of carrying out such operations or activities.

(b) The select committee shall be composed of eight members of the Senate, four to be appointed by the majority leader of the Senate and four to be appointed by the minority leader of the Senate, but not more than two members of the select committee may be members of subcommittees having permanent jurisdiction over Central Intelligence Agency authorizations or appropriations.

(c) The select committee shall select a chairman from among its members from the majority party and a co-chairman from the minority party. A majority of the members of the select committee shall constitute a quorum thereof for the transaction of business, except that the select committee may fix a lesser number as a quorum for the purpose of taking testimony. Vacancies in the membership of the select committee shall not affect the authority of the remaining members to execute the functions of the select committee.

(d) For the purposes of paragraph 6 of rule XXV of the Standing Rules of the Senate, service of a Senator as a member or chairman of the select committee shall not be taken into account.

SEC. 2. (a) The select committee is authorized and directed to do everything necessary or appropriate to carry out the study and investigation specified in the first section of this resolution.

(b) Without limiting the foregoing, it shall also be the function of the select committee to conduct a study and investigation with respect to the charter of the Central Intelligence Agency, including, but not limited to, a consideration of the following matters:

(1) The extent to which the statutory authority of the Central Intelligence Agency has been modified, expanded, or diminished by Executive Orders, by National Security Council actions, decrees, or directives, or by other means.

(2) The effectiveness of civilian control of, and Congressional oversight over, the intelligence community of the Federal Government, in insuring its operation within existing statutory guidelines, and the impact which any modifications of authority described in paragraph (1) of this section may have had on such control and oversight.

(3) The effectiveness of the existing charter in guaranteeing individual constitutional rights and the integrity of democratic institutions, consistent with the requirements of national security.

(4) The nature and extent of any Central Intelligence Agency activities performed on behalf of, or at the request of, other government departments, agencies, or officials.

(5) The extent to which the Central Intelligence Agency activities duplicate or supersede the non-classified activities of other government departments or agencies.

(6) The effectiveness of existing charter provisions in maximizing legitimate intelligence coordination and evaluation, while minimizing covert operations.

(7) The extent of any involvement by the intelligence community of the Federal Government in the private sector of the domestic economy, and the effectiveness of existing statutes in defining such involvement consistent with the national interest.

(c) As used in this resolution, the term "intelligence community of the Federal Government" includes—

(1) United States Intelligence Board;

(2) The Central Intelligency Agency;

(3) The Defense Intelligency Agency;

(4) The Intelligence and Reports Bureau of the Department of State;

(5) The National Security Agency;

(6) The intelligence components of the Army, Navy, and Air Force;

(7) The Atomic Energy Commission;

(8) The Federal Bureau of Investigation;

(9) The Department of the Treasury; and

(10) Any other department, agency, bureau, or office engaged in or responsible for intelligence operations or activities for or on behalf of the Federal Government.

SEC. 3. (a) To enable the select committee to make the investigation and study authorized and directed by this resolution, such committee is authorized (1) to employ and fix the compensation of such clerical, investigatory, legal, technical, and other assistants as it deems necessary or appropriate; (2) to sit and act at any time or place during sessions, recesses, and adjournment periods of the Senate; (3) to hold hearings for taking testimony on oath or to receive documentary or physical evidence relating to the matters and questions it is authorized to investigate or study; (4) to require by subpena or otherwise the attendance as witnesses of any persons who the select committee believes have knowledge or information concerning any of the matters or questions it is authorized to investigate and study; (5) to require by subpena or order any department, agency, officer, or employee of the executive branch of the United States Government, or any private person, firm, or corporation, or any officer or former officer or employee of any firm or corporation employed by the United States to conduct any intelligence operations or activities for the United States, to produce for the consideration of the select committee or for use as evidence in its investigation and study any books, checks, canceled checks, coorespondence, communications, documents, financial records, papers, physical evidence, records, recordings, tapes, or materials relating to any of the matters or questions it is authorized to study and investigate which they or any of them may have in their custody or under their control; (6) to make to the Senate any recommendations it deems appropriate in respect to the willful failure or refusal of any person to appear before it in obedience to a subpena or order, or in respect to the willful failure or refusal of any person to answer questions or give testimony in his character as a witness during his appearance before it, or in respect to the willful failure or refusal of any officer or employee of the executive branch of the United States Government or any person, firm, or corporation, or any officer or former officer or employee of any firm or corporation employed by the United States to conduct any intelligence operations or activities for the United States, to produce before the committee any books, checks, canceled checks, correspondence, communications, documents financial records, papers, physical evidence, records, recordings, tapes, or materials in obedience in any subpena or order; (7) to take depositions and other testimony on oath anywhere within the United States or in any other country; (8) to procure the temporary or intermittent services of individual consultants, or organizations thereof, in the same manner and under the same conditions as a standing committee of the Senate may procure such services under section 202 (i) of the Legislative Reorganization Act of 1946; (9) to use on a reimbursable basis, with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, the services of personnel of any such department or agency; (10) to use on a reimbursable basis or otherwise with the prior consent of the chairman of any other of the Senate committees or the chairman of any subcommittee of any committee of the Senate the facilities or services of any members of the staffs of such other Senate committees or any subcommittees of such other Senate committees whenever the select committee or its chairman deems that such action is

necessary or appropriate to enable the select committee to make the investigation and study authorized and directed by this resolution; (11) to have access to any data, evidence, information, report, analysis, or document or papers relating to any of the matters or questions which it is authorized and directed to investigate and study in the custody or under the control of any department, agency, officer, or employee of the executive branch of the United States Government having the power under the laws of the United States to investigate any alleged criminal activities or to prosecute persons charged with crimes against the United States which will aid the select committee to prepare for or conduct the investigation and study authorized and directed by this resolution; and (12) to expend to the extent it determines necessary or appropriate any moneys made available to it by the Senate to perform the duties and exercise the powers conferred upon it by this resolution and to make the investigation and study it is authorized by this resolution to make.

(b) Subpoenas may be issued by the select committee acting through either of the cochairmen or any other member designated by either of them, and may be served by any person designated by such chairman or other member anywhere within the borders of the United States. Either the chairman of the select committee, or any other member, thereof, is hereby authorized to administer oaths to any witnesses appearing before the committee.

(c) In preparing for or conducting the investigation and study authorized and directed by this resolution, the select committee shall be empowered to exercise the powers conferred upon committees of the Senate by section 6002 of title 18 of the United States Code or any other Act of Congress regulating the granting of immunity to witnesses.

SEC. 4. The select committee shall have authority to recommend the enactment of any new legislation relating to the intelligence operations or activities of the Federal Government which the select committee considers necessary or desirable as the result of its study and investigation.

SEC. 5. The select committee shall make an interim report of its findings not later than six months after the date this resolution is agreed to, and a final report of the results of the investigation and study conducted by it pursuant to this resolution, together with its findings and its recommendations for any new legislation it deems necessary or desirable, to the Senate at the earliest practicable date, but no later than February 28, 1976. The select committee may also submit to the Senate such additional interim reports as it considers appropriate. After submission of its final report, the select committee shall have 90 days to close its affairs, and on the expiration of such 90 days shall cease to exist.

SEC. 6. Expenses of the select committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by either of the two cochairmen of the select committee.

SEC. 7. (a) It is the sense of the Senate that the President immediately designate an individual of the highest character and integrity from outside the Executive Branch to serve as special prosecutor for the Government of the United States in any and all criminal investigations, indictments, and actions arising from any violations of the National Security Act of 1947 or the Central Intelligence Act of 1949 by any person acting individually or in combination with others.

(b) It is further the sense of the Senate that the President should grant such special prosecutor all authority necessary and proper to the effective performance of his duties and should submit the name of such designee to the Senate, requesting a resolution of approval of such designee.

SENATE RESOLUTION 7—SUBMISSION OF A RESOLUTION CONCERNING SALARY INCREASES IN THE FEDERAL GOVERNMENT

(Referred to the Committee on Post Office and Civil Service.)

Mr. HANSEN. Mr. President, today, we find the Nation confronted with a number of serious and complex economic problems. The economic woes of the Nation have affected almost every individual in our great country.

The President has recognized these problems and has made recommendations to the Congress to ease and, hopefully, put an end to our present economic difficulties.

Both the President and the Congress recognize there will be no immediate relief, but rather hope for steady economic recovery. During this recovery period, Americans are being asked to sacrifice and conserve.

At a time when the President and the Congress are asking Americans to sacrifice, it seems completely ridiculous that serious consideration be given to a congressional pay raise. It would be clearly irresponsible for the Congress to raise salaries of its Members while concurrently asking the rest of the Nation to carry the burden of the present economic difficulties.

Mr. President, last year this same Senate voted against such a pay raise. Today, the economic plight of the country is worse than last year at this time. Accordingly, this year the need is even greater for the Senate to go on record opposing a pay raise.

It is in this context I introduce my resolution expressing the sense of the Senate that, first, the President should not recommend a pay raise for the Congress and other high-level Government officials, and, second, if the President should make such a recommendation, the recommendation should be disapproved.

Adoption of this resolution is necessary to express to the American people that the Congress, in time of economic difficulty, is holding the lid on unnecessary spending, and more importantly, will not consider raising salaries of its Members while asking those who elected them to sacrifice during these troubled economic times.

Mr. President, I ask unanimous consent that my resolution be printed at this point in the RECORD.

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

S. RES. 7

Resolved, That it is the sense of the Senate that (1) the President should recommend, with respect to his recommendations to be transmitted to Congress during calendar year 1975 under section 225 of the Federal Salary Act of 1967, that salaries of positions referred to in such section not be increased, and (2) if recommendations are made during calendar year 1975 for increases in salaries, those recommendations should be disapproved.

SENATE RESOLUTION 8—SUBMISSION OF A RESOLUTION CONCERNING PROPOSED BUDGETARY RESCISSIONS

(Ordered held at the desk, by unanimous consent.)

Mr. CANNON. Mr. President, today I have introduced a resolution which if passed will in spirit disapprove a proposal by the President of the United States to rescind $1.3 million previously appropriated by the Immigration and Naturalization Service for detention and deportation of illegal aliens. It is imperative that we act on this resolution with great speed, to set the record and to inform the President that the U.S. Senate will not approve rescissions where the integrity of the law enforcement system is put in jeopardy.

Recently, in my home State of Nevada, the supervisory immigration officer for the Immigration Service sent letters to every local law enforcement agency requesting that they no longer arrest and detain illegal aliens. He cited the reason as a reduction of the immigration budget to detain and remove illegal entrants. This individual also announced this fact in the newspapers and over the broadcast media. The reduction he spoke of obviously is the $1.3 million proposed by President Ford for rescission.

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

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

IMMIGRATION AND NATURALIZATION SERVICE,
Las Vegas, Nev., December 31, 1974.

Hon. MICHAEL O'CALLAGHAN,
State of Nevada, State Capitol, Carson City, Nev.

DEAR GOVERNOR O'CALLAGHAN: Attached is a copy of a letter that I had to write to all local police departments today. This was necessitated by a two-thirds reduction in funds to detain and remove illegal aliens as of January 1, 1975.

Because of your recent interest and support I felt that you might prefer to be made aware of the situation before it was brought to your attention from other sources.

Sincerely,

JAMES E. WALSH,
Supervisory Immigration Officer.

IMMIGRATION AND NATURALIZATION SERVICE,
Las Vegas, Nev., December 31, 1974.

DEAR SIR: This is to advise that I have just received notification that the Immigration Services budget to detain and remove illegal aliens from the U.S. have been drastically reduced as of January 1, 1975. Regretfully I must ask that your officers do not apprehend or place in detention any illegal alien in violation of Title 8 United States Code 1325 (Illegal Entry) until such time that the budget of the Immigration Service is increased. Hopefully, an additional appropriation will be approved by Congress in the near future which will allow the Immigration Service to return to normal operations.

I wish to also take this opportunity to thank you and your officers for the splendid cooperation received in the past. Please be assured of our continued interest and that we are available to assist your personnel in any way possible but that for the present and until further notice we cannot accept custody of an alien where detention and transportation costs are involved.

Sincerely yours,

JAMES E. WALSH,
Supervisory Immigration Officer.

Mr. CANNON. Current estimates are that there are more than 10,000 illegal aliens in Nevada alone. Mr. President, this figure increases to 4 to 7 million

nationwide. Many illegal aliens are collecting welfare benefits, but all are taking advantage of the many social benefits that we, as taxpayers, are paying for. A substantial number of those who are employed, estimated at more than 1 million, are sending their earnings out of the country, not to mention the fact that they are filling jobs desperately needed by the growing numbers of unemployed Americans. These people are not performing only menial tasks, but many hold highly skilled industrial jobs, their skills having been learned while working on the job.

Attorney General Saxbe is more than aware of the problem. In fact, he has pointed it out very well in several addresses. He has said that a goal of the Service is to open up 1 million jobs during 1975. The action of President Ford can only do a disservice to this goal, and at a time when the President himself deems it necessary to create public service jobs. The President can advance his own goal, and the common goal of myself and my colleagues, of reducing our high unemployment by enforcing the laws already established to protect our citizenry in their jobs.

Under the Impoundment Control Act of 1974 we are empowered to rescind the budget authority as requested by the President. Further, we are empowered to disapprove his proposal by failing to pass a rescission bill within the 45-day period subsequent to the President's proposal. However, during the 45-day period the President need not spend the money Congress already has appropriated. In the case of the Immigration Service, that means that for at least 45 days illegal aliens have almost complete freedom to enter the United States, knowing they will not be deported. By then the harm will be done. The Congress cannot sit idly by and allow this. Therefore, I ask my colleagues to join me in this effort to assure equitable but consistent enforcement of our laws.

Mr. President, I ask unanimous consent that the text of this resolution be printed in the RECORD at this time.

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

SENATE RESOLUTION 8

Resolved, That it is the sense of the Senate that funds appropriated for the lawful detention and deportation functions of the Immigration and Naturalization Service will not be rescinded;

That funds proposed for rescission and labeled funds for detention and deportation should be allowed for such expenditure without delay or deferral;

That Title 8 United States Code 1325 (illegal entry) should be strongly enforced without interruption.

Mr. ROBERT C. BYRD subsequently said: Mr. President, I ask unanimous consent that the resolution submitted earlier today by the distinguished Senator from Nevada (Mr. CANNON) concerning proposed budgetary rescissions be held at the desk pending further disposition.

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

SENATE RESOLUTION 9—SUBMISSION OF A RESOLUTION AMENDING THE RULES OF THE SENATE RELATING TO COMMITTEE MEETINGS

(Referred to the Committee on Rules and Administration.)

Mr. CHILES (for himself, Mr. ROTH, Mr. BIDEN, Mr. BROCK, Mr. CHURCH, Mr. CLARK, Mr. CRANSTON, Mr. HATFIELD, Mr. HATHAWAY, Mr. HUMPHREY, Mr. JAVITS, Mr. JOHNSTON, Mr. MCGOVERN, Mr. METCALF, Mr. MONDALE, Mr. MUSKIE, Mr. PACKWOOD, Mr. PERCY, Mr. PROXMIRE, Mr. STAFFORD, Mr. STEVENSON, Mr. TAFT, Mr. WEICKER, Mr. BUMPERS, Mr. STONE, Mr. CULVER, Mr. FORD, Mr. GARY W. HART, Mr. LAXALT, Mr. NELSON, and Mr. HASKELL) submitted the following resolution:

S. RES. 9

Resolved, That paragraph 7(b) of rule XXV of the Standing Rules of the Senate is amended to read as follows:

"(b) Each meeting of a standing, select, or special committee of the Senate, or any subcommittee thereof, including meetings to conduct hearings, shall be open to the public, except that a portion or portions of any such meeting may be closed to the public if the committee or subcommittee, as the case may be, determines by record vote of a majority of the members of the committee or subcommittee present that the matters to be discussed or the testimony to be taken at such portion or portions—

"(1) will disclose matters necessary to be kept secret in the interests of national defense or the confidential conduct of the foreign relations of the United States;

"(2) will relate solely to matters of committee staff personnel or internal staff management or procedure;

"(3) will tend to charge an individual with crime or misconduct, to disgrace or injure the professional standing of an individual, or otherwise to expose an individual to public contempt or obloquy, or will represent a clearly unwarranted invasion of the privacy of an individual;

"(4) will disclose the identity of any informer or law enforcement agent or will disclose any information relating to the investigation or prosecution of a criminal offense that is required to be kept secret in the interests of effective law enforcement; or

"(5) will disclose information relating to the trade secrets or financial or commercial information pertaining specifically to a given person if—

"(A) an Act of Congress requires the information to be kept confidential by Government officers and employees; or

"(B) the information has been obtained by the Government on a confidential basis, other than through an application by such person for a specific Government financial or other benefit, and is required to be kept secret in order to prevent undue injury to the competitive position of such person.

Whenever any hearing conducted by any such committee or subcommittee is open to the public, that hearing may be broadcast by radio or television, or both, under such rules as the committee or subcommittee may adopt."

SEC. 2. Section 133A(b) of the Legislative Reorganization Act of 1946, section 242(a) of the Legislative Reorganization Act of 1970, and sections 102 (d) and (e) of the Congressional Budget Act of 1974 are repealed.

Mr. CHILES. Mr. President, 2 years ago I introduced S. 260, the Federal Government in the Sunshine Act. The first part of that bill changes the Senate standing rules to require open meetings of all standing, select, or special committees and subcommittees of the Senate, subject to certain exceptions. While work has been progressing on the bill similar attempts have been made by other means to make the Senate more responsive to the growing public sentiment that the workings of the National Government should be open to scrutiny.

Just today, the Senate Democratic conference unanimously approved the proposed rule change to open up all Senate committee meetings including mark-up sessions, except for a few specific exceptions contained in the resolution. Also, the Democratic conference voted to endorse an additional rules change, which Senator ROTH and I are introducing, which would open up conference committee meetings between the House and Senate unless a majority of either House votes to close.

I am also hopeful that the Republican conference will follow suit this afternoon.

In March of 1974, the Senate adopted my amendment by a vote of 55 to 26, to add an open meeting provision to the Congressional Budget Act of 1973. This was a step in the right direction. I am introducing this resolution with Senator ROTH and others which is based on the same language that the Senate approved in the Congressional Budget Act, but applying it to all standing, select, and special committees, as another step toward the goal set out in the Federal Government in the Sunshine Act on which work will continue this Congress. If the Senate adopts this resolution, I am sure that the Senators will come to the same conclusion that many Members of the House have come to, that Government works as smoothly out in the open as it does behind closed doors, and there is the added benefit of a more knowledgeable and trusting public. Once this has happened, the passage of the Federal Government in the Sunshine Act will be an easier task.

SENATE RESOLUTION 10—SUBMISSION OF A RESOLUTION AUTHORIZING ADDITIONAL EXPENDITURES BY THE SPECIAL COMMITTEE ON NATIONAL EMERGENCIES AND DELEGATED EMERGENCY POWERS

(Referred to the Committee on Foreign Relations.)

Mr. CHURCH (for himself and Mr. MATHIAS) submitted the following resolution:

S. RES. 10

Resolved, That the Special Committee on National Emergencies and Delegated Emergency Powers, established by Senate Resolution 9, Ninety-third Congress, agreed to January 6, 1973, as continued and supplemented by Senate Resolution 242, Ninety-third Congress, agreed to March 1, 1974, is continued through February 28, 1976.

SEC. 2. In carrying out such function, the special committee is authorized from March 1, 1975, through February 28, 1976, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, (3) to hold hearings, (4) to sit and act at any time or place during the sessions, recesses, and adjourned periods of the Senate, (5) to require, by subpena or otherwise, the attendance of witnesses and the production of correspondence, books, papers, and documents, (6) to take depositions and other testimony, (7) to procure the service of individual consultants or organizations thereof, in accordance with the provisions of section 202(i) of the Legislative Reorganization Act of 1946, as amended, and (8) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

SEC. 3. For the period from March 1, 1975, through February 28, 1976, the expenses of the special committee under this resolution shall not exceed $151,000, of which amount not to exceed $25,000 shall be available for the procurement of the services of individual consultants, or organizations thereof, as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended.

SEC. 4. The special committee shall make the final report required by section 5 of that Senate Resolution 9, Ninety-third Congress, and modified by Senate Resolution 242, Ninety-third Congress, not later than February 28, 1976, instead of February 28, 1975.

SEC. 5. Expenses of the special committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the two cochairman of the special committee.

SENATE RESOLUTION 11—SUBMISSION OF A RESOLUTION CONCERNING TARIFF ON IMPORTED OIL

(Referred to the Committee on Finance.)

Mr. CHILES. Mr. President, I submit on behalf of myself and Senators McGOVERN, KENNEDY, ABOUREZK, ROTH, PELL, HATHAWAY, STONE and LEAHY, a sense of the Senate resolution calling on the President to reconsider his announced intention of imposing under Presidential powers a tariff of up to $3 a barrel on all imported oil and to permit the Congress to fully consider this proposal in conjunction with the other energy measures put forth by the President.

There can be no question that such a tariff will have a far-reaching impact and it is imperative that the Congress participate in determining whether this is a workable approach for dealing with the ills of excessively high oil and oil product prices. Further, the Congress must have the opportunity to insure fair and equitable treatment among all regions of the Nation.

In the past year the price of foreign petroleum products has skyrocketed. In certain areas of the country, most notably New England, the Eastern Seaboard and Florida, which are largely dependent upon imported petroleum products for electrical generation and home heating, this dramatic increase has impacted severely and disproportionately. Energy costs for residents and business concerns in these areas are now at the point of being a serious economic burden. Efforts to persuade the administration to revise the allocation program and provide for more equitable distribution and pricing among all regions have brought little meaningful relief. This experience hardly serves to encourage the hope that an adequate equalization program would accompany the imposition of the import tariff.

As the President has indicated, the time for real sacrifices is upon us. Not to expect this is simply to ignore the realities of our present dilemma. However, it is not justifiable that some regions should make greater sacrifices than others, because of traditional market patterns that involve a reliance on imported petroleum. Equal treatment must be the rule in our energy policy.

The question of levying a tariff on imported crude oil and petroleum products is clearly a matter that the Congress must fully consider in helping to develop this Nation's energy conservation and development program. I urge my colleagues to join in requesting the President to allow Congress the opportunity to act on this most important question.

Mr. President, I ask unanimous consent that the text of the resolution be printed at this point in the RECORD.

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

S. RES. 11

Whereas the President has announced that he will impose a gradually increasing tariff up to $3.00 a barrel on all imported oil;

Whereas this action is to be based upon Presidential emergency powers without congressional consideration or approval;

Whereas a tariff on imported oil would have a significant economic impact on certain regions of the country dependent on imported petroleum products for electrical generation and home heating;

Whereas those areas of the Nation which import large quantities of petroleum products have suffered a severe and disproportionate economic burden as a result of skyrocketing foreign oil prices;

Whereas the potential far-reaching effects of this tariff warrant careful deliberation by the Congress in conjunction with its consideration of other energy proposals put forth by the President: Now, therefore, be it

Resolved, That it is the sense of the Senate that the President submit to the Congress his proposal for a tariff on imported oil for appropriate congressional study and action.

ADDITIONAL STATEMENTS

DEATH OF FORMER SENATOR BURTON K. WHEELER

Mr. YOUNG. Mr. President, since I first came to the Senate nearly 30 years ago, it has been my good fortune to have served with some of the alltime great Members of the U.S. Senate. One great Member was Senator Burton K. Wheeler of Montana, who passed away just recently.

Mr. President, I share the feelings expressed by Mr. John Hjelle, editor of the Bismarck Tribune, Bismarck, N. Dak., in a recent editorial entitled: "B. K. Wheeler, Senate Giant." Probably one of the reasons why, like editor Hjelle, I was impressed with Senator Wheeler is that we, too, were some kind of isolationists previous to World War II. Shortly after I came to the Senate Mr. Hjelle became my administrative assistant, and he was a very good one.

Mr. President, I think this editorial very appropriately and effectively points out the truly fine qualities of Senator Wheeler. I ask unanimous consent to have it printed in the RECORD as a part of my remarks.

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

[From the Bismarck (N. Dak.) Tribune, Jan. 10, 1975]

B. K. WHEELER, SENATE GIANT

Over the years the state of Montana has sent some notable people to Washington, but none has shown with the luster that Burton K. Wheeler, who died this week, brought to the U.S. Senate for many years.

It is a bit ironic that most obituaries which followed his death emphasized the isolationist aspect of his political career. As isolationist he was, if being opposed to American entry into World War II prior to Pearl Harbor made him that, but he was one of the real giants of the Senate long before he earned that label.

A native of Massachusetts, Wheeler moved to Montana and began law practice there as a young man in 1905. Quickly he became a fighter for what then were regarded as "liberal" policies, including opposition to what was called "the copper trust" control of the political and economic structure of Montana, Montana was then "company state" counterpart of the "company town."

In 1923 he moved to the Senate and there quickly became one of the most respected—and often feared—members that body has had. His mind was lightning quick and there was acid on his tongue. Unswervingly he championed the cause of the working man and the farmer, honesty in government and non-intervention in American foreign policy.

He probably lost as many, if not more battles than he won, but even in losing he gained prestige in Washington and influenced the course of major governmental decisions.

This, plus his superior power of eloquence, is what made Wheeler notable: His total intellectual integrity, an integrity that made him take up causes he believed needed champions whether they were popular and carried a chance of success or not. Right or wrong, when he believed in something he fought for it, and it was never for a selfish motive.

In passing, it might be observed that Montana has a worthy successor to Wheeler today in the person of Sen. Mike Mansfield, insofar as his dedication to the supra-political interests of the country are concerned. Even as majority leader, Mansfield has seemed most of the time to place the country's welfare ahead of political advantage, which is something it would be nice to see from more lawmakers on the state as well as the national level. But Mansfield would be the first to admit that he is no Burton K. Wheeler, and probably also that no one now in the Senate begins to measure to those proportions.

RATIFICATION OF THE GENOCIDE CONVENTION ESSENTIAL THIS YEAR

Mr. PROXMIRE. Mr. President, gross violations of human rights still persist in every corner of the globe. And the

forms it takes are always ugly. The most abhorrent violations include summary execution, torture and denial of due process to political dissidents, apartheid, racial discrimination, and denial of self-determination. Even genocide, the massacre of racial, religious, national, or ethnic groups, persists as the tragic conflict in Biafra so poignantly demonstrated.

In the early days of the United Nations, the U.S. delegates helped to marshall world opinion behind the Universal Declaration of Human Rights. This remarkable document was meant to establish "a common standard of achievement for all peoples and all nations" and sets forth the entire range of political, economic, social, and cultural rights.

Since its adoption, there have been 23 conventions and 13 declarations to implement these noble ideals. Yet the U.S. Senate has failed to ratify 29 of these 36 documents. Even the alleged inconsistencies between provisions of the conventions and our Constitution would not warrant outright rejection because we have the authority to add reservations to objectionable portions of these treaties.

The most startling example of Senate inaction is the Genocide Convention. This was the first human rights treaty adopted by the United Nations and our delegates were instrumental in its drafting and were among its first signatories. Yet this treaty has languished before the Senate for over 25 years. In the 93d Congress, a vote on the merits of the treaty was thwarted by a filibuster even though a clear majority of the Senate—55 Members—favored its consideration.

Mr. President, in the 94th Congress we have the best chance ever to reverse our appalling record. I appeal to my colleagues, particularly the new Members who are here today, to join me in the effort to ratify the Genocide Convention.

RETIREMENT OF MR. CLARENCE JOHNSON, VICE PRESIDENT OF LOCKHEED AIRCRAFT CORP.

Mr. GOLDWATER. Mr. President, a man who has done probably as much as any other single individual to advance aviation in America and the world and to have placed America in the preeminent position of the world's No. 1 airpower is retiring as vice president of Lockheed Aircraft Corp. He is Mr. Clarence Johnson, but to those of us to which aviation has meant so much, he will always be known as Kelly.

It has been my honor, my privilege, and my pleasure to have known most of the leaders of American aviation during the 45 years I have been an active pilot, but I know of none of these that I hold in higher esteem than I do Kelly. Not because I have flown practically every airplane he has built, but because I have had the opportunity of watching how this genius works, how he takes on problems that others have said could not be solved and clears them up. I have watched the very successful way he has worked with our minorities in his famous "Skunk Works," and has made of these people excellent mechanics.

I also have known of his frustrations as he has attempted to explain advancements he has designed in flight, advancements which originally were turned down but which ultimately were accepted by all knowledgeable people in aerodynamics. U.S. aviation and the world's aviation will miss this genius, but I know in the years ahead he will never be a retired man, he will always have his hand in wherever new advances in the science of flight are developed.

I ask unanimous consent that an article appearing in the Washington Post of November 8, 1974, and a release from the corporate headquarters of Lockheed be printed in the RECORD.

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

[From the Washington Post, Nov. 8, 1974]

LOCKHEED'S JOHNSON RETIRES; RENOWNED AIRCRAFT DESIGNER

(By Michael Getler)

Clarence L. (Kelly) Johnson—the most renowned and imaginative aircraft designer in the United States, and perhaps the world—yesterday announced his plans to retire as senior vice president of Lockheed Aircraft Corp.

A quiet, private man little known to the public, Johnson is responsible for a half-dozen of the most critically important breakthroughs in the history of aviation—ranging from his design of the fabled P-38 "Lightning" fighter of World War II to the equally famous U-2 spy plane and its successor, the 2,000-mile-per-hour SR-71.

In between those projects and over the course of 43 years with Lockheed, Johnson, now 64, personally contributed to the design of some 40 aircraft. About half of them were his original design. Included were the P-80, the first mass-produced jet fighter in U.S. history; the Constellation series of airliners; the F-104, the first double-sonic U.S. fighter; and the versatile C-130 transport plane.

Johnson's designs were usually spawned in a secret location that became known as the "Skunk Works," after the Li'l Abner comic strip.

He designed the first all-pressurized cabin for high-altitude flight in the XC-35; he put wing-tip fuel tanks for the first time on the P-80, making jets able to stay in the air longer; he put three tails on the famous Constellation airliner and came up with the first 500-plus m.p.h. commercial transport; he sharply reduced the wing area of all previous jets with the tiny F-104 Starfighter to help push it to close to 100,000-foot altitudes and 1,400 m.p.h. speeds.

Johnson's most secret and undoubtedly most famous project was the U-2, a glider-like plane that flew too high to see and too quietly to hear, carrying cameras that for the first time gave U.S. intelligence officials a look inside the Soviet Union, its airfields and missile bases.

The U-2, built in just eight months, was an example of the knack Johnson had for turning out radically new designs fast when they were needed.

It was that same knack for speed that first drew attention to Johnson's talents. In 1937, he went to England to interest the Royal Air Force in the new Hudson bomber. He virtually redrew the plans overnight to meet new RAF requirements.

After a U-2 piloted by Francis Gary Powers was downed by a Soviet high-altitude missile in 1960, its value as a top-secret reconnaissance plane was lost. Within four years another even more secret plane, the SR-71, was operating at even higher altitudes and greater speeds than the U-2.

After the SR-71 became public knowledge, President Johnson in 1964 awarded Kelly Johnson the National Medal of Science for his accomplishments "and the products of his famous Skunk Works . . . as both incomparable and virtually incredible."

Johnson's retirement will become effective in mid-January, and he will continue to serve the firm as an adviser.

His job as chief of Lockheed's famous advanced development projects will go to Ben R. Rich, 49, who led the propulsion development team for the SR-71 project.

[From the Corporate Headquarters, Lockheed, Burbank]

CLARENCE L. "KELLY" JOHNSON, SENIOR VICE PRESIDENT, LOCKHEED AIRCRAFT CORP.

Clarence L. (Kelly) Johnson was advanced to senior vice president at Lockheed Aircraft Corporation in 1969 from the position he had held since 1958 as vice president-advanced development projects. He was elected a member of the board of directors in 1964.

Johnson has played a leading role in the design of 40 of the world's finest aircraft—among them the F-80, America's first production jet, the high-altitude U-2, the double-sonic F-104 Starfighter, and the spectacular 2,000-m.p.h. YF-12A and SR-71.

Creation of the F-80 Shooting Star, which first flew in 1944, set a pattern for Johnson and his Lockheed co-workers: Be quick. Be quiet. Be on time.

His is a technique that is mirrored nowhere else in the aerospace industry. It is to set goals never before attained, assign the best talent available to increments of the problem, combine the solutions, and refine the over-all efforts—on a tight but practical schedule.

Some of Johnson's design achievements are among the best-known airplanes in the world—the Hudson bomber, Constellation and Super Constellation transports, P-38, T-33 trainer, F-90 JetStar, U-2, Warning Star, YF-12A, and SR-71.

A native of Michigan, Johnson was born in Ishpeming on Feb. 27, 1910. He later moved to Flint, was graduated from Flint Junior College, and completed his education at the University of Michigan, where he received his bachelor of science degree in 1932 and his master of science degree in aeronautical engineering in 1933.

While in college, he worked as a consultant on several projects, one of which was the aerodynamic design of cars slated for the annual Indianapolis race.

Johnson joined Lockheed in 1933 as a tool designer. After assignments as flight test engineer, stress analyst, aerodynamicist, weight engineer, and wind tunnel engineer, he became chief research engineer in 1938.

In 1952, Johnson was named chief engineer at Lockheed's Burbank, Calif., plant, now the Lockheed-California Company. When the office of corporate vice president-research and development was established in 1956, he was chosen for the post. In 1958 he became vice president-advanced development projects.

Many honors have come to him for his unique contributions to aerospace developments through the years, and to the defense of the United States and the Free World. (These are listed, chronologically, on attached sheets.)

Johnson is an honorary fellow of the American Institute of Aeronautics and Astronautics, a fellow of the Royal Aeronautical Society, and a member of the Society of Automotive Engineers and Tau Beta Pi and Sigma Xi engineering fraternities.

Mr. Johnson is married to the former Maryellen Elberta Meade of New York State and they live in Encino, Calif. They spend week-

ends working on their ranch near Santa Barbara, Calif.

HONORS AND AWARDS

1937: Lawrence Sperry Award, presented by the Institute of Aeronautical Science (now the American Institute of Aeronautics and Astronautics) for "important improvements of aeronautical design of high speed commercial aircraft."

1941: The Wright Brothers Medal, presented by the Society of Automotive Engineers for work on control problems of four-engine airplanes.

1956: The Sylvanus Albert Reed Award, presented by the Institute of Aeronautical Sciences, for "design and rapid development of high-performance subsonic and supersonic aircraft."

1959: Co-recipient of the Collier Trophy as designer of the airframe of the F-104 Starfighter, sharing the honor with General Electric (engine) and U.S. Air Force (flight records). The F-104 was designated the previous year's "greatest achievement in aviation in America."

1960: The General Hap Arnold Gold Medal, presented by the Veterans of Foreign Wars for design of the U-2 high altitude research plane.

1963: The Theodore Von Karman Award, presented by the Air Force Association for designing and directing development of the U-2, "thus providing the Free World with one of its most valuable instruments in the defense of freedom."

1964: The Medal of Freedom, presented by President Lyndon B. Johnson in ceremonies at the White House. The highest civil honor the President can bestow, this recognizes "significant contributions to the quality of American life." Johnson was cited for his advancement of aeronautics.

1964: The Award of Achievement, presented by the National Aviation Club of Washington, D.C., for "outstanding achievement in airplane design and development over many years, including such models as the Constellation, P-80, F-104, JetStar, the U-2, and climaxed by the metallurgical and performance breakthroughs of the A-11 (YF-12A).

1964: The Collier Trophy (his second), following his work on the 2,000-m.p.h. YF-12A interceptor. His achievement for the previous year was called the greatest in American aviation.

1964: The Theodore Von Karman Award (his second), presented by the Air Force Association for his work with the A-11 (YF-12A) interceptor.

1964: Honorary degree of doctor of engineering, University of Michigan.

1964: Honorary degree of doctor of science, University of Southern California.

1964: Honorary degree of doctor of laws, University of California at Los Angeles.

1965: San Fernando Valley Engineer of the Year, so designated by the San Fernando, Calif., Valley Engineers' Council.

1965: Elected a member of the National Academy of Engineering.

1964: Elected a member of the National Academy of Sciences.

1966: The Sylvanus Albert Reed Award (his second), given by the American Institute of Aeronautics and Astronautics "in recognition of notable contributions to the aerospace sciences resulting from experimental or theoretical investigations."

1966: National Medal of Science, presented by President Lyndon B. Johnson at the White House.

1966: The Thomas D. White National Defense Award, presented by the U.S. Air Force Academy in Colorado Springs, Colorado.

1967: Elected Honorary Fellow of American Institute of Aeronautics and Astronautics.

EDITORIALS BACK FIRST AMENDMENT

Mr. PROXMIRE. Mr. President, Wisconsin television stations WEAU-TV and WMTV have editorially endorsed legislation to eliminate the equal time rule and fairness doctrine that control this Nation's broadcasters.

I ask unanimous consent that the editorials of WEAU-TV, Eau Claire, and WMTV, Madison, be printed in the RECORD.

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

WEAU-TV, EAU CLAIRE, WIS., EDITORIAL, JANUARY 2, 1975

(Announcer Ed Hutchings)

Wisconsin Senator William Proxmire says he is going to try to eliminate the equal time rule for broadcasts by political candidates, and the FCC's fairness doctrine. We strongly support his goal and we think you should, too. Under current equal time laws, it is often not possible to broadcast meaningful political debates. Witness the recent attempt by the Wisconsin Educational TV Network to present all the gubernatorial candidates together. It failed because of the number and diversity of candidates and parties. Senator Proxmire says the fairness doctrine, which requires radio and TV stations to air opposing views on controversial subjects, often leads broadcasters to either avoid public issues, or pull their punches to avoid complaints and jeopardize their licenses. We think the public is entitled to the protections of the first amendment, including freedom of speech and the press, and we support Senator Proxmire's upcoming legislation in this regard.

WMTV, MADISON, WIS., EDITORIAL, JANUARY 1, 1975

(Presented by: Don Schmitt, News Director)

A major issue to be introduced in the U.S. Senate early in the new year will seek to untie the binds which restrict the nation's broadcasters in presenting bona fide political candidates.

Senator William Proxmire has vigorously turned around from defending the Fairness Doctrine to criticizing it as unconstitutional and really not fair at all. The Senator from Wisconsin is right in saying the fairness doctrine is a misnomer . . . that instead of promoting conflicting viewpoints on controversial matters it discourages them from being aired.

It's no small matter when the medium that most people depend on for their primary source of news is government regulated to the extent of actually limiting public enlightenment.

Senator Proxmire deserves enthusiastic support in his effort to realistically relax restrictions which make it difficult for the broadcasting industry to effectively do its job keeping the public as fully informed as possible.

JACK BENNY

Mr. TUNNEY. Mr. President, the world of entertainment and the Nation lost a great man at the turn of the year—Jack Benny.

I was privileged to be an honorary pall bearer at the funeral of this wise and gentle man in Los Angeles. Hundreds of those who loved him were there, many of them weeping, to pay their final respects.

The career of Jack Benny, who claimed to be a perpetual 39, spanned six decades of the 20th century, during which he brought laughter, relaxation, and sheer joy to millions of people.

He was a comedy genius. He created a character that delighted audiences across the Nation and around the world—the pinch-penny skinflint, the clumsy violinist, the hapless victim of the times.

The real Jack Benny, of course, was none of these things.

Those who knew him well knew him to be the most generous of men, generous of his time and his talents and resources.

He could always be counted upon for benefit performances for a variety of worthy causes. He was generous with sound advice to young performers. And he was generous in spirit, trusting and tolerant, a devoted family man.

He also was a much more accomplished violinist than his audiences knew and might well have become a concert performer had he not decided on a comedy career.

Jack Benny survived all the fads in humor. His brand of comedy was consistently appealing because it had a universality that bridged generations and nationalities. He also survived the fast-paced technological changes in the entertainment industry, moving smoothly from stage to radio to film and television with ease and bringing delight to the millions who saw and heard him.

He made the Nation laugh in good times and bad. Through the dark days of the Great Depression and World War II, during Korea and Vietnam, he relaxed a tense nation and gave us the perspective and balance to endure our difficulties and meet our problems.

Jack Benny was a great man. We miss him very much.

INTERVIEW WITH SENATOR PROXMIRE

Mr. HATFIELD. Mr President, one of our most distinguished colleagues, Senator PROXMIRE, is often the subject of press interviews for the simple reason that he is intelligent, informative, and refreshingly forthright. A recent interview that well conveys that impression is in the winter 1974 issue of Lithopinion, the quarterly journal of the Amalgamated Lithographers of America and lithographic employers represented by the Metropolitan Lithographers Association.

David Gelber's conversation with Senator PROXMIRE ranges over his favorite areas of interest in this body: banking, housing, consumer protection, Federal spending, and the military. The Senator's remarks are particularly interesting in view of his assuming the chairmanship of the Banking, Housing, and Urban Affairs Committee. I ask unanimous consent that the interview be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. HATFIELD. Mr. President, I would also commend the journal itself to my

colleagues' attention. Lithopinion is devoted to the presentation and discussion of social, cultural, and political change and experimentation in the graphic arts. It does a fine job in all these areas.

EXHIBIT 1

Lithopinion, Winter 1974

THE CONSCIENCE THAT MOVES THE U.S. SENATE—WILLIAM PROXMIRE—MAVERICK

(A profile-interview By David Gelber)

I had heard about Senator William Proxmire's devotion to his daily, several-mile jog; and since I, too, run each day, I asked him on a visit to Washington if I might accompany him. He turned me down. "I'm really too competitive to run with anyone," he said, "and besides, I like to run alone."

For 16 years, this lean, 58-year-old Wisconsin Democrat has been doing just that—running alone, in the United States Senate. And he's been doing it pretty well. Former Senator Paul Douglas once declared, "A liberal need not be a wastrel." For Proxmire, Douglas' aphorism carries the force of holy writ. Long ago he established himself as an expert in the areas of housing and finance and of defense spending, and he has waged a constant and often lonely campaign to restore competition to the "free enterprise" system by withdrawing subsidies from the rich and the powerful.

"The idea has been that every time the Federal government spends another 10 or 20 thousand dollars it creates another job. The fact that that is not true should be apparent to anyone who can add. In the past five years the Federal budget has exploded from $184 billion to more than $305 billion. That colossal increase in spending should have resulted in a corresponding expansion in jobs and a reduction in unemployment. Did it?

"It is true the work force increased and employment in the economy grew. But far less than it should have. Unemployment grew much more in proportion than jobs did. Indeed after a break-neck expansion of government spending we find unemployment which was 3.4 per cent five years ago, now at 5.3 per cent.

"I predict that if we reduce the rate of increase in Federal spending, and do it in the right areas—being sensitive to the employment consequences of our action—that unemployment will not worsen as a result of the slower rate of growth in Federal spending."—SEN. PROXMIRE, Aug 22, 1974.

Many people once put down Proxmire as simply an eccentric who couldn't resist a losing battle (he was even brazen enough to challenge the Senate leadership of Lyndon Johnson). While he may still be regarded in some quarters as a maverick, now, in his new post as chairman of the Senate Banking, Housing and Urban Affairs Committee—and with the state of the economy uppermost in everyone's mind—William Proxmire is a maverick whose time has come.

Proxmire's liberalism developed somewhat late in life, although he recalls that as a child growing up in a comfortable Chicago suburb he held a more optimistic view of human nature than did his father, a conservative Republican physician. But his personal discipline as well as his aversion to wastefulness apparently derive from his father's belief in working 14 hours a day, seven days a week.

He is in the office at 8:15 every morning after a 4.7-mile jog from home and a shower in the Senate locker room. He eats breakfast over the morning papers, and doesn't stop until 6:30 P.M. when he goes home and reads up on the next day's work. One of the Senator's aides, now one of Washington's best antitrust lawyers, told me that Proxmire's major fault is that "he works too damn hard." Once elected "class grind" by his prep-school classmates, Proxmire is the least platitudinous of Senators. He can cram more detailed information into a 60-second television news spot than any politician in the Capitol.

An article in today's New York Times by respected reporter John W. Finney indicates that Defense Department officials are complaining that the $82.5 billion defense budget is not enough.

"Apparently they are saying that the Pentagon needs about $11.5 billion more to fund major weapon programs.

"This will undoubtedly come as a surprise to many in Congress. After having spent eight months examining the defense budget in great detail by four committees of Congress, all of a sudden we find that the ante has been raised by another $11.5 billion. . . .

"If a supplemental is requested, it would mean that the Congress would be called upon to fund three major DOD bills this one calendar year. We first had the fiscal year 1974 supplemental request of $6.2 billion, subsequently reduced slightly. Then came the major DOD bill of some $92.5 billion in budget authority. And now there is the possibility of yet another major bill of up to $11.5 billion."—SEN. PROXMIRE, Sep. 19, 1974.

Proxmire was headed for a business career—he had studied at Harvard Business School—as a trainee at J.P. Morgan Inc., which must give pause to his foes on Wall Street these days. World War II interrupted that, however, and a stint in the Army's Counter Intelligence Corps (the CIC, which was sometimes referred to as "Christ I'm Confused," says the Senator), left Proxmire with a sense of the military's limitations and a determination to enter public life.

After the war Proxmire worked as an investigative reporter for a newspaper in Madison, Wis. He got involved with organizing a union there and was eventually fired.

Wisconsin politics were at that time dominated by the spirit and personality of Senator Joseph McCarthy. The Democratic Party was a political basket case in need of the kind of energy Proxmire could provide. He was elected to the state assembly in 1950, ran for Governor two years later and then again in 1954 and 1956, losing each time. A Wisconsin newsman has calculated that Proxmire has shaken more than 2.5 million hands in his political career, and all that manual exercise finally paid off for him in 1957 when he won a special election held after the death of Joe McCarthy.

Philosophically, Proxmire is less a New Deal Democrat than old-fashioned capitalist with a distaste for anything that restraints or contaminates free trade. When Pan American Airways came around begging for a taxpayers' subsidy, Proxmire emerged as perhaps the key Congressional opponent—as he was of the Lockheed loan and the SST.

"When President Ford decided not to assist Pan Am with a bailout of $10.2 million a month, he reaffirmed belief in the free market system. We have had too many bailout precedents in recent years. It was beginning to appear that every major corporation in financial difficulty looked first to the Federal government for a handout.

Now that chain has been broken, and I hope, for good.

It must be admitted that many of Pan Am's problems were not of its own making. But that is not to overlook those critical financial factors that were caused by Pan Am's management.

With unprofitable routes, high overhead, rapid changes in top management and simple bad forecasting, Pan Arm must share the burden of responsibility with the uncontrollable element of fuel prices."—SEN. PROXMIRE, Sept. 19, 1974.

Besides a strong distaste for unnecessary government spending, Proxmire was an early advocate of consultant protection—especially in the areas of banking and finance. In his new committee chairmanship role, he is expected to try to make banking more competitive, especially in areas like California, where one bank dominates the entire banking industry of the state.

"The Agency for Consumer Advocacy will be the one Federal agency whose mission will be to stop many unjustified price increases. How? Here is how: It is obvious that the Agency for Consumer Advocacy will be a potent force for bringing down prices of goods and services for the American consumer. . . .

"We need the same kind of representation before the Federal Communications Commission, which sets telephone rates, before the ICC, which sets freight rates that add to the cost of food and other goods, and before a host of other Federal agencies, which influence the prices paid by all of us consumers, whether we are aware of this or not.

"One of the points made at one of the first summit conferences held at the White House was the point made by witness after witness that if the government would do its job, a good part of this inflationary problem would be solved. A part of that job is to see that excessive, unjustified price increases under regulated industries are not approved; but they are approved. Why? Because we have not adequate regulatory procedure. The point that the consumers are being exploited simply is not made, and that is what this agency would do."—SEN. PROXMIRE, Sept. 19, 1974.

Another one of Proxmire's aims will probably be to increase the flow of capital for housing starts and for mortgage loans. The skyrocketing interest rate—it has risen from six per cent to more than nine per cent today—has, since 1966, priced at least 10 million families out of the housing market, and Proxmire aides estimate that roughly two-thirds of all American families cannot afford a new home because interest rates are so high. Proxmire believes that careful pruning of the Federal budget would free funds for housing, which is always nearly last in line in the scramble for investment capital.

"If we cut spending by $10 million and balance the budget, the Federal government will not borrow that additional sum, and interest rates will begin to move down.

"Will that provide more jobs? Yes indeed. How?

"Because the housing market—that is now in a serious depression because high interest rates make it almost impossible for millions of Americans to buy homes—will fall. This could make a difference of as many as 500,000 more housing starts this year. And that number of housing starts means one million additional direct jobs and probably two million indirect jobs." —SEN. PROXMIRE, Aug. 22, 1974.

Proxmire's juiciest target, however, has always been the military budget. Although he stoutly insists that nothing he proposes would weaken the nation's legitimate defense posture, the Senate helped to publicize the battle—and subsequent firing—of Ernest Fitzgerald, the Pentagon cost-analyst who fought a lonely fight against military cost overruns—until he lost his job. Proxmire insisted that Fitzgerald was just doing his duty honestly, and as a result Fitzgerald was vindicated and the Air Force exposed for trying to cover up its own inefficiency.

Proxmire's cost estimates of weapons systems have time and again turned out to be more reliable than the military's. On this score, a Republican colleague has said of the Senator, "I thought he was just another wild-eyed, simple-minded spender who resented the Pentagon because of its money.

But, he's done his homework—and he helps us understand these weapons."

"A further example that spending per se is not necessarily good is seen in the example of the space shuttle. What will it do? What benefits will we be getting for the massive spending of $6.5 billion?

"I addressed a letter to the head of the space program and asked for the justification for the space shuttle. Specifically I asked what tangible benefits we could expect from the program. Here is the key justification in the reply: "The basic premise leading to the conclusion that this nation should proceed with the development of a space shuttle system is that the U.S. should and will continue to have an active space program from now on." In simple words, the main rationale for the shuttle is that it will keep the space program going. But it also means a steady drain on the U.S. Treasury.

"The agency also asserted, without proof, that the program would save costs. The space program now uses exceedingly costly, expendable boosters. Obviously, a reusable shuttle will be cheaper than expendable boosters if enough trips are made. But a study by the Rand Corporation prepared for the Air Force demonstrated that the shuttle would have to carry more than $141 billion in traffic over its 13-year lifetime before it would become cost effective. But what are the payloads for? What is a space transportation system going to carry? Is Congress going to have to appropriate $141 billion over the shuttle's lifetime in order to make worthwhile the shuttle's $6.5-billion development costs?"—SEN. PROXMIRE, 1972.

Proxmire does have detractors who aren't bankers and generals. Some colleagues think he is a publicity hound. A House Democrat who, along with Proxmire, is a member of the Joint Economic Committee, told reporter Martin Nolan, "I resent the perversion of this committee into a personal vehicle for one of the cheapest demagogues in the United States. I've never seen the public interest interfere with the direct personal interest of Bill Proxmire." Most observers, however, would regard this estimate as petulant in the extreme.

If Proxmire is publicity-minded, he is anything but pretentious. While jogging to work in the early morning hours, he has been harassed on several occasions by would-be muggers. The Senator, who was a welterweight boxing champ at Yale, foiled one such attempt by beating off his attackers. He then called the police and was truly amazed when squad cars full of captains and lieutenants materialized in no time at all. "These Metropolitan Police are really efficient," Proxmire later told an aide. "Do you think it might have something to do with your being a senator?" the aide asked a little cynically. "Gee, I never thought of that," said Proxmire.

Another assailant fell victim to the Senator's unconventional department. This time the mugger carried a gun. "Go ahead and shoot me—I'm going to die of cancer soon anyway," the Senator said. The baffled gunman just walked off.

"Under our free press system, a publisher has the right to print what he pleases. It is the competition of the market-place of ideas that insures the public's right to be informed. Any governmental control of ideas, even though those ideas were universally accepted as truth, would lead eventually to a bland homogeneity of thought that would rob our society of its dynamism. Of course, there is no guarantee at all that government will be omniscient. History proves that. History proves that governmental control is dangerous to a free society. In other words, the free press carries with it the right to be wrong as well as to be right."—SEN. PROXMIRE, Sept. 17, 1974.

Proxmire says he is not going to run for President, and there is little doubt that he is a far more dedicated senator than some of his upward-bound colleagues. Possibly Proxmire would lose some of his fearlessness if he had to worry about running for President, but one former aide thinks he would make a terrific chief executive. "But I'm just not sure," he said, "that the country would stand for a guy who actually carries out his beliefs."

While Senator Proxmire did not let me jog along with him on his morning home-to-office "constitutional," I did get a chance to talk to him last summer—a brief interview sandwiched in between the filming of a news spot for a Chicago TV station and a meeting of the Joint Economic Committee. We started off talking about one of the Senator's favorite subjects—the current state of American banking, the government's relationship to it, and its down-to-earth effects on you and me. The Senator said, "The Federal Government and large corporations have diversified their holdings. They're investing far more in corporations, large and small, and to the extent that banks now reach into every village and town in America, they have to encourage a more personal relationship between the banker and the people who borrow money.

"The FHA used to draw a red line around the inner sectors of the big cities and said they would not insure loans in those areas. This meant that even if a person was a very good credit risk with a steady job, he couldn't borrow because he lived in the ghetto. Of course, this was racist and discriminatory, and it was sure to result in continuing deteriorating conditions in the inner city. I fought hard and got an amendment which repealed the FHA restriction.

"There still is a kind of economic red-lining, of course. Banks don't want to make loans in areas that are likely to result in a loss of their investment. But we're trying our best to get them to appreciate the fact that the only way the inner city can be developed is to make private capital available on a far more extensive basis than has been done in the past. We have to encourage banks to take a little risk, to provide counseling and assistance to people who borrow money. We've made some progress, but there still is more negative thinking—failure to act—than there are positive efforts on the part of bankers to provide these funds.

"And there's still a racist factor, of course. The trouble is that it's hard to get eight or 10 or even 100 cases together against a bank that won't make loans in deteriorating areas. They can always argue that there are particular reasons why they made this or that judgment, and the Federal government shouldn't be second-guessing them. What we must do is to insist that they show a steadily improving record of making loans.

"I also think the Federal government has the major responsibility of making it possible for people with modest incomes to buy homes. The fundamental problem is that two-thirds of the people in this country cannot afford to buy a new home. Now that is a shocking fact. It's probably the greatest percentage we've ever had. Right now, the cost of a home is about the same in relation to annual income as it was 30 years ago. Costs and incomes have both gone up greatly, but the carrying charges—the interest rates—are so much higher than ever before that you just knock two-thirds of the population out of the market.

"Now what are you going to do with those two-thirds? Some of those people can buy used housing, which isn't very widely available. The housing stock is low, the vacancy rate is very low and the houses are deteriorating all the time. We need some kind of program that will build housing. Since January 1973, the Administration had had a moratorium on all government-assisted housing. This really aggravates the situation when mortgage money is so short. Because of the credit shortage, loans are going to be made only to people who are top-flight borrowers, and people who are not in that category simply won't be able to borrow money to buy a new home.

"Right now the average working person doesn't have a chance—or very little chance—of buying a new house. With interest rates over nine per cent on mortgages, people are spending about 36 per cent of their income on housing costs. That is extraordinary. The usual estimates suggest that people spend no more than 25 per cent of their income on housing. This means they're going to have to cut cruelly into their food budgets, clothing budgets and so on. They'll have no entertainment, no vacations, none of the amenities that most people live for. It's a very rocky, tough situation. Most people who already have their homes are not affected. In fact, they have it pretty good. But it has a sad, even tragic effect on family after family trying to get homes. This includes young, newly formed families who often have to live with relatives or in mobile homes—and that can mean crowding and tension within families. There is a transient feeling, a sense of not belonging. You're a rolling stone outside of the mainstream of community life.

"Of course, I have nothing against people who want to live that way, and I'm sure some do prefer it. Some of the mobile home parks are beautiful, but a lot more are not, and the atmosphere for children can be very bad in some of the poorer mobile homes. I think we also have to recognize that the mobile home interest rate is much higher than the rate on a conventional home. It's not a permanent investment like a conventional house is. So the crowded quality, the fact that it's not a real investment in the long run, the transient atmosphere, the feeling that you don't belong to a settled community—all of these are tremendous problems, although I'd hate to think where we'd be without mobile homes right now."

I showed the Senator a copy of the LITHOPINION editorial "Beware of Socialists Wearing Vests," in which Edward Swayduck argued that the Administration's supposed remedy for inflation, high interest rates, is not a very effective inflation fighter and is, at the same time, harmful to the vast majority of Americans—and asked him what he thought about it. He replied, "Well, he's right. An increase in interest rates does tend to discourage borrowing and therefore spending by home buyers, small businessmen, farmers and state and local government.

"In this way it reduces demand and eases pressure of prices. But big business and big government is not interest-rate sensitive. So what's the result? The little man is hurt. The big man is helped. And the easing of demand pressure on prices is reduced by the increased cost pressure from higher interest rates.

"For these reasons, Mr. Swayduck's conclusions make considerable sense."

We then got onto the topic of military spending. This is what he said as he tightened up his tie, gathered up some papers from his desk and headed for the door: "We have to cut Federal spending, or else the Federal government's demand for funds, which is so very great, will increase interest rates and increase prices.

"The big, vulnerable area for reduction, of course, is military spending. The military budget is fat and wasteful, and we can cut it without reducing the strength of our military force. I loved what Admiral Rickover said on this score. He pointed out that we'd have

a stronger Navy if we fired half the Admirals. We've got more Admirals now than we had at the height of the Second World War, when we had six times as many people in the Navy. The same thing is true of the Army and the Air Force. Every Admiral has a staff. If you fire the Admiral, you also fire his staff and the civilian component as well.

"In addition, there's no reason why we need more aircraft carriers. We have 16 aircraft carriers, and the Soviet Union has how many? None. Zero. So we're not competing with them in aircraft carriers. Or take long-range bombers: We're building B–1 bombers at an eventual cost of $20 billion. What do we need long-range bombers for? We already have four times as many as the Soviet Union, and the missiles are much better than the long-range bombers anyway. Here's another strange one: What are we doing with 300,000 troops in Europe 30 years after World War II? How long are those troops going to stay there? It seems to me that we could cut those troops in half. We're spending $30 billion on our troops scattered all over the world—far greater than any empire in history—and they are not serving the purpose of defending this country effectively. I think we could cut that back. I'm not saying cut it out, but we could cut it back. And if we did, we could save billions of dollars.

"In addition to that, I'd certainly cut back for this year the space program. There's no urgency in the space shuttle. We're not going to Mars next year or the year after, but we're spending hundreds of millions of dollars in that area.

"I think the notion of building the highways of this country at such a rapid pace is another area where we might call a moratorium and hold down spending.

"These are the basic areas where we could easily cut $10 billion. As a matter of fact, a group of former top defense officials—Admirals and Generals—agreed that we could cut $14 billion out of the military alone, and still have a stronger military force than anyone else.

"One other area I might mention is foreign military assistance. What in the world are we doing providing ammunition, tanks and planes to other countries so they can fight each other? We're doing that with the Middle Eastern countries, and if they use them, they'll use them against each other. We're providing them for Pakistan and India so they can fight each other. This isn't only financially wrong. It's morally mischievous, and we ought to stop it."

A BREAKTHROUGH IN UNITED STATES-EUROPEAN COOPERATION

Mr. McINTYRE. Mr. President, January 9, 1975, marks an historic event in cooperation between the United States and its European allies. A major weapon system, the short-range air defense system, or SHORADS, developed by European companies, has been selected on a competitive basis with European and American systems for adoption by the U.S. Army. In the broadest context this is a major milestone in United States and European cooperation, and opens the door wide on the cooperative development and production of military equipment.

Congratulations are in order for Hughes and Boeing, the winning American team of contractors, as well as to Aerospatiale of France and Messerschmidt-Boelkow-Blohm of Germany, who jointly developed the winning Roland short-range air defense system, and who will build the system with American labor under license. I am primarily interested, however, in the fact that a European-developed system has been selected and less concerned with which of the three competing European systems won the competition.

My long term interest in fostering greater cooperation with our European allies in the development and production of military equipment is a matter of record, and has been the subject of numerous statements I have made on the floor of the Senate in recent years. Also, I have been successful in encouraging the Senate Armed Services Committee to support such cooperation in its actions on the annual military procurement authorization request. These cooperative efforts result in substantial savings to the U.S. taxpayer by avoiding unnecessary duplication of development while providing American industry and American labor with work by building the equipment in the United States. They also provide additional benefits to the United States by encouraging our allies to procure military hardware developed and produced either completely or in part in the United States for use by their military forces.

The Department of Defense has stated on numerous occasions that unwarranted duplication of research and development has wasted literally billions of dollars over the years, which could have been saved if real cooperation had been accomplished in the past.

Mr. President, the selection of Roland is a real step in the direction of standardizing military equipment deployed in Europe. However, there is a real challenge to standardization which I must emphasize and which in my mind is a matter of great concern. Even though a common system is adopted initially by several countries, there is a strong tendency for each country to change that system to meet its own needs. Carried to extremes, this would upset the very objectives and economies of standardization, and ultimately result in completely different equipment winding up in the hands of the military forces of each country. There must be a consciousness of this danger, and there must be a concerted, deliberate, and continuing effort made to resist this tendency. I will strongly emphasize this danger at every opportunity and, with respect to U.S. participation in such programs, do my utmost to prevent it.

I am satisfied that the integrity of the source selection process employed by the Department of Defense has been maintained in the choice of Roland. I must assume that Roland was selected entirely on the basis of its merits and reflects an objective and deliberate procedure. In fact, the competition was wide open. Twenty-one companies were invited to bid and four proposals were submitted, three of which were European developments.

Mr. President, this decision and the continuing interest of the Research and Development Subcommittee, which I chair, should encourage the Department of Defense to consider all candidate weapon systems, including those of European manufacture. This is a clear signal to our European allies that Congress and our Department of Defense does not have a parochial view in this matter and fully supports the objective of buying the best equipment available at the least cost and within the time period required. This was the important message I conveyed to our European partners, not only in statements in the RECORD, but as a personal message delivered by a member of the staff of the Armed Services Committee who, at my direction, visited various European countries both in 1973 and 1974. I think it worth mentioning that on both occasions he reported back that great emphasis was placed by the various European countries on the fact that they considered this program to be the real test of U.S. cooperation and would prove our willingness to adopt a European-developed system. The selection of Roland is a direct answer and will leave no doubt in their minds of U.S. intentions in the future.

I look forward with great hopes for a broadening of cooperation with our European allies to our mutual benefit, and for the maximum attainment of standardization in military hardware wherever possible. Our eroding economy demands that such measures be vigorously pursued.

RURAL DEVELOPMENT HEARING SCHEDULED FOR JANUARY 22, 1975

Mr. CLARK. Mr. President, the Subcommittee on Rural Development intends to hold an oversight hearing at 10 a.m., Wednesday, January 22, in room 324 of the Russell Senate Office Building.

While no public witnesses have been invited to testify, interested citizens can submit testimony for the record before January 22.

The hearing will examine the condition of rural America in recession and the effectiveness of Federal programs in combatting the impact of that recession. We have asked four administration witnesses to testify, and we have solicited written reports from a number of other agencies.

Of course, the subcommittee's principal responsibility will be to examine the implementation of the Rural Development Act of 1972, as well as other programs of the Department of Agriculture as they relate to rural development.

The first witness, therefore, will be Assistant Secretary of Agriculture for Rural Development William Erwin, along with supporting staff from UDSA.

The second witness will be from the Department of Housing and Urban Development. We intend to discuss a number of matters, including the proposed deferral of $50 million in 701 planning funds.

We also will discuss with the HUD representative the implications for nonmetropolitan areas of the Housing and Community Development Act of 1974. In this regard, we hope to hear how the De-

partment intends to coordinate the housing and community development for people living in rural areas as provided for in section 603(b) of the Rural Development Act. Finally, we will cover the recent statements by officials of that agency on the desirability of more intensive development and their impact on HUD's attitudes and policies toward rural people.

The third witness will be Mr. Roger Strelow, Assistant Administrator for Air and Waste Management of the Environmental Protection Agency.

We will discuss with Mr. Strelow the possible impact on rural land use and development of the recently approved regulations to prevent significant deterioration of air quality in areas where the air is already cleaner than required by Federal standards. Further, we will want to discuss with the EPA witness his perceptions about the role of EPA in rural development, particularly in regard to the effect of the agency's new responsibilities on development.

The final witnesses will be the Deputy Director of the Bureau of the Census, Mr. Robert L. Hagan, and the Associate Director for Demographic Fields, Mr. Daniel B. Levine.

One of the major problems facing rural developers is a lack of adequate economic and social data for rural areas, especially current data on employment and housing. The Bureau of the Census is working with other agencies including the Department of Agriculture, in this area, and we would like to know what data is available and what additional information is needed to facilitate implementation of rural programs.

In addition to these witnesses, we have asked for written reports:

From the Secretary of Labor on the rural applications of the Concentrated Employment and Training Act as well as the new emergency public service employment legislation.

From the Secretary of Commerce on how he intends to coordinate the activities in forest fire control and community fire protection.

From Assistant Secretary of Health, Education, and Welfare, Stanley B. Thomas, Jr., on the progress he has made in realizing the potential of the HEW Office of Rural Development.

From the Secretary of Transportation on the rural highway public transportation program; the developmental highway program; and the findings and conclusions of recent department research in the field of rural transportation.

CRIPPLING THE FOOD STAMP PROGRAM

Mr. McINTYRE. Mr. President, in the January 15, 1975, issue of the Washington Post, Mr. William Chapman has written an article which I think deserves special note. I have been concerned for some time over the proposed increase in eligibility requirements for the food stamp program which the current administration has introduced. That is why I joined with many of my colleagues in voicing my concern through a letter to the Department of Agriculture over this issue. Recent mail from my constituents in New Hampshire has confirmed my early fear about this increase, since it clearly will effect those who are most ravaged by the duel pressures of inflation and recession.

Mr. President, proposals such as this are false economy. We must use our food stamp program to cushion the impact of our economic troubles on the less fortunate. I would hope that many of my colleagues would review this article and reflect upon the devastating impact the proposed cut back would have.

Mr. President, I ask unanimous consent that the text of the article by Mr. Chapman be printed in the RECORD.

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

CRIPPLING THE FOOD STAMP PROGRAM

(By William Chapman)

Someone once said that the last unexplored territory of the United States is the Department of Agriculture. The phrase comes to mind as one attempts to unravel the Department's proposal to dismantle a very large part of the food-stamp program and to understand why it was made at this particular time. This has nothing to do with the recent rule which deprives middle-class college students of their food stamps; it has to do with the order, soon to be promulgated, which will take them away from a very large number of those who need them most, the elderly and the poorest of the poor.

The cut-back was first announced by President Ford who seems to have had no firm grasp on the details of what he was proposing. Mr. Ford said, at a news conference, that this venture in budget-cutting would affect only "certain individuals" who would have to pay only "slightly more" in cash to obtain the stamps. This estimate was soon contradicted by the Department of Agriculture, which acknowledged that 95 per cent of the recipients would be affected to some extent and that the cost to the average user would increase by nearly one-third.

The fact, insofar as an outsider can comprehend it, is that the food stamp program is an unwanted stepchild which the Ford Administration inherited from the 1960s and which the current Secretary of Agriculture, Earl L. Butz, would just as soon disinherit. The scenario ran something like this: The President demanded that several billion dollars be cut from the budget this fiscal year. Each department was required to offer up some sacrifice. Butz looked over his columns, passing quickly by the farm subsidy system and the county agents, and came upon food stamps. He has said several times that this is a *welfare* program which, if permitted to exist at all, should be operated by some other part of the government. It was only natural, then, that the sacrifice the Secretary chose to offer was this odd-ball poverty scheme hatched by, of all persons, Sen. George McGovern (D-S.D.) and somehow allowed to nest in his Department of Agriculture.

The Butz plan to save $650 million a year had a superficial ring of equity: Every food-stamp purchaser would be required to pay a flat 30 per cent of his adjusted income, for whatever amount of stamps he used each month. Under current law, he pays according to a sliding scale, based on his adjusted income. The hitch, outsiders quickly noted, was that this simple formula would mean a substantial added cost for almost everyone in the program. The average purchaser today pays only 23 percent of his income. So this average person, come March, will find his food-stamp budget increased by nearly one-third.

That would be serious enough, given the low incomes of all food-stamp users, but it is calamitous for the people on whom it falls most heavily. These are the elderly poor, those least capable of defending themselves against such levies. They have been accustomed to patching out their meager budgets with food stamps that cost only 10-20 per cent of their incomes. An elderly couple with, say, $270 in adjusted monthly income can now pay $64 and receive food stamps worth $84. It is a bonus of $20. Under the Butz plan, they will be required to put up $81 to receive the same $84 worth of stamps—a bonus of $3.

It is not difficult to see what lies ahead for for persons in such circumstances. They will simply drop out. Who will stand in long lines, fill out a 6-page form to become certified, and, once in the supermarket with his stamps laboriously separate his hamburger from nonqualifying purchases, all for the sake of a $3 savings? It is asking too much, even of those for whom $3 is not an inconsiderable sum. The Department of Agriculture declined to estimate how many of the 15 million persons currently using food stamps might withdraw from the program. The best guess is that of the Community Nutrition Institute, which figures that about 10 per cent, or 1.5 million persons, would find the benefits of food stamps to be so small that they would abandon them completely.

It is the simple-minded miserliness of this proposition that is most offensive but beyond that, Mr. Ford should think ahead to the damaging political consequences of his Secretary's peculiar choice. The food stamp program no longer is an unwanted orphan dependent for its existence on a few earnest do-gooders in Congress: It happens to be the most popular and defensible social welfare program this side of Social Security. Congress is very likely to rewrite the law and take away the President's unilateral authority to raise the amount that food stamp recipients must pay. Mr. Ford will then be in the position of deciding whether or not to veto an early act of the new Congress in order to support his Secretary's instinctive aversion to welfare programs.

NOMINATION OF BILL COLEMAN TO BE SECRETARY OF TRANSPORTATION

Mr. HUGH SCOTT. Mr. President, yesterday the Senate received the nomination of my good friend Bill Coleman to be Secretary of Transportation. This is a nomination I heartily applaud and strongly support. His qualifications and credentials for this job are impeccable. An article in the Philadelphia Inquirer discusses this nomination. 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:

WILLIAM COLEMAN WOULD BE AN EXEMPLARY APPOINTMENT

In Washington, the word came out over the weekend that President Ford has chosen William T. Coleman Jr. to be his new secretary of transportation. If that is a trial balloon we hope it flies.

On the face of his record of accomplishments, Mr. Coleman is remarkably qualified for the post. At 54, he has a biography of brilliance and of unstinting hard work going back to his graduation with honors from the University of Pennsylvania and then as head of his Harvard Law School class and editor of its law review.

He was a clerk to Supreme Court Justice Felix Frankfurter. On entering the private practice of law, he methodically accumulated a record of good—and hard—works that defies cataloguing.

Importantly in terms of Mr. Coleman's

promise as a member of the President's cabinet, the record represents an astonishing breadth of experience in public affairs: Among other tasks have been service as a member of the U.S. delegation to the United Nations, of President Nixon's National Commission on Productivity, of the Federal Price Commission, as consultant to the Arms Control and Disarmament Agency, and as an assistant counsel to the Warren Commission.

But of perhaps the greatest significance in the almost endless list is Mr. Coleman's experience in the area of public transportation. From 1952 through 1963 he was special counsel for the city of Philadelphia for transit matters. From then on he has served as special counsel to Southeastern Pennsylvania Transportation Authority and has been a member of SEPTA's board.

Because of all that, it seems to us that it is quite irrelevant that Mr. Coleman has black skin. His race has no bearing—as is entirely proper—on his qualifications.

But there is a significance—symbolic though it is, in the fact that if he is appointed and confirmed Mr. Coleman would be only the second person of his race to serve in the cabinet of an American President.

Through all the years that he was accumulating the impressive credentials we briefly cited, Mr. Coleman also was working indefatigibly and courageously for the rights and opportunities of black Americans.

Eleven years ago, he said to an audience of 1,000 in a Germantown church: "Achievement and desire are universal, not national or racial. All people, regardless of race, color or creed, suffer, are warm, have desire, ambitions, want to achieve, and want to inspire their youth ... Running a foot race or playing football isn't easy and nobody wins the race of life by taking it easy."

William Coleman has not taken it easy. But he has run a lot of races, and run well. For that, we believe he would make an exemplary and effective secretary of transportation.

SCHOOL BUSING

Mr. BIDEN. Mr. President, busing of public school pupils in Boston has generated considerable violence during the last few months. At one point, two high schools were closed.

William Raspberry, columnist for the Washington Post, has written a perceptive column about schoolbusing in general and specifically suggesting a great difference exists between school busing in Little Rock, Ark., and in Boston, Mass. Mr. Raspberry, a black himself, suggests that if the logic applied to public-school busing to achieve racial integration were applied to housing, then we'd be able to understand such a difference—one between busing to defeat segregation and busing to achieve integration.

Mr. President, I ask unanimous consent that the Raspberry column I have referred to be printed in the RECORD.

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

THE DIFFERENCES BETWEEN LITTLE ROCK AND BOSTON

(By William Raspberry)

Those who thought the North was different must be astonished at the similarities between what went on in the Deep South two decades ago and what is going on in Boston today.

There on each evening's television news is the open, curled-lip hatred, the vicious race baiting, the bitter defiance of the law, the demagoguery, the venomous racial epithets—all the old familiar themes from the South of 20 years ago.

There are also the demonstrations, the marches, the chants, the strong-willed determination to follow through on a chosen course even at the risk of jail—all the old familiar trappings of the black movement.

It looks like Little Rock gone North.

But the similarities between North and South over race and education have already occasioned a good deal of commentary. What goes largely unremarked are the *differences* between Little Rock and Boston.

To begin with, what the plaintiffs asked and what the courts ordered in Little Rock is really quite different than what was sought and achieved in Boston. Little Rock was firmly rooted in the *Brown* decision that said a school system may not maintain schools open only to whites or to blacks; that children—the Little Rock Nine—could not be required to attend the traditionally black high school when Central High was nearer where they lived.

The Boston plaintiffs argued, as many of the recent Northern suits have argued, that it is not enough to maintain a unitary school system, that it is also unlawful and wrong to have schools that are identifiably white or black on the basis that a large proportion of the children who attend them are of the same race.

The two notions are really quite different, even though they are both termed "desegregation."

An analogy to black and white neighborhoods makes the point. The principle of the *Brown* decision applied to housing would hold that no person could lawfully be denied access to housing he could afford on the basis of his race. It is a principle widely endorsed, even though it is obvious that racial steering, *sub rosa* agreements and plain lying still are used to keep black people from moving into "white" neighborhoods. At least occasionally, people get caught and brought to justice for these racist efforts.

The point here is while neighborhood segregation and public school segregation are very much of a piece, springing from the same sources, no one has seriously proposed for neighborhoods the same second step that is commonly demanded for schools: Integration by any feasible means.

We count desegregation as accomplished when it is possible for blacks to buy or rent anywhere their money will let them, and if some neighborhoods remain identifiably white or black (as some Washington neighborhoods clearly are) no one alleges racial segregation.

But with schools, the prevailing view is that it isn't enough to stop setting aside schools for white and black pupils; the school must be integrated. If assignment by home address does not result in integrated schools, then other means must be employed to achieve that result.

If someone made a similar proposal for ending racially identifiable neighborhoods, he'd be carted off to the looney bin.

It's one thing to take a real estate operator's license, or even to send him to jail, for refusing to show black home-seekers houses in "white" neighborhoods. It is another to hold Wesley Heights out of compliance until more black families can be brought to live there, whether they particularly want to or not.

There is another interesting difference between Little Rock and Boston. In Little Rock, it was clear what the black plaintiffs were after. Central and the other white schools had better facilities, more resources and better educational programs than the neglected black schools.

But it is hard to see what anybody hopes to gain by busing his children into South Boston High. If Southie is significantly better off than Roxbury—culturally, economically or educationally—it isn't very obvious to me. The area apparently has a highly developed sense of community, but that doesn't seem to be what Boston blacks are after.

The only thing South Boston has in obvious abundance is whiteness, and someone seems to have decided that proximity to whiteness is in and of itself a worthy goal for black people. I missed the meeting when they explained why.

Boston, it must be emphasized, did not wind up with its black residents concentrated in certain neighborhoods, and in certain schools, by accident. The evidence is that decisions on where to locate new schools and where to draw attendance boundaries, among others, have been made in ways calculated to minimize racial integration.

It may be that these racist actions should be punished. But it is hard to see how using black children as instruments of that punishment does very much for the children. Or for anyone else.

PROF. ALEXANDER BICKEL

Mr. MATHIAS. Mr. President, the year 1974 saw the passing of one of the great constitutional scholars of our time, a rare academic who had received public recogntion, as well as the recognition of his peers and his profession. That man was Prof. Alexander Bickel of the Yale Law School. His public recognition was due to the central role played in recent history by the basic principles of the Constitution to which Professor Bickel had devoted himself. Whether the issue was Watergate or school desegregation; impoundment or excessive privilege. Professor Bickel was indeed one of the men of the hour of our recent times.

Professor Bickel was a consultant for the Subcommittee on Separation of Powers, on which I have had the pleasure of serving. His contributions to that subcommittee were many.

Known to his students as an advocate of judicial restraint, Professor Bickel's views ran counter to the times during the years of the Warren Court, which were years of judicial activism. His book which provided the major statement of this thesis of judicial restraint was entitled "The Least Dangerous Branch." Some feel that this was his conclusion about even a most activist judiciary.

Mr. President, on December 27, 1974, George F. Will in a column in the Washington Post discussed the relationship of the Bickel philosophy to Watergate. I ask unanimous consent that this column be printed in the RECORD.

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

THE ROOTS OF WATERGATE

(By George F. Wills)

In 1969 Prof. Alexander Bickel of the Yale Law School was invited to address a gathering of Yale alumni on the subject "What is happening to morality today?" He said: "It threatens to engulf us."

He meant that we are living in "an age of assaultive politics." The legal order is battered by "a prodigality of moral causes," each of which is immoderately righteous, and gifted at rationalizing disobedience of the law

and disregard of the traditions of civility. Bickel returned to this theme in the January 1974 issue of Commentary magazine, in the most brilliant political essay of the year, "Watergate and the Legal Order."

He argued "that much of what happened to the legal and social order in the fifteen years or so before Watergate was prologue." In those years three distinct groups—white southern militants, the civil rights movement, the white middle class anti-war movement—preached disobedience to law, and practiced what they preached.

Watergate, Bickel said, was not a radical departure from the course of our recent history. Rather, it was a manifestation of the radicalism that, for 15 years, in various guises, had been challenging "the premise of our legal order," the idea that the complicated arrangements of the legal order are themselves "more important than any momentary objective."

Bickel's most acute—and acutely resented—perception was this: The impatient, righteous, anti-institutional impulse that helped produce Watergate had been much in evidence—and much applauded—in government itself, since the mid-fifties:

"The assault upon the legal order by moral imperatives wasn't only, or perhaps even the most effectively, an assault from the outside. It came as well from within, in the Supreme Court headed for fifteen years by Earl Warren . . . More than once, and in some of its most important actions, the Warren Court got over doctrinal difficulties or issues of the allocation of competences among various institutions by asking what it viewed as a decisive, practical question: If the Court did not take a certain action which was *right* and *good*, would other institutions do so, given political realities? The Warren Court took the greatest pride in cutting through legal technicalities, in piercing through procedure to substance. But legal technicalities are the stuff of law, and piercing through a particular substance to get to procedures suitable to many substances is in fact what the task of law most often is."

Thus the "derogators of procedure and of technicalities, and other anti-institutional forces, rode high, on the bench as well as off." In a democracy the derogation of concrete institutions inevitably becomes a populist celebration of an abstraction—"the people." Thus, as Bickel noted, it was "utterly inevitable that such a populist fixation should tend toward the concentration of power in that single institution which has the most immediate link to the largest constituency"—the U.S. presidency.

So, Bickel said, we wound up with "a Galluist presidency . . . needing no excuse for aggregating power to itself beside the excuse that it could do more effectively what other institutions particularly Congress, did not do very rapidly or very well, or under particular political circumstances would not do at all. This was a leaf from the Warren Court's book . . . I don't know when Mr. Nixon caught the liberals bathing, but he did walk off with their clothes, and stood forth wearing the plebiscitary presidency . . "

The truth that Bickel wanted us to see before it is too late, is that Watergate was an episode in what is becoming a tradition. It was an eruption, in a new form, of a familiar anti-institutional righteousness, the assaultive politics of the populist impulse. Thus Watergate, although past, is prologue, part of the engulfing stream of moral righteousness.

But the truth Bickel wanted us to see is unwelcomed, and hence an unheeded, truth in this year-end atmosphere of national self-congratulation about "surviving" Watergate.

Hell, Hobbes said, is truth seen too late. Republics—at least fortunate republics—can be saved from damnation by a few constitutionalists like Bickel. But threats to republics are many and constant. Great constitutionalists are few and moral. Alexander Bickel, the keenest public philosopher of our time, died of cancer late in this, his forty-ninth, year.

TWIN INFLATION-RECESSION ECONOMIC PROBLEMS

Mr. MONTOYA. Mr. President, it is becoming more clear every day that the Congress will be called upon to provide the decisive action which must be taken to combat our twin problems of inflation and recession. I believe that we must act quickly, and I agree that the place to begin is not with a greater tax burden on middle-income families.

Last November the President offered a program which he believed will attack the inflation and cure the recession. Unfortunately, the program he offers does very little more than has been done unsuccessfully for the past 5 years. His anti-inflation efforts are intended to counteract inflation through tight money, high interest rates, and cuts in Government spending.

These cures might work if the inflation we were experiencing were the result of demand-pull factors or of increased Government spending. However, our inflation today is the result of several other very strong influences: The cost-push factor of arbitrary and rapidly increasing oil prices by OPEC, a rapidly expanding world demand for fuel, food, and other basic resources, shortages in food crops due to bad weather, oil-related world shortages of fertilizer, and other world phenomena over which we have little control. In addition, we have seen a strong inflationary impact through the "administered" pricing policies of certain large corporations with almost total control of a single industry, and through the development of a strong inflationary psychology.

The administration's cures ignore these various inflationary influences and concentrate on creating recessionary pressures in an effort to force prices back down. It is as though they are saying "Let me break your arm—and then I will see what I can do about setting it." The other half of the President's program offers a public service employment program which would only go into effect after the national level of unemployment had been at 6 percent for 3 months. some interim aid to the housing industry through increased mortgage assistance, and a voluntary program of tightening belts.

The Congressional Research Service, using the Data Resources, Inc., econometric model, found that putting the whole Ford economic program into effect would not decrease inflation appreciably, would not slow the recession, and would not help those who have been hurt by either unemployment or inflation. Its overall impact on the Nation's economy appears to be neutral as it affects inflation, unemployment and gross national product.

If the President's program is not the right way to attack our twin inflation-recession economic problems, what is? Each of us has his own list of possible programs. My own suggestions and recommendations include the following:

EMERGENCY ASSISTANCE TO THOSE MOST IN NEED

First. A limited system of "indexing" for private pensions, similar to the partial indexing already provided for social security and Federal workers. Such a system should not be enacted permanently but should expire after 3 years so as not to build a permanent inflationary factor into the economy.

Second. Indexing of the lowest tax categories to prevent the escalation into higher tax brackets of lower income workers when their incomes are failing to keep up with inflation. Again, this provision should be temporary.

Third. Expanded use of the EDA public works impact program, as proposed by me in S. 4115. By using the EDA as a vehicle for an immediate emergency public service employment program and by tieing it to local unemployment rates, it will be possible to create jobs programs at the local level where they are needed, without waiting for national unemployment levels to reach and stay at a high level. By using the existing EDA machinery, we will not have to wait for a new program to "tool up." This was partially accomplished by the emergency legislation passed at the end of the 93d Congress.

Fourth. Further legislation for a permanent public service employment program similar to the Equal Opportunity and Full Employment Act of 1976, as introduced in S. 3947 by Senator HUBERT HUMPHREY. Senator HUMPHREY's bill is a well thought out and complete program to guarantee work opportunity to every adult. This kind of long-range planning makes sense. Public service employment has a good history in this Nation, and will always be preferable to welfare or unemployment payments. Useful and rewarding work for those who need it and want it can provide needed services to the Nation and at the same time improve our total economic picture.

Fifth. Immediate assistance to the housing and construction industry, which now has an unemployment rate of more than 15 percent. My bill to make the income tax deducation for interest on home mortgages a credit instead of a deduction, thus widely increasing the number of families who have sufficient after-tax income to qualify for a mortgage loan, would help achieve this goal. I will reintroduce an amended version of this bill in the next few weeks. Senator TUNNEY's legislation to provide a tax credit for interest earned on increased savings accounts in order to provide money which would be needed for a rapid increase in home mortgage applications is also important. These two bills would give the housing industry a much needed boost, and would at the same time assist lower and middle income families to acquire a home.

Sixth. The private sector may also require assistance. Among other measures, I recommend a more generous investment tax credit.

ACTION TO COUNTER DOMESTIC INFLATION

First. Vigorous antitrust enforcement. One of the most serious inflationary pressures is clearly the rise in after-tax profits which is now equal to 21 percent of equity—compared to 12 percent of equity in the 1960's. This is at least partly a reflection of "administered" prices—in other words, unfair and uncompetitive price fixing. One cure for this kind of inflationary pressure is vigorous antitrust enforcement and more activism by the regulatory agencies, especially the Federal Trade Commission. If agencies are unable to control this kind of economic greed, I believe Congress must consider abolishing the agency concerned and reconstituting it with new members and more clearly defined responsibilities.

Second. Standby wage and price controls which would include the proviso that this time controls must be across the board on wages, prices, profits, rents, and interest rates. To be effective. controls must be complete. Therefore, firms which must rely on imported and uncontrolled raw material should be granted Federal subsidies to equalize the difference between a U.S. price and the actual world price. This will allow them to maintain the prices they charge to consumers without being unfairly pinched by rising prices.

ACTION TO ADJUST TO WORLD INFLATION AND SHORTAGES

First. Full implementation of research and development programs for energy already passed by the Congress. We must proceed at as rapid a rate as is possible to replace oil as our primary fuel for energy.

Second. Encouragement of conservation of energy in every sector of our economy—not simply by consumers. This means requiring industry to change to conservation-oriented energy use. requiring better home heating and cooling systems in all Federal buildings, encouraging better mass transit systems where they are needed. and requiring that automobiles be gasoline-efficient so that they get at least 20 miles to the gallon.

Third. Immediate creation of a food reserve program for American use, and protections for the American farmer so that international commodity buyers will not be able to keep our farmers on a price rollercoaster as has been done in the last few years. We must provide short-term emergency help to those in the world who need our aid, while at the same time making sure that our long-term planning includes reserves and farmer protections which are the only real hedge we have against the world food famines of the future.

Fourth. A monitoring system for exports in order to prevent massive and hidden sales to any one country, as happened in the 1972 Russian wheat deal or more recently in the hidden sugar sales to the same country.

Fifth. Allocation of fuel to provide sufficient fertilizer and equipment for farmers in order to protect our vitally important food production industry.

All of the above proposals will attack our problems of inflation and recession on a realistic basis. They include both immediate emergency help for those American families who are most concerned. They also include an acceptance of the fact that there are some international pressures which we cannot control and which we will have to accept while planning for alternatives to the demands made upon us. The oil conservation programs which will help us through the time until we develop other sources of energy are an example of these latter plans.

We are in a period when world shortages of raw materials and a growing consumer market in the developing countries, combined with quadrupled world oil prices and crop failures in many places have all helped to push the world price for essentials higher. We must adjust to these factors. Volunteerism is not adequate to handle the conservation measures which are necessary in many of these areas.

At the same time our own inflationary pressures must be controlled and it does not make sense to continue to try to control inflation with decreased production, unemployment, and tight money. It is possible to stabilize our economy, protect our workers, and provide the kind of inflation controls which will bring us back into balance. The sensible way for Congress to do this is through long-range planning which will provide protections for tomorrow as well as today.

I have no hesitation in stating that I believe Congress can accomplish the necessary legislative action to do the job. As it becomes clear to the public that we are doing just that, I am confident that we will see a return of confidence and a heartening surge of our normal American "can-do" approach to economic problems.

GEORGE L. RADCLIFFE

Mr. MATHIAS. Mr. President, the Senate was particularly fortunate between 1935 and 1947 in numbering among its Members George L. Radcliffe, of Maryland. Senator Radcliffe, who died July 29, 1974, at the age of 96, was one of the most unusual of Senators He was an agriculturalist and an academician as well as a lawyer and a legislator, a historian, and a humanist.

A brief biography of Senator Radcliffe has been prepared by Samuel Hopkins, his successor as president of the Maryland Historical Society, and by Engemia Holland, of the society. I know it will be of particular interest to Senators, and I ask unanimous consent that it be printed in the RECORD.

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

GEORGE L. RADCLIFFE, 1877–1974

(U.S. Senator from Maryland, 1935–47; member of the Maryland Historical Society, 1908–74; Secretary, 1911–31; President, 1931–65; Chairman, 1965–74)

For ninety-seven years from birth at Spocott Farm near Lloyds in Dorchester County on August 22, 1877 until death came in Baltimore on July 29, 1974, Senator George L. Radcliffe enriched the lives of others with warm friendship as he followed a strong urge to use his boundless energy and wide range of interests and abilities. Throughout his life the Senator's old associations grew richer. As his activities and usefulness widened with each passing year he increasingly cherished his family, neighbors and growing new friendships. He particularly enjoyed returning home to the Eastern Shore on every possible week end. For sixty-nine years he happily attended each annual meeting of the Baltimore City College Class of 1905. They had named him their favorite teacher and dedicated the 1905 "Greenbag" and its supplement 40 years later to him.

In describing his early years, in a speech at Pocomoke on May 25, 1946, the Senator said, "I was born within a hundred feet of salt water. My early experiences were in my father's shipyard, on his farms, working in our canning factory mingling with the farmers, fishermen and oystermen who were our neighbors and good friends. The lives of those who toil on farms, on the oyster bars, are open to me." Referring to his view of his service as a United States Senator, he said, "My duty, my pleasure and my ambition is to turn out a good, sincere, unostentatious, successful record of service to my constituents, whether they earn their living with a pen, a hoe or a pinmail. They all look alike to me." In the same year Judge Samuel K. Dennis, the Senator's long-time friend and former Chief Judge of the Supreme Bench of Baltimore said of the Senator," . . . nor is he partisan. He has an idea his services belong to anyone, everyone. Hence men of high and low degree, of all political affiliations, in business and in office alike find him approachable, amiable, infinitely kind and obliging."

Senator Radcliffe thoroughly liked people. He was at ease with others regardless of place, background or differences. He made them feel comfortable and enjoy being with him. A person full of innate goodness and blessed with ability and good judgment, the Senator was instinctively turned to by people when they wanted a man in whom they could place their trust and from whom they would receive fair and wise help or advice. Individuals and groups, often those with conflicting views, turned to him for help in resolving their differences or accomplishing a task. He was a man of patience, quick to forgive and who just could not harbor a grudge. His very nature rebelled at man's cruelty to man. It was never for him to cause pain or mortification to others.

From early childhood the Senator carried with him and constantly renewed warm memories of Christmas and the happy time his mother made for her family at Christmas. In school Christmas was his favourite subject for compositions. Later he collected over 2,000 books and 500 articles about Christmas. It was the subject of his first address to the United States Senate. The Christmas spirit represented to the Senator the happy bringing together of family and friends, generous impulses and kindly deeds to others. These things appealed to his deeply ingrained sense of love of people, equality, goodness and justice in dealing with others.

Beginning early in life, Senator Radcliffe was deeply influenced by his father's emphasis on independence and work, and his mother's love for reading and literature. Following graduation from the Cambridge High School and pursuing his desire for work and education, he received degrees from the Johns Hopkins University, A.B. 1897, in history and political science and PhD., 1900, in history. His doctoral thesis, "Governor Thomas Hicks of Maryland and the Civil War" was published by the Johns Hopkins Press in 1901. A lifelong source of satisfac-

tion to the Senator was that those who read his work were unable to determine whether his sympathies were with the Union or the Confederacy.

While at "Hopkins" the Senator was a member of the one-mile relay team which won that event at the University of Pennsylvania Relay Carnival at Philadelphia in 1898. The gold watch awarded him became his favourite possession and a constant reminder of this happy occasion. An active and appreciative alumnus, Senator Radcliffe served as President of the "Hopkins" Alumni Association (1913–1920) and Chairman of the successful 1919 campaign to raise funds to build the "Alumni Memorial Dormitory."

Among the Senator's happiest memories were those of his service as principal of the Cambridge High School (1900–1901) and Professor of History at the Baltimore City College (1901–1903). During the years 1902–1903 he attended the University of Maryland School of Law from which he received an LL.B degree in 1903. In later years he received honorary degrees from Washington College (LL.D, 1934) and the University of Maryland (LL.D, 1943).

In 1903 Senator Radcliffe began his seventy-one-year business association with the American Bonding Company of Baltimore and the Fidelity and Deposit Company of Maryland. His responsibilities in various capacities included Head of the Legal Department, Vice President, Chairman of the Executive Committee and member of the Board of Directors. Judge Samuel K. Dennis, a fellow Director, in referring to the Senator as a businessman said, "He became valuable to his Company, not as a master of routine, but in stronger fields as a 'trouble shooter,' idea man, pioneer thinker, policy maker, diplomat." J. Harry Schisler, a business colleague for most of the Senator's career, describes him as "the man to handle serious things" and "an accomplished negotiator." Senator Radcliffe's other business interests included membership on the Board of Directors of the Fidelity Trust Company and Baltimore Contractors (1951–1974).

Senator Radcliffe and Miss Mary McKim Marriott of Baltimore were married on June 6, 1906. Among the Senator's greatest joys were his own home and family. After his wife's death he derived special joy from knowing that his son George, his daughter-in-law Augusta and their children shared his love for Spocott Farm.

In 1908 Senator Radcliffe became a member of the Maryland Historical Society, and for sixty-six years contributed immensely to its growth in size and usefulness. For sixty-four years he served as an officer—Secretary (1911–1931), President (1931–1965) and Chairman (1965–1974). The Senator often said that the Society was not work but a place to which he could turn for a restful change of pace and recreation.

The highlights of the Senator's service as President included an address to the Society by his close friend, then Vice President Harry S. Truman, soon to succeed as President another close friend, President Franklin D. Roosevelt. The subject, "Maryland and Tolerance" was one dear to the Senator's heart. Speaking of intolerance that evening, March 16, 1945, Vice President Truman said, "There is no lasting cure except that found in the impartial recording of history." Turning to history again, Vice President Truman spoke words dear to the Senator. "The pages of history remain open for all to read. They stand as an eternal warning against the tragic disasters of the past . . . of course, every generation must meet new problems in light of new developments, but surely they must profit by the experience of the past."

Developments at the Maryland Historical Society which meant much to Senator Radcliffe would include the Keyser Memorial, including the gift of the Enoch Pratt House, the gift of Francis Scott Key's original manuscript of "The Star-Spangled Banner," the Thomas and Hugg Memorial Building and endowment, the Jacob and Annita France Auditorium and the Jacob France Endowment Fund, the Darnall Young People's Museum of Maryland History, and the 1973 decision to rename an expanded maritime museum "The George L. Radcliffe Maritime Museum."

The Senator supplemented his devotion to the Maryland Historical Society by accepting other responsibilities related to Maryland history. These included: Chairman of the 1924 Baltimore City Commission which saved the "Shot Tower"; Chairman of the Star-Spangled Banner Committee (1939); Maryland War Records (1942); Chairman of the celebration of the 300th anniversary of the Religious Toleration Act in Maryland (1949); Chairman of the Committee on Historical Markers in Maryland (1954). The Senator's long-time encouragement to local historical societies played a major role in their growth to the point where at least one is now in being in every Maryland county.

When interviewed and recorded on tape last summer by his friend Walter Finch as part of the Society's Oral History project, the Senator responded to a question about his first introduction to politics by saying, "According to tradition the first thing an Eastern Shore baby does is look west to Annapolis." His early public service included appointments by his former Cambridge High School principal, Governor Harrington, to membership on the Baltimore City Liquor License Board (1916–1919) and Secretary of State (Maryland) (1919–1923). Senator Radcliffe served as chairman of four Gubernatorial Inauguration committees—Governor Ritchie, 1923, 1926, 1930; and Governor Lane, 1947.

In 1932 his friend Franklin Delano Roosevelt, who had been a Vice President of the Fidelity and Deposit Company before becoming Governor of New York State, named Senator Radcliffe as Maryland Chairman of his successful campaign for election as President of the United States. To help President Roosevelt in that difficult period Senator Radcliffe accepted an appointment in 1933 as Regional Director of the Public Works Administration. In 1934 Senator Radcliffe was elected to the first of two terms in the United States Senate. His Senate committee assignments included Finance and Maritime. As Chairman of a Maritime Subcommittee Senator Radcliffe was the chief architect and author of the Merchant Marine Act of 1936. This basic legislation has been described as "the keystone and foundation upon which our maritime laws and our merchant marine function." Just as had been his way in business, the Senator thrived in the United States Senate on work and problems. Never one to set people against each other, he had no sympathy for legislation and programs which advantaged individuals and groups at the expense of others.

The Democratic State Central Committee for Maryland chose Senator Radcliffe as its Chairman for the Presidential Campaign year 1936. He later served as Maryland Chairman of his close friend President Harry S. Truman's successful 1948 re-election campaign. In 1952 Senator Radcliffe served as Chairman of the Chesapeake Bay Bridge dedication.

The Senator's additional interests and contribution to Maryland were many. His ability to enlist people in getting jobs done was reflected in his being called on as just the right man for many responsibilities. One of these responsibilities which meant much to the Senator was leadership for thirty years of the March of Dimes (Infantile Paralysis Programs) in Maryland. A quick project the Senator often recalled was the construction of a horse-drawn coach within forty-eight hours by Victor Frenkil and Baltimore Contractors for the Oriole's 1954 Homecoming Celebration. Other opportunities for service the Senator responded to were the presidencies of the English-Speaking Union, the University Club and the Eastern Shore Society.

Perhaps closest to Senator Radcliffe's heart were the parts he played in projects related to the Eastern Shore. These would include the Dorchester County Historical Society, Grace Foundation of Taylors Island, the restoration of historic Old Trinity Church and the Chapel of Ease.

One of the happiest occasions of the Senator's life took place on his ninety-fifth birthday. On that day he realized a childhood hope for the reconstruction of Spocott Windmill, which was originally built by his father, used for grinding grain into flour, and blew down in the blizzard of 1888. His vigorous address and the appreciation he expressed on the dedication day for the reconstructed mill will always be remembered by those present.

The Senator steadfastly looked to the future with hope. Each of us who know and study his life will find in his example strength for our own futures. At every stage of life he lived as though he were entering a new career. Those who are fifty-nine will see great possibilities for their futures as they realize they are the same age as the Senator when he began a twelve-year career in the United States Senate. At any age until ninety-six they can look forward with success, as the Senator did, to the realization of his childhood dream that "the old mill would come back." Each of us can, as was true of the Senator, continuously re-live the joy of Christmas and share with the Senator the lifelong happiness and inspiration he found in the Chirstmas spirit of goodness to all men.

It is an inspiration to look back on the life of Senator George L. Radcliffe. He lived a life in which a sense of the past was linked so beautifully with the realities of the present and an optimistic view for the future.—SAMUEL HOPKINS, October 1974.

POSTMASTER GENERAL E. T. KLASSEN

Mr. McGEE. Mr. President, I wish to pay tribute today to the service rendered since early 1969 by Postmaster General Elmer T. Klassen, who has announced his retirement from that position in a month's time after serving as Deputy Postmaster General, as a member of the Board of Governors and finally as Postmaster General.

Ted Klassen, who has served the past 3 years as the chief executive officer of the Postal Service, as the second PMG under reorganization, and as the Nation's 59th Postmaster General, is a man of boundless enthusiasm for the job at hand and one who believes in and practices a direct approach. In announcing his plans to step down Mr. Klassen allowed that his only reservation "is that it may appear I am yielding the battle to the critics of the Postal Service."

As he said, that would be a totally unjustified assumption. I seriously doubt that Ted Klassen has run from a battle since November 6, 1908, the day he was born in Hillsborough, Kans.

The Postal Service and the Postmaster General, needless to say, have critics aplenty in the Congress, the press, and in the public at large. Ted Klassen, with a remarkable background in private industry, learned to understand the nature of the criticism and the inevitability of it. He was straightforward, telling the

Post Office and Civil Service Committee in March of 1973 that—

We (the Postal Service) made some damn bad mistakes.

Despite the criticism, all is far from bad with the U.S. Postal Service. Ted Klassen himself put it well in an address to the eighth annual Postal Forum last September when he said:

Few countries in the world today provide less expensive mail service—none provides better.

While some of the Service's problems in the few short years of its existence have been self-made, many of the more severe ones have been inherited or are inherent in a service-oriented organization doing business in today's economy. We know that the United Kingdom has recently announced an increase in first-class mail rates to the equivalent of 16 cents. And, while there may be those who would quarrel with the designation of the U.S. Postal Service as the world's best, there is no denying that it has a mammoth task—the movement of about half of the world's total mail volume. In fiscal year 1974 that meant more than 90 billion pieces.

One of the first-class aspects of Ted Klassen's tenure as Postmaster General has been his ability to endure the criticism aimed his way and persist in the development of a Postal Service adequate to the present and future needs of the country. He worked at his job and worked hard, in the day of a man who rose from office boy to President of a large industrial firm during a 40-year career. One hallmark of his generalship has been a steady improvement in the pay and working conditions of the Postal Service's more than 700,000 employees.

Those employees, who render a very basic essential service to all Americans, know who is in charge: Ted Klassen. They know there has been considerable progress made these past 3 years and, as Mr. Klassen enters his final month as Postmater General, I know they will want to join in acknowledging the accomplishments and progress of the service.

All is not perfect with the Postal Service by a long shot, as is all too evident. In the days ahead, the Post Office and Civil Service Committee will be delving deeper into these problems of the Postal Service in order to correct what must be corrected. It is our hope that Ted Klassen will, in his candid way, give us the benefit of his experience and insight into the great American institution he has directed with spirit and tenacity.

On a personal note, I want to wish Ted Klassen well in this last month of his service and express my wish that he and his wife Marie will have an opportunity to relax and enjoy life away from the daily demands of the Postmaster General's office.

DR. BALSAM'S REMEDIES

Mr. MATHIAS. Mr. President, the present position in which we find ourselves is, as has frequently been remarked, a perilous one. Like a fighter reeling from repeated blows and without an opportunity to gather his senses, we have been hit with, in succession, the fruits of guns and butter policy in Vietnam, a quadrupling of world oil prices, and a shortage of food both at home and abroad.

On previous occasions, I have suggested that some of the answers to these immense problems will come through dialog. By that I mean the discussions that we have here in Congress. But I also mean the discussions which take place in the country at large: among business and union leaders, in universities, and in the media.

It is as a part of that dialog that I offer today for the RECORD a copy of an article written by Josiah Lee Auspitz, entitled "Dr. Balsam's Remedies," which appeared in the January 1975 issue of Harpers. Mr. Auspitz is completing his doctoral dissertation at Harvard on concepts of practical reasoning in politics. He served in 1969 with the President's commission on the restructuring of the executive branch. He is known to some of my colleagues as a former President of the Ripon Society, a moderate Republican organization.

There is humor in the approach that Mr. Auspitz takes to the current world crisis. But there is also hard-headed, if controversial, analysis and for that reason I believe it should be widely read.

I ask unanimous consent that the article be printed in the RECORD.

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

DR. BALSAM'S REMEDIES: HOW I CAME TO TERMS WITH THE WORLD CRISIS

(By Josiah Lee Auspitz)

Every seven years or so I get depressed by the international situation and seek help at Dr. Balsam's townhouse on the Rue Talleyrand, just a few hundred yards from the tomb of Napoleon at Les Invalides. Balsam maintains a leisurely practice, refusing to see any of his patients more than once or twice a decade. If you must see him, you merely arrive at teatime. Castlereagh Muhammed, Balsam's Moorish amanuensis, ushers you into the eighteenth-century calm of the good doctor's library.

There are, of course, no newspapers or periodicals in the room, and the latticed cabinets contain only a handful of books published in this century. Portraits of the men Balsam calls his "ancestors" adorn the walls. On the right-hand wall, those who have dealt with conflict as it is: Machiavelli, Hobbes, Talleyrand, Metternich, and Clausewitz; on the left, those who have had a vision of how things might be changed: Grotius, Montesquieu, Kant, Florence Nightingale, and Woodrow Wilson.

The only concession to modernity is the large, egg-shaped plastic chair for Balsam's patients. It was one of the last and best designs of the Bauhaus, especially created for Balsam's library. Sitting in it, enveloped on all sides by antiseptic white, one feels as if one were in a time capsule returning to the age of ballet wars and balance of power.

Balsam greeted me warmly and offered me tea and Armagnac, which I accepted, and snuff, which I did not. "Well, well, well," he said. "What is about to convulse the world this time, that you have come to me, my dear friend? On your last visit, almost exactly seven years ago, you were expecting a world financial crisis and an expansion of the Vietnam war into China, as I recall."

"And I was very nearly right," I reminded him.

"So you were. So you were. And perhaps it would have been better to have had a really proper crisis then. After all, *crisis* is merely the Greek word for decision. As I was telling poor, distraught David Rockefeller when he came here a few months ago, sometimes postponing decisions takes a greater toll than making them. Don't you think that is good advice?"

I nodded. It was one of Balsam's delightful traits that he had no scruples about discussing one patient's problems with another. It made one feel part of an elect community of sufferers.

"I suppose you, too, think that Western capitalism is about to collapse," he said.

I leaned forward in the egg in agitation. "Yes! And also that the economic weakness in the West will embolden the Russians into a great power confrontation, involving the triangular relation Nixon set up."

"Ah, so you have added Russia to China this time."

"Yes," I said. "The logic of the situation seems to require that any crisis . . ."

Balsam interrupted. "Say 'decision' or 'judgment' instead of 'crisis.' It is much more relaxing."

". . . that any decision involving two of the great powers will involve three."

"Well said," Balsam responded. "You have wisely left out Europe. Europe, as you are doubtless aware, doesn't count. Europe lost the Middle Eastern War."

"I had not thought of it in that light," I confessed.

"Well, Henry saw it immediately, and so did Nixon. I remember Henry's visit late last fall—it has been an unusually busy year for me. He was in quite a dither, poor man. No one seemed willing to trust him, and small wonder, really. He had disappointed Brezhnev by letting the Israelis surround the Egyptian Third Army. He had scared everybody by his perfectly sensible precaution of a nuclear alert to check the Russians from any thought of ejecting the Israelis. And he had accused the Europeans of inconstancy and panic, which was accurate and therefore deeply resented by them. And then his old enemesis Brzezinski started attacking him in the newspapers, saying the United States had lost the October war.

"I said to him at the time: 'Henry, all your flexibility is necessary in these fluid times, but you need to reassure people. Travel with your children. Marry that lovely energetic Maginnes woman before you both get too old and cynical to enjoy it. Do a few homey, human things. Your image as a swinger served you well when you were a gnome in the White House—it stopped all the Dr. Strangelove talk. But now you are a public man. You must radiate stability. Remember, you need only get people to rely on your word, and you shall succeed, until it becomes necessary to have another Near East crisis. After all, the logic of the situation is on your side.' "

"The logic of the situation is on no one's side!" I blurted out. "The logic of the situation is that no one can pay for oil. Italy is sinking fast. Britain will be next. Then France will come to her knees. Banks will fail. The West will suffer crushing balance of payments problems trying to pay the Arabs. There will be a worldwide depression! The Russians, immune from all this, will seize the advantage to reverse the currently unfavorable factional situation in China. The United States has humiliated them in the Middle East. Their military planners look ridiculous. In their own counsels this must be as bad as the Cuban confrontation a decade ago. They have spent the past decade building up to parity. God knows what this new insult will encourage in their military!"

"Is that, briefly, your problem?" asked Balsam with an air of genuine concern.

"Very briefly," I replied in a weary tone. Our session had been held before Nixon's resignation, but I had not even mentioned Watergate, drought, and inflation.

"It is very mature of you," Balsam said, "not to mention American politics, drought, inflation, and other ephemeral disturbances. That, I might believe, is the reason Castlereagh Muhammed holds you in such high regard, as do I, notwithstanding that you write in periodicals and even newspapers from time to time."

I averted my eyes.

Well, then"—the doctor put on his professional manner—"let us treat the oil problem which you seem to see as the first of the dominoes to be set right. It may comfort you to know that you are not the only one worried about this. King Faisal came to me in February to say that his oil was giving him a nervous breakdown. 'Protector of the Holy Places,' I told him, 'for a nervous breakdown one does not come to Paris, unless one wants it treated by acupuncture. Go to Manhattan. That is where you will find people to talk with you about nervous breakdowns.'

"But the King insisted," Balsam continued, "that his case was diplomatically induced, and so I heard his anguished tale. He had, he said, always made friendship for America the cornerstone of his foreign policy. Indeed, he had no other foreign policy to speak of. He had all he wanted right at home: his Holy Places, his oil, his air conditioning, and a kingdom still uncorrupted by Egyptian schoolteachers. But first the Shah of Iran had begun stockpiling arms and bragging that the Aryans had always ruled the Semites. And then all the young officials in Riyadh began huffing and puffing about high diplomacy and high finance. They wanted an alliance with Egypt, Faisal said, so that they would have an excuse to visit Cairo. They wanted him to bluff, posture, bargain, and flatter like the unmanly Egyptians. And then he was supposed to blackmail America on behalf of the Palestinians. How could he, a devout Bedouin, give a fig for the Palestinians? he confided. All that concerned him were the Holy Places in Jerusalem. He did not begrudge the Israelis the traffic and sewage problems, if they wanted to administer them. And it did give him some satisfaction that the slimy little Hashemite, as he called Hussein, had been ejected from the city. But to have the Jews occupying the tomb of the father of Ishmael was too much to bear. Faisal had vowed to pay a last pilgrimage to Jerusalem before his death. All in all, the world was becoming just too great a strain for him."

"What was your prescription?" I asked.

"Let me have the blackamoor read it to you, since it is he who is able to write these things down for me." Balsam pulled a bell cord and Castlereagh Muhammed entered, positioned himself in front of the globe, and read the prescription in the clipped drawl of an old Salopian. Balsam took snuff.

"Rx for Faisal, King of Saudi Arabia: recite the following six points three times daily facing west.

"1. America is the only country which can ship Saudi oil. Therefore, America is Saudi Arabia's best friend.

"2. America is the only country which can occupy Saudi soil. Therefore, America is Saudi Arabia's best friend.

"3. America is the only country to benefit from keeping oil prices high for a while. Therefore, America is Saudi Arabia's best friend."

I interrupted. "How does America benefit from high oil prices?"

Muhammed took this up matter-of-factly, as a point of information. "The higher the price of oil, the more incentive to tap the domestic oil and coal supply. The greater the use of domestic supply, the lower the import bill. The lower the import bill, the better the balance of payments. The better the American balance of payments, the greater the competitive edge over Europe and Japan, who have no domestic supply. The greater the European disadvantage, the more attractive the American economy. The short-term result: everybody but the Americans will be giving the Arabs more money for oil. The Arabs will be using the money to buy American goods and securities. And the Americans will lend it back so that the Europeans and Japanese can buy oil."

"But what good does this do when America's own balance sheet turns red and the whole international economy collapses?" I asked.

There was a long pause while Balsam sneezed out his snuff. Then he said, with a benign smile, "Read him the remaining three points, Muhammed."

"4. If the Americans think the time is ripe, be prepared to break the cartel and lower your oil prices.

"5. If the Americans think the time is ripe, be prepared to become a Protector of the Holy Places in Jerusalem.

"6. If the Americans think the time is ripe, be prepared to join Israel and Egypt in an international consortium for the economic development of the Sinai and the new Palestinian entity."

I reflected in silent admiration on the full import of this prescription. Balsam was preparing Faisal, in the event the Americans stumbled upon the right proposals, to seize those levers that would preserve his entente with the United States, give him his pious heart's desire in Jerusalem, enable his young men to visit Cairo, toss half a fig to the Palestinians, and undercut the Shah of Iran by breaking the oil cartel. Saudi Arabia could prosper at any price level, but Iran, with its higher cost per barrel, needed an extortionate price to maintain the Shah's ambitious plans for development and repression. Moreover, Balsam's points would be acceptable to the United States, since they would stabilize the Middle East without forcing the U.S. Treasury to prop things up with billions in food for the Palestinians, arms for the Israelis and Jordanians, and aid for the Egyptians. But as I turned these points over in my mind, I began to see clearly the full enormity of point 4.

"Dr. Balsam," I cried, "you are providing the blueprint for extortion! The Americans and Saudis allow the price of oil to bankrupt Europe and then lower it to undercut the Shah and rescue the world economy from total collapse. This would prolong an economic hegemony that America has ceased to earn by its productivity, its gold reserves, or the stability of its currency. It would perpetuate the Cold War lines of influence by the rigging of oil prices and the specter of gunboat diplomacy. This is conspiracy."

Balsam feigned shock. "I am truly surprised to hear you, a citizen of the United States, putting the matter in so Machiavellian a way. Your description is uncharitable. It is unfair. It is un-American. It is French. It is the way I would expect a spokesman for the Elysée Palace to put it to me, someone like Giscard d'Estaing. In fact, it is almost exactly the way Valéry did put it to me just a few months ago. Allow me to give you the answer I gave him. First, this is a question not of conspiracy but of timing. The Americans cannot plan far enough ahead to conspire about such matters. But at some point, you know, they must break the oil cartel to save the international economy. One cannot expect them to apply their full influence until they themselves begin to feel disadvantaged. This will take a while, as they can use a bit of hardship to teach their younger, postwar generation that prosperity cannot be taken for granted. Furthermore, they are so moralistic, these Americans, that they always need to work themselves into a rage before taking action. Just as it took Pearl Harbor to get them into the last European war, it may require nothing less than the total collapse of credit in Italy to convince them to do even some minor thing, like having their CIA reshuffle the Cabinet of one of the fragile governments touching the Persion Gulf. Or perhaps, since they are now full of contempt for gentle, covert measures, they will even wait for a renewal of Near Eastern fighting before taking up their role as defender of the interests of NATO and Japan. In any case, by the time the Americans are ready to sneeze, major financial institutions in Europe will be dying of pneumonia.

"Second, as for their position being unearned, have not the Americans invested in the most important kinds of capital goods, namely, military hardware? And have not their firms invested in the second most valuable capital, namely, shipping capacity for fuel? The simple fact is that this is one of those decades in which defense is more important than productivity. Hence the Americans and the Russians, who have had the foresight to invest in armaments, are in a position to dole out raw materials to their European friends. As for France, if you cannot ship oil and cannot seize it, I advise you to become less haughty toward those who can. You should, for example, begin to take NATO more seriously, along with any other transnational groupings that the Americans may use."

"Was this before or after Giscard became President that you spoke to him so?" I inquired.

"The very day after the election," Balsam said. "He was so full of campaign rhetoric that he required harsh language to bring him down to earth. It was not pleasant for me. Valery is so clever and self-possessed that he is able to talk himself into believing his own speeches. It took some very brutal truths to convince him of the modesty of his position. And despite my best efforts he still gets an embattled glint in his eye when he is asked about America, as if France, which he calls the natural leader of a united Europe, could turn the tables tomorrow. I do believe, however, that I may have succeeded in making him a bit more humble, at least on the surface.

"And I hope also, my dear friend, that my words to him have given you some consolation. At least you have seen that your first domino, the oil problem, can be set right whenever the Americans choose to exert themselves, and that their doing so slowly is not a form of economic blackmail but merely the fair and largely unanticipated return to them for all these years of moralism and military preparedness."

"Thank you. I do indeed feel much better," I said.

"Well, do not become too complacent," Balsam continued. "There is no necessary link among the various developments that worry you. Many of them can occur regardless of the disposition of oil."

I clutched the armrests of the plastic egg. "You mean there may still be a cataclysmic World Crisis?"

Balsam's response was to motion Muhammed over to the secretary, where a quill and parchment were already prepared. "I think in the coming years until we next meet you will benefit from the prescription that my amanuensis is writing for you."

The Moor knew Balsam's mind so well that he never needed to be told what to write. After a very short time at the desk, he handed me a small parchment scroll. On it, in his exquisite calligraphy, was my prescription:

"Rx for Josiah Lee Auspitz, to be recited twice daily, before reading the morning newspaper and before watching the evening news:

"Crisis is merely the Greek word for decision."

BILL PROXMIRE—A "MAVERICK" WITH GOOD SENSE

Mr. MONTOYA. Mr. President, in recent years it has sometimes been difficult for the public to distinguish one Member of Congress from another. Some commentators have gone so far as to suggest that our whole society was becoming conformist: both undistinguished and indistinguishable.

It is not true, of course, and never was. Both the Nation and the Congress have always had variety and diversity. Individualism is a matter of pride for most Americans, and certainly we all see it displayed in this Chamber daily.

However, one Member of the Senate is proof-positive that the American freedom of spirit and integrity of mind is still alive and well in Washington, D.C. That man is Senator WILLIAM PROXMIRE, my neighbor in the office building, and my friend.

Recently the Public Affairs Journal Lithopinion 36 published a profile interview with Senator PROXMIRE, pointing out that he is a "maverick," and noting that he is often called the conscience of the Senate.

The article is especially pertinent to us in these difficult economic times. It notes Senator PROXMIRE's old-fashioned attitude toward Government waste—an anger which sometimes surprises those who believe that "big spender" is another name for all legislators who put the interests of consumers and the public above those of the bureaucracy or the giant corporations and lobbies.

BILL PROXMIRE listens to all sides—and then makes up his own mind about what is right or wrong. He examines every angle of a problem, keeping the opinions of experts "on tap," as he has told us here in the Senate, but never "on top." In the end, he makes his decisions with commonsense and a firm faith in his own ability to think and to act.

Mr. President, I think this article illustrates the very special qualities which BILL PROXMIRE brings to his job. They are qualities we all admire, and they are qualities his constituents are proud to have detected and approved with their votes. Certainly, the people of Wisconsin should be proud to have this very able and individual man representing them in the U.S. Senate.

I ask unanimous consent that the interview be printed in the RECORD.

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

THE CONSCIENCE THAT MOVES THE U.S. SENATE—WILLIAM PROXMIRE—MAVERICK

(A profile-interview by David Gelber)

I had heard about Senator William Proxmire's devotion to his daily, several-mile jog; and since I, too, run each day, I asked him on a visit to Washington if I might accompany him. He turned me down. "I'm really too competitive to run with anyone," he said, "and besides, I like to run alone."

For 16 years, this lean, 58-year-old Wisconsin Democrat has been doing just that—running alone, in the United States Senate. And he's been doing it pretty well. Former Senator Paul Douglas once declared, "A liberal need not be a wastrel." For Proxmire, Douglas' aphorism carries the force of holy writ. Long ago he established himself as an expert in the areas of housing and finance and of defense spending, and he has waged a constant and often lonely campaign to restore competition to the "free enterprise" system by withdrawing subsidies from the rich and the powerful.

"The idea has been that every time the Federal government spends another 10 or 20 thousand dollars it creates another job. The fact that that is not true should be apparent to anyone who can add. In the past five years the Federal budget has exploded from $184 billion to more than $305 billion. That colossal increase in spending should have resulted in a corresponding expansion in jobs and a reduction in unemployment. Did it?

"It is true the work force increased and employment in the economy grew. But far less than it should have. Unemployment grew much more in proportion than jobs did. Indeed after a break-neck expansion of government spending we find unemployment which was 3.4 percent five years ago, now at 5.3 percent.

"I predict that if we reduce the rate of increase in Federal spending, and do it in the right areas—being sensitive to the employment consequences of our action—that unemployment will not worsen as a result of the slower rate of growth in Federal spending."—SEN. PROXMIRE, Aug. 22, 1974.

Many people once put down Proxmire as simply an eccentric who couldn't resist a losing battle (he was even brazen enough to challenge the Senate leadership of Lyndon Johnson). While he may still be regarded in some quarters as a maverick, now, in his new post as chairman of the Senate Banking, Housing and Urban Affairs Committee—and with the state of the economy uppermost in everyone's mind—William Proxmire is a maverick whose time has come.

Proxmire's liberalism developed somewhat late in life, although he recalls that as a child growing up in a comfortable Chicago suburb he held a more optimistic view of human nature than did his father, a conservative Republican physician. But his personal discipline as well as his aversion to wastefulness apparently derive from his father's belief in working 14 hours a day, seven days a week.

He is in the office at 8:15 every morning after a 4.7-mile jog from home and a shower in the Senate locker room. He eats breakfast over the morning papers, and doesn't stop until 6:30 P.M. when he goes home and reads up on the next day's work. One of the Senator's aides, now one of Washington's best antitrust lawyers, told me that Proxmire's major fault is that "he works too damn hard." Once elected "class grind" by his prep-school classmates, Proxmire is the least platitudinous of Senators. He can cram more detailed information into a 60-second television news spot than any politician in the Capitol.

"An article in today's NEW YORK TIMES by respected reporter John W. Finney indicates that Defense Department officials are complaining that the $82.5 billion defense budget is not enough.

"Apparently they are saying that the Pentagon needs about $11.5 billion more to fund major weapon programs.

"This will undoubtedly come as a surprise to many in Congress. After having spent eight months examining the defense budget in great detail by four committees of Congress, all of a sudden we find that the ante has been raised by another $11.5 billion. . . .

"If a supplemental is requested, it would mean that the Congress would be called upon to fund three major DOD bills this one calendar year. We first had the fiscal year 1974 supplemental request of $6.2 billion, subsequently reduced slightly. Then came the major DOD bill of some $92.5 billion in budget authority. And now there is the possibility of yet another major bill of up to $11.5 billion."—SEN. PROXMIRE, Sep. 19, 1974.

Proxmire was headed for a business career—he had studied at Harvard Business School—as a trainee at J. P. Morgan Inc., which must give pause to his foes on Wall Street these days. World War II interrupted that, however, and a stint in the Army's Counter Intelligence Corps (the CIC, which was sometimes referred to as "Christ I'm Confused," says the Senator), left Proxmire with a sense of the military's limitations and a determination to enter public life.

After the war Proxmire worked as an investigative reporter for a newspaper in Madison, Wis. He got involved with organizing a union there and was eventually fired.

Wisconsin politics were at that time dominated by the spirit and personality of Senator Joseph McCarthy. The Democratic Party was a political basket case in need of the kind of energy Proxmire could provide. He was elected to the state assembly in 1950, ran for Governor two years later and then again in 1954 and 1956, losing each time. A Wisconsin newsman has calculated that Proxmire has shaken more than 2.5 million hands in his political career, and all that manual exercise finally paid off for him in 1957 when he won a special election held after the death of Joe McCarthy.

Philosophically, Proxmire is less a New Deal Democrat than old-fashioned capitalist with a distaste for anything that restrains or contaminates free trade. When Pan American Airways came around begging for a taxpayers' subsidy, Proxmire emerged as perhaps the key Congressional opponent—as he was of the Lockheed loan and the SST.

"When President Ford decided not to assist Pan Am with a bailout of $10.2 million a month, he reaffirmed belief in the free market system. We have had too many bailout precedents in recent years. It was beginning to appear that every major corporation in financial difficulty looked first to the Federal government for a handout.

"Now that chain has been broken, and I hope, for good.

"It must be admitted that many of Pan Am's problems were not of its own making. But that is not to overlook those critical financial factors that were caused by Pan Am's management.

"With unprofitable routes, high overhead, rapid changes in top management and simple bad forecasting, Pan Am must share the burden of responsibility with the uncontrollable element of fuel prices."—SEN. PROXMIRE, September 19, 1974.

Besides a strong distaste for unnecessary government spending, Proxmire was an early advocate of consumer protection—especially in the areas of banking and finance. In his new committee chairmanship role, he is expected to try to make banking more competitive, especially in areas like California, where one bank dominates the entire banking industry of the state.

"The Agency for Consumer Advocacy will be the one Federal agency whose mission will be to stop many unjustified price increases. How? Here is how: It is obvious that the Agency for Consumer Advocacy will be a potent force for bringing down prices of goods and services for the American consumer.

"We need the same kind of representation before the Federal Communications Commission, which sets telephone rates, before the ICC, which sets freight rates that add to the cost of food and other goods, and before a host of other Federal agencies, which influence the prices paid by all of us consumers, whether we are aware of this or not.

"One of the points made at one of the first summit conferences held at the White

House was the point made by witness after witness that if the government would do its job, a good part of this inflationary problem would be solved. A part of that job is to see that excessive, unjustified price increases under regulated industries are not approved; but they are approved. Why? Because we have no adequate regulatory procedure. The point that the consumers are being exploited simply is not made, and that is what this agency would do."—SEN. PROXMIRE, September 19, 1974.

Another of Proxmire's aims will probably be to increase the flow of capital for housing starts and for mortgage loans. The skyrocketing interest rate—it has risen from six per cent to more than nine per cent today—has, since 1966, priced at least 10 million families out of the housing market, and Proxmire aides estimate that roughly two-thirds of all American families cannot afford a new home because interest rates are so high. Proxmire believes that careful pruning of the Federal budget would free funds for housing, which is always nearly last in line in the scramble for investment capital.

"If we cut spending by $10 million and balance the budget, the Federal government will not borrow that additional sum, and interest rates will begin to move down.

"Will that provide more jobs? Yes indeed. How?

"Because the housing market—that is now in a serious depression because high interest rates make it almost impossible for millions of Americans to buy homes—will fall. This could make a difference of as many as 500,000 more housing starts this year. And that number of housing starts means one million additional direct jobs and probably two million indirect jobs."—SEN. PROXMIRE, Aug. 22, 1974.

Proxmire's juiciest target, however, has always been the military budget. Although he stoutly insists that nothing he proposes would weaken the nation's legitimate defense posture, the Senator helped to publicize the battle—and subsequent firing—of Ernest Fitzgerald, the Pentagon cost-analyst who fought a lonely fight against military cost overruns—until he lost his job. Proxmire insisted that Fitzgerald was just doing his duty honestly, and as a result Fitzgerald was vindicated and the Air Force exposed for trying to cover up its own inefficiency.

Proxmire's cost estimates of weapons systems have time and again turned out to be more reliable than the military's. On this score, a Republican colleague has said of the Senator, "I thought he was just another wild eyed, simple-minded spender who resented the Pentagon because of its money. But, he's done his homework—and he helps us understand these weapons."

"A further example that spending per se is not necessarily good is seen in the example of the space shuttle. What will it do? What benefits will we be getting for the massive spending of $6.5 billion?

"I addressed a letter to the head of the space program and asked for the justification for the space shuttle. Specifically I asked what tangible benefits we could expect from the program. Here is the key justification in the reply: "The basic premise leading to the conclusion that this nation should proceed with the development of a space shuttle system is that the U.S. should and will continue to have an active space program from now on." In simple words, the main rationale for the shuttle is that it will keep the space program going. But it also means a steady drain on the U.S. Treasury.

"The agency also asserted, without proof, that the program would save costs. The space program now uses exceedingly costly, expendable boosters. Obviously, a reusable shuttle will be cheaper than expendable boosters if enough trips are made. But a study by the Rand Corporation prepared for the Air Force demonstrated that the shuttle would have to carry more than $141 billion in traffic over its 13-year lifetime before it would become cost effective. But what are the payloads for? What is a space transportation system going to carry? Is Congress going to have to appropriate $141 billion over the shuttle's lifetime in order to make worthwhile the shuttle's $6.5-billion development cost?"—SEN. PROXMIRE, 1972.

Proxmire does have detractors who aren't bankers and generals. Some colleagues think he is a publicity hound. A House Democrat who, along with Proxmire, is a member of the Joint Economic Committee, told reporter Martin Nolan, "I resent the perversion of this committee into a personal vehicle for one of the cheapest demagogues in the United States. I've never seen the public interest interfere with the direct personal interest of Bill Proxmire." Most observers, however, would regard this estimate as petulant in the extreme.

If Proxmire is publicity-minded, he is anything but pretentious. While jogging to work in the early morning hours, he has been harassed on several occasions by would-be muggers. The Senator, who was a welterweight boxing champ at Yale, foiled one such attempt by beating off his attackers. He then called the police and was truly amazed when squad cars full of captains and lieutenants materialized in no time at all. "These Metropolitan Police are real efficient," Proxmire later told an aide. "Do you think it might have something to do with your being a senator?" the aide asked a little cynically. "Gee, I never thought of that," said Proxmire.

Another assailant fell victim to the Senator's unconventional deportment. This time the mugger carried a gun. "Go ahead and shoot me—I'm going to die of cancer soon anyway," the Senator said. The baffled gunman just walked off.

"Under our free press system, a publisher has the right to print what he pleases. It is the competition of the marketplace of ideas that insures the public's right to be informed. Any governmental control of ideas, even though those ideas were universally accepted as truth, would lead eventually to a bland homogeneity of thought that would rob our society of its dynamism. Of course, there is no guarantee at all that government will be omniscient. History proves that. History proves that governmental control is dangerous to a free society. In other words, the free press carries with it the right to be wrong as well as to be right."—Sen. PROXMIRE, Sep. 17, 1974.

Proxmire says he is not going to run for President, and there is little doubt that he is a far more dedicated senator than some of his upward-bound colleagues. Possibly Proxmire would lose some of his fearlessness if he had to worry about running for President, but one former aide thinks he would make a terrific chief executive. "But I'm just not sure," he said, "that the country would stand for a guy who actually carries out his beliefs."

While Senator Proxmire did not let me jog along with him on his morning home-to-office "constitutional," I did get a chance to talk to him last summer—a brief interview sandwiched in between the filming of a news spot for a Chicago TV station and a meeting of the Joint Economic Committee. We started off talking about one of the Senator's favorite subjects—the current state of American banking, the government's relationship to it, and its down-to-earth effects on you and me. The Senator said, "The Federal Government and large corporations have diversified their holdings. They're investing far more in corporations, large and small, and to the extent that banks now reach into every village and town in America, they have to encourage a more personal relationship between the banker and the people who borrow money.

The FHA used to draw a red line around the inner sectors of the big cities and said they would not insure loans in those areas. This meant that even if a person was a very good credit risk with a steady job, he couldn't borrow because he lived in the ghetto. Of course, this was racist and discriminatory, and it was sure to result in continuing deteriorating conditions in the inner city. I fought hard and got an amendment which repealed the FHA restriction.

"There still is a kind of economic red-lining, of course. Banks don't want to make loans in areas that are likely to result in a loss of their investment. But we're trying our best to get them to appreciate the fact that the only way the inner city can be developed is to make private capital available on a far more extensive basis than has been done in the past. We have to encourage banks to take a little risk, to provide counseling and assistance to people who borrow money. We've made some progress, but there still is more negative thinking—failure to act—than there are positive efforts on the part of bankers to provide these funds.

"And there's still a racist factor, of course. The trouble is that it's hard to get eight or 10 or even 100 cases together against a bank that won't make loans in deteriorating areas. They can always argue that there are particular reasons why they made this or that judgment, and the Federal government shouldn't be second-guessing them. What we must do is to insist that they show a steadily improving record of making loans.

"I also think the Federal government has the major responsibility of making it possible for people with modest incomes to buy homes. The fundamental problem is that two-thirds of the people in this country cannot afford to buy a new home. Now that is a shocking fact. It's probably the greatest percentage we've ever had. Right now, the cost of a home is about the same in relation to annual income as it was 30 years ago. Costs and incomes have both gone up greatly, but the carrying charges—the interest rates—are so much higher than ever before that you just knock two-thirds of the population out of the market.

"Now what are you going to do with those two-thirds? Some of those people can buy used housing, which isn't very widely available. The housing stock is low, the vacancy rate is very low and the houses are deteriorating all the time. We need some kind of program that will build housing. Since January 1973, the Administration has had a moratorium on all government-assisted housing. This really aggravates the situation when mortgage money is so short. Because of the credit shortage, loans are going to be made only to people who are top-flight borrowers, and people who are not in that category simply won't be able to borrow money to buy a new home.

"Right now the average working person doesn't have a chance—or very little chance—of buying a new house. With interest rates over nine per cent on mortgages, people are spending about 36 per cent of their income on housing costs. That is extraordinary. The usual estimates suggest that people spend no more than 25 per cent of their income on housing. This means they're going to have to cut cruelly into their food budgets, clothing budgets and so on. They'll have no entertainment, no vacations, none of the amenities that most people live for. It's a very rocky, tough situation. Most people who already have their homes are not affected. In fact, they have it pretty good. But it has a sad, even tragic effect on family after family trying to get homes. This includes young, newly formed families who often have to live with relatives or in mobile homes—and that can mean crowding and tension within families. There is a transient feeling, a sense of not belonging. You're a rolling stone outside of the mainstream of community life.

"Of course, I have nothing against people who want to live that way, and I'm sure some

do prefer it. Some of the mobile home parks are beautiful, but a lot more are not, and the atmosphere for children can be very bad in some of the poorer mobile homes. I think we also have to recognize that the mobile home interest rate is much higher than the rate on a conventional home. It's not a permanent investment like a conventional house is. So the crowded quality, the fact that it's not a real investment in the long run, the transient atmosphere, the feeling that you don't belong to a settled community—all of these are tremendous problems, although I'd hate to think where we'd be without mobile homes right now."

I showed the Senator a copy of the Lithopinion editorial "Beware of Socialists Wearing Vests," in which Edward Swayduck argued that the Administration's supposed remedy for inflation, high interest rates, is not a very effective inflation fighter and is, at the same time, harmful to the vast majority of Americans—and asked him what he thought about it. He replied, "Well, he's right. An increase in interest rates does tend to discourage borrowing and therefore spending by home buyers, small businessmen, farmers and state and local government.

"In this way it reduces demand and eases pressure of prices. But big business and big government is not interest-rate sensitive. So what's the result? The litle man is hurt. The big man is helped. And the easing of demand pressure on prices is reduced by the increased cost pressure from higher interest rates.

"For these reasons, Mr. Swayduck's conclusions make considerable sense."

We then got onto the topic of military spending. This is what he said as he tightened up his tie, gathered up some papers from his desk and headed for the door: "We have to cut Federal spending or else the Federal government's demand for funds, which is so very great, will increase interest rates and increase prices.

"The big, vulnerable area for reduction, of course, is military spending. The military budget is fat and wasteful, and we can cut it without reducing the strength of our military force. I loved what Admiral Rickover said on this score. He pointed out that we'd have a stronger Navy if we fired half the Admirals. We've got more Admirals now than we had at the height of the Second World War, when we had six times as many people in the Navy. The same thing is true of the Army and the Air Force. Every Admiral has a staff. If you fire the Admiral, you also fire his staff and the civilian component as well.

"In addition, there's no reason why we need more aircraft carriers. We have 16 aircraft carriers, and the Soviet Union has how many? None. Zero. So we're not competing with them in aircraft carriers. Or take long-range bombers: We're building B–1 bombers at an eventual cost of $20 billion. What do we need long-range bombers for? We already have four times as many as the Soviet Union, and the missiles are much better than the long-range bombers anyway. Here's another strange one: What are we doing with 300,000 troops in Europe 30 years after World War II? How long are those troops going to stay there? It seems to me that we could cut those troops in half. We're spending $30 billion on our troops scattered all over the world—far greater than any empire in history—and they are not serving the purpose of defending this country effectively. I think we could cut that back. I'm not saying cut it out, but we could cut it back. And if we did, we could save billions of dollars.

"In addition to that, I'd certainly cut back for this year the space program. There's no urgency in the space shuttle. We're not going to Mars next year or the year after, but we're spending hundreds of millions of dollars in that area.

"I think the notion of building the highways of this country at such a rapid pace is another area where we might call a moratorium and hold down spending.

"These are the basic areas where we could easily cut $10 billion. As a matter of fact, a group of former top defense officials—Admirals and Generals—agreed that we could cut $14 billion out of the military alone, and still have a stronger military force than anyone else.

"One other area I might mention is foreign military assistance. What in the world are we doing providing ammunition, tanks and planes to other countries so they can fight each other? We're doing that with the Middle Eastern countries, and if they use them, they'll use them against each other. We're providing them for Pakistan and India so they can fight each other. This isn't only financially wrong. It's morally mischievous, and we ought to stop it."

REMARKS ON FTC ENERGY STUDY

Mr. PHILIP A. HART. Mr. President, there is a popular conception—not without some basis in fact—that the last thing a public servant would do is admit his work was worthless.

It is a very human trait but it does seem to be magnified in some of us.

This made the testimony in June of last year of Dr. H. Michael Mann, director of the Bureau of Economics for the Federal Trade Commission, dramatic.

Dr. Mann, a man with proven and impressive credentials in the academic field, told the Senate Antitrust Subcommittee he was publishing the FTC's study of concentration in energy because he wanted everyone to see how bad it was.

The study was undertaken, at my request, by the FTC in late 1970.

The report was inadequate, Dr. Mann said, because the FTC had to work from published data—meaning they were attempting to figure concentration now and in the future based on contemporary production figures. What was needed, he explained, was information, directly from the companies, on ownership of reserves in all forms of energy.

That information was barred, he said, by the requirement that any FTC questionnaire for more than nine companies had to go through the Executive's Office of Management and Budget. There it would run into the Business Advisory Council—which historically has cut up or held up other questionnaires.

So, in effect, the FTC could not get the information it needed in time to be useful.

Dr. Mann put the situation better. He said that:

On coming to the FTC I was appalled by the kind of data with which the Federal Trade Commission has to try to make its important decisions in the antitrust and consumer protection areas.

Fortunately, Congress responded to the problem. And, in amendments to the Alaska Pipeline bill, Congress removed questionnaires of all independent agencies from the OMB review.

So, although Dr. Mann is no longer with the FTC, the Federal Trade Commission is at long last issuing significant questionnaires directly to industry. The responses should provide not only data to figure concentration ratios in coal and natural gas reserves, but which will give us—for the first time—up-to-date and accurate information on what we really have in coal and natural gas reserves and the extent to which the same companies control more than one fuel. I understand that similar information on oil and uranium ownership is being compiled.

It is the type of information sorely needed if we are to conceive a responsible energy policy, and I hope the study will be completed before the end of this year.

WORLD MILITARY AND SOCIAL EXPENDITURES

Mr. PROXMIRE. Mr. President, a very important analysis of world military and social expenditures has been prepared by Ruth Leger Sivard and published under the auspices of the Institute for World Order.

The author of the report is the former chief of the Economics Division of the U.S. Arms Control and Disarmament Agency. Among her accomplishments in 12 years' service with the Agency was the inauguration of annual reports on world military expenditures and world arms trade. Unfortunately neither of these reports has been issued by the Agency for 2 years.

As a result of renewed congressional interest, ACDA is now committed to resuming annual reporting, but it will no longer provide comparisons of social expenditures with military. Social data, reflecting both budgetary progress and the unmet needs of society in such fields as education, health, and welfare, are critical for an evaluation of our relative priorities.

World Military and Social Expenditures contains annual data for 132 countries. Some of the data, particularly for Communist countries, have been drawn from studies prepared by or for the Joint Economic Committee.

Mr. President, I ask unanimous consent that certain sections of this report be printed in the RECORD.

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

WORLD MILITARY AND SOCIAL EXPENDITURES

OVERVIEW

One of the most concise and revealing means of measuring national priorities is the allocation of public resources through government budgets. By this standard, the expenditure of public funds in the world today shows a preoccupation with national military power which dominates all other concerns of government.

Neither the spirit of detente nor increasing evidence of a burgeoning economic-social crisis succeeded in slowing the arms race in 1973. In a period relatively free of major wars, the nations of the world were spending upwards of $240 billion a year on "defense"—each presumably in anticipation of military attack by some other member of the world community. An estimated $40–50 billion of this annual outlay was for nuclear arsenals which, if used, would mean global devastation.

Valued in U.S. dollars in constant prices, the military budgets of the world were more than five times as large as they had been prior to World War II. Even if spending goes no higher than at present (an optimistic assumption not warranted by the record of the past), world military outlays in the 1960's and 1970's will have exceeded the staggering sum of $4,000 billion, at 1972 values, or more precisely, $4,329,000,000,000.

The economic scale of this unprecedented investment in military power is difficult to grasp. Some comparisons give it perspective. A total of $4,329 billion exceeds the value of all goods and services produced in 1973, that is, it is more than the entire product of one year's labor by all the world's people. In a single year, world military expenditures are larger than the annual value of the combined GNP of the one-third of the world's population living in Africa, the Middle East, and South Asia.

The crushing burden of the arms race on society at large is also measurable in terms of other needs which are in competition for the resources absorbed by military programs. In ways critical to the well-being and to the survival of society, the search for military security is pursued at the expense of other goals. These represent the "opportunity costs" of military expenditures. They are numerous. This report covers a few which can be quantified on a worldwide basis.

In contrast to the build-up of military power, progress in meeting the basic needs of a growing population is in many respects disturbingly slow. In the early 1970's, annual public expenditures worldwide for all forms of education, including the education of more than one billion children of school age, were still appreciably less than world military expenditures. A large proportion of school-age children (in developing countries, over one-third) were not enrolled in schools. Although the public funds going to education had increased significantly since 1960, as had the number of teachers, the gain was apparently not large enough, or sufficiently widespread, to stem a steady rise in the number of illiterates in the world. Out of an adult world population of two and one-half billion, more than 700 million were unable to read and write.

Relatively few countries devoted as much public revenue to the protection of the public from disease, illness, and injury, as from military attack. Worldwide, government's expenditures on health care were only half as large as military expenditures. In the developing nations, where poverty and disease were closely correlated, annual public outlays for health care averaged under $3 per person, about one-fourth of military expenditures. In these countries, there was one physician to 4,000 people. In many, the average life span was under 45 years. Infant mortality at the rate of 20 per cent was not uncommon.

World food scarcity, with the threat of growing starvation, became a grave issue in 1972 and 1973, and continued increasingly so in 1974. Acute food shortages were reportedly more widespread than at any time in recorded history. In the developing world, an estimated 460 million people were suffering from severe malnutrition; up to half of the deaths of children under 5 years were attributed to food deficiencies. Although the food crisis produced new efforts toward cooperative international action, an increase in food aid and financial aid was slow in developing. As the shortage became more pronounced, the volume of food aid available for developing countries, rather than increasing, diminished to half the average level of the preceding 10 years.

The total of official foreign economic aid extended to poorer countries continued to grow in nominal terms, although at a rate which was less than the inflation of prices, and far short of targets set by intergovernmental agreement. In 1972, over thirty countries were recorded as donors of economic aid. The value of their economic assistance, loans as well as grants, was equivalent to less than 6 per cent of their military budgets.

A lag in development assistance, combined with food shortages and sharply higher prices for fuel, contributed to a bleak outlook for many developing nations, especially those dependent on food imports. The gap in income between the richer and poorer nations, and between the more and less affluent of the developing nations, was stretching wider, revealing an increasing number of people living in dire poverty.

If in 1972–74 famine sharpened the contrasts between the developed and developing worlds, it may also have clarified, for smaller as well as major military powers, the opportunity costs of defense spending—the costs to society in terms of opportunities lost. With evidence mounting that the backlog of unfilled social needs had swollen to serious proportions, there was also growing awareness of limits on the resources of even the richer countries. The competition between military and social needs was plainer.

To meet the social deficit there was one rich source of resources as yet untapped, the world military budget. Whether the urgency of other needs and public demand would bring about some shift of priorities and revenue away from the arms race was not yet clear. At midpoint in the decade which the United Nations had hopefully named the Decade of Disarmament and the Second Development Decade, there was still no evidence that two alternatives to the build-up of national military power, which could free materials, money, and manpower urgently needed in constructive activities elsewhere, were being vigorously pursued.

One alternative, internationally-agreed disarmament, had been under negotiation since 1962 but so far had produced no agreements of a kind which actually reduced arms or military expenditures. The agreements which had been made attempted to control the arms by limiting nuclear proliferation (NPT), new technology (LTB), or numbers of strategic weapons (SALT). They may have prevented some expenditures, but they did not achieve a reduction.

Another alternative to the arms race, the strengthening of international peacekeeping mechanisms, continued to face stringent financial limitations. The world's budgetary commitment to this alternative still had a long way to go. The total annual investment in international peacekeeping in 1973 was 0.03 per cent of global expenditures on national military establishments. Or, put another way, for every $100 that went for the build-up of national armed forces less than 3 cents was spent on international peacekeeping.

MILITARY

Dimensions

The militarization of the world economy is one of its most prominent features today. "Defense" buys more of the most advanced industrial products than any other single customer of industry. In military and civilian functions it employs an estimated 50 to 60 million people, and it accounts for close to 6 per cent of the global product. In a world of multi-billion-dollar corporations, defense as producer, buyer, and employer, remains the biggest business of all.

Available data on the military sector of the world economy tend to understate its true dimensions and impact. Defense budgets are often incomplete as indicators of fiscal burden. They do not include such costs as veterans' benefits, or interest charges on national debts resulting from past wars. Nor do they provide any measure of the many related but unwritten costs, to individuals or the public treasury, such as the loss of income by young people serving in the armed forces at less than market wages or the loss of tax revenues on properties used for military purposes.

The armed forces are also an inadequate measure of manpower used for military purposes. To the regular armed forces, as recorded in the tables in this report, can be added armed border guards, gendarmerie, and other paramilitary forces, which would raise the military total to nearly 30 million individuals world-wide. This would not include reservists who in peacetime serve for a short period in the year and are the major part of the forces of countries such as Switzerland and Israel. Civilians employed by defense ministries or in industries supplying them represent another significant but unmeasured addition to the armed forces. They could easily raise the overall figure to 50–60 million, indicating that the labor force engaged in military-related activities is as large as the total population of the United Kingdom.

Neither budgets nor aggregate manpower figures adequately measure the quality of economic resources absorbed by the military. The technological sophistication of the modern military force, created by a heavy investment in research and development (R&D), has no counterpart in the provision of services available to the public. As the largest single buyer of new technology, the military sector of the economy takes a commanding role in R&D. Its use of the world's best scientific manpower and facilities is far out of proportion to its place in the overall economy. While defense represents 6 per cent of world GNP, it engages an estimated 25 percent of the world's scientific talent and accounts for about 40 per cent of public and private expenditures for R&D.

How this significant segment of the world economy affects the health of the rest of it is something about which surprisingly little is known. The direct competition between military and civilian needs for public resources is relatively clear, but the implications of large military expenditures for the pace and direction of overall economic-social development are only dimly perceived, as are the relationships of the arms race to current economic problems, the developing economic depression and exploding price inflation. The arms race adds to pressure on prices by absorbing enormous quantities of goods and services which then do not reach the market for civilian purchase. Because the economic-social effects of this diversion of resources have not been adequately assessed, it has been possible, for political purposes, to ascribe to military budgets positive effects on the economy, to hold reductions in those budgets responsible for economic setbacks, and even to use military budgets as economic tools.

The GNP Fallacy

Budgets which presumably have the sole purpose of protecting the national security have developed a curious tie to economic growth. The ratio of military spending to GNP was first a convenient reference to use in indicating relative burden on the economy. Going a step further, the GNP ratio at times has also served as a target in planning a feasible level for a defense budget. What the economy can afford, apparently based on what it accepted in the past, becomes the guideline for the next budget. If the ratio is somewhat lower than in past years, or at least no higher, military expenditures are described as declining or levelling off, even if the actual trend in dollars may be quite different.

Linking defense budgets to the trend in GNP in effect establishes a military claim on society's expanding resource base. The GNP link ensures a continually rising budget; beyond that, the logic for it is dubious. A constant ratio to GNP would imply that

the military threat to the security of a nation inevitably grows in proportion to its economic development. There is no evidence that this is so. Nor can it be assumed that military establishments need to expand with population, and accordingly have, like social welfare and population-related needs, a natural claim to a share of world growth.

As an indicator of the trend of military expenditures, a ratio to GNP clearly has limitations. During most of the 1960's the ratio of world military expenditures to GNP stayed within a narrow range, generally between 6.5 and 7.5 per cent; in the early 1970's it gradually dropped below 6 per cent. But the actual trend of military expenditures and forces during the period was quite different Expenditures, even after adjustment for inflation, moved up sharply. A pause in the upward climb at the end of the Vietnam War proved to be of brief duration. Looking only at the ratio to GNP, one could have missed the fact that a declining ratio produced the most formidable arms race in history.

MAJOR MILITARY POWERS AND THEIR RANK IN SOCIAL INDICATORS, 1972

Comparisons of the military and social ranking of countries indicate that for most of the biggest military powers armed strength has been achieved at the sacrifice of the social welfare. With few exceptions, major powers stand lower, in the ranking of nations, in social indicators than in military.

	Rank among 132 countries [1]									
	Military expenditures		Education			Health care			International peacekeeping	Foreign economic aid
Country [2]	Million US$	Rank	Public expenditures per capita	School-age population per teacher	Illiteracy	Public expenditures per capita	Population per physician	Infant mortality per 1000	Public expenditures per capita	Public expenditures per capita
United States	77,638	1	4	12	1	5	17	13	5	12
USSR	65,000	2	14	36	1	16	2	25	42	20
Germany, West	9,018	3	10	23	1	2	10	24	19	14
China	9,000	4	88	51	22	97	89	80	----------	25
United Kingdom	8,186	5	15	9	19	12	26	13	8	16
France	7,286	6	18	12	1	8	23	9	23	4
Italy	3,675	7	23	12	26	33	9	31	20	20
Japan	2,628	8	21	20	1	54	30	4	27	15
Canada	2,258	9	2	6	25	4	15	13	4	3
India	2,112	10	109	64	83	97	78	93	56	----------
Poland	1,945	11	28	35	21	21	14	31	56	----------
Germany, East	1,906	12	22	17	13	17	11	13	----------	----------
Iran	1,637	13	64	92	81	57	68	102	42	----------
Netherlands	1,552	14	5	38	1	6	25	1	7	6
Czechoslovakia	1,543	15	23	28	13	10	4	23	42	----------
Spain	1,515	16	42	41	24	47	23	33	56	25
Israel	1,490	17	19	9	40	32	1	20	32	23
Sweden	1,451	18	1	3	1	1	22	1	1	5
Austrailia	1,411	19	13	9	29	19	32	11	10	9
Brazil	1,256	20	63	31	61	86	51	76	25	----------
Egypt	1,136	22	73	91	90	67	48	85	38	----------
Belgium	1,015	21	8	1	13	11	13	20	14	8

[1] From table III, pp. 22–27. The rank order number is repeated if more than 1 country has the same figure.

[2] All countries with military expenditures above $1 billion in 1972.

EDUCATION

From 1960 to 1972 the world's school-age population (ages 5-19) grew at an annual rate of 2.3 per cent, somewhat faster than the total population. This growth rate meant that every year there were 25 million additional children who were prospective students.

Public funds for general education and for the literacy and training programs which governments have instituted, have continued to be smaller than the funds provided for national military forces despite the rapid rise in population. In 1972, both developed and developing countries as a group gave education lower priority in public fundng than military programs, although there were many countries in both groups where the commitment to education was the higher.

On average, developing countries spent an estimated $8 per capita in public funds for education, against $11 for military forces, while developed countries spent $188 per capita for education and $193 for military. Ironically, it was in the poorer countries, where education needs are the greatest, that the spread between military and education funds was the wider.

The contrast between government's financial commitment to military forces and to education shows most sharply when investment is put on a "user" basis. National military outlays per soldier (person in the armed forces) give an indication of the relative sophistication and quality of national forces. Education expenditures per child are also indicative of the comparative development of school systems. By the same token, a comparison between the two reflects, in a rough way, the contrasts in both the amount and quality of the resources made available to them. In 1972 world military expenditures averaged out to $10,405 per soldier; public education expenditures to the equivalent of $168 for each school-age child in the world. The contrast betwen them is a commentary on society's present order of priorities.

HEALTH CARE

One of the most direct measures of the quality of resources for health care is the infant mortality rate. The rate measures the deaths of infants under 1 year of age per 1000 live births. The most recent figures indicated an average of 18 per 1000 in developed and 102 per 1000 in developing countries. Between the Scandinavian nations, which had the best record in infant mortality (11 deaths in 1000) and those African and South Asian nations which had the least satisfactory (up to 184 deaths in 1000) was a gap which reflected the inadequacy not only of medical care but also of education, and of the most basic necessity of all, food.

On a world-wide average, governments spent half as much on health care as on the military. The spread was widest in the developing countries, where health expenditures by governments totalled less than one-fourth military outlays. The contrast was especially sharp in these poorer countries because the trend in public spending was upward for military but down for health.

Indicative of the disparity in resources, world-wide there were 2.5 million physicians, as compared with 21.3 million in the armed forces. On a per capita basis, the ratio indicated a striking difference in the size of society's investment for protection against military attack as compared with protection against disease and ill health. Again the difference was most extreme in economically deprived areas. In developed countries there was an average of one soldier per 100 inhabitants, one physician per 570. In developing countries, the ratio moved up to one soldier per 240 people but escalated to one physician per 3,930 people.

INTERNATIONAL SECURITY

The energy crisis in 1973, with a global food shortage and accelerating inflation, combined to make the world more conscious of interdependence. There were some encouraging signs of an effective resort to international cooperation, but the dimensions of the economic upheaval were so large as to make general social prograss uncertain. Under these circumstances, two aspects of international security became ever more important.

Economic assistance

The new economic shock waves hit hardest at developing countries. The oil and mineral exporting countries among them enjoyed increased revenues from sharply higher prices, but for the poorest countries the additional costs of fuel, as well as fertilizer and food, represented a serious setback to fragile economies. Without a major effort by the international community, the World Bank warned in mid-1974, 800 million of the poorest in the world can expect almost no improvement in their conditions of life for the rest of the decade.

Based on past import needs, the price rise in fuel alone will cost the developing countries more than their total receipts of official foreign aid. To maintain moderately acceptable rates of growth, a substantial increase in the flow of external resources was indicated. But on this score, neither the past record of foreign economic assistance, nor the growing depression in the industrialized countries, held out encouraging prospects for the future. Net flows of official development aid have been rising in nominal terms, but declining in real terms (after allowance for inflation). The decline has occurred when the needs are growing.

In setting goals for the Second Development Decade, the United Nations called for a 6 per cent growth rate in the GNP of the developing nations, or approximately 3.5 per cent per capita. It should be noted that even if this rate were achieved (and it represents a significant increase over actual progress since 1960), the result in terms of average per capita income in the developing world would still be under $300 at the end of the decade. But to achieve such a growth rate, it was estimated that developed nations

would have to increase official development assistance to 0.7 per cent of their GNP.

So far such assistance has fallen below the target. For the donors, official aid amounts to 0.35 per cent of their GNP, half the amount needed to begin reducing the income gap between the two parts of the world. The aid total of $13 billion in 1972, including estimates of aid provided by China and oil-rich developing countries, was equivalent to 6 per cent of the donors' military expenditures.[1]

International peacekeeping

Since 1960, the period covered by this report, eight international peacekeeping and peace observation missions have been undertaken under the sponsorship of the United Nations and one under the Organization of American States. The geographical scope of the operations is broad. They have been located in Egypt, Israel, Congo, Yemen, Indonesia, Cyprus, India, Pakistan, and the Dominican Republic. Even more extensive is the record of voluntary participation by the 50 or more states which have provided personnel and equipment for the operations, some at their own expense.

With the exception of Vietnam, the international conflicts during this period were essentially local conflicts, in which the major military powers were not involved. The international peacekeeping actions served to observe armistice lines, to prevent or halt fighting, restore order and maintain a truce. They were not enforcement actions in the sense of having power to impose a settlement by force, but in many situations they served a most important function of defusing conflicts and insulating them from superpower confrontation.

Compared with the financial and manpower investment involved, the contribution of the multilateral approach to conflict control is the more remarkable. Except for the Congo operation, which involved approximately 20,000 troops, the maximum force has been about 6,000 since 1960. Total costs to the world community, both cash and in-kind contributions, add up to $800,000,000. This contrasts with $2,400,000,000 spent between 1960 and 1973 for national military forces. A ratio of 3000 to 1. No monetary estimate has been made of the savings to the world in destruction prevented.

CONCLUSION

The dimensions of world spending for national military forces defy adequate assessment except in terms of the social deficit. When hundreds of millions of the globe's inhabitants lack basic necessities of life, the nonproductive use of resources amounting to more than $240 billion annually represents a burden on humanity of tragic proportions.

Statistics can provide only a superficial account of the unfinished business in the world today. Yet they may help to make more visible the neglected priorities of an interdependent community of nations and to give a sense of proportion to the common purpose.

A selection of unmet needs for which cost estimates have been made by international authorities gives at least some hint of relative values. The following are illustrative of global objectives which could be fulfilled if resources were available. Costs are on an annual basis.

	billion
Eliminate illiteracy over a 5-year period	$1.5
Provide universal family planning services	2.0
Double world spending for medical research	4.0
Provide special feeding programs for the world's 200 million undernourished children	4.0
Treble external aid for the development of food production in the poorer countries	3.5
Establish a permanent international peacekeeping force of 100,000	1.5

A program of such scope, designed to attack at one time the ills of illiteracy, overpopulation, starvation, and disease, and to build a firm structure for peacekeeping, has not been proposed and if it were it would surely be labeled unrealistic. Yet all of the elements above total less than $17 billion, not quite 7 per cent of present global military expenditures. As an alternative investment in security, they hold greater promise than more weapons.

[1] How world economic aid compares, overall, with military aid, this study has been unable to establish. Official secrecy has so far made it difficult to estimate national programs. In the U.S. where such public accounting is more accessible, foreign military aid recently has exceeded economic, by a ratio of $5.5 (military) to $3.5 billion (economic) in fiscal year 1973 and $5.2 to $4.0 billion in fiscal 1974.

PITTSBURGH STEELERS WIN NFL CHAMPIONSHIP

Mr. HUGH SCOTT. Mr. President, we are very proud of the Pittsburgh Steelers' outstanding performance in the Super Bowl on Sunday. They exhibited both skill and fury, defeating the Minnesota Vikings 16 to 6. At last, after much waiting, hoping, and praying in Pittsburgh, we have a national football champion.

I ask unanimous consent that two articles be printed in the RECORD.

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

[From the Philadelphia (Pa.) Inquirer, Jan. 15, 1975]

PITTSBURGH, YOU'RE SUPER!

Philadelphia, having experienced the delirium of a super-emotional victory celebration last spring when the Flyers won the Stanley Cup for the first time, can identify strongly with Pittsburgh and the state of frenzy prevailing there.

Our heartiest congratulations go to the Steelers for becoming the first Super Bowl champions from Pennsylvania and for winning in persuasive fashion over the Minnesota Vikings with a combination of superior defense and offense. Franco Harris, Mean Joe Greene, Terry Bradshaw and the rest of the Pittsburgh team lived up to their reputations for ferocity and tenacity.

For Coach Chuck Noll, who turned perennial losers into spectacular winners, it was an especially glorious triumph. And for Pittsburgh fans, who waited 42 years for their first National Football League championship, there is no more "waiting until next year."

The Eagles, by comparison, were NFL champs as recently as 1960 and on two earlier occasions. And maybe next year . . .

[From the Pittsburgh Post-Gazette, Jan. 13, 1975]

STEELERS: AMAZING AND DESERVING

Oh, what a lovely morning this is. It's a fine morning to be in Pittsburgh, a proud morning to be a Steeler fan. Yesterday, Super Bowl Sunday, was even finer, especially for the Steeler team, for its coach, Chuck Noll, and for its owner, Art Rooney.

They quenched four decades of thirst for victory here by winning a national glory in professional football unprecedented in Pittsburgh. The Steelers' 16-6 victory over the Minnesota Vikings yesterday meant the first National League Football championship in the 42-year history of the franchise here.

Pittsburghers can take satisfaction in knowing that Mr. Rooney's sons, Dan and Artie, in all but taking over completely from their father the top management of the club have worked hard and astutely to help boost the Steelers to professional football preeminence.

Area fans can rejoice with Art Rooney for his having eschewed the past practice of choosing Steeler coaches on the basis of friendship. In 1969, he chose Chuck Noll for his ability and then stuck with him.

The area can rejoice with Mr. Noll, who retained his belief that he could build the club into a championship team. In his first season here, the Steelers turned in for him 13 straight losses.

From then he built a team that is as deserving of yesterday's bowl victory as any club ever was, a team that developed defensive strengths and offensive rushing abilities that made it one of the most exciting clubs to watch and one of the most feared by other teams.

That was the team that yesterday formally became the champions we and they knew they were—not only amazing champions but also deserving ones. To them goes the glory in which their fans, after long years of waiting, now deservedly bask.

A lovely Monday morning, Steelers. Thanks.

SENATOR GARN'S BASIC GOALS AND OBJECTIVES

Mr. GARN. Mr. President, I consider it a great honor and privilege to join this distinguished body of lawmakers today in the commencement of the efforts the 94th Congress will make to resolve the serious issues and address the critical problems that face our Nation and the world.

I fully recognize that the job before us is not an easy one; I recognize that the issues will be complex and the available alternatives many and varied. But life is always that way, and so I have always established basic goals and objectives for myself and used them as a foundation for my actions. I intend to continue that practice here in the Senate of the United States. I have also made it a practice to follow through on commitments and to remain consistent on a path I have once chosen to follow. For these reasons, I wish to begin now to make a matter of record the basic goals and objectives that will guide me in the days ahead.

No single theme bore more repetition during my campaign for the U S. Senate than that of the decentralization of the Federal Government. As a mayor of a large western city, and an officer in the National League of Cities, I saw the infantry of government at work—the men and women in the trenches, close to the action, where they developed a true appreciation for the problems of this Nation, born of vivid experience and sometimes bitter frustration at their inability to do what they could see needed desperately to be done; an inability that did not come from lack of competence or effort, but from being hamstrung by guidelines and caught up in redtape and bureaucratic mumble-jumble, from being forced to accept a predetermined bag of solutions and then to find the problems

to fit the solutions, rather than the other way around.

The "size 42" solutions too often proliferated by the Federal Government and by the Congress do not fit every situation any more than a size 42 suit fits every man. Locally elected officials need flexibility. They need alternatives and the freedom to develop initiatives in meeting the problems of an increasingly complex society, without Big Brother looking over their shoulder, second-guessing and disallowing and obstructing their progress toward real and lasting solutions.

I do not believe that I am guilty of misplaced faith when I suggest that the grassroots level, locally elected public officials of this country can effectively meet most of the problems facing their citizens if we only give them the chance. I intend to support and to introduce legislation that will give them that chance in the upcoming weeks and months of the 94th Congress—and throughout my term in the Senate.

I am therefore cosponsoring early in this session legislation which will extend and improve the General Revenue Sharing Act and a resolution disapproving the proposed deferral of HUD section 701 comprehensive planning funds for this fiscal year. I will work actively for the passage of these two measures early in the 94th Congress to help give local governments the chance they need.

BILLY VESSELS INDUCTED INTO FOOTBALL HALL OF FAME

Mr. DOLE. Mr. President, at ceremonies in New York shortly before Christmas, the National Football Hall of Fame honored excellence by inducting former Oklahoma University star running back and all-around-everything, Billy Dale "Curly" Vessels.

A native of Cleveland, Okla., and therefore a neighbor of my home State of Kansas, Billy Vessels was one of the premier collegiate football players of his era. Though a preeminent runner, his talents were not limited to offensive play. He was one of the most aggressive—in the words of his coach, Bud Wilkinson, "the toughest"—players in college football of the early fifties, and could play equally on offense and defense.

Now a successful business executive in Florida, Vessels still displays the same aggressiveness, and the same determination and ability to succeed that distinguished him on the field 20 years ago.

Though he no longer commands the press attention he received as winner of the Heisman Trophy and other national player of the year awards, I can not help but think that sometimes he, and others like him, should.

For, while we may not all have the athletic talents of a Billy Vessels, or the business sense, we all have some talents and, in this country, the same freedom to maximize them as he does. If we all determined to do so with the same drive and pride Billy Vessels possesses, the problems of this country, and the business of this 94th Congress would be that much less.

Mr. President, I ask unanimous consent that a clipping from the December 8, 1974, Tulsa Daily World, describing some of Billy Vessels accomplishments on and off the field, be printed in the RECORD.

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

[From the Tulsa Daily World, Dec. 8, 1974]

VESSELS: MOST DECORATED SOONER—AND BEST?

(By Bill Connors)

("Vessels was the first player I ever saw who was both the fastest and toughest player on the field."—BUD WILKINSON)

Billy Dale (Curly) Vessels could, and did, turn football games around with a run, or a pass, or a reception, or a kick return, or a block or a tackle.

He played when (1950–52) the collegiate sport was in the twilight years of its first romance with two-platoon rules; but he possessed such defensive skills that Bud Wilkinson used him in the secondary in crucial situations.

He played when there were no artificial turfs or exotic formations to benefit runners; but he ran wild, and had his best games against the best competition—Notre Dame, Bear Bryant, Texas, Nebraska.

He was the first Oklahoman to win the Heisman Trophy and the Maxwell Trophy, and be selected national player of the year by The Associated Press and the Cleveland Touchdown Club. He harvested all of these honors in 1952. He was the University of Oklahoma's most decorated back.

He probably was the best football player OU ever had.

Tuesday night, in ceremonies in New York, Vessels will be inducted into the National Football Hall of Fame.

In all probability, several other Sooner backs, some of whom have already eclipsed Vessels' records, will follow Vessels into the Hall of Fame. But unless one-platoon rules are returned, or an extraordinary player arrives under extraordinary circumstances, Oklahoma is not apt to see the likes of Vessels again.

This is not to say OU has not since had, or will not have, backs who could do what Vessels did—though it could be argued. It's just that none of those who might be compared to Vessels ever had to be so versatile. Those who were versatile did not match Vessels' excellence.

Steve Owens, OU's other Heisman winner, may have been stronger. Greg Pruitt, who was a Heisman runnerup, may have been faster. Joe Washington, who might win it next year, may be more elusive. Tommy McDonald, who won the Maxwell, may have thrown and caught the ball better and been as fast.

But Vessels was a back for all seasons. He could have played in any formation—split-T, winged-T, single-wing, I-formation or wishbone and been equally outstanding. That cannot be said of the others. Prior to Vessels' junior season, Bud Wilkinson said, "We probably should use the single-wing and let Vessels have the ball on every play."

Those who played with Vessels remember him as much for his toughness as for his speed. He loved contact. It was said he relished one-on-one drills so much he was impatient to wait in line for his next turn and would use the time to take practice licks against unfortunate teammates who happened to be in line next to him.

He was a deadly tackler. As a freshman, Vessels started on defense. He proved too valuable on offense and two-platoon rules spared opponents from seeing a lot of Vessels' defending. But when opponents threatened, Vessels played defense—and made an impact.

In 1950, halfback Charley Hoag and Kansas had No. 1 ranked OU and its 28-game winning streak on the ropes, 13–0, in the third quarter, when Vessels made a headon tackle that put Hoag out of the game. (OU won, 33–13). He injured a William and Mary player seriously in 1951. In the classic '52 game at Notre Dame, Vessels preserved OU's 14–7 halftime lead by intercepting a pass in the end zone.

PEAKED AGAINST NOTRE DAME

But backs don't win the Heisman and go to the Hall of Fame on defense. They go on offense, and that is how Vessels is best remembered. Vessels' virtuoso game was at Notre Dame in '52, when he scored all of OU's touchdowns in a 21–27 defeat.

He ran 28 yards with a pass from Eddie Crowder for the first touchdown, and sprinted with handoffs from scrimmage for 62 and 47 yards. He gained 195 yards on 17 carries. No visiting back has ever had such a day at South Bend.

Vessels' best day at Norman was against Nebraska in the 1950 battle for a Big Seven Conference championship. Bobby Reynolds at Nebraska was spectacular for a half and his team led briefly. But Vessels rushed for 208 yards and scored three touchdowns and passed for a fourth in a 49–35 victory.

Bear Bryant's Kentucky team broke OU's 31-game winning streak in the 1951 Sugar Bowl, 13–7, but through no fault of Vessels. He averaged over five yards a carry, had a 51-yard run nullified by a game-turning penalty and passed 17 yards to Merrill Green for a touchdown.

Wilkinson thinks Vessels' best run was not of the home run variety. It was an 11-yard smash for the winning touchdown against Texas (14–13) in what amounted to a battle for the 1950 national championship, Vessels ran over Texas' last defender at the five-yard line as though he were a paper doll. "I'd never seen such a demonstration of determined running," Wilkinson said.

Vessels followed his 1952 collegiate heroics by leading Edmonton to the 1953 Canadian professional championship and being Canada's player of the year. He entered the Army in '54 and led his team to a championship and was named Army player of the year.

SCORES IN FLORIDA BUSINESS

Upon his discharge in '56 the Baltimore Colts, who drafted him No. 1 in '52, signed him. Injuries kept him on the bench for much of the season but he ran as advertised in late season. However, he became disillisioned with coach Weeb Ewbank and ended his professional career after only one year. Thus, he missed a chance for more fame with a team that was about to follow Johnny Unitas to the NFL summit.

Instead, Vessels made his mark in Florida, as a rising executive with the millionnaire Mackle brothers' Deltona Corporation. Deltona owns hotels, banks, land and housing. Vessels' title is assistant to the president. He lives in Coral Gables.

He and his wife have a 19-year-old daughter and two sons, 16 and 13. One of his upcoming duties will be arranging for Notre Dame to use an island belonging to the Mackles for the Irish's Orange Bowl practices.

"I think of the irony," Vessels chuckled. "My most bitter memory at OU is of losing to Notre Dame. Now, I am getting ready to help them."

At 43, Vessels is near his playing weight of 185 and the epitome of class and poise. His refinement and modesty give no hint of the tough reputation he acquired as a schoolboy at Cleveland, Okla. He follows OU with typical alumnus pride, assisted in the recruiting of Elvis Peacock, serves on the Orange Bowl committee and looks forward to the Sooners being off probation "and getting down here next year."

LEAKE MADE HIM HUMBLE

Vessels, Buck McPhail, Buddy Leake and Merrill Green plus Wilkinson attended a surprise testimonial in Denver three months ago

for Crowder. He attended OU's opener with Baylor and raved about Washington. He thinks modern day players are superior and says "if I am humble I got that way in 1951 when I was hurt (broken leg at Texas) and Buddy Leake, who was just a freshman replaced me and they won every game and didn't miss me. That will make you humble."

There is a sincere ring in his voice when he speaks of his gratitude for friends in Cleveland, and Wilkinson.

"No one ever had more fun playing football than me," Vessels said. "And no one ever benefitted more from associations made possible by Bud."

Wilkinson and OU athletic director Wade Walker will attend the ceremonies Tuesday night (OU's Randy Hughes will be among 11 scholar-athletes honored at the same event). Bob Hope is scheduled to attend. President Ford will be there if his schedule permits.

"When I think about it," Vessels said, "I get goose bumps. That is pretty fast company."

That is also where Vessels belongs.

IN MEMORY OF DR. MARTIN LUTHER KING

Mr. BENTSEN. Mr. President, today is the birthday of a man who helped make the world a better place. He is the late Dr. Martin Luther King, Jr., a clergyman and civil rights leader who was born in Atlanta, Ga., January 15, 1929, and died on April 4, 1968, in Memphis, Tenn.

He was the son and grandson of Baptist ministers. His father, Martin Luther King, Sr., christened him Michael Luther, but Dr. King, Jr., later changed it to Martin in honor of the great Protestant reformer.

He entered Morehouse College at the age of 15, and in 1947, he was ordained into the ministry. He received his B.D. from Crozer Theological Seminary in 1951 and a Ph. D. from Boston University in 1955.

Dr. King, while he was in school, developed a fascination and deep respect for Mahatma Gandi, whose life and teachings were ultimately to influence his own destiny as a leading apostle of passive resistance.

In 1964, King was recognized for his efforts to bring peaceful change to America; he received the Nobel Prize, becoming, at the age of 35, the youngest person so honored.

He was in great demand as a speaker, yet he found time to publish several books about his work, including "Stride Toward Freedom, Why We Can't Wait," and "Where Do We Go From Here: Chaos or Community?"

Early in 1968, Dr. King announced a "Poor People's Campaign" to be held in Washington. He helped to dramatize the plight of America's poor of all races. As plans were being made final, King flew to Memphis to lead a demonstration of striking sanitation workers. On April 4, as King talked with his staff on a balcony of the Lorraine Motel, he was shot and killed by an assassin.

The world lost a great man.

Mr. President, I believe Martin Luther King embodied that which is best in the American people. He dedicated his life to making the ideal of the brotherhood of all men a reality. In essence, Dr. King asked that we judge our fellow men not on the basis of their race, religion, or creed, but on what all of us really are, human beings with unique abilities and common needs and that all men be treated with the decency and respect they deserve.

Despite what must have often appeared to be insurmountable opposition, Dr. King never forsook his commitment to nonviolence. He was not willing to use any means to get to the top of the mountain, and I believe Americans today respect that dedication to one's convictions more than ever before.

As a result of his efforts, meaningful social change has occurred in America, and America has become a better place in which to live for all of our people.

Mr. President, many observances have been planned and are taking place throughout this Nation to observe Dr. King's birth. I believe we should join those Americans who remember him this day, and I hope my fellow Members of the Senate will join me in commemorating the birth of this man by observing a 60-second period of silence during the course of the day.

THE CAUSES OF INFLATION

Mr. PACKWOOD. Mr. President, recently I had occasion to read an excellent article on the causes of this Nation's economic distress by Prof. Barry Siegel. Professor Siegel is associated with the College of Business Administration at the University of Oregon. His article provides a clear and concise review of the causes of our inflation. I heartily commend this article to my colleagues. The few minutes required to read it will be well spent.

I ask unanimous consent that the text of the article, "A Brief Essay on Inflation," be printed in the RECORD.

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

A BRIEF ESSAY ON INFLATION

(By Barry N. Siegel)

Each year, the First National City Bank publishes a survey of world price developments. The news this year is very bad. In industrialized countries, price levels for the first half of 1974 averaged 11.1 per cent higher than in 1973. In less developed countries, the corresponding figure was 18.7 per cent! These figures reflect an acceleration of the inflation which has plagued the world for almost ten years.

A number of governments, including our own, have finally installed a set of restrictive monetary and fiscal policies in an attempt to reduce the rate of inflation. The current recession in the United States and in a number of other countries is directly traceable to these policies. For the United States, we do not yet know how long it will take for the restrictive policies to moderate inflation, or how much unemployment and lost production the country will have to suffer. We are treading upon relatively new ground. Previous experience in 1969–71, when the Nixon administration did battle with a milder inflation with essentially the same policy tools being used today, suggests that the fight will be long and hard. In that period, unemployment rose to about six per cent of the labor force, and the economy remained sluggish even after the bottom of the 1969–70 recession. Nixon abandoned the policy of restraint in the second half of 1971, mainly, I believe, so that he could have the economy close to full employment by the November 1972 elections. In so doing, he helped to rekindle the inflationary fires we are trying to put out today. The fires are now much hotter and more widespread than they were in 1969–71. It is going to take a much longer time to put them out. In the meantime, unemployment and reduced production will get much worse, and the political pressures to do something about the recession will become more intense. As 1976 draws nearer, the temptation will grow to abandon the present monetary policy of moderate restraint.

What has caused the inflation? All serious inflations have their origins in excessive increases in the money supply. By "excessive" I mean a growth of money which exceeds the maximum potential growth of production. In the United States, the maximum potential growth rate of output is about four per cent a year. For the last eight years, the growth rate of the money stock has been far higher. In the three-year period beginning in early 1966 and ending in late 1968, money grew at an average rate of seven-and-one-half per cent a year.

After a brief respite during the 1969–70 recession, the rapid growth in the money stock was resumed: from mid-1970 to mid-1973 it averaged seven per cent per year, and during the last year and a half of that period, it actually reached the rate of eight-and-one-half per cent per year! Even though the Federal Reserve System has finally brought the money supply growth rate down to a "respectable" five per cent over the last year, we are still living with the consequences of the earlier prolonged binge.

Many experts predict that even if we hold to the present course of monetary growth, it will take at least two more years before the delayed effects of previous inflation upon wages and other costs finally work themselves out. The recent tentative settlement in the coal mines, which allows for a 64 per cent increase in miners' wages over the next three years, is an example of the continued pressure we may expect on price levels during the next few years. My own guess is that if present monetary trends continue, the rate of inflation will be about six per cent per year by the middle of next year. That is still high by historical standards, even though it is much better than the current annual rate of ten per cent.

How did the money supply get out of hand? Most analysts blame the excessive growth of the money stock on the growth of federal government expenditures. It is hard to disagree, especially since federal expenditures have increased at an average annual rate of ten per cent since 1965. Nevertheless, it should be understood that federal budgetary growth is neither a necessary nor sufficient cause of monetary growth. When federal expenditures are financed with taxes, or with money borrowed from private individuals in the form of sales of treasury bills and government bonds, there is no money creation. However, when the Federal Reserve System purchases government bonds, a strong link is forged between growth of government spending and the growth of money. The "Fed" is our central bank, and each time it buys a government bond, it does so with newly created money. The new money ends up in the hands of the public in the form of currency and in the private banking system in the form of reserves. Banks use the extra reserves to expand their loans and deposits. Deposits are also money; hence, every dollar of new money issued by the Fed provides the basis for additional "deposit dollars" to be created by the private banking system. At present, each new dollar created by the Fed adds an additional two-and-one-half dollars to the money supply.

In the last ten years, federal budgetary deficits have totalled $103 billion. In the

same period, the Fed has purchased $41 billion of government bonds. Add another 63 billion to represent the secondary monetary expansion stimulated by the Fed's purchases. The total comes to $104 billion, which accounts for a large chunk of the $116 billion increase in the nation's money stock since 1965.

Why did the Fed do it? The men who run the Fed are not stupid. Why, then, have they permitted the money supply to grow so fast? The answer is that the Fed, like everyone else, is caught up in the draft created by the rise in deficit financed government spending. When the government borrows, it competes with private business, consumers, and homebuyers for loanable funds. When federal deficits are large, as they were during the Vietnam war and in the 1971–73 period (during which Treasury borrowed almost 60 billion from the private sector), the government puts enormous pressure on interest rates and credit availability to private borrowers. The Federal Reserve System, as our central bank, has traditionally been concerned with the stability of interest rates and the "viability" of financial markets. Therefore, when large batches of newly issued government bonds hit the markets, it tries to offset their impact by purchasing them with newly created money. This temporarily keeps interest rates from rising and allows private borrowers to get funds without being shouldered out by the U.S. Treasury.

Now, the Fed knows that its attempts to stabilize interest rates cause the money supply to grow. Nonetheless, it also believes that unstable financial markets can cause the economy to go into a tailspin. As a result, it is caught between its duty to stabilize the economy and its duty to stabilize the price level. Unfortunately, to accomplish the first goal, it has had to give up the second. The irony is that, in the long run, the failure to keep inflation in bounds has itself caused extremely high interest rates, and the security markets are more demoralized than they have been for the last four decades.

Energy, food, and other causes of inflation. I have blamed the inflation of the past 8 years on federal spending and monetary policies. Clearly, the jump in energy prices, the Russian wheat deal, bad crops, and a host of other special factors have also been at work. Nonetheless, I would argue that these factors, in and of themselves, are not the cause of the inflationary trends of our times. When the price of gasoline goes up, people who insist on consuming the same amount, or slightly less than before, have less money to spend on other things. The same is true when the price of food goes up. Eventually, production falls and sellers attempt to liquidate their stocks by reducing prices. The reduction in prices of these other things eventually offsets the inflationary impact of the rise in prices of fuel or food.

Until recently, this mechanism has been obscured or cut off by the inflationary effects of excessive money creation. In the last six months, however, the Fed has slowed the money growth rate to a crawl, and the predictable effects are beginning to show. Stocks of unsold inventories of automobiles are filling the empty lots in Detroit, and the unit volume of retail sales is well below that of last year.

The Wall Street Journal recently reported on the unusual volume of pre-Christmas sales going on in retail stores throughout the country. In sharp contrast to the shortages earlier this year, the country now seems to be saturated with unsold goods.

A policy cycle? Economists used to speak of the *business cycle*. The term implies that the ups and downs of economic activity were caused by decisions in the business sector of the economy. Today, it may be more proper to speak of the *policy cycle*. Government now accounts for almost one-quarter of gross national product, and what it does or does not do has profound effects on the rest of the economy. Today's woes began with the failure to finance the Vietnam War with new taxes. That led to deficits and rapid money growth. In order to stop inflation in 1969–70, the Fed and the rest of the government deliberately reduced the growth of spending and the growth of the money supply. That caused a recession. To get the economy moving again, the government used highly expansionary policies during the next three years, all the while artificially repressing their inflationary efforts with price and wage controls. When the controls were lifted in 1973, there occurred the extraordinary burst of prices we are presently experiencing. To cope with this "new" inflation, the government has set in motion a set of deflationary policies, the effects of which are obvious to to even the most casual newspaper reader.

If we expect to get things back in hand, we must somehow learn to use governmental powers more efficiently. We must have more sensible monetary and fiscal policies. We cannot continue to allow federal deficits to govern the growth of the money supply. The latter should be a matter decided by the Fed solely on the grounds of what is best for economic stability. It may be that the Fed will not always act wisely; but, unless Congress learns to raise taxes as easily as it raises government spending, the Fed will continue to be a major partner in the process which has produced the modern substitute for business cycles.

"TODAY SHOW" INTERVIEW

Mr. ROBERT C. BYRD. Mr. President, on Thursday, January 2, I was interviewed on NBC's "Today Show" by correspondent Douglas Kiker.

I ask unanimous consent that the transcript of the interview be printed in the RECORD.

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

THE TODAY SHOW

DOUGLAS KIKER. Thank you, Ed. Senator Byrd, thank you for being with us this morning. As Ed said, we are going to talk about what the 93rd did or didn't do, and what the 94th might be expected to do. But first, as you know the Watergate trial is now over—the major trial. John Ehrlichman says that he can't get a fair trial in the District of Columbia, that the trial is incomplete, and that there is a lot more tapes to be released and that President Nixon's lack of testimony hurt his case. I just want to know if you can give your general opinion about the trial and its conclusion?

Senator BYRD. Well, these are matters that will have to be settled on appeal, of course, and I don't think I should attempt to discuss the merits of what Mr. Ehrlichman has said. I would say this, the jury ought to be highly complimented for its diligence and for what appears to be an objectivity, in view of the fact that it did differentiate between Parkinson's case and the cases of the other four, in that it acquitted Mr. Parkinson. I think this would indicate that the jurors attempted to be fair and objective. It would seem to me, in view of the fact that the jury was sequestered, and that a considerable amount of time has elapsed since the last active chapter of Watergate was written, that some of these questions would certainly be debatable.

KIKER. Then in other words, you don't think that pre-trial publicity hurt the defendant's cases?

BYRD. Well, I think that sufficient time has elapsed that it did not, and the jury was sequestered as I say, and they showed their objectivity by differentiating between the cases.

KIKER. Let's turn to Congress now. How would you rate the 93rd in its accomplishments and in its failures?

BYRD. It was an historic Congress. Never before in the history of this country has a Congress been faced with the problems that confronted this Congress—in having a President who abused his powers and who insisted on playing down the Congress. I think that the Congress reacted in a commendable way. It forced the President to appoint a special prosecutor; it proceeded with hearings and articles of impeachment which made impeachment virtually certain—even before the Supreme Court of the United States handed down its decision forcing the President to turn over self-incriminating tapes. So, I think that the greatest thing that can be said about his Congress was that it preserved constitutional government and reasserted its authority under the constitution.

KIKER. A lot of people thought that there had come to exist a dangerous imbalance of power between the legislative and judicial branches of government, and that Watergate served to restore Congress's proper share of power. Do you think that is true? Or if another strong President came along, could the same thing happen?

BYRD. Two things I would say, in answer to that. Congress was on the way to reasserting its constitutional authority—even aside from Watergate. The President, after the election of 1972 had indicated an arrogance of power, had indicated that he was going to act without consulting Congress too much, and that he was going to impound monies, and was going to exert the doctrine of executive privilege to the point that it would be abused. So the two were already on a collision course. Now, the second thing I would say is that, while Congress reasserted its authority, the forefathers meant that there should be a balance between the legislative and executive branches. So I think that we want to be careful that, even though the 93rd Congress was a historic Congress in that it did preserve this constitutional balance, we want to be careful in the future that we don't go too far in that direction and have a Congress that can abuse its powers.

KIKER. Senator Byrd, I agree with you that the 93rd was a historic Congress. Now that you have got your power back, I suppose what I am saying is what are you going to do with it? For example, the 93rd Congress failed to act forceably on an energy program, it failed to act forceably to do anything about the worsening economic crisis, it kept the health bill bottled up—there are lots of things that the 93rd failed to do.

BYRD. However, there are lot of things that it did. It enacted a trade bill, pension reform, campaign reform, budget reform; it enacted the war powers legislation which inhibits future Presidents from waging undeclared wars; it stopped the bombing in Indochina; it stopped the war in Indochina by cutting off the appropriations for military operations there; so it did a great many things. And it did do some things with respect to energy. It passed one massive energy emergency bill that the President vetoed. It also did some things about the recession. In the very closing days, it extended unemployment compensation, it expanded unemployment compensation, and provided public service jobs. So it has a good record in many ways. Now as to the future—

KIKER. I was about to say the New Congress—everybody says it's going to be more liberal, younger, more independent, more likely to override Presidential vetoes.

BYRD. I think we have to wait and see. A good many of the new members ran on programs that were to be considered to be middle-of-the-road programs. Take Mr. Hart, for example, in Colorado, I think most people would agree that he moved toward the middle, and so we may or may not see a more liberal Congress, but be that as it may, I

think it will be a progressive one, and I think that we will have a very responsible leadership in both houses.

KIKER. What do you think will be the major legislative proposals to be taken up right away by the new Congress?

BYRD. Health insurance, tax reform, I think there must be a tax cut. If we are to deal with both inflation and recession there must be a tax cut—especially for the lower and middle income people.

KIKER. Is that the number one order of business—tax cut?

BYRD. Well, it certainly should be, because the recession is worsening.

KIKER. Do you think the Congress will approve a tax cut?

BYRD. I think it will.

KIKER. What about the national health insurance, does that have a chance to pass?

BYRD. Yes, I think that in the next Congress there will be a national health insurance. There must be some energy conservation programs, but the President already has authority to implement some of these, if he will act.

KIKER. And how is the President going to get along with the new Congress?

BYRD. Well, the Congress will cooperate with him, but he is going to have to demonstrate leadership, and he is going to have to do it quickly.

KIKER. In what manner would you suggest?

BYRD. Well, he has already demonstrated that voluntarism won't work, and this country is living dangerously—especially with respect to imports of oil. We are depending upon an oil supply that is unpredictable, and the financial drain on our payments is jeopardizing our financial situation.

KIKER. Thank you very much Senator Robert Byrd, who is the Senate Majority Whip.

NATIONAL ENERGY PROBLEM

Mr. MATHIAS. Mr. President, Congress has just received the President's assessment of the state of the Union and in the President's opinion, it is not good. I share the President's belief that we suffer severe economic problems, both domestic and international, and that the world price of petroleum is a significant factor in this crisis. George C. McGhee, former U.S. Ambassador to West Germany, provided us with an exceptionally thoughtful discussion of the relationship the world oil price bears to our current economic difficulties in an article for the December 30 Washington Post.

Mr. McGhee discusses in detail and with great clarity our present circumstance and the options that are presented to this country and other industrialized democracies. He correctly identifies areas of common interest that industrialized democracies share with oil producers and makes a strong and rational argument as to why oil prices cannot remain at current levels.

I have shared Mr. McGhee's concern for some time and it was for this reason that I introduced an amendment to the National Energy Authorities Act in the last Congress which would have reduced imports of crude oil and refined products by one million barrels in 1975 with further stage reductions through 1985. I am introducing that measure in the form of a bill in the 94th Congress.

I want to afford Mr. McGhee's article entitled "The Price of Oil: Achilles Heel" as wide readership as possible because of its value to the debate which Congress must now undertake. I think it argues strongly for mandatory measures to limit the flow of imported oil into this country and by so doing correct our balance-of-payments difficulty.

Mr. President, I ask unanimous consent that the article be printed in the RECORD.

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

THE PRICE OF OIL: ACHILLES HEEL

(By George C. McGhee)

Because of the high OPEC oil price, the free (i.e., non-Communist) world, without really appearing to know what is happening to it, is starting a long, slow descent into economic catastrophe. Many commentators have correctly analyzed the seriousness of the problem, however, no one has yet reached what I consider to be the unavoidable conclusion as to what must be done. This is not a problem for the international oil companies. They are helpless. It can only be resolved by governments. Yet world leaders seem mesmerized—hoping the problem will go away. Our foreign ministries and oil experts busily elaborate small schemes around the periphery of the problem. It is seemingly not understood that there is *no way* in which the problem can be solved by market forces. President Ford and President of France Giscard d'Estaing agreed recently at Martinique to a meeting between oil consuming and producing states. This is in itself a welcome development. However, I believe I can demonstrate that such a meeting holds no hope for a solution unless it leads to a reduction in the price of oil.

Let's look at the alternative solutions held out by conventional wisdom, focusing on the next five years.

1. *Reduction of demand.* Percentage possibilities are small. The U.S. goal of reducing 1 million barrels a day, which is not being met, is only 6%. This will be more than offset by natural decline in U.S. production and announced denial of Canadian supplies. The oil needs of Europe and Japan are mainly for industry, those of the developing world for agriculture and essential energy, and therefore less elastic than ours. The current Japanese goal is a 3% reduction. The Common Market hopes only to limit increases in oil demand over the next 10 years to 3.5% a year.

2. *New oil and other energy sources.* Substantial new non-OPEC oil, from the North Slope, North Sea and offshore U.S., is 4–5 years away—new energy sources 10–15 years. This timing can not be appreciably altered by increased prices. All will be high cost. At no time in the foreseeable future will the world need less OPEC oil than we now consume.

3. *Recycling the OPEC surplus.* The present deficit of the consuming countries with OPEC arising out of their 100 billion a year oil bill is $60 billion, $40 billion for the developed countries and $20 for the undeveloped. No one holds out hope that these deficits can be decreased appreciably over the next five years by increased exports to OPEC. Free world fiscal institutions simply can't stand the strain of recycling the estimated $450 billion OPEC surplus over the next five years. A basic problem with all recycling schemes is that the money doesn't go to the poorer countries who need it to buy oil unless someone guarantees repayment. To the extent that the producing countries do not extend credit directly to the deficit countries, the burden falls on the U.S. and Germany, who alone are in a position to pay. This we couldn't afford to do even if we wanted to.

Even if everything is done that Secretary Kissinger proposed in his Chicago speech of November 14th, and there is no reduction in the oil price, the problem will remain with all of its grim aspects. Italy will still go bankrupt because it can't pay its oil bill and will probably turn either to a Communist or a rightist government. Former German Chancellor Willy Brandt recently proposed that the Common Market relegate England and Italy, because of financial difficulties caused principally by their oil deficits, to second-class status. This would be the beginning of the end for the Market. Brazil falters in its economic climb because of oil costs. Starvation in India and Bangladesh, largely a result of a shortage of funds for fertilizer and food because of the oil price, proceeds apace. Because of our high oil bill, the U.S. appears to be "locked into" a recession which would otherwise "bottom out" much sooner.

The world must have its 30-million barrels a day of OPEC oil but cannot find the means to pay the deficit that was created, literally overnight, by the increase in oil prices. No matter how justified it may have been on theoretical economic grounds, the increase simply created too great a hiatus in the world's trade and payments to be assimilated. The international trade in petroleum at current prices equals that of all minerals and foods combined. The price increase levied an onerous tax on every oil consumer. It reduced correspondingly means of payment and hence world demand for other goods and services creating the present world depression, including an estimated 1.2 million of the U.S. unemployed.

Combined action to lower the price is made more difficult because the consuming countries are divided. They look at the same problem from different vantage points.

Some, like Italy and the South Asian countries, are paralyzed into inaction by fear of having their oil cut off.

Others, like France and Japan, seem to have just enough confidence to think they can bluff it through alone—with special deals on oil prices and compensating sales of goods.

Germany and the U.S., the strongest exporters and least dependent on foreign energy, are relatively immune. We could both, if we were on our own, survive the oil price. This makes it even more difficult for our leaders to assume responsibility for those sacrifices required to save the rest of the world before their disaster engulfs us too.

A solution is also made more difficult by the general confusion surrounding the problem—its highly technical nature and the misinformation provided by the self-seeking. There is much sympathy, particularly in the undeveloped world, for the producing countries that have until recently been denied the benefits from their own natural heritage. However, just because the world in recent years paid only $1.50 a barrel for Middle East oil when the U.S. domestic price was close to $3—doesn't mean that we can all now afford to pay between $10 and $11. England, Italy, France and Japan are, as a result, running deficits in their balance of payments of between $7–$10 billion a year. A $10 billion deficit for Italy is, per capita, the rough equivalent of $40 billion for the U.S. Only Germany, of all the leading industrial countries, shows a positive payments balance. The U.S. balance turned negative last month, largely because of the $24 billion that we must now pay for imported oil.

Some tend to accept the oil price because it is a "market" price, overlooking the fact that it results for an arbitrary quadrupling of the price by a producers' cartel. Others muse that what goes up must come down—that surpluses and deficits go in cycles. There is a complacent theory that inflation in the non-producing countries will level the oil price. Inflation can, like death, solve any problem, but only in the cruelest possible way—by increasing the price of all the needs of the deficit countries. The OPEC countries, moreover, have continued to edge their price along as fast as inflation (35¢ a barrel at

their last meeting). Despite their promised 9-months standstill, they are unlikely to permit much price slippage. Some believe that everything will come out all right if we will just be patient and let the Arabs invest their oil profits in our land and stock market.

But the problem will not "just go away." It goes on inexorably—day and night. It will continue into the future as far as we can see—well beyond the limit of the "time bomb" now ticking away under the free world's economy. The debts arising out of the oil price are cumulative and irreversible. The interest cost on oil debts alone, and the interest on unpaid interest, will "snowball" until it becomes intolerable. The threat posed by the possible withdrawal of recycled funds from our banks and stock markets increases daily, particularly in the U.K. and other weaker countries. A proposal has been made by a knowledgeable group that the producing countries accept half the oil price from deficit countries in local currencies under soft loan conditions. Such a plan should be welcomed if it is the only way a beginning can be made. I regret to say, however, that even if acceptable to the OPEC countries, I believe it will ultimately end in defaults and recriminations.

The plain fact is that there is no real alternative to lowering the OPEC oil price. And this means lowering it substantially—to something between $6–$7 a barrel. Since most OPEC producing costs are negligible, this price will still give the countries collectively more income than they can currently spend internally, with a surplus for investment. This is also just about our present average domestic price, which we should stick with as an example. Such a reduction would save all consuming countries together $45–$55 billion a year in their deficits with OPEC, leaving a balance which could be handled. And this is a solution—the only solution.

Because this way out is not seen clearly, extremists leap over it and propose more drastic military solutions—the landing of marines and the seizure of the oil fields. This is sheer fantasy. I very much hope that the rumored contingency planning in the Pentagon for such a course has no official status. There are a dozen reasons, apart from the expected Soviet reaction, why military action would not work—why it would result in another Abadan withdrawal-Suez invasion-Vietnam intervention fiasco for the Western powers. None of us nor any combination of us can control and run by force the oil fields of the world. Most importantly—it is not necessary.

The oil states are living in an unreal world. Most of the countries to whom they sell their oil will never be able to repay the loans they are of necessity making. When their credit is exhausted and they can no longer obtain oil, they will turn against the oil producers, who will not be able to withstand the aroused force of world opinion. The rulers of the oil states are vulnerable. There are many rivals for their new wealth. They are not as strong or united as they appear. Although gratitude has never been a redeemable currency in international relations, our record of past support for the key OPEC rulers—and their countries—entitles us to a hearing in behalf of a beleaguered world.

In this situation only the United States can provide leadership. Only we have the major cards to play. We must in such an endeavor have the backing of Germany, Japan, England and, after Martinique, hopefully, also France. For once developed and developing countries have a basis for a common cause. We must use persuasion, the exertion of moral force in appealing to the reason and higher instincts of the OPEC leaders to cooperate in averting a world crisis by lowering the oil price. We must provide assurances for their countries' security, which would be imperiled by a world depression and economic collapse that could be exploited by the international communism. We must guarantee protection against price inflation in their future purchases from us. We must offer a new regime between producing and consuming countries that will be fair to both and with which both can live. The planned meetings between consumer and producer countries, and among consumer countries, can assist in this process. I believe that the OPEC leaders can be made to see that it is in their interest as well as the interest of the world's peoples that a supportable price level for oil be set.

But if this approach fails, the consuming countries must proceed to use every political and economic means that we have—which are more powerful than we think—to bring about the necessary price reduction. At the appropriate time it will not be difficult for those responsible to write the scenario as to how this can be accomplished with minimum disruptive effect. The producing countries are totally dependent on the free world industrial states and our companies for the technical and managerial basis for their oil production and ambitious development plans. They need our banks and markets to preserve the value of their surplus funds and to earn a high return. They need our transportation and other international facilities. The Communist block cannot provide similar resources. Indeed, the key producing countries live in a part of the world that has over the centuries been the prime target of Russian expansion. They need our arms, which they are now purchasing on a large scale, and the continued support of our military establishment. They need our political support.

What we otherwise make available gladly, we must be prepared where necessary to withhold—if the alternative is the demise of the free world institutions. There are risks involved and possible unpleasantness, but this must be accepted. If all else fails the "crunch" must come. And if it comes I am convinced that the interests of the free world as a whole will prevail—without war—and that the price of oil will come down. Because it *must* come down. There is no other way to avert disaster for us all, producers and consumers alike.

THE NATIONAL ACADEMY OF SCIENCES REPORT ON FOOD SUPPLIES IN THE FUTURE

Mr. BENTSEN. Mr. President, I would like to call to the attention of the Senate a recent New York Times article entitled "Rise in Farm Output Said To Falter As Need Grows." The article is a brief explanation of a National Academy of Sciences report on the future of our food supply. The report, "Agricultural Production Efficiency," is the result of a 3-year study and warns that the upward trend of farm production may be faltering even in the face of increasing concern over food supplies.

Through I have not yet studied the report, I can well understand the reasons behind its warning. The agricultural research effort of this country, in terms of real dollars and manpower, is still operating at the levels of 1960. This is not the fault of our agricultural scientists, but rather the tragic mistake of our Government. This Government has allowed the emphasis on farm research to decline, and this decline must be turned around.

American consumers are concerned, even outraged, because of rising food prices. Farmers are frustrated by escalating costs of production. Increased productivity is an answer to both these problems and agricultural research is a proven generator of increased productivity. Farm output in this country increased by 50 percent between 1950 and 1971 and it was without a doubt, the research gains of our scientific centers that originated the greater part of this productivity increase.

The National Academy of Sciences report warns:

> For the long-range future, . . . increases in agricultural output will depend largely on research results not yet in hand.

This is a timely warning, and indicates that we must increase our emphasis of agricultural research if we are to increase our food supplies.

With this in mind, I ask unanimous consent that the Times article be printed in the RECORD.

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

[From the New York Times, Jan. 13, 1975]

RISE IN FARM OUTPUT SAID TO FALTER AS NEED GROWS

(By William Robbins)

WASHINGTON, January 12.—The National Academy of Sciences warned in a "report to the nation" today that the upward trend of farm production was faltering at a time of increasing international concern over food supplies.

At the same time, it cited a long list of "scientific frontiers" where new breakthroughs to higher yields might be found if enough effort and resources were invested in agricultural research.

Among those, it said, are efforts to produce plants with leaf structures that will make more efficient use of sunlight and carbon-dioxide, successful creation of new varieties of plants by crossing their body cells in test tubes rather than through normal reproductive processes, improvements in animal-breeding and technological progress in irrigation technology.

Although "for the next decade or so we think we perceive that the supply of food will be adequate," said the report, which focuses on the longer term, "there are clouds on the horizon that should be noted."

"The tapering trends are warnings of needs for new patterns of thought and indicate that the future may require drastic changes in our farm production system," it said.

The 199-page report, titled "Agricultural Production Efficiency," is the result of a three-year study by a 15-member committee headed by James G. Horsfall of the Connecticut Agricultural Experiment Station.

"We set out with a very simple premise: We could be living on borrowed time," Sylvan H. Wittwer, the chairman of the academy's board on agriculture and renewable resources, which helped guide the committee's study, said at a news briefing.

Both Dr. Wittwer, the head of the Agricultural Experiment Station at Michigan State University, and Marion Clawson, a committee member, said at the briefing that the study showed "we have been too complacent" about food productivity. Mr. Clawson is head of the Land and Water Division of Resources for the Future, Inc., a research organization.

"WE NEED COMMITMENT

"We need a national food policy," Dr. Wittwer said. "We need a national commitment." He added that the country also needed a special project on solar energy.

The study cited a number of warning signals indicating a tapering off in the trend towards greater productivity, which increased farm output by 50 percent between 1950 and 1971.

In the past, it said, reserves of land kept idle under farm programs had created a sense of complacency. But it noted that such acreage had now been returned to use. Any additional acreage would have to be provided through such means as land clearing and drainage or the farming of marginal acreages.

"The relative quality and availability of additional potentially arable lands need careful evaluation," the report said.

A LEVELING-OFF

Meanwhile, it said, "Department of Agriculture data indicate that both the number of persons supplied per farm worker and the number of persons supported per harvest acre are leveling off."

Many of the gains in the past have resulted from increasing applications of fertilizer, but increases in yields available through further expansion of fertilizer use appear to be slight, the study said.

While yields of corn, the major livestock-feed grain, continue to rise dramatically, the report said, recent improvements have been small for most other crops.

"One must conclude that biological ceilings will, at some future date, constitute a severe if not impenetrable barrier to further increases in yields per acre or meat production per unit of feed," it said.

The report warned: "For the long-range future, in addition to such controlling influences as climate, increases in agricultural output will depend largely upon research results not yet in hand."

But it mentioned a number of promising areas for research projects.

One of those is more efficient plant use of sunlight. The report listed efforts to produce plants with leaf structures that would provide increased exposure to the sun.

Plant growth has also been improved by enrichment of the plant atmosphere with carbon-dioxide, the report noted, and it urged research into breeding of plants that would make more efficient use of the carbon-dioxide that is naturally available.

It also described investigations seeking new ways to enrich soils. Legumes, such as peas and beans, have nitrogen-fixing bacteria associated with their root zones. The report noted that efforts were being made both to improve that process and to extend the process to cereals, and thus to produce natural supplements for commercial fertilizer.

CREATION THROUGH CULTURES

In the efforts to improve plant varieties, the report said, new plants have already been created through cell cultures rather than through normal seed processes.

To improve efficiency in animal agriculture, the report placed major emphasis on efforts to increase reproductive efficiency. Among those are attempts to achieve multiple births in beef cattle.

It also stressed research on disease control and on improving the conversion of livestock feed into meat.

Among promising new technologies, it said, is a system called trickle irrigation. The method brings water directly to the roots of plants rather than irrigating their entire environment. This saves water while increasing plant growth, but it is now too costly for other than high-value crops.

Other areas for research suggested were chemicals for improved herbicides and pesticides, improvements in Western rangelands and their more efficient use, as well as a search for new plants, including studies in the qualities of native weeds that might be developed through breeding and mutations.

ROBERT E. L. EATON

Mr. MATHIAS. Mr. President, as we begin this new session of Congress, I would like to take this opportunity to offer a much deserved tribute to a fellow Marylander whose unstinting dedication to the cause of providing adequate educational benefits for Vietnam veterans left an unmistakable imprint on the legislation we enacted in the closing weeks of the last session to boost those benefits—the immediate past commander of the American Legion, Robert E. L. Eaton.

Having had the privilege of calling Bob Eaton my friend for many years, I can state with certainty and pride that without his personal and direct involvement in the effort to enact last year's G.I. bill improvements, that effort would have been considerably less successful.

In the session that we begin this week, I hope and trust that Congress will again turn toward the enactment of some of the unfinished business for which Bob Eaton has been fighting long and hard over the past several years—such as direct tuition grants for Vietnam veterans, which was overwhelmingly approved by the Senate last year but dropped in the final conference agreement.

But for the present, I believe Commander Eaton can be justly proud of the legislative achievement for Vietnam veterans he has already helped bring about. In recognition of these achievements, General Eaton has recently been named "Veteran of the Year" by the Joint Veterans Committee of Maryland. I would like to commend to my colleagues' attention two articles which appear in the current issue of the Free State Warrior announcing this award and outlining but a few of the reasons why this award can only be described as richly deserved. I ask unanimous consent that these articles be printed in the RECORD.

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

BOB EATON, VETERAN OF YEAR

The Joint Veterans Committee of Maryland chose American Legion Past National Commander Robert E. L. Eaton as Veteran of the year. The award will be presented to Bob at a banquet to be held at Blue Crest North on February 20th beginning with cocktails at 6 p.m. The banquet will start at 7 p.m.

Tickets for this affair, which promises to be an outstanding one to be remembered for all time, are available from Maryland American Legion Department Headquarters.

In an unexpected move Chairman John Jarosinski announced that he has been able to hold the line against inflation and the tickets for this outstanding affair will cost only $10 per person.

We look forward to seeing a capacity crowd at the affair. Be sure to send in your order as soon as possible. It is probable that we'll be sold out early.

GI BILL VETO OVERRIDDEN; THE NEW VIETNAM VETERAN GI BILL

If any one man can be called the "Uncle" of the new G.I. Bill it has to be Past National Commander Robert E. L. Eaton. As previously reported in this newspaper, it was Bob Eaton, working closely with U.S. Senator Mac Mathias, who never gave up and refused to compromise on the Bill. This was true even when our our National Legislative Director told Bob that the Bill could not pass with the expanded benefits and then advised Bob to compromise in the closing days of his term as National Commander.

To Bob Eaton's everlasting credit he refused to compromise in any way and joined the fray with hands and feet swinging. His hard charging, even after he left office as National Commander, finally paid off when the Vietnam G.I. Bill passed over the President's veto the first week in December.

WE ARE GRATEFUL

We are grateful to the entire Maryland Delegation in the Congress, both of our Senators and the eight Representatives, who voted to override President Ford's veto of the G.I. Bill. It was a great victory and positively will not make our inflation any worse. These moneys are not going to be spent for frills, or even staples. The dollars will go into education, where Heaven knows we surely need it.

Experience has proved that the additional income earned by the veterans who graduate from college, and the extra income tax thus charged, will pay for the G.I. Bill, eventually at no cost to taxpayers, the veterans included.

WARRIOR SALUTE

It was a great victory, therefore we present *The Free State Warrior* right hand salute of respect and admiration to Past National Commander Robert E. L. Eaton and to U.S. Senator Charles Mathias for their superb devotion to duty and the rights of the Vietnam Veteran.

NATIONAL RETAILERS ASSOCIATION SPEECH

Mr. ROBERT C. BYRD. Mr. President, on Wednesday, January 8, I spoke to the annual meeting of the National Retailers Association in New York.

I ask unanimous consent that the speech be printed in the RECORD.

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

SPEECH TO NATIONAL RETAILERS ASSOCIATION

(By Senator ROBERT C. BYRD)

Mr. Chairman, Ladies and Gentlemen:

I am grateful to you for inviting me to be with the members of the National Retail Merchants Association, and to talk with you in general terms about matters which interest all of us who have the privilege to be citizens of this great Republic.

I would also like to say a special word of greeting to my fellow West Virginian, Sidney Good of Wheeling, who is a member of your executive committee. That the National Retail Merchants Association would elect a West Virginian to the executive committee proves not only the good judgment of the Association, but also the high caliber of the committee.

I believe that there is a certain similarity in the functions of retailers and members of Congress, inasmuch as you are the contacts between the people and the large manufacturers who produce the consumer goods that you sell. We, on the other hand, have as part of our function the bridging of the gap between the federal establishment, and the people we represent.

As a former small groceryman, I think I know something about the problems of retailers, and I am in a position to say also that many of your problems are like many of the problems that confront the United States Senate—they just won't go away. Likewise, there are many differences in our respective functions. One of the big differences, I suppose, is that if your customers

are not satisfied with the merchandise you sell to them, they can bring it back and complain immediately. With us they can only make their complaints stick, every two or six years.

But again, I would like at the outset to express my pleasure and real appreciation for this opportunity to address your gathering today. You will understand, I am sure, that my enthusiasm for the topics of these remarks is somewhat more cautious and qualified. The past two years have witnessed a challenge to both the private American economy—and the public institutions which guide our national life—that is yet far from being successfully met.

A train of extraordinary developments from crop failures on a massive, worldwide scale, to the newly effective foreign cartel in petroleum, have upset the delicate balances by which western economies have prospered in the post-World War II era. These events have in turn bred "double digit" inflation and a continuing downward spiral in commercial activity, forcing upon our own government increasingly difficult decisions in economic policy. And it hardly needs saying that the government which must make these difficult and possibly unpopular choices is itself laboring under diminished trust and a lack of confidence on the part of those it must govern.

None of these disturbing considerations should foster despair in our long term prospects, but they do argue that the economic crisis of 1974–75 is indeed a crisis in that word's most fundamental sense: a turning point in the conduct of our society which will try each of us sorely. For it poses not only new problems of economic management but requires renewed attention to some solid, and still unresolved, difficulties.

The background against which the new Congress will attempt to face these challenges is a gloomy one. The fourth quarter of 1974, according to virtually every estimate, will turn out to be among the worst of recent recessionary periods. The rapid climb of unemployment rates to 7.1 percent in December with projections of above 8 percent idled for the coming year, underscores both the severity of the business decline and the victims of its harshest suffering. The nation's real product has been slipping for four consecutive quarters and there is little prospect that this slide will be reversed before the second half of 1975—if then. Even this grim scenario is considered a risky one by many observers as our financial system continues under the twin pressures of volatile petrodollar accounts and unstable price levels.

For the past several months there have occurred serious warnings of the peril to our entire industrial economy if some arrangement cannot be made with the oil producing countries to reduce their prices to reasonable levels. The threat or eventual collapse of the economic and industrial structure of the western world is constantly before us unless such price reductions in oil can be effected. As retailers, the price of oil has to be a vital factor in your daily lives. It has an impact on every dollar that goes through your cash registers, every dollar in the profits and losses you incur, every dollar you pay your employees.

It affects your heating bills, your electric bills, the cost of the automobile that comes to you from the factory, and the cost of operating that car. Even the plastic fountain pen you are carrying right now in your pocket is an oil derivative.

As the price of oil increases, it kicks up the price of petrochemicals, synthetic textiles, and fertilizers—which, in turn, increases the price of agriculture products. The rippling effect is endless.

As retailers you are also vitally affected by the traumatic shifts in international foreign exchange being caused by skyrocketing oil prices.

In 1975, the tiny country of Saudi Arabia will surpass the United States and Japan in accumulated cash reserves and will be second in solvency in the world only to West Germany. It is indeed ironic that Saudi Arabia—a small country in which still linger centuries-old sociological and political systems—will soon be ahead of the United States in terms of monetary reserves.

Never before, in the history of international commerce, has any group of countries possessed the power potential to destroy utterly the economic and fiscal systems of the remainder of the world. And that, whether we like it or not, is precisely the kind of power possessed by the thirteen nations that form the Organization of Petroleum Exporting Countries.

Let us take but one of these OPEC nations—Saudi Arabia, to which I referred a moment ago—and consider that in F.Y. 1974, that tiny sheikdom in the Persian Gulf accumulated $23 billion in cash reserves—a potentially unsettling force in global finance.

Together, the OPEC nations accumulated a $60 billion surplus in fiscal 1974.

At this rate of accumulation, the 13 OPEC countries could buy out all companies (at present quotations) on the world's major stock exchanges in 15½ years; they could buy out all companies on the New York Stock Exchange in 9 years; they could buy up all of the central banks' gold (at $179 an ounce) in 3 years; and all U.S. direct investments abroad in 2 years. Even now, they could purchase all IBM stock with the surpluses accumulated in just 143 days; all Exxon stock in 79 days; and the entire Rockefeller family's wealth in 6 days.

We are witnessing the swiftest transfer of money in history. This sudden shift of money has shaken the whole fragile structure of the international financial system and severely weakened the economy of oil-consuming nations. To meet its trade deficit, for example, Italy has borrowed more than $13 billion, incuring interest payments of nearly $1 billion annually.

OPEC nations stand to accumulate payment surpluses of from $250–325 billion by 1980, in which event the other 137 nations outside the cartel would run up that much of a deficit. And you know what this means. Deficits lead to recessions, devaluations, and decline.

This is, indeed, a critical situation to contemplate, and the only way to deal with such a grave problem is to develop policies that will recognize, without any political obfuscation, that the problem is there, and that hard, realistic actions must be taken to solve it. The economic realities may well be unpalatable, but both the executive branch and the Congress must be prepared to act on behalf of the national well being.

There should be no question in anybody's mind that the fourfold increase in the price of foreign oil in the past 12 months is a major contributing factor to both inflation and the current recession. This enormously inflated price will come down to manageable levels only by successful negotiations with the oil producing nations to reduce it, or by a sharp reduction in demand for oil by the oil-consuming nations of the western world.

Up till now, negotiations have proved fruitless. There is no indication that the OPEC countries will in the immediate future voluntarily reduce their prices. They have a good thing going; they know it; and they will play their hand to the hilt. A second alternative—development of new sources of conventional energy and the production of exotic forms of energy—will take time. These are 30 to 50 years away or even more.

The third alternative—reduction in demand to force the prices down—can only be achieved by hard-nosed sacrifice by the user countries and their citizens. I am in no position to speak for the people of Japan, France, Holland, West Germany, or the British Isles. But I can express my thoughts about our own country, and I refer to the deplorable waste in gasoline use that has characterized life in America for too many years.

Former President Nixon laid out an energy program two years ago that called for energy self-sufficiency by 1980. That was political rhetoric, and never had a chance of coming to reality. More recently, President Ford has made tentative suggestions toward a program that would reduce our oil imports by one million barrels a day by next year. Though he may tell us in his State of the Union message 12 days from now exactly how this cutback is to be achieved, nothing definite has so far been outlined.

Nevertheless, whether the Administration's proposed oil import plans call for a one million, two million, or three million barrels a day cutback, it is essential that some means be found to reduce America's profligacy in the use of gasoline, as an inescapable first step toward a reduction in the costs of importing oil, and as a major contribution toward forcing foreign oil prices downwards. OPEC oil prices have to come down in the not too distant future if the free world economy is to survive. And the free world economy inescapably includes the United States.

I do not claim for a moment that the sacrifice of a second car for each of thousands of American families, or an organized national car pooling system, or a vast increase in the use of public transportation as an alternative to private automobiling, would cause our oil imports deficit to disappear. But these measures would help in a practical way, and, even more importantly they would be proof to the doubters that the American people still possess the strength and the will to unite for the common good in the face of adversity and would be an invaluable example to the rest of the world that the people of the most powerful and even now, most prosperous nation are still capable of a commonality of purpose when the wellbeing of the nation is threatened by forces and influences beyond our shores.

Beyond any question, the United States is the leader of the free world, and we must exert that leadership to martial a combined effort on the part of oil-consuming countries in order to present a united front and create more leverage in dealings with oil-producing nations. We have waited too long already, a year having passed since the Arab embargo awakened us to the energy crisis. But first of all, we must show the world that strong leadership exists in our own country. The developed and the underdeveloped countries that look to America for leadership are not going to be impressed by, or be willing to co-operate with, an America that fails to exhibit effective leadership in its own domestic energy and economic affairs.

No other national government is going to attempt to impose on their people the necessary stringency toward achieving a balancing of their energy needs if the country to which they all look for leadership does not set the example. And no oil producing nation is going to believe that we are serious in our efforts to force oil prices down, unless America, by our own determination and sacrifice, proves beyond doubt that we are serious. This proof will not be provided by voluntarism or by the appeals of political rhetoric. It will be done only by firm policies that distribute the sacrifices as equitably as is possible, and that are carried out resolutely by the leadership of this country.

We in Congress are currently awaiting the Administration's recommendations for action against this and other economic problems and hoping that their troubling shape is sufficiently understood by the Administration. But over the next months, we, too, in the legislative branch may have to form our

own approaches to the problems. Stimulation of a sagging economy by tax cuts or other means is a necessary check on further economic deterioration; restoration of Americans' respect for the institutions that govern them will only come from these institutions working far more effectively to serve the people's interests.

Let us not make the mistake, however, of thinking that the responsibility for effecting an upturn in our Nation's economic fortunes lies solely in the hands of our national executive and legislative leaders. It is the duty of all of us to whatever lies in our power as citizens to help the cause.

If this means that we will have to sacrifice some of the perquisites that life in America has meant for many years, then we must be prepared to accept these sacrifices until the crisis has passed. This is a great and good country. We must not risk jeopardizing its future and the future of our children by failing to act to overcome the exigencies of the present.

HORACE M. "BUCK" ALEXANDER

Mr. MATHIAS. Mr. President, the State of Maryland and Frederick County in particular lost one of their most distinguished citizens when Horace M. "Buck" Alexander died December 13. A former sheriff and former member of the Maryland House of Delegates, Mr. Alexander gave a lifetime to public service and active involvement in community affairs. He was my friend and is sorely missed. Mr. President, the Frederick Post, on December 16, contained an article reporting Mr. Alexander's death, and and editorial of tribute to him. I ask unanimous consent that these items be printed in the RECORD.

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

FORMER COUNTY SHERIFF, "BUCK" ALEXANDER, DIES

Mr. Horace M. (Buck) Alexander, well-known resident of Frederick, former sheriff and former member of the House of Delegates, died suddenly Friday, Dec. 13 at his residence in Buckeystown.

Born Jan. 6, 1913 in Woodsboro, Mr. Alexander was a son of the late Lewis Hamilton and Sylvia Anders Alexander. He was a graduate of West Carrollton High School in West Carrollton, Ohio, and a graduate of Manchester College, North Manchester, Ind.

Mr. Alexander began his employment in Frederick County with the Anders Transfer Co., later becoming associated with the Frederick County Products and life insurance and Real Estate business with the Emmert R. Bowlus firm.

An ardent Republican, Mr. Alexander served 7 years in the Maryland House of Delegates and served Frederick County as sheriff for 19 years. He also completed terms of two former sheriffs after their deaths. He also served as a deputy sheriff and was a former member of the Frederick City Police Department. Mr. Alexander became familiar with many residents both far and near as he had served for many years as a public sale clerk.

He resigned his position as treasurer of the Frederick County Agricultural Society in 1973 after serving in that capacity for 17 years. Long interested in ecology and wildlife preservation, Mr. Alexander was a past president and active member of the Frederick County Fish and Game Protective Assn. and had served on its Board of Directors.

He was also a member of All Saints Episcopal Church, The Frederick Elks Lodge 684, Loyal Order of Moose 371, Fishing Creek Club, National Sheriff's Assn., and the Maryland Sheriff's Assn.

For the past seven years Mr. Alexander had been employed by the M. J. Grove Division of Flintkote.

Surviving are his wife, Mrs. Kathryn R. Tinney Alexander; one son, H. Markwood Alexander Jr., Frederick; three grandchildren, Mark Lewis, Scott Matthew, and John Patrick; and two brothers, Cleon H. Alexander, Ijamsville and Kenneth L. Alexander of Hagerstown, one sister, Mrs. Mary L. Beall, Middletown.

Friends may call at the Smith, Fadeley, Keeney and Basford Funeral Home (formerly Etchison's), 106 East Church St., on Monday from 7 to 9 p.m. Funeral services will be conducted from the All Saints Episcopal Church on West Church Street on Tuesday, Dec. 17 at 11 a.m. by his pastor the Rev. A. D. Salmon. Interment will be in Mt. Olivet Cemetery.

In lieu of flowers, the family suggests memorial contributions in memory of Mr. Alexander be made to the Frederick County Heart Assn.

"BUCK" ALEXANDER

Horace M. (Buck) Alexander was more than a successful politician—he was a man who loved his native Frederick County—a man who was, in turn, well liked by his fellow citizens.

"Buck" Alexander, who served this county almost 20 years as sheriff, died unexpectedly Friday, the 13th of December, at his home in Buckeystown. He would have been 62 on Jan. 6. He had been associated the past 7 years with the M. J. Grove Division of Flintkote in its sale department.

One of Frederick County's most popular elected officials, having also served 7 years in the Maryland House of Delegates, Mr. Alexander was a leading figure in Republican politics for many years. It mattered little in his efforts to serve Frederick County that his final bid for reelection 8 years ago was unsuccessful.

He proudly stepped out of the political spotlight, like the man he was, and though he still remained an ardent party worker and adviser, he diverted his major efforts to his "other love," namely the Great Frederick Fair and its sponsoring Frederick County Agricultural Society.

"Buck" Alexander served the Agricultural Society 17 years, choosing to retire from his position of treasurer and financial clerk last year, along with his long-time friend and associate, Wade Hursey, who was secretary, also 17 years.

Mr. Alexander was an avid promoter of the fair and its contribution to farm and home-life in the community and openly boasted that "the Great Frederick Fair is the greatest in the East."

Mr. Alexander was born in Woodsboro Jan. 6, 1913, a son of the late Lewis Hamilton Alexander and Sylvia Anders Alexander. He left the county in his early years and was schooled in Ohio, returning here in 1931. Upon his return, "Buck" Alexander joined the Frederick City Police Department. He was a graduate of West Carrollton (Ohio) High School; and later graduated from Manchester (Ind.) College. He also served as a deputy sheriff, and his service as sheriff included fulfilling the terms of two other sheriffs who died in office.

The name "Buck" Alexander became a real "household word" in Frederick County as this hearty, vigorous man, who enjoyed a rare love of people, engaged in numerous volunteer efforts and jobs that kept him among the people.

He was associated with the Anders Transfer Co., his first job here, then later with Frederick County Products. He tried his hand in the insurance business and was associated in real estate with the Emmert R. Bowlus firm. He also served for many years as a public sale clerk.

He had a pioneering interest in wildlife preservation and environmental protection, and environmental protection, and served in this field as president of the Frederick County Fish & Game Protective Association and was a member of its board of directors for many years. He was also a member of the Fishing Creek Club.

The Maryland Sheriff's Association and National Sheriff's Association were among many memberships in career organizations. He was a member of Frederick Elks Lodge 684, Loyal Order of Moose Lodge 371, and was a member of All Saints Episcopal Church.

Mr. Alexander leaves his loving wife, Mrs. Kathryn R. Tinney Alexander; and one son, H. Markwood Alexander Jr. of Frederick. Also, three grandchildren survive, Mark Lewis, Scott Matthew, and John Patrick Alexander; two brothers, Cleon H. Alexander of Ijamsville and Kenneth L. Alexander of Hagerstown, and one sister, Mrs. Mary L. Beall of Middletown.

The family requests that memorials be made to the Frederick County Heart Fund in Mr. Alexander's name.

Funeral services for Mr. Alexander will be at 11 a.m. Tuesday, Dec. 17, from All Saints Episcopal Church, with the Rev. A. D. Salmon officiating. Interment will be in Mt. Olivet Cemetery. Friends are being received this evening from 7 to 9 p.m. at Smith, Fadeley, Keeney and Basford Funeral Home.

Frederick County has this year lost some of its finest citizens—such is the reward of time—men and women whose lives were marked not only by business success, but more especially by their contributions to a civic cause of making this a better county. Each was known in his or her own way. But the untimely death of Horace M. (Buck) Alexander stirs in those who knew him, worked with him, politicked with, for or against him, memories of a man—a man in every sense of the word—memories that will not soon fade.

This community will always be a little greater because a man named "Buck" Alexander chose to come back to his native Frederick County and serve it until the day he died.

RENOMINATION OF JAMES DAY AS DIRECTOR OF THE MINING ENFORCEMENT SAFETY ADMINISTRATION OPPOSED

Mr. BENTSEN. Mr. President, President Ford has resubmitted the nomination of James Day as Director of the Mining Enforcement Safety Administration. Mr. Day's nomination has met strong opposition from members of the Senate Labor and Public Welfare Committee, Representative JOHN H. DENT, originator of the Coal Mine Health and Safety Act of 1969, the United Mine Workers of America, and others who have a deep and vital interest in the responsibilities of this office. I am opposed to the renomination of Mr. Day.

Mr. Day has served as interim director to MESA from January of 1974 and in that time has failed to exhibit the required concern for the safety and welfare of mine workers. The United Mine Workers charge Mr. Day with the development of policies and procedures that have weakened the intended effect of the Coal Mine Health and Safety Act of 1969. The original nomination by the Nixon administration was held in committee for an investigation into allegations regarding Mr. Day's qualifications for the post. According to Chairman

HARRISON A. WILLIAMS, JR., of the Senate Committee on Labor and Public Welfare, the objections to the nomination were not without substance.

James M. Day's record shows no expertise or interest in the mining industry generally or in mine health and safety in particular, and his career has involved in law and party politics almost exclusively. A recent article in the New York Times magazine entitled "Notes From a Coal Mine" by Meade Arble, January 12, 1975, contains a brutal description of the hard life and constant dangers facing the coal miner. The article presents a compelling case for demanding a director of MESA whose knowledge and concern for the safety of coal miner's is extensive and persuasive. James M. Day lacks this first and most important qualification. I urge the President to reconsider the nomination to this crucial office and to withdraw James Day as his choice.

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

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

"ALMOST ALL MINERS ARE A MESS INSIDE": NOTES FROM A COAL MINE

(By Meade Arble)

We touched down at Kennedy Airport in mid-June after almost four years in Spain. Tucked under my arm in a bulging manila envelope was the first draft of a novel completed while at the University of Seville under the G.I. bill. We stood on the curb at the airport waiting for a ride to my in-laws' house, and I explained to my wife Grada how simple life would be.

"We'll go to Pennsylvania for a few months, and I'll work in the mines. We'll pay our debts and save some money and then come back to New York, where I'll find a nice public relations job. We'll settle down in a suburb, buy a house, raise the kids in a wholesome setting. . . ."

Grada shook her head. She was pregnant with our third child, due in September. The past few years had been fun. Memories of my childhood in Carrolltown, a mining town of 1,500 about 30 miles north of Johnstown, always held a nostalgic charm for me, though no one in my family had worked in the mines. She could only picture grieving widows and grimy clapboard houses.

"It's not like that any more," I insisted. "You've read the papers. Mines are paying $42 to $50 a day, and they're crying for workers. It's all automated now. You probably couldn't even find a pick and shovel down there."

She remained unconvinced, so I spent the next few days canvassing Manhattan for a job. We had heard that things were bad, but I found that a 33-year-old freelance and fiction writer with house organ experience was received with the enthusiasm accorded a rat carrying the plague. I presented the prospects to Grada from a different angle.

"Look, we're in trouble. There are no jobs. We owe a lot of money. Master Charge is already our company store, and you're due to add to our troubles in a few months. We need an income now. We leave in two days."

I bought a car and a roof rack for $200 and we moved to Carrolltown. At the personnel office of Barnes & Tucker they were hiring, but experienced miners and those with relatives inside came first. Then it was who you knew, and, as anywhere else, how much pull they had.

It was not until Sept. 16 that I started work in 24D after using all the influence I could find. It was not as easy to get into the mines as I had thought. Other mistaken suppositions are evident in the diary of a miner's first four months underground.

SEPTEMBER 16

Arose at 5 a.m. for the day shift, 7 a.m. to 3 p.m. Very nervous about the first day. In the early light the tipple's silhouette looked like a giant insect waiting over a hole for something to emerge.

The washhouse where we dress for work was hot. Large heaters blew hot air to dry the filthy, wet clothes of earlier shifts that hung in wire baskets hoisted to the ceiling. Long underwear, heavy socks, rubber boots, canvas trousers, workshirt, gloves, orange helmet to show that I was a newcomer—by the time I had put them on, I was drenched with sweat. I went into the hall where we wait for the night shift to come up. Not much conversation. Most men sat stolidly looking at the walls, lips puffed with snuff.

The cage came up and the night shift filed out, faces black, eyes glazed. We replaced them and dropped 400 feet into the ground. There was a little conversation about sports and hunting in the "man trip," four open rail cars with electric motors at each end that carry us on the first leg of the journey to the work sites. The men stuffed themselves with candy bars. I can't imagine how the candy mixed with snuff. When we rumbled out, I kept my head down to dodge the rails that formed the roof supports.

I was assigned to George, the timber man, a big, paternal old-timer. When we climbed out of the man trip, he told me to pick up a small piece of wood to walk with. We went into the shaft, and suddenly the roof was about a yard high. He moved right along, using a hammer as a third leg. I hobbled with crablike lurches, continually smashing my head against the overhead timbers and rails. My lamp—an electric light fixed to my helmet with a metal bracket and attached to a battery on my belt by a long cord—fell off a couple of times. Finally George stopped and dented the metal bracket on the helmet. That fixed it. I couldn't catch my breath. My leg muscles had knotted, and sharp pains shot through my lower back. George pointed to a pile of logs about 6 feet long and 18 inches around and said, "We'll have to drag these. We got a three-wheel cart on the other side of the trap door, though. Won't be too bad."

I decided it must be some weird initiation stunt. Then he tied a wire around one and dragged it away. If he can do it I can do it, I thought, and I tied a wire around the next one. It wouldn't move. I put everything into it and it slowly began to plow along after me. I had to stop every 20 feet or so to rest. When I reached the trap door, set in a cinder block wall, George was waiting patiently.

"Wind's kinda strong when you open this door; better hold your hat," he said.

He pulled up the trap door and air screamed through the blackness. My legs were quivering and I was still panting.

"Go ahead!" he yelled, holding up the door.

I lowered my head, shut my eyes and plunged through the hole. The wind whipped my helmet off. I opened my eyes and got a load of coal dust in each. I bolted ahead madly, not realizing my lamp cord was caught on the door until the light pulled off the helmet and cracked me on the nose. George released the cord, climbed easily through the door, lowered it and, magically, there was no more wind.

"This was the easy part," he said mildly. "It's a little tight up ahead."

With George doing most of the work, we dragged the timbers while we crawled to the work area, an open spot about seven feet high. The rest of the day I watched him set timbers under fractured rocks, slabs that might have weighed half a ton each. I learned that I was there in case one fell on him, so that after I made my way back to the main shaft in a week, I could tell somebody about it.

SEPTEMBER 19

When I woke up this morning, I couldn't move. It took half an hour to dress, and I had to skip breakfast. I was sitting on the bench in the hot, dusty waiting room, off the washhouse, when the boss came by and put me with the crew on a part of the coal face called Main C. My companions were Tom, a short, stocky man, and his helper, Bill, a thin farm kid. I sat with them on the man trip, and no one spoke during the entire half-hour ride. It's a cold, windy, bouncy ride and cold water streams from the roof in many places. When we climbed out of the car, everybody wolfed a sandwich before we unloaded supplies, throwing them onto a nearby belt. The belts—yard-wide, trough-shaped rubber strips that bump along over rollers—are the basic transportation system in the mine. Their main function is to carry coal out at 500 feet per minute, but at the beginning of each shift, they are reversed and slowed to half that speed to carry men and supplies in to work areas. "Get in the car and lift some of those rails out," Tom told me. I climbed into the car and grabbed a rail, 17 feet, 510 pounds. I couldn't move it. "Here, look out," said Bill. I moved aside and he picked up one end and threw it on the edge of the car. I tried the next one, but it wouldn't budge. I tried jerking it as he had. I bent my legs and straightened my back as shown in the diagram on the safety bulletin board and lifted with everything I had. The rail might as well have been welded to the car. Bill motioned me aside and threw the ends of four more rails onto the edge of the car. Then he and Tom slid them out. Each took an end and tossed them on the belt. It must require a tricky sort of leverage that I haven't learned yet. After the supplies were on, we got onto the belt. I kept my head down while we sped along, and tried to keep from rolling off when the belt slanted sharply.

Tom operates the Lee Norris miner, a monstrous, 30-foot digging machine with two cleated heads that spin and oscillate into the coal face and two mechanical arms that scoop the coal onto a chain belt that runs beneath the machine and out its tail. Bill runs the buggy, a 25-foot machine that sits behind the Lee Norris filling up with the coal coming out of its conveyor tail. When the buggy is full, Bill runs the load of coal to the belt.

My job was to keep electric cables away from the machines. All of the machinery in the mine runs on electricity broken down to usable current from 12,000 volts. If either Bill or Tom runs over one of the power cables, it can explode. I sit in the darkness, heat and dust listening for the warning whine of the buggy over the roar of the miner, ready to pull the cable back if Tom reverses, pull it up if he moves ahead. The buggy slams right into the back of the miner, and Bill doesn't watch for me. He has only two feet clearance on each side, and if he knocks out a prop holding a roof-supporting rail, it will crash down on the machine and slide back, perhaps cutting his head off. In fact, that had happened not too long ago to a man who had been running the buggy for 23 years, Tom said.

Tom shut off the miner while Bill ran the buggy to the belt. He slumped against the controls wheezing into his respirator—a face mask with a filter—until the buggy whined back toward us. Then he hit the row of levers in front of him and the miner jolted to life, heads spinning and shaking. One of the two arms that scoop the coal was broken. That meant I had to take over, shoveling wet coal from the side to the center of the machine. I did my best, kneeling in the water and throwing shovelfuls of coal, but I fell behind,

and Tom would have to leap off the machine, take my shovel, and throw the coal over himself. He could shovel what seemed like half a ton in about five minutes.

The cable was heavy. By the end of the shift I was so exhausted I actually didn't care if it did explode. The machine shifts violently, reverses, slams against one wall or another, and I was supposed to grab the cable and haul it backward as fast as the miner chased it, meanwhile listening for the buggy so I didn't get run over, trying not to trip over props and bags of rock dust (powdered limestone thrown against the sides and roof of the shaft to keep down coal dust and improve visibility). All of this in a space that varied between a yard and 48 inches high. My back was striped with long gashes. The safety visor on my helmet made a callus on my forehead.

A massive slab of rock crashed down on the miner. I was sitting behind the machine half asleep when Tom slammed it into reverse. I dragged the cable with my last bit of strength as he backed out. I was supposed to break up the rock on the machine with a sledge. How do you break a rock with a 6-inch clearance? Finally Tom grabbed the hammer and slammed it against the rock a few times, and it fell apart.

"You think you're gonna like the mines, buddy?" Tom asked me later. It was the third time I had been asked that question, always in the same laconic tone—that of a condemned man asking a new arrival how he thinks he'll like it. Tom is 32. He's been in the mines for 10 years. One day he pulled the previous operator off the machine after a rock had spilled his brains over the seat. Tom was in the seat the next day, and he's been there since. I asked him why he doesn't find some other work.

"Your lungs go after five years in this place. Nobody wants you after that. I just got my house sided. Where else can I make $12,000 a year?"

SEPTEMBER 27

This was my last night of the hoot-owl shift, 11 P.M. to 7 A.M. Before we went down, we met with the safety inspector. He said we knew mining was the most hazardous work in the U.S., but did we know that we were in one of the most dangerous mines in the entire country? No, I didn't know that.

On top of that, I was sent to the long wall, the most dangerous place in one of the most dangerous mines in the country.

The long wall is the main coal producer. It is about 470 feet long and four feet high, a bank of solid coal mined by a heavy cleated wheel the height of the seam. The wheel spins along the face of the seam and dumps the coal onto a pan line, a metal conveyor belt, behind it. The roof above the pan line is supported by a row of hydraulic jacks called chocks. About 150 chocks are connected by metal shafts to the pan line, and as the wheel mines the face, the chocks are rammed forward and the roof behind is left to collapse. I was sent to the tailgate, one end of the pan line, with a 20-year-old kid named Henry. His job was to blast off the end of the wall with dynamite so the wheel could move in to begin another pass.

Henry's lunch pail carried a sandwich and a bottle of Pepto Bismol. He has ulcers, hemorrhoids, nervous disorders and assorted other maladies. Almost all miners, especially the older ones, are a mess inside.

I had to kneel in a foot of icy water to shovel onto the pan line the coal Henry had dynamited off the wall. The coal had to be removed so that the chocks could push the tailgate forward on solid bottom. I helped Henry drill the holes and pack the dynamite. He estimated the amount of dynamite in a very off-hand manner.

He sent me about 30 yards down the pan line while he blasted one section. When I came back he was frantically digging through the debris. He had forgotten to move the lunch pails and the blast had buried them. Luckily, mine was intact, but his was blown apart, so he had no food or water for the rest of the night.

The machine that operates the big wheel breaks down often. Once while it was down I asked a new young fellow who was working with the chocks why the long wall was the most dangerous place in the mine. He said he didn't know. Later one of the advancing chocks closed over his foot and removed three toes.

My knees ache terribly. Strange thoughts flood my mind. I snap at my wife, spank the kids, beat the dog. When I got home this morning and was trying to stay awake long enough not to fall face first into the fried eggs, we talked it over.

"Why can't you take it?" Grada asked. "Everybody has to be broken in. There are 120,000 other men taking it."

"Everybody has been hurt. I don't want to be maimed. I get so tired I can't be careful."

"Well, what are we going to do? Three kids in a mobile home and a stack of bills kind of limit your upward mobility."

"I'll take a job sweeping streets. Anything.

"They're all out of work. Besides, you can't support a family on that. We barely get by on what you make now."

An accident list is posted every week on the bulletin board. After each is a notation by the safety inspector on how it might have been prevented. Recently two men were working on a power box moderating 12,000 volts. One of them tested it with a screwdriver. They are both in the hospital, one in serious condition in the Pittsburgh Burn Center. Suggestion: *Turn off current before working on power box.*

A rock fell on a man's hand and crushed it. *Test roof and sides before entering area.*

A kid that started with me had a finger smashed last night while they were throwing crib blocks, wood block six inches square and a yard long. *Better communication among workers.*

At first it was reassuring to see how many oldtimers looked uninjured. That was before the lunch-hour conversations, when I discovered that most of them have had broken backs, smashed bones and hundreds of narrow escapes. No wonder their stomachs are a mess. Bill, a face boss, told us about his buddy who was operating the Lee Norris miner when the power went off. He decided to use the time to change some of the bits on the digging heads. While he was at it, the power came back on. He had forgotten to shut off the machine. A bit caught his pant leg. It pulled him under and the machine ate him alive.

Another man was riding the belt at high speed. The belts run at 500 feet a minute when coal is loaded. They are supposed to be slowed to 250 feet a minute when supplies or men are on them, but a lot of people ignore that. Anyhow, there was a cave-in ahead that permitted the belt to pass, but not a rider. He slammed into it head first and was ground away.

And coal mines are safer than ever. It's so much better that the turnover rate is only 16 per cent a year in the four mines managed by my employer, and they are expanding the present 1,200-man work force by 22 percent a year.

OCTOBER 21

Last night some jerk ran over my hand with the pinner, a machine the size of a jeep used to drive bolts into the roof for additional support. Nothing was broken because my hand was on soft coal, but a patch of skin is missing. It was not so serious that I had to come out; it didn't bleed much. Later a small rock fell and hit me in the mouth—I was lucky again; no teeth were broken. How long can I get away with it? There are about 10 injuries a month among the 300 workers at this mine. Fatalities cause the most talk, but they obscure the other accidents that sever fingers or break bones. No wonder everybody seems to have ulcers.

I've watched the men in the hall when we wait for the shift to change. They know they'll be here six days a week, changing shifts every week, until their lungs go or they're seriously maimed. The best they can hope for is to reach pension age and collect $150 a month while wheezing with black lung.

The union guarantees us a rising income, but we don't know what to do with it. Snowmobiles, aluminum siding on the house, guns, boats—all that changes nothing. Still our lives are dominated by the pits, eight hours out of every 24, six days every week.

I had an easy shift working in the main shaft. Clem, the boss, stopped by with another old guy. They were kidding each other about how worthless they were to have spent their lives in the pits. They saw by my orange helmet that I was new, and had a lot of fun talking about how worthless I must be to have ended up in the mine. The old guy whose basket hangs next to mine in the dressing room bitches while we suit up about how company profits are up more than 100 per cent while we blacken our lungs and risk our lives. An old miner's life out of the pits is spent on a couch watching television and seeing all the things he'll never have. He can't figure out how he ended up in the pits when life was supposed to be fun.

OCTOBER 25

I worked with a kersey runner tonight. A kersey runner is a long, low electric jeep that pulls a cart loaded with supplies to the face, a trip of about 25 minutes. We made a few detours because Jim had noticed cracks along the roof in some sections.

We surprised a couple of rats in a crosscut, but they got away. Lunch pails have to be hung on props to keep them away from the rats. The kersey has a very bright headlight, and it cast sparkling reflections off the fungi that grow over the beams across the roof and the posts on the sides. The fungi grow in all colors and shades. Against the white walls and roof some of it was translucent. It was like riding into a glass paperweight with a fairyland inside.

Loading the kersey is hard work. Perhaps 60 bags of rock dust (50 lbs. each), six rails (about 500 lbs. each), six planks (awkward, full of splinters) must be loaded, but the ride is a rest. The machine has no shocks, and I had to keep my mouth open so I wouldn't crack a tooth.

I waited alone while Jim went ahead to discuss something with the boss in another section. The shaft was silent as a tomb. I sat on an oil can and played my light through the dripping fungi on the props and timbers. I began noticing shapes farther down the passage that seemed to float along the edge of the light and dissolve when I turned the light on them. They looked like classic ghost forms. Although they weren't threatening, it made me nervous to think I was hallucinating. I tried a few experiments, turning the lamp off, keeping it fixed on one spot—but in the end, I was convinced there are apparitions there. What the hell, we're disturbing an area several million years old. No telling what graves are desecrated. I didn't mention it to anyone in the interest of job security.

NOVEMBER 1

It was cold and dark at 5 A.M. The car barely started and my breath kept fogging the windshield. In the washhouse someone had stolen my helmet liner. Miners are the world's biggest thieves. I had to steal someone else's. After suiting up, still bleary-eyed, I went into the hall and looked at the list of accidents on the bulletin board. More smashed fingers, crushed limbs, strained backs. I looked around the hot, dusty hall at

the men staring vacantly around at the walls. I thought, Christ, six days a week down this hole to work in water under a bad roof, cold, changing shifts each week, all to move out of the trailer park into a house and buy a boat or a snowmobile. It occurred to me that these men have the same look I saw once in New York on a man who had just been hit by a car. He knew he was dying, but his face didn't show the pain. He just looked confused, as though he couldn't imagine what he had done to deserve it.

DECEMBER 8

When I went to work in the mine, my net pay was about $400 every two weeks. We work six days a week with Saturday time-and-a-half, and I claim four dependents. I haven't been able to work the full two-week period yet without taking at least one day off, usually during hoot owl after a night on the long wall.

We have moved into a 2-bedroom mobile home in a trailer camp inhabited by coal miners outside of town. Some own their trailers, but our situations are all fairly equal.

Our rent is $135 a month plus about $10 for fuel, $10 for cooking gas, $4 for garbage pick-up, $5 for cable TV (reception is impossible without it), about $10 for electricity and $6 for the telephone. Total $180. Add another $300 a month for food and $100 for other expenses, including gas for the 25-mile round trip to work, and our basic living costs $580. Actually, we spend about $800 a month, but I've never been able to find where the other money goes.

On Nov. 9 we went on strike, three days early, because of a procedural foul-up. We lost a paid holiday, a time-and-a-half Saturday and a Friday. This morning there was a union meeting.

The meeting was so crowded I had to wait to get into the long, low, green cinder block union hall. Past the sign reading No Fighting—Automatic Suspension, men on the wide stairs to the dance floor jostled to see inside. At the far end, three officers sat behind a table on a small stage. The dance floor was surrounded by tables and chairs. Every seat was taken.

"How come I never see you guys except when you wonder if you're goin' back to work?" said the local president. He was a tall, thin man with white hair and a plaid tie; he sat in the middle. He rapped the gavel and a few more men straggled in. It was hot and smoky. Curtains covered the glass brick windows and most of the light came from a few neon tubes across the ceiling.

Somebody suggested that men might show up more often if meetings were held in the afternoon instead of Sunday mornings. That brought a laugh. Even in the morning there is a constant flow to and from the bar near the dance floor.

After scolding us for not attending meetings and complaining about the loss of solidarity among the brothers, the local president talked about the contract. Our local had turned it down, 377, yes to 391, no.

Our local president was unhappy with the contract. He didn't think it was enough, although it amounts to a 50 per cent raise in wages and benefits over the next three years. The biggest gains were in benefits. The old contract paid $150 a month pension. Under the new contract pensions will go to at least $200 immediately and at least $300 a month to miners retiring in 1976 at the minimum age of 55 with 30 years in. What interested young miners most was wages, and they showed the smallest increases. An immediate 9 per cent raise the first year and 3 per cent in each of the next two years will boost the average daily wage from $45 in the old contract to $54 at the beginning of the third year of the new contract. I figure with overtime most miners around here will probably earn between $14,000 and $16,000 in the coming year. A cost-of-living allowance could add as much as $24 a week over the next three years, something the auto and steel industries have had all along.

Other benefits include five days' sick leave versus none in the old contract, three more paid holidays, for a total of 12, and a new $75-a-year clothing allowance.

I hung around after the meeting and had a few beers with some of the older men. Paul had raised eight kids during the hard years of the fifties and Harry, a squat, fast-talking old-timer, had returned to the mines two years ago after trying to make it as a salesman. Both men had close to 30 years underground.

"They talk about solidarity," Paul said. "Hell, we won't ever see that again. These kids don't remember hard times. They don't know what to do with their money."

He was slumped in his chair. Suddenly he became angry. "My kids make the same as I do, and I been there almost 30 years. We do the same work, but I made it easy for them. You know what I mean?"

"The Arabs did that," said Harry. "Now the brothers don't mean nothing to each other because with the union and the Arabs and the economy, nobody has to worry anymore."

We talked about football for a while and then just sat there and drank. Finally Paul said, "I'll tell you one thing. I never have to wear a watch now. I can tell you when it's two hours to quitting time right on the nose. My legs give out. They knot up behind the knees. One of these days there'll be a fire drill, and we'll have to walk out. I won't make it. It gets me worse every week."

Then word came in from the bar that there was no work. The construction workers and truckers hadn't settled yet, and we don't cross their picket lines. Christmas was around the corner and we had been out for a month with no income. No one knew when things would be settled and we would go back to work, but suddenly people were buying shots with their beers and a festive mood swept through the hall.

DECEMBER 21

Our district finally went back to work today, the last miners in the country to return. The construction workers have settled and the truckers have called a two-month moratorium.

On the way to work in a snowstorm, I slid my car into a tree. Total loss. I climbed into a pickup with three men going to the same mine and continued to work, then called the garage from the mine and had the car towed.

The superintendent held a short meeting before we went down. Take it easy, check every part of every machine before energizing; check the roof and sides; don't take chances. On the man trip now, we have icicles to dodge along with low rails. The icicles don't hurt, but if you aren't watching, the sharp crack against your helmet shakes you up.

I worked with a supply man. Every so often through the night his leg would cramp and he would howl and hop along the shaft. Most of us have put on weight and lost the muscle tone needed for low work. I ate lunch with a belt worker who said he had been battling rats in the old mechanic's shanty. "Poor little fellers had starved for six weeks," he said. "No wonder they were eager."

There is a bone-chilling bite in the wind that sweeps through the shaft that wasn't there when we went out on strike. It penetrates deep into my ears. After work, my head aches. At home I told Grada about the car and she cried.

DECEMBER 25

I borrowed an old car from a friend. It doesn't start very well, but it will work until I can find another $150 heap. I tried to explain to the kids that Christmas is a spirit within us, but I couldn't compete with the skill of Mad Ave. Still, it was a nice Christmas. Grada says if we have no more bad luck we can pay off our debts and save $500 by the end of March.

PRESIDENT FORD RECOGNIZES THE IMPORTANCE OF COAL IN MEETING ENERGY REQUIREMENTS—SENATOR RANDOLPH ENCOURAGED BY STATE OF THE UNION MESSAGE—HIS LETTER TO CHIEF EXECUTIVE EMPHASIZES NEED FOR POSITIVE AND PROMPT ENERGY PROGRAM

Mr. RANDOLPH. Mr. President, in his state of the Union message today President Ford placed highest priority on prompt action in the administration and by the Congress. His earnest appeal was characterized by a seriousness which was not present in statements made as recently as 1 month ago.

It is my conviction that the American people will respond to fair and equitable programs and that they have a right to expect executive and legislative leadership in solving the economic and energy problems which have weakened America.

I am encouraged by the emphasis placed on the development and use of coal by the President in his state of the Union message.

I am convinced that coal must be the cornerstone to our energy self-sufficiency. It is gratifying that the President now recognizes the vital need for the use of coal to fulfill the Nation's energy requirements.

It was my privilege to author legislation in 1973 for the conversion of powerplants from oil to coal and this measure became law in June of 1974. However, it has not been implemented by the administration. It is, therefore, reassuring that the President has now stressed the need for coal conversion and the increased production of coal.

I shall work to insure that these commitments, contained in the message, are implemented.

Mr. President, on yesterday, by hand delivered letter, I urged the President to undertake major initiatives to strengthen our national coal supply system. I ask unanimous consent that my communication be printed in the RECORD.

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

JANUARY 14, 1975.

Hon. GERALD R. FORD,
The President,
The White House.

DEAR MR. PRESIDENT: I fully support your efforts to formulate a definitive, aggressive, and comprehensive national energy program to cope with our country's economic and energy problems; however, I am disturbed over some of the options under consideration and the apparent lack of emphasis on initiatives to strengthen our national coal supply system. Your statement last night and press reports portray a Federal program that perpetuates present biases toward the preferential use of petroleum and natural gas over coal. The fallacy of such a national energy posture from both economic and national security perspectives has been cogently demonstrated in recent times.

The capability for the United States to approach energy self-sufficiency will not mate-

rialize solely from economic initiatives: indeed, under such policies, at present rates of growth in consumption, we can expect to experience continuing energy supply deficits at least on a regional basis. Therefore I would urge you to advocate greater regional energy supply independence, in addition to increased national energy self-sufficiency. Each region must bear an equitable share of the social, economic, and environmental implications of energy supply development and use. For example, promotion of the development of Western coal resources to satisfy Eastern energy demands, when regional alternatives such as Appalachian coal are available, is counter-productive to a national posture to foster energy conservation.

Present oil prices, without in position of a tariff on imported crude oil and petroleum prdoucts, place coal in a competitive position with oil even when environmental requirements also are met. The energy program you summarized emphasizes higher priced domestic petroleum supplies to reduce consumption in preference to increased coal production to satisfy existing energy demands. Reason dictates that if energy self-sufficiency is to be even approached, in the future coal—not oil—must serve as a cornerstone for a National Energy Policy. The United States has four times more energy available in domestic coal resources than the Middle East has in oil—one-half of the world's known coal reserves. This is enough to satisfy our energy needs for about 500 years.

At stake is the capability for coal to perform a greater role than previously envisioned in the United States energy supply system. Coal production is a complex, machine-oriented mining technology with attendant safety, engineering, and geological restrictions. As such, coal mining no longer lends itself to rapid expansion. New technologies must be developed from the mine-face to the point of end-use. Present coal supplies, however, are constrained by economic uncertainty and are thus producer or supply limited. This situation must now be reversed so that coal assumes a demand limited posture. Initiatives to foster this essential economic climate were not addressed in the summary of your energy program. The whole coal delivery system must be streamlined and upgraded; however, current programs focus attention only on utilization—where just a fraction of industry's problems can be seen.

Mr. President, I support your position on coal conversion but few national benefits will be realized if the coal delivery system is incapable of meeting the resultant increased demands. Under the Energy Supply and Environmental Coordination Act of 1974, the Federal Energy Administration now has authority to order the conversion of some oil and gas fired electric power plants and major industrial users to coal with minimum compromise of compliance schedules for clean air requirements. Thus I am disturbed by reports that additional authority will be sought to ease environmental rules, when this Act has yet to be implemented. National policies to protect public health, as contained in the Clean Air Act, must not be compromised although our country is faced with energy supply problems.

I am encouraged by your decision to support early enactment of surface mining legislation provided it is "more precise"; however, the Surface Mining Control and Reclamation Act of 1974 represented four years of deliberations by the Congress. In my judgment the measure achieved a reasoned and equitable balance between future needs for secure energy supplies and national concerns for environmental quality. The legislation set forth a definitive Federal policy governing the reclamation of surface mined lands, predicated on implementation by reasonable government officials.

As you stated, energy conservation must become integral to the American way of life; however, economic incentives alone will be insufficient. National interest requires that we optimize the efficient use of our nonrenewable resources—environmental as well as energy resources. Therefore, as I did publicly on September 27, 1974, I again urge you to proclaim a National Energy Conservation Crusade.

Reports of your support for strict thermal efficiency standards for all new construction as well as a 15 percent investment tax credit—up to $1,000—for homeowners who improve their homes by adding insulation and other energy savings devices is encouraging. During the 93d Congress the Federal Construction Energy Conservation Act of 1973, which I authored, was opposed by the Executive Branch. It is essential that the potential energy savings in buildings—some 40 percent for new construction and some 25 percent for existing facilities—be realized. I look forward to working with your Administration toward early enactment of appropriate legislation.

If the American people—industry, government, and the consumer alike—are to cope with the energy problems facing our country, it is requisite that the Executive and the Legislative branches of our government jointly formulate a comprehensive National Fuels and Energy Policy that fosters regional as well as national energy self-sufficiency. I so advocated by legislation in 1969 that this be done. The Administration opposed this plan.

At issue, Mr. President, is our capacity to work cooperatively toward simultaneous achievement of national environmental and energy goals—for both are now being jeopardized. The solutions will come hard; long-term policies for the reconciliation of energy and environmental interests will be difficult to formulate. Toward this end I pledge complete cooperation.

With personal and official esteem, I am,

Truly,

JENNINGS RANDOLPH,
Chairman.

SENATOR FROM NEW HAMPSHIRE—CREDENTIALS

The PRESIDING OFFICER. Pursuant to the previous order, the Senator from Michigan (Mr. GRIFFIN) is recognized for not to exceed 20 minutes.

Mr. GRIFFIN. Mr. President, the Senate turns now to the question of the seating of a Senator from New Hampshire, following the election on November 5.

The issue before the Senate, I suggest, is a simple issue, and it should not be difficult to decide. As Senators consider the question, I think they should ask themselves what would be the result if Mr. Durkin instead of Mr. Wyman had ended up two votes ahead and if Mr. Durkin instead of Mr. Wyman had the duly issued certificate of election from the authorities of the State of New Hampshire.

I hope and trust that partisan considerations will not determine the judgment of the Senate on this issue. I do not think I am naive; I hope not. I still have confidence that Senators will vote this matter in an objective light, that they will put the institutional interests of the Senate ahead of any short-term, partisan political advantage.

Mr. President, the credentials of only one Senator-elect are before the U.S. Senate. Accordingly, there are not two sets, as the motion of the distinguished majority leader suggests, to refer to the Committee on Rules and Administration. If there were two sets of credentials of equal standing before the Senate, we would indeed have a different question to decide. But there is only one outstanding certificate of election, issued by the duly-constituted authorities of the State of New Hampshire, and that was issued to Louis C. Wyman. His election was confirmed unanimously by the bipartisan New Hampshire Ballot Law Commission, following an exacting and exhaustive recount procedure in accordance with the statutes of that sovereign State.

It would be ludicrous, I think, to argue that Mr. Durkin has presented credentials of election entitling him to be seated in the U.S. Senate. Indeed, it is interesting and revealing, I suggest, that no one is moving that Mr. Durkin should be seated. I think that would be ridiculous on its face.

No, the best the supporters dare to do for Mr. Durkin is to move that neither be seated; and this implicitly acknowledges the weakness and inadequacy of Mr. Durkin's position. But, Mr. President, it unfairly fails to recognize the validity of the credentials of Mr. Wyman and his entitlement to be seated, at least provisionally, to represent the people of the State of New Hampshire, if the Senate wishes to refer the contest to the Committee on Rules and Administration.

Consider carefully these facts. As a result of the official canvass of votes cast in the November 5 election for U.S. Senator, Louis Wyman was declared the winner by a plurality of 355 votes. As is widely known, Mr. Durkin then exercised his right, as the loser, to call for a recount. Under New Hampshire statutes, the recount is a two-tier proceeding. First, there is a re-tally of ballots by the Secretary of State; second, if appeal is taken, protested ballots are then reviewed by a bipartisan Ballot Law Commission.

At the end of the first stage of the recount proceeding, the New Hampshire Secretary of State declared Mr. Durkin to be ahead by 10 votes. Thereupon, the Governor and Counsel of the State of New Hampshire prematurely issued a certificate of election to Mr. Durkin on November 27. An accompanying resolution which authorized the so-called Durkin certificate of election specifically recited that it was subject to rights of appeal to the Ballot Law Commission.

Thereafter, after Mr. Wyman did exercise his right of appeal to the Ballot Law Commission, and after it had been clearly shown that certain ballots which should have been recounted had not actually been recounted by the Secretary of State, the Governor and Council of New Hampshire, on December 5, executed a document rescinding the certificate earlier issued to Mr. Durkin. A copy of that document was forwarded to and received by the Secretary of the Senate, and, on yesterday, it was read to the Senate.

Particularly in view of the fact that there had been no intervening action of any kind by the Senate, there surely could be no doubt that the same authorities of New Hampshire which issued the

Durkin certificate in the first instance could legally and did in fact revoke and rescind the so-called certificate.

Furthermore, Mr. President, I think that it is particularly noteworthy that Mr. Durkin himself recognized that the certificate upon which he now seeks to be seated had in fact been revoked. On December 4, he filed a petition in the Federal court asking that no one be allowed to change the certificate and asking the Federal court to order the Governor and Council to reissue the revoked certificate.

A three-judge Federal court, two of whom, incidentally, are acknowledged to be Democrats, unanimously held that Mr. Durkin was not entitled to the relief he sought.

The decision of that three-judge Federal court, I think is very significant. I should like to read from it.

The court said in part:

We are satisfied that the statutory proceedings in progress before the Ballot Law Commission are an integral part of the New Hampshire electoral process and are within the ambit of the broad powers delegated to the state by Article I, Section 4.

At another point, the court said:

We find no encroachment upon the Senate's power and no occasion to enjoin or otherwise interfere with the proceedings before the New Hampshire Ballot Law Commission.

The court said at still another point:

We turn next to the plaintiff's request—

That is Mr. Durkin's request—

that we order the Governor and Council to reissue to him the certicate that they later revoked.

I wish to state that again. This is a three-judge Federal court, two of whom are Democrats, in their opinion acknowledging, as Mr. Durkin acknowledged, that the certificate presented to the Senate had been revoked.

Turning to the plaintiff's request that the court order the Governor and council to reissue the certificate that they had revoked, the court said:

It would make little sense to order issuance of a certificate which can at most have meaning only after the Ballot Law Commission completes its work.

This court proceeding took place and its opinion was handed down in the course of the recount proceeding and before the ballot law commission had completed its work. So the court was acknowledging and deciding that the only time that a valid certificate of election could be issued under New Hampshire law was at the conclusion of the ballot law proceedings, if appeal were taken to the ballot law commission, as it was by Mr. Wyman.

In light of that decision by the three-judge Federal court which Mr. Durkin did not appeal, and in light of Mr. Durkin's own recognition, by bringing the suit, that his certificate had been revoked, it is very hard to understand how anyone could contend now that Mr. Durkin has presented credentials to the U.S. Senate which are worthy of consideration.

Furthermore, Mr. President, Senators have received from Robert L. Stark, secretary of state of the State of New Hampshire, a telegram which reads as follows:

Respectfully advise that Senator-elect Wyman holds the only certificate of election issued by the State of New Hampshire pursuant to state law which has been upheld by a three-judge Federal court.

That is a telegram that the secretary of state of the State of New Hampshire has sent within recent days, not only to the junior Senator from Michigan, but to other Senators as well.

What further evidence or argument can possibly be required to establish that Mr. Durkin has no credentials and that Mr. Wyman does have valid credentials, the only certificate of election outstanding, issued by the duly constituted officials of the sovereign State of New Hampshire.

Mr. President, may I ask how much time remains of the time allotted to me?

The PRESIDING OFFICER. The Senator has 6 minutes plus.

Mr. GRIFFIN. I thank the Chair.

One of the questions that naturally arises, I suppose, is the question of the processes in the State of New Hampshire, how the recount was conducted, what kind of people were involved. And particularly, I think, the question probably focuses on the three-man ballot law commission which reviewed some 400 ballots and ended up declaring unanimously that Mr. Wyman had won the election by a two-vote margin. Indeed, as I understand it, the ballot law commission determined that Mr. Wyman having won, even though by two votes, a number of other questions were not necessary to be reviewed.

The chairman of the ballot law commission was a Mr. Snow, an attorney from Concord, N.H., who testified that until the recount proceedings began, he had never before in his life met Mr. Louis Wyman.

A second member of the three-man ballot commission was Mr. Rudman, the duly elected attorney general of the State of New Hampshire, a distinguished lawyer and public servant who happens to be the president of the National Association of Attorneys General in the United States. The third member of the three-member bipartisan Ballot Law Commission was Mr. Crowley, a retired naval officer, who in 1970 and in 1972 was a candidate of the Democratic Party for Governor of the State of New Hampshire and the titular head of the Democratic Party in the State of New Hampshire.

These proceedings were viewed and observed, I think it should be noted, not only by the press and the public, but by official observers representing the Senate. The majority counsel of the Privileges and Elections Subcommittee and the minority counsel of the Privileges and Elections Subcommittee went to New Hampshire and personally observed almost all of the recount proceedings.

At various times, on specific judgment calls, the ballot law commission divided, sometimes voting 2-to-1 one way or 2-to-1 another way. They were not unanimous in every decision made. But when their part of the proceedings was completed, the three-member bipartisan Ballot Law Commission decided unanimously that Mr. Wyman had won the election. And then, under the laws of the State of New Hampshire, a certificate of election was properly issued by the Governor and council of that State. That certificate, now before the Senate, is the only outstanding certificate issued by the officials in the State of New Hampshire.

Mr. President, I know that the Senate does not always follow precedent. We sometimes take the rulings of the Chair on questions rather lightly—too lightly, I think. We sometimes appeal from the rulings of the Chair, and we sometimes overturn precedents without a great deal of consideration or thought.

I have been interested, in studying this case and looking back into the precedents of the Senate in contested election situations, to find that the Senate, over the years, has been a little bit more considerate of precedents particularly in contested election cases. There have been some exceptions, but I think the Senate has tended to bow to follow precedent, recognizing the human temptations that otherwise are upon us to exercise, perhaps, our judgment only on a partisan political basis.

There has been no fraud alleged in this case. There has been no fraud shown in this case. No corruption, no illegality, is charged or shown. The only thing that is charged in this case is that the election was close. That is all. It was a close election, and therefore, because it was close, some contend that the Senate should substitute its judgment for the judgment of the duly constituted officials of the State of New Hampshire.

That would be a very, very dangerous precedent to establish. If we are going to do it in the case of a 2-vote margin, what about a 20-vote margin? What about a 30-vote margin? What about a 200-vote margin? Where are we going to draw the line?

Reviewing the election itself is certainly within the power and the authority of the Senate under the Constitution, this Senator would not contend that it is not. What is unprecedented, Mr. President, is not to seat, at least provisionally——

The PRESIDING OFFICER. The Senator's time has expired.

Mr. ROBERT C. BYRD. Mr. President, apparently the Senate is not troubled with the problem of time today. I ask unanimous consent that the Senator from Michigan may proceed for not to exceed an additional 20 minutes.

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

Mr. ROBERT C. BYRD. I call attention to the fact that a quorum should have been called before the Senator began to speak, because the staff members of the Committee on Rules and Administration were alerted that there would be a quorum call, and they could come to the floor, and some of them are not here, apparently awaiting that quorum call.

Mr. GRIFFIN. Does the Senator wish——

Mr. ROBERT C. BYRD. I wish to have no interruption of the record.

Mr. GRIFFIN. Does the Senator wish to have a quorum call at this time?

Mr. ROBERT C. BYRD. I have been informed and understand now that the reason why Mr. Duffy is not here is because he will soon be passing out cigars.

Mr. GRIFFIN. I see.

Mr. ROBERT C. BYRD. In commemoration of a very important and blessed event.

Mr. GRIFFIN. Mr. President, I was saying that while there is no question that the Senate, under the Constitution, is the judge of the election of its Members, what would be unprecedented would be for the U.S. Senate to refuse to seat, at least provisionally, a Senator-elect who presents a valid certificate from his State, merely because it was a close election.

Mr. President, it is not only unprecedented, it would set a new precedent which, I think, we would all live to regret.

What has happened to States' rights? Have they completely disappeared? Are they completely gone?

Here is a sovereign State. The people of that State, under the 17th amendment, have a constitutional right also. They have a right to elect and be represented by a Senator in the U.S. Senate. They cast their ballots. The officials of the State of New Hampshire counted them. They recounted them under the statutes of the State of New Hampshire.

They certified and sent to the Senate the credentials of Senator-elect Wyman. There is no allegation of fraud, no allegation of corruption, no allegation of illegality, and yet it is suggested that this Senator-elect should stand aside and not be seated even provisionally. I cannot believe that the Senate is going to make that kind of a decision. I have more confidence in the Senate of the United States than that.

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

Mr. GRIFFIN. Yes, I would be glad to yield to the distinguished Senator from Arizona.

Mr. GOLDWATER. Mr. President, I too share the discomfort of the minority whip when we think that the majority can upset the will of any of our States.

Now, I will address this question to my friend the Senator from Michigan: If the Democrat majority, a substantial majority in this body today, that has a fair chance of remaining substantial in the years ahead, can upset the will of the people of New Hampshire because of a two-vote difference, is there anything to prevent them from upsetting the will, say, of the State of Michigan because there is a 50,000-vote difference?

Mr. GRIFFIN. Well, I think that I would answer the distinguished Senator's question in this way: I suppose theoretically what the Senator suggests could happen, and that the only check would be some check that the U.S. Supreme Court might provide. And would it not be unfortunate indeed if the Senate on a partisan political basis should create a situation where due process and the rights of the people of a State have been denied so flagrantly and arbitrarily as to open the door to the Supreme Court to inject itself again, as it did in another case not too long ago, in terms of the decisions made by a House of this Congress? I think that would be a very sad thing. I do not know what the Supreme Court would do, but obviously there are conflicts that arise in terms of constitutional rights if the Senate should arbitrarily proceed along the course as the Senator from Arizona has said it could possibly follow.

I think that Senators need to keep in mind not only the provision of the Constitution that says the Senate shall be the judge of the election returns of its Members. Of course, that is in the Constitution, but there are some other provisions in the Constitution that also must be observed.

There is the due process provision. It is not just Mr. Durkin who is entitled to due process in the State of New Hampshire and in the U.S. Senate, but Mr. Wyman is entitled to due process and the people of New Hampshire are entitled to due process. The 17th amendment guarantees them the right, not the Senate, to elect and be represented by a Senator in the U.S. Senate.

Mr. GOLDWATER. I join my friend from Michigan in saying that I cannot possibly believe that the Democrat majority would ever sink to that low level, I just cannot accept that as a fact, so I will make no changes unless they are foolish enough to do it. I cannot believe that any party in this country would ever so disrupt the intent of the Constitution as to go through with what we suspicion they might go through. I hope it is only a suspicion. But I think the gentlemen, both gentlemen from New Hampshire, are entitled to procedures by this body, whatever they might be. I have never, in my experience, known of a man to come to this body with a certificate of election that was not honored by this body. I have known some very close elections, very close friends of mine who have won seats in this Senate, with less than 100 votes and nobody ever dared to stand up and say "We can deny this man a seat because it is the power of the Senate to do it. We will recognize that." But I might suggest that it is the intent of that power of the Senate to judge the Members not upon the vote by the people in the State they represent, but by charges that might be leveled against them at which time it becomes the responsibility of the proper committees and subcommittees of the Senate to investigate these charges, at which time the Senator can be denied his seat or admitted to a seat, and this has happened in the experience of many of us in this body.

So I join my friend the Senator from Michigan in praying that the majority does not abuse the majority privileges to the end that we destroy a little more of the constitutional government we have lived under. We have destroyed a lot of that in the last 40 or 50 years, and one more step is about all we can stand.

Mr. GRIFFIN. The Senator from Arizona was referring to the fact that there had been other close elections in the history of the Senate and, indeed, there have been. I seem to recall, for example, the Senator from the State of Texas was elected by the landslide margin of 88 votes, and later became the President of the United States.

Mr. TOWER. Will the Senator yield? Actually, it was 87 votes.

Mr. GRIFFIN. Eighty-seven.

Mr. TOWER. I think in terms of percentages it probably equals out to a two-vote margin in New Hampshire, and I might note that that gentleman was not only seated but elected majority leader of the U.S. Senate before he was elected Vice President and he gave up his seat.

Mr. GRIFFIN. And the Senate did not review that election despite the fact it was close, which is a very good precedent which I think ought to be duly noted.

I yield to the distinguished Republican leader.

Mr. HUGH SCOTT. The Supreme Court was invoked then, and a Justice of the Supreme Court participated, in an action which led to the inability of anybody else to pursue the action in the Texas case.

Now, I have heard it said that you can not get this case into the Supreme Court, I have heard it said it is not justiciable and if it goes there the judgment is not enforceable.

I would like to point out that there is more than one section of the Constitution, and will the Senator comment on what I am about to say, that namely, while there is a provision that each House shall be the judge of the qualifications of its own Members, there is the most sacred guarantee of all in the entire Constitution, stemming all the way back from Magna Carta, of due process. If the Senate could deny a Senator's seat because he won by two votes, it could deny his seat if he won by 2,000 or 200,000. Therefore, if the Senate ignores the decision of the Governor and officials of the sovereign State of New Hampshire, if the Senate ignores the action of a one-judge and finally a three-judge Federal court, if the Senate ignores all of these things and seeks to substitute its judgment for the judgment of the people and the officials of the sovereign State of New Hampshire, then it seems to me that the person who loses this verdict here could go to the courts and end up in the Supreme Court on the prime issue of lack of observation of due process. If that is the case, does the Senate want the Supreme Court interfering into its decisions?

The only way they can avoid that, as I see it, is to do justice and to see that justice is done. Is that not a fact?

Mr. GRIFFIN. I certainly agree with the distinguished minority leader, and I appreciate his contribution very much.

Mr. HUGH SCOTT. I would like to suggest a way by which, if the Senate were, one might say, evilly disposed toward one candidate—and I mean evilly disposed in the strict legal sense of the word there, with malice prepense, were to decide, determined to decide, this case adversely to the Senator with the certificate, they could do it by saying, "Well, there are some ballots there, that the ballot law commission acted upon, but

we do not know whether they know how to define what is a valid ballot or what is not. We will count the 400 ballots and they will find a few where there might be a judgmental issue according to your partisanship, of which none of us is entirely free, and they could count them for one candidate or another," and then a 2-vote majority on one side is overtly switched to a 12-vote or—I am trying to guess the result—12 or 13 or an 18-vote majority on the other, and let us see how close I come, and then the committee would come to the Senate floor and say, "Well, we have done our duty. We have deprived a Senator for the first time in the history of the Senate of his seat. But we did it legally and the Supreme Court cannot do anything about it because we are the sole judge of the qualifications of our own Members."

I say that shocks the conscience. I cannot believe that the Senate would do it, I cannot believe that the Rules Committee would do it. Yet I have to raise these questions because we have already been sufficiently shocked to see that for the first time in the long history of this honored body, the Senate has turned its back on the certificate of the Governor of a sovereign State and said in this case, "We will not honor that certificate," although in the case immediately before that in the same committee they said, being presented with the only valid certificate in that case as well, "We will seat the Senator who holds the certificate," as, indeed, they should have done.

Mr. GRIFFIN. May I urge the minority leader not to assume the Senate has already decided not to seat Mr. Wyman.

Mr. HUGH SCOTT. Oh, no.

Mr. GRIFFIN. There will be a motion presented to give the Senate the opportunity to do that. They have not yet refused to do it, and I fervently hope and trust and pray that they are going to support and adopt a motion that will allow him to be seated, at least provisionally, while the Rules Committee looks into the matter.

Mr. HUGH SCOTT. The Senator is quite right. I was merely addressing myself to the distinguished Senator from Arizona (Mr. GOLDWATER), and these are lively fears. But I was also making the point that I support the motion of the Senator from Michigan that there really is nothing before the Senate except the question, does Senator Wyman have a valid legal certificate? The answer is, yes, he does.

Therefore, if murder is to be done, I want the murder to be performed in such an open fashion as to shock the conscience of the Senate, the Congress, the people of New Hampshire and the people of the country. Then we will take that issue in the next election to the people of this country and see whether or not professions of honor and professions of fairness—which I expect to be adhered to and I pray will be adhered to—will be the future course of conduct of the most powerful body in the world.

Mr. GRIFFIN. I yield now to the Senator from Virginia.

Mr. WILLIAM L. SCOTT. Mr. President, I would like to join with the distinguished minority whip in the comments that he is making, and commend him on his efforts to see that a certificate of election from a sovereign State is honored and respected by this body.

But listening to the Senator from Pennsylvania and his comments about the results of partisan show on behalf of our Democratic colleagues calls to mind a personal experience that helped me get elected to the Congress in the first instance.

I was elected to the Senate of Virginia, 1 year before I was elected to Congress, by a majority of 35 votes on election day. Well, that just did not happen to be enough for a Republican in Virginia at that time, so we had a recount of the votes.

Six and one-half weeks later—they had been in the custody of the Democratic Party during the interim and I am not suggesting that there was any unfairness in either the first count or the second count, but some believe the same ballots were not counted on both occasions.

So the next year I was elected to the House of Representatives.

I would hope that an error like this might not be repeated in this body this year.

A certificate of election has been issued, a valid certificate of election, and only one valid certificate of election is before us. I would hope it would be honored.

Mr. GRIFFIN. In this case, of course, Mr. Wyman was not only elected on election day, there was a recount proceeding involving two stages and at the end of the recount proceeding he was still the winner, although by a smaller margin.

Now, what I take it is being asked for the Senate to do, without any allegation, suggestion, or showing of fraud, corruption, or illegality, is that the Senate should recount the recount in some fashion.

Mr. McCLURE. Will the Senator from Michigan yield?

Mr. GRIFFIN. I am glad to yield to the Senator.

Mr. McCLURE. Would it not be correct in stating that at least one basic fact can be agreed upon within this body: that there is only one final action of the State of New Hampshire evidenced by their certificate of election here today, that is this final action after the ballot commission had ruled in effect saying that Louis Wyman won the election even though by a very narrow margin?

Mr. GRIFFIN. I would agree, that certainly should be clear on the face of the record that is before the Senate.

The PRESIDING OFFICER. The Senator from Michigan's time has expired.

Mr. ROBERT C. BYRD. I yield the Senator 5 minutes.

Mr. GRIFFIN. I thank the Senator.

I think it might be acknowledged in passing that in some earlier days following the Civil War when States were being reorganized within the Union and there were questions about which body of men were the duly constituted legislature at the time, or duly constituted officials at the time, there have been a couple of situations where two certificates issued by different authorities were before the Senate at the same time.

But let it be recognized that in this instance the same authorities, the same Governor, the same Council that prematurely issued the so-called Durkin certificate in the first instance, without any intervening action on the part of the Senate, officially revoked and rescinded that certificate, the document of rescission being a part of the records before the Senate. Then the same authority, the same Governor, the same Council, in accordance with the laws of the State of New Hampshire, issued the certificate to Mr. Wyman, which is the only outstanding certificate of election from the authorities of the State of New Hampshire before the Senate.

Mr. McCLURE. And do not the documents also indicate that the actions by the State of New Hampshire officials were questioned and challenged in the Federal courts?

Mr. GRIFFIN. That is correct.

Mr. McCLURE. And the Federal courts in each instance preserved to the State officials the authority to act under State law, to do precisely what they have done in the final certification as it happens in favor of——

Mr. GRIFFIN. Indeed, by bringing the suit in Federal court, Mr. Durkin himself acknowledged that a certificate had been revoked and he called upon the Federal court to require the Governor to reinstate him, which the Federal court refused to do.

Mr. McCLURE. So if that be the case, then the only real question before the Senate is whether or not that action of the State officials is supported by the factual evidence which was before them in the various proceedings and petitions which were filed before the appropriate State officials?

Mr. GRIFFIN. I thank the Senator, and that is correct.

Mr. President, I conclude my remarks by saying again that I have not given up hope. I do not share the view of cynics that this is going to be decided on a partisan basis. I still believe and trust in the decency, the integrity, the honor of this great body, and I am confident that the decision will be made on the basis of what is going to be just and what is going to be right and in accordance with the kind of precedents we want to follow in the future.

The PRESIDING OFFICER. The Senator from West Virginia is recognized for 15 minutes.

Mr. ROBERT C. BYRD. Mr. President, I would ask the distinguished Republican whip whether or not he intends to reintroduce his motion as a substitute to the Mansfield motion?

Mr. GRIFFIN. My response to the distinguished majority whip is that I do plan to do that, yes.

Mr. ROBERT C. BYRD. Would the Senator indicate when he plans to do that?

Mr. GRIFFIN. At an appropriate time when Senators on both sides feel, I believe, that adequate time has been al-

lowed to fully debate and discuss this very, very important question. At some point then I would renew my motion and expect to give the Senate an opportunity to seat Mr. Wyman provisionally, with the reference of the contest to the Committee on Rules and Administration for its consideration and recommendation.

Mr. ROBERT C. BYRD. Why does not the Senator introduce his motion now? That would not shut off debate. Senators could debate that motion. Senators could then have both motions before the Senate to which to address their remarks.

Mr. GRIFFIN. I would respectfully say to the distinguished majority whip that the only reservation that I would have about it at the present time is that it might possibly be made the subject of a motion to table by some Senator. I would hope not. But I do not think that this question, which would be presented by my motion, should be decided on a tabling motion. Perhaps I should not have those concerns, but, in any event, the Senator from Michigan is protected in a parliamentary way at least by not making the motion at this point.

Mr. ROBERT C. BYRD. The Senator from Michigan is not thereby protected. I could introduce the same motion myself and then move to table it.

Mr. GRIFFIN. Of course, I am sure the Senator from West Virginia would not do that.

Mr. ROBERT C. BYRD. I am not so sure.

May I say to the distinguished Senator, I did not say that facetiously. I am a little bit put out by all of this talk about the need for due process, when somebody is apparently stalling around here. Why do we not have a vote? I am willing to vote today, within 5 minutes from now, on the Senator's motion, if he will offer it, and I am willing to enter into an agreement that no tabling motion be in order with respect to a motion by the distinguished Senator from Michigan to the effect that the claimant from New Hampshire, Mr. Wyman, be allowed to take his seat without prejudice. We could have voted on that motion yesterday. The Senator from Michigan introduced such a motion yesterday as a substitute for the Mansfield motion. Today he exercised his right and withdrew that motion. Why do we not vote? I have heard so much this afternoon about the need for due process for Mr. Wyman, for Mr. Durkin, and for the people of New Hampshire. It seems to me that expeditious action by this Senate on one or the other or both of these motions is the best way to assure due process to all parties.

What is the holdup? I am perfectly willing to offer the motion to have Mr. Wyman seated without prejudice to Mr. Durkin, and move immediately to table my own motion and get a vote soon. If the Senator hesitates to offer the motion, why not vote today on the Mansfield motion if we want due process?

I think there is a little something going on here. Why not enter into a unanimous-consent agreement now for a time limitation on this motion by Mr. MANSFIELD, and a motion by Mr. GRIFFIN as a substitute, and vote at the end of that time? That is about the best way to indicate to this country that we want to do due process to these two claimants.

I hear that someone on the other side does not want to vote on this matter until tomorrow. Why delay? It is perfectly all right with me if the Senate wishes to reject the Mansfield motion. It is perfectly all right with me, if it is the will of this Senate, to seat Mr. Wyman without prejudice to Mr. Durkin. I will not vote for that, but if that is the will of the Senate, then that is the will of the Senate. Let us get it over with.

I will not yield the floor until I complete my statement, at which time I will ask if we can get a unanimous-consent agreement on this matter. I will also withhold my right—and I alert all Senators to the fact that I may utilize my right—to offer a motion to seat Mr. Wyman, with Mr. Durkin's rights reserved, and then move to table my own motion.

Mr. PASTORE. Will the Senator yield for an observation without losing the right to the floor?

Mr. ROBERT C. BYRD. Yes.

Mr. PASTORE. I would hope that we would begin to expect a little bit of confidence, respect, and fairness among ourselves without regard to politics in this particular case. I have known Mr. Wyman now for a long time. I have had the honor to participate with him in several conferences between the House and the Senate. I always found him to be a fair man. I hardly think Mr. Wyman wants to take his seat unless the people of New Hampshire elected him to the office. On the other hand, Mr. Wyman may rest assured that I doubt that there is any Democrat on this side who would have the audacity of seating Mr. Durkin unless he legitimately won the election.

I think the question here is expedition if we would only get down to doing what we have to do under our responsibility under the Constitution, because we do have before us two certificates of election. It is true that the second petition sought to rescind the previous petition, but the fact still remains that the Governor or the State did declare Mr. Durkin the winner. After that there was an appeal taken, as I understand it, to a ballot review board that reviewed it and gave the victory to Mr. Wyman by two votes. This is a very extraordinary situation. We did not invoke this procedure with reference to the Bellmon situation. We recognized there that Mr. BELLMON should have been seated without prejudice, and we did it. As a matter of fact, we had no particular reason to favor Mr. BELLMON over Mr. Wyman. But Mr. Wyman does present a very sensitive situation that really gnaws at the soul, the integrity, and the prestige of the Senate of the United States, because if we become partisan, if we become political, and we begin to stack this side of the Senate which somebody who did not win the election by the free choice of his people, then I do not want to be any part of my party, and I do not want to be any part of the Senate.

I say that if Mr. Durkin did not win it, then we should stand up and say, "You did not win it" and seat Mr. Wyman.

On the other hand, if Mr. Wyman did not win it, I think we owe it to Mr. Durkin, I think we owe it to the people of New Hampshire, and we owe it to this Senate to declare the facts exactly the way they are. That is all this amounts to.

The sooner we get down to the business the better. I understand there are 400 votes that are in controversy. Out of the 400 votes, I understand that only about 50 are very sensitive. That job is only going to take maybe a day or it might take a week; it might take 10 days. But it strikes me that we should get down to getting ourselves to understand what the situation is.

The Senator from Michigan, who is a dear friend of mine and I have the deepest respect for him, said today:

> I wonder what the Democrats would have done if Mr. Durkin was in the position of the two votes.

I say to him, I wonder what he would have done if he were the majority leader and it went the other way.

But that is not the question. The question is the integrity of the Senate. The question here is the responsibilities of the Senate. I want to say that I will disown my friendship with any member of the Democratic Party who has the privilege of sitting in the Senate of the United States if they pull a fast one on Mr. Wyman. I do not think they are prepared to do it.

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

Mr. ROBERT C. BYRD. Mr. President, I have the floor.

Mr. GRIFFIN. Mr. President, will the Senator allow me to engage in a colloquy with the Senator from Rhode Island?

Mr. PASTORE. I would love it.

[Laughter.]

Mr. ROBERT C. BYRD. Mr. President, I have not proceeded to state the case in this matter yet.

The PRESIDING OFFICER. The occupants of the gallery are here as guests of the Senate. The rules of the Senate expressly prohibit any demonstration of approval or disapproval on the part of the occupants of the gallery. The Senate would appreciate it if the visitors in the gallery would not express approval or disapproval.

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

The PRESIDING OFFICER. The Senator from West Virginia has 10 minutes.

Mr. ROBERT C. BYRD. I yield to the distinguished Senator from Rhode Island (Mr. PASTORE) such time within my 10 minutes as he may require, in order to answer the questions of the distinguished Senator from Michigan, without losing my right to the floor.

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

Mr. GRIFFIN. Mr. President, I commend the distinguished Senator from Rhode Island. He is appealing for fairness and nonpartisanship. I join him in the hope that all of us will view this matter in a nonpartisan, objective way

and that it will not be decided on a partisan basis.

In order to help assure that that will be the case, we should take enough time to be fully familiar with this very complex case and the record of the hearings, which was just made available yesterday. There is no desire here for inordinate delay. I know that the Senator from Rhode Island would agree with this—because he is a former Governor of a great State—that it would be a very dangerous precedent if the Senate should, by a majority vote, refuse to seat, even provisionally, a Senator-elect who has been certified by the Governor of his State after an election, in accordance with the laws of that State, without any charge of fraud, corruption, or illegality, but only because the result was close.

Mr. PASTORE. Oh, no, no, no, that is not it. That is not it at all. We have a situation here where there was a previous certification that Durkin had won it by 10 votes.

Mr. GRIFFIN. Which the Governor revoked.

Mr. PASTORE. I know, but he is a Republican.

[Laughter.]

I am saying here that we intend to be a little fairer in the Senate of the United States. We are presented with two certificates.

Let me ask this of the Senator from Michigan: What if the shoe were on the other foot and he were standing here like the Senator from West Virginia and he had the majority that was Republican and they had certified a Democrat by two votes? What would the Senator from Michigan be doing?

Mr. GRIFFIN. I hope I would follow the action that I am recommending to the Senate in this case.

Mr. PASTORE. I hope the Senator would but I doubt it.

Let me say this to the Senator from Michigan: He says that he wants a study of the hearing. Then, what is his desire on setting the vote? The longer he waits, the longer Mr. Wyman is going to be off the payroll if he won, and the longer the Senator from Michigan waits, the longer Mr. Durkin is going to be off the payroll if he won. Why does the Senator not say when he would like to have a vote on this matter? If he wants it next month, it is all right with me, but let us have a vote, and we will have to get along with 99 Members, and I think the country will survive.

Mr. GRIFFIN. I thank the Senator from West Virginia.

Mr. PASTORE. I thank the Senator from Michigan and I thank the Senator from West Virginia.

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

Mr. ROBERT C. BYRD. I yield, without losing my right to the floor.

Mr. CANNON. Mr. President, the distinguished Senator from Michigan has said several times that there is no precedent where there has been no allegation of fraud, corruption, or illegality. There are precedents for not seating a man who has been certified by the Governor, whether it has been based on those charges or others. So it is not a case of there not being any precedent for having both of the parties step aside in this instance.

I simply point out to the Senator that under the New Hampshire law, the review contemplated after an appearance before the ballot law commission is then an appeal to the appropriate legislative body, and that is substantiated by the petition of Dondero, a New Hampshire case, which was referred to in a very recent case, in the State of New Hampshire, on this very point—the case of Wyman versus Durkin, Robert L. Stark, secretary of state, and Carmen C. Chimento, on January 6 of this year.

So the appeal, the petition, from the ballot law commission is to this body, which has the constitutional responsibility to make a determination.

The Senator has said there is no allegation of fraud or corruption. There is an allegation of miscounting of ballots. That is in the petition we have before us. If we are going to say that we cannot do it because no fraud was alleged, all one has to do is not allege fraud and just say ballots were counted for another man that should have been counted for him, and you have no case. You have to allege fraud, according to the Senator's statement.

This is part of the petition before the Senate: that the New Hampshire Ballot Law Commission erred in overruling the Secretary of State and increasing Wyman's votes or decreasing Durkin's votes on at least 40 ballots. That is an allegation of error that it is up to us to review and determine.

In addition, the ballot law commission erred in failing to count at least 20 votes for Durkin which he was entitled to and erred in counting at least 20 votes for Wyman which he was not entitled to.

Either of those allegations would change the result of the vote that is before us by a two-vote margin.

Another one: in making the errors described in parargaphs (a) and (b), the ballot law commission ignored or failed properly to follow the established principle that, wherever possible, the intent of the voter should be determined from the surrounding circumstances.

That always has been the principle followed by this body in contested elections, to determine the intent of the voter and give weight to the voter's intent wherever possible. This is all we are trying to do here.

I submit to the Senator that the Senator from Michigan is simply saying that because there is no allegation of fraud, we should go ahead and seat the other gentleman and not proceed as the distinguished majority leader has suggested, because there is clearly an error, a mistake of a miscounting of the votes, and it is clear that if that charge is true, the result would be different here. That is what we have to determine.

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

Mr. CANNON. I do not have the floor. The distinugished Senator from West Virginia yielded to me for these comments.

I would say that I completely agree with him. We would like to get on with our work. This is vested in the U.S. Senate, and the authorities are legion on that point.

The other day I referred to William S. Care, a Pennsylvania case, in which the Senate refused to seat either of the parties who were contestants. The matter went back for a new election, and a third man, a different man entirely, was elected to fill the seat, so that neither of the contestants in the first instance was elected.

This matter is vested in this body at this time by authority of that precedent and many others.

It is now up to us to make the determination as to who won that election, if we can. If we cannot, then in my judgment it would devolve upon us to declare that seat vacant and let it proceed under New Hampshire law.

Mr. GRIFFIN. Mr. President, will the Senator yield for a brief response to the distinguished chairman of the Rules Committee?

Mr. ROBERT C. BYRD. I yield for not more than 2 minutes.

Mr. GRIFFIN. The distinguished chairman of the Committee on Rules and Administration has pointed out that the Senate has jurisdiction, that there is a right of appeal to the U.S. Senate, and no one is questioning that fact. There is no question that the Senate can look into this allegation, can determine whether or not mistakes were made, and can review the election.

The point I made earlier, and which I want to repeat, is that, in the absence of any allegation of fraud, corruption, or illegality, the tradition and the practice of the U.S. Senate is to recognize the certificate of election of the duly constituted authorities of a State, at least to the extent of seating that Senator-elect provisionally, while the committee proceeds with its review of the election.

If I may just continue for a moment.

Mr. ROBERT C. BYRD. Very well.

Mr. GRIFFIN. The situation in Oklahoma——

Mr. ROBERT C. BYRD. I just wanted to correct the Senator in a respectful way.

Mr. GRIFFIN. All right.

Mr. ROBERT C. BYRD. He says that there is no precedent——

Mr. GRIFFIN. In the U.S. Senate.

Mr. ROBERT C. BYRD (continuing). In the U.S. Senate for never seating a claimant with a certification of election where there was no fraud alleged. Is that a fair statement?

Mr. GRIFFIN. It is my understanding that in the absence of an allegation of fraud, corruption or illegality, the Senate's practice and tradition has been to seat a Senator-elect, at least provisionally, which is what we did for the Senator from Oklahoma (Mr. BELLMON) even though questions relating to an election voting machine are to be reviewed. Matters of that kind conceivably could change the result of the election. In any event, we recognize the validity of the certificate of the Governor of the State

and give the people of that State representation in the U.S. Senate while we proceed. That is what we are asking for in this case.

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

The PRESIDING OFFICER. The Senator's time has expired.

Mr. ROBERT C. BYRD. Mr. President, do I have the floor?

The PRESIDING OFFICER. You have the floor.

Mr. ROBERT C. BYRD. All right, Mr. President. We are proceeding now on the basis of no time——

The PRESIDING OFFICER. The Senator's time is now unlimited.

Mr. ROBERT C. BYRD. Mr. President, in the year 1887, two claimants presented themselves at the bar of this Senate from the State of West Virginia. One had been appointed by the Governor of the State. The other had been elected by the legislature of the State. There was no charge of fraud. There was no charge of corruption. Here were two men, prior to the adoption of the 17th amendment, who stood here in the bar of the Senate, each with credentials. Neither claimant was seated. Mr. Faulkner, after 9 days, was seated by the Senate, based on the report of the appropriate committee.

In the year 1941, two claimants presented themselves to the bar of this Senate from the State of West Virginia, one claimant having been appointed by Governor Holt, the outgoing Governor; the other claimant having been appointed by Governor Neely, who had resigned his seat in the Senate to beccme Governor. There was no charge of fraud. There was no charge of corruption. There were two men, each with certificates of appointment who presented themselves to the bar of this Senate. Neither claimant was seated until the Senate had rendered a judgment—which came 3½ months later.

So let it not be said that the Senate has never, never refused to seat a claimant who held a certificate of election or appointment where no fraud or corruption was alleged.

In the Pennsylvania case, 1926, of William S. Vare, to which allusion has been made here, the claimant was not permitted to take his seat. The claimant with the certificate of election was not permitted to take his seat until the Senate rendered its judgment on the matter. The distinguished Senator from Nevada (Mr. CANNON) has stated, as it turned out, that neither claimant was ever sworn.

I am as strong an advocate of following precedents as is any Senator in this body. I inherited that philosophy from the late Senator Richard B. Russell.

A precedent is one thing that has no parent. It has no predecessor. And none of these cases will stand on all fours, one with the other. There has been new ground plowed in each contested case that has come before this Senate. There have been new precedents made from time to time. So if one wishes to look at the Mansfield motion as setting a new precedent, then let it be a new precedent. The case is unlike any prior case. The Constitution of the United States places in this body the responsibility of being the sole judge of the election, returns, and qualifications of its own members. Article 1, section 5, does not say that the Senate may be the judge; it says the Senate shall be the judge.

So we hear all of this claptrap about the Senate substituting its judgment for the will of the people of New Hampshire. The Constitution vested in this body not only the power but the duty to judge, when there is a challenged election result involving the office of U.S. Senator.

The State of New Hampshire had no appellate procedures beyond the ballot law commission. If it had had additional appeals procedures, I am sure those appeals procedures would have been utilized. But all of the appeals procedures provided by the statutes of New Hampshire were invoked. Then where do claimants go for redress? He could only come to the bar of this Senate for its judgment.

I do not want this job. I do not want to have to recount these ballots. I do the work of two men now. I do not want this additional job. But in 57 years, I have never run away from my duty.

Mr. GRIFFIN. Would the Senator from West Virginia——

Mr. ROBERT C. BYRD. Not yet, and I say that respectfully. I will yield to the Senator when I have finished.

The Senate has to make a decision here. If the ballot commission had rendered a judgment saying that there was an absolute tie in this case, then under the statute of New Hampshire, the people of New Hampshire would have had an opportunity for a new election. That question was taken to the Supreme Court of New Hampshire. On December 10 of last year, that body was asked by the Governor and the executive council for an opinion as to whether or not the people of New Hampshire were entitled to a runoff election in the case of a virtual tie. But that court rendered an opinion to the effect that in the case of a virtual tie, there was no authority for a new election and that only in the case of an absolute tie could there be a new election.

So all of this excitment about the Senate's stepping in, imposing its will and substituting its judgment, is mere political window dressing. Both claimants followed the appeals procedures as far as they could go. The petitioner has no place other than the U.S. Senate now to which to retire for a final appeal.

I would like to have seen the people of New Hampshire send a Democrat to the Senate in the November 5 election. I would be less than honest and candid if I did not say that. And I say that without any reflection upon Mr. Wyman, with whom I have served in conference time and time again. I have a high regard and respect for Mr. Wyman.

But in the November 5 election, by their vote—which first gave Mr. Wyman a majority of 355 ballots, and then was reversed by recount giving Mr. Durkin a majority of 10 votes, which then was reviewed and reversed by the ballot law commission, giving Mr. Wyman a two-vote margin, and which, with the switch of a single vote by the ballot law commission, would have meant a tie vote, making this the most unique Senate race as far as the outcome was concerned in the history of the United States, the closest vote ever recorded—the people of New Hampshire spoke their will.

We have heard it said that their will was write Wyman. The Secretary of State then, after a recount, said their preference was Durkin. The ballot law commission said, no, it was Wyman.

Somewhere in that bloc of ballots—God knows where—the truth lies and waits to be revealed.

The claimant, Mr. Durkin, has presented a petition of contest, asking the Senate to determine where the truth lies. It is our responsibility and our duty, in my judgment, to respond. As I say, I wish we could send this back to the people of New Hampshire, wash our hands of it, and let them decide. But I say we would be shirking our duty if we did that. That would be a copout. To do that, we would have to declare the seat vacant, or we would have to declare a tie.

It is our duty to take the time, if the Mansfield motion is agreed to, and determine where the truth lies.

If Mr. GRIFFIN will offer his motion—or any other Senator on that side of the aisle, or if any Senator on this side of the aisle will offer a motion to seat Mr. Wyman without prejudice to Mr. Durkin, or to seat Mr. Wyman, period, we can get a vote, if they will let us vote. On a motion to table, we can get a vote quickly.

Mr. President, if this matter is to be decided by the Rules Committee, I would gladly stand aside and let other Senators sweat over those ballots and determine the outcome. But if the duty falls upon me to assist in that matter, I will do my duty. I will do it impartially, and I will do it objectively—as objectively as I am humanly able to do it. I will do it fairly, and if the count is in favor of Mr. Wyman, then that will be my vote. If the count is in favor of Mr. Durkin, that will be my vote.

I am often partisan, but if it is incumbent upon the Senate Rules Committee to decide this matter and report back to the Senate, it will not be my duty to be partisan—it will be my duty to be fair, objective, impartial, and nonpartisan. Otherwise, I will cast a reflection on myself and on the Senate, and I am not willing to stultify myself or to stultify the Senate to get an additional Democrat here. We do not have to steal any election, as has been implied. We do not have to pull any power plays. We already have 61 Senators on our side of the aisle. We want to be fair, and we will be fair.

I have heard the buildup here today, regrettably, for a later charge that a decision by the Senate was partisan. I heard the same buildup all through the Rules Committee hearings on the Rockefeller nomination. Those of us who were diligently, earnestly, sincerely trying to probe and fulfill our responsibilities as members of that committee and as representatives of 140 million voters in this country—to stand in their place in fulfilling our responsibility under the 25th amendment—we heard the taunt time and time and time again about partisanship.

But we did our duty. I voted for Mr. ROCKEFELLER, and up to this moment I do not regret it. Now, we have heard here

all of this flak from the other side of the aisle that indicates that the Senate is going to be accused of partisanship. I detest that. I reject it out of hand. If we cannot have a little confidence in one another here, without attributing to every action an ulterior partisan motive, then I say, as a Senator of the United States, that we are a failure.

I am going to support the motion by Mr. MANSFIELD that neither Senator be seated, and I will tell you why. If there is a motion to seat Mr. Wyman without prejudice to Mr. Durkin, I say to you gentlemen that there is no way under heaven that he can be seated without prejudice—with only a two-vote majority. If the majority were 3,000 votes, 5,000, 10,000, or 20,000, I could feel that there would be a possibility that a claimant could be seated without prejudice. But if the committee should determine that the recount ends in a tie vote, it would mean that the matter would be sent back to the State of New Hampshire and there would be a new election. And what Senator is there here who is willing to stand and say that the seated incumbent in that situation would not have the advantage over the other man? It would be impossible to seat the one without prejudice to the other.

Senators may say that the chances are not likely that the vote would end in a tie and that the people of New Hampshire would not have a new election, but that the matter will in all likelihood be decided by the committee and in the Senate, and thus there could not be any prejudice to Mr. Durkin in seating Mr. Wyman, because there would not likely be any new election because of a tie. I call attention to an Iowa case, a 1926 contested case, Speck against Brookhart.

In that instance, one of the points that was decided by the Senate was the following point: "In determining issues in a contested election, all cases of doubt were resolved in favor of the incumbent."

Now, we say we pay great deference to precedents in the Senate, and that is as it should be. I say to you that if this matter is taken to the Rules Committee or any select committee of the Senate, if issues arise in the course of that review that are very, very close issues, this precedent will be pointed to by we lovers of precedents and it will be said that the issue should be decided in favor of the incumbent. If either Mr. Wyman or Mr. Durkin is now seated, that man would be the incumbent.

So I close my remarks at this time by saying it is impossible to seat either of these men at this time without prejudice to the other man.

Now, if we want due process, let us have a vote. If the Senate wants to seat Mr. Wyman, I will be one of his best friends in the Senate and I will work with him and cooperate with him just as I work and cooperate with any other Member on that side of the aisle. And I do not think there is any Member on that side of the aisle who to this day will say that I am not fair or that I do not cooperate and work with him, as does my majority leader. So, let the Senate speak and let us get away from all of this talk about partisanship.

If the Senate directs us, I am willing to get down to business in the subcommittee, if it is the will of the Senate, and spend as much time as I can give it, to keep our noses to the grindstone, and it would seem to me that within a couple of weeks we ought to be able to report back to the Senate.

Now, there were 222,000 or 225,000 votes cast in this election. During the hearing that was conducted—and I want to compliment the chairman, Mr. PELL, on his efforts to prepare the Senate for this travail, so that the Senate could exercise its will. During that hearing, it was indicated that there was a bloc of something like 3,500 ballots which were timely protested in accordance with the law of the State of New Hampshire—3,500, give or take, ballots in connection with each of which there was a timely protest entered by one or the other of the two principal contestants. The ballot commission felt that under the statutes, it was limited—Mr. President, may we have order in the Senate?

Mr. MANSFIELD. Mr. President, I insist we have order and that Senators be asked to take their seats.

The PRESIDING OFFICER. The Senate will be in order. Will the Senators please be seated?

The Senator may proceed.

Mr. MANSFIELD. Mr. President, I still want order in the Senate.

The PRESIDING OFFICER. There will be order in the Senate, and the Senators will please take their seats.

Mr. ROBERT C. BYRD. I thank the majority leader, and I thank the Chair, and I thank all Senators.

In the course of that hearing the ballot commission indicated that it confined its actions, for the most part, to about 3,500 ballots, the reason being that under New Hampshire law the commission felt that it could only review those ballots in connection with which a timely protest had been entered during the recount, by one of the contestants. Those ballots on which protests had been entered during the recount numbered something like 3,500 ballots. The ballot commission laid before the attorneys representing both parties those 3,500 protested ballots, and the attorneys for both parties, after looking at the protested ballots, agreed that the ballot commission need only review about 400 ballots, reserving in each case—Mr. Durkin and Mr. Wyman—reserving their rights, with respect to the remaining 3,100 ballots.

So there were 400 ballots to which some reference has been made, which the commission reviewed.

As far as I am concerned, I think that the truth lies within that block of 400 ballots. But I am perfectly willing to look at the 3,500 ballots and, in any event, I will be guided by the judgment of the subcommittee or the full committee.

So I am not tightjawed about sticking to 400 ballots. If it is 3,500, fine. But it seems to me we ought to be able to reach a reasonable compromise between both of the parties as to the number of ballots to be reviewed, so that we can expedite this matter, render the judgment of the Senate, and get it behind us. It is a privileged matter and, therefore, it takes priority.

Now, may I ask the distinguished assistant Republican leader, is he willing to enter into a unanimous-consent agreement allowing, say, 6 hours of debate on his own motion as a substitute to Mr. MANSFIELD's motion and on the Mansfield motion—which would be 6 hours in its entirety—the time to be equally divided and controlled between himself, Mr. GRIFFIN, and Mr. MANSFIELD, with the understanding that a tabling motion would not be in order, thus protecting his right to have an up or down vote on his motion, and that immediately thereafter the Senate vote on the Mansfield motion.

Mr. GRIFFIN. Well, I will respond to the distinguished Senator from West Virginia, the majority whip, and then I hope that perhaps he will give me a brief period when I can respond to some of the points that he has made.

Insofar as this Senator is concerned, the suggestion that the Senator from West Virginia has made is perfectly fair and I personally would not object to it. I want to make it clear, however, that I am only speaking for myself, and obviously a unanimous-consent agreement of the Senate requires unanimous consent of all Senators who have any interest, and I am not in a position to speak for all the Senators on my side at this time in entering into such an agreement. That is about the best answer that I can give at this time.

Mr. ROBERT C. BYRD. Very well.

Then, Mr. President, if we were to have a live quorum and get Senators to the floor, perhaps that would give us an opportunity to present such a request. Will the Senator be willing to enter into an agreement with all Senators having responded to a live quorum?

Mr. WEICKER. Well, Mr. President, reserving the right to object——

Mr. ROBERT C. BYRD. There is no request.

Mr. WEICKER. There is no request?

Mr. ROBERT C. BYRD. I am merely asking a question.

Mr. GRIFFIN. I think the matter of having a live quorum and getting Senators over is perfectly valid.

Mr. ROBERT C. BYRD. I do not want to do it if it will be a worthless and futile gesture.

Mr. McCLURE. Mr. President, will the Senator from West Virginia yield?

Mr. ROBERT C. BYRD. Yes.

Mr. McCLURE. The Senator from West Virginia has presented the proposition as though it were fact, and it may well be fact, although I do not know so, that there is some attempt to delay here, some conspiracy, some underlying current of which I am unaware, and the reason I mention it is that it seems to me that maybe the best way to expedite the business is to permit the debate to go forward without the interposition of a live quorum. I see no disposition on the part of any Members that I have talked to other than a desire to discuss the issue which is currently before the Senate, not the question of whether or not Mr. Wyman won the election, not the parameters of the review by the committee, if it should be referred to the

committee, but the preliminary issue which at this time, in my mind at least, is whether or not the duly certified winner of the election in New Hampshire, Mr. Wyman, is entitled to be seated pending the rest of the proceedings.

To me, that is the only issue that we are debating at this time. We are not really debating the issue of the election, per se, or the count of the ballots, the authority of the ballot commission or the Governor, and I think that very narrow issue should be debated by the Members of the Senate prior to the time we are called upon to vote upon either the motion of the Senator from Montana or a motion which might be offered by the Senator from Michigan.

Mr. ROBERT C. BYRD. Well, Mr. President, I suggested that we take 6 hours for debate, I would be willing to make it 10 hours.

Mr. McCLURE. Will the Senator yield further?

Mr. ROBERT C. BYRD. Yes.

Mr. McCLURE. My expectations from the discussions I have had with other Members on this side of the aisle would be that if we are permitted to debate, rather than arguing about whether we are being permitted to debate, it will take less than that.

Mr. ROBERT C. BYRD. Then the Senator would have no objection to a request for 10 hours?

Mr. McCLURE. I personally have no such objection except I think all of this talk about how much time is only delaying the time.

Mr. ROBERT C. BYRD. I agree.

Mr. President, I ask unanimous consent that there be a time limitation on the Mansfield motion of 3 hours to be equally divided between Mr. MANSFIELD and the distinguished Republican leader, that Mr. GRIFFIN be authorized to present a substitute motion to the Mansfield motion and that there be a time limitation on the substitute motion, if it is offered, of not to exceed 5 hours, to be equally divided between Mr. GRIFFIN and Mr. MANSFIELD; that no tabling motion be in order to either the Mansfield motion or the Griffin motion; and that when all time has been consumed or yielded back the Senate vote up or down on the Griffin motion, and that upon the disposition of that motion the Senate immediately vote on the Mansfield motion, with the understanding that these two back-to-back votes will occur beginning no later than 6 o'clock tomorrow afternoon.

Mr. GRIFFIN. Mr. President, reserving the right to object, I suggest the absence of a quorum, and this will be a live quorum.

The PRESIDING OFFICER. It will take unanimous consent for the Senator to do both, reserve the right to object and then——

Mr. GRIFFIN. Then even though I personally do not object to this request, I shall object in order that I will be in a position to suggest the absence of a quorum.

Mr. WEICKER. Mr. President——

The PRESIDING OFFICER. Does the Senator suggest the absence of a quorum?

QUORUM CALL

Mr. GRIFFIN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll, and the following Senators answered to their names:

[Quorum No. 3 Leg.]

Allen	Garn	Morgan
Bartlett	Glenn	Pell
Bellmon	Griffin	Schweiker
Brock	Hansen	Scott, Hugh
Buckley	Hart, Gary W.	Stennis
Bumpers	Hart, Philip A.	Stevens
Byrd, Robert C.	Hatfield	Stone
Cannon	Laxalt	Taft
Case	Leahy	Talmadge
Culver	McClure	Tower
Curtis	McIntyre	Weicker
Dole	Montoya	Young

The PRESIDING OFFICER. A quorum is not present.

Mr. ROBERT C. BYRD. Mr. President, I move that the Sergeant at Arms be directed to request the attendance of absent Senators.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia.

The motion was agreed to.

The PRESIDING OFFICER. The Sergeant at Arms will execute the order of the Senate.

After some delay, the following Senators entered the Chamber and answered to their names:

Abourezk	Hartke	Metcalf
Bayh	Haskell	Mondale
Beall	Hathaway	Moss
Biden	Helms	Nelson
Brooke	Hollings	Packwood
Burdick	Hruska	Pastore
Byrd, Harry F., Jr.	Huddleston	Pearson
Chiles	Humphrey	Proxmire
Church	Inouye	Randolph
Clark	Jackson	Ribicoff
Cranston	Javits	Roth
Domenici	Johnston	Scott, William L.
Eagleton	Kennedy	Sparkman
Eastland	Long	Stafford
Fannin	Magnuson	Stevenson
Fong	Mansfield	Symington
Ford	Mathias	Tunney
Goldwater	McClellan	Williams
Gravel	McGee	
	McGovern	

Mr. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. BENTSEN) and the Senator from Maine (Mr. MUSKIE) are necessarily absent.

I further announce that the Senator from Georgia (Mr. NUNN) is absent on official business.

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER) is necessarily absent.

I also announce that the Senator from Illinois (Mr. PERCY) and the Senator from South Carolina (Mr. THURMOND) are absent on official business.

The PRESIDING OFFICER. A quorum is present.

Mr. ROBERT C. BYRD. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. ROBERT C. BYRD. Was there objection lodged to my unanimous-consent request?

The PRESIDING OFFICER. Yes. The Senator from Michigan objected to the unanimous-consent request.

Mr. ROBERT C. BYRD. Mr. President, may I ask the distinguished Senator from Michigan, without losing my right to the floor, as to whether or not, in his opinion, we can reach an agreement as to a time limitation on the Mansfield motion and on a motion by Mr. GRIFFIN, with an indication as to the outside time when a final vote would occur?

Mr. GRIFFIN. As I indicated earlier to the distinguished majority whip, insofar as this Senator is concerned I personally have no objection, but I think one of the values of having a live quorum is to give other Senators who have a particular interest in this matter an opportunity to come to the Chamber. I would respectfully refer that question to others who are in the Chamber at the present time.

Mr. WEICKER. Will the distinguished Senator from West Virginia yield without losing his right to the floor?

Mr. ROBERT C. BYRD. Yes.

Mr. WEICKER. It would be my intention to object. I feel this on two counts: No. 1, the necessity for having a full exposition of this matter. It is not something that should be limited in time. But it is also true, and I do not attempt to fly under any false colors insofar as the distinguished Senator is concerned, that my argument throughout this debate will be that the matter should be resolved by the people of New Hampshire, and that as a part of that process of resolution we are all well aware that the New Hampshire legislature, elected by the people of New Hampshire, is discussing this matter at this very time.

Very frankly, I think it would be premature for us to enter into any votes on this matter until they have spoken their piece.

So both for the reason of making sure all the facts are known, and pursuing my particular point, which is that these are matters not to be resolved in the back rooms of Washington, D.C., but by the people who are the ones who voted in this election, I would object to any time limitation.

Mr. ROBERT C. BYRD. Mr. President, will the Senator agree to a time limitation which specifically allows him, the Senator from Connecticut, a specified amount of time, so that he may fully illuminate the Senate as to his viewpoint in this matter? That could be arranged.

I am not attempting to say that we have to vote tonight, or that we have to vote tomorrow night. I do think that we ought to attempt to work out an agreement whereby all Senators would know how much time we are going to debate this matter, and when a final vote will be reached.

Any Senator can make a substitute motion, and any Senator can, of course, move to table that motion and get an immediate vote. But this is a highly-privileged matter, and I think it should be determined one way or the other as soon as Senators wishing to do so, can make an adequate exposition of their viewpoints. I do not think each of the

99 presently sworn Senators will wish to take the floor, but, of course, every Senator has a right to speak if he wishes.

It seems to me that we ought to be able to reach an agreement soon for a final vote on this matter, so that if the Senate refers it to the Committee on Rules and Administration or to a special committee—I assume, however, it will be the Committee on Rules and Administration—the Senate committee then could begin its review of the matter, thus expediting the whole matter as soon as is reasonably possible.

Mr. WEICKER. Again, in response to the distinguished Senator from West Virginia, on almost all matters I would say we can arrive at agreements here, because they are matters that affects us and the legislation we pass upon. The difficulty I find is in agreeing away the rights of the people of New Hampshire. That is a little different. That is my difficulty.

I feel quite strongly about the point that this is not something with which we should be dealing. It is something that should be dealt with by the constituency itself. So it is not a question of how much time I want. I am frank to admit to the Senator—I am not portraying the picture other than this—that I want to wait and see what action is taken by the New Hampshire State legislature, and I am sure they are being as nonpartisan up there as indeed the assistant majority leader has indicated we are being down here.

In any event, it certainly would form a part of the final picture, which picture can only be determined by the people themselves. That is my difficulty with the problem. Normally, I would be more than delighted to agree with the assistant majority leader; there would be no difficulty at all. But there is this added element which makes it somewhat separate and distinct from the usual things we negotiate on the floor of the Senate.

Mr. ROBERT C. BYRD. The Senator is always most cooperative, and I am glad that he has candidly stated that what we are really waiting on here is a decision of the New Hampshire Legislature.

Mr. WEICKER. I speak only for myself.

Mr. ROBERT C. BYRD. I understand that.

Mr. President, we are not taking anything away from the people of New Hampshire. The people of New Hampshire, through their own legislature, provided no review beyond that of the ballot law commission. Consequently, any claimant to a Senate seat has only the Senate thereafter to which he may retire for final review.

At the time of the November 5 election, the New York Hampshire statutes provided for a runoff election only in the case of an absolute tie vote. There was not an absolute tie vote between Mr. Wyman and Mr. Durkin. There was only a virtual tie, and the New Hampshire Supreme Court ruled that it being only a virtual tie, there was no authority for a runoff election. So the people of New Hampshire, through their own duly constituted legislative body, had made no provision for a runoff election, except in the case of an absolute tie.

That was the situation created by the existing laws of New Hampshire at the time of the November 5 election; and I say that the Senate is the only court now to which either of these contestants can apply for redress. So we are not taking anything away from the people of New Hampshire. We are abiding by the Constitution and in accordance with the statutes of New Hampshire as they existed at the time of the November 5 election.

Mr. President, I do not think it is necessary to prolong this effort to secure a unanimous-consent agreement. I will make two further efforts.

I ask unanimous consent that there be a time limitation of 6 hours on the motion by Mr. MANSFIELD; that Mr. GRIFFIN be authorized to offer a substitute motion on which there be a time limitation of not to exceed 10 hours, the time to be equally divided, in the first case, between Mr. MANSFIELD and the distinguished Republican leader or his designee, and in the second instance, the time to be equally divided between Mr. GRIFFIN and Mr. MANSFIELD; that no tabling motion be in order; that no later than 2 o'clock Friday afternoon, the Senate proceed to vote, up or down, on the motion by Mr. GRIFFIN; and that if that motion fails, the Senate immediately proceed to vote on the motion by Mr. MANSFIELD.

Mr. WEICKER. Mr. President, reserving the right to object, the difficulty I have—and it gets back to some of the comments made earlier by the distinguished Senator from West Virginia—is that the people of New Hampshire have spoken; and indeed, by the laws of New Hampshire, the people of New Hampshire have spoken. That is the difficulty here.

Let us set things straight. The people of New Hampshire have spoken. Louis Wyman has been elected a U.S. Senator from New Hampshire, by virtue of the laws of New Hampshire. Yet, he is willing to go ahead and say, "All right, in a day and age when equity should prevail and there is confusion in this situation, let us have equity." He is perfectly willing to have the people decide. We are making an attempt to resolve this matter according to the old political style within the confines of this Chamber.

Mr. CURTIS. Mr. President, reserving the right to object——

Mr. WEICKER. All I am saying is, let us have a full discussion. If we are going to do something behind doors, let us at least talk about it. In any event, I find nothing underhanded in trying to pursue a course whereby the eventual decision will be made by the people of New Hampshire. That is the reason why I am going to talk; I am frank to admit it. It is their decision. They are now trying to go ahead, as every Member of this Chamber knows, through the legal processes, to so construct the law that will give that chance to the people of New Hampshire—not to their legislature, not to their Senate, not to their House, not to the Governor, but to the people.

Quite frankly, I intend to do my utmost to see that the people of New Hampshire have that opportunity. It is as simple as that. That is the difficulty I have with any agreement to limit time on this matter.

Mr. ROBERT C. BYRD. Mr. President, does the Senator object?

Mr. CURTIS. Mr. President, reserving the right to object, so far as this Senator is concerned, I find no particular fault with the number of hours allocated for debate. I will object if there is to be a vote on Friday. I do not think we should be ready to vote by that time. It is true that Senators have a responsibility to be here every day of the week.

Many people, in making arrangements in weeks gone by, could not anticipate this contest coming before us, but they had every reason, from a practical standpoint, to be of the opinion that on Friday of the first week, there would be no legislation reached. Consequently, there have been some arrangements made and I for one shall object to a vote on Friday.

The PRESIDING OFFICER. Is there objection?

Mr. WEICKER. I object.

The PRESIDING OFFICER. The objection is heard.

Mr. ROBERT C. BYRD. Mr. President, I now make the final request. Before making it, may I say to the distinguished Senator from Connecticut that the people of New Hampshire rendered a decision on November 5. Under the statutes of New Hampshire, there was no provision for a runoff election in a U.S. Senate race except in the case of an absolute tie. The Supreme Court of New Hampshire rendered an opinion, that a runoff election could not be had in the case of a virtual tie.

The ballot commission has rendered its judgment, its judgment being that Mr. Wyman has a majority of two votes. Consequently, there is no statute in the State of New Hampshire and was none prior to the invoking of the Senate's authority that would provide for a runoff election in this case.

Now, the Legislature of New Hampshire may wish to pass another statute, but in any event, the authority of this Senate was invoked when John Durkin and Mr. Wyman both presented themselves to this Senate with credentials and asked to be given the full right of membership based on those credentials. This Senate's authority, under article 1, section 5 of the U.S. Constitution, was invoked then and there and its power to make a decision then vested. Nothing the State of New Hampshire can do now will remove that power from this Senate unless it be the will of this Senate. Therefore, I say to you, Mr. President, that there is no point in waiting to see what the New Hampshire Legislature will now do.

If the Senate should eventually declare the matter to be a tie, and declare the seat vacant, then the State of New Hampshire could follow whatever procedures its State legislature wishes to follow. The Governor could appoint someone to fill the vacancy and the people could have a new election. But the appeal procedures provided heretofore by the duly-elected representatives of the people of New Hampshire, sitting in

their legislature, were exhausted by Mr. Durkin and Mr. Wyman. The matter is here now. The authority of this Senate, under article 1, section 5, of the U.S. Constitution, has vested and the decision is ours, and the authority of the Senate cannot now be divested except by the will of this Senate.

If the Senator from Connecticut wishes to talk until the legislature of New Hampshire passes a new statute, that is perfectly all right; he has that right. But that will not divest this Senate of that with which it has now become vested.

I will make this final request and then I am done. I ask unanimous consent that a vote occur at no later than 5 p.m. on Monday next on a motion in the nature of a substitute by the distinguished assistant Republican leader, he being the minority member of the Subcommittee on Privileges and Elections; that no tabling motion be in order; that immediately upon the disposition of such substitute motion, if he wishes to offer it, a vote occur on the Mansfield motion; that in the alternative, if the distinguished Senator from Michigan, or any Senator on that side of the aisle, does not offer a substitute motion to the Mansfield motion, a vote occur on the Mansfield motion on Monday at no later than the hour of 5 p.m.; that the time between now and that time be equally divided for debate between the two distinguished leaders—the majority leader and the Republican leader.

The PRESIDING OFFICER. Is there objection?

Mr. WEICKER. Reserving the right to object, I shall only make one last comment and I think there are others who might possibly be inclined to object.

I have always found it rather disagreeable for people to be messing around in other people's elections. I am not standing here speaking for the Republican side of the aisle or for the Republican leadership. I am just speaking as a neighbor, as another New Englander. The fact is that the people of New Hampshire did speak.

Yes, the distinguished assistant majority leader is correct: in the case of a tie vote, and under no other set of circumstances, there is a provision for a runoff. But there was no tie vote here. There was a winner, albeit only by two votes. There was a winner.

Certainly you would have every right to object, not only by virtue of law but by virtue of equity, if the loser were sitting here—if it was Mr. Wyman, the loser, sitting here and engaging in stalling tactics and trying to get an ex post facto law passed which would put the decision back in the hands of the people of the State of New Hampshire.

Mr. ROBERT C. BYRD. On that point, will the Senator yield?

Mr. WEICKER. No, I will not yield. I have the floor.

Mr. ROBERT C. BYRD. I am sorry he will not yield. He used the personal pronoun, "you." I suppose he was addressing me.

Mr. WEICKER. Do I have the floor, Mr. President?

The PRESIDING OFFICER. The Senator from Connecticut has the floor.

Mr. ROBERT C. BYRD. Yes, the Senator has the floor.

Will the Senator yield? I will take less than 30 seconds.

Mr. WEICKER. I yield.

Mr. ROBERT C. BYRD. The State of New Hampshire has no authority or power under Heaven by which it can pass an ex post facto law and divest this Senate of that with which it has now become vested under the authority of the U.S. Constitution.

Mr. WEICKER. And this Senate has no right in equity, ex post facto, to take the election away from the man who was declared the winner under the law of the State of New Hampshire.

Mr. ROBERT C. BYRD. Then let the Senator offer a constitutional amendment replacing article 1, section 5, of the Constitution of the United States.

Mr. WEICKER. Mr. President, this point is exactly the point that I was making as between what is going on in New Hampshire and what we have here. May I suggest that the politicians get the dickens out of the arena and allow the people to decide in the fair American way?

I will object, although I shall be glad to hold back on my objection if there are others who have comments.

Mr. BUCKLEY. Mr. President.

The PRESIDING OFFICER. The Senator from New York.

Mr. ROBERT C. BYRD. If the Senator from Connecticut will object, then I am done.

Mr. WEICKER. I am still trying to make up my mind.

Mr. BUCKLEY. Mr. President, I sympathize with the Senator from Connecticut, but I have very different reasons for being reluctant to see a premature vote taken on something that is of great importance constitutionally to this country. We are dealing with an unprecedented proposal. We are dealing with a proposal that would, in a single year, within a single committee, establish two different precedents. It seems to me that, given these circumstances, we need to make sure that not only does every Member of this body fully understand what the facts are, but, more important, in an age where people are increasingly cynical about the political process, to make sure that the people of the United States understand what the facts are.

We saw the seating of the Senator from Oklahoma (Mr. BELLMON) although his election has been contested. Why? Because he had the only valid certificate. I believe that an examination of the record before the Committee on Rules will establish beyond any rational doubt that there is in existence today only one valid certificate of election, and that is the one held by the designate, Louis Wyman.

I believe that if we were to ignore that certificate, if we were to toss things to the Committee on Rules, we would find a wave of cynicism, rightly or wrongly, that would suggest that purely partisan consideraions have been allowed to throw in jeopardy the right of the people of New Hampshire to have sitting now—not at some future date—the person that the authorities of that State, duly constituted, have determined to be the winner.

I agree with the distinguished assistant majority leader that it is within the power of this body, notwithstanding that certification, to come to an independent conclusion that the election as certified was not correct, and to reverse it. We have that power, but I believe we should be extraordinarily reluctant about exercising that power until we know that everyone is apprised as to the facts. I do not believe we want to add to the criticism we have in this body, and it is for that reason that, while still reserving my right to object, I will probably exercise that right until I feel satisfied that the people out there, through the press, understand what we are up to in this body.

Mr. WEICKER. I yield to the distinguished assistant majority leader.

Mr. HUGH SCOTT. Mr. President, I thank the distinguished——

Mr. WEICKER. Or to the minority leader.

Mr. ROBERT C. BYRD. Mr. President, I do not mind his having the floor, but he has had the floor.

Mr. HUGH SCOTT. Well, reserving the right to object——

Mr. WEICKER. I gladly yield to my distinguished colleague.

Mr. HUGH SCOTT. There are many ways to get the floor. The question is, what do we do with it when we get it?

Mr. ROBERT C. BYRD. The Senate is waiting.

Mr. HUGH SCOTT. I hope the Senator is not waiting with bated breath, and knows how to spell "bated."

Mr. ROBERT C. BYRD. Not with bated breath.

Mr. HUGH SCOTT. And, to Senators waiting, bated or unabated, I wanted to make a point, and the point is this: The distinguished assistant majority leader has spoken in highly legalistic terms of the unshakeable and unbreakable right of the Senate to do as it will. I would like to say one more time that the reason the Senate, or some Members of the Senate, are anxious to work their will is because of the two-vote majority.

Does anyone seriously think, and perhaps they do, that if we had here a Senator elected by a 200,000 vote majority, that notwithstanding the right of the Senate as the sole judge of the qualifications of its own Members, in the absence of fraud or of any other situation which would tend to delegate the actions of the Senator's State, would anyone believe that if the Senate decides to unseat that Member and deprive him of his seat, the Member would not be entitled to go to the courts and cite another part of the Constitution which I have heretofore heard referred to as its most sacred premise, and that is the right to due process?

I am not moved, myself, by the argument that the Senate is vested with the sole power to make a decision, if that decision is wrong. I do not believe there is anything sacred in the Constitution that guarantees to the U.S. Senate the right to take an election away unless they can take it away in such a fashion as will satisfy the requirements of the law.

Well, the law here has been established by the presence of the certificate, by the judgment of the Ballot Commission, by

the judgment of a three-judge Federal court, and by a precedent set by this Rules Committee in this 94th Congress seating another Senator, and quite correctly, on the issue stated in the committee, at my request and my suggestion, that he was seated because he had the only valid certificate.

Now, we can indulge in all kinds of legalisms, or we can indulge in what is legal, as I sought to do, or we can concern ourselves with what is moral. There is a saying that there is a certain kind of snapping turtle that, once it grabs hold, never lets go until it thunders; and it may be that the issue here is similar to that; that the Rules Committee, or those who disagree with this point of view, are determined not to let go because the two-vote margin is infinitely attractive.

Therefore, I hope that it will thunder. I hope the sovereign State of New Hampshire will thunder, and if the Senate chooses to ignore its views, let us all make that clear to the public. I hope that public opinion will thunder, as indeed has happened with the Washington Star of January 13, for example, where the point is made and I do not see how the majority gets around this:

The Senate appears to have only two reasonable choices in the controversy over the election of a senator in New Hampshire. It either can seat the man who has the only valid state certificate of election—Republican Louis C. Wyman—or it can declare the seat vacant and ask for a new election.

The article has been heard before. I ask unanimous consent that it be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. HUGH SCOTT. But the editorial concludes:

If the Senate can't see its way clear to seat Wyman, it would seem best for everyone concerned to let the voters of New Hampshire decide the issue, particularly since the legally certified winner is willing.

We are not arguing that point yet. We are not arguing the certificate itself. But I do not see any moral ground or objection to recognizing the certificate. There is no precedent in this body to the contrary. It has never been done before. The proposal to do it is not grounded on law or right or morality; it is grounded on a legalistic concept alone that we have the right to do it.

Well, good God Almighty, Mr. President, have we not just gone through 2 years where all of us have been found to be, in one way or another, the victims of the misuse of executive authority? Let us say it. Now, are we going to go through another year of misuse of legislative authority because the power exists, if the right and the morality of it is wrong?

I submit that we should not let the Senate be put in that position, and it will not be unless we do it ourselves. It seems to me that that is the strongest case that we could make. The certificate is here. It is valid. The Senate has accepted a similar certificate. The Senate would not have this debate today if this margin had been 2,000.

Now, at what point does the Senate have to debate? 1,800, 1,300, 700, 500, 13, or 2? After all, as the famous story goes, and there is not a Senator here who does not understand it, it ends with the bottom line, "We have settled that; the only issue now is the issue of price."

The only issue here is the issue of two votes. Not 2,000 or 200,000. The issue is the temptation, which hangs like ripe fruit on the vine of evil, to grab something if you can get it and to run.

This is wrong, Mr. President. It is morally wrong. It is contrary to the precedents. It is contrary to the intent of the Constitution and its due process, and it ought not to prevail. And if it is necessary to explain this a while, I hope we will continue to explain it.

EXHIBIT 1

[From the Washington Star, Jan. 13. 1975]

THE NEW HAMPSHIRE CONTEST

The Senate appears to have only two reasonable choices in the controversy over the election of a senator in New Hampshire. It either can seat the man who has the only valid state certificate of election—Republican Louis C. Wyman—or it can declare the seat vacant and ask for a new election.

To seat the challenger, Democrat John A. Durkin—either by simply ignoring Wyman's state certificate or by declaring Durkin the winner following a limited recount of ballots—would be unconscionable. The Senate would be within its rights to do that, but it would be a blatant and unwise display of partisan politics by the Democratic majority.

The background of the controversy is this: Wyman at first appeared to win the election by 355 votes. Durkin demanded a recount and came out 10 votes ahead and he was declared the winner by the New Hampshire secretary of state. Wyman appealed the recount result to the state Ballot Law Commission. After reviewing some 400 contested ballots, the commission officially certified Wyman as the winner. Durkin appealed to the Senate, which under the Constitution has the final voice on qualifications of members.

Since there have been no accusations of illegality or fraud by either side, it seems to us hardly proper for the Senate to order a recount that would merely substitute its judgment on what constitutes a valid ballot for the judgment of a legally constituted state body. It would be a great temptation for Senate Democrats who would examine the ballots to decipher the markings on the paper ballots in question in favor of the Democratic candidate.

Wyman, a former member of the House, has said from the beginning that he does not consider a two-vote victory a mandate and that he stands ready to participate in a re-run of the election. The problem is that there presently is no legal machinery in New Hampshire for a re-run. However, the state legislature is rushing through a new law that will make it possible.

If the Senate can't see its way clear to seat Wyman, it would seem best for everyone concerned to let the voters of New Hampshire decide the issue, particularly since the legally certified winner is willing.

Mr. ROBERT C. BYRD. Mr. President.

The PRESIDING OFFICER. Is there objection?

Mr. BARTLETT. I object.

The PRESIDING OFFICER. There is objection.

The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I see nothing unmoral or immoral in attempting to reach a vote on the pending motion by Mr. MANSFIELD today or tomorrow or Friday or Saturday or Monday next.

The distinguished Republican leader has referred to the Rules Committee as being determined "not to let this go." The Rules Committee did not ask for this assignment. The Senate, if it wishes, can establish a special committee. The Senate can seat Mr. Wyman without prejudice. The Senate can seat Mr. Wyman, period, if it will just vote.

Now, who is determined not to let go? Why not have a vote? Why not enter into a unanimous-consent agreement? It may be the will of the Senate to seat Mr. Wyman without prejudice but, in any event, let the Senate speak. There is nothing immoral or unmoral about that.

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

Mr. ROBERT C. BYRD. Yes.

Mr. CANNON. I wonder, as long as the distinguished Minority Leader has attempted to make this a trial by press release and by editorials, I wonder if I might ask unanimous consent that the Washington Post's article on the Wyman-Durkin race, dated Monday, January 13, be made a part of the record to immediately follow the submission of the distinguished Senator from Pennsylvania.

Mr. ROBERT C. BYRD. Mr. President, I yield for that purpose.

Mr. HUGH SCOTT. Having reserved the right to object, I will not object. That is the editorial, is it not, in which the newspaper makes the point that if you go to count the ballots on one side you ought to count them on the other. Is that not right?

Mr. CANNON. That is the editorial that makes the point that neither of these gentlemen should be seated and that the Senate should proceed with its responsibilities of determining the intent of the voters of New Hampshire in deciding who was the winner of the election.

I thank the Senator for yielding.

Mr. ROBERT C. BYRD. Mr. President, I continue to yield.

Mr. HUGH SCOTT. I thank the Senator.

Still reserving the right to object, because the Senator did not answer my question, and my question—and I will answer it myself—the question is, Did not that editorial say if the Senate is going to count the ballots of one contestant, it should count the ballots of another? Answer: Yes.

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

[From the Washington Post, Jan. 13, 1975]

THE WYMAN-DURKIN RACE

It is easy to understand why many Senators are not sure what to do about the New Hampshire Senate election in which, according to the final state recount, Republican ex-Rep. Louis C. Wyman defeated Democrat John A. Durkin by two votes. Mr. Durkin claims that the state ballot law commission made numerous errors in its recount; he has asked the Senate, as the constitutional forum of last resort, to recount some 400 ballots.

Mr. Wyman, on the other hand, maintains that the commission's judgments and his resulting two-vote victory should be allowed to stand. The situation has no precedent. Unlike most elections appealed to the Senate, this case does not involve allegations of fraud or other illegal practices. Instead, the problem has arisen because the race was close, so uncommonly close that its outcome could turn on any one of several hundred judgment calls about contested ballots—including some ballots whose intent is not obvious at all. In short, the Senate has been called on to referee a virtual deadlock and determine, if possible, whom the 22,000 voters in New Hampshire really wanted to elect as their junior senator.

The Senate Rules Committee, which meets today, will be considering several possible courses. Most of them would be wrong. It would be cavalier, for instance, to brush aside Mr. Durkin's protest and seat Mr. Wyman summarily. The race is too close for that. It would be even more reckless for the Senate's 61 other Democrats to execute a partisan power play and seat Mr. Durkin without thorough examination of the case. Mr. Wyman apparently fears such a coup. Fortunately, Majority Whip Robert C. Byrd (D.-W. Va) and others seem to recognize that, because of their numerical strength, they have a special obligation to be careful, judicious and fair, even if that means eventually adding one more Republican to the Senate on the merits of the case.

Mr. Wyman has proposed that, if the Senate is unwilling to seat him, a new election should be held. New Hampshire Republicans are now trying to whisk through a state law authorizing this, and the idea does have a certain superficial appeal. Another go-round at the polls would almost have to produce a clearer result and might even give the victor a discernable mandate of some sort. But this approach is premature at best. Elections, after all, do not have to produce mandates to be acceptable; having a winner is enough. Occasionally an election may have to be re-run if it ends in an absolute, verified tie, or if the outcome is hopelessly infected by illegality or error. One Louisiana House race has just been re-run for that reason. But in the New Hampshire case, the final body of review—the Senate—has not yet determined that no winner can be named with certainty. To set the election aside under such circumstances, because it is too close to call with ease, would be to set off down a very slippery and dangerous path.

All in all, the only responsible course for the Senate is to seat no one until the Rules Committee has examined all the ballots contested by either man. Some Republicans have complained that, by recounting the ballots themselves, the committee members would be substituting their own judgment for that of state officials. That is true, and it is a good reason to proceed with care. But there is no other way for senators even to find out whether the judgments made by state officers were consistent and reasonable ones—much less whether any specific decisions should be changed. To reduce the possibility of partisan intrigue, the Rules Committee could create a panel of disinterested election experts from outside the Senate to assist in the review. That would be helpful. But the most important thing is for the Senate to accept its constitutional responsibility and work out this unprecedented, difficult case in such a way that the people of New Hampshire will have a junior senator whose legitimacy in office is generally accepted—however tiny his margin of victory may turn out to be.

Mr. ROBERT C. BYRD. Mr. President, the implication in the statement by the distinguished Republican leader is that somebody on this side of the aisle wishes to count only the ballots that are in favor of one contestant and not count the ballots favoring the other.

I think there will be a fair determination at some point in time, in the event the Senate refers this matter to the Rules Committee there will be a determination as to how large a bloc of ballots should be reviewed; and to cast a reflection at this point on that committee, I think, is unfair. The Senator himself, the distinguished Republican leader, is a member of that committee and he will be there to protect the rights of either claimant; and if there is a recount, if there is a review, each claimant will be represented by attorney during every minute throughout that recount, so the interest of each claimant will be fully protected. All of this hogwash and window dressing about partisanship, and all of the looking down the road and anticipating that the Rules Committee is going to only count one bloc of votes for one claimant and not count ballots for the other, is empty talk. I hope that we do not get carried away with such talk.

Mr. HUGH SCOTT. Will the distinguished Senator yield?

Mr. ROBERT C. BYRD. I hope we do not get carried away by that kind of an argument. All I am asking is that the Senate vote so that the Rules Committee will know whether or not it is going to have to proceed in this matter.

Mr. HUGH SCOTT. Will the Senator yield for clarification?

Mr. ROBERT C. BYRD. Yes.

Mr. HUGH SCOTT. I am afraid I got my idea from the distinguished Senator from West Virginia. I saw him on the program Issues and Answers and I thought that I heard him say, and I paraphrase closely, "We will count the 400 ballots" and those were the 400 ballots which one contestant offered to have counted.

Now, I could be wrong, but there was a reference, "We will count the ballots at issue," or "We will count the 400 ballots."

Mr. ROBERT C. BYRD. Did I say, "We will count the 400 ballots?"

Mr. HUGH SCOTT. Something like that.

Mr. ROBERT C. BYRD. Let us see what the Senator from West Virginia said.

Mr. HUGH SCOTT. The Senator has a good memory, which is better than mine, because he is a good performer.

Mr. ROBERT C. BYRD. I am sure the Senator from West Virginia never has said that, "We will confine ourselves to the 400 ballots." Never.

Mr. HUGH SCOTT. Well, the impression I gained, and I raised it the first time I was permitted to talk, which was at the full committee meeting, I then raised the question of the Senator's apparent intention to restrict this counting to some 400 ballots. We had a great deal of discussion about it and the Senator then was willing to go up mathematically to 3,500. I do not know why we say 3,500 or why we say 400. I think the Star says there are two honorable ways to do this. The Post says if you are going to do it a different way, at least count both sides. In other words, do not put a restriction on one side that you do not put on the other.

Now, I did not say that the Rules Committee was unfair or I believe as the distinguished Senator from West Virginia said I was implying that the Rules Committee was unfair. I serve on that committee. I did not make such an allegation. I did say, in somewhat florid, rather senatorial language, something about the temptation of a ripe fruit on the tree of evil, but I did not impute this particular arboreal lure to any special locality.

Mr. ROBERT C. BYRD. Well, the Senator from Pennsylvania made some reference to a count of ballots for one claimant without counting ballots for the other, as I understood him. I simply attempted to respond to the implication in his statement.

Now, during the Rules Subcommittee hearing, chaired by Mr. PELL, I stated in the presence of both claimants, and publicly, that it was my viewpoint at that time that, if there were a review by the Senate committee, it should be limited to the 400 ballots which were reviewed by the State Ballot Law Commission in New Hampshire.

Mr. HUGH SCOTT. Page 278, if that is helpful.

Mr. ROBERT C. BYRD. Do not be concerned about being helpful to me as to the page number.

I also indicated—and the Senator can, if he wishes, find the page number for this—that my mind was open to persuasion.

Mr. HUGH SCOTT. Page 277.

Mr. ROBERT C. BYRD. I thank the Senator. [Laughter.] Let me see if he is correct.

Mr. HUGH SCOTT. Bottom of the page.

[Laughter.]

The PRESIDING OFFICER. Occupants of the gallery will refrain from any approval or disapproval of what goes on, on the floor.

Mr. ROBERT C. BYRD. Now, thanks to the distinguished Senator from Pennsylvania, I shall read verbatim:

> Senator BYRD. May I say to the gentleman that I am open to persuasion that a larger bloc of votes should be examined.

Mr. HUGH SCOTT. Will the Senator continue to read on page 278?

Mr. ROBERT C. BYRD. Of course. I would be delighted.

Mr. HUGH SCOTT. I want him to adumbrate the further colloquy.

Mr. ROBERT C. BYRD. Yes, which I have already indicated:

> My questions would rightly indicate, I think, that at this point it would seem to me that the appropriate area to examine would be the bloc of 400 votes.

What does that prove on behalf of the Senator's argument? A moment ago, I stated that it was my feeling during the hearing that the bloc of 400 votes constituted the ballots to which we should address ourselves, but I also said that I was open to persuasion that a larger number should be examined, and I still am.

Mr. HUGH SCOTT. Well, perhaps if we can agree before the matter is re-

solved on the floor, and prior to any action by the Rules Committee, as to how many ballots are to be counted or what ballots should be counted, we might make some progress. I do not want to give up anybody else's rights, and here I would seem to be giving up those of the Senator from Michigan (Mr. GRIFFIN), but I only throw it out as a possibility.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to insert in the RECORD a copy of the transcript of the interview on ABC's Issues and Answers—which occurred on Sunday, January 12—by ABC correspondents Bob Clark and Edward P. Morgan.

There being no objection, the transcript of issues and answers was ordered to be printed in the RECORD, as follows:

The ANNOUNCER. Senator Robert Byrd, Democratic Whip of the Senate, here are the issues:

How fast will the new Congress move to reduce taxes and how big will the tax cut be?

Can the energy crisis be solved without gas rationing?

Will Congressional investigations of the CIA be a whitewash?

Mr. MORGAN. Senator Byrd, President Ford apparently is going to recommend at least a ten per cent tax cut. Will you support it or what would your recipe be to fight recession?

Senator BYRD. I would support a tax cut. What the amount will be or what the per cent will be, I think will have to await study. I think it is absolutely necessary that there be a tax cut. I believe all the economists, practically speaking, agree to this. A tax cut is needed to stimulate the economy and at the same time to relieve pressure for wage increases and in that way it would help inflation.

Mr. MORGAN. Do you think that the jockeying for position between a Democratic Congress and a Republican White House over 1976 could cancel out the possibility of a sound government program to lick the inflation-recession situation we are in?

Senator BYRD. I don't think there is going to be a jockeying for position. I think there needs to be action. The President apparently is being pulled in this direction and the Congress recognizes that there must be action, and it will act.

Mr. CLARK. With the need to move very quickly, Senator, to provide a stimulus to the economy, there has been a good deal of talk in the last two or three days about some form of rebate. This has been known to have been under consideration by the President, whether indeed it is a part of the final tax proposal. Would you favor a rebate system that might give those people who are going to get a tax cut a check almost immediately, at least as soon as they have filled out their 1974 tax returns?

Senator BYRD. Well, I think what we are seeing right now has been a number of trial balloons that have been coming out of the White House. Nobody knows precisely what the details are, at least nobody on the outside.

I think I would favor a rebate because this would provide a quick stimulus to the economy, a quick catch-up for the worker whose wages have not kept pace with prices. So I think that is probably all right.

Mr. CLARK. There has been a good deal of confusion in the last few days too and I think the press has been responsible for some of it. There is a widespread expectation there is going to be an across-the-board cut of ten per cent. Now you, as a member of Congress, and being much more knowledgeable about tax matters than the average member of the American public, I suspect you know there is not going to be any such thing as a flat across-the-board ten per cent tax cut?

Senator BYRD. I would seriously doubt that. Take myself for example. I would like to have a tax cut but I can do without it. I think we have to think in terms of what the national interests are. People in my category don't need a tax cut. I, therefore, would be against an across-the-board tax cut. I think it has to apply in such a way that it will help the middle and the lower income people who have been bearing the brunt of the burden all along. These are the people who need help.

Mr. CLARK. And how would you assure that? Would you have a cutoff point somewhere on income that tax cuts only went to people making $18,000 a year—

Senator BYRD. I think it ought to apply to people in the $25,000-down level. These are the people who have been hurting.

Mr. MORGAN. Senator, you and I lived through the great depression. We now have unemployment above seven per cent and many think it is going to go about eight shortly. Do you fear that regardless of what the government does we are headed for another depression?

Senator BYRD. I doubt that we are headed for the kind of depression that you and I lived through. We have too many built-in cushions now: Unemployment compensation, Social Security, etc., etc., and in those days we had a 25 per cent unemployment figure. 12.8 million people were out of work, but I am concerned about the direction in which we are headed. I think the basic problem here is the energy problem and I think that within 12 to 18 months we could see the industrialized countries of the world really on their knees because of the energy problem.

Mr. MORGAN. You have brought up a subject that I was going to bring up: How would you crack the energy nut as far as the Americans are concerned? A lot of people, perhaps including yourself, don't think that we have done things in government to make it look as if we were meaning business. Would you invoke a gas rationing situation?

Senator BYRD. I don't think it revolves to the point where it is just an American problem. I think what we need to see is a display of leadership on the part of the President of the United States which will increase confidence not only among Americans but also among the other countries of the world. Now we have got to convince people that they are no longer living in an era of cheap energy. They are going to have to be convinced that their life styles are going to change. Americans are going to have to be convinced of that. They are going to have to adapt themselves to a different kind of world and it takes leadership to do this. We just cannot continue to undergo the kind of financial strain that is being put on this country by an outflow of $25 billion a year for oil imports. I don't think that a tariff on imports of oil will conserve the kind of gasoline that we are talking about here. I think that eventually we are going to have to go to gasoline rationing, as much as I dislike it, and I think the sooner we do it, the sooner we will get a grip on this whole problem.

Mr. CLARK. Senator, you say you don't think a tariff will accomplish it. It seems to be well established at this point that one part of the President's program that he will unveil in his State of the Union Message on Wednesday will be a proposal for a $3 a barrel tariff duty on all imported oil, and the last stories I have seen said that that same tax would be applied to domestic oil also. Are you saying, first, that you don't think this would do the job, and second, that you would be opposed to that?

Senator BYRD. I don't know what the job is that they are talking about.

Mr. CLARK. The point would be to reduce oil consumption.

Senator BYRD. If it is to raise revenues, it apparently is not going to do this because they are just going to swap money. They are going to take it out of one pocket and put it back in the other pocket with a tax reduction.

Mr. MORGAN. Isn't this robbing Peter to pay Paul, to coin a phrase?

Senator BYRD. It might be, but it will not bring about the conservation of gasoline in this country that is absolutely necessary if we continue to be a viable nation. For example in the—well, let's put it this way: We had the oil embargo and in the last 15 months since October of 1973, our inventories in this country, of oil, have only increased by five days. Now gasoline prices at the pump have gone up 16, 20, 25 cents, and yet we don't see any decrease in the driving on the highways. We are using the same amount of gasoline as we were using a year ago. Now, in terms of annual growth the increase was perhaps five percent and we haven't increased in that regard, so we may have gained five percent in the use of gasoline in terms of annual growth, but if that kind of an increase in cost per gallon will not stop people from driving on the highways, then a seven and a half cent per gallon increase, which is contemplated from the tariff of $3 per barrel, will certainly not cause people not to drive their cars. They may cut down on food, they may cut down on going to the movies, going to the theater, on clothing, but they will not cut down on their driving.

Mr. MORGAN. Senator, do you share the fear of some that the oil-producing states will use their new-found billions to try to "control the world"?

Senator BYRD. I think what we are seeing here is an economic war and I think that we ought to have some kind of a monitoring board that would monitor the foreign investments and be in a position to make recommendations so that the controlling interest in a strategic industry could not be taken over by those countries.

Mr. CLARK. Secretary Kissinger touched off a little storm recently when he suggested delicately that the time might come where military action might have to be taken against the Arab States to prevent the economic collapse of the Western World. What do you think of that?

Senator BYRD. I think it is unfortunate that he made the statement. I think it has been widely misunderstood. I think we ought to look at what he actually said.

He was talking about the gravest emergency, the strangulation of the industrialized world and I don't find too much fault with the statement as he said it precisely. The trouble is it has been distorted and that is unfortunate.

Mr. CLARK. Senator, on gas rationing, you said the sooner the better on gas rationing.

A year or so ago, when the energy crisis first struck, the Administration printed up some hundreds of millions of gas stamps. They are ready to go. Would you literally like to see gas rationing just as fast as those stamps could be put into distribution?

Senator BYRD. I don't want to see gasoline rationing, period. It is a great inconvenience upon me, upon the American people, but we are going to have to put the national interest above inconveniences to any of us and I think that we ought to have a gasoline rationing program in being and it ought to be implemented as soon as possible.

Mr. CLARK. Do you mean now?

Senator BYRD. Yes, and it must take into consideration, however, the inequities that can accrue from rationing. Coal miners have to drive 25, 50 miles a day to work. The small businessman has to deliver groceries. There must be some compensating factor in that rationing program to allow for those situations.

Mr. MORGAN. You emphasized—correctly, of course, Senator Byrd—that Secretary Kissinger indicated military action only in extremest strangulation of Western economies. In the light of that, or even apart from that,

do you think it is logical for us to sell nearly a billion dollars worth of war goods to Saudi Arabia?

Senator BYRD. No, I don't think we should continue to do that, but I think what we ought to do, we should take action so that we don't get into that "gravest emergency" which is, I believe, the way Mr. Kissinger termed it. We ought to take action to avoid that situation.

Mr. MORGAN. What action?

Senator BYRD. Well, gasoline rationing, as I say, as much as I dislike it, but we have got to cut down on gasoline. We cannot continue to have this outflow of monetary reserves. We are witnessing the swiftest transfer of monetary reserves that ever has occurred in the history of the world. OPEC countries accumulated $60 billion in monetary reserves last year. If they continue to do this, they could buy out all of the companies on the major world stock exchanges in 15.5 years, all of the companies on the New York Stock Exchange in 9 years, all of the gold in the central banks at $170 an ounce in 3 years; they could buy out Exxon stocks in 79 days, IBM stocks in 143 days and the Rockefeller fortune in 6 days.

Now, we just can't continue to see that kind of shift in monetary reserves go on and we have got to demonstrate leadership in this country so the other countries of the world can see that we can demonstrate the discipline to control our problems and they, I hope, would follow suit.

(Announcements.)

Mr. CLARK. Senator, I wanted to ask you one more question about the energy crisis. I was surprised to discover recently in a year-end review of how little has been done to deal with the energy crisis, that the figures for the total year show that both oil production and coal production were actually down.

I am talking about domestic, American production. Coal, because of the strike, but oil had also dropped a couple of percentage points. What can or should be done about that?

Senator BYRD. A number of things. I think that we have to consider the need for exploration on the part of oil companies, for additional oil and gas supplies and we just have to keep this in the forefront. We can't discover new oil sources unless it is profitable.

As for coal, for too long we have been negligent. I am talking about the overall government operations. We have been negligent in providing enough funding for coal research.

In 1961 the Office of Coal Research was funded with $1 million. That was the first year.

As recently as five years ago, the Office of Coal Research was given only $11 million. This past year, 1975, the one we are in, the funds have amounted to $260 million. But this is penny wise and pound foolish.

I think that we have the coal reserves in this country to last for 735 years at the rate of use this past year and certainly coal gasification, coal liquefaction, the development of a low sulphur content fuel oil, these are things that are within our reach and we certainly ought to have a crash program that will develop them in order to help not only our own country but the other industrialized countries in meeting the energy crisis.

Mr. CLARK. We want to move on now, Senator, and talk to you about the CIA.

There are several committees in Congress who are planning to conduct investigations of the CIA. Senator Stennis, who heads the Oversight Subcommittee that has had responsibility for some years for keeping an eye on the CIA, is going to start hearings this week and some of the witnesses will be public, as many as possible.

Is that going to be enough? There has been a lot of criticism in Congress of people who just don't trust the establishment in Congress to investigate the CIA, and by the "establishment" they mean the Chairman of the Armed Services Committee, John Stennis, or the Appropriations Committee, or the Foreign Relations Committee.

Is that going to be enough to assure an in-depth investigation of the CIA?

Senator BYRD. I would be concerned if there were to be an investigation carried on by a multitude of committees. I think there should be an investigation into these alleged violations of law by the CIA. I think it should be an investigation of the domestic surveillance operations that we hear occurred.

I think we ought to be very careful, however, that there not be an unraveling of covert foreign intelligence operation. I am afraid if every committee gets into the act and we have this game of one upsmanship, then we are going to have a threat to the CIA which is an absolute necessity for this country.

I don't think that this country, being a major country, can afford the luxury of not having a foreign intelligence and counter-intelligence operation. So, while we must examine this area to see if there have been violations, we must at the same time be very careful that we don't destroy the CIA and that we don't get into the covert foreign intelligence gathering operations.

Now, in order to avoid that, I should think there ought to be one committee. I would personally like to see one joint committee of the Congress designated to do this job and do it well, but I think before we did that even, we ought to hear Senator Stennis and see what he proposes to do. I have confidence in him.

Mr. MORGAN. What sort of congressional overview would you like to see flowing out of that investigation? Obviously, or maybe not obviously, but certainly many people have criticized the lack of proper congressional overview of the CIA so far.

Senator BYRD. In the first place, we probably have enough laws on the books. Apparently those laws have been violated if the reports are true, but we need to find out if the reports are true as alleged. There may be additional laws needed, but there ought to be continuing CIA oversight and it ought to be perhaps stronger than we have had in the past.

Mr. CLARK. To deal with the present problem you are proposing, to get this straight, a select committee similar to the Watergate Committee, except it would be joint, both Senate and the House, who would address itself to the particular problem of the investigation of the CIA's activities in domestic surveillance.

Senator BYRD. That is what I would like to see.

Mr. MORGAN. May I change the subject to the inevitable one of presidential politics? You once said in effect—and I am not quoting you directly—that Gerald Ford was a fine man but a weak President. If that is still more or less your assessment, do you see a possibility that not he but Nelson Rockefeller, would head the Republican ticket in 1976?

Senator BYRD. I think that is too far down the road. I do say this, that unless Mr. Ford seizes the initiative quickly in dealing with the economy and dealing with the energy problem, provides real leadership, decisive leadership, then he is going to run the risk of being on the defensive for the next two years.

There will be action taken by the Congress, and I believe we see Mr. Ford at least moving in the direction, but we have seen so much indecisiveness—I think this has hurt the President.

Mr. MORGAN. There have been murmurs in the past that you possibly would be interested in the presidency. What would impel you to seek the Democratic nomination?

Senator BYRD. I think it is too early to think in those terms. It seems to me we have a job to do now and we ought to put first things first and the first thing we need to do is for me and other Senators to do their job in the Congress of trying to deal with inflation, stagnation of the economy and the energy crisis.

Mr. CLARK. Senator, you have replied for the last two or three months to questions about presidential ambitions by saying that you are not uninterested and I know you feel strongly that you have to devote at least most of this next year to your job as Assistant Democratic leader of the Senate, but could a time come when you would make the decision to mount an organized campaign for the nomination, to enter primaries? Could that come after you get through some of this critical work that is ahead of you now?

Senator BYRD. I don't foresee that today.

Mr. CLARK. But you are not foreclosing that possibility?

Senator BYRD. There is already a gaggle of avowed Democratic aspirants in the field. Yesterday Eugene McCarthy announced he was going to be a candidate as an independent observing in his inimitable fashion that the Democratic situation and the Democratic picture was so fractured, there was so much internesciene warfare with the party that it would be hopeless for the party to agree on a candidate. What do you say to that?

Senator BYRD. I don't agree with that. I think what we have to agree on is that we must not let presidential politics get in the way of the national interest.

Mr. CLARK. Senator, one of the thorny issues that this Democratic-controlled Congress is going to have to deal with quickly, in this case the Senate, you have one hotly contested Senate race in New Hampshire—you have been sitting on a subcommittee this week trying to reach a decision, first, whether the Senate should review that election and recount the disputed ballots. Do you think they should?

Senator BYRD. I do.

Mr. CLARK. And so what happens, with the Senate reconvening on Tuesday? There is an immediate problem of seating. Either the Republican candidate, Mr. Wyman, or the Democratic, Mr. Durkin. What would be your suggestion?

Senator BYRD. Both.

Each contestant has what he considers to be a valid certificate of election. I think the Senate ought to ask both contestants to stand aside and refer the matter to the Rules Committee and let the Rules Committee try to determine the winner of the November 5th election.

Mr. MORGAN. Senator, the 93d Congress in 1972–73 is probably going to go down in history as the Watergate Congress, and there are prospects that the 94th Congress might go down in history as the reform Congress, but I remember Walter Lippman once telling me the United States was just too big to govern. Do you feel that is so, or do you feel there really is a momentum now for reform from the grassroots up?

Senator BYRD. I think there is a momentum for action. That is what is needed. The people want leadership. The Congress is not constitutionally structured, with 535 Members, just as no committee can write a novel, or write a song, the Congress is not constitutionally structured to provide national leadership, but it is going to provide action, and only the President can provide leadership, and I think he had better act quickly. He is a decent man, he is a disarming man, a most pleasant individual, a friendly man, but the American people want an aggressive, decisive leadership and they are not seeing it.

Mr. MORGAN. If he were to call you up tomorrow and say "Senator Byrd, how should I act?", right in the context of what you have been saying, what would you tell him?

Senator BYRD. I don't think he is going to do that, and I doubt that I would be prepared, but if I had a moment's preparation, I would say: Stay on the job, be a working President. This country needs a working President, and it needs a President who will be decisive. Now we have seen too much indecision. Three years ago in October he was talking about a surtax. Today he is apparently talking about a tax cut. In the November election he was talking about electing people who would balance the budget. Today he apparently is resigned to federal deficits. A few days ago he said something about—he indicated that he would not make an 180-degree turn in fighting inflation. Today he has made a 179-degree turn, if the trial balloons are true. So we see this decisiveness. The people like him, they trust him. He is open. He has these attributes. If he would just show the aggressiveness and decisiveness to act. This is what the people want to see, and if he were to ask me, I would have to say this.

Mr. CLARK. Senator, you said we need a working President, he ought to stay on the job. Are you echoing that line recently from Senator Barry Goldwater, that he should put Air Force One in mothballs and not do so much traveling, he should postpone foreign trips and trips across the country?

Senator BYRD. I think some of the foreign trips could have been postponed. I don't begrudge his skiing trips at Vail, but I do think this was a contrast to the very bleak Christmas that six and a half million unemployed persons experienced, and they are going to think of this and I think we have more confidence if a man is on the job, doing the work and showing decisiveness.

Mr. CLARK. Senator, thank you very much. We are now out of time. It has been a pleasure having you with us on issues and answers.

Mr. HUGH SCOTT. I would just like to add I thought it was a very good program.

Mr. ROBERT C. BYRD. I thank the Senator. I appreciate that. But the Senator said that in that program I said "We will count the 400 ballots."

Mr. HUGH SCOTT. I thought the Senator said something about, "We will count the 400 votes" or "400 ballots." It is not life or death, but that was my recollection.

Mr. ROBERT C. BYRD. It is of no matter here. The statement will be in the RECORD for all Senators to see.

ORDER FOR ADJOURNMENT

Mr. President, I take it the Senate is not going to reach agreement on this matter today, and I ask unanimous consent that when the Senate completes its business today it stand in adjournment until the hour of 12 o'clock noon tomorrow.

The PRESIDING OFFICER. Is there objection?

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

Mr. ROBERT C. BYRD. Yes.

Mr. BARTLETT. Reserving the right to object, and I shall not, I would like to comment on the request that the Senator has made for setting a time limit.

I realize that the distinguished Senator has the job of expediting matters before the Senate, and I am not trying to enter into the debate on the merits of the issue, but just a matter of establishing a time limit because I think it would be implicit in the Senator's request that justice would be more apt to take place with a time limit than without it, and I question that because I think that the debate should take place and perhaps if it goes on too long perhaps by motion or unanimous consent a time limit could be established.

But it seems to me that the goal of setting a time limit is not necessarily a good goal. In fact, I can think of some debates that have taken place on this floor of the Senate in which various Senators have been involved and in which I have been involved where the time limit, I think, worked against justice and worked against finding the best way.

Now, this is no criticism of the Senator, because I think the Senator's job is to expedite matters, but I think in this case it would be very helpful to the Nation and perhaps healthy for the 100 Members of this body to participate in a very meaningful discussion of this important matter.

Mr. ROBERT C. BYRD. Very well, the Senator may be right.

The PRESIDING OFFICER. Is there objection to the motion to adjourn?

Mr. ROBERT C. BYRD. I have not yet made that motion, I just asked unanimous consent that when the Senate completes its business today it stand in adjournment until the hour of 12 o'clock noon tomorrow.

The PRESIDING OFFICER. Without objection it is so ordered.

Mr. BROCK. Mr. President, I have listened with a great deal of interest to this afternoon's debate and I hope we are not like two ships passing in the night.

I am a little bit concerned at the implications in some of the statements that have been made with regard to time limits, with regard to the possible actions of the Senate and/or the Rules Committee.

I have entered this proceeding with an absolute conviction that we will not vote on this matter on a partisan basis. I believe that.

Mr. ROBERT C. BYRD. Will the Senator yield?

Mr. BROCK. Yes.

Mr. ROBERT C. BYRD. For just 30 seconds.

The vote in the Senate Committee on Rules and Administration, on a motion to recommend to the Senate that Mr. Wyman be seated without prejudice, was not determined on the basis of a partisan vote. It was a 4-to-4 vote—a tie—and the motion was lost.

The motion which I made at that time, that the committee recommend to the Senate that neither claimant be seated and that the matter be referred back to the Rules Committee, was not determined on the basis of a partisan vote. The motion lost on a 4-to-4 tie.

I thank the Senator.

Mr. BROCK. I am aware of that and that is the point I was trying to make.

Mr. ROBERT C. BYRD. I thank the Senator for reminding me of it. I merely wanted the record to show.

Mr. BROCK. My concern with this entire debate is not of time. I do not know how long it takes to debate the issue. I think we might be debating the issue in advance of the facts, in one sense of the word, but I personally have no objection to a limit on time.

What does bother me is the terms in which the motion of the Senator from Montana is couched, because one could, I think, infer from that motion that we had two men with credentials before the Senate, and that is not a fact. We have only one.

It seems to me that the better motion would be, if there is to be one made, other than the motion of the Senator from Michigan which I shall support to seat Mr. Wyman without prejudice, but if there were to be any alternative motion that it should refer the credentials of Louis Wyman to the Rules Committee for determination as to their validity and to hear any contest.

But it is not within the power of the Senate, as far as I can read the law and the Constitution, to put somebody into this body who has not been certified by his State, and that is the case with Mr. Durkin. There is no certification for that man, regardless of his own personal qualities.

I think that is the point that is bothering me most about this debate.

We seem to be talking about judging between two men. It is not a judgment the Senate has to make. We seem to be talking about counting ballots. That is not a judgment the Senate has to make.

The Senate has to determine, on the basis of law, whether or not we have a valid certificate of election from a sovereign State of these United States. If we do, then we are bound by the Constitution to seat that individual, and that is the question that the Senate ought to be discussing.

If we are to bring it on the floor, fine; if we are to put it in the Rules Committee, fine; but we have only two choices of action, one is to seat Mr. Wyman based upon his duly authorized and subscribed certificate of election, or to find that that certificate lacks legal backing and cannot be sustained and declare the seat vacant.

I think the second choice would be abhorrent. I do not believe the Senate will do that.

But I think it is misleading to the people of this country to talk about a choice between two individuals, one of whom has no certification before this body.

Mr. ROBERT C. BYRD. Both Senators have their credentials before this body.

Mr. BROCK. The Senator knows that a certification which has been nullified is no longer a certification.

Mr. ROBERT C. BYRD. The Senator knows that that was not a counterfeit piece of paper.

The Senator knows that that certificate was issued by a duly authorized entity—the Governor of the State of New Hampshire and the secretary of state of New Hampshire. There was a rescission action taken later.

But those two credentials are before the Senate.

Mr. BROCK. The Senator states his facts correctly. I think it is important to point out that the Senate cannot, by its own rules, receive a conditional certification, and the first certification was conditional, by resolution of those who signed it, and second, whether it was conditional or not, if it is null and void, if it is rescinded by those who authorized it before action is taken on it in this body, then it is not, in fact, definable as a certificate anymore.

We can just have a historical certification. It has no force of law, but it is not, in fact, a certification that can be considered by the Senate.

Mr. ROBERT C. BYRD. It is a certificate of election, and it was rendered by a duly authorized entity. A Federal court ordered that there be no change in that certificate prior to the determination as to whether or not the State Ballot Law Commission was a constitutionally authorized body.

Nevertheless, there was a change made in the certificate, even in the face of that order by a Federal district court. Granted, that the court later said that such act of rescission did not constitute, in its judgment, an action for which the Governor would be held in contempt.

Mr. BROCK. That is correct.

Mr. WEICKER. Will the Senator from Tennessee yield?

On this record made by the distinguished Senator from West Virginia, if we are to apply logic to that reasoning, then it is that any license, any certification that sits in an elevator or above the meat counter, is good forever.

Mr. BROCK. A marriage license?

Mr. WEICKER. A marriage license, good forever.

Obviously, it is within the power of the proper political subdivision to rescind, to recall, and this has been duly done in this case.

Just one last comment, I would not like to be called an obstructionist to having this matter resolved and, therefore, I would not object to any unanimous-consent request if, in fact, that request brought to the immediate attention of the Senate a motion to declare the seat vacant.

Any such request, any such action, would be, as far as I am concerned, a proper resolution of the matter and should be voted on and the matter can go where it belongs.

Mr. ROBERT C. BYRD. Will the Senator yield?

Mr. BROCK. Yes.

Mr. ROBERT C. BYRD. The Senator from Connecticut can offer such a substitute motion.

Mr. BROCK. May I say to the Senator from Connecticut, while I agree with the first part of the statement, I could not support the second part.

Mr. WEICKER. I only want to make it clear that this is the position of Mr. Wyman. I will say it again and again. He, as the winner, wants it. I imagine it is a matter of morality. It is equity. He is still willing to let the people of New Hampshire decide. I just want to drive that point home.

Arrayed against that position is the position of the assistant majority leader that this should be decided in some room here in the Nation's Capitol.

Mr. ROBERT C. BYRD. Mr. President——

Mr. BROCK. I yield.

Mr. ROBERT C. BYRD. The Senator from West Virginia is willing to abide by the will of the Senate as to whether the matter ought to be decided initially in the Rules Committee of the Senate. It makes no difference to me. I will vote for the Mansfield motion. All I am asking is that the Senate proceed to exercise its will and tell us what it wants us to do.

Mr. BROCK. If I might pursue the subject briefly, it seems to me, that, in reference to the remarks of the Senator from Connecticut, the Senator-elect, Mr. Wyman, has suggested that if the Senate is unable to resolve the matter, he would be willing to present his case to the people of New Hampshire, which is an enormously gracious and, I think, courageous action to take on the part of the man who is the certified nominee from that State. But I think it would be fair to say that both candidates, only one of whom is certified, would feel that the law should apply.

If we do find that the certificate is valid, he should then be seated. There is no real serious question on that. It was a very gracious statement on his part to make, but I think it is our responsibility to determine the validity of his election certificate, and, having done so, to seat the Senator.

Mr. CANNON. Will the Senator yield?

Mr. BROCK. Yes.

Mr. CANNON. It may be that the Senator was not here earlier when we discussed the precedents and the law. The Supreme Court has decided this point. I may say that they were very reluctant to enter into matters relating to congressional elections.

I cite to the Senator the Pennsylvania case of Wilson against Vare.

In connection with that, a case came before the Supreme Court in Newberry against the United States on the relation of Cunningham. The Supreme Court in that decision said, "When a Senator-elect presents himself to the Senate with a certificate of election"—and let us assume that there was only one certificate of election here and that was the certificate of election of Mr. Wyman; this is the point made by the Senator from Tennessee—"claiming the right of membership, the jurisdiction of the Senate to determine the claimant's right is invoked, and the Senate's power to adjudicate such right immediately attaches by virtue of section 5 of Article 1 of the Constitution, and whether the credentials should be accepted and the oath administered pending this adjudication is a matter within the discretion of the Senate."

That is the whole issue here. The whole issue here is the Senate should vote to decide whether or not to accept these credentials submitted by Mr. Wyman and seat him, or whether to say he should step aside. The jurisdiction has attached, and the Senate is obliged under section 5, article 1 of the Constitution to go into this matter.

We cannot arbitrarily, as the Senator from Connecticut suggested, say that this is a tie without checking into it and refer it back to the State of New Hampshire. That is not our constitutional authority.

Mr. BROCK. I am not arguing with the Senator at all. I respect his experience and knowledge on the subject. I am in agreement with him. I am simply saying that we do not have the right to certify a man who has no certification from a sovereign State. That, to me, has been debated roundly here today in the wrong context.

Mr. CANNON. It may have been debated, but there is no such motion before the body.

Mr. BROCK. No. The motion of the Senator from Montana is to refer the credentials of both men. Well, I do not think both men have credentials. That is what I am trying to express loud and clear here today. There is only one man before this body with credentials—one—and that is Mr. Wyman.

If we want to refer it, fine. It seems to me that every precedent I have ever seen in the history of the Senate, unless there is fraud attached, would have us to seat that man without prejudice while we consider the case. But the fact of that can be debated and judged by the Senate, as the Senator properly points out.

Mr. CANNON. Earlier a number of precedents were cited that indicate clearly that, by precedents, the Senator's suggested position is in error.

The Senator from West Virginia cited two of those cases from his own State, as well as the case of Pennsylvania that I just referred to, the Vare case, where the Senate refused to seat either one and it went back to the State. They held a new election and neither of them were elected.

Mr. GRIFFIN. If the Senator will yield to me, I tried at several points in this debate to respond to the arguments, very persuasive arguments, made by my good friend from West Virginia, citing what he called precedents. I realize there are Senators who are very interested in that. As soon as I have an opportunity, I want to discuss each one of them.

They are not precedents to this situation. They are different situations.

With regard to the Vare case from Pennsylvania, which has been cited both by the Senator from West Virginia and the distinguished chairman of the committee, the Senator from Nevada, I want to point out that on page 121 of this Senate collection of various cases it was not the same case because there the Governor of Pennsylvania issued a qualified certificate.

It reads:

> On January 10 Governor Pinchot filed a certificate but refused to certify that Vare was chosen by the qualified electors of that State.

In that situation, with the qualified certificate, where the Governor refused to certify that he was elected, the Senate did not seat him provisionally. That is not this case.

Mr. HUGH SCOTT. That was the famous case of reasonable doubt.

Mr. BROCK. That is correct.

Mr. CANNON. If the Senator was responding to me, he left out two very important words when he was reading from

page 121. He left out the words "of election."

On January 10, 1927, Governor Pinchot, of Pennsylvania, filed a certificate of election.

That is what is required.

Mr. GRIFFIN. Will the Senator continue reading?

Mr. CANNON. The Senator read it. He left out the words "of election" before.

Mr. McCLURE. Will the Senator yield?

Mr. BROCK. I yield.

Mr. McCLURE. If we are looking at precedents, and I think they can be useful, what is the most recent precedent of this Senate? It is an action that was taken concurrently with the present action.

What is the issue in this case? The certificate of election of the Senator-elect from New Hampshire, Mr. Wyman, which is being challenged on the basis of an erroneous count of the votes—no fraud. An erroneous count of the votes.

A parallel case, a most recent precedent in this body is the Senator from Oklahoma (Mr. BELLMON) was seated, although he is being challenged by his opponent on the basis of an erroneous count of the vote. But he was seated pending a decision in that case.

If we are not being partisan in this case, if we are not simply saying that this one is too close to home, or if we are not saying it is so close we have a chance to steal it, why do we not try to treat both of them in exactly the same way?

Why is not the Senator-elect from New Hampshire entitled to exactly the same consideration as the Senator-elect from Oklahoma?

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

Mr. BROCK. I yield.

Mr. CANNON. I think the Senator would not want the RECORD to remain as he has stated it, because he is clearly in error. He said the challenge to the Senator from Oklahoma was because of an erroneous counting of the votes. It was no such thing. It was because in Tulsa County, they violated the law and did not have a lever on so they could vote a straight party vote. That was the charge in Oklahoma. The charge was that had they not been in violation of the law, the vote would have come out differently.

Mr. BROCK. The Senator states the case even more dramatically, because in that situation there was some implication of malfeasance. There is none here. Even the one who contests Mr. Wyman says time and again in his testimony before the committee and in his own affidavit that there was no fraud. There was no fraud. So there is no justification for not seating Mr. Wyman.

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

Mr. BROCK. I yield.

Mr. McCLURE. The issue in both cases is precisely the same: Were the votes counted correctly? In each instance, the challenger has said that the people in the State who are charged with the responsibility of counting the votes made an error in judgment in those votes which they counted.

In Oklahoma, it had to do with one particular issue in regard to the voting machines in Tulsa, as to whether or not they were in conformance with State law. They were counted, and as a result the Senator-elect, Mr. BELLMON, was elected; he was certified; he has been seated pending that challenge.

In New Hampshire, there are other technical issues as to whether or not the votes were properly counted. But in this instance, we say that we will not seat him, that we have to have him step aside until the issue is decided.

Mr. BROCK. Because there is a two-vote difference. It is the closeness of the vote, rather than the merit of the case, that is determining our action, and that is wrong.

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

Mr. BROCK. I yield.

Mr. WEICKER. One more step is that the system obviously grates on people—the fact that the contestant was declared the winner in one count and there was a review and it was reversed. That is really at the bottom of all this. If it had been the ballot commission right away, there would be no contest. But that is the law of the State of New Hampshire.

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

Mr. ROTH. I yield.

Mr. BARTLETT. The question is not whether each person has been granted a certificate of election but whether the certificate of election that has been presented by each of the two is valid.

Mr. ROTH. That is correct.

Mr. BARTLETT. Is it not a similar situation to, say, my writing a check and then later, while the check still has not been cashed, properly advising the bank not to make payment on it? If somebody knowing that I had made that request then cashed the check, I think they would be operating improperly.

So the question is not only whether a certificate exists, but whether it is a valid certificate. Would that not be a similar situation? Does not one have the right to rescind?

Mr. BROCK. I think it is absolutely similar. Of course, one has the right to rescind.

I do not know about Oklahoma, but in Tennessee if you are caught stealing three times or drunk driving twice, the State can take your license away. They gave it to you, and they can take it away. If one does not believe it, go down there and try doing what they do not allow by law.

We have an exact analogy, in this particular instance, of the check and the driver's license. The State duly has with drawn the certification. It is null and void. There is only one certificate before this body. There is only one case that can be referred to the Committee on Rules and Administration, if we decide to do that, and that is the certificate and the case of the Senator-elect, Mr. Wyman.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. BROCK. I yield.

Mr. ROBERT C. BYRD. If the Constitution had provided that a person whose driver's license is revoked could appeal to the Senate, does the Senator feel that he would have any takers?

Mr. BROCK. I expect he would.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield further, without losing his right to the floor?

Mr. BROCK. I yield.

Mr. ROBERT C. BYRD. Mr. President, I was asked by the distinguished assistant Republican leader earlier to yield during my discourse, and I said that I would do so later, I inadvertently failed to do that.

Mr. GRIFFIN. I appreciate the courtesy of the distinguished majority whip. I intend to defer my response until the Senator from Tennessee completes his remarks.

Mr. ROBERT C. BYRD. I understand that the distinguished Senator from Michigan had some questions as to the two West Virginia cases which I cited. In citing those cases I indicated that none of these precedents was on all fours. I am sure those were not—by any stretch of the imagination. As a matter of fact, they did not involve certificates of election except in the case of Lucas against Faulkner. There was an election of Faulkner by the State legislature. They are not on all fours, by any means.

I merely cited them as instances in which there was no charge of fraud or corruption in connection with the credentials presented here. There was none in those cases; yet, the claimants had to stand aside. I am not saying they are the same as the current case on all fours.

Mr. BROCK. Mr. President, I should like to express my appreciation to those who participated in the recent colloquy, and I will continue it in the days ahead.

At this time, I yield the floor so that the Senator from Michigan may speak.

Mr. GRIFFIN. I thank the Senator from Tennessee.

Mr. President, do I have the floor?

I do believe that the precedents referred to by the Senator from West Virginia require some response.

He cited the 1891 case, in which a certificate was issued by the Governor of the State of West Virginia and another certificate, or another document, indicating election had been issued by the legislature. In that situation, there were two different authorities of the State, each issuing a certificate, and on their face at least, each had equal standing. Of course, there was no question there of the election or of fraud. The question was, what does the Senate do when it has two certificates presented by two authorities of a State, each purporting on its face to be valid? I do not think that is a precedent for this situation.

In the 1941 case, there was a certificate from one Governor of the State and then a later certificate from another Governor of the State, two different authorities, each issuing a certificate; and on their face, in the files of the Senate, they both appeared to be valid. In that situation, the Senate did ask both to stand aside.

That is not the situation we have here. There is only one authority of the State of New Hampshire, the Governor and its Council. The Governor and the Council of the State of New Hampshire have before the Senate only the certificate of

election of one Senator, and that is Louis Wyman.

I have not yet heard anymore argue—I wondered if the argument would be made—that the Governor and Council of New Hampshire, having once issued a certificate, could not revoke or rescind it. That argument really has not been made. It is interesting that it has not been made. It seems to me that it should be taken to be very clear that it can be revoked, particularly when there is no intervening action by the Senate.

That is particularly so in this case, where the record is clear that under the laws and statutes of New Hampshire, the first certificate was issued prematurely, before the recount proceedings had been completed; and that fact, of course, has been tested in the Federal court. Mr. Durkin, himself, has acknowledged and recognized that a certificate had been revoked and rescinded when he went into Federal court and asked the Federal court to require the Governor to issue a new one.

So here we have not two authorities, each issuing a certificate, both of which appear to be valid, as the cases to which the Senator from West Virginia alluded. In this situation, there is only one authority of the State. Although there has been a series of actions by that one authority, at the present time only one certificate is before the Senate.

Of course, I have already referred to the Vare case, in Pennsylvania, which involved a qualified certificate, where the Governor refused to certify that the candidate had been elected by the people of the State. Certainly, that is no precedent.

So I go back to the original statement I made. Of course, the Senate can always ignore its precedents, can break new ground, can set a new precedent. But the fact is that there is no precedent for the Senate refusing to seat, at least conditionally or provisionally, a Senator-elect who presents to the Senate a valid certificate, duly issued by the constituted authorities of the State, without any allegation of fraud, corruption, or illegality. If it is done in this case merely because the margin is two, it will be the first time in the history of the Senate that it has ever been done.

I hope and trust and pray that we will not deprive the people of the State of New Hampshire of their decision, of their right to determine who should be elected Senator to represent them in this body.

Mr. President, I yield the floor.

Mr. McCLURE. Mr. President, I wish to restate what I said earlier this afternoon; that is, I do not think there is any intention to obstruct the decision. I think it is being conceded by everyone, so far as I have been able to ascertain, in the debate who has addressed himself to the question, that there are substantial questions with regard to the count.

The State of New Hampshire, under its statutory processes, has made a determination. I do not question the right or the authority of this Senate to review the validity of that action or to review the accuracy of the various judgments that went into that process. I think that is clear. I might like to argue about whether they were right or wrong, and at an appropriate time I may desire to prevent the Senate or its duly authorized inferior body, whether it be the Committee on Rules or a select committee—and I think there is no debate here today to indicate that we have in mind other than to let the Committee on Rules look at it. I do not think that is the issue before the body today. The issue, simply stated, is whether or not the one Senator-elect who has the valid certificate of election from the State of New Hampshire, which has been tested in the Federal courts and sustained in the Federal courts, is entitled to be seated pending the determination. That is the only issue we have pending right now.

I think there is and can be no question that the Senate has the right to look behind that certificate. But I think also, there can be no real question that the Senator-elect, duly certified, has the right to be seated pending that determination.

Now what is wrong with that? Why do the Members on the other side of the aisle so fear the fact that he may be seated? There have been charges on the part of some that there is some kind of a partisan effort to delay determination here. In the face of that, they have said, we are not partisan; we have no desire—it is not because the man who was elected is a Republican that we desire to deny him his seat while we determine whether or not he should be seated permanently. There is no partisanship in that, they say, except that one man, perhaps in too great candor in looking at the certification when the ballot commission had determined and the Governor had certified that he was elected by two votes, says, "Oh, oh, but that Governor was a Republican." So they seek to undo what they then, by that argument, at least in their own minds, would say was a partisan determination by the State of New Hampshire by a similarly partisan determination on the part of the Senate.

I do not think we want to leave the impression and I certainly do not want to leave the impression that there is going to be a partisan determination of this issue. I am certain that besides the very eloquent statements that have been made here, there is a very real commitment on the part of most members of the Senate to an honest determination of the issues that are involved, without partisanship. I am somewhat inclined to the belief that the Senator from Connecticut has expressed earlier, that the people of New Hampshire ought to be given the opportunity to voice their own will. From my review of the record, it would appear to me that, from the malfunctioning machines in some of the precincts, from the fact that there was a tally in excess of the number of voters who actually voted there, probably after this is all done, the Committee on Rules must come back with the report that they really cannot determine; that there are some votes that they simply cannot, from the record, determine whether they have right or wrong and that, because of the closeness of the election, the only fair way for the New Hampshire people to have made their determination is to send it back for an election and declare this office vacant.

Mr. WEICKER. Would the distinguished Senator yield for a question?

Mr. McCLURE. Yes.

Mr. WEICKER. Is the distinguished Senator aware, is the distinguished minority leader aware, are there not some votes that cannot even be found in this election? Is that wrong? Can the distinguished chairman of the Committee on Rules respond?

Mr. McCLURE. I yield to the distinguished Senator from Michigan for a response to that.

Mr. GRIFFIN. It is my understanding that there are serious questions about the malfunctioning of voting machines in a number of precincts.

Mr. WEICKER. There are votes that cannot be traced; would that be substantially correct? I ask the distinguished Senator from Rhode Island. Is that essentially correct?

Mr. McCLURE. I yield to the Senator from Rhode Island.

Mr. PELL. My understanding is that there are allegations of the malfunctioning of voting machines, but I do not recall—my memory may be faulty—I do not recall instances of votes that just disappeared.

Mr. WEICKER. There was malfunctioning of machines where votes might not have been recorded, is that correct?

Mr. PELL. In one case, there was a statement that too many votes were recorded. Lord knows whom they were for.

Mr. WEICKER. How can we ever determine that here?

Mr. McCLURE. I say to the Senator from Connecticut, that is precisely the point I was trying to make. In view of the closeness of the election, with malfunctioning machines, we cannot make a determination of what really was true, and with the obvious error that there were more votes recorded than there were voters present at the polls, we cannot make a determination in that sense; the Committee on Rules may ultimately make the determination that it is impossible to go behind the certificate and they may decide to declare the seat is vacant.

Mr. GRIFFIN. May I just add to that that in a situation in Louisiana very recently with respect to the election of a Member of the other body, it was determined that only one machine, as I understand the facts, malfunctioned and that the difference on that machine could have made a difference in the election. The State of Louisiana held a new election.

Mr. McCLURE. And that was done under a Federal court order, as I recall, simply, in effect, determining that it was impossible to determine what the outcome of the election would have been had that machine not malfunctioned.

Again, I wish to urge that that is not really the issue which is before us today, because that is presuming the finding of the body that would be asked to investigate.

Mr. GRIFFIN. The question that the Senator from Idaho has so eloquently addressed is whether or not the Senator-elect from New Hampshire, Senator-elect by virtue of the only certificate on file, should be seated at least provisionally.

Mr. McCLURE. That is exactly correct.

Mr. GRIFFIN. Reference has been made to the precedents of the Senate. I wish to call attention to the fact that these precedents have been followed, not only in the Congresses and the Senates controlled by the Democratic party, but in those instances and through the years when the Republican party controlled the Senate.

I should like to focus attention, for example, on the situation that occurred in Maryland in 1946, when Mr. O'Connor came up with a margin, not of two votes, but of only 2,200 votes, and where the Republican 80th Congress, the Senate in the Republican 80th Congress, was presented with a challenge by his Republican opponent that there were errors and irregularities in that Maryland election. The Republican-controlled Senate seated Mr. O'Connor without prejudice and then proceeded to recount all of the ballots in the whole election in Maryland because there was no recount procedure under the statutes of the State of Maryland. The Republican-controlled Senate determined that Mr. O'Connor, the Democrat, had been properly elected and, of course, he had been seated in the first instance.

There was the New Mexico case, where Mr. Chavez had been elected and his Republican opponent challenged the election, claiming that the election laws of the State of New Mexico had been violated and that rights to a secret ballot had been violated. In that case, as in other cases, Senator Taft requested that Senator Chavez should be permitted to take the oath and be seated without prejudice, as the Senate controlled by the Republicans proceeded to investigate that particular election. Ultimately, Senator Chavez's election was confirmed.

I am only saying that this is the precedent that has been followed throughout the history of the Senate under the control both of Republicans and Democrats. Whether the margin was 2,000 or 10,000, or smaller than that, the Senator-elect with the certificate from the duly-constituted authorities of the State has been seated at least provisionally, so that the people of that State would have their representation while the matter was being decided. I think the Senator from Idaho has made a very good case on that point.

Mr. McCLURE. I thank the Senator from Michigan. I think it does bear repeating that in those two instances, a Republican Senate, being confronted by a challenge on the seating of a Democratic Member-elect, did provisionally seat that Democratic Senator-elect pending the outcome of the challenge.

That, I think, is the issue that must be debated and be determined by the Senate in making the determination of whether or not they should vote for the motion of the Senator from Montana or whatever other substitute motion may come in, without attempting at this time to determine the outcome of the contest itself. Let us at least determine the issue of whether or not we are going to respect the legal processes of the State of New Hampshire, which have been tested in the Federal courts and found to be sufficient, the legal processes which the Federal courts have said, in effect, validate the certificate filed on behalf of Senator-elect Wyman, and recognize the invalidity of the proposed credentials urged here by the challenger, Mr. Durkin.

That, I think, is the issue, if we are not dealing with this in terms of partisanship, which must be approached fully and openly before determination. Again, the most recent precedent, the one in which the Senate has already acted in this session of Congress pursuant to the urging and recommendation of the Committee on Rules, is on the contest in Oklahoma, where almost exactly the same issue is involved of whether or not the votes were counted correctly, and the Senator-elect, Mr. BELLMON, was certified by the State of Oklahoma and was seated without prejudice to the rights of the challenger, Mr. Edmondson, to perfect his challenge if he can.

I think both the earlier precedents, the actions that were taken in the cases cited by the Senator from Michigan, and the action taken by this Senate in this session, all persuasively and powerfully argue that Senator-elect Wyman should be seated provisionally pending the outcome, and then let us get on with the business of determining how we shall view the background of the election, and go ahead and get that done, with no intent to obstruct this matter, but to go ahead and get it resolved.

Several Senators addressed the Chair.

Mr. McCLURE. I yield first to the Senator from Rhode Island (Mr. PELL), without relinquishing my right to the floor.

Mr. PELL. Mr. President, I think the issues involved, as between the Oklahoma and New Hampshire cases, are very different. In the Oklahoma case, as I believe Senator BELLMON's own pleading asserted, the issue was not how the election in Tulsa County should have been conducted, but the legality of the election as conducted, and not the same as in New Hampshire, where there was a question of whether the vote was correctly counted.

Mr. McCLURE. Well, the issue in the Oklahoma case, as Mr. Edmondson would suggest, arose because the law would indicate there has got to be a straight partisan lever on the machine, and therefore it is not valid to count the votes on those machines. The issue in New Hampshire is whether or not the votes were properly counted.

Mr. PELL. They are two different propositions, I would suggest.

Mr. McCLURE. The question is whether or not votes should be counted in the total tally.

I yield to the Senator from Connecticut.

Mr. WEICKER. Mr. President, I would ask the question, either of the distinguished Senator from Rhode Island or the distinguished Senator from Nevada, since we have been doing most of the talking on this side of the floor, by what reason do they arrive at the conclusion that Louis Wyman should not be seated pending investigation by the committee? By what reason? I would like the answer to that, as to why the committee determines he should not be seated. No one takes away any rights from the Senate or any rights from the Rules Committee, but what is there in this case that makes them arrive at the conclusion that he cannot be seated without prejudice pending the investigation?

Several Senators addressed the Chair.

Mr. McCLURE. Mr. President, I yield to the Senator from Connecticut so that he may conduct this colloquy.

Mr. CANNON. Mr. President, I thought that was made quite clear throughout the day, that the Rules Committee did not make that recommendation. That motion failed on a tie vote in the Rules Committee, so there was no recommendation from the committee. The motion has been made by the distinguished Senator from Montana on the floor, and the debate has gone on for a number of hours. I do not want to have to restate everything everyone else has said.

Mr. WEICKER. Let me be very specific, then. Let me ask the distinguished Senator from Nevada whether or not he feels that Louis Wyman should be seated pending further investigation by his committee.

Mr. CANNON. No; I must say I do not feel he should be seated pending further investigation.

Mr. WEICKER. Why?

Mr. CANNON. The reasons that I do not are these: We have had three different counts out of New Hampshire now. Under New Hampshire law and the common law, the appeal goes to the legislative body from the ballot law commission. The legislative body is the United States Senate. This is the third step in that process to try to determine the intent of the New Hampshire voters, and who the winner was.

We have had three different counts. Every one of those counts came up with a different result. We have also a petition before us that says that about 40 votes were erroneously counted. I am sorry that I put my papers away, so I do not have the exact quotation. It also says that about 20 votes were counted for Mr. Wyman that were erroneously counted and should have been counted for Mr. Durkin.

That puts the issue squarely in question as to whether or not those ballots were properly counted. This is where the Senate has jurisdiction, under section 5 of article I, to make that determination.

Someone else asked the question, Why not seat Mr. Wyman without prejudice? Simply because of this: Let us suppose that the Senate Rules Committee goes into this matter and investigates these charges, and examines those ballots, which they will do, in the presence of counsel for both contestants and the contestants themselves, if they desire to be there, and open to the press and the public insofar as this committee is con-

cerned—the recommendation of the subcommittee chairman has been that—and suppose the committee comes up with the determination that the ballots are exactly tied? Then what happens? The Senate would have to declare the seat vacant, or that neither one of them were elected, and it would go back to the State of New Hampshire for a new election.

Can the Senator say in his heart that the man who had been seated here, supposedly without prejudice, would not in fact have prejudiced the man who was not seated? That is absurd, because he is an incumbent.

Mr. WEICKER. What happened in the Edmonson case?

Mr. CANNON. The Senator answers his own question: Because he is an incumbent Senator. The determination is brought about because of the possibility of a tie vote.

Mr. WEICKER. Suppose we had exactly that situation in the Oklahoma case at the present time; should the court in Oklahoma come out in favor of Edmondson, would HENRY BELLMON have the advantage over Edmondson, since he has been seated as a Senator?

Mr. CANNON. Why, of course, he would. Certainly he would.

Mr. WEICKER. Then why did the Senate seat Senator BELLMON?

Mr. CANNON. The question is quite different. There is no similarity at all. There is no allegation, furthermore, in the Edmondson case, that they are contending they have a two-vote difference. In New Hampshire, there was 300-some odd, then 10, and then 2.

In the first place, we have one flat Federal question. We have an allegation of the violation of the law. The Supreme Court of Oklahoma has already said the law was violated, that Tulsa County was in violation of the law.

Mr. WEICKER. That makes the case even stronger. What it boils down to, I think, is not this matter of whether the incumbent would have the advantage or not, but rather it is the number of votes. Is not that really what bothers the Senator from Nevada?

Mr. CANNON. That certainly does not bother me. It might bother the Senator from Connecticut, but it certainly does not bother me.

Mr. WEICKER. Well, the fact is, Mr. President, there is no question; it is not argued by any Member on this side that the U.S. Senate does not have the right of final determination in every election in every State throughout the Union.

So the business of whether we come in at the third or fourth recount, that is not so. That just is not so. We have that right; it applies to every senatorial election. Nobody is disputing it.

But the big question is when do we invoke it? The fact is by the law of the State of New Hampshire the procedures were followed, a result was arrived at. Granted that result in New Hampshire, as indeed the election in the State of Connecticut, California, or anywhere else, is still subject to the scrutiny of this body. No one disputes that. But, by the law of the State of New Hampshire, one man was declared the winner.

I find it a frightening thing indeed. Gosh, everybody knows I have stood up against the antics of my party when they were swollen with power and when indeed they tried to pervert the election processes of this country to the disadvantages of the Members on the other side of this aisle. But let me warn you, you sit now in a position of enormous power, and what you are doing is you are using this last right that we have in the case of every election, every senatorial election, to contest the legal result arrived at in the election in the State of New Hampshire as between Louis Wyman and Mr. Durkin. I find that somewhat frightening to contemplate.

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

Mr. WEICKER. I yield.

Mr. CANNON. The Senator makes a beautiful argument on moral grounds. The only thing is he ignores the law.

Mr. WEICKER. Which law?

Mr. CANNON. The law of the State of New Hampshire.

Mr. WEICKER. The Senator is saying we made a judicial determination. This is not the——

Mr. CANNON. Under the election process, under the New Hampshire common law and the statutes, the review contemplated by the ballot law commission is not final in a case involving election to legislative offices until after appeal to the appropriate legislative body. That is a New Hampshire case. It is also referred to in another case decided in New Hampshire on the 6th of January of this year as being the law of that State.

Now, this is the legislative body where that appeal is being brought, and that is a step in the appellate process to determine who won that election, and that is exactly what the Senate is going to do.

Mr. WEICKER. I yield to the distinguished Senator from——

Mr. CANNON. Article I, section 5.

Mr. WEICKER. Is the Senator from Nevada saying the Governor of New Hampshire and the Ballot Law Commission are performing illegally?

Mr. CANNON. I beg the Senator's pardon.

Mr. WEICKER. They can make no certification? They performed illegally?

Mr. CANNON. The Governor of New Hampshire has gone through two different actions without a doubt. But the point is that the matter is vested here in the jurisdiction of the Senate now to make a determination under the Constitution. We have a challenge, we have an allegation of error, and it is up to the Senate to determine. The Senator can make his case, and all we want to do is vote one way or the other.

Mr. WEICKER. Well, I would only make——

Mr. CANNON. We had a vote in the Committee on Rules. It was not a partisan issue. We came out with a tie vote 4 to 4.

Mr. WEICKER (continuing). I would only make the comment to the Senator from Nevada that I think we are setting a very, very dangerous precedent here. I can envisage the U.S. Senate running around, becoming more deeply involved with senatorial elections depending on the results, et cetera, and, believe me, that is something we do not want to go ahead to do and we do not want to establish that precedent.

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

Mr. WEICKER. I yield to the distinguished Senator from Idaho.

Mr. McCLURE. I think one point ought to be made in regard to the New Hampshire law, and the Senator from Nevada has raised it, and that is that the State of New Hampshire, in passing their laws for review of the judicial process, provided for an appeal to their supreme court from the ballot law commission's determination and they made an exception to that for those who were elected to the Senate or to the House of Representatives of the United States, noting that the appellate procedure to the State supreme court was not necessary where there was a recourse from the ballot law commission's activities vested in the Constitution of the United States.

That does not make the determination of the Senate of the United States a part of the appellate process. It only recognizes that constitutional prohibition against any interference with the prerogatives of the Senate and the House of Representatives in being the judges of the elections and qualifications of their Members.

Mr. GRIFFIN. If I may observe, having sat through the hearings as a member of the subcommittee, the Senator from Idaho has stated the legal situation very, very accurately. I do not think any fair reading of the statutes of New Hampshire or the decisions of the State courts could bring us to any conclusion other than the authorities in the State took notice and recognized that there is the constitutional right of the Senate under the Constitution to review these elections, which is there whether—in those States that recognize it by statute and in those States that pay no attention to it by statute, the right is there always in any event.

Mr. WEICKER. I concur with the distinguished Senator from Michigan, and let me emphasize, because I have to watch myself in this matter, we are still jumping ahead in this matter. Nobody denies we have the right to review; nobody denies that at all. All we have said is, why not seat him, Louis Wyman, while the review goes on. And then the answer came out, because it will give him an advantage should there be another election.

We have done the same thing insofar as Senator BELLMON is concerned vis-a-vis Ed Edmondson, so really that is no reason at all. It might be in the thinking of my colleagues on the other side of the aisle, but it should certainly have no application to this situation.

What we are asking for is not the final seating at all but the seating pending the decision of this body—that is considerably different—and because of a fear of psychology that is generated, well, that is really great, this man is not going to be seated.

That is a disgrace, I might add, I think, to our election processes. Not the

fact of review—that we have got—but because you feel this might give some type of advantage should another election be held. That makes rather interesting law and I would like to read it sometime in the statute books.

Mr. BARTLETT. Mr. President, will the Senator from Nevada yield for a question?

Mr. CANNON. The Senator from Nevada does not have the floor. He has not had it for some time.

Mr. BARTLETT. Will he respond to a question?

Mr. CANNON. I am happy to respond.

Mr. BARTLETT. I understand there have been two certificates of election issued. The contention is, on the one hand, that one of these certificates is now valid and the other has been rescinded and is invalid. I would like to ask the Senator what his contention is. Does he consider the two certificates of election equal in validity or does he consider them different?

Mr. CANNON. I frankly do not know whether they are or are not equal in validity. I know we do have two certificates here. The motion of the distinguished Senator from Montana was to receive both certificates and all of the related papers that have been filed in this matter, and there are a number of them that I understand have been filed, to refer those to the Rules Committee. But, as I said earlier, in my judgment I can completely disregard, as I stated to the Senator from Tennessee, as far as I am concerned whether there was or was not a second certificate. If we were just to assume there was only one certificate here, and that was Mr. Wyman's certificate, based on the facts and on the petition we would have a valid basis to refuse to seat him and ask him to step aside until this matter had been determined, and that is what the motion proposed.

Mr. BARTLETT. Mr. President, I would like to ask the Senator another question: Is the Senator then disregarding the rescinding of the one certificate, and does the Senator have the opinion that the right to rescind a certificate, a certificate that it has issued, or is the Senator just disregarding it?

Mr. CANNON. I must say I frankly would assume that perhaps they have the right to rescind. I have not checked that, and it would not make one iota of difference in this case to me because the issue here that is posed, as I said, and can be posed even on one certificate, even though some other people have a different view, that could be posed on one certificate based on the fact that you have one count out of an election, you had a recount, based on the law of the State of New Hampshire that came up with a different result, with a different winner by 10 votes.

They had the certification of contested ballots as a result of that recount to the Ballot Law Commission and an appeal to the commission which came up with a result different than the previous one by two votes, a different winner by two votes.

We have a petition then filed with this Senate saying in one instance that there were 20 votes counted for Mr. Wyman that should have been counted for Mr. Durkin. There are other allegations in the petition, but if that were true, if any of those allegations are true, the result would be different than it is now before us, and that is my basis for supporting the motion by the distinguished majority leader.

Mr. BARTLETT. I would say to the distinguished Senator from Nevada, when the Senator is talking about 20 votes that may have been improperly counted, the Senator is, of course, arguing the case.

But I was talking about the validity of the certificate and the Senator says he does not know, nor does he care, whether or not there is the right to rescind. The right of rescission was made and it was certainly made by a properly constituted body, the same body that issued both certificates.

It seems to me the Senator is advancing the argument that it makes no difference whether a person has a valid certificate or not. It is a question of whether one has a certificate, and I think there is a big difference. Certainly the validation of the certificate is what is important, not whether one might have a friend who is a Governor, which is certainly not the case here, but certainly this could be the case in an election, where an invalid certificate would be issued and I would think that would absolutely not be recognized by this body, nor do I think in this case an invalid certificate should be recognized.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

ORDER FOR RECOGNITION OF SENATOR STEVENSON, SENATOR GRIFFIN, AND SENATOR ROBERT C. BYRD, AND DESIGNATING PERIOD FOR ROUTINE MORNING BUSINESS TOMORROW

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 tomorrow, the distinguished Senator from Illinois (Mr. STEVENSON) be recognized for not to exceed 15 minutes, the distinguished Senator from Michigan (Mr. GRIFFIN) be recognized for not to exceed 15 minutes, that I be recognized for not to exceed 15 minutes, and that there then be a period for the transaction of routine morning business of not to exceed 30 minutes, with statements limited therein to 5 minutes each.

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

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene at the hour of 12 o'clock noon tomorrow. After the two leaders or their designees have been recognized under the standing order, Mr. STEVENSON, Mr. GRIFFIN, and Mr. ROBERT C. BYRD will be recognized, each for not to exceed 15 minutes, and in that order, after which there will be a period for the transaction of routine morning business, of not to exceed 30 minutes, with statements limited therein to 5 minutes each, at the conclusion of which the pending question before the Senate will be on the privileged motion by Mr. MANSFIELD.

Rollcall votes could occur tomorrow.

ADJOURNMENT

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until the hour of 12 o'clock noon tomorrow.

The motion was agreed to; and at 5:58 p.m. the Senate adjourned until tomorrow, Thursday, January 16, 1975, at 12 o'clock meridian.

EXTENSIONS OF REMARKS

THE UNITED NATIONS

HON. GALE W. McGEE

OF WYOMING

IN THE SENATE OF THE UNITED STATES

Wednesday, January 15, 1975

Mr. McGEE. Mr. President, on December 23, there appeared a very thoughtful article in the Washington Star-News written by Columnist Charles Bartlett.

Entitled "U.N.'s Defiant Majority," the column is an effort to place the United Nations in general, and the 29th General Assembly in particular, in its proper perspective. I believe Mr. Bartlett has accomplished his purpose very well.

As a delegate to the 27th General Assembly of the United Nations, I can attest to the accuracy of Bartlett's following statement examining the U.N. diplomat. He noted:

> The atmosphere reflects the committed energies of experienced disciplined men pressing hard for harmony and consensus. It is the zeal of these earnest people that prevents the U.N. from sagging into a replica of its public image, into the pit of futility to which its record might condemn it. They keep the idealism alive because they keep hoping and trying.

Bartlett's concluding observation was most appropriate:

> The big thing is to stay hopeful and stay at it because there is no greater goal than peace on earth.

If we, as a nation, are indeed dedicated to this goal, then there can be no turning our back on the United Nations. Despite the record of the 29th General Assembly, the United Nations still represents more than ever mankind's greatest hope for peace in the world.