reason I mentioned earlier—we don't understand each other. But we simply must learn to understand each other, and work together to solve these problems. And that means many of you.

What can you do here? Well, mostly what can your editors do? After all, the magazines have spearheaded every major change that has taken place in the country. It is magazines that have dealt with the problems, that have fought them out, that have promoted the causes. So I suggest here that the magazines take this on as they've taken on so many other problems, and see what they can do.

Eulogy to Lt. Gen. Cornelius W. Wickersham

HON. HERBERT TENZER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, February 5, 1968

Mr. TENZER. Mr. Speaker, the Nation has lost a distinguished and dedicated servant with the passing of Lt. Gen. Cornelius W. Wickersham.

As a neighbor of General Wickersham I extend my personal sympathy to the members of this distinguished family and in order to pay my respects I call the attention of my colleagues to the following obituary in the New York Times, February 5, 1958:

GEN. CORNELIUS WICKERSHAM, 83, LAWYER AND GUARD LEADER, DIES—PRIVATE IN 1916 MEXICAN BORDER WAR; LATER LED 42D DIVISION—WITH WALL STREET FIRM

Lt. Gen. Cornelius W. Wickersham, New York National Guard, retired, senior partner of the law firm of Cadwalader, Wickersham & Taft, 1 Wall Street, died yesterday at the Nassau Hospital in Mineola, L.I. He was 83 years old and had been in declining health. He lived at 235 Briarwood Crossing, Cedarhurst, L.I.

General Wickersham had a long career as a member of the bar and as a soldier whose service in the army extended from the Mexican border campaign through World War II.

After he retired in 1945 as assistant deputy military governor for the United States Zone in Germany with the rank of brigadier general he was commissioned a major general in the New York Guard and commanded its First Division and the 42d Division of the New York National Guard beginning in 1946.

He retired from his command in 1948 and was promoted to lieutenant general in the state reserve list.

General Wickersham was a tall, erect man of strong military bearing. A friend described him yesterday as of stern demeanor, strict in his dealings with others but not without a sense of humor. Outside of his principal interests in the military and the law, the general was an enthusiastic hunter and fisher and an avid stamp collector.

FATHER WAS ATTORNEY GENERAL

Cornelius Wendal Wickersham was born in Greenwich, Conn., on June 25, 1884. His father was George Woodward Wickersham, who served as Attorney General under President William Howard Taft. A son, Cornelius W. Wickersham, Jr., who died in 1966, was a former United States Attorney for the Eastern District of New York.

Mr. Wickersham was graduated from Harvard College in 1906 and received his law degree, cum laude, from Harvard Law School three years later. He was editor of the Law Review in 1907–1909. He held the honorary degree of Doctor of Laws from St. John's University.

In 1908 he was admitted to the New York bar and in 1912 to the bar of the United States Supreme Court. He practiced law with the firms of Strong & Cadwalader and Everett, Clarks & Benedict until he joined the firm of Cadwalader, Wickersham & Taft in 1914. Since that time, except when absent for military duty, he was in the general practice of law. He represented many individuals, trusts, estates and corporations, including reorganization and recapitalization of railroads and industrial concerns.

He was president of the Joint Conference on Legal Education in the State of New York from 1932 to 1940 and from 1954 to 1958. He was counsel for the Grand Jury Association of New York County and member emeritus of the American Law Institute.

Another of General Wickersham's interests was education, and in February, 1953, the State Legislation elected him to the Board of Regents, which supervises the state education system. Although his term was to have expired in 1966, he resigned in 1955 because of the statutory age limit of 70 years for board membership.

In 1915 he enlisted in Squadron A, New York Cavalry and in 1916–1917 served on the Mexican border in the Federal service, first as a private and later as a lieutenant with the 12th New York Infantry.

ACTIVE IN 77TH DIVISION

In World War I he served overseas and rose to the rank of lieutenant colonel. Between the two World Wars he retained his commissioned reserve status as a colonel and was active in the affairs of the 77th Division, which was commended by Maj. Gen. Julius Ochs Adler. General Adler, who had been first vice president and general manager of The New York Times, died in 1955.

General Wickersham's World War II service extended from 1940 to 1945. In 1942 he was promoted to brigadier general and organized and commanded the Army School of Military Government at Charlottesville, Va. He also saw service in Africa, Sicily and Italy.

General Wickersham was chief of the European Allied Contact Section at the headquarters of General Dwight D. Eisenhower in 1944 and later was acting deputy and commanding general of the United States Group Control Council for Germany under General Eisenhower.

Among his many decorations were the Distinguished Service Medal, the Legion of Merit, the French Legion of Honor, Commander of the Order of the British Empire and the Medal of Verdun.

He was a founder of the American Legion and was its first department commander for New York.

General Wickersham was a frequent speaker and writer on subjects dealing with the law and military matters.

Two years after the end of World War II, he called for the reorganization of National Guard units throughout the nation "in a realistic way" to insure national defense against modern weapons of war, particularly nuclear bombs.

General Wickersham leaves his wife, the former Rosalie Neilson Hinckley; a son, the Rev. George W. Wickersham 2d; a daughter, Mrs. Rosalie W. Wolff, and nine grandchildren.

A funeral service will be held tomorrow at 11 A.M. at St. John's Protestant Episcopal Church, Far Rockaway, Queens. Burial will be private.

Mr. Speaker, Lieutenant General Wickersham was a prominent citizen of the Fifth Congressional District, but much more than that he was a distinguished American who served his country with honor and his clients and friends with dedication.

SENATE—*Tuesday, February 6, 1968*

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

The Chaplain, Rev. Frederick Brown Harris, D.D., offered the following prayer:

Our father God, we would bring our drained and driven souls that the benediction of Thy peace may fall upon our restless lives.

Thou art the center and soul of every sphere, yet to each loving heart how near; nearer than the hands and feet that serve us, nearer than the problems that front us, nearer even than the comrades who walk beside us.

We would pause at this wayside altar long enough to be reminded that what supremely counts has nothing to do with the appraisals of men or with honors and recognitions for which men contend, but has to do with what causes use us, what powers surge through us, what ideas master us before daylight fades and our little day is over.

In confused and confusing days—

Take from our souls the strain and stress
And let our ordered lives confess
The beauty of Thy peace.

In the dear Redeemer's name. Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Monday, February 5, 1968, be dispensed with.

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

MESSAGES FROM THE PRESIDENT

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

LIMITATION ON STATEMENTS DURING TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that statements in relation to the transaction of routine morning business be limited to 3 minutes.

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

ATTENDANCE OF SENATORS

The following additional Senators attended the session of the Senate today: Hon. EDWARD W. BROOKE and Hon. QUENTIN N. BURDICK.

ORDER FOR ADJOURNMENT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 12 o'clock noon tomorrow.

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

EXECUTIVE SESSION

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

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

COUNCIL OF ECONOMIC ADVISERS

The bill clerk read the nomination of Merton J. Peck, of Connecticut, to be a member of the Council of Economic Advisers.

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

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

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

EXECUTIVE MESSAGES REFERERD

The PRESIDENT pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the Committee on Post Office and Civil Service.

(For nominations this day received, see the end of Senate proceedings.)

EXECUTIVE REPORT OF A COMMITTEE

The following favorable report of a nomination was submitted:

By Mr. ANDERSON, from the Committee on Aeronautical and Space Sciences:

Thomas O. Paine, of California, to be Deputy Administrator of the National Aeronautics and Space Administration.

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I move that the Senate resume the consideration of legislative business.

The motion was agreed to, and the Senate resumed the consideration of legislative business.

EXECUTIVE COMMUNICATIONS, ETC.

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

REPORTS ON SETTLEMENT OF CLAIMS OF CERTAIN INDIANS

A letter from the Commissioner, Indian Claims Commission, Washington, D.C., reporting, pursuant to law, that proceedings have been finally concluded with respect to the claim of the *Sac and Fox Tribe of Oklahoma, et al.* v. *The United States of America*, Docket No. 220 (with accompanying papers); to the Committee on Appropriations.

A letter from the Commissioner, Indian Claims Commission, Washington, D.C., reporting, pursuant to law, that proceedings have been finally concluded with respect to the claim of the Peoria Tribe of Indians of Oklahoma and Amos Robinson Skye, on behalf of the *Wea Nation* v. *The United States of America*, Docket No. 314–E (with accompanying papers); to the Committee on Appropriations.

FEDERAL PLAN FOR METEOROLOGICAL SERVICES AND SUPPORTING RESEARCH

A letter from the Director, Bureau of the Budget, Executive Office of the President, transmitting, pursuant to law, a document entitled "The Federal Plan for Meteorological Services and Supporting Research" for the fiscal year 1969 (with an accompanying document); to the Committee on Appropriations.

REPORTS OF THE COMPTROLLER GENERAL

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on the examination of financial statements, low-rent public housing program fund, fiscal year 1967, Department of Housing and Urban Development, dated February 5, 1968 (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 of a review of the establishment and operation of St. Petersburg Job Corps Center for Women, St. Petersburg, Fla., Office of Economic Opportunity, dated February 5, 1968 (with an accompanying report); to the Committee on Government Operations.

THIRD PREFERENCE AND SIXTH PREFERENCE CLASSIFICATIONS FOR CERTAIN ALIENS

A letter from the Commissioner, Immigration and Naturalization Service, 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.

HIGHER EDUCATION AMENDMENTS OF 1968 AND PARTNERSHIP FOR EARNING AND LEARNING ACT OF 1968

A letter from the Acting Secretary, Department of Health, Education, and Welfare, transmitting a draft of proposed legislation to amend the Higher Education Act of 1965, the National Defense Education Act of 1958, the National Vocational Student Loan Insurance Act of 1965, the Higher Education Facilities Act of 1963, and related acts; also a draft of proposed legislation to amend the Vocational Education Act of 1963, and for other purposes (with accompanying papers); to the Committee on Labor and Public Welfare.

REPORT OF CIVIL SERVICE COMMISSION ON POSITIONS IN GRADES GS–16, GS–17, AND GS–18

A letter from the Chairman, U.S. Civil Service Commission, transmitting, pursuant to law, a report with respect to positions in grades GS–16, GS–17, and GS–18 during the calendar year 1967 (with an accompanying report); to the Committee on Post Office and Civil Service.

BILLS AND JOINT RESOLUTION INTRODUCED

Bills and a joint resolution were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. YOUNG of Ohio (for himself and Mr. GRUENING):

S. 2929. A bill to amend the Renegotiation Act of 1951, and for other purposes; to the Committee on Finance.

(See the remarks of Mr. YOUNG of Ohio when he introduced the above bill, which appear under a separate heading.)

By Mr. CLARK:

S. 2930. A bill for the relief of refugees from Sicily, Italy, and for other purposes; to the Committee on the Judiciary.

(See the remarks of Mr. CLARK when he introduced the above bill, which appear under a separate heading.)

By Mr. MORSE:

S. 2931. A bill for the relief of the estate of William E. Jones; to the Committee on the Judiciary.

By Mr. ELLENDER (for himself and Mr. MONTOYA) (by request):

S. 2932. A bill to clarify and otherwise amend the Poultry Products Inspection Act, to provide for cooperation with appropriate State agencies with respect to State poultry products inspection programs, and for other purposes; to the Committee on Agriculture and Forestry.

(See the remarks of Mr. ELLENDER when he introduced the above bill, which appear under a separate heading.)

By Mr. METCALF:

S. 2933. A bill to establish an independent agency to be known as the U.S. Office of Utility Consumers' Counsel to represent the interests of the Federal Government and the consumers of the Nation before Federal and State regulatory agencies with respect to matters pertaining to certain electric, gas, telephone, and telegraph utilities; to amend section 201 of the Federal Property and Administrative Services Act pertaining to proceedings before Federal and State regulatory agencies; to provide grants and other Federal assistance to State and local governments for the establishment and operation of utility consumers' counsels; to provide Federal grants to universities and other nonprofit organizations for the study and collection of information relating to utility consumer matters; to improve methods for obtaining and disseminating information with respect to the operations of utility companies of interest to the Federal Government and other consumers; and for other purposes; to the Committee on Government Operations.

S. 2934. A bill to assist the States in raising revenues by making more uniform the incidence and rate of tax imposed by States on the severance of minerals; to the Committee on Finance.

(See the remarks of Mr. METCALF when he introduced the above bills, which appear under separate headings.)

By Mr. METCALF (for himself, Mr. BROOKE, Mr. BURDICK, Mr. BYRD of West Virginia, Mr. CASE, Mr. CHURCH, Mr. CLARK, Mr. GRUENING, Mr. HARRIS, Mr. HART, Mr. HATFIELD, Mr. HILL, Mr. JAVITS, Mr. KENNEDY of Massachusetts, Mr. KENNEDY of New York, Mr. Long of Missouri, Mr. MCCARTHY, Mr. MCGEE, Mr. MCGOVERN, Mr. MANSFIELD, Mr. MONDALE, Mr. MONTOYA, Mr. MORSE, Mr. MUSKIE, Mr. NELSON, Mr. PELL, Mr. PROUTY, Mr. PROXMIRE, Mr. RANDOLPH, Mr. RIBICOFF, Mr. SPARKMAN, Mr. SPONG, Mr. TYDINGS, Mr. WILLIAMS of New Jersey, Mr. YARBOROUGH, and Mr. YOUNG of Ohio):

S. 2935. A bill to amend title II of the Social Security Act so as to provide that the definition of the term disability, as employed therein, shall be the same as that in effect prior to the enactment of the Social Security Amendments of 1967; to the Committee on Finance.

(See the remarks of Mr. METCALF when he introduced the above bill, which appear under a separate heading.)

By Mr. MONTOYA (for himself, Mr. ANDERSON, Mr. BARTLETT, Mr. BREWSTER, Mr. BROOKE, Mr. BURDICK, Mr. BYRD of West Virginia, Mr. CLARK, Mr. EASTLAND, Mr. GRUENING, Mr. HART, Mr. INOUYE, Mr. JACKSON, Mr. JAVITS, Mr. KENNEDY of Massachusetts, Mr. KENNEDY of New York,

Mr. LONG of Louisiana, Mr. LONG of Missouri, Mr. MCGEE, Mr. MCGOVERN, Mr. MCINTYRE, Mr. MAGNUSON, Mr. MANSFIELD, Mr. METCALF, Mr. MONDALE, Mr. MORSE, Mr. MUSKIE, Mr. NELSON, Mr. PELL, Mr. RANDOLPH, Mr. TYDINGS, Mr. YARBOROUGH, and Mr. YOUNG of Ohio):

S. 2936. A bill to amend title XVIII of the Social Security Act so as to include, among the health insurance benefits covered under part B thereof, coverage of certain drugs; to the Committee on Finance.

(See the remarks of Mr. MONTOYA when he introduced the above bill, which appear under a separate heading.)

By Mr. KENNEDY of Massachusetts (for himself and Mr. YARBOROUGH) (by request):

S. 2937. A bill to amend title 38 of the United States Code to increase the amount of home loan guarantee entitlement from $7,500 to $10,000, and for other purposes; to the Committee on Labor and Public Welfare.

(See the remarks of Mr. KENNEDY of Massachusetts when he introduced the above bill, which appear under a separate heading.)

By Mr. KENNEDY of Massachusetts (for himself and Mr. YARBOROUGH):

S.J. Res. 137. A joint resolution to assist veterans of the Armed Forces of the United States who have served in Vietnam or elsewhere in obtaining suitable employment; to the Committee on Labor and Public Welfare.

(See the remarks of Mr. KENNEDY of Massachusetts when he introduced the above joint resolution, which appear under a separate heading.)

RESOLUTIONS

REFERENCE OF SENATE BILL 2931 TO THE COURT OF CLAIMS

Mr. MORSE submitted the following resolution (S. Res. 253); which was referred to the Committee on the Judiciary:

S. RES. 253

Resolved, That the bill (S. 2931) entitled "A bill for the relief of the estate of William E. Jones", now pending in the Senate, together with all the accompanying papers, is hereby referred to the chief commissioner of the Court of Claims; and the chief commissioner of the Court of Claims shall proceed with the same in accordance with the provisions of sections 1492 and 2509 of title 28, United States Code, and report to the Senate, at the earliest practicable date, giving such findings of fact and conclusions thereon as shall be sufficient to inform the Congress of the nature and character of the demand as a claim, legal or equitable, against the United States and the amount, if any, legally or equitably due from the United States to the claimant.

TO PRINT AS A SENATE DOCUMENT THE REPORT OF THE NEW ENGLAND REGIONAL COMMISSION, FISCAL YEAR 1967

Mr. RANDOLPH submitted the following resolution (S. Res. 254); which was referred to the Committee on Rules and Administration:

S. RES. 254

Resolved, That there be printed as a Senate document the first annual report of the New England Regional Commission, for fiscal year 1967, pursuant to the provisions of section 509, of the Public Works and Economic Development Act of 1965 (Public Law 89–136); and that there be printed for the use of the Committee on Public Works one thousand additional copies of such document.

TO PRINT AS A SENATE DOCUMENT THE REPORT OF THE OZARKS REGIONAL COMMISSION, FOR THE PERIOD SEPTEMBER 7, 1966, TO DECEMBER 31, 1967

Mr. RANDOLPH submitted the following resolution (S. Res. 255); which was referred to the Committee on Rules and Administration:

S. RES. 255

Resolved, That there be printed as a Senate document the first annual report of the Ozarks Regional Commission, for the period from September 7, 1966, to December 31, 1967, pursuant to section 510 of the Public Works and Economic Development Act of 1965 (Public Law 89–136); and that there be printed for the use of the Committee on Public Works one thousand additional copies of such document.

RELIEF OF REFUGEES FROM SICILY, ITALY

Mr. CLARK. Mr. President, I introduce for appropriate referral a bill for the relief of refugees from Sicily, Italy, and for other purposes.

The PRESIDENT pro tempore. The bill will be received and appropriately referred.

The bill (S. 2930) for the relief of refugees from Sicily, Italy, and for other purposes, introduced by Mr. CLARK, was received, read twice by its title, and referred to the Committee on the Judiciary.

Mr. CLARK. Mr. President, last month a series of shattering earthquakes brought havoc and destruction to the island of Sicily. In a single night hundreds were killed, thousands were injured, and tens of thousands were left homeless.

The American people responded as they always have in such crises—promptly and generously. On the day of the earthquake U.S. Air Force transport planes, U.S. Navy cargo planes, U.S. Army trucks, tents, blankets, rations, and other emergency equipment were flown to the disaster area together with an American Army medical team. Since then, more than a score of voluntary organizations in America such as the American Red Cross, the Catholic Relief Services, and the Church World Service have been forwarding aid to the stricken area.

But in spite of this help, there are still many thousands of Sicilians without a home, work, or hope at this moment. The ties that bind this stricken island and the United States are intimate and strong. More than 25 million Americans claim Italy as the land of their descent, and many of them are of Sicilian lineage. That is why, in a very real way, Sicily's tragedy is our tragedy too.

To help the victims of this disaster I am introducing a bill today to permit 5,000 of the earthquakes' refugees to be brought to this country as refugee-immigrants. I urge Congress to act promptly on this legislation. Our spirit of fraternity with the people of Italy requires it. Our sense of humanity demands it.

WHOLESALE POULTRY PRODUCTS ACT

Mr. ELLENDER. Mr. President, on behalf of myself and the Senator from New Mexico [Mr. MONTOYA], and by request of the Department of Agriculture, I introduce, for appropriate reference, a bill to clarify and otherwise amend the Poultry Products Inspection Act, to provide for cooperation with appropriate State agencies with respect to State poultry products inspection programs, and for other purposes. I ask unanimous consent to have printed in the RECORD a letter from the Secretary of Agriculture, requesting the proposed legislation, together with an analysis of the proposed bill.

The PRESIDENT pro tempore. The bill will be received and appropriately referred; and, without objection, the letter and analysis will be printed in the RECORD.

The bill (S. 2932) to clarify and otherwise amend the Poultry Products Inspection Act, to provide for cooperation with appropriate State agencies with respect to State poultry products inspection programs, and for other purposes, introduced by Mr. ELLENDER (for himself and Mr. MONTOYA), by request, was received, read twice by its title, and referred to the Committee on Agriculture and Forestry.

The letter and analysis, presented by Mr. ELLENDER, are as follows:

DEPARTMENT OF AGRICULTURE,
Washington, D.C.

HON. JOHN W. MCCORMACK,
Speaker of the House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: In his message of February 7, 1968, the President recommended prompt enactment of a Wholesome Poultry Products Act. Accordingly, I am submitting a bill to carry out the President's recommendation, and I urge its early and favorable consideration by the Congress.

The Poultry Products Inspection Act was enacted on August 28, 1957. The act provides for inspection of processing of poultry or poultry products for "commerce" as defined in the act. Section 5 of the act provides that under certain conditions major consuming areas could be designated and all poultry products processed or sold in such areas could be required to be inspected. However, section 5 has proven to be ineffective and no areas have been designated. There are two primary reasons why this section has not been effective in extending inspection to intrastate plants. (1) The Secretary may not himself initiate action for designation; it has to originate with a State or local official or agency or a local poultry industry group. (2) The Secretary must find, inter alia, that the volume of noninspected poultry or poultry products is such as to burden the movement of inspected poultry products in "commerce." There are plants of significant size which process without inspection and sell poultry in intrastate commerce, some of which is unwholesome and not properly processed.

Experience has shown that additional legislation is urgently needed for the truly adequate protection of consumers, the legitimate operators in the affected industries, and others associated therewith.

About 13 percent of the poultry sold off farms is not prepared for distribution in "commerce" as defined in the act, and under present law is not subject to Federal inspection. Since only four States have active mandatory poultry inspection programs, the majority of these poultry products receive no inspection. These products are permitted to be intermingled in the retailing process with federally inspected products for sale to the unsuspecting public.

The object of the proposed bill is to eliminate the sale of unwholesome, adulterated, improperly processed, mislabeled, or decep-

tively packaged poultry products and to assure consumers that poultry products they buy are wholesome, unadulterated, and honestly packaged and labeled.

The proposed bill is very similar to the recently enacted Wholesome Meat Act. It would meet a need for establishing new authorities with respect to certain operators related to the poultry processing industry whose activities have a significant part in the marketing of poultry carcasses, parts thereof, and other poultry food products. This group includes renderers, animal food manufacturers, poultry products brokers, wholesalers, transporters, and cold storage warehousemen engaged in business in or for "commerce" and importers. Adequate and appropriate controls are necessary to protect consumers. The bill would authorize registration requirements and impose recordkeeping requirements with respect to such operators and would further require them to give access to representatives of the Secretary to their places of business for the purpose of examining records, inventories, and facilities and for taking samples upon payment therefor. These provisions would aid in preventing substitution of noninspected products for inspected products and otherwise deter buying, selling, and importation of noninspected or adulterated or misbranded poultry products. These new authorities would also be conferred on the Secretary with respect to persons that conduct the kinds of business specified in the bill but not in or for commerce whenever the Secretary determines after consultation with an advisory committee that the State or other jurisdiction concerned does not have or is not adequately exercising at least equal authority under its laws.

The bill would provide authority for the Secretary to cooperate with the appropriate agency in any State in developing and administering State laws with respect to poultry inspection and other matters covered by the bill. Cooperation with the States could include furnishing advisory program planning assistance and technical and laboratory assistance training State inspection employees and financial aid. The Federal contribution could not exceed 50 per centum of the estimated total cost of the cooperative program. The bill also provides for the Secretary to appoint advisory committees consisting of appropriate State agency representatives for purposes of consultations with him on such matters as State program evaluation and establishing better coordination and more uniformity among State programs and between Federal and State systems. The authority for such cooperation would also extend to the organized Territories.

Auxiliary provisions of the proposed bill would provide detention, seizure and injunction authority needed to prevent distribution of products that are unfit for human food or otherwise in violation of the act. The bill would also clarify various authorities and make numerous technical changes to facilitate enforcement of the Act.

The additional Federal costs that would be incurred if the proposed legislation is enacted would be approximately $5,000,000 for the first full year of operation and would be about $10,000,000 when all 50 States are cooperating. These costs are based on the assumption that States will cooperate and pay 50 percentum of the estimated total costs for their inspection programs. If States do not wish to cooperate and the Federal Government is responsible for the entire inspection program, the Federal cost estimates will double for those States that fail to cooperate. Financial assistance to States in the development of their inspection programs is estimated to be $4,400,000 in the first year, and technical assistance to States is expected to cost $450,000. Training of State employees in use of Federal standards and methods and Advisory Committee costs will be about $150,000.

The estimated first-year costs are based on the assumption that 24 States will enter the cooperative program during the first 12 months. Seventeen States now have some type of poultry inspection legislation. We assume that any of these that could qualify under the proposed legislation would enter a cooperative program immediately. The remaining States could enter the program as soon as they are able to enact legislation or take other steps necessary to qualify. However, there are no precise means of determining the number of States which would enter into cooperative agreements.

There are no means of accurately forecasting the number of plants which will elect to shift from their present intrastate status to interstate operations. Such a shift would reduce the cost of the cooperative program while significantly increasing Federal costs.

The proposed amendments would not derogate from authorities vested in the Department of Health, Education and Welfare under the Federal Food, Drug and Cosmetic Act. Provisions are included in the Bill to enhance the already established coordination between the two Departments in the administration of applicable food laws.

In addition to the draft bill, there is enclosed a section-by-section analysis of the bill with further comments as necessary to explain the effect of the provisions.

We believe that the enactment of the bill would not significantly affect consumer prices of poultry and poultry food products and that the bill is urgently needed in the interest of more adequate protection of consumers and other members of the public.

The Bureau of the Budget advises that enactment of this proposed legislation would be in accord with the President's program.

Sincerely yours,

ORVILLE L. FREEMAN.

ANALYSIS OF PROPOSED BILL TO AMEND THE POULTRY PRODUCTS INSPECTION ACT

Sec. 1. This section entitles the Bill as the Wholesome Poultry Products Act.

Sec. 2. Section 2 amends the legislative finding now in section 2 of the Poultry Products Inspection Act (PPIA) to conform to that in the Federal Meat Inspection Act (FMIA), including language to support the provisions of the Bill which affect intrastate commerce.

Sec. 3. Section 3 amends the policy statement in section 3 of the Act to coordinate it with other amendments made by the Bill, e.g. to refer to misbranded poultry products and delete reference to designated major consuming areas.

Sec. 4. Section 4 amends section 4 of the Act to revise the definitions of "commerce", "Secretary", "poultry product", "adulterated", "inspector", and "label", to delete the definitions of "official inspection mark", "wholesome" and "unwholesome", and to add numerous new definitions including definitions of "processed" and "misbranded". The amended or new definitions of terms conform closely to the definitions of those terms in the FMIA.

(a) In the present Act "commerce" means commerce between any State (including the Commonwealth of Puerto Rico and the Virgin Islands) or the District of Columbia and any place outside thereof; or between points within the same State or the District of Columbia but through any place outside thereof; or within the District of Columbia. The bill defines "commerce" to mean commerce between any State, any Territory (i.e. any territory or possession of the United States excluding the Canal Zone) or the District of Columbia and any place outside thereof; or within any unorganized Territory or the District of Columbia.

(b) A definition of "State" (including the Commonwealth of Puerto Rico) is added.

(c) A definition of "Territory" (including any territory or possession of the United States, excluding the Canal Zone) is added.

(d) A definition of "United States" is added. It covers all the States and Territories and the District of Columbia. The legislative history of the present Act indicates that the term now covers only those areas included in the definition of "United States" in 19 U.S.C. 1401, which formerly applied for purposes of the import meat provisions of section 306 of the Tariff Act of 1930 (19 U.S.C. 1306), repealed by the Wholesome Meat Act (Pub. Law 90–201).

(e) The definition of "poultry" is extended to include domesticated birds that died otherwise than by slaughter.

(f) The definition of "poultry product" is clarified and extended to include New York dressed poultry so as to make applicable thereto provisions of the Act relating to poultry products. The definition insofar as it relates to articles made from poultry carcasses or parts thereof, conforms to the definition of meat food product in the FMIA, although it does not include the phrase "capable of use as human food". The quoted phrase is added as appropriate elsewhere in the Act.

(g) The definition of "adulterated" is amended to conform to that in the FMIA with a nonsubstantive change in the proviso in subparagraph (g)(2) and with other changes necessary to make it applicable to poultry products. A paragraph relating to margarine is omitted as not applicable to poultry.

(h) The definition of "misbranded" is like that in the FMIA except for changes needed to make it apply to poultry products and except as follows:

Subparagraph (5) requires a label showing specified information whether the article is in a container or not; and authority would be given to the Secretary to exempt articles not in containers from labeling as to quantity.

In Subparagraph (12), the official establishment number is required, as well as the official inspection legend and other information. Also the prescribed information is required to appear on the article "and" on its containers as prescribed by regulations of the Secretary. This clarifies wording used in the FMIA with the same intent.

(i) "Secretary" is redefined to include the delegates of the Secretary in accord with Reorganization Plan 2 of 1953.

(j) Only a grammatical change is made in the definition of "person".

(k) The definition of "inspector" is changed to include reference to employees or officials of a Territory or the District of Columbia, as well as of a State, or the United States.

(l) The term "official mark" is added. It is a broader term than "official inspection legend".

(m) The term "official inspection legend" is substituted for "official inspection mark" in conformity with the FMIA, except that provisions are added to include the combined State-Federal official inspection legend to be prescribed for use on poultry products processed under a State inspection system which the Secretary determines, imposes requirements at least equal to those under this act, as provided in subparagraph 5(c)(5) of this act.

(n) and (o) The terms "official certificate" and "official device" are added to conform to the FMIA.

(p) and (q) There is no change in the definitions of "official establishment" or "inspection service".

(r) Only a grammatical change is made in the definition of "container" or "package".

(s) "Label" is redefined and a definition of "labeling" is added in conformity with the

FMIA. However the term "label" is changed to include written, printed or graphic matter *upon any article* as well as such matter upon the immediate container.

(t) and (u) No change is made in the definition of "shipping container" and "immediate container".

(v) A definition of "capable of use as human food" is added in conformity with the FMIA.

(w) A definition of "processed" is added, adapted from the definition of "prepared" in the FMIA.

(x) and (y) These paragraphs add definitions of "Federal Food, Drug, and Cosmetic Act"; and "pesticide chemical" and related terms identical with the definitions in FMIA.

(z), (aa) and (bb). These paragraphs add definitions of "poultry products broker"; "renderer"; and "animal food manufacturer" which are adapted from corresponding terms in the FMIA with only such changes as are needed to apply them to poultry or poultry products.

Sec. 5. This section deletes the present provisions in section 5 of the Act for designation of major consuming areas with respect to which the requirements of the Act would be applicable to intrastate activities, and it substitutes therefor provisions for Federal-State cooperation similar to those contained in Title III of the FMIA.

(a)(1) The Secretary would be authorized to cooperate with appropriate State agencies in developing and administering State poultry product inspection programs in any "State" (as defined to mean any State, the Commonwealth of Puerto Rico, or any organized Territory) which has enacted a State poultry products inspection law imposing ante-mortem and post-mortem inspection, reinspection and sanitation requirements, at least equal to those under the Federal Act for all or certain classes of intrastate operators.

(a)(2) The Secretary would be authorized to cooperate with appropriate State agencies in developing and administering State programs under State laws containing authorities at least equal to those provided in revised section 11 of the Act (records, registration and handling of dead, dying, disabled, or diseased poultry and other matters) and to cooperate with other agencies of the United States in carrying out the provisions of the Federal Act. Authority now in section 18(b) of the Act to conduct inspections, etc., under the Act through State employees is also incorporated and extended in revised section 5.

(a)(3) The cooperation with the States may include advisory assistance, technical and laboratory assistance and training, financial and other aid. The Federal contribution may not exceed 50 percent of the total cost of the program.

(a)(4) The Secretary would be authorized to appoint advisory committees of State personnel to consult with him on poultry products inspection and other matters within the scope of the Act.

(b) The term "appropriate State agency" is defined in conformity with the FMIA.

(c)(1). Subparagraph (c)(1) provides for extending Federal inspection and certain other requirements of the Act to intrastate activities, including operations at establishments slaughtering poultry or preparing poultry products solely for intrastate commerce. It would authorize the Secretary after specified periods to designate any State as one in which such requirements would apply to wholly intrastate operations and transactions upon his determination, in accordance with specified procedure, that the State requirements are not at least equal to the Federal requirements. This subparagraph also provides for extension of the Federal requirements to specific plants designated by the Secretary upon his determination that they produce adulterated poultry products, for intrastate distribution, which clearly endanger the public health.

(c)(2) Subparagraph (c)(2) would include limited exemption from inspection for traditional and usual types of operations at retail stores or restaurants or similar retail-type establishments otherwise subject to inspection only under paragraph (c).

(c)(3) Subparagraph (c)(3) provides for terminating the designation of States under paragraph (c), and also redesignating such States.

(c)(4) Under subparagraph (c)(4) the Secretary would be required to review the requirements of the several States not designated under paragraph (c) with respect to slaughter, processing, storage, handling, and distribution of poultry products, and inspection of such operations.

(c)(5) This subparagraph would authorize the distribution in commerce of poultry products processed under State inspection in accordance with requirements which the Secretary has determined are at least equal to the Federal requirements, when such products are marked with a combined State-Federal inspection legend under conditions prescribed by the Secretary. This provision would also relieve the Secretary of the obligation of providing regular Federal inspection at an establishment which initially processes products solely for intrastate commerce under a State inspection program and then desires to distribute some of its products in "commerce," if the State program is found to be at least equal to the Federal program and the establishment operator elects to continue under State rather than Federal inspection.

(d) Paragraph (d) defines "State" to conform to the definition in the FMIA.

Sec. 6. Section 6 amends section 6 of the Act by making editorial changes to conform the language to other amendments made by the Bill, including adding the phrase "capable of use as human food" to qualify "poultry products" in the provisions for quarantine, segregation and reinspection.

Sec. 7. This section also makes editorial changes to conform to other amendments.

Sec. 8. This section deletes the present labeling provisions in section 8 of the Act and substitutes provisions identical with those in the FMIA except for necessary editorial changes (e.g. references to poultry products rather than meat and meat food products) and except that the requirement in the latter Act that certain information appear on the products "or" their containers, as the Secretary may require, is here clarified to require it on the products "and" their containers.

(a) The principal change made by this paragraph is in the label information to be required. The present Act specifies certain items required to appear on the shipping container and more extensive information for the immediate container. Under the revised section all the information necessary under the definition of "misbranded" would have to appear on the poultry product itself and on the shipping containers and immediate containers as the Secretary may require.

(b) This paragraph would confer specific authority on the Secretary to prescribe styles and sizes of type of required label information and to prescribe standards of identity or composition, or fill of container.

(c) This provision would prohibit sale in commerce of any article subject to the Act under a false or misleading name or in containers of a false or misleading form or size but allow the use of approved labeling and containers. Similar provisions are in present paragraph 8(b).

(d) This paragraph would authorize the Secretary to order labeling or containers to be withheld from use if there is reason to believe they are false or misleading and provide for administrative hearing and judicial review. This provision is essentially the same as in paragraph 8(b) of the present Act except that it includes authority to prevent use of containers of a false or misleading form or size.

Sec. 9. This section deletes the principal prohibition now in the Act and substitutes prohibitions like those in the FMIA plus others adapted from the present PPIA, and makes necessary editorial changes as well. Under the revised section it would be unlawful to:

(a)(1) slaughter poultry or process poultry products capable of use as human food at establishments processing such articles for commerce, except in compliance with the requirements of the Act. (This clarifies a prohibition now in paragraph 9(a) of the Act with respect to processing.)

(a)(2) sell, transport, offer for sale or transportation, or receive for transportation, in commerce (A) adulterated or misbranded poultry products capable of use as human food or (B) poultry products required to be inspected unless they have been inspected and passed.

(a)(3) adulterate or misbrand poultry products capable of use as human food while they are being transported in commerce or held for sale after such transportation.

Clause (9)(a)(2)(A) replaces comparable prohibitions in paragraphs 9(a), (b) and (d) and section 16 of the present Act with respect to mislabeled or unwholesome or adulterated articles and extends coverage into areas now covered only by the Federal Food, Drug and Cosmetic Act. This is also true of subparagraph 9(a)(3). Clause (B) of revised subparagraph 9(a)(2) preserves prohibitions now in paragraph 9(a) with respect to distribution of poultry products that have not been inspected.

(a)(4) This provision clarifies and replaces the prohibition now in paragraph 9(i) with respect to the distribution of articles not qualifying under the present definition of "poultry product", principally "New York dressed poultry".

(a)(5) This paragraph clarifies and slightly relieves the present prohibition in paragraph 9(h) of the Act against use or revealing of information acquired under the Act.

(b) This paragraph clarifies and preserves prohibitions now in paragraph 9(c) against counterfeiting or simulating official identifications and related offenses, especially as to brand manufacturers and printers.

(c) This paragraph prohibits forgery, unauthorized use or destruction, or prohibited failure to use or to destroy, official devices, marks or certificates; knowing possession (without notifying the Secretary) of counterfeit "official" certificates, devices, or labels, or poultry carcasses, parts thereof or products bearing counterfeit "official" marks; and similar offenses. It also prohibits false statements in certificates prescribed under the Act and false representation of poultry products as inspected or exempted under the Act. Similar prohibitions are now contained in paragraphs 9 (c) and (e) of the Act, except as to false statements in certificates.

SEC. 10. This section makes editorial changes in section 10 of the Act relating to complete coverage of official establishments for conformity with other amendments.

SEC. 11. This section deletes the present record requirements in section 11 of the Act and substitutes the record and other provisions of Title II of the FMIA.

New paragraph 11(a) of the Act limits inspection under the Act to inspection of the slaughter of poultry and the preparation of poultry carcasses etc. intended for use as human food and requires denaturing or other identification, as prescribed by the Secretary, of poultry carcasses etc. not intended for such use before their distribution in commerce or importation.

New paragraph 11(b) of the Act would require keeping of records fully and correctly disclosing all business transactions by:

(1) persons engaged (for commerce) in the business of slaughtering poultry or processing, freezing, packaging or labeling carcasses, etc. of poultry for use as human food or animal food;

(2) persons engaged in the business of

buying or selling in any capacity, transporting, or storing, in or for commerce, or importing any carcasses, etc. of poultry; and

(3) persons engaged in business, in or for commerce, as renderers, or in the business of buying, selling, or transporting in commerce, or importing any dead, dying, disabled or diseased poultry (hereinafter called "4–D poultry") or parts of the carcasses of any poultry that died otherwise than by slaughter, e.g. from natural causes.

Paragraph 11(b) also would require such operators to give representatives of the Secretary access to their places of business, and opportunity to examine records, facilities, and inventories and to take samples of their inventories upon payment therefor.

New paragraph 11(c) of the Act would authorize the Secretary to require registration of persons engaged in business, in or for commerce, as poultry products brokers, renderers, animal food manufacturers, wholesalers or public warehousemen of poultry carcasses, etc., and persons engaged in the business of buying, selling or transporting, in commerce, or importing, any 4–D poultry, or parts of the carcasses of any poultry that died otherwise than by slaughter.

New paragraph 11(d) would prohibit 4–D poultry or carcass handlers from buying, selling, or transporting, etc. in commerce or importing, any 4–D poultry, or parts of carcasses of any poultry that died otherwise than by slaughter, unless such transactions, etc. are made in accordance with the Secretary's regulations.

(2) persons engaged in the business of buying or selling in any capacity, transporting, or storing, in or for commerce, or importing any carcasses, etc. of poultry; and

(3) persons engaged in business, in or for commerce, as renderers, or in the business of buying, selling, or transporting in commerce, or importing any dead, dying, disabled or diseased poultry (hereinafter called "4–D poultry") or parts of the carcasses of any poultry that died otherwise than by slaughter, e.g. from natural causes.

Paragraph 11(b) also would require such operators to give representatives of the Secretary access to their places of business, and opportunity to examine records, facilities, and inventories and to take samples of their inventories upon payment therefor.

New paragraph 11(c) of the Act would authorize the Secretary to require registration of persons engaged in business, in or for commerce, as poultry products brokers, renderers, animal food manufacturers, wholesalers or public warehousemen of poultry carcasses, etc., and persons engaged in the business of buying, selling or transporting, in commerce or importing, any 4–D poultry, or parts of the carcasses of any poultry that died otherwise than by slaughter.

New paragraph 11(d) would prohibit 4–D poultry or carcass handlers from buying, selling, or transporting, etc. in commerce or importing, any 4–D poultry, or parts of carcasses of any poultry that died otherwise than by slaughter unless such transactions, etc. are made in accordance with the Secretary's regulations.

New paragraph 11(e) would provide that the authority conferred on the Secretary by paragraph (b), (c), or (d) with respect to persons engaged in the specified kinds of business in or for commerce, may be exercised by him with respect to persons engaged in such business but not in or for commerce, and with respect to their transactions, when he determines, after consultation with an appropriate advisory committee provided for in section 5 of the Act that the State or Territory involved does not have or is not adequately exercising at least equal authority, including the State or Territory providing for the Secretary or his representative being afforded access to such places of business.

Sec. 12. This section would amend section 12 of the Act relating to penalties by substituting provisions adapted from section 406 of the FMIA, by making editorial changes in paragraph 12(b), and by adding as paragraph 12(c) prohibitions and penalties like those in section 405 of the FMIA with respect to forcible assaults, etc. against persons performing official duties under the PPIA.

Sec. 13. This section adds, to section 14 of the Act as paragraph (a), authority for the Secretary to regulate conditions of storage and handling of poultry products capable of use as human food by any person engaged in handling in commerce or importing such articles. It is the same as section 24 of the FMIA except for necessary editorial changes.

Sec. 14. This section amends the exemption provisions now in section 15 of the Act by:

(a) deleting the poultry producer exemption authority now contained in paragraph 15(a)(1) (a more restricted exemption is provided in new paragraph 15(c)); and preserving and redesignating as paragraph (a)(1) the exemption authority as to retail dealers now contained in paragraph 15(a)(2); redesignating as paragraph 15(a)(2) the provisions now contained in paragraph 15(a)(3) for exemption from inspection in cases of impracticability to provide it; and redesignating as paragraph 15(a)(3) the religious exemption provisions now contained in paragraph 15(a)(4).

(b) extending until January 1, 1970 the expired authority of the Secretary under redesignated paragraph 15(a)(2) to exempt processors of poultry and poultry products for commerce from inspection when he finds it is impracticable to provide such inspection;

(c) redesignating as (e) present paragraph (b) relating to suspension or termination of exemptions and adding new paragraphs (b), (c) and (d) to the Act, as follows:

"(b)" Authorizing the Secretary to exempt from inspection the slaughter of poultry and processing of poultry products in any unorganized Territory solely for distribution therein when he finds it is impracticable to provide such inspection for lack of funds. (This is the same as paragraph 23(b) of the FMIA except for editorial changes.)

"(c)" Excluding from the inspection requirements of the Act, the slaughter by any person of poultry of his own raising and the processing by him of the poultry products thereof exclusively for use by him and members of his household and nonpaying guests and employees; and the custom slaughter and processing of such poultry, for such use, by custom slaughterers who do not engage in the business of buying or selling poultry products capable of use as human food.

(This is the same as paragraph 23(a) of the FMIA except for editorial changes.)

"(d)" Affirming the application of the adulteration and misbranding provisions generally to articles exempted or excluded from the inspection requirements.

Sec. 15. This section deletes the present provisions in section 16 relating to distribution of unwholesome or adulterated exempted poultry or poultry products since they are included in new subparagraph 9(a)(2)(A).

Section 15 of the Bill substitutes provisions clarifying the authority to limit the entry into official establishments of poultry products and other materials.

Sec. 16. This section amends the import provisions of section 17 of the Act to conform to the provisions in section 20 of the FMIA.

(a) It prohibits importation of poultry products capable of use as human food if they are adulterated or misbranded and unless they comply with all the inspection, building construction standards and other provisions of the Act and regulations thereunder applicable to such articles in domestic commerce. An exception is made for imports not in excess of 50 pounds by any person for his own consumption.

(b) This provision extends the authority of the Secretary to provide for destruction of articles imported contrary to the Act unless exported and in the case of merely misbranded articles allows them to be brought into compliance with the Act under official supervision, instead of being exported.

(c) This paragraph preserves and extends authority now contained in paragraph 17(c) of the Act for assessment of storage, cartage and labor charges against the owner or consignee of products refused admission.

Sec. 17. This section deletes the present provisions in section 18 relating to jurisdiction of the Secretary and cooperation with other branches of Government and State agencies in carrying out the provisions of the Act and substitutes provisions for refusal or withdrawal of inspection service under the Act. (Deleted matter is covered by sections 5 and 18 of the Bill.)

The new provisions in paragraph 18(a) would authorize withdrawal or refusal of inspection service under the Act for any establishment if the applicant for, or recipient of, the service is determined, in a formal administrative proceeding, to be unfit to engage in a business requiring such inspection because he, or anyone responsibly connected with him, has been convicted within the previous ten years, in any Federal or State court of any felony or more than one misdemeanor under any law based upon acquiring, handling or distributing of adulterated, mislabeled, or deceptively packaged food or upon fraud in connection with transaction in food; or any felony involving any act which indicates a lack of the integrity needed for the conduct of operations affecting the public health.

New paragraph 18(b) would provide opportunity for hearing, upon request by the adversely affected processor, in cases in which inspection service has been withdrawn or refused because of failure to destroy condemned poultry products or otherwise comply with the requirements under section 7 of the Act. Provision would be made, however, for the withdrawal or refusal to continue unless otherwise ordered by the Secretary.

In paragraph 18(c), provision would be made for judicial review of orders in proceedings within paragraphs (a) and (b).

Sec. 18. This section redesignates present sections 19 (Cost of Inspection), 20 (Appropriations), 21 (Separability of Provisions), and 22 (Effective Date of the Original PPIA) as sections 25, 26, 27, and 28, and adds to the Act new sections 19 through 24 which correspond, respectively, to provisions in sections 402, 403, 404, 407, 408, and 409 of the FMIA.

New section 19 would authorize administrative detention by the Secretary of Agriculture's representatives of poultry products and other articles and 4-D poultry if found on any premises where held for purposes of, or during or after, distribution in commerce or otherwise subject to the Act and there is reason to believe that they are adulterated or misbranded and capable of use as human food, or that they have not been inspected, in violation of Federal or other laws or have been or are intended to be distributed in violation of such laws.

New section 20 would authorize judicial proceedings for seizure and condemnation of poultry products and 4–D poultry that are being transported in commerce or that are otherwise subject to the Act, or that are held for sale after such transportation, if they are or have been processed or distributed or offered or received for distribution in violation of the Act, or are capable of use as human food and are adulterated or misbranded, or are otherwise in violation of the Act.

New section 21 would give specified courts jurisdiction of actions to enjoin violations of the Act, and certain other cases under the Act.

New section 22 would incorporate by reference, provisions (including penalties) of the Federal Trade Commission Act and the Communications Act of 1934, as amended,

authorizing requirement of reports, authorizing administrative subpoenas, and conferring other investigative and hearing powers.

New section 23 would exclude States, Territories, and the District of Columbia from regulating operations at plants inspected under the PPIA or from imposing marking, labeling, packaging or ingredient requirements in addition to or different than those under the Act for poultry products processed at official establishments in accordance with the Act, but would permit them to impose record-keeping and related requirements with respect to such plants if consistent with the Federal requirements and to impose requirements consistent with the Federal provisions as to other matters regulated under the Act.

New section 24 would coordinate the Poultry Products Inspection Act with the Federal Food, Drug, and Cosmetic Act by continuing the present exemption from the latter Act for poultry and poultry products to the extent of the application or extension thereto of the Poultry Products Inspection Act but providing that the provisions of the Poultry Products Inspection Act shall not derogate from any authority conferred by the Federal Food, Drug, and Cosmetic Act prior to enactment of the Bill. This parallels provisions in subsection 902(b) of the latter Act and section 409 of the FMIA with respect to meat and meat food products. Section 24 also would extend the detention authority of section 19 to representatives of the Secretary of Health, Education and Welfare for purposes of enforcement of the latter Act with respect to poultry carcasses, and parts and products thereof.

Sec. 19. This section of the Bill would change the headings preceding specified sections of the statute to reflect other changes made by the Bill.

Sec. 20. This section contains the usual savings provision to apply in case of partial invalidity of the Bill.

Sec. 21. This section provides that the Bill shall become effective upon enactment except for the adulteration and misbranding provisions, import provisions, amendments of exemption provisions, and provisions relating to 4–D poultry which would become effective upon the expiration of 60 days after enactment.

THE INTERGOVERNMENTAL UTILITY CONSUMERS' COUNSEL ACT OF 1968

Mr. METCALF. Mr. President, I introduce for appropriate reference the Intergovernmental Utility Consumers' Counsel Act of 1968, a bill to modernize regulation of the major electric, gas, telephone, and telegraph utilities.

The bill has four principal objectives:

First. To require the utilities to report to regulatory bodies certain additional information which is pertinent to regulation and to public understanding of utility rates and procedures;

Second. To require the Federal Power Commission and Federal Communications Commission to report this and other information to Congress and the public in a timely and convenient manner, using automatic data processing to the fullest possible extent;

Third. To establish, at the Federal, State, and local levels, offices of Utility Consumers' Counsel, to represent the interests of utility consumers before regulatory commissions; and

Fourth. To establish a grant program to finance study of regulatory matters.

Mr. President, this bill is designed to help regulators carry out the large tasks assigned them by legislators. It is designed to provide the public with competent representation before regulators. It is designed to realize, in the utility area, the rights of consumers enunciated by President Kennedy in 1962 and reaffirmed by President Johnson in 1964 the right to be informed, the right to choose, the right to safety, the right to be heard.

The bill will not work hardship on any utility. It is designed to provide utility consumers the tools to obtain fair rates.

This bill provides an opportunity for substantial savings by the Federal Government. The Federal Government is the largest consumer of utility services in the country. It annually pays a utility bill of some $4 billion. That is roughly one-tenth of the utilities' revenue.

The bill would authorize—in addition to whatever relatively small additional sums would be needed by the FPC and FCC—an annual appropriation equal to one-tenth of 1 percent—0.001—of the aggregate annual gross operating revenue of the major electric, gas, telephone and telegraph utilities. Their revenue approximates $40 billion annually. Therefore, the current appropriation ceiling in the bill would be about $40 million.

As can readily be seen, a mere 1-percent reduction of the Federal Government's annual utility bill would save an amount equal to the authorized appropriation of $40 million.

The principal beneficiaries of the bill, however, would be the businesses and residential consumers who often have had no voice before the ratemaking commissions.

The bill would not apply to utilities that are owned and controlled by the customers they serve or by the public. Nor would it apply to small private utilities. It would apply only to those investor-owned utilities with annual gross operating revenues of $1 million or more.

Mr. President, some students of utilities have despaired of ever developing a fair and effective regulatory system. They point to the fact that utilities themselves devised many of the regulatory laws, which give the shadow but not the substance of regulation, that utility officials are also in some instances public officials. They point to the fact that the public generally has little understanding of regulation, because of utility influence in schools and universities, that the public often has a misunderstanding of utilities, created by their sometimes misleading advertising and public relations programs. They point to the fact that the public pays, through the rate structure, for expensive representation of the utilities' viewpoint, before regulatory commissions, but that the public does not provide, through either taxes or rates, for adequate representation of its own interests before these rate-setting commissions.

A few critics have suggested nationalization of utilities such as electric power. I am not of that school. To the contrary, I believe that service is improved, rates are reduced, and sales are increased through more competition among investor-owned, customer-owned, city- and district-owned systems.

In addition, and pertinent to the bill I today introduce, the computers and information storage and retrieval systems developed during recent years can vastly simplify and speed up what once were costly, time-consuming and cumbersome regulatory proceedings. I shall return to that aspect later. At this time, Mr. President, I would like to elaborate briefly on the four major points covered by this legislation.

1. UTILITY REPORTING

It is presently impossible, in most cases, to determine from public records who owns utilities, who works for them, and where some of their money goes.

It is difficult to compare the performance of one utility with that of another. Utility accounting practices are "completely inadequate" and show "a greater lack of comparability than at any time since 1933," according to a committee of the Investment Bankers Association.

It is difficult, if not impossible, to evaluate the degree to which power company stock option plans dilute equity of ordinary stockholders and result in loss of capital available to the utility.

It is difficult, in some cases impossible, to find out the size and makeup of a utility's rate base, upon which earnings and thus rates are based. This situation is analogous to that of a taxpayer who could not find out the assessed value of his property. He would be indignant, and properly so.

Mr. President, the electric utility industry portrays itself as strictly regulated and closely watched. "Big Brother—the Federal Government—keeps a steady eye on the fishbowl called the electric utility industry," according to the January 22, 1968, issue of Electrical World. The Southern Co., an electric utility holding company, stated in its 1966 annual report that it and its subsidiaries "Are compelled to operate in a 'fish-bowl' with their every corporate activity subject to scrutiny by regulatory authorities." Industrial News Review, a canned editorial service financed in part by power companies, recently sent thousands of newspapers a free editorial stating that "A power company lives in a gigantic goldfish bowl, the size of the territory it serves." A power company's every act, continued the editorial "is subject to public observation and local, State, or Federal regulation." The electric utilities have claimed, in national advertisements, that they "answer any question you may have quickly, without making a Federal case of it." I wish that were true. It is not true. There is no truth-in-utility-advertising law and none is here proposed, although a case could be made for such legislation.

Utilities are public service corporations. They have been given special power and privilege by government. Indeed, they have many of the characteristics of government. They should be subject to public observation. This is not now the situation, statements by the electric utilities to the contrary notwithstanding.

My bill would correct at least some of the deficiencies in the utility reporting system, remove some of the opaque covering on the fishbowls. It would, in sum, simply require that the utilities do what they say they do about informing the

public and regulatory bodies about themselves.

2. FEDERAL COMMISSION REPORTING

The bill would require the Federal Power Commission and Federal Communications Commission to make readily available to the public, on at least an annual basis, various information about each electric, gas, telephone, and telegraph utility. Some of the information is already reported by the utilities, but is not conveniently available to the public. Under this bill the Commissions would be authorized to prescribe regulations necessary to obtain the additional data.

The FPC has taken some good beginning steps in this regard. The 1965 and 1966 editions of "Statistics of Electric Utilities in the United States, Privately Owned" have included the return on common stock equity of each major electric utility. The average return on common stock equity in 1966 was 12.8 percent, having risen from about 7 percent prior to World War II, to 10 percent in the postwar period, to 11 percent in 1960, and exceeding 12 percent, for the first time, in 1965.

The FPC recently proposed a change in regulations to require utilities to report all payments for professional services. This would include payments for legal services, public relations, advertising, and other items. This proposed reporting requirement needs a statute to back it up. Some years ago regulations required reporting such information. Utilities quietly went before the FPC on two occasions and obtained changes in the regulations. Those changed regulations now permit large utilities to make an unlimited number of payments of up to $25,000 each for professional services without having to report them. Some electric utilities have declined requests for details on such expenditures, on the grounds that revelation would constitute an invasion of privacy—this despite the industry's advertised claim to "answer any question you may have quickly, without making a Federal case of it."

The Senate Judiciary Subcommittee on Antitrust and Monopoly found—the last time a congressional committee looked into this matter, 14 years ago—that utility professional fees financed a whole range of political and public relations activities, including retaining of local lawyers in communities throughout the power company service areas and at the State capital, distribution of contracts and supplies, with the understanding that helpful political activity is expected. Reporting payments for bona fide professional services will in no way prevent a utility from hiring whatever legal, public relations, and other professional advice it needs. The reporting requirement will, however, assist regulators in determining what costs are properly borne by the utility's customers and which should be borne by the stockholders.

The bill would require reporting of information on the components of each utility's rate base. The components of a rate base are all important. Revenue, and thus rates, are based on the value assigned the rate base.

In a majority of the States the method of rate base valuation is the depreciated original cost of the plant. In about a dozen States the fair value of the rate base is used. In addition, in some States various other items are included in the rate base—accumulated tax deferrals, allowance for working capital, construction work in progress, contributions in aid of construction, customer's advances, materials and supplies, plant acquisition, adjustments and plant held for future use.

In Vermont and Nevada, for example, the State commissions use the depreciated original cost rate base. The only other item included is an allowance for working capital, according to Senate Document 56, "State Utility Commissions," issued last fall by the Senate Subcommittee on Intergovernmental Relations.

In contrast, Mississippi, which uses the fair value rate base, permits allowance for working capital, construction work in progress, contributions in aid of construction, customers' advances and material and supplies—although these amounts are reduced by accruals flowing from customers' payments—and appears to have included accumulated tax deferrals in the rate base as well.

Obviously, any given rate of return on a Mississippi-style rate base is going to produce substantially more revenue than the same rate of return would produce on a Vermont or Nevada rate base.

In some States regulators themselves, as well as the public, have difficulty finding out the actual value of the rate base. My bill would require that the major components of the rate base, and their dollar value, be reported. The bill would in no way diminish regulatory responsibilities of the State commissions or increase regulatory responsibilities of Federal commissions in respect to rate base or any other matter. It would spread on the public record some basic information on which intelligent regulatory judgments can be based. As Commissioner Carver of the Federal Power Commission observed last year:

> Firm regulation can succeed as well by concentration on the components of the rate base as on control of profits.

The make-up of a utility rate base is especially important in that whenever an additional item is included in it, the rate of return is decreased. If, for example, a utility has a $1 billion rate base and $96 million in net operating revenue annually, the rate of return would be 9.6 percent. If a regulatory commission can be persuaded that an additional $200 million should be included in the rate base, bringing the total to $1.2 billion, the $96 million in net operating revenue would represent a rate of return of only 8 percent.

When a utility can get the rate base increased, and the rate of return therefore decreased, it can better argue that its rates should not be decreased but, indeed, perhaps should be higher.

The economic importance of rate base components was illustrated by the FCC's September 14, 1967 modification of its July 5, 1967 decision in the American Telephone & Telegraph rate case. In its July decision the FCC found that a rate of return in the 7 to 7.5 percent range was reasonable for Bell's interstate operations. In its September modification the FCC reaffirmed its finding that a rate of return of 7 to 7.5 percent was reasonable. However, the Commission decided that construction work in progress—amounting to $544 million—should be included in the rate base. This modification permits Bell to earn annually an additional $40 million.

I will cite one other example, from my own State of Montana. The State regulatory commission, which is bound by statute to the fair value rate base concept, reported to the Senate Intergovernmental Relations Subcommittee that Montana Power Co. had an allowed rate of return of 5.33 percent. Montana Power actually has a rate of return of 11.33 percent, on a depreciated original cost rate base, and a return on common stock equity of 17.7 percent, according to the Federal Power Commission.

The bill would require annual publication of the difference between what each utility earns and what it would have earned at a 6-percent rate of return on a depreciated original cost rate base. The purpose of this requirement is to permit the Congress, regulators, and the public to make meaningful comparisons on a standard basis.

I understand that some utilities object to having their earnings compared to a 6-percent rate of return standard. They point out that money costs are high now, that some of their new bonds carry an interest rate of more than 6 percent. That is true. It is also true that the average rate of interest on long-term utility debt is only 3.9 percent. Because of the low average debt cost, the average utility with a 6-percent rate of return will today realize a return on common stock equity of 9.5 percent.

The rate of return allowed by State utility commissions averages about 6 percent—6.14 percent in the case of electric utilities, 6.32 percent in the case of gas utilities, 6.25 percent in the case of telephone and water utilities, according to the State commissions' reports to the Subcommittee on Intergovernmental Relations that are summarized in Senate Document 56, 90th Congress, first session. Some of those State commissions compute that rate of return on a fair value rate base and include various items in the rate base. But the majority of those commissions use a depreciated original cost rate base, as the Federal commissions do.

It is also pertinent here to point out that the Federal Power Commission, in granting hydroelectric power licenses, has long used a standard of 6 percent return on net investment. Although net investment and depreciated original cost rate base are not identical they are not far apart. In a current proceeding, Docket R–297, the FPC has tentatively concluded that the fair return on net investment should be one and one-half times the weighted average embedded cost of long-term debt, or 6 percent, whichever is higher. This proposed formula adds a flexibility that would benefit a utility whose long-term debt costs are above the 3.9 percent average.

Mr. President, I believe it is safe to assume that most utilities will object

to comparison of their annual earnings with a 6 percent rate of return yardstick, because most are making considerably more than that. The median rate of return of electric utilities in 1966 was 7.44 percent, a rate which, because of the low average cost of utility debt, permitted an average return on common stock of 12.8 percent in 1966. Utility earnings in many instances have risen above the levels theoretically allowed by the State commissions.

I would here again emphasize that my bill would in no way change the earnings structure or the regulatory responsibilities. It would simply make conveniently available information upon which sound regulatory judgments can be based.

Officers and directors of utilities who are officers and directors of other corporations would have their corporate connections published annually, under the terms of the bill. In this connection I am reminded of a newspaper advertisement a few years ago by Guaranty Trust Co., of New York, on behalf of the investor-owned electric utilities and attacking consumers of public power. (The ad did not mention that investor-owned companies are among the principal consumers of publicly generated power.) The chairman of the board of Guaranty Trust was also board chairman of Duke Power Co. The bank's trustees included four officials of Consolidated Edison. One of the bank's directors was an official of Public Service Electric and Gas.

I believe information on such tieups should be readily available. I believe it would help the Federal Power Commission enforce section 305(b) of the Federal Power Act, which reads:

> . . . It shall be unlawful for any person to hold the position of officer or director of more than one public utility or to hold the position of officer or director of a public utility and the position of officer or director of any bank, trust company, banking association, or firm that is authorized by law to underwrite or participate in the marketing of securities of a public utility, or officer or director of any company supplying electrical equipment to such public utility, unless the holding of such positions shall have been authorized by order of the Commission, upon due showing in form and manner prescribed by the Commission, that neither public nor private interests will be adversely affected thereby.

The bill would require publication of information on utility stock option plans. Regulators and parties to rate cases could thus receive some indication of the amount of compensation realized by option beneficiaries. They could also determine the extent to which additional capital would have to be raised in order to compensate for capital foregone through sale of stock to optionees at below-market prices. The information would be sufficient also for ordinary stockholders to estimate how much their equity has been diluted through exercise of options by insiders.

The bill would provide for publication of the name and address of the beneficial owners of 1 percent or more of the stock in each utility. At present most utility stock is listed by street names; that is, investment firms. In the majority of electric utilities every single vote at the annual meetings and elections is cast by management, by proxy. If a stockholder or group of stockholders want to solicit votes for a nonmanagement candidate for the board of directors, or against a stock option plan, they are stymied. They cannot find out who the real owners are.

Certainly the real owners are not the home State folks whose pictures adorn utility advertisements, and whose total holdings are a tiny fraction of the total outstanding stock.

Nor can a city or small company find out who controls a big utility which seeks to purchase their local powerplant. The experience of the city fathers of Holyoke, Mass., in 1964, illustrates the problem. Holyoke Water Power Co., was trying to buy their municipal electric plant. City officials wanted to know who they were dealing with. One investment firm said it held Holyoke Water Power stock for 12 clients, including one in Switzerland, one in France, and a foreign bank. The firm would not provide further details. Merrill Lynch, Pierce, Fenner, & Smith, Inc., was less informative but more specific:

> Firm policy prevents us from divulging the names and addresses of clients for whom we are holding securities.

Said Merrill Lynch:

> The only way we may provide such information is upon receipt of a duly authorized and executed court order, spelling out the terms of the request.

This provision of the bill is sharply limited but of considerable importance. It will provide, in addition to the benefits previously mentioned, an opportunity to determine the extent to which control of the energy and communications industries are concentrated or diffused.

Mr. President, the entire regulatory system rests on the accounts. Our technology is now such that the data on which utility regulation is based, including the information which would be obtained under this bill, can be stored in data banks and readily printed out for regulators, the Congress, the public. Development of comprehensive computerized information systems are underway among utilities, the Federal Power Commission and the Federal Communications Commission. Only two State commissions, California and Wisconsin, make significant use of automatic data processing in the regulatory process. Were the FPC and FCC truly to become data banks their information could be of considerable value to understaffed inadequately-equipped State commissions.

I gather from the literature of the utility industries that the cost of developing comprehensive utility information systems is surprisingly small, providing the systems are properly planned. I believe the Federal commissions should move ahead faster in development of their computerized systems. The bill would authorize and direct the two commissions to make full use of automatic data processing, to the end that the information upon which rate adjustments ean be made would be received in a timely and understandable manner.

Essential of course to sound regulation in this era is an integrated information program in which the utility can readily respond to what the regulatory commission asks, rather than simply report what the utility wants told. In line with announced industry policy to answer any question quickly a utility computer tape ought not to stutter if asked by a commission machine to print out the company's owners, optionees or overcharge.

3. UTILITY CONSUMER COUNSEL

The bill establishes as an independent agency a U.S. Office of Utility Consumers' Counsel. He and his staff would be empowered to represent the Federal Government and the public before Federal and State commissions and courts. The bill would transfer from the General Services Administration to the Office of Utility Consumers' Counsel responsibility for procurement of electric, gas, telephone and telegraph service from investor-owned corporations whose annual revenues exceed $1 million.

The bill would make available to the States grants of up to 75 percent of the cost of State Officers of Utility Consumers' Counsel. This grant-in-aid program would also be available to local jurisdictions or combinations of jurisdictions with a total population of at least 100,000 persons.

Mr. President, most of us are familiar with the formidable presentations which utility companies can make before regulatory commissions, with their batteries of experts who are paid for by the customers through the rate structure. We are familiar too with the fact that the public viewpoint, the consumers' viewpoint, is not adequately presented.

I have been impressed by the editorials on this point, in State after State, during the past year. Here are excerpts from some of them:

Said the Providence Journal:

> Time and again, Rhode Island consumers have seen how impressively the utility interests can mobilize its economists, engineers and accountants in a massive presentation of data to support a rate case. Too frequently, the public utilities administrator has all he can do simply to understand a case, let alone to act as arbiter between company and public interests. Too frequently, State administrators, knowing that company versions of its investment, income, depreciation, and expenses as rate base elements *should* be items of controversy, simply must pass over these items for lack of experts who can challenge the company.

I would add here that the Rhode Island regulatory body consists of one administrator who is paid $10,000 annually, one engineer, who receives $9,200, two accountants, at $8,200, two inspectors at $4,700, two executive secretaries at $4,100, one other professional employee at $10,200, and three secretaries.

The Oklahoma Corporation Commission has been under investigation by a State senate committee, following revelation of cash gifts by a gas utility to members and staff of the commission. The Tulsa Tribune, commenting on the State investigation, noted a disturbing paradox:

> The commission has awesome powers to regulate transportation and utility rates, oil and gas production; but it has extremely limited means to obtain the information re-

quired for the just and equitable discharge of these powers.

Confronted with batteries of corporation attorneys arguing for rate increases, the commission has had only the services of its underpaid, political-patronage staff.

Ostensibly elected by the people—although the voters rarely have shown any interest in their selection—members of the commission have had to rely for campaign funds on those who have vested interests in decisions made by the commission. Yet this commission is cast in the role of prosecutor, judge and jury in cases vitally affecting the life of every Oklahoman.

In New York a "veil of secrecy"—in the words of the New York Times—was placed around the report on the Consolidated Edison Co. that was made for the city by a private consultant.

Said the Times:

The long, dismal record of confrontations between the city and Con Ed shows that the company has invariably been able to persuade the (New York Public Service) Commission that its position is the right one.

The P.S.C. has gone along with Con Ed mainly because it lacks the qualifications or the disposition to do anything else. Its four members—all Republicans—are undistinguished politicians who have been rewarded for their loyalty and long years of party service. They have no special expertise in the field of rate regulation and they cannot cope with the formidable and sophisticated appeals for increases made by Con Ed. On a few occasions they have found it politic to delay action, but in the long run they have always yielded.

A similar situation prevails in Arkansas, according to the Blytheville Courier News. Noting that the Arkansas Public Service Commission has not had a rate case before it in over 10 years, it said:

This has been the old Arkansas way of doing things in relation to business in the state: the industry to be regulated (and it does not begin and end with utilities) has the strongest hand in regulation.

In short, the consumer in Arkansas has not had the benefit of the protection due him under the law because of the obvious political influence brought to bear in state government, as such government relates to regulation.

In Massachusetts, a probe of utility rates, suggested by the distinguished junior Senator from Massachusetts, Mr. EDWARD KENNEDY, and the Massachusetts Consumer Council, has been heartily endorsed by the Boston Herald-Traveler, the Boston Morning Globe, the North Adam Transcript, and the Malden News.

The Transcript noted that the Massachusetts Department of Public Utilities did not seem interested in the investigation. The Herald-Traveler observed that a full rate case would be out of the question with the DPU's present staff, which included but three accountants assigned to checking the accuracy of financial statements filed by all the electric, gas, railway, bus, telephone, and telegraph companies in the State.

The common thread of editorial comment, except for that flowing from canned editorial factories financed by the utilities themselves, is that most State utility commissions are not doing their assigned job of protecting the public interest. In some cases they do not appear enthusiastic about doing their job. In other cases, they are simply not equipped to do it, having been given much to do by the State legislatures, and little to do with.

To my knowledge, the only State that now has a utility consumers' counsel is Maryland. There, in 1963, the counsel to the public service commission resigned, after trying to regulate more than 200 utilities with a small budget and a staff dwarfed by row upon row of experts retained by the utilities. I note, however, that last year the chairman of the Maryland Public Service Commission termed the office of people's counsel, which is what the office is called there, "absolutely indispensible to the successful operation of the public service commission law."

Under the terms of my bill a grant for an Office of Utility Consumers' Counsel could go to a State regulatory commission such as Maryland's. If, for some reason, the regulatory commission in a State did not want to be associated with the Utility Consumers' Counsel, another agency of the State, perhaps the attorney general's office, could apply for the grant. If State officials decided not to participate in the program, or if there was interest in action before the legislature next convenes, local government or governments could apply for a grant, as long as the applicant represented at least 100,000 persons. And in any event, the U.S. Office of Utility Consumers' Counsel would be authorized to appear before commissions and courts, Federal and State, on behalf of the public as well as the Federal Government.

4. GRANTS FOR STUDIES OF UTILITY REGULATION

The bill authorizes grants to universities and nonprofit organizations for studies of utility regulation. The bill directs the Utility Consumers' Counsel to prepare model utility laws. Studies of regulatory laws leading to preparation of the model laws could be made through the grants to universities and nonprofit organizations.

These sections of the bill are designed to provide funds with no strings attached for needed studies of regulatory matters. From the time that Samuel Insull helped the Illinois Legislature write utility laws early in this century until modern-day utilities helped the Iowa Legislature write utility laws in 1963, the regulated industries have been much more concerned with utility legislation than the public has. No major foundation, and to the best of my knowledge no minor foundation, supports studies of utility regulation. What little academic attention is paid to regulation is all too frequently endowed by the utilities themselves, whether at the summer seminars for professors at the Foundation for Economic Education at Irvington-on-Hudson in New York, or at the Institute of Public Utilities at Michigan State University.

The Federal Government has all kinds of pamphlets and booklets designed to inform consumers about everything except of their largest expenses of all, utility bills. Consumer Information, published by the Superintendent of Documents, lists hundreds of publications available to the wise consumer. Only one—Typical Electric Bills—lists any utility charges, and it includes nothing at all about how the regulatory system works. Uncle Sam's consumer information program is as devoid of practical assistance for utility consumers as was the otherwise admirable Department of Agriculture Yearbook in 1965, Consumers All.

I have seen a rather chilling movie, prepared by the power companies and financed unknowingly by their customers, which purports to show how we in Congress are stifling the utilities by voting a little money for Rural Electrification Administration loans. I have never seen or heard, though, of any movie or visual presentation which explains how the regulatory system actually works.

Therefore, it is my hope that through this bill universities and scholars can be encouraged to inquire into the state of the art of regulation. Remarkable changes are underway in both the communications and energy fields. The cost of moving a telephone message by high-capacity microwave relay towers is 1 percent of the cost, 30 years ago, of moving the message by conventional telephone line. Average costs of electricity per kilowatt-hour are trending steadily downward. During the past 10 years electric utilities, despite increasing profits, have had to collect less and less, in proportion to their earnings, for the Federal Government. As a percentage of revenue, Federal tax collections by power companies decreased from 14.7 percent in 1955 to 11.7 percent in 1965. The field for fruitful and needed research and study is broad.

Mr. President, I read recently that a Republican Governor of a major Eastern State is circulating among other Republican leaders a statement on consumer issues. It points out that utilities "are not compelled to refund overcharges as is required of ordinary cost-plus operators," that "strangely enough, these cost savings have been very slow in reaching the consumer," and that "the total overcharge imposed on the public by 165 power companies in 1965 is claimed to amount to a staggering $618 million."

I am pleased that utility overcharges are in the national political arena. Large utility companies have more political power than the Governor and legislature together in some States. The overcharges will continue, and will grow, unless national attention is focused on the problem and unless a program for removal of the overcharges is developed.

In my view the Intergovernmental Utility Consumers' Act provides a logical framework for removing overcharges and modernizing regulation. I commend a study of the bill to my colleagues on both sides of the aisle, to my former colleagues in the House of Representatives and to the administration. I hope we will act on the bill in the 90th Congress.

Mr. President, I ask unanimous consent that the text of the bill be printed at this point in the RECORD.

The PRESIDENT pro tempore. The bill will be received and appropriately referred; and, without objection, the bill will be printed in the RECORD.

The bill (S. 2933) to establish an independent agency to be known as the United States Office of Utility Consumers' Counsel to represent the interests of the Federal Government and the consumers of the Nation before Federal

and State regulatory agencies with respect to matters pertaining to certain electric, gas, telephone and telegraph utilities; to amend section 201 of the Federal Property and Administrative Services Act pertaining to proceedings before Federal and State regulatory agencies; to provide grants and other Federal assistance to State and local governments for the establishment and operation of utility consumers' counsels; to provide Federal grants to universities and other nonprofit organizations for the study and collection of information relating to utility consumer matters; to improve methods for obtaining and disseminating information with respect to the operations of utility companies of interest to the Federal Government and other consumers introduced by Mr. METCALF, was received, read twice by its title, referred to the Committee on Government Operations, and ordered to be printed in the RECORD, as follows:

S. 2933

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 "Intergovernmental Utility Consumers' Counsel Act of 1968."

DEFINITIONS

SEC. 2. As used in this Act—

(a) The term "Federal agency" means any department, agency or instrumentality, including any wholly-owned Government corporation, of the executive branch of government.

(b) The term "State" means any State of the United States, any territory or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico or political subdivision, department, agency or instrumentality of any of them, but does not include the Panama Canal Zone.

(c) The term "utility" means any privately owned corporation (other than a cooperative) which (1) provides electric, gas, telephone, or telegraph service to the public, (2) has an annual gross operating revenue in excess of one million dollars, and (3) is a public utility as defined in part II of the Federal Power Act, a natural gas company as defined in the Natural Gas Act, or a common carrier as defined in the Communications Act of 1934.

(d) The term "utility service" means any service provided for the public by a utility.

TITLE I—UTILITY CONSUMERS' COUNSEL

ESTABLISHMENT OF OFFICE

SEC. 101. (a) There is hereby established within the executive branch of the Government an independent agency to be known as the United States Office of Utility Consumers' Counsel (referred to hereinafter as the "Office"). The Office shall be headed by a Consumers' Counsel (referred to hereinafter as the "Counsel"), who shall be appointed for a term of five years by the President, by and with the advice and consent of the Senate, and who shall receive compensation at the rate provided for level two of the Executive Schedule.

(b) The Counsel may—

(1) promulgate such rules and regulations as may be required to carry out the functions of the Office; and

(2) delegate to any other officer or employee of the Office authority for the performance of any duty imposed, or the exercise of any power conferred, upon the Counsel by this Act, and any reference herein to the Counsel shall include his duly-authorized delegate or delegates.

PERSONNEL AND POWERS OF THE OFFICE

SEC. 102. (a) The counsel shall appoint and fix the compensation of such personnel as he determines to be required for the performance of the functions of the Office.

(b) In the performance of the functions of the Office, the Counsel is authorized—

(1) to obtain the service of experts and consultants in accordance with section 3109 of title 5 of the United States Code;

(2) to appoint such advisory committees as the Counsel may determine to be necessary or desirable for the effective performance of the functions of the Office;

(3) to designate representatives to serve on such committees as the Counsel may determine to be necessary or desirable to maintain effective liaison with Federal agencies and with departments, agencies, and instrumentalities of the States which are engaged in activities related to the functions of the Office; and

(4) to use the services, personnel, and facilities of Federal and State agencies, with their consent, with or without reimbursement therefor as determined by them.

(c) Upon request made by the Counsel, each Federal agency is authorized and directed—

(1) to make its services, personnel, and facilities available to the greatest practicable extent to the Office in the performance of its functions; and

(2) subject to provisions of law and regulations relating to the classification of information in the interest of national defense, to furnish to the Office such information, suggestions, estimates and statistics as the Counsel may determine to be necessary or desirable for the performance of the functions of the Office.

REPRESENTATION OF PUBLIC INTEREST

SEC. 103. (a) Whenever there is pending in or before any Federal or State agency or court any investigation, hearing, or other proceeding which may, in the opinion of the Counsel, affect the economic interests of consumers of utility services within the United States, the Counsel may intervene and, pursuant to that agency's or court's rules of practice and procedure, may enter an appearance in that proceeding for the purpose of representing the interests of such consumers.

(b) Upon any such intervention, the Counsel shall present to the agency or court, subject to the rules of practice and procedure thereof, such evidence, briefs, and arguments as he shall determine to be necessary for the effective representation of the economic interests of such consumers. The Counsel or any other officer or employee of the office designated by the Counsel for such purpose, shall be entitled to enter an appearance before any Federal agency without other compliance with any requirement for admission to practice before such agency for the purpose of representing the Office in any proceeding.

REPRESENTATION OF FEDERAL GOVERNMENT INTERESTS

SEC. 104. (a) The Counsel shall represent the interests of Federal agencies in proceedings before Federal and State regulatory agencies and courts relating to rates and tariffs, and in negotiations with utilities, for the procurement of utility services, except that the Secretary of Defense may from time to time, and unless the President shall otherwise direct, exempt the National Military Establishment from the provisions of this section whenever he determines such exemptions to be in the best interests of national security.

(b) The Counsel shall provide the services described in subsection (a) to agencies of any other branch of the Federal Government, mixed ownership corporations (as defined in the Government Corporation Control Act), or the District of Columbia, upon its request.

(c) The functions of the Administrator of General Services under section 201(a)(4) of the Federal Property and Administrative Services Act of 1949, relating to representing Federal agencies in proceedings before Federal and State regulatory agencies, are transferred to the Counsel, insofar as such functions involve utilities as defined in this Act.

(d) All officers, employees, property, obligations, commitments, records and unexpended balances of appropriations, allocations, and other funds (available or to be made available) which are determined by the Director of the Bureau of the Budget to relate primarily to the functions transferred pursuant to paragraph (c) are transferred to the Office.

(e) Section 201(a)(4) of the Federal Property and Administrative Services Act of 1949 is amended by inserting before the semicolon at the end thereof a comma and the following: "except as provided in the Intergovernmental Utility Consumers' Counsel Act of 1968."

(f) Any action being carried out by the Administrator of General Services prior to the effective date of this section as part of the functions transferred to the Counsel under subsection (c) may be continued by the Counsel.

(g) This section shall become effective on the ninetieth day following the date of enactment of this Act.

PUBLIC INFORMATION AND REPORTS

SEC. 105. (a) The Counsel from time to time shall compile and disseminate to the public, through such publications and other means as he determines to be appropriate, such information as he considers to be necessary or desirable for the protection of the economic interests of consumers of utility services.

(b) In January of each year, the Counsel shall transmit to the Congress a report containing (1) a full and complete description of the activities of the Office during the preceding calendar year, (2) a discussion of matters currently affecting the economic interests of such consumers, and (3) his recommendations for the solution of any problems adversely affecting those interests.

(c) The Counsel shall transmit to the President from time to time such recommendations for proposed legislation as the Counsel may consider to be necessary or desirable for the adequate protection of the economic interests of such consumers.

GRANTS TO STATE AND LOCAL GOVERNMENTS

SEC. 106. (a) The Counsel is authorized to make grants to any State or local government, or combination of such governments, that serve a population of one hundred thousand or more persons, for up to 75 per centum of the cost of establishing and carrying out the functions of an office of utility consumers' counsel, providing such consumers' counsel is invested with essentially the same general powers and functions set forth in sections 101, 102 and 103 of this Act, except as such requirements may be waived by the Counsel.

(b) A grant authorized by subsection (a) of this section may be made on application to the Counsel at such time or times and containing such information as the Counsel may prescribe.

GRANTS TO NON-PROFIT ORGANIZATIONS AND UNIVERSITIES

SEC. 107. The Counsel is authorized to make grants to colleges, universities and other non-profit organizations for the purpose of making studies and reports, and the collecting and dissemination of information, relating to Federal and State laws, regula-

tions and decisions affecting consumers in the fields of energy and communications.

TECHNICAL ASSISTANCE TO STATE AND LOCAL GOVERNMENT

SEC. 108. The Counsel may furnish technical advice and assistance, including information, on request to any State or local government, college, university or other nonprofit organization for the purpose of establishing and carrying out any program of utility consumer interest within the general purposes of this Act. The Counsel may accept payments, in whole or in part, for the costs of furnishing such assistance. All such payments shall be credited to the appropriation made for the purposes of this section.

REPORTING REQUIREMENTS

SEC. 109. A State, or local government office, college, university or other non-profit organization receiving a grant under this Act shall make reports and evaluations in such form, at such times, and containing such information concerning the status and application of Federal funds, and the operation of the approved program or project as the Counsel may require, and shall keep and make available such records as may be required by the Counsel for the verification of such reports and evaluations.

REVIEW AND AUDIT

SEC. 110. The Counsel and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access, for the purpose of audit and examination, to any books, documents, papers, and records of a grant recipient that are pertinent to the grant received.

TERMINATION OF GRANTS

SEC. 111. Whenever the Counsel after giving reasonable notice and opportunity for hearing to a grant recipient under this Act finds—

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

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

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

MODEL LAWS

SEC. 112. The Counsel shall make a full and complete investigation and study for the purpose of—

(1) preparing a comparison and analysis of State and Federal laws regulating utilities; and

(2) preparing model laws and recommendations for regulation of such utilities.

The results of such investigation and study shall be reported to the President, the Congress, and the Governor of each State as soon as practicable.

APPROPRIATIONS AUTHORIZED

SEC. 113. There are authorized to be appropriated annually for the purposes of this title an amount equal to one-tenth of 1 percent of the aggregate annual gross operating revenues of all utilities.

SAVING PROVISION

SEC. 114. Nothing contained in the Act shall be construed to alter, modify, or impair any other provision of law, or to prevent or impair the administration or enforcement of any other provision of law, except as specifically amended or to the extent that it is inconsistent with this Act.

TITLE II—PUBLIC INFORMATION WITH RESPECT TO CERTAIN UTILITIES

SEC. 201. (a) The Federal Power Commission with respect to utilities subject to its jurisdiction and the Federal Communications Commission with respect to utilities subject to its jurisdiction shall determine the information required pursuant to subsection (b) with respect to each such utility and shall publish such information at least annually in reports prepared for and made readily available to the public, especially in the service area of each such utility.

(b) The information to be made available pursuant to this section with respect to each such utility shall include, insofar as practicable, comparable data for previous years and national averages and shall include—

(1) annual earnings stated as a rate of return on a depreciated average original cost rate base and pursuant to other accounting principles and practices of the relevant Federal commission;

(2) annual earnings in dollars as determined pursuant to clause (1);

(3) the dollar difference between amounts determined pursuant to clause (2) and the annual earnings if the utility earned 6 per centum rate of return on the rate base determined pursuant to clause (1);

(4) capital structure stated as percentage of capitalization obtained from long-term debt, preferred stock, common stock and earned surplus;

(5) average rate of interest on long-term debt;

(6) rate of return on average common stock equity;

(7) yearend yield on common stock (annual common dividend divided by yearend market price);

(8) dividend on preferred stock;

(9) yearend preferred dividend yield (annual preferred dividend divided by yearend market price of preferred stock);

(10) year-end earnings price ratio (earnings per share divided by yearend price per share);

(11) the names and addresses of the one hundred principal stockholders including, in those cases where voting stock is held by a party other than the beneficial owner, the name and address of each beneficial owner of 1 per centum or more of the voting stock in the corporation;

(12) the name and address of each officer and director;

(13) the names and addresses of other corporations of which such officers and directors are also officers or directors.

(14) the names of directors, if any, who were not nominated by the management of the utility;

(15) terms of restricted stock option plans available to officers, directors and employees (not to include plans available to all employees on equal terms) and including name, title, salary and retirement benefits of each person to whom stock options have been granted, number of options each has exercised, date on which options were exercised, option price of the stock and market price of the stock when option was exercised;

(16) all payments included in any account for rate, management, construction, engineering, research, financial, valuation, legal, accounting, purchasing, advertising, labor relations, public relations, professional and other consultative services rendered under written or oral arrangements by any corporation, partnership, individual (other than for services as an employee) or organization of any kind, including legislative services;

(17) policy with respect to deposits of customers;

(18) rate of interest charged customers by the utility, stated as simple annual interest;

(19) rate base valuation and components of the utility's rate base, as determined by the State commission having jurisdiction, expressed in dollar amounts, and including amount permitted in rate base in each of the following categories: accumulated tax deferrals, allowance for working capital, construction work in progress, customers' advances, materials and supplies, plant acquisition adjustment and plant held for future use;

(20) rate base valuation and components of the utility's rate base, as determined by the Federal commission having jurisdiction, expressed in dollar amounts;

(21) dollar difference in each category and in sum, between the rate base as computed pursuant to clause (19) and (20);

(22) terms of franchises or certificates of convenience and necessity; and

(23) such other information as the appropriate Federal commission determines to be in the public interest.

Such information shall be determined on a fiscal or calendar year basis as may be appropriate and shall be reported as soon as practicable after the termination of such year.

(c) The Federal Power Commission and the Federal Communications Commission are each authorized to establish such regulations as may be necessary to obtain information needed for the purposes of this section and the violation of such regulations shall be deemed to be a violation of regulations pursuant to the Federal Power Act, with respect to the utilities subject to such Act, the Natural Gas Act, with respect to utilities subject to such Act, or the Communications Act of 1934, with respect to utilities subject to such Act, respectively.

AUTOMATIC DATA PROCESSING

SEC. 202. The Federal Power Commission and Federal Communications Commission are hereby authorized and directed to make full use of automatic data processing in preparing the information required under this Act and other acts to which they are subject, to the end that Federal and State regulatory bodies, the Congress, the United States Office of Utility Consumers' Counsel, such state and local Offices of Consumers' Counsel as may be established with assistance under this Act, and the public shall receive in a timely and understandable manner information upon which rate adjustments can be made. Such Federal Commissions are hereby directed to include in their annual reports accounts of their progress toward full use of automatic data processing.

APPROPRIATIONS AUTHORIZED

SEC. 203. There are authorized to be appropriated such amounts as may be necessary for the purposes of this title.

A FEDERAL SEVERANCE TAX TO ASSIST THE STATES

Mr. METCALF. Mr. President, we are all only too well aware of the need of the States and localities for more revenues to finance necessary expenditures. Within recent years a rapid increase in the school-age population, steady demands for improving public services and, more recently, rising prices, have placed severe strains on the traditional revenue sources of State and local governments. Tax rates under existing State sales, local property, and State and local income taxes have been raised to such high levels that many are beginning to wonder if the limit has not been reached.

Those who seek a solution to the problem have naturally turned to the Federal Government. The solutions usually suggested involve the transfer of funds collected through Federal taxes to the other jurisdictions. However, the various grant programs of the Federal Government are already quite large. The budget just out

estimates that Federal aid to the State and local governments will total $20.3 billion in the coming fiscal year. It is difficult to see how this total can be enlarged significantly under present budgetary circumstances.

The bill I introduce today offers an alternative approach. Under this bill, the Federal Government would assist the States to raise additional revenue by enabling them to utilize a tax source which cannot now be fully exploited by the States.

The bill imposes a Federal severance tax of 5 percent of the gross income from all domestic mineral properties. Full credit is to be allowed against the Federal tax, however, for any State or local severance taxes paid with respect to these properties.

The credit for State and local severance taxes is the heart of this bill. If it becomes law, the States that do not now have severance taxes will speedily impose them. Furthermore, States that have severance taxes on only selected minerals will broaden the coverage of existing taxes and States that tax at lower rates than 5 percent will increase their tax rates. Thus, once the States adjust to the new tax, the Federal Treasury will derive no revenue from it. But that is the purpose of the bill. The important thing is that the tax receipts of most States will be increased significantly.

States find it difficult to impose severance taxes today because a State acting alone runs the risk of placing some mining companies operating within the State at a competitive disadvantage relative to companies operating where there are no severance taxes. They are afraid the enactment of such a tax would reduce mining activities in the State. Interstate competition, in other words, acts to keep severance taxes low. The problem was illustrated by the experience of the Governor of West Virginia in 1953, Governor Marland. The severance tax he proposed was defeated in the State legislature despite the fact that it had won the support of many interested parties.

A severance tax at the rate of 5 percent as proposed in this bill would not place a severe burden on the mining industry. Some States already impose severance taxes of this size on certain mineral products. In the State of Louisiana, for example, the petroleum industry continues to flourish despite the fact that the State's severance tax amounts to more than the 5 percent recommended in this bill.

The principle behind this bill is the same as that adopted by the Congress 42 years ago. At that time, an 80-percent credit was allowed against the Federal estate tax for any State death taxes paid. The credit was granted in an effort to neutralize the interstate competition for wealthy residents that was preventing the States from utilizing estate and inheritance taxes.

The remedy supplied then is needed now. Once this bill is enacted, States need have no fear that a severance tax they enact will place mineral producers in their State at a disadvantage relative to producers in other States.

This bill would be a benefit to all the States. At my request, the staff of the Joint Committee on Internal Revenue Taxation has estimated the severance tax collections which would result from this bill. The table gives a good idea of the general magnitude of the revenue the States could derive by imposing similar taxes.

The table indicates that some $683 million in increased severance tax receipts could be raised under this bill, all of which could be absorbed by the States if they enact complementary statutes. The table shows that in only one State there is more being collected by severance taxes today than would be collected under this bill. That State is Louisiana. Even in Louisiana, however, this bill would facilitate an increase in State tax receipts. As I understand it, Louisiana does not impose severance taxes on all the minerals mined in the State which would be covered under this bill. Coverage of these additional minerals would permit an increase in tax receipts. Furthermore, an increase in severance taxes paid in other States would place taxed mineral producers in Louisiana on more nearly the same basis as producers in other States.

While the increase in tax receipts which would be permited under this bill is relatively minor in comparison with the yield of existing State taxes, in some States it might be of strategic importance. In the poor but mineral rich States of Appalachia, for example, interstate competition has prevented the States from deriving tax revenues from mineral operations. This has been true even though the profits from these operations have often been a principal benefit to the residents of other States. Under this bill these States would be able to derive greater benefit from the mineral wealth within their borders.

I would not expect all the States to take immediate action to impose their own severance tax once this bill became law. In some cases their reaction would be delayed a few years, so that the Federal Government would derive some revenue from the tax. These amounts would be enough, I believe, to defray any administrative costs. For this reason it is reasonable to permit the entire amount of the tax to be offset by a credit for State tax. Under the bill, a mineral property would be defined to include the same properties as those eligible for percentage depletion deductions under the Federal income tax.

The 5-percent severance tax would apply to the gross income received by the owner of the working interest in a mineral property. That is, gross income would be the same for the purposes of this tax as the figure which forms the basis for computing Federal percentage depletion deductions in cases in which there were no royalty payments or production payments. Gross income would be defined differently when there was a royalty or a production payment: There would be no exclusion for rent or royalties or bonuses paid with respect to the property; any amount paid to the holder of a production payment would be included in computing the gross income of the owner of the working interest; finally, any amount received from the sale of a production payment would be excluded in computing gross income.

The State severance taxes which could be credited against the tax imposed by this bill would have to be based on the gross income derived from the property located within the State. The credit could not be taken for taxes paid with respect to crops or timber grown on the surface of a mineral property and no credit could be taken for taxes paid with respect to minerals that are not eligible for a Federal percentage depletion allowance. Finally, the tax would have to be a severance tax, it could not be a general sales tax or an income tax applied generally to the income from most sources. Any severance tax paid by a holder of a royalty or other nonoperating interest would be treated as if it had been paid by the holder of the working interest.

The bill provides for the exchange of information between the States and the Federal Government. That is, upon request, the Internal Revenue Service would inform a State of the amount claimed by the taxpayer as his gross income from a mineral property located within the State.

Mr. President, this bill would permit the States to utilize an important source of tax revenue which they now are inhibited from using because of interstate competition. The bill, at little or no cost to the Federal Government, would provide much needed assistance to the States. I hope my colleagues in the Senate will give it their support. I ask unanimous consent that the table previously referred to and the bill be printed at this point in the RECORD.

The PRESIDENT pro tempore. The bill will be received and appropriately referred; and, without objection, the bill and table will be printed in the RECORD.

The bill (S. 2934) to assist the States in raising revenues by making more uniform the incidence and rate of tax imposed by States on the severance of minerals introduced by Mr. METCALF, was received, read twice by its title, referred to the Committee on Finance, and ordered to be printed in the RECORD, as follows:

S. 2934

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subtitle D of the Internal Revenue Code of 1954 (relating to miscellaneous excise taxes) is amended by adding at the end thereof the following new chapter:

"CHAPTER 42—SEVERANCE TAX

"SEC. 4941. IMPOSITION OF SEVERANCE TAX ON MINERALS.

"(a) Imposition.—There is hereby imposed on the severance of minerals from a mineral property located within the United States an excise tax equal to 5 percent of the gross income from the property during the taxable period.

"(b) Liability for Tax.—The tax imposed by this section shall be paid by the person who holds the working interest in the mineral property.

"SEC. 4942. DEFINITION AND RULES.

"For purposes of this chapter—

"(a) Mineral Property.—The term 'mineral property' has the same meaning as the term 'property' has for the purposes of section 613

(relating to the allowance for percentage depletion), and any election made under section 614 to treat several mineral properties as a single property, or to divide one mineral property into separate properties, shall be effective for purposes of this chapter.

"(b) Gross Income from the Property.—The term 'gross income from the property' means the gross income from the property derived by the holder of the working interest during his taxable period, computed in accordance with the provisions of section 613 subject to the following modifications:

"(1) There shall not be excluded any amount on account of rent or royalties or bonuses paid in respect of the property.

"(2) There shall be included in computing such gross income from the property an amount equal to any amount paid to the holder of a production payment in satisfaction or reduction of the production payment.

"(3) There shall be excluded in computing such gross income from the property any amount received from the sales of a production payment.

The provisions of paragraphs (1) and (2) shall not apply with respect to any amount paid to the United States, or to any State or political subdivision thereof.

"(c) Working Interest.—The term 'working interest' in a mineral property includes only an interest which is an operating mineral interest as defined in section 614(d).

"(d) Taxable Period.—The term 'taxable period' means, with respect to any mineral property, the taxable year (as defined in section 7701(a)(23)) of the person who holds the working interest in such property.

"(e) Person.—The term 'person' includes a trust, an estate, and a partnership (including a joint venture whose members have made the election provided for in section 761(a))."

(b) State.—The term "State" includes the District of Columbia.

"SEC. 4943. CREDIT AGAINST TAX.

"(a) Severance Taxes Paid to a State or Political Subdivision.—

"(1) The taxpayer may, to the extent provided in this section, credit against the tax imposed by section 4941 with respect to any mineral property the amount of severance taxes paid by him to any State or political subdivision as severance taxes with respect to such mineral property.

"(2) The credit shall be permitted against the tax for the taxable period only for the amount of severance taxes paid with respect to such period. The tax imposed by section 4941 on the gross income from one mineral property shall in no case be credited with severance taxes paid with respect to another mineral property.

"(3) The credit against the tax for any taxable period shall be permitted only for severance taxes paid on or before the last day upon which the taxpayer is required under section 6071 to file a return for such period; except that credits shall be permitted for severance taxes paid after such last day, but such credit shall not exceed 90 percent of the amount which would have been allowable as a credit on account of such severance taxes had they been paid on or before such last day.

"(4) For purposes of this section the term 'severance tax' includes a tax based on the gross income from the property (as defined in section 4942(b)) derived by the holder of the working interest in such property, but such term does not include—

"(A) any tax based on the severance of minerals from a mineral property located outside the territorial boundaries of the State or political subdivision imposing the tax,

"(B) any tax imposed on the severance of timber, or of any crop grown on the surface of the mineral property, or of any mineral with respect to which an allowance for percentage depletion is not allowable under section 613,

"(C) any tax imposed generally on gross sales or gross receipts, or

"(D) an income tax applied generally to income from all or most sources.

"(5) Any severance tax paid by the holder of a royalty or other nonoperating mineral interest with respect to production from a mineral property shall be treated, for the purposes of paragraph (1), as having been paid by the holder of the working interest.

"SEC. 4944. INFORMATION TO STATES.

"The Secretary or his delegate shall, upon the request of any official of a State or political subdivision thereof lawfully charged with the administration of a severance tax imposed by such State or political subdivision, furnish to such official a copy of any schedule or statement filed by any taxpayer, with respect to the taxes imposed by chapter 1, which discloses the amount claimed by the taxpayer under section 613 as his gross income from a mineral property located within such State. The information so obtained may be used only for the administration of the severance tax imposed by such State or political subdivision."

SEC. 2. The amendment made by this Act shall apply only to the severance of minerals after December 31, 1968.

The table, presented by Mr. METCALF, is as follows:

DATA FOR 1966 ON VALUE OF MINERAL PRODUCTION BY STATES AND STATE COLLECTIONS OF SEVERANCE TAXES ON MINERALS

[In thousands of dollars]

	Value of mineral production (1)	Proposed 5-percent tax (2)	State collections of severance taxes on minerals (3)	Proposed 5-percent tax minus State collections (4)		Value of mineral production (1)	Proposed 5-percent tax (2)	State collections of severance taxes on minerals (3)	Proposed 5-percent tax minus State collections (4)
Alabama	249,778	12,489	1,362	11,127	Nebraska	78,521	3,926	850	3,076
Alaska	82,683	4,134	3,535	599	Nevada	112,632	5,632	48	5,584
Arizona	620,565	31,028	----------	31,028	New Hampshire	7,000	350	----------	350
Arkansas	190,127	9,506	3,880	5,626	New Jersey	75,595	3,780	----------	3,780
California	1,699,359	84,968	1,366	83,602	New Mexico	820,327	41,016	28,609	12,407
Colorado	352,005	17,600	1,027	16,573	New York	301,264	15,063	----------	15,063
Connecticut	21,346	1,067	----------	1,067	North Carolina	71,878	3,594	----------	3,594
Delaware	1,980	99	----------	99	North Dakota	101,807	5,090	3,453	1,637
Florida	295,447	14,772	195	14,577	Ohio	488,040	24,402	----------	24,402
Georgia	148,597	7,430	----------	7,430	Oklahoma	997,391	49,870	39,921	9,949
Hawaii	21,253	1,063	----------	1,063	Oregon	107,484	5,374	225	5,149
Idaho	114,914	5,746	236	5,510	Pennsylvania	903,408	45,170	----------	45,170
Illinois	618,313	30,916	----------	30,916	Rhode Island	3,947	197	----------	197
Indiana	230,010	11,500	353	11,147	South Carolina	45,593	2,280	----------	2,280
Iowa	119,313	5,966	----------	5,966	South Dakota	52,707	2,635	210	2,425
Kansas	568,392	28,420	503	27,917	Tennessee	182,584	9,129	----------	9,129
Kentucky	498,364	24,918	273	24,645	Texas	5,019,750	250,988	131,217	119,771
Louisiana	3,430,140	171,507	205,313	−33,806	Utah	444,262	22,213	3,390	18,823
Maine	16,734	837	----------	837	Vermont	25,910	1,296	----------	1,296
Maryland	74,161	3,708	----------	3,708	Virginia	274,297	13,715	----------	13,715
Massachusetts	38,473	1,924	----------	1,924	Washington	89,092	4,455	----------	4,455
Michigan	602,127	30,106	993	29,113	West Virginia	891,800	44,590	----------	44,590
Minnesota	550,277	27,514	20,647	6,867	Wisconsin	76,010	3,800	----------	3,800
Mississippi	211,360	10,568	10,549	19	Wyoming	505,806	25,290	109	25,181
Missouri	227,950	11,398	13	11,385					
Montana	245,268	12,263	3,332	8,931	Total	22,906,051	1,145,302	461,609	683,693

Sources: Column 1 from statistical summary (table 5), Bureau of Mines Mineral Yearbook, 1966; column 2 computed from column 1; column 3 from State Tax Collections in 1967 (tables 1 and 9), U.S. Department of Commerce, Bureau of the Census.

AMENDMENT OF TITLE II OF SOCIAL SECURITY ACT, RELATING TO THE DEFINITION OF THE TERM "DISABILITY"

Mr. METCALF. Mr. President, I introduce, for appropriate reference, a bill amending the Social Security Act of 1967.

Mr. President, prior to the 1967 amendments to the Social Security Act, disability—except for certain cases of blindness—was defined as the inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which could be expected to result in death or which had lasted or could be expected to last for a continuous period of not less than 12 months.

On August 18, the House referred to the Committee on Finance H.R. 12080, the Social Security Amendments of 1967. Section 156 of that bill redefined the definition of disability contained in section 223 of the Social Security Act so that in applying the basic definition—except for the spcial definition for the blind, and except for purposes of widow's or widower's insurance benefits on the basis of disability—an individual could be determined to be under a disability only if his

impairment or impairments were so severe that he is not only unable to do his previous work but could not, considering his age, education and work experience, engage in any other kind of substantial gainful work which exists in the national economy, regardless of whether such work exists in the general area in which he lives, or whether a specific job vacancy exists for him, or whether he would be hired if he applied for work.

On November 17, I offered an amendment to the Social Security Amendments of 1967. It was simply a request to return to existing law and remove the restrictive definition of disability contained in the House passed bill. I offered that amendment after having listened to an impressive list of witnesses who appeared before the Finance Committee and testified in opposition to the definition sent over to us by the House. Once again I ask unanimous consent that the pertinent excerpts from the evidence submitted to the Finance Committee be printed in the RECORD at this point.

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

DEFINITION OF DISABILITY

(AFL–CIO, statement of George Meany, hearings, p. 1434–35)

The House included a more restrictive definition of disability than now in the law by providing that a disabled worker is not eligible for disability benefits if he can engage in any kind of substantial gainful work which exists anywhere in the national economy.

The large majority of the seriously disabled are over 50. We all know that once an older, disabled person loses his job, his chances of obtaining a similar position are about zero. It is unrealistic and unfair to say to this severely disabled worker that he is not disabled because there may be employment someplace in the national economy which he might be able to handle even though he has no way of reaching that place and it is very unlikely he would be hired if he did apply. A major complaint of disabled workers has been the stringent administration of the disability provisions. Greater liberalization, not restriction, is needed.

The problems of disability, age and unemployment are all interrelated and what is needed is a comprehensive and broad program to deal with them as a group. Many people suffer chronic ill health during their later working life. Unless they are so totally disabled that they can meet the stringent definition of disability in the Social Security Act, they are in an economic no-man's-land. They are unable to work but are not yet eligible for their regular retirement benefits.

There are a number of changes that could be made in the Social Security Act that would help alleviate this problem.

First, we feel there should be an occupational definition of disability that would permit older workers after age 50 or 55 to receive disability benefits if their disability prevents them from doing their usual occupation.

Second, an increase in the number of dropout years in the benefit formula would also help. At the present time the social security law permits the dropping out of 5 years of low or no earnings in computing a worker's benefit which does provide some limited protection against unemployment, illness and low earnings. Because of the low wage bases in the earlier years of the system, which must be used in computing the average wage on which benefits are based, the typical worker receives a low percentage of his wages earned shortly before retirement. The problem is compounded for older workers who are laid off by plant closings, technological changes, ill health, etc. who must include these years of low or zero earnings in determining their average wage. Additional dropout years would be of great help to them.

Third, the AFL–CIO also advocates a flexible zone of retirement between 60 and 65 that would permit retirement at age 60 with less than full actuarial reduction. In general, as workers grow older, they often find the pace of their work is beyond their physical ability. A flexible zone of retirement, if coupled with a substantial increase in benefits, would permit the individual to make a retirement decision during a period of years based on his financial resources, age, health and the nature of his occupation.

Though the social security program can be of considerable value to unemployed older workers, we know that it cannot solve what is essentially an unemployment problem. We are also advocating changes in other programs so that efforts in these various programs may dovetail to solve this social problem. It may not be possible to include all or most of our proposals for changing the Social Security law in this respect in the present legislation, but at the very least, Congress should refrain from making the problem of older workers more difficult by a more restrictive definition of disability.

DEFINITION OF DISABILITY

(American Foundation for the Blind, Inc., A. 168)

We are also pleased that H.R. 12080 has included disabled surviving divorced wives and disabled widowers for cash benefits. However, we believe that the requirement of attainment of age 50 for eligibility would work an undue hardship on otherwise eligible disabled widows, surviving divorced wives, and widowers. *Similarly, we believe that the definition of disability for these individuals is unduly harsh and should be made the same as the definition of disability for beneficiaries of the disability insurance program.* We also would strongly recommend that the cash benefits be 82½% of the primary insurance amount immediately upon eligibility for benefits rather than graduated from 50% to 82½%. The American Foundation for the Blind welcomes the extension of the provision covering blind persons between the age of 21 and 31 for cash disability insurance benefits to all types of disabled persons who meet the definition of disability in the law. *However, we believe that the guidelines in the new Section 223(d)(2)(A) concerning the definition of disability are unduly harsh. The individuals covered for cash benefits are severely disabled under the definition in the existing law, and this definition should not be made any stricter than it already is.*

DEFINITION OF DISABILITY

(Georgia Federation of the Blind, Conyers, Ga., A22)

CONYERS, GA.,
August 24, 1967.

Hon. RUSSELL B. LONG,
Chairman, Senate Committee on Finance,
Senate Office Building,
Washington, D.C.

MR. CHAIRMAN AND GENTLEMEN OF THE COMMITTEE: You now have before you, for consideration, H.R. 12080 as adopted by the House. This bill contains many excellent and progressive amendments to the social security act and in general, the Georgia Federation of the Blind supports this bill.

However, Section 156 contains the most regressive and punitive definition of disability ever to be included in a public assistance law since the days of the Elizabethan "poor laws". This provision makes the existence of a theoretically possible employment for a disabled person sufficient grounds for denying public assistance payments, whether or not such employment opportunities actually exist for him. It is our belief that public assistance in all categories should be granted on the basis of definite, objective criteria and not be made subject to the whim of Federal and State officials. The great majority of the severely disabled earnestly desire to become self sufficient and contributing members of society. They should be encouraged and assisted to reach this goal. This certainly would not be the effect of the provision written into this bill by the House Committee.

We would like to see the present criterion for assistance to the "totally and permanently disabled", which admittedly is severely restrictive, modified so that the criteria used for eligibility for benefit payments to the disabled under Title II of the social security act would also apply to applicants for assistance to the disabled under Title XIV. This would require the elimination of the word "permanently" in this Title and the substitution in the definition of disabled, wording similar to that now contained in Title II.

We respectfully request that the Senate Finance Committee eliminate the phraseology to which objection has been voiced herein, and the inclusion in the Senate version provisions which will allow the totally disabled, whose disability has lasted or is expected to last for at least twelve (12) months, eligible for public assistance payments under Title IV of the Act.

Respectfully submitted.

NED FREEMAN,
President,
Georgia Federation of the Blind.

DEFINITION OF DISABILITY

(Gov. Philip H. Hoff, Vermont, A109; excerpt from September 8, 1967, letter to LONG)

(5) Social Security Disability Program: The bill sets a tighter definition of disability than presently exists in the law. The effect of this on the states will be to require denied applicants to seek public welfare under our State-Federal Aid to the Permanently and Totally Disabled Program. This simply amounts to an abrogation of responsibility on the part of the Federal Government and a pass on of the financial burden to the States.

DEFINITION OF DISABILITY

(Blinded Veterans Association, American Association of Workers for the Blind; excerpt from statement of Irvin P. Schloss, national president of Blinded Veterans Association, A160)

BVA and AAWB endorse the provisions of H.R. 12080, which would make disabled widows, surviving divorced wives, and widowers eligible for benefits under age 62, even if they do not have minor children in their care. However, we believe that the requirement of attainment of age 50 for eligibility would work an undue hardship on these individuals. Similarly, we believe that the definition of disability for these individuals is unduly harsh and should be made the same as the definition of disability for beneficiaries of the disability insurance program. We also would strongly recommend that the cash benefits of 82½% of the primary insurance amount become available immediately upon eligibility for benefits rather than graduated from 50% to 82½%.

DEFINITION OF DISABILITY

(National Council of Senior Citizens; excerpt from statement of John F. Edelman, president, National Council of Senior Citizens, p. 1076–1077)

The House-passed bill contains a harshly restrictive definition of disability, forbids for widows without dependent children benefits below age 50, limits the primary benefit for widows at age 50 to half of the regular benefit with a gradual step-up in benefits determined by the age benefits begin.

DEFINITION OF DISABILITY

(Physicians Forum; excerpts from statement of Malcolm L. Peterson, M.D., chairman of the Physicians Forum, New York, N.Y., A242)

E. We regret the more restrictive definition of disability in H.R. 12080 as compared with the present law, and we regret the failure to include disabled beneficiaries under Medicare as recommended by the administration.

DEFINITION OF DISABILITY

(Excerpt from statement of Robert M. Gettings, assistant for governmental affairs, on behalf of the National Association for Retarded Children, p. 1935)

The House Ways and Means Committee expressed concern over several recent court decisions reversing departmental determinations of eligibility for disability payments. In these cases, HEW found that the individual was not absolutely disabled but only disabled relative to the local job market. In an effort to correct this situation, H.R. 12080 revises the definition of disability to provide that if the client can do appropriate work which is significantly available in any part of the economy he will not be considered disabled. This language has two drawbacks from the point of view of the retarded. First, a retarded individual may be able to live and work in the community if he is residing with his family but not if he must venture forth on his own without proper social shelter. Second, the definition of feasibility for purposes of vocational rehabilitation depends on the availability of suitable work opportunities locally or at least within the State. The House language would tend to hinder proper coordination between welfare and rehabilitation programs immediately after these two activities had been combined for administrative purposes in the new social and rehabilitation service. We respectfully suggest that this committee include clarifying language in its report to insure that the new House definition of disability does not work to the disadvantage of retarded citizens.

Mr. METCALF. Only one witness testified in support of the House bill. So that my colleagues will have the full benefit of all the testimony offered to the Finance Committee on this provision, I again ask that the statement of Paul P. Henkel, chairman of the Social Security Committee of the Council of State Chambers of Commerce be printed in the RECORD at this point.

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

We do not oppose the disability insurance amendments proposed in H.R. 12080. We support the concern of the House Ways and Means Committee over the extension by judicial decisions of the definition of disability. We agree there is a need for a stricter definition.

Mr. METCALF. Mr. President, I also ask that excerpts from my remarks for the RECORD on November 17 be printed in the RECORD at this point.

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

Mr. President, in this whole record, the only justification for taking this backward step and abandoning the position we took on the Social Security Amendments of 1965 is the testimony by Mr. Henkel of the Council of Chambers of Commerce.

Actually, what has happened is that the social security system and the Department of Health, Education, and Welfare have lost a lawsuit. The courts have defined disability using definitions out of the Veterans' Act, out of the precedents of the Workmen's Compensation Act, and held against the present definition we have in the present bill.

Thus, all I am asking is to return to present law and remove this restrictive definition.

Going back to what the court has already defined, let me tell the Senate what it objects to. For instance, the administration is objecting to the case of Leftwich against Gardner.

Mr. President, the recent decision of the Court of Appeals for the Fourth Circuit in *Leftwich* v. *Gardner*, 377 F. 2d 287 (1967), has been criticized by the Social Security Administration and that criticism has been adopted in the committee report. I do not share in the criticism of that opinion. Because of the significance of that decision which centered on a disabled father of nine children and so that my colleagues may have the full benefit of the court's thinking. I ask unanimous consent to have the opinion printed in the RECORD.

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

"John L. Leftwich, Appellee, *v.* John W. Gardner, Secretary of Health, Education, and Welfare, Appellant. No. 11015, United States Court of Appeals, Fourth Circuit. Argued March 7, 1967. Decided May 1, 1967.

"Social Security case. The United States District Court for the Southern District of West Virginia at Beckley, John A. Field, Jr., Chief Judge, granted claimant a period of disability and disability insurance benefits and Secretary of Health, Education, and Welfare appealed. The Court of Appeals, Craven, Circuit Judge, held that where 52-year-old manual laborer suffered from spondylolisthesis and had congenital marked curvature of spine so that he could not stoop, bend or lift and suffered pain when he sat more than 10 minutes and all of the time while he was standing, he was totally and permanently disabled for purposes of disability benefits under the Social Security Act and fact that he chose to work every day as a dishwasher to support his family did not preclude him from recovering disability benefits.

"Affirmed.

"Before Sobeloff and Craven, Circuit Judges, and Harvey, District Judge.

"Craven, Circuit Judge.

"In this unusual social security case, claimant Leftwich was denied disability benefits at the administrative level largely because he has the admirable motivation to insist upon working for the support of his family despite physical inability to do so. There is more logic than common sense in such a result, and there is irony not intended, we think, by the Congress. We affirm the decision of the district court granting Leftwich a period of disability and disability insurance benefits.

"[1] We have carefully reexamined the record as a whole before deciding that the decision of the Hearing Examiner and the Appeals Council is not supported by substantial evidence. 'The substantiality of the evidence to support the Secretary's findings is the issue before each court.' Thomas v. Celebrezze, 331 F.2d 541 (4th Cir. 1964), citing Farley v. Celebrezze, 315 F.2d 704 (3d Cir. 1963), and Ward v. Celebrezze, 311 F.2d 115 (5th Cir. 1962).

"[2] Although we review the same record and make the same determination as made in the district court, '[i]t should hardly require articulation to note that an appellate court gives great weight both to the reasoning and conclusions of the district courts.' Farley v. Celebrezze, supra, 315 F.2d at 705 n. 3. There is here no inconsistency: we are influenced by the decision of the district court, but we are not bound by it. See Roberson v. Ribicoff, 299 F.2d 761, 763 (6th Cir. 1962); Flemming v. Booker, 283 F.2d 321, 322 n. 4 (5th Cir. 1960).

"In the Hearing Examiner's decision appears the following:

" 'The Hearing Examiner will not attempt to describe in detail each of the medical reports relative to the claimant or to describe the two hearings previously referred to,[1] since the Hearing Examiner feels that the primary issue to be resolved herein is whether or not the claimant's present job as a dishwasher at the Pinecrest Sanitarium, which he has been doing since around June 1960 to the present, constitutes the ability to engage in substantial gainful activity within the meaning of the disability provisions of the Social Security Act and the regulations implementing such provisions.' Consistent with that position, the hearing held at Beckley, West Virginia, on September 7, 1965, lasted exactly fifteen minutes. At that hearing, the Hearing Examiner said:

" 'It would appear to the Hearing Examiner that the reason the claimant's application was denied was because of his work at the Pinecrest Sanitarium as a dishwasher and they apparently considered this as the ability to engage in substantial gainful activity.'

"We agree with the Hearing Examiner that it is unnecessary to narrate in great detail the medical history of claimant. Only a small part of it will make it crystal clear that but for the question posed by his minimal employment he would unquestionably have been found unable to engage in substantial gainful employment.

"WORK HISTORY AND DISABILITIES

"[3] Letwich is now fifty-two years old. Although he has a high school education, his entire work history consisted of manual labor in the coal mines, where he suffered two severe back injuries, one in 1951 and another in 1953. In the first accident he suffered a fractured right clavicle, fractures of the ribs, and injuries to the lower back. In the later accident he suffered a ruptured disc, which was removed by surgery in 1954.[2] Since that year, he has suffered from spondylolisthesis. He also has a congenital marked scoliosis (curvature) of the spine. Flexion of the spine is limited to two-thirds and side bending and extension nil. As of 1963, Dr. Stallard reported that claimant's condition had grown progressively worse and that claimant could not stoop, bend, or lift. In a 1964 report, Dr. Raub concluded that the claimant was 'quite disabled' and could not return to the mines.

"The Hearing Examiner noted in his decision that one doctor 'further commented that under modern screening processes and pre-employment examinations the claimant is barred from securing employment * * *.'

"Typical of medical opinion in the file is that of Dr. C. W. Stallard, who concluded as of May 12, 1961, 'this patient is totally and permanently disabled from work.'

"In addition to the extremely limiting physical disability, Leftwich suffers from psychoneurotic symptoms which the neuropsychiatrist has predicted will continue 'unabated.' This condition was described as 'moderately severe' and sufficient to make him a poor candidate for rehabilitative retraining.

"Despite the foregoing and much more, the Hearing Examiner concluded 'that the objective medical evidence of record establishes that the claimant has suffered moderate impairments to his musculoskeltal [sic] system that would preclude him from engaging in any work requiring heavy manual labor or lifting, bending, stooping, etc. But the Hearing Examiner does not feel the objective medical evidence of record establishes that the residuals of the claimant's impairments

---

[1] These were Workmen's Compensation hearings.

[2] Despite his serious injuries, claimant worked in the mines (after periods of recuperation) until in 1959 he was rejected by the company doctor.

to his musculoskeltal [sic] system would preclude him from engaging in all substantial gainful activity, particularly of a light or moderate type, and he so finds.' We think it apparent that the Hearing Examiner and the Appeals Council accorded too much weight to

"THE DISHWASHING JOB

"Much of the record and the Hearing Examiner's decision is devoted to consideration of claimant's having worked for approximately the past five years as a dishwasher at Pinecrest Sanitarium. Claimant says in explanation of his employment that his job is rather easy and that he is not pushed by his supervisor. He also says, and it rings true when read with the rest of the record, that he works days when he does not feel like it for the sake of his family. He has nine children dependent upon him. By way of corroboration, claimant has repeatedly advised doctors who examined him that he endures pain while he works for the sake of making a living for his family, that he has pain if he sits more than ten minutes, and that his back hurts all the time while he is standing.

"Claimant started his dishwashing job on May 25, 1960. He put in ten hours a day at first, 240 hours a month and earned $130.00 a month. As of 1965, his work day was eight hours, totaling 184 hours per month, for which he was paid $150.00. Although he is present at the place of work for an eight-hour day, he actually works only four to five hours per day. He washes dishes by the use of a dishwashing machine and scrubs aluminum pots by hand. He does no lifting. Claimant's supervisor testified that he was not capable of doing anything but dishwashing and pot washing, and that if he were, she would have assigned other duties to him. She disclosed that he could not have obtained his job without political influence and stated that a lot of employees at the sanitarium are persons who could not handle jobs in private industry.

"The Hearing Examiner conceded that claimant 'may well have gotten his job on the basis of politics,' but he felt that claimant's position was not a 'made' job involving minimal or trifling tasks which make little or no demand on the individual and are of little or no utility to his employer or to the operation of a business, and refused to apply the exclusion in the Regulations.[3] In making this determination, the Hearing Examiner adverted to Hanes v. Celebrezze, 337 F.2d 209 (4th Cir. 1964), and acknowledged that counsel for claimant urged its similarity to the instant case. The Hearing Examiner rejected the analogy in these words:

" 'The Hearing Examiner also invites attention to the fact that the Administration does not acquiesce in either the results or the opinions expressed by the Fourth Circuit Court of Appeals in the *Hanes* case, and that it does not feel that the decision in the *Hanes* case is binding on it with respect to any other disability case.'

"We recognize that we are neither final nor infallible. However, we respectfully suggest that Hearing Examiners in this circuit may with some profit consider our prior decisions to see whether or not they have value as precedents.

"In *Hanes*, supra, this court held that evidence of claimant's earnings of $125.00 per month as a building custodian did not by itself and in view of other evidence constitute substantial evidence to support the Secretary's decision that claimant was disqualified for benefits due to ability to engage in substantial gainful activity. Judge Boreman, writing for the court, expressed the view that 'the court below erred in ascribing controlling significance to the evidence of claimant's earnings.' The decision of the district court affirming denial of benefits by the Secretary was reversed.

"In Flemming v. Booker, 283 F. 2d 321 (5th Cir. 1960), despite evidence that the claimant averaged five days a week work at a used car lot for which he was paid $15.00 or $20.00 a week, it was held that, nevertheless, the claimant had established his inability to engage in any *substantial* gainful activity. Judge Rives, speaking for the court, thought it not inappropriate to borrow tests of disability from other areas of the law. The quotations relied upon by the Fifth Circuit are worthy of reproduction here:

" 'In Berry v. United States, 1941, 312 U.S. 450, 455, 456, 61 S. Ct. 637, 639, 85 L. Ed. 945, Mr. Justice Black, speaking for a unanimous Court, said:

" ' "It was not necessary that petitioner be bedridden, wholly helpless, or that he should abandon every possible effort to work in order for the jury to find that he was totally and permanently disabled. It cannot be doubted that if petitioner had refrained from trying to do any work at all, and the same evidence of physical impairment which appears in this record had been offered, a jury could have properly found him totally and permanently disabled. And the jury could have found that his efforts to work—all of which sooner or later resulted in failure—were made not because of his ability to work but because of his unwillingness to live a life of idleness, even though totally and permanently disabled within the meaning of his policies." '

" 'In Mabry v. Travelers Ins. Co., 5 Cir., 1952, 193 F. 2d 497, 498, Judge Holmes, for [the Fifth] Circuit, said:

" ' "Pinched by poverty, beset by adversity, driven by necessity, one may work to keep the wolf away from the door though not physically able to work; and, under the law in this case, the fact that the woman worked to earn her living did not prevent a jury from finding, from the evidence before it, that she was totally and permanently disabled even while working." ' 283 F. 2d at 324.

"The similarity of Leftwich's situation to those of claimants in *Hanes* and *Booker* is apparent.[4] No two cases are, of course, exactly alike. But Hearing Examiners may not quit thinking when a claimant's earnings reach a magic mark.[5] The test is not whether Leftwich by will power can stay on his feet yet another day—but whether objectively and in the totality of circumstances, including especially his afflictions, he is disabled within the meaning of the Social Security Act. Substantial medical evidence establishes that claimant was totally and permanently disabled. In spite of such disablement, he chose to work every day to support his family. The statute defines disability as an 'inability to engage in any substantial gainful activity.' In this case, the emphasis properly is on *inability*. We think the Congress did not intend to exclude from the benefits of the Act those disabled persons who because of character and a sense of responsibility for their depndents are most deserving.

"Affirmed."

[3] The exclusion reads as follows: "Made work", that is, worth involving the performance of minimal or trifling duties which make little or no demand on the individual and are of little or no utility to his employer, or to the operation of a business, if self-employed, does not demonstrate ability to engage in substantial gainful activity.

[4] But cf. Canady v. Celebrezze, 367 F.2d 486 (4th Cir. 1966); Simmons v. Celebrezze, 362 F.2d 753 (4th Cir. 1966); Brown v. Celebrezze, 347 F.2d 227 (4th Cir. 1965).

[5] 20 C.F.R. § 404.1534 provides in pertinent part:

"(b) *Earnings at a monthly rate in excess of $100.* An individual's earnings from work activities averaging in excess of $100 a month shall be deemed to demonstrate his ability to engage in substantial gainful activity in the absence of evidence to the contrary."

Mr. METCALF. Mr. President, the appropriate part of the report begins on page 46, where it discusses the definition of disability and continues on through pages 47, 48, and 49.

The only justification given in the report for changing the definition is this:

"The Social Security Administration has indicated that in large part the reasons why a larger number of people than anticipated have become entitled to disability benefits are:

"(1) Greater knowledge of the protection available under the program leading to increased numbers of qualified people applying for benefits"—

They are complaining about the fact that more people know about the basic rights that we have given them, and thus more qualified people are getting some benefits.

"(2) Improved methods of developing evidence of disability."

That means that they have learned about the case in court, the Leftwich against Gardner case, which the administration is complaining about, demonstrating that their disability makes them qualify under the law.

"(3) More effective ways to assess the total impact of an individual's impairment on his ability to work."

In a veteran's case, the Supreme Court unanimously declared, and in a case quoted in the HEW case, that a person does not have to be completely or totally disabled. They said:

"It was not necessary that petitioner be bedridden, wholly helpless, or that he should abandon every possible effort to work in order for the jury to find that he was totally and permanently disabled."

What is wrong with that?

That is basic law. That is in the basic Workmen's Compensation law in most States.

Continuing to read:

"It cannot be doubted that if petitioner had refrained from trying to do any work at all, and the same evidence of physical impairment which appears in this record had been offered, a jury could have properly found him totally and permanently disabled. And the jury could have found that his efforts to work—all of which sooner or later resulted in failure—were made not because of his ability to work but because of his unwillingness to live a life of idleness, even though totally and permanently disabled within the meaning of his policies."

Continuing to read:

"Pinched by poverty, beset by adversity, driven by necessity, one may work to keep the wolf away from the door though not physically able to work; and, under the law in this case, the fact that the woman worked to earn her living did not prevent a jury from finding, from the evidence before it, that she was totally and permanently disabled even while working."

Mr. President, the law now, as written by the committee, states that his physical or mental impairments are of such severity that not only was he unable to do his previous work but he cannot, considering his age, education, and work experience, engage in any other kind of substantial gainful work which exists in the national economy, regardless of whether such work exists in the general area where he lives, or whether a specific job vacancy exists for him, or whether he would be hired if he applied for one.

There is an exceptional case of a man disabled in the mines, as in the case of Leftwich against Gardner, in Montana.

They say, well, he cannot work in the mines any more, but he could answer the telephone for Arthur Murray, who teaches dancing back in New York, that since he could solicit people on the telephone for dancing lessons, as part of the national economy, he would have to leave his State and

go to New York and participate in such an activity.

Of course, that is probably beyond—coming up under the definition—even what the Secretary would apply.

Actually, what the Secretary could apply under this conclusion is that a man would have to leave the geographic area in which he lived and he would have to engage in work in which he had no experience either by age, education, or training, and if such work were available in the national economy, whether he could get it or not, whether he would be available or not, whether a vacancy existed, he would still be disqualified because of disability.

Yet, when we made the change in 1965, and changed the definition of disability, we broadened and liberalized this portion of the act because those who are disabled needed this sort of liberalization.

For instance, the courts have applied this precedent in other areas—veterans, workmen's compensation—to the detriment of the definition laid down by the Secretary or the Hearing Examiner.

The reason stated to take this severe backward step, to broaden the bill, as the chairman has stated, to broaden the scope of social security, makes this the most important financial bill that has ever come before the Senate so far as increasing and broadening social security is concerned.

But, so far as those who are, unfortunately, disabled, are concerned, we are going back to make this a more limited bill than we have ever had before.

I submit, Mr. President, that these people want to come in and win their lawsuits. They should, therefore, at least appeal some of the cases to the Supreme Court and get some legal definition before they come out to the Senate and try to have us pull their irons out of the fire.

I submit that we should go back to existing law. We should return to the law we passed in 1965.

Mr. President, I ask unanimous consent that, as a part of my remarks, an excerpt from the Senate committee report be included in the RECORD.

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

"4. AMENDMENTS OF DISABILITY PROGRAM

"The Social Security Amendments of 1956 extended the insurance protection of the social security program to provide monthly benefits for persons with disabilities of long-continued and indefinite duration and of sufficient severity to prevent a return to any substantial gainful work. In providing this protection against loss of earnings resulting from extended total disability, the Congress designed a conservative program. Amendments enacted in 1958 and 1960 liberalized the disability program, among other changes, extended benefits to wives and children of the disabled, and provided for the payment of benefits to disabled workers under age 50, who had previously been excluded. All the recommended changes in the disability provisions of the program would be adequately financed from the contributions the committee is recommending be earmarked for the disability insurance trust fund.

"*(a) Elimination of the long-continued and indefinite duration requirement from the definition of disability.*

"Under present law, disability insurance benefits are payable only if the worker's disability is expected to result in death or to be of long-continued and indefinite duration. The House bill would broaden the disability protection afforded by the social security program by providing disability insurance benefits for an insured worker who has been totally disabled throughout a continuous period of 6 calendar months. The committee believes that the House provision could result in the payment of disability benefits in cases of short-term, temporary disability. Under the House provision, for example, benefits could be paid for several months in cases of temporary disability resulting from accidents or illnesses requiring a limited period of immobility. The committee believes, therefore, that it is necessary to require that a worker be under a disability for a somewhat longer period than 6 months in order to qualify for disability benefits. As a result, the committee's bill modifies the House bill to provide for the payment of disability benefits for an insured worker who has been or can be expected to be totally disabled throughout a continuous period of 12 calendar months. (Disability insurance benefits would also be payable if disability ends in death during this 12-month period, provided the worker has been disabled throughout a waiting period of 6 calendar months prior to death.) The effect of the provision the committee is recommending is to provide disability benefits for a totally disabled worker even though his condition may be expected to improve after a year. As experience under the disability program has demonstrated, in the great majority of cases in which total disability continues for at least a year the disability is essentially permanent. Thus, where disability has existed for 12 calendar months or more, no prognosis would be required. Where a worker has been under a disability which has lasted for less than 12 calendar months, the bill would require only a prediction that the worker's disability will continue for a total of at least 12 calendar months after onset of the disability.

"The House bill modifies the provision of present law under which the waiting period is waived in subsequent disability so as to make this provision more restrictive when applied to short-term disabilities. Since, under the definition the committee is recommending, disability protection would be limited to workers with extended total disabilities the same test of disability initially applied should also be applicable in second and subsequent disabilities. Under the provision in the committee bill, benefits would be paid beginning with the first month of onset of the second or subsequent disability and without regard to the waiting period requirement if the individual is under a disability which occurred within 5 years of the termination of his previous disability and which can be expected to result in death or has lasted, or can be expected to last, for a continuous period of not less than 12 calendar months.

"The modification in the definition of disability recommended by the committee does not change the requirement in existing law that an individual must by reason of his impairment be unable to 'engage in any substantial gainful activity.'

"An individual with a disabling impairment which is amendable to treatment that could be expected to restore his ability to work would meet the revised definition if he is undergoing therapy prescribed by his treatment sources, but his disability nevertheless has lasted, or can be expected to last, for at least 12 calendar months. However, an individual who willfully fails to follow such prescribed treatment could not by virtue of such failure qualify for benefits.

"The committee expects that, as now, procedures will be utilized to assure that the workers' condition will be reviewed periodically and reports of medical examinations and work activity will be obtained where appropriate so that benefits may be terminated promptly where the worker ceases to be disabled.

"The committee retains the provision in present law under which payment of disability benefits is first made for the seventh full month of disability. The House bill would have authorized payments beginning with the sixth full month of disability.

"It is estimated that if benefits were payable for disabilities that are total and last more than 12 calendar months but are not necessarily expected to last indefinitely, about 60,000 additional people—workers and their dependents—would become immediately eligible for benefits. Benefit payments under the provision in 1966 would total $40 million."

Mr. CURTIS. Mr. President, I am not out of sympathy with the individual cases in which the Senator from Montana is interested. We have, however, a far broader question before us. When it was undertaken to pay benefits to a disabled person just as though he were retired because of age, the decision was arrived at to make it a narrow definition.

Those who are interested might turn to the committee report beginning near the bottom of page 46, which reads:

The present law defines disability (except for certain cases of blindness) as the "inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months."

We have this strange situation. This narrow definition has been enlarged by interpretation of the courts. It is quite unlikely that any of those decisions will ever get to the Supreme Court. Consequently, courts all over the land have proceeded in various ways. The result is that the cost of disability retirement pay has gone up and up.

The allocation to the disability trust fund has increased from 0.50 percent of payroll in 1956 to 0.70 percent today, and will be increased to 0.95 percent by the committee's bill. In 1965 the Congress adopted an increase in the social security taxes allocated to the disability insurance trust fund; a large part of which was needed to meet an actuarial deficiency of 0.13 percent in the system. Again this year the administration has come to the Congress asking for an increase in the taxes allocated to that fund to meet an even larger actuarial deficiency, which has reduced the 0.03-percent surplus, estimated after the 1965 amendments, to a 0.15-percent deficiency.

What has happened is that even though the percentage of people in the total economy has not increased, the number of people who are now on disability retirement has increased. Because the Ways and Means Committee felt that the definition of disability as originally written by the Congress was not being adhered to, it inserted this language and put further guidelines in it, as appears on page 48 of the committee report, where Senators will find the following interesting comments:

"When asked about the court decisions, the Social Security Administration summarized developments in the courts in some jurisdictions as—

"(1) An increasing tendency to put the burden of proof on the Government to identify jobs for which the individual might have a reasonable opportunity to be hired, rather than ascertaining whether jobs exist in the economy which he can do. Claims are sometimes allowed by the courts where the reason a claimant has not been able to get a job is that employers having jobs he can do, prefer to avoid what they view as a risk in hiring a person having an impairment even though the impairment is not such as to render the person incapable of doing the job available.

"(2) A narrowing of the geographic area in which the jobs the person can do must exist, by reversing the Department's denial in cases in which it has not been shown that jobs the claimant can do exist within a reasonable commuting distance of his home, rather than in the economy in general.

"(3) The question of the kind of medical

evidence necessary to establish the existence and severity of an impairment, and how conflicting medical opinions and evidence are to be resolved.

"(4) While there have heretofore been no major differences by or among the courts on the issue of disability when the claimant was performing work at a level which the Secretary under the regulations had determined to be substantial gainful activity, this issue was recently highlighted and publicized in the case of *Leftwich* v. *Gardner*. The Fourth Circuit Court of Appeals in this case held that the claimant was under a disability despite his demonstrated work performance considered by the Secretary to be substantial gainful activity."

Then the Finance Committee said this:

"The committee concurs with the statement of the Committee on Ways and Means instructing the Social Security Administration to report immediately to the Congress on future trends of judicial interpretation of this nature. As a remedy for the situation which has developed, the committee's bill would provide guidelines to reemphasize the predominant importance of medical factors in the disability determination."

In summary, it amounts to just about this: Congress provided for the disability program. It provided for the degree of disability. The Ways and Means Committee of the House and the Finance Committee of the Senate found that that definition of disability was being exceeded and they placed in this bill some guidelines. I believe they should be left in there. I think to depart from a rather strict and narrow definition of disability in the social security program would be a mistake. That is not to say that some people should not have consideration in other programs. I regretfully express the hope that the amendment will not be adopted.

Mr. METCALF. Mr. President, I shall take only a few minutes.

I have a memorandum from Robert J. Myers, Chief Actuary of the Social Security Administration, which reads:

"H.R. 12080, both as passed by the House and as reported by the Finance Committee, would provide a more detailed definition of 'disability' as used in determining eligibility for disability benefits under Social Security. It has been proposed"—

That is my amendment—

"that this detailed definition would then be eliminated, so that the definition would then be that in present law.

"In my opinion, such a change would not necessitate any increase in my estimate of the cost of the program, since I did not reduce the cost estimate when the more detailed definition was added to the bill. But, in the absence of the more detailed definition, there is a much greater likelihood that the costs actually developing will exceed my intermediate-cost estimate."

So we do not need to add any further taxes; we do not need to add any further increases; this amendment goes back to existing law.

I point out that in the Leftwich case, which I mentioned and which the Senator from Nebraska [Mr. CURTIS] mentioned, Mr. Leftwich was denied disability benefits by the hearing examiner and Secretary. Mr. Leftwich could not stoop, bend, or sit down for more than 10 minutes. Yet he was required to take a job as a dishwasher at $130 a month to support himself and nine children. The Circuit Court of Appeals for the Fourth Circuit, quite properly, I think, held that, under that definition, a man who could not bend, stoop, or sit for very long did not have to take a job at $130 a month while he was under physical pain at all times, but was entitled to disability benefits.

That is all I seek: To go back to that kind of definition, to return to the kind of language that we had in the bill in the 1965 act, which to my mind actually protects all the people who need to be protected, protects the financial integrity of the act, and will prevent us from taking the backward step we would be taking should we adopt the definition that is now in the bill.

Mr. METCALF. On November 17 the restrictive definition of disability contained in the House bill was put to a rollcall vote on the floor of the Senate and by a substantial margin my colleagues voted to delete the House definition of disability. However, in conference, with one minor change the Senate conferees receded on this amendment as they did on just about everything else that the Senate passed both in committee and on the floor.

Today I am reintroducing my amendment in the form of a Senate bill in which I am joined by 35 of my colleagues as cosponsors. Those of my colleagues who have joined with me in seeking again to return the definition of disability to the way it was after the 1965 amendments to the Social Security Act are Senators BROOKE, BURDICK, BYRD of West Virginia, CASE, CHURCH, CLARK, GRUENING, HARRIS, HART, HATFIELD, HILL, JAVITS, KENNEDY of Massachusetts, KENNEDY of New York, LONG of Missouri, MCCARTHY, MCGEE, MCGOVERN, MANSFIELD, MONDALE, MONTOYA, MORSE, MUSKIE, NELSON, PELL, PROUTY, PROXMIRE, RANDOLPH, RIBICOFF, SPARKMAN, SPONG, TYDINGS, WILLIAMS of New Jersey, YARBOROUGH, and YOUNG of Ohio.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD at this point.

The PRESIDENT pro tempore. The bill will be received and appropriately referred; and without objection, the bill will be printed in the RECORD.

The bill (S. 2935) to amend title II of the Social Security Act so as to provide that the definition of the term disability, as employed therein, shall be the same as that in effect prior to the enactment of the Social Security Amendments of 1967, introduced by Mr. METCALF (for himself and other Senators), was received, read twice by its title, referred to the Committee on Finance, and ordered to be printed in the RECORD, as follows:

S. 2935

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 223(d) of the Social Security Act is amended (1) by striking out paragraphs (2) through (4) thereof and (2) by redesignating paragraph (5) thereof as paragraph (2).

(b) The third sentence of section 216(i)(1) of such Act is amended by striking out "paragraphs (2)(A), (3), (4), and (5)" and inserting in lieu thereof "paragraph (2)".

SEC. 2. The amendments made by this Act shall be effective with respect to applications for disability insurance benefits under section 223 of the Social Security Act, and for disability determinations under section 216(i) of such Act, filed—

(a) in or after the month in which this Act is enacted, or

(b) before the month in which this Act is enacted if the applicant has not died before such month and if—

(1) notice of the final decision of the Secretary of Health, Education, and Welfare has not been given to the applicant before such month, or

(2) the notice referred to in paragraph (1) has been so given before such month but a civil action with respect to such final decision is commenced under section 205(g) of the Social Security Act (whether before, in, or after such month) and the decision in such civil action has not become final before such month.

LEGISLATION TO DEAL WITH THE CATASTROPHIC PRESCRIPTION DRUG EXPENSES OF THE AGED

Mr. MONTOYA. Mr. President, I introduce today, for myself and the following Senators, a bill to provide our aged of this country a measure of assistance toward meeting their catastrophic prescription drug expenses: Mr. ANDERSON, Mr. BARTLETT, Mr. BREWSTER, Mr. BROOKE, Mr. BURDICK, Mr. BYRD of West Virginia, Mr. CLARK, Mr. EASTLAND, Mr. GRUENING, Mr. HART, Mr. INOUYE, Mr. JACKSON, Mr. JAVITS, Mr. KENNEDY of Massachusetts, Mr. KENNEDY of New York, Mr. LONG of Louisiana, Mr. LONG of Missouri, Mr. MCGEE, Mr. MCGOVERN, Mr. MCINTYRE, Mr. MAGNUSON, Mr. MANSFIELD, Mr. METCALF, Mr. MONDALE, Mr. MORSE, Mr. MUSKIE, Mr. NELSON, Mr. PELL, Mr. RANDOLPH, Mr. TYDINGS, Mr. YARBOROUGH, and Mr. YOUNG of Ohio.

Mr. President, a week ago last Friday, I announced my intention to reintroduce legislation to help deal with catastrophic prescription drug expenses of the aged. The bill I am now introducing, S. 2936, is designed to achieve this objective. The bill amends title XVIII of the Social Security Act to include, among the health insurance benefits under the part B program of medicare, the coverage of certain drugs.

Efforts to enact a drug benefit for the aged under medicare are not new to the Senate. When we deliberated the merits of the medicare legislation in 1965, it was pointed out that, although the program under consideration would bring much relief to the elderly insofar as many of the economic consequences of illness were concerned, a failure to help the older American meet part of the costs of prescription medicines would leave a critical gap in comprehensive health insurance protection. And, while we did enact a program to protect old folks against the costs of hospitalization and other services, we did not help them pay for the very prescription drug items which often keep them ambulatory and outside of these expensive institutions.

A number of Senators sponsored legislation in 1965 to help the aged with catastrophic prescription drug costs. In the end, however, we did not enact such a program, and instead adopted an amendment introduced by the senior Senator from New York [Mr. JAVITS] calling upon the Department of Health, Education, and Welfare to study the problem. I seem to recall that the distinguished sponsor of the amendment and the chairman of the Committee on Finance [Mr. LONG of Louisiana] stated that they had been persuaded by HEW about the need to provide additional study. The Senators supported the amendment of the Senator from New York, and in good faith, we expected that the Department would promptly come to grips with the problems they forsaw in drug benefit legislation.

As we all know, the amendment failed to clear conference committee with the other body, and, thus, HEW did not carry on an intensive study of a drug benefit proposal. So the same Senate which passed the milestone medicare legislation in 1965 again seized the initiative in 1966, and passed a drug benefit program as part of the supplementary medical insurance portion of medicare. The program unanimously passed by the Senate afforded a reasoned and economical approach to helping older people deal with catastrophic prescription drug expenses. Regrettably, we did not succeed in getting the House to agree with the program, they presumably being influenced by pleas for further studies.

Once again, however, Mr. President, older Americans knew that the Senate of the United States had gone firmly on record for a program to help them bear the heavy burden of catastrophic drug expense.

On the first day of the 90th Congress, I introduced a bill, which I believed then and still believe, offered a modest, but important program of protection against major drug expenses. None of the sponsors of that legislation believed that we can or should pay for all of the drug expenses of every older person. But we did hope to provide some protection for those elderly persons whose annual drug expenses represented a real economic threat to their security and well-being. Despite improvements in our income maintenance programs, the resources of the average older American remain so marginal that those faced with overwhelming expenses for needed medicines can quickly be confronted with economic disaster.

There is no satisfactory reason for permitting this situation to continue, particularly when we have in the supplementary insurance program a method of allowing the elderly to insure themselves against the risk of overwhelming drug costs. The program contained in S. 2936, represents a workable and sound solution to this very problem.

As the Senators know, the drug benefit bill which I introduced last session was offered as amendment to the 1967 social security bill. We believed that the Senate could again take the lead by acting to meet the problem of catastrophic drug expense among the aged. No Senator challenged the fact that the elderly need assistance. No Senator could ignore the enormous prescription drug requirements of older people, in contrast to the drug requirements of younger persons. No one scoffed at the idea that annual expenses of $100, $200 or $300 for prescription medicines is a fact of life for millions of older people. No one challenged the workability of the program, whose design was based on a number of drug benefit and payment programs now in use across the United States. But, despite this overwhelming weight of evidence, the amendment was narrowly turned down—although not on its merits.

From all across the country, Mr. President, letter after letter, from old folks and others, asked why did the Senate reject a proposal it had adopted just 1 year before? For nearly 3 years now, some old people noted, they had heard the same phrase over and over—"Let's study the problem," and after we have done that, "let's study it again." The time for study is past. This Senate is fully capable of producing a workable and economical program to insure the aged against catastrophic prescription drug expenses. The program contained in S. 2936 is not a new program, something which is the result of thin-air speculation. It is based on principles for which there is solid experience to show that it is a reasoned and economical approach to this problem.

Last November, 33 Senators supported this amendment—supported it despite the same claim for the need to study it. These Senators reached the conclusion that the Nation's 19 million older people need catastrophic drug insurance and need it at the earliest possible moment. I do not believe the Senators who voted against the bill last year did so because they fail to recognize the plight of our senior citizens. But I do believe that some of them were persuaded to vote "no," not because they believed the program required additional study, but because of the weight of a cost estimate supplied by the chief actuary of the Social Security Administration which has since been revised downward considerably.

I can report that in an estimate provided me by the chief actuary in less than 2 weeks after the floor debate on the bill, the estimate of benefit cost was substantially reduced. However, I do not believe that this reduced estimate gave sufficient weight to one of the major cost limiting provisions in the measure—the provision which limits benefit liability to the pricing of lower, alternative cost products on the market where these products exist. Since November, I have conducted extensive research into the cost considerations involved in a formulary mechanism used to establish limits of liability, and intend to meet with Administration actuaries in order to convince them to further reduce their cost estimate below that which they stated in our last communication.

The bill I have just introduced also incorporates a number of other cost-control features along lines suggested by Administration officials and should achieve further reductions of their estimate. I have, for example, written into the program, the assurance that beneficiaries will bear at least 20 percent of the costs of prescriptions beyond the deductible amounts. On the basis of a $25 deductible and a 20-percent coinsurance, the chief actuary of the Social Security Administration stated:

> An estimate of $2.00 per capita per month is perhaps the best estimate that can be made in the circumstances.

I sincerely believe this evaluation fails to give sufficient weight to formulary provisions written into the bill and I plan to discuss this further with the chief actuary. My conclusions are substantiated with evidence from public and private programs which I have studied and which have been supplied to me by a number of administrators of programs which use liability-limiting mechanisms much like those envisioned in the new bill.

I have also incorporated into the bill a number of provisions which allow for wide administrative latitude in processing benefit claims, and should achieve meaningful cost reductions in my program. Many of these administrative measures were suggested by the actuaries as ways in which administrative cost could effectively be cut.

All in all, Mr. President, the new bill should entail costs which will neither constitute a major burden upon beneficiaries, or the Government, and will still afford a measure of protection against catastrophic prescription drug costs.

I suspect, Mr. President, that there will again be attempts to confuse my drug benefit proposal with drug cost-control proposals relating to the Nation's public assistance programs. So that the record will be set straight, I want to here and now explain what my bill will not do as much as explain what it can accomplish.

First, the bill is designed to provide benefits for the elderly who face major prescription drug expenses during the year. It has nothing to do with price controls or with the interference of medicine. Section 1 of the bill clearly and once and for all sets this straight. The social security beneficiary who elects to enroll in the supplementary medical insurance program will have to incur $25 of prescription drug expense, before the program will begin to pay benefits. In addition to meeting the deductible, the patient will share in the costs of the benefits at least in the amount of 20 percent of such costs.

As I have said, the bill in no way involves with the Government either the physician or the pharmacist. It neither interferes with the privileges of the doctor to prescribe any products he chooses by any product name he chooses, nor does it change the way in which the pharmacist fills or charges for the prescription. Under the benefit mechanism provided for in the bill, the program will pay benefits equal to the acquisition costs of the lowest price products consistent with quality available in the marketplace plus an amount representing professional services, to include the overhead, to return on capital and investment, and other factors attributable to the services necessary to fill prescriptions. These factors limit only the amount of benefits payable by the program—they do not prescribe what the pharmacist wishes to charge, nor do they influence the physician's choice of drug he prescribes.

Consider, for a moment, that a beneficiary has written for him by his doctor a prescription for a sole-source drug product—that is, a drug for which there is, let us say, only one manufacturer and price. The patient can go to any drugstore of his choice to have the prescription filled and the pharmacist will charge his usual price—the same price he now charges. The patient will pay this full charge, just as we all now do. Assuming that the beneficiary has met the deductible, he can apply for reimbursement under the program.

Since there is but one product at one price, the acquisition cost of this product, together with an amount representing the services of the pharmacist will be paid in benefits, except that this amount shall not equal more than 80 percent of the full charge for the prescription. Hence, the patient can look forward to

about 80 percent reimbursement for the costs of sole-source items.

Where a drug is available at varied prices—to include prices of qualified products marketed under trade or other names by other than major brand producers—the amount of liability assumed by the program will not exceed the acquisition cost of the lowest cost product plus an amount for the services involved in filling the prescription, or 80 percent of the actual charges, whichever is less. In these cases, patients may expect to bear more than 20 percent of the costs of such prescriptions. Regardless of what the patient gets, the pharmacist has already received full charge for the exact item prescribd by the physician. Physicians, however, must ultimately judge what is best for their patients, so that to the extent that physicians can and do prescribe cheaper products which in their professional judgment are of equal quality, beneficiaries will have to pay a smaller portion of the total charges involved in filling the prescription. My bill endorses the medical judgment of the physician, and assures that the pharmacist who fills the prescription suffers no financial loss whatsoever.

It is my intention to work for the prompt enactment of this program and urge the support of every Senator in helping the elderly of this country free themselves from the mantle and fear of catastrophic drug expenses. I welcome others of our colleagues who may wish to join in cosponsoring this measure.

Mr. President, I am encouraged by the support which I have been offered since my intention to reintroduce this measure. I have been contacted, and have been assured of the support of our leading senior citizens organizations, of veterans organizations, and others who, like myself, are concerned with and interested in the welfare of the aged of this country.

Mr. President, I ask unanimous consent that the entire text of my bill be printed at this point in the RECORD.

The PRESIDENT pro tempore. The bill will be received and appropriately referred; and, without objection, the bill will be printed in the RECORD.

The bill (S. 2936) to amend title XVIII of the Social Security Act so as to include, among the health insurance benefits covered under part B thereof, coverage of certain drugs, introduced by Mr. MONTOYA (for himself and other Senators), was received, read twice by its title, referred to the Committee on Finance, and ordered to be printed in the RECORD, as follows:

S. 2936

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. It is the policy of the Congress that individuals insured under the supplementary medical insurance program established under part B of title XVIII of the Social Security Act shall have complete freedom of choice in the selection of the community pharmacy from which they purchase drugs the expenses of which are covered under such program by reason of the amendments made by the succeeding provisions of this Act; and nothing in title XVIII of the Social Security Act or in the amendments to the Social Security Act made by this Act shall be construed to interfere with, restrict, or curtail such freedom of choice. It is further the policy of the Congress that nothing contained in the amendments to the Social Security Act made by the succeeding provisions of this Act, shall be construed in anywise to limit or restrict the complete freedom of choice of any insured individual in the selection of his physician, limit or restrict any physician treating such individual in prescribing drugs for such individual's use, or limit or restrict any pharmacist in filling any prescription of drugs for the use of such individual.

SEC. 2. (a) Section 1832 (a) of the Social Security Act 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" and (3) by adding at the end thereof the following new paragraph:

"(3) entitlement to have payment made to him (pursuant to sections 1833(a)(3) and 1845(a)(2)) toward expenses incurred in the purchase of qualified drugs."

(b) Section 1833(a) of such Act is amended (1) by inserting "or qualified drugs" after "incurs expenses for services", (2) by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; and", and (3) by adding at the end thereof the following new paragraph:

"(3) in the case of benefits covered under section 1832(a)(3), the allowable benefit (as defined in section 1845(a)(2)), or if lower, 80 percent of actual expenses incurred, for the purchase of qualified drugs."

(c) Section 1833(b) of such Act is amended—

(1) by inserting "(insofar as subsection (a) relates to expenses incurred with respect to services referred to in paragraphs (1) and (2) thereof)" after "Before applying subsection (a)";

(2) by redesignating clauses (1) and (2) as clauses (A) and (B), respectively;

(3) by inserting "(1)" immediately after "(b)", and

(4) by adding at the end thereof the following new subparagraph (2):

"(2) Before applying subsection (a) (insofar as subsection (a) relates to expenses incurred with respect to qualified drugs, as referred to in paragraph (3) thereof) with respect to expenses incurred by an individual during any calendar year, the total amount of the expenses incurred by such individual during such year (which would, except for this subsection, constitute incurred expenses from which benefits under subsection (a) are determinable) shall be reduced by a deductible of $25; except that (A) the amount of the deductible for such calendar year as so determined shall first be reduced by the amount of any expenses incurred by such individual in the last three months of the preceding calendar year, and (B) for purposes of determining amounts to be counted toward meeting the $25 deductible imposed by this paragraph, 100 per centum of the actual expenses incurred by an individual with respect to all drugs requiring prescription under Federal law shall be used instead of the amount referred to in section 1832(a)(3)."

(d) Part B of title XVIII of such Act is amended by adding at the end thereof the following new sections:

"ALLOWABLE BENEFITS FOR QUALIFIED DRUGS

"SEC. 1845. (a) For purposes of this part—

"(1) The term 'qualified drug' means a drug or biological which is included among the items approved by the Formulary Committee (established pursuant to section 1846(a)).

"(2) The term 'allowable benefit' when used in connection with any quantity of a qualified drug or dosage form thereof, means the amount established with regard to such quantity of such drug or dosage form thereof by the Formulary Committee and approved by the Secretary.

"(b) Notwithstanding the provisions of section 1842 (b)(3) (B)(ii), amounts to which an individual is entitled by reason of the provisions of section 1832 (a)(3) shall be paid directly to such individual in accordance with regulations of the Secretary prescribed pursuant to this subsection. No individual shall be paid any amount by reason of the provisions of section 1832 (a)(3) prior to the presentation by him (or by another on his behalf) of documentary or other proof satisfactory to the Secretary establishing his entitlement thereto. Regulations referred to in the first sentence of this subsection shall provide that claims for amounts to which an individual is entitled by reason of section 1832 (a)(3) shall be accepted by the Secretary only (i) in the case of a claim which is the first claim submitted in any calendar year with respect to expenses for qualified drugs incurred in such year, if the actual expenses for qualified drugs submitted with such claim and upon which such claim is based exceeds the amount of the deductible for such year (as determined under section 1833 (b)(2)), (ii) in the case of a claim which, in any calendar year, is subsequent to the first claim submitted in such calendar year with respect to expenses for qualified drugs incurred in such year, if the actual expenses for qualified drugs upon which such claim is based is not less than $10, and (iii) in the case of a claim which is submitted in a calendar year subsequent to the calendar year with respect to which were incurred the expenses for qualified drugs upon which such claim is based, if the actual expenses for qualified drugs upon which such claim is based (when added to all claims eligible to be filed during the calendar year with respect to such expenses were incurred) exceeds the amount of the deductible for such year (as so determined).

"(c) The benefits provided by reason of section 1832(a)(3) may be paid by the Secretary or the Secretary may utilize the service of carriers or other qualified agencies for the administration of such benefits under contracts entered into between the Secretary and such carriers for such purpose. To the extent determined by the Secretary to be appropriate, the provisions relating to contracts entered into pursuant to section 1842 shall be applicable to contracts entered into pursuant to this subsection.

"FORMULARY COMMITTEE

"SEC. 1846. (a) There is hereby established a Formulary Committee to consist of three officials, within the Department of Health, Education and Welfare, who are of appropriate professional background and who are designated by the Secretary. At least two of such officials shall be physicians. The chairman of such committee shall be designated by the Secretary and shall serve for such period of time as the Secretary deems appropriate.

"(b)(1) It shall be the duty of the Formulary Committee, with the advice of the Formulary advisory group (established pursuant to section 1847), to—

"(A) determine which drugs and biologicals shall constitute qualified drugs for purposes of the benefits provided under section 1832(a); and

"(B) determine, with the approval of the Secretary, the allowable amount, for purposes of such benefits, of the various quantities or dosage forms of any drug determined by the Committee to constitute a qualified drug; and

"(C) publish and disseminate at least once each calendar year among individuals insured under this part, physicians, pharmacists, and other interested persons, in accordance with directives of the Secretary, an alphabetical list naming each drug or biological by its established name as defined in the Federal Food, Drug, and Cosmetic Act, as amended, and by a representative listing of such other names by which it is commonly known, which is a qualified drug, together with the benefit allowable for various quantities or dosage forms thereof, and if any

such drug or biological is known by a trade name, the established name shall also appear with such trade name.

"(2) (A) Any drug or biological included on the list of qualified drugs shall, if listed by established name, also be listed by its trade name or a representative listing of trade or other names by which it is commonly known, if any.

"(B) Drugs and biologicals shall be determined to be qualified drugs if they can legally be obtained by the user only pursuant to a prescription of a lawful prescriber; except that the Formulary Committee may include certain drugs and biologicals not requiring such a prescription if it determines such drugs or biologicals to be of a lifesaving nature.

"(C) In the interest of orderly, economical, and equitable administration of the benefits provided under section 1832(a)(3), the Formulary Committee may, by regulation, provide that a drug or biological otherwise regarded as being a qualified drug shall not be so regarded when prescribed in unusual quantities.

"(3) In determining the allowable benefit for any quantity or dosage form of any qualified drug, the Formulary Committee shall be guided by the acquisition cost to the ultimate dispenser for the quantities most frequently prescribed plus a reasonable fee component in consideration of costs of overhead, professional services, and a fair profit for dispensing a prescription for such drug or other authorized lifesaving drugs, or biologicals not requiring a prescription, with a view to determining with respect to each qualified drug a schedule of benefit allowances for various quantities thereof. In any case in which a drug or biological is available by established name as defined in the Federal Food, Drug, and Cosmetic Act, as amended, and one or more trade names any one of which is different from such established name, the cost of such drug or biological, for purposes of the preceding sentence, shall be deemed to be the lowest cost of such drug, however named, which meets the standards of quality for such drug required under the Federal Food, Drug, and Cosmetic Act, as amended. Whenever the lowest cost (to the ultimate dispensers thereof) of a particular drug or biological differs significantly in the various regions of the United States, the Formulary Committee may establish, for the various regions of the United States, separate schedules of allowable benefits with respect to such drug or biological so as to reflect the lowest cost at which such drug or biological is generally available to the ultimate dispensers thereof in each such region.

"ADVISORY GROUP TO FORMULARY COMMITTEE

"SEC. 1847. (a) For the purpose of providing professional, technical, and scientific advice to the Formulary Committee with respect to its duties and functions, the Secretary shall appoint an advisory group to the Formulary Committee (hereafter in this section referred to as the 'advisory group'). The advisory group shall consist of seven members to be appointed by the Secretary. From time to time, the Secretary shall designate one of the members of the advisory group to serve as chairman thereof. The members shall be so selected that each represents one or more of the following national professional health organizations: An organization of physicians, an organization of pharmacists, an organization of persons concerned with public health, an organization of colleges of medicine, and an organization of colleges of pharmacy. Each member shall hold office for a term of three years, except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term, and except that the terms of office of six of the members first taking office shall expire, as designated by the Secretary at the time of appointment, two at the end of the first year, and two at the end of the second year, and two at the end of the third year, after the date of appointment. A member shall not be eligible to serve continuously for more than two terms.

"(b) Members of the advisory group, while attending meetings or conferences thereof or otherwise serving on business of the advisory group, shall be entitled to receive compensation at rates to be fixed by the Secretary, but not exceeding $75 per day, including traveltime, and while so serving away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

"(c) The advisory group is authorized to engage such technical assistance as may be required to carry out its functions, and the Secretary shall, in addition, make available to the advisory group such secretarial, clerical, and other assistance and such pertinent data obtained and prepared by the Department of Health, Education, and Welfare as the advisory group may require to carry out its functions."

(e) The amendments made by this section shall become effective on July 1, 1969.

VETERANS HOME LOAN GUARANTEE

Mr. KENNEDY of Massachusetts. Mr. President, I introduce, for appropriate reference, a bill to increase the amount of GI home loan guarantee entitlement from $7,500 to $10,000. This increase was recommended by the President in his message on January 30, 1968, on America's servicemen and veterans. In making this recommendation, the President stated:

> The increase I am recommending will help the veteran to purchase a decent home and get the financing protection which the law promises him.

One of the major benefits this grateful Nation has afforded to its veterans since World War II has been the GI loan, which has made it possible for nearly 7 million veterans to become homeowners in their communities. This has been accomplished at small cost to the Federal Treasury because of the low default rate, while concurrently providing stimulus and strength to the national economy.

Since 1950, the home loans financed with the Federal assistance of this Veterans' Administration program have been guaranteed up to 60 percent of the amount of the loan, but the guarantee is limited to a maximum of $7,500. We are all very much aware that the cost of a home has risen markedly since 1950. Consequently, the percentage of the loan which the Veterans' Administration can cover under that formula has been steadily declining. This has reached such proportions that the private investment sector cannot, consistent with sound financial practice, participate in making loans to veteran purchasers to the extent which otherwise might be possible.

The benefit which the Congress provided for our deserving veterans has been gradually but steadily eroding in the practical world of finance. What was a realistic and adequate figure 18 years ago is no longer so in today's market.

The situation has become even more critical with the increasing number of veterans completing their service in Vietnam. Our continuing pledge to assure every means for homeownership to these younger men and their families must be meaningful.

An increase in the maximum guarantee to $10,000 would make GI loans a more attractive investment for lenders, from a risk of loss standpoint. Investors generally have adopted loan policies, concerning the percentage of guarantee which they will require, in order to make or purchase a loan. These policies change from time to time, depending upon the condition of the mortgage money market and other factors. At present, many investors require a guarantee of at least 33 percent. By increasing the amount of the guarantee to $10,000, we would make it possible for more loans to meet the guarantee requirements of the lending institutions and, thus, more veterans would be able to obtain GI loans to purchase housing suitable to their present and prospective needs.

On February 1, I joined with the distinguished Senator from Texas [Mr. YARBOROUGH] in sponsoring two bills—S. 2910 and S. 2911—which would implement other Presidential recommendations in the field of veterans' affairs. One of these is the proposed Veterans in Public Service Act of 1968 and the other would improve the existing program of vocational rehabilitation for disabled veterans. At the time of the introduction of these bills, I made this observation:

> There may be other areas in which the existing legislation providing aid and assistance to this country's veterans needs revision. As chairman of the Veterans' Affairs Subcommittee, I will look at this legislation. Where it is inadequate, or where it is out of date, I will try to make it realistic.

This bill qualifies on all counts. I trust my fellow Members of the Senate will give this matter favorable consideration.

Mr. President, I ask unanimous consent that the text of the bill be printed at this point in the RECORD.

The PRESIDENT pro tempore. The bill will be received and appropriately referred; and, without objection, the bill will be printed in the RECORD.

The bill (S. 2937) to amend title 38 of the United States Code to increase the amount of home loan guarantee entitlement from $7,500 to $10,000, and for other purposes, introduced by Mr. KENNEDY of Massachusetts (for himself and Mr. YARBOROUGH), by request, was received, read twice by its title, referred to the Committee on Labor and Public Welfare, and ordered to be printed in the RECORD, as follows:

S. 2937

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1810(c) of title 38, United States Code, is amended by striking out "$7,500" and inserting in lieu thereof "$10,000".

SEC. 2. Paragraph (2) of section 1811(d) of title 38, United States Code, is amended by striking out "$7,500" each place where it appears and inserting in lieu thereof "$10,000".

EMPLOYMENT ASSISTANCE FOR VETERANS

Mr. KENNEDY of Massachusetts. Mr. President, each month some 70,000 servicemen move through our Armed Forces separation centers, and rejoin their families and friends to take up civilian life once more.

These men are a challenge to the conscience of America. Our Nation has always prided itself on the care it has given its veterans, on the benefits it has been willing to pay for, and on the opportunities it has provided for men newly returned from service.

The men coming home today are becoming civilians again in a complicated and trying period of our history. Our society is more demanding of its members; skills and education are more highly prized and more generally required; and caring for a family is more expensive and more exacting as the hopes and ambitions of our people grow.

The simple fact is that veterans' programs of past years are not adequate to the needs of today's veterans.

We have before us the President's recommendations for extensive new legislation that would provide new assistance for veterans in a wide range of new and expanded activities. They are creative recommendations that would help the veteran to become better educated, get better housing, land a better job, protect his family better and enjoy better health. They build on measures we in the Congress have worked on and polished over the years.

The President, while calling for programs that are the obligation of the Government to provide and pay for, made the point that private industry has a great and unprecedented opportunity to assist returning servicemen by giving them priority on jobs for which they are qualified and available.

We have before us Senate Joint Resolution 134, which calls on private employers to give veterans such job preference, introduced by the distinguished Senator from Louisiana [Mr. LONG].

The joint resolution also calls on every department and agency of the Federal Government to assist in hiring Vietnam veterans, and to urge Government suppliers to give veterans priority in hiring.

The employment policy called for in this resolution would give newly separated servicemen job priorities in private industry comparable to those being provided by Government. The policy is a logical extension of other benefits and assistance provided to our veterans.

But while we owe our new veterans this attention and this opportunity to catch up for lost months and years of service, I think those in the private sector of our economy should realize that they are not simply being asked to do something for the veteran.

The men we ask them to give special consideration to are men of training and experience. They are men who are assured a chance to extend their education during off hours by the GI benefits they have earned. They are men who have acquired judgment and wisdom by having had responsibility. They are men who are ready to get started in a career, to establish households and take on civilian duties. They are men who have their military service behind them.

They are, in short, among the most stable and promising employee prospects coming into the labor market today—a resource that both Government and industry should look to first for their own gain and benefit.

Leaving undone anything that can be done to help these men obtain employment—to help them get reestablished in the abundant and promising, but often baffling and difficult, society we live in today would be both an affront to them and an abandonment of duty to our Nation.

For these reasons, I am today introducing a revision of Senate Joint Resolution 134. This revision is identical to one being introduced today by the chairman of the House Committee on Veterans' Affairs, Mr. TEAGUE of Texas, and by the chairman of its Subcommittee on Education and Training, Mr. DULSKI. We have worked on this revision together, and I am hopeful that we can move swiftly to consider it.

Mr. President, I ask unanimous consent that the text of the joint resolution be printed at this point in the RECORD.

The PRESIDENT pro tempore. The joint resolution will be received and appropriately referred; and, without objection, the joint resolution will be printed in the RECORD.

The joint resolution (S.J. Res. 137) to assist veterans of the Armed Forces of the United States who have served in Vietnam or elsewhere in obtaining suitable employment, introduced by Mr. KENNEDY of Massachusetts (for himself and Mr. YARBOROUGH), was received, read twice by its title, referred to the Committee on Labor and Public Welfare, and ordered to be printed in the RECORD, as follows:

S.J. RES. 137

Whereas the members of the Armed Forces of the United States are and have been making great personal sacrifices to defend freedom and bring justice and peace to the world; and

Whereas the veterans of the Armed Forces who have served in Vietnam or elsewhere are deserving of the gratitude and respect of the Government and people of the United States and deserving of assistance from such Government and people in connection with the major problems of transition to civilian life; and

Whereas one of the most immediate and acute needs of members of the Armed Forces upon discharge from the service is to obtain early and suitable employment in positions which will enable them to be self-reliant, which will provide meaning, purpose, and fulfillment in their lives, and which will assist the United States in the solution of its pressing problems and in providing a better foundation for its continued growth: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That it is hereby declared to be the sense of the Congress that each department and agency of the United States—

(1) shall endeavor, to the maximum practicable extent, to provide employment with the United States Government for veterans of the Armed Forces of the United States who have served in Vietnam or elsewhere during the Vietnam era;

(2) shall give preference, in accordance with law, to such veterans in the selection of persons for employment with the Government; and

(3) shall follow such policy and take such action, through the process of procurement for the Government of material, supplies, services, and equipment from private industry and through other means, as may be appropriate to secure from private industry for such veterans a priority in employment in positions in private industry as soon as possible following the reentry of such veterans into the labor market.

SEC. 2. It is further declared to be the sense of the Congress that employers in private industry should exert every effort to carry out the objects and purposes of this joint resolution with respect to reemployment of veterans in positions in private industry and should consult, advise, and cooperate with the United States Government to the extent appropriate to carry out such objects and purposes.

SEC. 3. The provisions of this joint resolution shall be held and considered to be in effect until the President by proclamation, or the Congress by concurrent resolution, declares that the provisions of this joint resolution are no longer essential to the public interest, whichever first occurs.

RELIEF OF MRS. CHARLOTTE V. WILLIAMS—AMENDMENT

AMENDMENT NO. 522

Mr. MORSE submitted an amendment, intended to be proposed by him, to the bill (S. 2558) for the relief of Mrs. Charlotte V. Williams, which was referred to the Committee on the Judiciary and ordered to be printed.

SELECTIVE SERVICE OMBUDSMAN—AMENDMENT TO ADMINISTRATIVE OMBUDSMAN BILL (S. 1195)

AMENDMENT NO. 523

Mr. LONG of Missouri. Mr. President, on March 7, 1967, I introduced S. 1195, a bill to establish an Office of Administrative Ombudsman which would have jurisdiction over the Social Security Administration, Veterans' Administration, Internal Revenue Service, and Bureau of Prisons.

This ombudsman would be independent of the executive branch, and would have authority to investigate and examine all complaints directed against the above-named agencies.

Since I introduced S. 1195 last year, I have been hearing more and more complaints about the operation of the Selective Service System. To date, it does not appear that the System is altogether responsive to them. For this reason, I am proposing an amendment to my administrative ombudsman bill so as to include the Selective Service System within its jurisdiction.

There are those who feel that the Selective Service System is curtailing free speech; others believe that it is too lenient in not drafting the "peaceniks." The ombudsman which I am proposing would be authorized to investigate and examine all these complaints and report back to the Congress, the press, and the general public. Through this process, all responsible and legitimate grievances will at least receive a fair hearing.

Therefore, I today submit for appropriate reference an amendment to S. 1195 to add the Selective Service System as an agency over which the administrative ombudsman would have jurisdiction.

The PRESIDENT pro tempore. The amendment will be received, printed, and appropriately referred.

The amendment (No. 523) was referred to the Committee on the Judiciary and ordered to be printed.

PENALTIES FOR CERTAIN ACTS OF VIOLENCE OR INTIMIDATION—AMENDMENT

AMENDMENT NO. 524

Mr. MONDALE (for himself and other Senators) proposed an amendment to the bill (H.R. 2516) to prescribe penalties for certain acts of violence or intimidation, and for other purposes, which was ordered to be printed.

(See reference to the above amendment when proposed by Mr. MONDALE, which appears under a separate heading.)

ESTABLISHMENT AND MAINTENANCE OF RESERVE STOCKS OF AGRICULTURAL COMMODITIES—AMENDMENT

AMENDMENT NO. 525

Mr. MONRONEY. Mr. President, I submit amendments by way of a substitution, intended to be proposed by me, to the bill, S. 2743, a bill to provide for the establishment and maintenance of reserve stocks of agricultural commodities by producers in the Commodity Credit Corporation for national security, public protection, international commitments, and for other purposes.

The PRESIDENT pro tempore. The amendment will be received, printed, and appropriately referred.

The amendment (No. 525) was referred to the Committee on Agriculture and Forestry and ordered to be printed.

ADDITIONAL COSPONSORS OF BILLS

Mr. METCALF. Mr. President, on January 31, the junior Senator from Oklahoma [Mr. HARRIS] and the junior Senator from New York [Mr. KENNEDY] introduced two bills that would amend the Social Security Act, S. 2892 and S. 2893. Senator HARRIS' bill, S. 2892, contains progressive provisions which were reported out by the Committee on Finance and passed by the Senate on November 22 last year, but were deleted in conference. Senator KENNEDY's bill, S. 2893, incorporates certain floor amendments adopted last year.

At the time these bills were introduced, I was absent on official business. Had I been here, I would have requested that my name be added to the already impressive list of cosponsors of these two bills. Mr. President, at this time I ask unanimous consent that my name be added to the list of sponsors of both S. 2892 and S. 2893.

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

Mr. METCALF. Mr. President, I ask also unanimous consent that, at its next printing, the name of the Senator from Wyoming [Mr. MCGEE] be added as a cosponsor of the bill (S. 2613) to amend the Internal Revenue Code of 1954 to provide that farming losses incurred by persons who are not bona fide farmers may not be used to offset nonfarm income.

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

Mr. LONG of Louisiana. Mr. President, on behalf of the Senator from Washington [Mr. Jackson] I ask unanimous consent that, at its next printing, the name of the Senator from Pennsylvania [Mr. Clark] be added as a cosponsor of the bill (S. 1401) to amend title I of the Land and Water Conservation Fund Act of 1965, and for other purposes.

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

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, February 6, 1968, he presented to the President of the United States the enrolled bill (S. 491) to determine the rights and interests of the Navajo Tribe of the Ute Mountain Tribe of the Ute Mountain Reservation in and to certain lands in the State of New Mexico, and for other purposes.

NOTICE OF HEARINGS

Mr. YARBOROUGH. Mr. President, I wish to announce the following schedule of hearings of the Labor Subcommittee of the Committee on Labor and Public Welfare. On February 15, 1968, we will begin hearings on S. 2864, the Occupational Safety and Health Act, and hear from Secretary of Labor Wirtz. Future hearings on this bill will be scheduled later.

On February 16, 1968, we will hold hearings on S. 2704 a bill to permit employer contributions to trust funds to provide employees with scholarships.

On February 19 and 20, 1968, hearings on S. 2485, to amend the Longshoremen's and Harbor Workers Compensation Act will be held. Each of these hearings will begin at 10 a.m. in room 4232, New Senate Office Building.

NOTICE OF POSTPONEMENT OF HEARING

Mr. JACKSON. Mr. President, in the CONGRESSIONAL RECORD for February 5, I announced that the Subcommittee on Indian Affairs would hold a hearing on Senate Concurrent Resolution 11, national American Indian and Alaska natives policy resolution, on February 20. I wish to advise that it has been necessary to postpone the hearing, probably until sometime in March. As soon as a new hearing date is set, notice will be given.

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the distinguished Senator from Vermont [Mr. AIKEN] be permitted to proceed for 7 minutes.

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

RESOURCE CONSERVATION AND DEVELOPMENT IN THE WHITE RIVER VALLEY, VT.

Mr. AIKEN. Mr. President, there is still a chance to keep New England from becoming just part of a megalopolis.

It is not necessary to lose the centuries-old identification with the town idea, where a pleasant cluster of homes and businesses meshes with farm and forest land to make a community to which people can belong.

Vermont is increasingly active in town planning to assure orderly expansion of built-up areas so that it can provide for more people—and more jobs and services for the people it has.

The step-up in this kind of planning is especially keen in the White River Valley in my State, where local citizens and several government groups are carrying out a resource conservation and development project—the first of its kind in New England, and one of the first 10 in the Nation.

This project, like the 40 others in operation or being planned around the United States, is a broad activity aimed at making best use of a region's natural-resource base to provide an economic boost—to halt erosion and flooding damage, make more stable and productive farming enterprises, attract new industry, increase community facilities, and so forth. The Department of Agriculture's Soil Conservation Service provides overall coordination for the many agencies and groups at all levels who can help local citizens work toward these aims.

In the 635,200-acre White River resource conservation and development project area, small dairy farmers had been rapidly going out of business because they could not cope with a tough, competitive market, increased capital costs, and mechanized equipment needs. Water resources of the area were largely undeveloped, as was the substantial acreage of woodland. Low income and opportunity existed in the midst of abundant rainfall and good land in an area of rolling scenic beauty.

Now the people are putting these same resources to work in more than 50 active project measures. The USDA Soil Conservation Service has mapped the soils on more than 100,000 acres for use in town resource inventories and land-use planning, and at least 10 such inventories are underway.

Assistance to woodland owners has already resulted in an increase in gross returns of woodland products worth $25,000. USDA's Forest Service has doubled annual timber sales in the Green Mountain National Forest inside the project boundaries. Ten area sawmills have invested more than $180,000 in new equipment to make better use of material that formerly was wasted in the sawing process. Several new wood-using industries have located in the area since the project began in 1964.

Several lakes and ponds, hunting preserves, ski areas, and other recreation developments—both on public and private land—are bringing much new rec-

reation opportunity to the area, both for residents and for visitors. There is a growing trend toward use of the White River area for holiday homes.

Efforts of the project's sponsors, the White River Soil Conservation District and the White River Development Corp., are deeply appreciated; they, and the 23 town governments and several civic groups who work with them, are bringing a brighter outlook for east central Vermont. When all project measures are completed, they are expected to create 75 man-years of continuing annual employment, and bring more than half a million dollars additional income to the area each year.

Then the project area will have healthy towns in the valley, with all of the services and opportunities a community needs but with none of the clutter, waste, and crowding that too many have to put up with.

Mr. President, I ask unanimous consent that an article, published in the White River Valley Herald of February 1, which describes in some detail the progress now being made on this important resource conservation and development project, be printed in the RECORD at this point.

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

RESOURCE CONSERVATION AND DEVELOPMENT GROUP GIVES OK TO FIVE NEW PROJECTS

Approval of five new projects to develop natural resources in the area highlighted a meeting of the White River Resource Conservation & Development Project Coordinating Committee meeting, according to chairman Sheldon Dimick of Randolph.

The resource development projects are located in the towns of Corinth, Topsham, Bradford, and Strafford. Information on the project proposals was presented by Jock Smith of Newbury and Frank O'Brien of Fairlee.

The measures include: a proposed 20-acre lake to be created for a summer home type development in the town of Topsham; road bank erosion control and beautification projects in the towns of Bradford and Corinth; a community water-based recreation area near East Corinth that could be used by both Topsham and Corinth and a water-based recreation area on the Vermont Baptist Church Camp grounds in Strafford.

Smith and O'Brien pointed out the community benefits that would be derived from the completion of these project measures. Improving the areas' appearance, broadening the tax base, and improving economic conditions were the major benefits pointed out.

Chairman Dimick led a long discussion on the progress of establishing a regional planning commission in the RC&D project area. He said two meetings have been held by the White River Valley Association for town selectmen in that area. Another one is scheduled in the near future.

The Central Connecticut Valley Association has held similar meetings in that area. Extension Service representative Warner Shedd pointed out the need of working closely with towns to get the regional planning proposal in the warning or town meeting.

David Coburn and Lynn Grayburn of the Vermont Central Planning Office pointed out the need for towns to form regionally into a contiguous area for planning. Coburn pointed out that towns voting to join a regional planning commission, but separated by nonmember towns, may have problems obtaining federal funding.

RC&D forester Ed Killian reported on progress of the forestry phase of the project. He said the Forest Advisory Committee is functioning and will be working on problems relating to the forest aspects of the RC&D Project. Sid Gilman and Henry Chase of this committee were present at the meeting.

PROJECT EXPANDS

The application to expand the present RC&D Project to include the remainder of Windsor County is now being prepared by the local sponsors from that area, according to project coordinator Jack Davis, of the Soil Conservation Service in Randolph. Davis said the Ottauquechee Soil & Water Conservation District, the Southern Windsor County Regional Planning Commission, and the Ottauquechee Valley Regional Planning Commission are spearheading the drive to expand the project in that area.

LAKE ANSEL

Coordinator Committeeman June Hunt reported that progress is being made on the Lake Ansel project measure in Bethel. He said engineers of the Vermont Department of Fish & Game and the Soil Conservation Service are working on plans to get that project under way. Hunt said the Vt. Department of Fish & Game is considering carrying out this measure if a reasonable cost for construction is possible.

Chairman Dimick reported that the Vermont Extension Service is in the process of hiring an agriculture resource specialist who will work full time in the RC&D Project area. Dimick said Extension Service director Robert Davison is making final plans for filling this position to give accelerated assistance to the sponsors with the agricultural aspects of the RC&D Project.

A STUDY IN GOVERNMENTAL BRAINWASHING: THE NONSTATISTICAL METHODS USED TO BACK UP THE DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE'S SCARE TACTICS AGAINST SMOKING

Mr. ERVIN. Mr. President, last week I was very disturbed to learn that the Department of Health, Education, and Welfare will soon utilize space provided it by the Post Office Department on its motor vehicle to allege that smoking constitutes a health hazard. The Department of Health, Education, and Welfare poster which it will display on Post Office vehicles states:

100,000 Doctors Have Quit Smoking (Maybe They Know Something You Don't.)

I have long been concerned about the use of Government propaganda to attempt to dictate to and brainwash the American people concerning their personal habits with regard to smoking or anything else. However, the allegation that "100,000 doctors have quit smoking" is based on data so defective and inconclusive that if the statement were made by anyone except an agency of the Government it would constitute a false pretense. If made in an advertisement it would be prohibited by the Federal Trade Commission as plainly false and misleading.

The National Opinion Research Center working for the Department of Health, Education, and Welfare, sent questionnaires to 5,000 "selected" names out of the 242,569 practicing physicians in the country. How the 5,000 were "selected" has not been revealed. Any doctor who answered that he had ever smoked cigarettes, no matter how long ago or how infrequently, and had stopped, no matter what his reason, was classified as a doctor who had quit smoking.

Of the 5,000 doctors polled, only 1,867 had responded after three mailings were sent to all of them. The nonresponse rate—over 64 percent—was so high that on sound statistical principles the survey should have been abandoned at that point. A high nonresponse rate is a classic source of bias in a survey. How can one draw a valid conclusion when 64 percent—more than half—did not bother to answer?

Instead, an attempt was made to reach by telephone 482 of the 3,133 nonrespondents. Only 275 were in fact interviewed. Thus, even in this sample of a sample the nonresponse rate was 43 percent—hopelessly high for serious statistical purposes. Moreover, a sample of a sample is in itself recognized to be virtually worthless for such purposes.

In both the mail and telephone interviews combined, a total of exactly 828 doctors said they had stopped smoking at whatever time and for whatever reason. This is the source of the bold declaration that "100,000 doctors have quit smoking," with the sly innuendo that all of them did so for health reasons—"Maybe they know something you don't."

On the dubious assumption that the 828 doctors were representative of the ex-smokers among all the 242,569 practicing physicians in the country, it was concluded that 81,018 or more doctors had quit smoking. This figure was then blown up to reach the magic 100,000 figure by assuming, without any evidence whatever, that retired and other nonpracticing physicians had given up smoking at the same rate as practicing physicians, and by adding a figure for residents and interns alleged to be based on an unidentified poll of graduating medical students taken from years ago.

With full knowledge of these foregoing facts, the Public Health Service thinks this poster is "a significant piece of educational material, containing accurate information."

I am told this survey was financed by the Public Health Service at a cost of more than $140,000. If this is an example of Public Health Service efficiency—paying for such a sham statistical job—I think we deserve some answers.

Additionally, if these figures are a sample of the kind of statisticians the Public Health Service relies on, how can we believe that the other statistics they love to throw about over in Public Health Service are not just as shaky.

Once again, it is interesting to me that of the original sample of 5,000 doctors, only 1,867 of them responded and the surveying group had to go back three times to get them. I imagine that some of the doctors did not answer because they were too busy. But how many of them did not bother because they do not give a hoot about all this smoking and health business?

Figures that are missing on the Post Office truck posters: How long a period is it in which these doctors have quit? How many of them have started smoking

again? And quite important, how many doctors have taken up smoking during the indefinite time period for which the Public Health Service allowed on its poll.

I would suggest that the Post Office and Public Health Service, which should be impartial and give all the facts pertinent to any situation, consider a poster for all mail trucks which would read something like this: "x thousand doctors are still smoking cigarettes. Do they know something the nonsmoking doctors don't?"

A very interesting facet of the Health Service's statistical expertise was brought out in a recent editorial in the Raleigh News & Observer entitled "Alice in Tobaccoland." The editorial reasoning went like this:

First. The "Statistical Abstract of the United States" said in 1960 that there were a total of 243,062 physicians in the United States;

Second. The same publication said that 21.1 percent of the males in the United States have never smoked;

Third. This would leave us with just 192,000 physicians in the United States who had ever smoked;

Fourth. Also, the "Statistical Abstract" said that 40.1 percent of males in the United States were current regular cigarette smokers;

Fifth. And so, this would leave us with only 97,225 doctors who were current regular smokers then before the Public Health Service issued its formal warning. Of course, one would assume that it would be even less after the warning.

Sixth. Now, if we deduct the 100,000 on the Post Office truck placards from those doctors who were smoking before the Public Health Service warning, then to quote the Raleigh News & Observer—

There is not a single smoking doctor in the United States. Indeed, by some statistical wonder there are 2,775 less than one cigarette smoking doctor in the country.

Looking beyond the Department of Health, Education, and Welfare project against cigarettes, in what direction will they next crusade? To what extreme will this Orwellian horror travel? Are we laying the groundwork for Government propaganda to control other personal habits of the American people? Are we approaching the point at which the kindly benevolent face on the omnipotent television screen, as in the book "1984" looks upon us and gently guides our thoughts down every conceivable avenue that the friendly, benevolent and despotic government wishes us to go? Or, can we assume this trend will stop with the nice little message on all of our Post Office trucks?

The significance of the statistics used by the Department of Health, Education, and Welfare in this area loom much larger than in the tobacco situation. As the Raleigh News & Observer editorial concluded:

Certainly on the basis of this statistical showing we all ought to be terrified—but perhaps less at cigarette smoking than at the manner in which the government distorts its own statistics.

This entire fiasco reminds me of the story about the old mountaineer who had been buying his groceries on credit. When he went to pay his bill, the grocery store operator presented him one which was much larger than he had anticipated.

After the mountaineer objected, the grocery store operator got out his account books and pointed them out to the mountaineer saying, "here are the figures; you know figures don't lie."

The mountaineer replied, "I know figures don't lie but liars sure do figure."

If the mountaineer had been dealing with the figures manufactured by the National Opinion Research Center, which were adopted by the Public Health Service in this case, I have a feeling that he would have observed not only that liars figure but sometimes the figures they use also lie.

Mr. President, I ask unanimous consent to have printed in the RECORD the editorial from the Raleigh News & Observer, entitled "Alice in Tobaccoland," and an editorial which appeared on February 3, 1968, in the New York Daily News, entitled "Tobacco-Tripe Trucks."

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

[From the News & Observer, Feb. 1, 1968]

ALICE IN TOBACCOLAND

The smoking danger assumptions of the U.S. Public Health Service are based only upon statistics which seem to indicate that cigarette smoking may be hazardous to health. Many qualified persons have questioned the reliability of this proof. Certainly the government shows a careless use of statistical methods when it proposes to display on Post Office vehicles a sign: "100,000 Doctors Have Quit Smoking (Maybe They Know Something You Don't.)"

Who counted the doctors who have quit smoking? Have any of them started smoking again? Why did they quit? When?

The Statistical Abstract of the United States, published by the U.S. Government Printing Office, states that in the last census there was a total of 243,062 physicians in the United States. It could hardly be presumed that all of them were or had been smokers. Indeed, the same book of government statistics contained a survey of persons over 30 indicating that in 1960, before the U.S. Health Service issued its formal warning, 21.1 of the males and 66.3 of the females in America had never smoked. Only 40.1 of the males and 27.3 of the females then were regular cigarette smokers.

These figures, of course, apply to the whole population, not physicians alone. But physicians are people, having in general the same habits as other folks. So presuming similar percentages in 1960, at least 21.1 per cent of the doctors male and female had never smoked. And only something in the neighborhood of 40 per cent of the doctors were then cigarette smokers. Deducting the number of doctors who had never smoked, there were then around 51,000 doctors who had never smoked which would mean only 192,000 who ever had. And if only 40 per cent of the doctors were current regular smokers of cigarettes in 1960, that would mean that only 97,225 doctors were current regular cigarette smokers then. So if we deduct the 100,000 of the Post Office truck banner from those doctors who were smoking before the Health Service warning, there is not a single smoking doctor in the United States. Indeed, by some statistical wonder there are 2,776 less than one cigarette smoking doctor in the country.

Certainly on the basis of this statistical showing we all ought to be terrified—but perhaps less at cigarette smoking than at the manner in which the government distorts its own statistics.

[From the New York Daily News, Feb. 3, 1968]

TOBACCO-TRIPE TRUCKS

Post office and U.S. health officials are planning to have mail trucks carry posters loaded with propaganda against using cigarets and other tobacco products.

We say such propaganda is tripe, we say the hell with it, and, ever helpful, we offer some suggestions; to wit:

The tobacco companies should demand equal space on the mail trucks' sides for pro-tobacco arguments. These companies pay enormous taxes. They have a right to defend their ability to go on doing so.

Post office truck drivers in such tobacco states as Connecticut, North Carolina and Kentucky should demand big, fat bonuses for running the tripe trucks through areas inhabited mainly by people who make their livings from growing or processing tobacco. These drivers also should demand big government-financed life insurance policies.

The government could save itself a barrel of grief by simply dropping this plan right now. Why peddle antitobacco or any other propaganda based purely on statistics, with no laboratory proof to back it up? Why increase heavily the already considerable number of people who believe nothing the government says?

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

The PRESIDING OFFICER (Mr. ELLENDER in the chair). The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. HART in the chair). Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the time allotted to the distinguished Senator from Arizona [Mr. FANNIN] at the conclusion of the morning business be allotted to him now.

The PRESIDING OFFICER. Is there objection? The Chair hears no objection, and it is so ordered.

Mr. FANNIN. Mr. President, I thank the majority leader.

COPPER PROBLEMS

Mr. FANNIN. Mr. President, once again I think it necessary to call the attention of the Senate to the critical situation existing in the copper-producing States. I have spoken on this subject so often here in the Senate that I may begin to sound redundant.

But, Mr. President, my repetition—or my perseverance—in this situation stems from a deep concern for the lives affected at this very moment by the lack of agreement in this labor dispute.

May I share with the Senate a story repeated to me by the editor of a weekly newspaper in a small mining community in southern Arizona. I have been trying to keep in close contact with these communities and their problems and the editor brought this case to light.

He told me of a small Mexican American schoolboy whose family employment comes from one of the businesses supplying services to the copper mining community. This boy's father is out of work

because the mine is shut down. The family gets no contribution from the much-publicized strike fund to which other unions are contributing. This little boy's father cannot get credit extended at the company-owned store which is allowing copper mining families to charge about $30 a week in groceries. His utility bill is not being paid by the union, as they are doing for some copper miners. Nor is he living in industry-owned housing in which in many cases the rent has been reduced or suspended for the duration of the strike.

All these benefits, meager as they may be, enable the mining families at least to "exist" while the dispute goes on between labor union bosses and the mining companies. But none of these benefits are available to the Mexican American family of which I am speaking. They are without help.

The journalist spoke of the little boy who brings 3 cents, wrapped in a piece of tinfoil, to school. He brings the extra 3 cents because his family does not have the money to buy milk and he is buying an extra half pint out of the school lunch program to take home to his little brother.

Mr. President, I am sure this type of story can be repeated hundreds, if not thousands of times in my own State of Arizona. I am sure the Senators from other States, hard hit by this strike, know of similar hardship cases. My point in bringing this to your attention is not just to occasion hand wringing or to make sentimental emotional appeal. I think it is high time we insisted that something effective be done by the President to end this tragedy of human suffering.

The President has made much of his concern for people and their problems. As an outgrowth, we see—even under a so-called tight budget—a proliferation of new welfare programs designed to appeal to this or that special interest group.

Let me speak plainly. The President has it within his authority to end the anguish and hardship of the 60,000 people directly affected by this strike, and he can do it with the stroke of a pen. It does not require the Congress to pass new legislation. It does not have to have authorization or appropriation. All we need is a President with the courage to look beyond the tempting snares of partisan politics—with the courage to ignore the demands of those who would gorge themselves with greater accumulations of economic power—with the courage to rise above the pettiness of repaying political I.O.U.'s and take the action that needs to be taken. We need a President who is not afraid to act.

If the people of Arizona convey one thing to me in the daily intercourse of representing them here in the Capitol it is this:

They, and I think there are many other Americans who share their feeling, are tired of equivocation. They are tired of pacification. They are tired of negotiation. They want action.

It is my feeling that this attitude is not limited to the present situation in the copper mines. It extends to the international situation, as well as to our tremendous domestic problems.

Speaking for the people of Arizona, they feel nothing is being accomplished by naming a fact-finding board to rehash the problems of union and management. The Nation is becoming aware of the nature of this dispute. When they fully realize the balance-of-payments problem created by the President's inaction that they will ultimately have to pay, they will demand an accounting.

When the American people realize the increased prices they pay for copper-related products is a result of White House dilly-dallying, they will demand an accounting.

When they awaken to the peril imposed on our fighting men because of the length of this dispute and see that the President had the authority to remove that peril but did not choose to use it, they will demand an accounting.

When the bill for all these accounts comes in, Mr. President, it must be laid at the White House door.

The forgotten man in this dispute seems to be the small businessman. For while those directly employed by the companies are getting some benefits from both the companies and the unions, the small businessman—the retailer, gas station operator—these people are going under. And there is no one to help them.

People who have a continuing interest in the mining communities of Arizona tell me that small businessmen have borrowed, and are still having to borrow, in order to extend credit to their customers. How long the economic clouds of debt will continue to hang over the mining families and mining comunities no one is able to say.

The strike is now about to enter its eighth month. Many families have had their life savings wiped out during this strike. Many business establishments have had to close their doors. Families have packed up completely and moved to other areas.

These losses, Mr. President, can never be recovered.

Making conservative asumptions about the wage settlement, the average miner will have to work almost 35 years to repay the money he has lost during the strike out of his increased wages. But other real losses are not so easily measured.

How can we estimate the value of milk at this time to the Mexican-American schoolboy's little brother? How can we count the value of a college education lost to the son or daughter of a mining family because there simply will be no money to send them to school? How can we total up the tremendous cost of a town that must close down because the problems of copper supply, the competition from other products, and wage settlements that outstrip productivity have cost copper its competitive position in some markets? These are costs I say, Mr. President, that are too great to pay. These are costs that must be terminated by prompt and effective action on the part of the administration to end this dispute.

What is happening now, at this moment, to bring an end to the strike?

On January 25, 1968, the Secretaries of Labor and Commerce named a three-member special panel to help in reaching an equitable solution to the 6-month-old copper dispute. The members are Dr. George W. Taylor, of the University of Pennsylvania, the Right Reverend Monsignor George G. Higgins, director of the Social Action Department of the National Catholic Conference, and George Reedy, former press secretary to President Johnson.

With all due deference to its members, I regard this panel as a kangaroo court. The panel is holding public hearings at present, bringing before it representatives of management and labor.

It is clearly apparent that this panel was set up to help the steelworkers union, which finds itself in trouble. This is so apparent that there is a brazen cynicism about the action in the first place.

The administration has refused to use the machinery established by the Congress, the Taft-Hartley Act, to handle the situation. We are told with a straight face that there would be difficulty in proving that there are legal grounds for the use of existing labor law.

This is absolutely ridiculous and the administration knows it. The press statement announcing the creation of the special panel details the crisis brought about by the strike. Listen to this. I am quoting the Secretaries of Labor and Commerce:

> The strike is creating severe economic hardship.
>
> It is also resulting in a serious increase of government contract costs due to the necessity of fabricators purchasing copper abroad at prices far in excess of the United States domstic price.
>
> This strike is adversely affecting our international trade situation.
>
> The copper strike is seriously thwarting our efforts to reduce our adverse balance of payments. Under normal circumstances the monthly adverse balance in copper is approximately $18 million. Because of the strike, this figure is now running in excess of $60 million a month.
>
> *The national interest will not permit the continuation of this situation.* (Italic supplied.)

Mr. President, it seems to me that the administration itself has stated, in its own words, the strongest possible reasons for using the emergency provisions of existing labor law and allowing the copper workers to get back to work. But instead of going ahead and doing the right thing—the courageous thing—the administration has taken a half-hearted course and tried to appear to be solving the problem while actually playing along with the big union leaders.

I have said that I regard the special panel as a Kangaroo court and that any verdict it hands down will be rigged. This is a most serious charge but let us take a look at the real facts in the case.

Almost all these extra-legal boards named by an administration to settle a major labor dispute have come up with verdicts that pleased the unions and displeased management. But such is the power of big labor, politically and otherwise, that management almost always goes along and the wage increases and other costs are passed along to the consumers.

I am not impugning the motives of Dr. Taylor, Monsignor Higgins and Mr. Reedy. The record of Dr. Taylor and Monsignor Higgins indicates they are

prounion to begin with. Dr. Taylor has been a mediator on many occasions but I cannot recall of any instance where his recommendations displeased the chieftains of labor.

In 1961, Dr. Taylor was a member of the Advisory Committee on Labor-Management Policy set up by President Kennedy. The U.S. News, a magazine with a national reputation for accurate reporting, said of Dr. Taylor:

He was criticized in some cases for approving "excessive" wage increases.

Dr. Taylor, a professor at the University of Pennsylvania, has written extensively on labor matters. He is regarded as a strong supporter of the union shop, which means that he favors compulsory unionism. Writing in the Monthly Labor Review in 1960:

I have long believed that what is called the union security issue might better be specified as the employee responsibility issue. Although they are often not exercised, an employee does have important rights to participate in union affairs. As these rights become protected by legislation, the reasons for supporting the individual's right to withdraw from a union, or to refrain from joining, have been lessened.

If I interpret Dr. Taylor's statements correctly, he thinks a worker should be made to join a union, and once in, should be prevented from getting out. This is in line with the views of the leaders of big labor, one of their most passionate desires being the repeal of section 14(b) of the Taft-Hartley which permits the States to enact legislation banning compulsory unionism.

As for Monsignor Higgins, he is chairman of the Public Review Board of the United Automobile Workers, AFL–CIO. This record speaks for itself. He also is an ardent supporter of compulsory unionism and has said so in his column, the Yardstick, widely printed in Catholic papers.

I know nothing of the attitude of Mr. Reedy on labor matters, but, keeping in mind his close connections with the White House and the close connections of the White House with Mr. Meany and others, I would be amazed if he took a strong position against the unions demands in this copper strike.

I bring up these background matters, Mr. President, to show the political nature of the action. In naming such an obviously biased special panel, the President has done nothing to effectively bring this dispute to a satisfactory conclusion.

Instead, we have more talk.

The special panel has been meeting for more than a week now. So far as I can see, nothing has been accomplished.

Back in Arizona the little schoolboy still buys his half pint of school lunch milk to take home to his little brother—and who knows how long the family will be able to send the pitifully small 3 cents each day to buy even this wee bit of essential nourishment?

It is clear to even the most superficial observer that this labor dispute is not over economic matters. Editors of newspapers in the mining towns of Arizona have told me that the miners are willing to go back to work with any reasonable settlement. If left to local bargaining, they say, the strike would have been settled 3 months ago.

The harsh facts boil down to this: the steel union of 1.1 million members wants to use the relatively small 60,000 copper workers and their plight to bludgeon management into an industrywide bargaining pattern that would benefit no one but big union leaders.

Examining the facts of industrywide bargaining, where it exists now, show that the big union settlements do not produce more benefits for individual union members than they could get by bargaining through their local units. In many cases local union interests and those of its members are sacrificed by big labor bosses in making their "deals." I will have more to say about this matter at another time.

Right now the critical problem facing the President is will he willingly sacrifice the copper workers and their families upon the altar of union leadership ambitions; or will he remove them from the threat of violence, roll back economic ruin that threatens them, and snatch them from the viselike jaws of a dispute in which they have had precious little voice in making.

The choice is his.

Last Thursday I dispatched a letter to the White House outlining this problem. Thus far I have had only token acknowledgement.

The President cannot remain aloof from this problem.

Mr. President, in my letter to the White House I asked President Johnson, at the request of these editors and community leaders in Arizona, to set a deadline for a solution to this strike. That deadline should be soon.

If the deadline is passed, I asked the President to invoke the emergency provisions pertaining to strikes threatening the national security and allow the miners to go back to work. Then he could say: "Either settle this during the 80-day period under the law or we will arbitrate it to a final conclusion."

The President talks of wanting to fight inflation. Let him put action to the words.

Listen to these aims voiced by the United Steelworkers of America's wage policy committee. They gave "priority status to a substantial wage increase," according to the New York Times, quoting Steelworkers' President I. W. Abel:

The Abel administration is under strong pressure to win large settlements because other big unions lately have been winning contracts that give 6 percent over-all increases in wages and benefits . . .

It seems clear to me that if the Steelworkers force copper into an inflationary settlement and industrywide bargaining, they are hardly going to ask for less when they begin to bargain with steel, and aluminum, and the can industry. In other words, if the President is serious about stopping inflation—and doing something for the Nation's betterment—let him begin here.

Mr. President, I ask unanimous consent that my letter to the President of the United States of February 1, 1968, and an article from the New York Times of January 29, 1968, concerning steel union goals, be printed in the RECORD.

There being no objection, the letter and article were ordered to be printed in the RECORD, as follow:

FEBRUARY 1, 1968.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: During the past week I have had the opportunity to converse with several newspaper editors in our mining communities of Arizona. I have been checking with them on the effects of the shutdown of the copper industry as ordered by the steelworkers union.

The dozen or so small communities represented by these editors are suffering, and suffering badly, under the economic hardship imposed on them by union leaders in far away Pittsburgh. These editors told me, and I am conveying the information to you at their request, that retail sales in their communities are down by 30–40 percent. They note that it is not just the miner and his family that are troubled by this massive labor stoppage, but in many cases the small businessman—the dry cleaner, filling station operator and the like—bears the brunt of economic hardship.

The miners themselves are, in many cases, living in houses owned by the mining companies; the rent has been suspended while the strike goes on; mining families get $30.00 per week credit from many company stores for groceries; and miners are collecting money out of the union strike funds. So in many instances the miners are "existing" at least, even though the power ambitions of union bosses pile up massive debts that will hang an economic cloud over copper mining families and communities for years to come.

But the small businessman—the grocer, clothier and the pharmacist—has been forced to borrow and borrow again in order to sustain his customers. Many editors reported businesses in their communities that have gone under; more are on the brink of doing so.

Mr. President, these editors expressed to me their deep concern for their communities and the people living in them. They point out that because of the long strike duration, many families have already moved to other jobs in other states and are thus lost to the community. They point out that as copper loses its market position to competitive products, because of the long strike, to that degree the whole industry and the communities related to that industry may never fully recover.

One case, I feel, should be brought to your personal attention:

One of the editors told of a small Mexican-American school boy whose family employment comes from a business supplying services to the copper community. This family doesn't have enough money to buy milk. The little boy brings three cents to school, wrapped in tinfoil, so he can buy an extra half-pint of school lunch milk for his little brother at home.

Mr. President, such suffering cannot be allowed to continue. You have the power to put the miners back to work under emergency provisions of existing labor law. You have the power to breathe economic life back into these communities. I appeal to you to use it.

Practically every one of these newspapermen, who have close and continuing relationships to their communities, says the miners are willing to go back to work with a reasonable settlement. They almost unanimously feel that if bargaining had been left to the local unions and the local companies the strike would have been settled three months ago instead of dragging on almost into its eighth month.

These men and women spoke out for setting a deadline. (Presently your factfinding board has no timetable at all.) They feel that if the deadline is passed with no agree-

ment then you should use the emergency power you have and put the miners back to work. Then they feel you can say to the unions and the companies. "Either settle this during the 80-day period under the law or we will arbitrate it to a final conclusion."

Once again, Mr. President, I urge you to give the consideration of a statesman to this most urgent problem and heed the requests of these Arizona citizens. Surely the ambitions of power-hungry union officials must weigh lightly in a scale balanced by human suffering, anguish and affliction.

Sincerely yours,

PAUL FANNIN,
U.S. Senator.

[From the New York Times, Jan. 30, 1968]

STEEL UNION CALLS BIG RISE IN WAGES KEY GOAL IN TALKS

(By David R. Jones)

WASHINGTON, January 29.—The United Steelworkers of America placed major emphasis today on winning "a substantial wage increase" in forthcoming labor negotiations with big aluminum and steel producers.

The union's 163-member wage policy committee gave "priority status" to wage needs in a broad policy statement. The panel set forth a long list of demands, including improved pensions and an expansion of layoff benefits "so that we may reach our goal of a guaranteed annual income."

As justification for its wage and related demands, the committee cited "greatly increased living costs" since the aluminum and steel contracts of 1965 were achieved, sustained economic growth, the profitability of the companies and recent labor agreements in other major industries.

The union's policy statement is traditionally kept vague to give the union leadership maximum flexibility in dealing with the aluminum and steel companies. The specific demands to be made on those two industries will be refined from the broad document at two conferences due to be held around March 21.

I. W. Abel, the union president, declined after today's meeting at the Shoreham Hotel to be specific about the demands that would be made. But other informed union sources said privately that the biggest emphasis in the steel talks this year would be on a major wage increase.

The statement said the union would seek to achieve a "guaranteed annual income" by expanding supplemental unemployment benefits. But it did not appear to give that matter as much as a wage increase.

These benefits pay steel workers about 65 per cent of normal weekly pay during layoff. But the United Automobile Workers last year increased its benefit to nearly 90 per cent of normal weekly pay.

The Abel administration is under strong pressure to win large settlements because other big unions lately have been winning contracts that give 6 per cent over-all increases in wages and benefits, and construction laborers now start work in some big cities at higher pay than the $3.63 average hourly earnings in steel. The steel union got a contract in 1965 that gave a 3.5 per cent over-all increase in wages and benefits.

The steel union also is under pressure to achieve higher wages because it has no cost-of-living escalator in its contract. This means it has lost ground badly since 1965 because of sharply rising prices.

The statement did not call flatly for restoration of a cost-of-living escalator, which was effectively dropped in the 1959 contract. Union sources said such a demand probably would be made, but there appears to be little serious hope among union leaders that it can be achieved.

The committee statement placed heavy emphasis on altering job classifications and incentive payments to correct alleged wage inequities among workers.

The statement also called for full retirement sooner than the present 30-year minimum, improved insurance coverage, longer vacations, added holidays, an extra premium for overtime work and other steps to reduce the work year without a cut in earnings.

The steel union faces a June 1 contract deadline with the major aluminum producers and an Aug. 1 deadline with the big steel companies.

Mr. WILLIAMS of Delaware. Mr. President, will the Senator yield?

Mr. FANNIN. I yield to the Senator from Delaware.

Mr. WILLIAMS of Delaware. Is it not a fact that the delay by the administration in taking some effective steps in connection with the copper strike has resulted in a substantial impact on our balance-of-payments problem, in that we are having to purchase the copper from abroad now?

Mr. FANNIN. Yes; that is a great problem; the magnitude of which is almost impossible to imagine. If imports continue at the present rate a loss in the balance of payments on an annual basis of between $500 million and $750 million would result.

Mr. WILLIAMS of Delaware. The administration is testifying on one side of the Capitol about the need to stop some of the drain of our gold; at the same time, they are leaving the spigot wide open by taking no action in this matter, even though there are adequate laws to cope with the problem.

Mr. FANNIN. Yes. I commend the Senator for bringing this matter to the attention of the Senate because it is most important. The President is inconsistent in talking about the smaller matters involved in our balance-of-payments problem, such as a tax or an assessment on people who travel abroad, and yet failing to take action in this vital matter, which is costing millions and millions of dollars each day. Moreover it is causing trouble not only throughout the copper industry in the United States which is of course directly affected, but also in many other industries. For example, there is a great problem involved in getting the kind and quality of copper needed for certain industries, with particular reference to industries engaged in defense.

Mr. WILLIAMS of Delaware. In addition, the reduction in the availability of copper from the struck mines has resulted in a tremendous windfall to speculators who had accumulated copper prior to the strike. They are apparently being supported by the administration in allowing this strike to be continued.

Mr. FANNIN. I would also like to mention that a penalty is being imposed, in the neighborhood of 50 percent, in the price being paid for copper being brought into the United States. This will affect us immediately, but equally important, we must realize that many foreign countries are taking advantage of this situation to build up their production capacity for copper, so they will be able to better compete with our domestic copper industry, perhaps to a much greater extent than ever before.

Mr. WILLIAMS of Delaware. It is another instance of the administration talking but not backing up its statements with action.

Mr. FANNIN. That is correct. I thank the Senator from Delaware for bringing out these matters.

Mr. President, I yield the floor.

ORDER OF BUSINESS

Mr. YOUNG of Ohio obtained the floor.

Mr. BYRD of West Virginia. Mr. President, will the Senator yield?

Mr. YOUNG of Ohio. I yield to the distinguished acting majority leader.

Mr. BYRD of West Virginia. I thank the Senator from Ohio for yielding.

Mr. President, I ask unanimous consent, seeing that no other Senator is seeking recognition during the transaction of morning business, that the Senator from Ohio be recognized for 10 minutes.

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

THE AMERICAN CONSUMER—MESSAGE FROM THE PRESIDENT—REFERRAL OF PRESIDENT'S MESSAGE JOINTLY TO THE COMMITTEE ON COMMERCE AND THE COMMITTEE ON AGRICULTURE AND FORESTRY (H. DOC. NO. 248)

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the President's message on the American consumer be jointly referred to the Committee on Commerce and the Committee on Agriculture and Forestry.

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

The message from the President is as follows:

To the Congress of the United States:

Speaking for every American, I present to the Congress my fourth Message on the American Consumer.

President Truman once observed that while some Americans have their interests protected in Washington by special lobbying groups, most of the people depend on the President of the United States to represent their interests.

In the case of consumer protection, however, the President—and the Congress—speak for every citizen.

A hundred years ago, consumer protection was largely unnecessary. We were a rural nation then: a nation of farms and small towns. Even in the growing cities, neighborhoods were closely knit.

Most products were locally produced and there was a personal relationship between the seller and the buyer. If the buyer had a complaint, he went straight to the miller, the blacksmith, the tailor, the corner grocer. Products were less complicated. It was easy to tell the excellent from the inferior.

Today all this is changed. A manufacturer may be thousands of miles away from his customer—and even further removed by distributors, wholesalers and retailers. His products may be so complicated that only an expert can pass judgment on their quality.

We are able to sustain this vast and impersonal system of commerce because of the ingenuity of our technology and the honesty of our businessmen.

But this same vast network of com-

merce, this same complexity, also presents opportunities for the unscrupulous and the negligent.

It is the government's role to protect the consumer—and the honest businessman alike—against fraud and indifference. Our goal must be to assure every American consumer, a fair and honest exchange for his hard-earned dollar.

THE RECORD OF PROGRESS

Thanks to the work of the last two Congresses, we are now much closer to that goal than ever before. In three years, we have taken historic steps to protect the consumer against:

—Impure and unwholesome meat.
—Death and destruction on our highways.
—Misleading labels and packages.
—Clothing and blankets that are fire-prone, rather than fire-proof.
—Hazardous appliances and products around the house.
—Toys that endanger our children.
—Substandard clinical laboratories.
—Unsafe tires.

In addition to these, the first session of this Congress took important steps toward passage of other consumer proposals we recommended last year, including the Truth-in-Lending, Fire Safety and Pipeline Safety bills which passed the Senate, and the fraudulent land sales, mutual funds and electric power reliability measures.

This session of the Congress should complete action on these vitally needed proposals to protect the public. It has already begun to do so.

In passing the Truth-in-Lending Bill last week, the House of Representatives brought every American consumer another step closer to knowing the cost of money he borrows. I urge the House and Senate to resolve their differences promptly and to give the consumer a strong Truth-in-Lending law.

A NEW PROGRAM FOR 1968

But that record alone, as comprehensive as it is, will not complete our responsibility. The needs of the consumer change as our Society changes, and legislation must keep pace.

For 1968, I propose a new eight-point program to:

—Crack down on fraud and deception in sales.
—Launch a major study of automobile insurance.
—Protect Americans against hazardous radiation from television sets and other electronic equipment.
—Close the gaps in our system of poultry inspection.
—Guard the consumer's health against unwholesome fish.
—Move now to prevent death and accidents on our waterways.
—Add new meaning to warranties and guarantees, and seek ways to improve repair work and servicing.
—Appoint a government lawyer to represent the consumer.

SALES RACKETS

Every Spring, when families turn their thoughts to household improvements, the shady operator goes to work.

His office may be a telephone booth, a briefcase which he carries from door to door, or a car which he drives from State to State. His sales brochure may be a catchy newspaper advertisement.

With false and deceptive offers of attractive home repairs or items that are more promise than product, he preys most of all on those who are least able to protect themselves: the poor, the elderly, the ignorant.

Too often—and too late—the victim discovers that he has been swindled: that he has paid too much, that he has received inferior work, and that he has mortgaged himself into long-term debt. Some even lose their homes. A recent Report of the National Better Business Bureau estimates that deceptive practices in the home improvement field alone cost the consumer between $500 million and $1 billion yearly.

Sales rackets are not limited to home improvements. And sales rackets of all types are on the increase.

As the law now stands, there is no effective way to stop these unscrupulous practices when they are discovered. The legal machinery may drag on for two or three years before the violator can be ordered to cease and desist. In the meantime, countless more Americans are cheated.

In matters so flagrantly deceptive, the consumer and the honest businessman deserve greater—and speedier—protection.

I recommend that the Congress enact the Deceptive Sales Act of 1968 to give new powers to the Federal Trade Commission.

Under this Act, the FTC would be able to obtain Federal court orders to stop fraudulent and deceptive practices immediately while the case is before the Commission or the courts.

With this measure we can complete the cycle of protection for the consumer in fraud cases—by adding Federal court injunctions to the administrative and criminal processes which now exist.

AUTOMOBILE INSURANCE

One area of major concern to the consumer is automobile insurance. Every motorist, every passenger, and every pedestrian is affected by it—yet the system is overburdened and unsatisfactory.

Premiums are rising—in some parts of the country they have increased by as much as 30 percent over the past 6 years.

Arbitrary coverage and policy cancellations are the cause of frequent complaint—particularly from the elderly, the young, the serviceman, and the Negro and Mexican-American.

A number of "high risk" insurance companies have gone into bankruptcy—leaving policyholders and accident victims unprotected and helpless.

Accident compensation is often unfair: Some victims get too much, some get too little, some get nothing at all.

Lawsuits have clogged our courts. The average claim takes about two and one-half years just to get to trial.

This is a national problem. It will become even more of a problem as we license more drivers, produce more automobiles and build more roads.

With more than 100 million drivers and 96 million motor vehicles in the United States, the insurance system is severely strained today.

While many proposals have been made to improve the system, many questions remain unanswered. The search for solutions must be pressed.

I propose legislation to authorize the Secretary of Transportation to conduct the first comprehensive study of the automobile insurance system. He will undertake this review with the full cooperation of the Federal Trade Commission and other appropriate agencies of the Executive Branch.

In recent months we have acted to make our cars and our highways safer. Now we must move to streamline the automobile insurance system—to make it fair, to make it simple, and to make it efficient.

HAZARDOUS RADIATION

It has been said that each civilization creates its own hazards. Ours is no exception. While modern technology has enriched our daily lives, it has sometimes yielded unexpected and unfortunate side effects.

Recently it was discovered that certain color television sets emit radiation which exceeds accepted safety limits.

We also know that poorly designed X-ray equipment is unnecessarily exposing some patients to the danger of radiation.

Such defects have introduced a new element into the problem of radiation hazards.

Intensive research has already probed this area. But those efforts have dealt primarily with radiation from medical equipment, isotopes, and nuclear devices.

We have long known that large doses of radiation can be fatal. But we have much more to learn about the harmful effects of lesser doses—effects which may not show up for many years.

Now modern science must be put to work on these hazards—particularly the hazards which confront the consumer.

I recommend enactment of the Hazardous Radiation Act of 1968. This measure will give the Secretary of Health, Education, and Welfare authority to:

—Conduct intensive studies of the hazards and set and enforce standards to control them.
—Require manufacturers to recall defective equipment and devices.

The proposed legislation sets penalties for those who ignore the standards established by the Secretary of Health, Education, and Welfare.

WHOLESOME POULTRY

Last year, the Congress enacted the Wholesome Meat Act to insure the quality and safety of the food that American housewives put on their tables.

This year, the scope of that protection must be extended.

In 1967, Americans consumed over 12 billion pounds of poultry, most of it inspected under Federal law. But the 1.6 billion pounds which did not cross State lines received no Federal inspection. And State inspection is minimal at best. Thirty-one States have no poultry inspection laws. Of the remaining 19, only four have effective laws in operation.

The American consumer is paying for this neglect. He pays for it in poor quality, and in potential danger to his health.

In poultry processing plants that are Federally inspected, four percent—over 400 million pounds—of the poultry is re-

jected because it is diseased and contaminated. There is every reason to believe that the percentage of rejection would be even higher in uninspected plants.

There is no way of knowing how much unwholesome poultry is processed by these plants and passed on to the unsuspecting buyer. But we do know that:

—Conditions in many of these plants are poor and that quality control is far below Federal standards.

—Poultry can be seriously adulterated by impure water and unsanitary processing conditions.

—There is a practice among some poultry producers of sending to uninspected plants inferior poultry flocks which, under Federal inspection, would face rejection.

The housewife receives protection for the poultry that comes from a neighboring State. Why should she not receive the same protection when the poultry is processed and sold in the State where she lives?

I recommend the Wholesome Poultry Products Act of 1968.

This legislation follows the pattern of the Wholesome Meat Act. It will help the States develop their own programs and train inspectors.

At the end of two years, if the States do not have inspection programs at least equal to Federal standards, the Federal inspection requirements will prevail.

In the meantime, the act will require those intrastate plants which pose a health hazard to clean up or close down.

WHOLESOME FISH

If poultry inspection is spotty today, fish inspection is virtually non-existent.

Each year, Americans consume about two billion pounds of fish—nearly 11 pounds per person. A common item in every family's diet, fish can also be an all-too common carrier of disease if improperly processed and shipped.

Last summer, the Senate Sub-committee on Consumer Affairs heard testimony which disclosed that a substantial amount of the fish sold in this country exposes the consumer to unknown and unnecessary dangers to his health.

It is impossible to show every link between contaminated fish and illness. Yet these links do exist: links to botulism, hepatitis, and other diseases. About 400 cases of food poisoning, reported on a single weekend in 1966, were traced to fish processed in dirty plants.

Despite these facts, the Nation has no adequate program for continuous fish inspection—either at the Federal or State level. Nor is there any systematic program for inspecting imported fish and fish products, which account for more than 50 percent of our annual consumption.

I propose the Wholesome Fish and Fishery Products Act of 1968.

The bill would authorize the Secretary of Health, Education, and Welfare to:

—Develop a comprehensive Federal program for consumer protection against the health hazards and mislabeling of fish, shellfish and seafood products.

—Set standards and develop continuous inspection and enforcement.

—Support research, training, and inspection programs.

—Help the States develop their own fish inspection programs.

—Assure that imported fish products are wholesome.

RECREATIONAL BOAT SAFETY

Until recently, boats were reserved for commerce, or were owned by the very wealthy. But in our changing pattern of leisure, more and more Americans are taking to the water.

Today, boating has become a major form of recreation, with more than eight million small boats now in operation. Everywhere we see them: on our shores, in our bays, in our lakes, and on our rivers.

In these waters, Americans find rest and relaxation. But some find unexpected tragedy as well.

Last year, boating accidents claimed more than 1,300 lives—about as many as were lost in aircraft accidents.

This problem, as tragic as it is, has not yet reached major national proportions. It has not yet reached the level of automobile accidents, which cost us 53,000 lives annually. But if the Nation had begun its highway safety campaign years ago, there is no way of knowing how many American lives could have been saved. That is all the more reason why we should start now.

I propose the Recreational Boat Safety Act of 1968:

—To help the States establish and improve their own boat safety programs. These programs could include the removal of hazardous debris from our lakes and rivers, boat operator education and licensing, safety patrols and inspections, testing of boats, and accident investigations.

—To authorize the Secretary of Transportation to set and enforce safety standards for boats and equipment.

This program would be directed by the Secretary of Transportation. But its ultimate success will depend on the cooperation of industry, State and local governments, and boat owners themselves.

REPAIRS, WARRANTIES AND GUARANTEES

"I wish I could buy an appliance that would last until I've finished paying for it."

That complaint, familiar to every American housewife, was recently passed on to my Special Assistant for Consumer Affairs. It is a complaint that cannot be ignored.

The products of American industry save us hours of work, and provide unmatched convenience and comfort.

But they can be a source of annoyance and frustration.

Consumers have no way of knowing how long these products are built to last.

Guarantees and warranties are often meaningless—written in vague and complex language.

Repair work is sometimes excellent, sometimes shoddy, and always a gamble.

These are not problems that can be solved by legislation at this time. But they are problems that need attention now.

The Special Assistant to the President for Consumer Affairs, the Chairman of the Federal Trade Commission, the Secretary of Commerce and the Secretary of Labor will begin work immediately with the industry to:

—Encourage improvements in the quality of service and repairs.

—Assure that warranties and guarantees say what they mean and mean what they say.

—Let the consumer know how long he may expect a product to last if properly used.

—Determine whether federal legislation is needed.

A CONSUMER'S LAWYER

Less than two months after assuming office, I reaffirmed these basic rights of the American consumer:

—The right to safety.

—The right to be fully informed.

—The right to choose.

—The right to be heard.

To give added meaning to these rights, the first Special Presidential Assistant on Consumer Affairs and a Presidential Committee on Consumer Interests were appointed.

I said at the time that the voice of the consumer must be "loud, clear, uncompromising, and effective" in the highest councils of Government.

Now it is time to move closer to that goal. It is time to apppoint a lawyer for the consumers.

I plan to appoint a Consumer Counsel at the Justice Department to work directly under the Attorney General and to serve the Special Assistant to the President for Consumer Affairs.

But most important, he will act in the interest of every American consumer.

He will seek better representation for consumer interests before administrative agencies and courts. He will be concerned with the widest range of consumer matters—from quality standards to frauds.

TO PROTECT THE CONSUMER'S DOLLAR

One thing, above all, should be clear to us today. We *can* encourage safety and wholesomeness by law. We *can* curb abuses and fraud.

But all our actions will be in vain if we fail to protect the buying power of every American consumer.

The Nation is now in its 84th month of historic economic growth. More Americans are at work than ever before—earning more, and buying more.

But in the midst of prosperity there are signs of danger: clear and unmistakable signs. Prices are rising faster than they should. Interest rates are climbing—and indeed have passed their peaks of 1966.

A year ago, we asked the Congress for a modest but urgently needed tax increase to curb inflation. That request was repeated last August in a Special Message calling for an average tax of about a penny on a dollar of income.

This is a fair request. Your Government is asking for only about half of what it returned to the taxpayer in the tax reduction of 1964. A penny on the dollar tax now will be much less painful than the far more burdensome tax of accelerating inflation in the months ahead.

And so today—as part of this consumer message—I again call for action on the tax request.

Business and labor leaders, consumers all, must respond to this Nation's call for restraint and responsibility in their wage-price decisions.

TO ADVANCE THE CONSUMER INTEREST

For 1968, this message proposes eight new steps to advance the consumer interest.

This is not a partisan program or a business program or a labor program. It is a program for *all* of us—all 200 million Americans.

LYNDON B. JOHNSON.

THE WHITE HOUSE, *February 6, 1968.*

THE PRESIDENT EXTENDS THE UMBRELLA OF FEDERAL PROTECTION TO THE AMERICAN CONSUMER

Mr. LONG of Louisiana. Mr. President, in his hard-hitting message on consumer affairs, the President recommended that the umbrella of Federal protection be extended to the American consumer. I agree with him wholeheartedly, in spite of the already excellent record in consumer protection thus far compiled.

President Johnson knows that American technology is the finest in the world. He knows that American craftsmanship is among the best. He knows that the American citizen is the best fed, best clothed, best cared for citizen in the world. Yet, he also knows that with a booming economy and hosts of new products, with more people wanting a better standard of living, there is much for government to do.

Government cannot be timid in protecting the health or livelihood or home life of the American citizen—and that is exactly what the President's new consumer package is aimed at.

The President asks that we do our duty in outlawing fraudulent or sharp sales and repair practices—especially in the home repair area.

Congress certainly should approve recommendations to give us safer fish and more wholesome poultry. We owe the housewife that, and much more.

We should join in commending the President for wanting to appoint a kind of Consumer General, who would act as the legal guardian of consumer rights.

I am proud to support the President in his efforts to protect and help the American consumer. In the last analysis, all of us are consumers in one respect or another.

RENEGOTIATION BOARD SHOULD BE STRENGTHENED TO PREVENT WAR PROFITEERING

Mr. YOUNG of Ohio. Mr. President, while in Southeast Asia most of the time from January 5 to 21, I was in South Vietnam, Thailand, and Laos for approximately 13 days. By military planes and helicopters I visited practically every American base in Vietnam and Thailand. I spent an important day with our marines in the northern highlands of South Vietnam. I reviewed the ROK Tiger Division and spent time with South Korean general officers.

I conferred with a number of our generals, and at the Tan Son Nhut Air Base in Saigon, Gen. William C. Westmoreland briefed me regarding the situation. The buildup in the marine front was mentioned by him, but no reference by General Westmoreland was made to the VC buildup in Saigon which exploded there just recently. Gen. Creighton Abrams, deputy commander, and Gen. Robert E. Cushman, Jr., impressed me mightily and appeared most knowledgeable. I regard both of them as being very superior general officers.

Without a doubt, the cream of the crop of our soldiers and marines are fighting in the swamps of Vietnam, in the dirty, decaying cities, and in the northern highlands. This, my second study mission to Vietnam and Thailand, enabled me to behold at close range the high competence, tremendously high morale, and the bravery of young Americans who by action of our President are involved in an ugly civil war in Vietnam. It is a war unlike other wars, where there is really no frontline and where those of our men stationed in Saigon or farther south in the Mekong Delta are just as likely to be shot at as those in the field in the central highlands or those stationed close to the border of Laos and Cambodia or those just south of the demilitarized zone.

I observed that, without a doubt, our soldiers and marines are the most intelligent and the best equipped fighting men ever fielded by any nation in the history of the world. Obviously, they are in Vietnam for reasons which are not of their own making. Obviously, they are not responsible for policies which have caused them to be fighting in an ugly Vietnamese civil war. In fact, the Armed Forces of the United States have converted what was a civil war between the forces of the National Liberation Front of South Vietnam, or VC, and some forces from north of the temporary demarcation line, the 17th parallel, against the armed forces of the Saigon regime into an American ground war in Southeast Asia in a little country of no economic or strategic importance whatever to the defense of the United States. Regarding our airmen, soldiers, and marines: theirs not to reason why. Theirs but to do or die.

However, regardless of their and my personal views and disregarding my own opinion of our President's policy in sending 600,000 officers and men of our Air Force, Army, and Navy, converting a civil war in Vietnam into an American ground, air, and sea war in an area outside of our sphere of influence and in Southeast Asia, I salute the officers and men of our Armed Forces who have been summoned to serve over there and are serving in the highest American tradition.

Unfortunately, this is the most unpopular war in the history of the United States. It is the wrong American war in the wrong place at the wrong time, and this war, waged under orders of our Chief Executive, is far more unpopular than was that unpopular Mexican War a century and a quarter ago, against the declaration of which Congressman Abraham Lincoln, of Illinois, voted and denounced in numerous speeches. It is well known that our soldiers, sailors, and marines are performing their duties in the highest tradition of our Nation. More than 18,000 have paid with their lives, and more than 100,000 have been wounded, many of whom will suffer from these wounds for the remainder of their lives. If courage, skill, and a willingness and readiness to fight could win this war, these young men would have won it long ago.

Daily, thousands of them face mortal danger and daily they respond with loyalty to their country and comrades in arms. We in the Congress have passed legislation increasing salaries of servicemen to enable them and their families to maintain a decent standard of living. This military pay is certainly not commensurate with the dangers constantly facing these thousands of GI's actually engaged in the fighting in Vietnam. Of course, our servicemen do not negotiate their pay, and there is no such as renegotiation of their salaries.

Mr. President, there are in this Nation people and business firms and corporations who do negotiate the worth of their wartime services to their country. I am speaking, for example, of defense contractors—the corporate officers from whom the Defense Department purchases the weapons and war materials necessary for the prosecution of this war. These contractors are entitled to a reasonable profit. But while such profits are perfectly legitimate within the framework of our free enterprise system, excessive profits, the earning of a return far beyond the value of what is supplied—war profiteering, to put it bluntly—is patently un-American and constitutes a betrayal of our men bearing arms in Vietnam and elsewhere throughout the world.

The U.S. Supreme Court, in upholding the constitutionality of the World War II Renegotiation Act, stated it this way:

> The conscription of manpower is a more vital interference with the life, liberty, and property of the individual than is the conscription of his property or his profits . . .
>
> For his hazardous service . . . a soldier is paid whatever the government deems to be a fair and modest compensation. Comparatively speaking, the manufacturer of war goods undergoes no such hazard to his personal safety as does a frontline soldier and yet the Renegotiation Act gives him far better assurance of a reasonable return for his wartime services than the Selective Service act . . . (gives) to the men in the armed forces.

Mr. President, shortly after I returned from Vietnam I was appalled by the exposures in a series of articles in the Plain Dealer of Cleveland, a great nationally known newspaper in my State. These articles by Sanford Watzman, Washington investigative reporter for the Plain Dealer, carefully documented the fact that the Renegotiation Board—supposedly a Government sentry against war profiteering—has been withering away since the Korean war, even though we are now spending more taxpayers' money on military procurement than we were then.

Last year, for example, the Defense Department appropriation bill, in the amount of $70.1 billion, was the largest

single appropriation bill in the history of the Republic—larger than any single appropriation bill in World War II. The facts revealed in Mr. Watzman's articles were shocking. They show clearly that the Renegotiation Board, which double-checks Defense Department purchases to ferret out overpayments, has not been doing the job for which it was created. In 1953 the Board had 742 employees. Today there are only 178, the lowest number since its creation. The $2.5 million budget of the Board is only half of what it was during the Korean conflict. Even at that, this agency pays for itself many times over in recoveries of excess profits from wartime profiteers.

At a time when excess profits are surging upward, when we are spending more than $125 million a day on defense procurement, it is unconscionable for this watchdog agency to be shrinking in size and effectiveness.

When the Board in 1966 was given a new lease on life and ultimately was extended for 2 years by the Congress, it was astounding that no one appeared to speak for all the young men in our Armed Forces and for their parents who bear the heavy burden of high income taxes to enable our Government to operate. The Committee on Ways and Means of the House of Representatives publicly announced it "would be pleased to receive written comments from any interested individuals or organizations." Only those opposing the existence of this agency replied, and included among the foes of the Renegotiation Board were some of the Nation's richest and most powerful defense contractors and their trade organizations.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. YOUNG of Ohio. I ask unanimous consent to proceed for 4 additional minutes.

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

Mr. YOUNG of Ohio. They insisted that the Board serves no legitimate purpose and that it be abolished or further weakened. They gave as their primary reason the fact that an independent agency was not needed to monitor profiteering as the Defense Department was already performing this function as a consequence of the 1962 Truth in Negotiating Act. It is obvious that the big defense contractors prefer to deal exclusively with officials in the Pentagon who in the past have overlooked padded prices totaling countless millions of dollars.

I am happy to see that the distinguished senior Senator from Wisconsin [Mr. PROXMIRE] is present, because he has called attention to that shocking fact in speeches in the Senate, in his State of Wisconsin, and elsewhere, and knows whereof I speak.

Mr. President, the Plain Dealer performed a real and needful public service last year in revealing the blatant lack of compliance by officials of the Defense Department with the Truth in Negotiating Act, another weapon against war profiteering. I spoke of this at length on numerous occasions urging corrective measures. A number of reforms have been promised by the Pentagon. However, we have observed that Defense Department officials cannot be relied on to do this job by themselves. There is a definite need for an independent agency—a strong Renegotiation Board—to watch over the spending of taxpayers' money.

Therefore, I introduce today for appropriate reference, a bill to amend the Renegotiation Act of 1951, which would restore to the Renegotiation Board all the powers it wielded during the Korean war.

My bill would erase the so-called standard commercial article exemption—a loophole which allows a large number of contracts to escape review by the Board. It would also require all contractors holding at least $250,000 worth of renegotiable contracts to make annual reports to the Board—the minimum amount set during the Korean war. Subsequent amendments raised it first to $500,000, and then to $1 million. The bill would also make the Board a permanent agency, protecting it from periodic raids on its jurisdiction on those occasions when it must apply to Congress for an extension of its authority. Unless the Board's authority is extended this year, it becomes defunct after June 30, 1968. The legislation will also triple the number of contractors whose dealings with the Government would be examined, and it would allow the Board to review an additional $6 to $7 billion worth of war contracts each year—above and beyond the $31.8 billion worth of sales it investigated in fiscal year 1967.

This legislation is long overdue. The most recent annual report of the Renegotiation Board to Congress, dated last December 31, 1967, gives evidence that the profitability of defense contracts is rising, as well as indications that excess profits are also shooting upward. We cannot afford to let this vital agency of the Government fall behind in its work and in its duty to taxpayers.

Mr. GRUENING. Mr. President, I congratulate the distinguished Senator from Ohio for exposing this situation, and for his very constructive move to try to limit war profiteering. I ask his indulgence to permit me to be a cosponsor of his legislation, which I think is highly desirable and praiseworthy.

It is tragic that while we are shedding the blood of our young men in what, I think the Senator shares my view, is a wholly needless and indefensible war, which our boys suffering and dying are not responsible for, as a result of that war vast profits are unquestionably being made. I think this is a very constructive piece of legislation, and I hope it will be speedily reported by the appropriate committee and approved by Congress.

Mr. YOUNG of Ohio. I am honored by the request of the distinguished Senator from Alaska, and I ask unanimous consent that he be added as a cosponsor of this bill.

The PRESIDING OFFICER. Without objection, it is so ordered. The bill will be received and appropriately referred.

The bill (S. 2929) to amend the Renegotiation Act of 1951, and for other purposes, introduced by Mr. YOUNG of Ohio (for himself and Mr. GRUENING), was received, read twice by its title, and referred to the Committee on Finance.

Mr. PROXMIRE. Mr. President, will the distinguished Senator from Ohio yield?

Mr. YOUNG of Ohio. I am happy to yield to the distinguished senior Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, I, too, commend the distinguished Senator from Ohio for introducing the proposed legislation. It is needed. There is no question that the Renegotiation Board has withered and declined very greatly. The statistics are appalling, when we consider, as the distinguished Senator from Ohio pointed out, that there were 700 employees employed by the Board during the course of the Korean war, and there are now 170 or so employees.

I have not had a chance to see the 1969 budget figures for the Renegotiation Board. However, this is an area in which the Government will get back at least $10 for every $1 that it invests. This Board should be fully and efficiently staffed.

I have had a chance to talk to the very able Chairman of the Renegotiation Board, and to Sanford Watzman of the Cleveland Plain Dealer, who has done such a superb job in this whole area.

There is not any question that the Federal Government is losing money hand over fist by not having an effective Renegotiation Board that does the kind of a job that the distinguished Senator from Ohio pointed out should be done.

As the distinguished Senator said, we now exclude contracts in the amount of $1 million or less. This is one area—and there are many other areas—which constitutes, in effect, loopholes in the law and enable industry to make excessive profits. It is in this area that I think the Renegotiation Board could effect a real savings.

I would also point out that there has been a strong sentiment both in the country at large and on the part of a number of very able Senators in favor of an excess profits tax. I am most reluctant to support an excess profit tax because I recognize that it sometimes tends to discourage incentive. It tends to paralyze the mobility of capital. It makes it very hard to distinguish between those firms that are growing and that have done very well with no relation to the war in Vietnam and these other firms that have profited from the war.

We have had an excess profit tax in past wars. It is possible that we may have to do it again. However, short of that, I can see no excuse for not having a Renegotiation Board that is vigorously staffed and that vigorously works to stop war profiteering.

I think the distinguished Senator from Ohio deserves credit for leading the fight in introducing the legislation which is in keeping with his superlative record in fighting for people who have been forgotten.

It takes an uncommon Senator, to recognize this kind of situation and make the kind of fight that the Senator from Ohio is making, starting this morning, to reduce these exorbitant and unfair profits.

Mr. YOUNG of Ohio. Mr. President, I

thank the distinguished Senator from Wisconsin. I am proud to have his support, and I am flattered to have his approbation.

Mr. President, while Americans are fighting and dying in Vietnam, we cannot permit taxpayers' money to be siphoned off for excess profits to war contractors supplying the weapons and supplies available for these young men who are fighting and risking their lives for their country and. incidentally, for these very industries which supply them. I am hopeful that the Congress will act soon and favorably on this proposed legislation.

The five members of the Renegotiation Board—Lawrence E. Hartwig, Chairman; Thomas D'Alesandro, Herschel C. Loveless, William M. Burkhalter, and Jack Beaty—have important duties to perform. Over the years this Board has established a fine record for rendering needed public service, and I believe if Board members consider it advisable to add to the staff we in the Congress should appropriate funds required. I am certain the Board members deserve our support and that they will meet their responsibilities in the performance of important duties for the taxpayers and for the Nation.

LISTER HILL: GOOD SENATOR

Mr. CLARK. Mr. President, all of us are saddened by the decision of our dear colleague, the distinguished Senator from Alabama [Mr. HILL] to retire from the Senate at the end of this session.

The reputation of Senator HILL goes far beyond the State of Alabama, and is, indeed, nationwide and international in its scope.

One of our fine Pittsburgh, Pa., newspapers, the Pittsburgh Press—a member of the Scripps-Howard team—recently published an editorial entitled "LISTER HILL: Good Senator."

I commend the Pittsburgh Press for having written the editorial. I commend the editorial to the attention of my colleagues.

LISTER HILL is, indeed, not only a good Senator, but also a great Senator.

Mr. President, I ask unanimous consent to have the editorial to which I have referred printed at this point in the RECORD.

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

LISTER HILL: GOOD SENATOR

And so now another aging United States senator decides to give way for a younger man.

Sen. Lister Hill, Alabama Democrat, is the third within a few weeks to attribute his decision not to seek re-election this year to his age.

As with Sens. Frank Carlson, Kansas Republican, who is 75, and Bourke Hickenlooper, Iowa Republican, who will be 72, the decision of Sen. Hill, who will be 74 late this year, must have been difficult to make.

Although he faced a hard re-election campaign, his chances of winning another term were very good. But he obviously concluded he has done his part. And he has.

Sen. Hill has one of the most distinguished records in Congress. He became a member of the House in 1923, and a senator in 1938.

Only three senators have served longer than he.

He has worked in House and Senate with such men as Nick Longworth, William Borah, Jim Couzens, Pat Harrison, Jim Reed, Tom Walsh, Joe Robinson, Arthur Vandenberg, Bob Taft, Carter Glass and Morris Sheppard.

In the House, he fought for Government operation of Muscle Shoals and helped finally to make this the core of the great Tennessee Valley Authority development.

In the Senate, he was the principal advocate of an ever-widening program of Government medical research. He was the coauthor of the law that provided Federal funds for construction of hospitals. He worked fulltime to protect and advance TVA and was the first to reveal the Dixon-Yates scandal.

Lister Hill, a conservative Southern Democrat, nevertheless has strong liberal leanings. It was he who nominated Franklin D. Roosevelt for a third term in 1940. He has served his state and his country exceedingly well.

And he continues to serve well as he decides to give way to a younger man to bear the legislative responsibilities of this age of the space rocket and the split atom.

TRAVEL RESTRICTION INADVISABLE—POSITIVE MEASURES ARE NEEDED

Mr. JAVITS. Mr. President, in his testimony before the House Ways and Means Committee yesterday, Secretary Fowler outlined the administration's travel proposals. These proposals are designed to reduce the travel expenses of U.S. citizens abroad. They include a 5-percent tax on airline transportation and water transportation to destinations outside the Western Hemisphere, and a graduated tax on expenditures in excess of $7 a day, with certain exceptions for business travel, and so forth, and duty-free exemption reduction from $100 to $10, as well as the reduction of duty-free gift parcels arriving by mail from $10 to $1.

Some people say that these proposals are reasonable in view of the balance-of-payments difficulties we face today. Others would have preferred another scheme. I do not like this scheme. I think it is weighted in favor of those with a large amount of money who travel a great deal and do not mind paying the tax.

The real issue is not whether these proposals are less discriminatory than some others that could have been proposed, but whether the restrictive approach is more workable than an approach based on positive measures to increase tourism into the United States. And there I have the gravest difference with the administration's proposal, and I doubt that this program will yield the $350 to $400 million in balance-of-payments savings as claimed by Secretary Fowler. We have had a very important overall travel deficit of $2 billion in 1967. However, with Western Europe, the deficit is only about one-fourth of the total, $672 million. Yet, that is where it is expected that the major impact will fall in this program.

What are we going to lose? We will lose profitable tourism from Europe which we now enjoy. We will very likely lose some exports because of resentment. Mainly we are likely to lose the sale of aircraft because foreign airlines bought about $920 million worth of U.S. aircraft and parts in 1967. And one of the principal sources of that business was from those very European countries which heavily depend on income earned from American tourist expenditures.

Mr. President, I repeat what I said before, that the administration has not used ingenuity and initiative that travel restrictions would be self-defeating and difficult to administer.

We should put more money into the United States Travel Service, as one positive way to get more foreign tourists to the United States. With 11 other Senators, I introduced a bill to provide for that purpose the other day. And the positive approach that is embodied in the bill is getting a great deal of support. Former President Eisenhower has come out against travel curbs.

Discover America is an enterprise involving all of the people interested in travel in the United States. It was established on the initiative of the President himself. That organization has come out against restrictions.

We should have a positive program to increase travel.

The American Society of Travel Agents, composed of almost 8,000 representatives of the travel industry declared its strong opposition to travel restrictions in a wire they sent me last Thursday and its support of a constructive and positive approach to reduce the travel deficit along the lines of the bill I introduced that day.

In a policy statement issued on January 31, the National Association of Travel Organizations declared its opposition to restrictions on the grounds that they violate Americans' inalienable right to freedom of travel and that they could have dire consequences to the imposition of retaliatory measures by other countries. Instead, the National Association of Travel Organizations recommends a series of positive measures to encourage foreign travel to the United States.

In a wire sent to me by the publisher of Travel Weekly, he informed me that the travel industry endorsed the positive approach embodied in my bill.

Mr. President, we still have not received the report of the President's own task force, and we hear that the task force itself may come forward with some very positive ideas, including swaps for foreign currency, banking ideas, and so forth.

For all those reasons—and this was supported by an editorial of the Washington Post the other day—I once again call on my colleagues in Congress not to support restrictive legislation on travel before positive measures have been tried. If, within a year or 18 months, those positive measures fail to show results, then and then only will it be time to consider restriction of the freedom to travel, which is a dearly held right of every American. What is even more important, it would be a restriction of very tangible benefits which result to our country from travel. We really have not tried, as I have demonstrated time and again, the positive approach which is now urged and recommended, and which can be so much more productive.

Mr. President, the United States is trying to save between $3 and $5 hundred

million in the process. I do not want to see it destroy what money cannot buy, let alone the very much higher monetary amounts which are involved in the positive aspects of American travel.

So I hope that the administration—with which I desire to cooperate fully—will give this matter its urgent attention on the constructive side, rather than immediately proceeding to restriction and limitation, very much against, in my judgment, the interests of our Nation.

Mr. President, I ask unanimous consent that an editorial that appeared in the Washington Post of February 3, 1968, and an article published in the February 4 issue of the New York Times, entitled "Discover America To Hard-Sell the United States Abroad," be printed at this point in the RECORD.

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

[From the Washington Post, Feb. 3, 1968]

MORE TRAVEL, NOT LESS

Senator Javits and 11 of his colleagues are offering a constructive alternative to the Administration's talk of restricting travel outside the Western Hemisphere. Instead of trying to balance the United States deficit in travel spending by reducing the number of Americans going abroad, they say in effect, accomplish the result by increasing the European and Asian tourist traffic to this country. They would do so by giving new responsibilities to the U.S. Travel Service and by substantially increasing its budget.

To date the USTS, created in 1961, has never had an appropriation up to the pitifully meager authorized level of $4.7 million per year. With only a pittance for making known the tourist attractions here, it is not surprising that most of the traffic is in the other direction. Senator Javits and the cosponsors of his bill would give the agency $10 million to promote foreign travel to the United States and $5 million to start a domestic travel program.

Certainly there is a strong argument for making a positive approach before threatening the country with restrictions on travel. Like the levying of protective tariffs and embargoes, restrictions on travel to other countries would provoke retaliations from countries which rely upon income from American tourists. The net result could well be a larger travel deficit for the United States than it now has.

It is to be hoped that other useful suggestions will be forthcoming from the industry-Government task force set up to study ways and means of increasing foreign travel to this country. The first report from this group is due on February 16. Its work plus the Javits bill would give the Administration ample reason to postpone or abandon the negative idea of travel taxes or restrictions until a positive approach has been tried.

[From the New York Times, Feb. 4, 1968]

DISCOVER AMERICA TO HARD-SELL THE UNITED STATES ABROAD

(By Paul J. C. Friedlander)

CHARLOTTE AMALIE, ST. THOMAS, V.I.—The directors of Discover America, Inc., met for one day in San Juan, P.R., where they voted their firm opposition to the travel tax and restrictions on Americans traveling abroad, as proposed by the Johnson Administration.

Then they moved over here to the American Virgin Islands for their second day of meetings, and decided to do something practical about their suggestions that what the United States needed to correct its imbalance in tourist traffic and spending was a solid, professional hard-sell job to persuade foreign tourists to visit the United States.

After dispatching a resolution to President Johnson, declaring their reasons for opposing his proposed travel limitations, the Discover America directors voted to sponsor a joint one-shot, blitz-type selling effort abroad in cooperation with the United States Travel Service.

HELP OFFERED

Robert E. Short, national chairman of Discover America, was directed to sound out the Travel Service and offer the leadership, professional assistance, comfort and money of Discover America to finance the blitz demonstration on how to sell America abroad.

Whether the sales program will be mounted in Europe or Asia is still to be determined. Wherever it is put on, it will seek to prove the directors' argument that what this country needs is not to keep its citizens at home, but to mount an American-type selling campaign that will move foreign travelers to come to the United States to do their spending.

Since Discover America believes that all travel should be free and highly competitive, Mr. Short repeatedly endorsed a broad expansion of the Government's efforts to promote tourism to the United States from abroad.

PROPER MERCHANDISING

Mr. Short said the directors favored a substantial increase in the $3-million budget of the United States Travel Service, which now functions as a part of the Commerce Department. He noted that the Travel Service needed the "kind of staff that it takes to sell this country properly abroad, and the budget to merchandise it."

Mr. Short pointed out that budgets and sales campaigns like those mounted by Puerto Rico and the state of Florida were good examples of how the job can be done with adequate budgets. He then offered the New York Convention and Visitors Bureau as an example of how professional, business-type hard selling on even a limited budget was able to do the job when properly organized and administered.

VIEWS CARRY WEIGHT

The resolution adopted by Discover America is expected to carry considerable weight in Washington, since the private enterprise, nonprofit corporation, was established two and one-half years ago at the direction of Congress, and of President Johnson, when the dollar was in one of its recurring periods of stress.

With a budget of $500,000 raised by membership subscriptions from hotels, car rental companies, automobile and aircraft manufacturers, airlines, railroads and all branches of the domestic and overseas travel industry, Discover America functions as a catalyst to lead, direct and inspire promotion of travel within and into the United States. While it has concentrated until recently on persuading Americans to tour their own country, but never urging them not to travel abroad, the organization voted to extend its horizons overseas.

The letter to President Johnson, signed by Mr. Short, read:

"I am forwarding a policy statement passed today by our Discover America board of directors concerning present and contemplated measures to reduce the 'travel gap' in our balance of payments.

"SUPPORT ASKED

"As you know, we have devoted—and will continue to devote—our wholehearted efforts to reduction of that deficit. We support your efforts to keep the dollar strong.

"We believe that the present voluntary approach, coupled with increased American promotion and salesmanship both here and overseas, is the best way to close the travel gap.

"In this regard, the Discover America board has set forth in our statement our readiness to expand our private industry promotional activities—heretofore mostly domestic—to foreign markets as well.

"I have taken the liberty of sharing this and the attached statement with Vice President Humphrey, Secretary [of the Treasury] Fowler, Chairman Wilbur Mills [of the House Ways and Means Committee] and Robert M. McKinney [head of the President's current Task Force on ways to promote travel to the United States]."

The full policy statement on travel by Discover America, Inc., follows:

"Discover America, Inc., recognizes that the integrity and stability of the United States dollar will be adversely affected by continuing deficits in the United States balance of payments, and that international travel is an important factor in our nation's total balance of payments position.

"Discover America, Inc., further recognizes that the Administration considers the balance-of-payments deficit to be of such serious proportions as to require immediate corrective measures. In this connection, the President has requested that Americans temporarily defer nonessential travel outside the Western Hemisphere and has appointed a special task force, chaired by Robert McKinney, to examine new ways to increase travel to the United States by citizens of other countries.

"SPUR TO PROGRESS

"Since its inception in 1965, Discover America, Inc., has supported a policy of travel freedom for all citizens. It still adheres to the belief that travel makes its greatest contribution to social and economic progress when there is complete freedom of travel with a minimum restraint on the choice of destination.

"Improving our nation's balance of payments position requires vigorous efforts to increase our earnings from the sale abroad of goods and services, including travel to the United States by foreign visitors.

"Travel to the United States cannot be increased while United States travel abroad is being restricted any more than exports can be expanded while imports are being restricted. An expanded and sustained growth of foreign visitor travel to the United States can be achieved as long as the philosophy of travel freedom is honored.

"The board of directors of Discover America, Inc., pledges to accelerate and expand its efforts to encourage travel within the United States and to give its full support and cooperation to other interests, both private and Governmental, to help increase travel to the United States from foreign countries.

"STRONGER EFFORTS

"The primary emphasis of the Discover America program to date has been to stimulate and increase domestic travel. However, various members of Discover America have actively promoted travel to the United States. Discover America members have agreed to strengthen these efforts and, at the same time, a specific Discover America program will be undertaken. Through these combined efforts, we believe that a significant increase of travel to the United States can be achieved.

"To aid in the total efforts required to expand travel to the United States, *the board of directors of Discover America, Inc., respectfully requests that the United States Government give full consideration to the following recommendations:*

"*(1) That the long tradition of travel freedom be reaffirmed.*

"*(2) That a substantial expansion of the United States Travel Service program be undertaken immediately to* enable the United States to complete adequately and more effectively with the successful programs of other governments.

"(3) That the scope and accuracy of data utilized in the travel account be re-examined and re-evaluated to give full weight to other

factors in the goods and services account that directly relate to travel.

"The industries supporting the Discover America program do so in their own economic self-interest and because of patriotic responsibility. They recognize that travel has major economic significance and that it fosters enlightened citizenship and international understanding.

"To the extent that United States citizens travel in their own country, and residents of foreign countries travel to the United States, our international payments position will be improved. Discover America dedicates itself to this objective."

In announcing the directors' vote against the proposed travel tax, Mr. Short said: "We know President Johnson will understand our position; it was his position when he appointed me chairman of Discover America, and I know it is still his position."

President Johnson sent the Discover America board a telegram, which was read to the opening session. Text of the telegram is as follows:

"May I take the opportunity of your first 1968 meeting to congratulate you and your many private industry members for the vital and positive role all of you have played in encouraging greater tourism to and within the United States.

"EFFORTS PRAISED

"Your traditionally American voluntary efforts have not only benefited the American travel industry and the American economy, but also have helped us in our efforts to keep the dollar strong.

"Now, as we move to reduce our balance of payments deficit, I know that the American people will be able to count, as before, on your constructive program. I know that Vice President Humphrey, the members of the Cabinet Task Force on travel and Ambassador McKinney's special Government-industry travel task force share my gratitude for your job well done. We look to you for continued leadership."

ORDER OF BUSINESS

The PRESIDING OFFICER (Mr. HOLLAND in the chair). Is there further morning business?

Mr. BYRD of West Virginia. 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. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

SUBCOMMITTEE MEETING DURING SENATE SESSION

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the Subcommittee on Air and Water Pollution of the Committee on Public Works be authorized to meet during the session of the Senate today.

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

Mr. BYRD of West Virginia. 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. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Bartlett, one of its reading clerks, announced that the House had agreed to the amendments of the Senate to the bill (H.R. 13094) to amend the Commodity Exchange Act, as amended.

The message also announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

H.R. 6157. An act to permit Federal employees to purchase shares of Federal- or State-chartered credit unions through voluntary payroll allotment; and

H.R. 10277. An act authorizing the Administrator of Veterans' Affairs to convey certain property to the State of Mississippi.

ENROLLED BILL SIGNED

The message further announced that the Speaker had affixed his signature to the enrolled bill (S. 491) to determine the rights and interests of the Navajo Tribe and the Ute Mountain Tribe of the Ute Mountain Reservation in and to certain lands in the State of New Mexico, and for other purposes, and it was signed by the Vice President.

HOUSE BILLS REFERRED

The following bills were each read twice by their titles and referred, as indicated:

H.R. 6157. An act to permit Federal employees to purchase shares of Federal- or State-chartered credit unions through voluntary payroll allotment; to the Committee on Banking and Currency.

H.R. 10277. An act authorizing the Administrator of Veterans' Affairs to convey certain property to the State of Mississippi; to the Committee on Labor and Public Welfare.

Mr. BYRD of West Virginia. 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. HART. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

THE PRESIDENT'S CONSUMER MESSAGE

Mr. HART. Mr. President, today the President sent to the Congress his fourth consumer message.

Life involves so many problems for all of us that our reading time, necessarily, is subject to some priorities. The same is true for all the people of this country. I would hope very much, however, that each of us as Senators and the people of the country, too, will assign a sufficiently high priority to the President's consumer message, so that within the next several days each of us as Senators will have read it, and within another few days, most of the people of this country will have read it.

The flash bulletins which come out of Washington offices report on Presidential suggestions as though they were made only to affect various trade groups, veterans' organizations, trade unions, associations of bankers or mortgage houses. That is the way we organize in America. Each of us happens to be a consumer, but that is not the way we organize. We organize as lawyers or something else. Thus, the flash bulletins coming out of Washington from these special groups are a reflection and a reaction of the interest of those groups to a Presidential suggestion on a legislative bill.

Here is a message which affects literally the lives of every one of us as Americans, as consumers, in that the President highlights some progress of the recent past.

He reminds us that in 3 years' time we have acted to keep impure and unwholesome meat away from our tables.

We have done something to reduce death and destruction on the highways.

We have passed a packaging and labeling bill.

We have moved in the area of clothing in order to reduce the danger and hazard of fire to the wearer.

We have done the same with respect to toys.

We have moved to protect against substandard clinical laboratories operating in this country—a very great health hazard to all of us.

We have attempted to remove unsafe tires from the highways.

The President reminded us that although progress in the past 3 years has been great, there is still much to be done. He makes eight specific recommendations.

He proposes that we enact a deceptive sales act of 1968 to crack down on fraud and deception in sales.

He recommends a major study of automobile insurance.

He seeks to protect by law against hazardous radiation from television sets and other electronic equipment.

He urges us to adapt wholesome poultry inspection law.

He urges us to do the same thing with respect to fish and fishery products. That was a subject on which I was honored to testify this morning before the House Committee on Merchant Marine and Fisheries.

He urges us to pass a recreational boat safety act.

He further urges that we add new meaning to warranties and guarantees and to seek ways to improve repair services.

Finally, he makes a specific recommendation for a consumer lawyer to represent more effectively the interests of the American consumer, this being the appointment of a consumer counsel in the Justice Department to work directly under the Attorney General.

Mr. President, I hope that in all these areas we will act, and act favorably. On several, I would hope that we would go further than the recommendations of the President. But, surely, we should do no less.

I repeat, in the coming months we will be lobbied—and that is quite all right, that is the way it should be, because lobbying in its finer sense is a constructive contribution to the legislative process—by a great many of the specific interest groups to put through some legislation or to block some that they do not like.

Mr. President, unhappily, a fact of legislative life is that there is really no consumer lobby. As I say, we just do not organize ourselves in that way. Let each of us, then, assume again the responsibility of being a spokesman for the consumer lobby.

In this effort, to the extent that it succeeds, we will protect not alone the consumers of America, but we will also assist the quality merchandiser, the producer who seeks to market a worthwhile product, intelligently labeled and honestly presented. This is what we do when we adopt consumer legislation; and I hope this Congress, as each in the recent past has been, will be labeled a consumer Congress.

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

The PRESIDING OFFICER. The absence of a quorum is suggested. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

THE PRESIDENT AND THE CONGRESS STRIKE A NEW BLOW AGAINST JOB DISCRIMINATION BASED ON AGE

Mr. LONG of Missouri. Mr. President, no administration in history has compiled an equal opportunity record which can compare with that of Lyndon Johnson and this equal rights administration.

The President has placed the entire weight and prestige of his administration behind one of the most comprehensive equal rights efforts we have ever seen—and the results have been tremendously beneficial to minority groups, to women, and to the older citizen.

On December 16, the President signed the newest in a series of equal opportunity laws, a measure which prohibits discrimination in employment because of age.

The Age Discrimination in Employment Act of 1967 gives the vital part of our labor force between 40 and 65 a better chance to go on working productively and gainfully. It will give to the country a larger pool of trained, experienced, and talented people.

As the President said:

This measure joins more than 50 other humane legislative proposals written into law during the first session of the 90th Congress.

The equal opportunity record of the President and his administration is public knowledge:

The 1963 Equal Pay Act which prohibited wage discrimination based on sex;

The historic Civil Rights Act of 1964;

The Voting Rights Act of 1965;

The Older Citizens Act;

And many others.

This administration believes—as we do in the Congress—that the job of securing equal opportunity is a never-ending effort. Equality, justice, the chance to work and live where one wants, to educate one's family to the best of one's abilities—these now stand as part of the Bill of Rights for all citizens.

The older citizen in America has, I believe, a special feeling for the stewardship of Lyndon B. Johnson. Under his administration more attention has been paid to the needs and wants and living conditions of senior citizens than under any previous President.

This newest law prohibiting job discrimination because of age is another milestone in the great equality program we have carried out in the last 4 years.

I applaud the President for his efforts. I congratulate all those who shared in the passage of the act which I had the honor to cosponsor.

I ask unanimous consent to have printed in the RECORD the statement by the President when he signed the new law against age discrimination in employment at the White House in mid-December.

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

STATEMENT BY THE PRESIDENT UPON SIGNING S. 830, AN ACT PROHIBITING AGE DISCRIMINATION IN EMPLOYMENT, DECEMBER 16, 1967

During my four years in the Presidency, I have fought discrimination in employment in all of its ugly forms with every power of my office.

In 1963, Congress passed the Equal Pay Act, prohibiting wage discrimination on the basis of sex for workers covered by federal minimum wage standards.

A year later, the Civil Rights Act of 1964 outlawed job discrimination because of race, color, religion, sex or national origin.

That historic act also directed the Secretary of Labor to study another problem of employment discrimination—one which had long been ignored, and about which little was known. It was the noxious practice of discrimination because of age.

The report of Secretary of Labor showed that, although there are now 52 million Americans between the ages of 40 and 64, half of all jobs were closed to workers over 55, and one-fourth of all jobs were closed to workers over 45.

It showed that workers 45 years old and older made up half of this country's long term unemployed, and over one-fourth of all the unemployed.

It showed that, of the billion dollars in unemployment insurance paid out each year, three-fourths went to workers 45 or over.

It showed that, although Americans are now living longer and enjoying better health than ever before, older workers were often barred from jobs that could be performed efficiently by workers of any age.

Those figures added up to a senseless and costly waste of human talents and energy. They showed that men and women who needed to work—who wanted to work—and who are able to work, were not being given a fair chance to work.

The need for national action was clear. In my message to Congress in January of this very year, I recommended the Age Discrimination in Employment Act of 1967. Yesterday I signed that Act.

Its basic purpose is to outlaw discrimination in employment against persons 40 to 65 years of age. It makes proper allowance for cases where age is a bona fide qualification for employment.

This act does not compel employers and labor unions and employment agencies to choose a person aged 40 to 65 over another person. It does require that one simple question be answered fairly:

Who has the best qualifications for the job?

When improper age discrimination does occur, the act requires conciliation and persuasion. If voluntary compliance cannot be arranged, it permits court action. The act also calls for research and education to melt the misinformation and unconscious bias toward older workers that still exist today.

The Age Discrimination in Employment Act of 1967 gives the vital part of our labor force between 40 and 65 a better chance to go on working productively and gainfully. The country will gain as well—from making better use of their skills and experience.

This is humane and practical legislation. The Congress acted wisely in passing it and I am proud to sign it.

This measure joins more than 50 other humane legislative proposals written into law during the first session of the 90th Congress.

THE FORTHCOMING PRESIDENTIAL MESSAGE ON HOUSING AND URBAN DEVELOPMENT

Mr. SPARKMAN. Mr. President, present indications are that the President will send his housing and urban development message to the Congress shortly after the Lincoln day recess.

Should this be the case it would be my hope that the Subcommitee on Housing and Urban Affairs of the Committee on Banking and Currency could start hearings on the legislation proposed in the President's message on March 5.

While this is not to be interpreted as an official announcement of hearings—as we will wait until we have the President's message to make an official announcement—I did want to indicate our plans so that all of those interested in this matter would know that we plan early hearings on housing and urban development legislation this year.

NEW LEGISLATION FOR SERVICEMEN AND VETERANS

Mr. DODD. Mr. President, it was with the utmost satisfaction and approval that I read President Johnson's message urging new legislation on behalf of the servicemen and veterans of the United States. It recommends the correction of inequities in existing laws and it proposes in dramatic yet carefully considered fashion an entirely new field of endeavor in which returning veterans can continue to serve our great Nation.

I refer, of course, to the proposition that we create a corps of veterans in the public service, bringing their experience, their maturity, and their patriotic zeal to the service of those who have been neglected and passed over in the complexities of our modern life.

This proposition, and I see this in

full understanding of the deep, inner meaning of the words, is statesmanship of the highest, most enduring type.

The President also directed our attention to an existing problem of the most personal nature to our veterans and their families. I refer to the urgent need to revamp the national cemetery system. I sincerely believe that nothing is more basic than a veteran's right to burial in a national cemetery if that be his wish. It is our sacred obligation to provide this choice. We are committed to find the most expedient method of correcting this situation. I have considered the matter and it is my conclusion that the national cemetery system should be placed under the direction of the Administrator of Veterans' Affairs. His agency is geared to meet the veterans' needs and it certainly has the facilities to solve the dilemma in a minimum amount of time. Therefore, I strongly recommend that we take the action necessary to accomplish this.

I will feel proud to endorse heartedly and without hesitation each of the President's proposals. In fact, I feel that we can do no less than to bring into speedy actuality the complete program offered by the President.

Not only will our veterans and those still in service be benefited by our action but the entire Nation will reap the rich reward of worthwhile endeavor in this brave attempt to solve, while facing a foe abroad, the problems that beset us at home.

GOVERNMENT'S RESPONSIBILITY FOR THE PURITY OF FISH PRODUCTS

Mr. METCALF. Mr. President, in his consumer message, President Johnson reminds us that the Federal Government only recently has assumed broad responsibility for the safety and purity of goods consumed by our citizens.

Just last year, the Congress emphasized its growing concern in consumer affairs by passing the Wholesome Meat Act to provide adequate safeguards against adulterated meat.

But until today, too little attention has been devoted to serious problems in the fish and fish products industry—problems resulting too often in fatalities.

Of the approximately 4 billion pounds of fish consumed in this country in 1965, less than 5 percent of the lots of imported fish, and 1 percent of the volume of domestically caught and processed fish were adequately inspected.

Fish and fish products, contaminated by inferior methods of processing or storing, have caused highly publicized outbreaks of botulism and typhoid. Inadequate processing or storage are often responsible for innumerable, but little noticed, cases of hepatitis and salmonellosis.

The Food and Drug Administration reports increasing problems with carelessly processed convenience foods. And some experts predict grimly that further disease and death from contaminated fish and fish products are almost inevitable without coordinated, nationwide regulation and inspection.

The Wholesome Fish and Fish Products Act of 1968 would establish a much-needed code of great benefit to consumers and the fish industry. I believe the Congress should respond quickly and favorably to the President's request.

President Johnson has again demonstrated a deep understanding of the needs of the ordinary citizen. He has become the people's spokesman on this and other vital consumer programs.

CLOSE INDUSTRIAL BOND LOOPHOLE

Mr. PROXMIRE. Mr. President, I commend to the attention of Senators an editorial recently published in the Cleveland, Ohio, Plain Dealer on the subject of the Federal income tax exemption on municipal bonds for industrial development. The editorial exhorted Congress to close this tax loophole.

The Plain Dealer stated:

Although the Federal Government cannot make states stop industrial bond financing, attraction of such bonds would disappear quietly if prospective buyers knew they had to pay full Federal income tax on the profits.

I ask unanimous consent that the editorial be printed in the RECORD.

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

CLOSE INDUSTRIAL BOND LOOPHOLE

Congress should close the federal income tax exemption loophole in municipal bonds for industrial development.

Ohio is one of 40 states encouraging this practice. This state had to get into the business because of competitive reasons. Otherwise it would have lost new and expanded industries to other states.

But the practice is wrong for all states and it should be halted.

Although the federal government cannot make states stop industrial bond financing, attraction of such bonds would disappear quickly if prospective buyers knew they had to pay full federal income tax on the profits.

The practice is wrong because:

It permits one city to steal industry from another, even within the same state, and also opens the door to charges of favoritism as well as cutting out one more source of income tax revenue.

The practice doesn't fit into the nation's graduated income tax theory of economics.

It endangers the status of necessary tax-free municipal financing for essential capital improvements.

Ultimately it could increase the cost of borrowing.

As revealed in reporter Robert J. Havel's Plain Dealer story, Congress is expressing dismay at the extent to which states, Ohio included, are engaging in such financing. It has been pushed enthusiastically by Gov. James A. Rhodes to meet competition from other states for new industry and plant expansion.

A joint congressional subcommittee is reviewing the whole picture of municipal financing. Congress has before it several porposals involving tax-revenue sharing by the federal government with states and municipalities. It is necessary, therefore, that the tax-free industrial bond loophole be closed before any real progress can be made on giving back to states and cities more of the tax money they send to Washington.

THE 150TH ANNIVERSARY OF FIRST HAWAIIAN CHRISTIAN'S DEATH

Mr. FONG. Mr. President, on Sunday, February 18 this year, a memorable chapter in Hawaii's history will be commemorated in Hawaii and at Cornwall, Conn. The occasion will mark the 150th anniversary of the death of Henry Opukahaia "Obookiah" the first Hawaiian Christian, whose religious zeal and death in Cornwall in February 1818, inspired the sending of the first American Board of Missions to the then Sandwich Islands.

"Obookiah Day" on February 18 will be observed by simultaneous ceremonies at Cornwall and in two places in Hawaii—Honolulu and Kealakekua. A delegation from Hawaii, the "Cornwall Pilgrims," will participate in services at the First Congregational Church at Cornwall, placing leis from Hawaii on Obookiah's grave there.

At Napoopoo, on the shores of Kealakekua Bay, Island of Hawaii, a ceremony will commemorate the departure of Obookiah on the ship *Triumph* to New England.

At historic Kawaiahao church in Honolulu, services will celebrate the fulfillment of Obookiah's prayers that the Gospel might be brought to Hawaii.

Copies of the 150th anniversary edition of the "Memoirs of Henry Obookiah," edited by the Reverend Edith Wolfe, executive secretary of the Woman's Board of Missions for the Pacific Islands, will be released on February 18. The memoirs related the stirring story of an illiterate Polynesian youth who sailed from his native islands to New Haven, Conn., where his yearning to learn the English language and later, his conversion to Christianity and his poignant appeals to take the Gospel to Hawaii, sparked the first New England mission to the Hawaiian Islands.

Although Obookiah died of typhus fever, at the age of 26, before he could return to his island people, the American Board of Commissioners for Foreign Missions of Boston, inspired by his spiritual fervor, soon thereafter sent the first Christian missionaries to Hawaii.

The remarkable life of Obookiah is chronicled in an article by Mary Cooke in the January 28, 1968, issue of the Sunday Star-Bulletin and Advertiser. I ask unanimous consent that the article and a newsstory entitled "Islanders Plan Trek to Cornwall" be printed in the RECORD.

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

FIRST MESSENGER OF ALOHA: OBOOKIAH STORY RETOLD

(By Mary Cooke)

Stories by the hundreds have been told about the strangely moving, beautiful spirit of aloha. But the greatest of them all is the early 19th century narrative that moved 84 men and 100 women to leave their New England homes and dedicate their lives to an unknown Polynesian race half way around the world.

Long out of print and seldom seen in contemporary libraries, the story is now known to few except historians and long-time kamaainas.

Next month, on the 150th anniversary of the death of its gentle Hawaiian hero, "The Memoirs of Henry Obookiah" will be republished by the Woman's Board of Missions for the Pacific Islands.

It will be released Feb. 18 here and on the Mainland. On that day, the memory of Obookiah will be honored in three ceremonies—one at Napoopoo, Hawaii, where he was

trained as a kahuna (native priest); another in Cornwall, Conn., where he died a Christian, and a third at Kawaiahao Church which was built by the New England missionaries he inspired.

Modern historians acknowledge Obookiah's story as the catalyst that was to shape Hawaii's future when, in 1818, the first slender edition was published in New England. It was written in English and later translations were published in the Hawaiian and Choctaw Indian languages

In any language, the book has long since become a rarity. Libraries fortunate enough to own a copy do not allow it to circulate. It is seen only by visitors to the rare book rooms.

The forthcoming anniversary edition is edited by the Rev. Edith Wolfe, executive secretary of the Woman's Board of Missions for the Pacific Islands, and the introduction is by Albertine Loomis, author of "Grapes of Canaan: Hawaii 1820." It is illustrated with 12 photographs.

SLAUGHTER

Obookiah's story begins in the midst of a battle between rival chiefs on Hawaii in the first decade of the 19th century. As a child of 12, he witnessed the slaughter of his parents by enemy warriors. Terrified, the boy fled with his infant brother tied to his back. But swift spears, hurled by the mighty arms of native fighters, pierced the baby through and Obookiah was captured alive.

With childish cunning, he eluded his captors and took refuge with an uncle, a native priest at the heiau (native temple) at Napoopoo on the south Kona coast. There he was prepared for the heathen priesthood, and for many months he endured the lonely, rigid training of a kahuna.

During this period of isolation, Obookiah gazed out to sea one day and saw a full-rigged American sailing vessel beating up the coast. He watched it drop anchor about a mile off shore, and then he moved on impulse . . . "a boy's notion," as he later termed it . . . and swam out to the ship.

It was the "Triumph" of New Haven, Conn., which had arrived from the Pacific Northwest with a cargo of sealskins bound for the Canton market. She was calling at the Sandwich Islands to take on fresh water and supplies and additional cargo of sandalwood for the China trade.

When she sailed, the "Triumph" also took Obookiah who agreed to work his passage to America as a sailor, "to see what I can find," he said.

KINDNESS

Unlike other Hawaiian boys who had sailed earlier with cruel ship's masters, Obookiah found his captain to be extremely kind. Indeed, when they reached the "Triumph's" home port at New Haven, Captain Britnall, the ship's master, took the lad home to live with his family there.

To the townspeople of New Haven, the native boy appeared "considerably above ordinary size, but little less than six feet in height."

His form, they said, was graceful and dignified. They noted that he had a piercing eye, a prominent Roman nose and a projecting chin. They found his countenance "in an unusual degree, sprightly and intelligent . . . his features strongly marked, expressive of a sound and penetrating mind."

Often, they found him in the vicinity of Yale.

LEARNING

One evening, at the end of a long day of watching the students, the homesick Island boy sat alone on the college steps and wept. A student passed, then stopped and returned to speak to Obookiah.

The native boy was sad. Why?

"It is because nobody gives me learning," replied Obookiah.

"Do you want to learn?" asked his friend.

The erstwhile kahuna's apprentice yearned for academic knowledge more than anything in the world.

The American student who found Obookiah on the steps at Yale was Edwin W. Dwight, first of the college boys to befriend him and the man who later was credited with producing the first edition of "The Memoirs of Henry Obookiah."

Moved by the poignant appeal of the young Sandwich Islander, Edwin Dwight and his fellow students made it their project to teach Obookiah to read and write. The Rev. Dr. Timothy Dwight, president of Yale, took notice, marked the promise and the eagerness of Obookiah and invited him to live with his family in New Haven "for a season."

It was in this home that he was taught the first principles of Christianity.

RELIGION

For the next six years, the young stranger in a strange land was passed from family to family . . . "kind and pious people of Connecticut" . . . and the heads of households in which he lived and learned were seafaring men, farmers, ministers and teachers.

He studied and inquired and pondered the things he was taught, and one day he declared himself a Christian. He was baptized, and soon the Connecticut folk were pleased to report:

"Henry is bent upon going back to his countrymen with the glad tidings of salvation. This seems to be his great object."

Then one of his mentors, the Rev. S. J. Mills, voiced a serious challenge to the clergymen.

"Shall he be sent back unsupported to attempt to reclaim his countrymen?" he asked. "Shall we not rather consider those southern islands a proper place for the establishment of a mission?"

And if young Obookiah was to assume the arduous calling of the first missionary to Hawaii, must he not have more specialized training?

So ran the thinking of the Connecticut clergymen who had brought the lad to the threshold of evangelism.

MISSION SCHOOL

They knew of other Hawaiian youths in New England, some of whom had wandered about the Atlantic seaboard for years. Like Obookiah, they had shipped there as sailors, but some had fared badly and needed assistance. With proper training, might they not equal the brilliant record of Obookiah?

The answer to all these questions was the establishing of a school which had as its object "the education in our own country of heathen youths in such manner as, with subsequent professional instruction, will qualify them to become useful missionaries, physicians, surgeons, schoolmasters or interpreters; and to communicate to the heathen nations such knowledge in agriculture and the arts as may prove the means of promoting Christianity and civilization."

For the school, the people of Cornwall gave a building and 85 acres for a training farm.

In May, 1817, the Foreign Mission School was opened. Its first 12 pupils included six Hawaiians besides Obookiah, one Bengalese, one Hindu, one Indian and two Anglo-Americans. In its 10 years of existence, it also trained Tahitian, Chinese, Marquesan, Cherokee and Oneida Indian, Malay, Scottish and Portuguese youths.

But Obookiah, who had inspired the founding of the institution, was dead before the first school year was out.

DEATH

In the winter of 1817–1818, typhus fever attacked the stalwart Polynesian physique which had never before been exposed to such a severe disease. In a Cornwall home, overlooking a frozen pond, he lay ill with the raging fever. Kind friends nursed him, and the other Hawaiian boys sat with him day and night.

Exhausted at last, he told them, "I think I shall never live to see Hawaii." Then he made a touching, earnest plea that, in his stead, other Christian teachers be sent to the Islands.

Unabashed, his fellow Islanders gave vent to their grief and tears streamed down their cheeks. Their friend then spoke his last words, uttering that profound and affectionate farewell, "Aloha oe."

Obookiah was gone.

At his funeral in Cornwall, Lyman Beecher made the sad pronouncement, "We thought surely this is he who shall comfort Owhyee . . . We bury with his dust in the grave all our high-raised hopes of his future activity in the cause of Christ."

HIS WISH

But what of Obookiah's wish that other Christian teachers should go to the Sandwich Islands in his stead?

The Hawaiian pupils at the Foreign Mission School had not yet been sufficiently trained to lead a mission. Would others come forth? Would young New Englanders leave home and family and all they held dear? Would they offer themselves to spend and be spent for the sake of an unknown race, with no probability that they would ever see their own homeland again?

In the minds of some, there was hope that such young people would be found.

Then, in 1818, "The Memoirs of Henry Obookiah" was published. Readers were excited by the remarkable story of his accomplishment of bridging the chasm between stone age heathenism and educated Christianity in less than 10 years. But more, their hearts were touched by his impassioned yearning that his people, too, should receive the knowledge he had found in New England.

Farmers and townspeople read the story and sent contributions to the American Board of Commissions for Foreign Missions to help finance the proposed mission to the Sandwich Islands.

Hiram Bingham and Asa Thurston, theological students at Andover, read the book; printer's apprentice Elisha Loomis read it; Yale sophomore Samuel Whitney, and Samuel Ruggles who had been a classmate of Obookiah, and Dr. Thomas Holman read it. All stepped forward and offered themselves for the mission. Daniel Chamberlain, prosperous farmer and veteran of the War of 1812, read it, sold his property in favor of the mission and volunteered to go with his wife and five children.

These men, with their wives, and four Hawaiian students of the Foreign Mission School comprised the first company of missionaries to sail for the Sandwich Islands.

Outfitted and financed by funds donated by others who were moved by the story of Obookiah, they boarded the brig Thaddeus in Boston harbor Oct. 23, 1819, and arrived at Honolulu April 19, 1820.

Beneath the snow-covered sod of Cornwall, Obookiah remained in his final resting place. Over his tomb, the people who had welcomed him as a stranger, and buried him as a beloved friend, placed a marker. Their words, spelled here as they spelled them then, more than fulfill the purpose of a grave marker. They are the first paean of the bond of aloha which gave rise to the mission in Hawaii, a bond which has continued uninterrupted for 150 years.

IN MEMORY OF HENRY OBOOKIAH, A NATIVE OF OWHYHEE

His arrival in this country gave rise to the Foreign mission school, of which he was a worthy member. He was once an Idolater, and was designed for a Pagan Priest; but by the grace of God and by the prayers and instructions of pious friends, he became a Christian.

He was eminent for piety and missionary zeal. When almost prepared to return to his native Islet preach the Gospel, God took to himself. In his last sickness, he wept and prayed for Owhyhee, but was submissive. He died without fear, with a heavenly smile on his countenance and glory in his soul.

ISLANDERS PLAN TREK TO CORNWALL

To honor the memory of Obookiah, the first Hawaiian Christian, representatives of Hawaii and Oahu churches will attend ceremonies at his graveside in Cornwall, Conn., Feb. 18.

They will place fresh flower leis from each of the islands on his tomb, marking the 150th anniversary of his death.

Robert Lindsey, 19, who is the youngest deacon and lay preacher of Imiola Church on Hawaii, will attend. Also, Mrs. Alfred Andrade and Mrs. Harry Kawai of Kamuela, Mrs. Francis Kanahele of Honolulu, Charles M. Black, a descendent of Hiram Bingham who led the first company of missionaries to Hawaii, and the Rev. Edith Wolfe who edited the forthcoming anniversary edition of "The Memoirs of Henry Obookiah."

Members of the Hawaii pilgrimage also will carry leis to ministers and parishioners in Cornwall. They are sent by church women of Hawaii to church men and women of New England "to show our aloha to those who, so many years ago, showed their aloha to an Island boy far from home."

Besides the Cornwall church people and members of the Hawaii pilgrimage, others attending will include representatives of Yale University, Andover Seminary and other churches of New England.

A morning service is planned at the First Congregational Church in Cornwall, at which the Rev. Wolfe will preach.

At Napoopoo, Hawaii, commemorative services will be held on the same day at 4 p.m. The site will be the seaside monument which marks the spot from which Obookiah swam out to board the ship which took him to America.

In Honolulu, a memorial service for Obookiah is planned at Kawaiahao Church at 10:30 a.m. Feb. 18.

SUPPORT FOR PRESIDENT JOHNSON'S CONSUMER COUNSEL

Mr. DODD. Mr. President, I commend the President on a courageous and imaginative consumer message. Although Congress has in the last 2 years compiled a record of consumer protective legislation unparalleled in recent history, and one which will be still better after the enactment of the truth-in-lending bill, the President has reminded us that much remains to be done.

One of the most interesting items in the message is the announcement of the creation of the position of Consumer Counsel. This official in the Department of Justice would serve as a legal adviser on consumer affairs, reporting to both the Attorney General and the President's Special Assistant for Consumer Affairs.

The exact range of his responsibilities is still unclear and perhaps can only be determined through experience. Many agencies presently have responsibilities in the area of consumer protection, and I assume that the Consumer Counsel cannot and is not expected to duplicate their functions. Nor should he be limited to the somewhat passive function of "coordination." Perhaps it would better if he were not fitted too neatly into a departmental organizational chart, so that he can operate as a goad in somes areas, as an innovator in others, and as a point of contact with consumer groups and with Congress.

I think it must be recognized that consumer interests often tend to be overlooked in the governmental process—frequently for lack of informed expression. President Johnson has tried to remedy this lack, first by creating the position of Special Assistant for Consumer Affairs, and now by establishing the Consumer Counsel. This is another step in the right direction, and I await the appointment of the Counsel with interest.

MILWAUKEE JOURNAL PLEADS FOR NEGOTIATIONS IN VIETNAM

Mr. PROXMIRE. Mr. President, the Milwaukee Journal has recently expressed one of the most logical and forceful pleas for a negotiated peace with guarantees for self-determination in Vietnam that I have read anywhere.

As the Journal says:

The need to keep seeking that peace becomes more apparent the deeper we get into the morass.

This country needs to use more imagination, ingenuity, and effort than ever to find a way to negotiate.

I ask unanimous consent that this editorial from the Milwaukee Journal be printed at this point in the RECORD.

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

MCNAMARA ON VIETNAM

Less than two months ago, Admiral Sharp, among others, was saying that we were "winning" in Vietnam. Gen. Westmoreland was saying that the enemy was on the road to defeat and foresaw the day when our troops could start withdrawing.

Now we are involved in the worst fighting of the war. Guerrillas and North Vietnamese troops have swept over village after village, penetrated and captured parts of major cities, including Saigon itself. And a huge force is poised, according to Gen. Westmoreland, near the demilitarized zone, prepared to launch the biggest battle of the war.

It may turn out that this is a final desperate Communist effort to inflict as much damage as possible and force negotiations on more favorable terms for themselves. It may also be that increased pressures in Burma, Thailand, Laos and Korea are part of the current explosive effort to spread the war and weaken American will.

But it is significant that outgoing Secretary of Defense McNamara has just given a most somber report on Vietnam to the senate armed forces committee—a report many months in the making and prepared before the present crisis.

In it McNamara made two important predictions. One was that Hanoi in the months ahead will greatly increase its fighting forces and that the Soviet Union and Communist China will greatly step up their economic and military help for North Vietnam. The other was that unless the South Vietnamese themselves act to save their country economically, militarily and politically the whole cause will be lost—"no matter how great the resources we commit to the struggle, we cannot provide the South Vietnamese the will to survive as an independent nation . . . or with the ability and self-discipline a people must have to govern themselves."

The Communists have shown surprising ability to inflict damage on even our most secure bases. They have, as McNamara told the Senate committee, managed to slow down dangerously the entire pacification program upon which the security of the countryside was to depend. They have shown a will to fight and take risks that certainly does not indicate a people resigned to defeat.

Obviously the Communists have not so far proved a match for our main forces, as McNamara has pointed out. But neither have we and the South Vietnamese managed to keep their forces contained, nor have we been able to prevent their being supplied and increased. It seems ever clearer that no one will "win" in Vietnam. The best hope is a negotiated peace with guarantees of self-determination. The need to keep seeking that peace becomes more apparent the deeper we get into the morass.

Mr. PROXMIRE. Mr. President, in the same vein, this morning's editorial in the Wall Street Journal hits very hard indeed at the necessity for some tough, honest reconsideration of our position in Vietnam.

We are there to give the South Vietnamese an opportunity to determine their own future course. We want nothing for ourselves in Vietnam. So if the South Vietnamese are incapable of ending the corruption, of drafting their own 18- and 19-year-olds, if they are so apathetic or so disaffected that they permit the kind of Vietcong infiltration that occurred successfully last week, then, as the Wall Street Journal writes:

It raises in the starkest form not only the question of weakness in Saigon but of whether the U.S. effort is reaching a point of diminishing returns.

Mr. President I also ask unanimous consent that this remarkable editorial from the Wall Street Journal be printed in the RECORD.

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

[From the Wall Street Journal, Feb. 6, 1968]

VIETNAM: THE AMERICAN DILEMMA

The savage Communist attacks on Saigon and the provincial capitals underscore what has always been a fundamental question about the American involvement: The quality of the determination of the South Vietnamese government and people. In turn, the question poses a warning for the U.S.

It may be true, as Secretaries Rusk and McNamara were maintaining Sunday on "Meet the Press," that the enemy failed to win a military victory or take any city, although fighting was still going on in Saigon yesterday and the Reds held large sections of Hue. True also that, in this type of war, neither the South Vietnamese nor the U.S. forces can wholly protect the cities and the populace from terrorist assaults.

Granted, further, that the politically conscious elements of the population are at least vocally anti-Communist. The peasantry may be largely apathetic or understandably eager for peace at almost any price, but the government officials, the political parties and the religious sects sound firm in refusing to submit to Hanoi's domination.

None of this, however, exorcises the grim doubts about the viability and will of South Vietnam as a nation we are trying to help. Something, our Mr. Keatley writes elsewhere on this page today, must be awfully wrong.

The fact that the Communists were able to infiltrate on such a scale and do so much damage is strong ground for suspecting that they had the covert support of some nominally anti-Communist South Vietnamese, perhaps even within the government. No one knows that the Vietcong-North Vietnamese

objective actually was to capture cities or overthrow the government; the aim may have been that which has been accomplished—a terrible demoralization, showing up, for all the South Vietnamese (and the U.S.) to see, the frailty of the government and its military forces.

Mr. Rusk and Mr. McNamara, while claiming the Communists had failed militarily, had to concede that they had inflicted severe psychological blows. In the thoughtful words of Max Frankel of the New York Times, increasingly the name of the game out there is who can protect whom from whom. The South Vietnamese government, with all the vast aid of the U.S., has revealed its inability to provide security for large masses of people in countryside and city.

The U.S., of course, has all along been haunted by the specter of the South Vietnamese nation dissolving, as it were, before its eyes. For our part, we have said from the beginning that the outcome of the U.S. effort would be in doubt unless the government and people were fully committed. It may be a cliche, but in the long run the U.S. cannot effectively give military aid to another country unless that country is determined to help itself stay out of the Communist grip.

Now we suppose the Saigon government will manage to stay in power, or if it goes there will be another, as there have been so many. But if it doesn't really have the support of most of the people or the ability to save them from nation-wide terror and murder, how good is it? What, indeed, is the U.S. trying to save?

This same South Vietnamese government, moreover, is showing something of an anti-American bias. It will not take the steps our authorities consider essential: Make a full war effort, get the South Vietnamese army in fighting shape, crack down on the unspeakable corruption and inexcusable misallocation of U.S. aid. And it tells Washington in no uncertain terms that the Saigon regime is running the show, including the search for peace; it doesn't want bilateral U.S.-Hanoi negotiating.

The temptation therefore may grow for the U.S., out of frustration with the Saigon generals and the slow progress of the war, to take over the nation, keeping a facade government but in fact finally waging the war the way our military leaders believe it should be waged.

Any idea of that sort of escalation, it seems to us, is a counsel of desperation. It would probably mean fighting, for a while, the South Vietnamese military as well as the Communists. More important, it would undermine our case for being there. We are mired down badly enough as it is; let's not make it worse.

One can strive to be optimistic, hoping that the attacks of the past week are the enemy's last big drive before agreeing to peace talks. One can still figure that the dangers of pulling out—in terms of Communist aggression throughout Southeast Asia and maybe beyond—are greater than the dangers of staying in.

Yet it is hard to escape the conclusion that the Communist onslaught has gravely deepened the American dilemma. It raises in the starkest form not only the question of weakness in Saigon but of whether the U.S. effort is reaching a point of diminishing returns.

LITTLE BIG HORN, 1876—SAIGON, 1968

Mr. GRUENING. Mr. President, the spate of optimistic statements issued by the administration in recent weeks when compared with the events in South Vietnam in recent days has led noted columnist Art Buchwald to write a humorous column on an imaginary interview with Gen. George Armstrong Custer at the Battle of the Little Big Horn.

The column does not try to make light of the tragic loss of life in South Vietnam. It does, however, serve to point up the ever-widening credibility gap between the reality of the situation as it actually exists in Vietnam and the continuous stream of optimistic statements issued by the administration.

I ask unanimous consent that the column entitled "'We Have Enemy on the Run,' Says General Custer at Big Horn," written by Art Buchwald, and published in the Washington Post of February 6, 1968, be printed in the RECORD.

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

[From the Washington Post, Feb. 6, 1968]

"WE HAVE ENEMY ON THE RUN," SAYS GENERAL CUSTER AT BIG HORN

(By Art Buchwald)

LITTLE BIG HORN, DAKOTA, June 27, 1876.—Gen. George Armstrong Custer said today in an exclusive interview with this correspondent that the battle of Little Big Horn had just turned the corner and he could now see the light at the end of the tunnel.

"We have the Sioux on the run," Gen. Custer told me. "Of course, we still have some cleaning up to do, but the Redskins are hurting badly and it will only be a matter of time before they give in."

"That's good news, General. Of course, there are people who are skeptical about the military briefings on this war and they question if we're getting the entire truth as to what is really happening here."

"I just would like to refer you to these latest body counts. The Sioux lost 5000 men to our 100. They can't hope to keep up this attrition much longer. We know for a fact Sioux morale is low, and they are ready to throw in the towel."

"Well, if they're hurting so badly, Gen. Custer, how do you explain this massive attack?"

"It's a desperation move on the part of Sitting Bull and his last death rattle. I have here captured documents which show that this is Phase II of Sitting Bull's plan to wrest the Black Hills from the Americans. All he's going for is a psychological victory, but the truth is that we expected this all the time and we're not surprised by it."

"What about the fact that 19 Indians managed to penetrate your headquarters? doesn't that look bad?"

"We knew all along they planned to penetrate my headquarters at the Indian lunar new year. The fact that we repulsed them after they held on for only six hours is another example of how badly the Sioux are fighting. Besides, they never did get into the sleeping quarters of my tent, so I don't really think they should be credited with penetrating my headquarters."

"You seem to be surrounded at the moment, General."

"Obviously the enemy plans have gone afoul," Gen. Custer said. "The Sioux are hoping to win a big victory so they'll be able to have something to talk about at the conference table. Look at this latest body count. We've just killed 3000 more Indians and lost 50 of our men."

"Then, according to my figuring, General, you have only 50 men left."

"Exactly. They can't keep up this pressure much longer. The truth of the matter is that their hit-and-run guerrilla tactics haven't worked, so they're now resorting to mass attacks against our positions. Thanks to our interdiction of their supply lines, they are not only short of bows and arrows, but gunpowder as well."

An aide came in and handed Gen. Custer a sheet of paper. "I knew it," the General said. "The latest body count shows they've lost 2000 more injuns in the last hour. They should be suing for peace at any time."

"How many did we lose, General?"

"Our losses were light. We only lost 45 men."

"But general, that means you have only five men left, including yourself."

"Look, we have to lose some men, but we're taking all precautions to keep our losses to a minimum. Besides, we can always count on the friendly Indians in these hills to turn against the Sioux for starting hostilities during the Indian lunar new year."

The aide staggered back in, an arrow in his chest. He handed Gen. Custer the slip of paper and then dropped at his feet.

"Well, they just lost 500 more. And we only lost four. It looks as if they've had it."

"But, General, that means you're the only one left.'

"Boy," said the General, "would I hate to be in Sioux shoes right now."

THE SELECTIVE SERVICE SYSTEM AND THE OBLIGATIONS OF CITIZENSHIP

Mr. SPARKMAN. Mr. President, at a time when many students reportedly are questioning the Selective Service Act and seeking ways to avoid any military obligations to their country, I was interested in reading an article written for his high school newspaper, Em Vee Hi, by George Stewart, a student at Mount Vernon High School in Fairfax County, Va., concerning the Selective Service System and the obligations of citizenship.

George is the grandson of Ellis and Vannie Stewart, of Montgomery, Ala. His father, Maj. Cameron Stewart, is a native Alabamian, and his mother, Mildred, is a native of our neighboring State of Tennessee. I am happy to say that George's grandfather is serving on my staff as my executive secretary.

The article was written last fall, shortly before George's 18th birthday, and published in Em Vee Hi on January 31, 1968. The article is evidence that patriotism and a sense of duty are not dead virtues among our young people. I ask unanimous consent that the article may be printed at this point in the RECORD.

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

ONE STUDENT FAVORS UNITED STATES MILITARY DRAFT

(By George Stewart)

We hear talk these days about the rights of American citizenship, but we should remember that rights carry with them certain obligations and responsibilities. One such obligation for male Americans is military service.

During America's history there have been periods when her military commitments were greater than volunteer manpower. As America's role as a world leader has increased, her military commitments have increased. These greater commitments mean more manpower. Because of the shortage, however, a system calling Americans to serve their nation—the Selective Service System—has been established.

Americans of all types, from revolutionaries, motorcycle gangsters, and Black Nationalists, to college professors, ministers, and authors, have opposed the idea of being called to serve in the United States Armed Forces. They appear to ignore the fact that the system they protest and those who serve will-

ingly under that system are protecting them and their rights and liberties.

A question asked by many people is "Why does the Defense Department draft young men with no military training, in lieu of calling up the National Guard?" The Sec. of Defense and other defense officials have stated that the National Guard and various other reserve components are held in readiness as a "strategic reserve" to meet additional contingencies which may arise. In the Air National Guard and the Air Force Reserve, certain units have brought up manning and combat readiness so high that they are considered by military planners equivalent to active military units in capability.

If the reserve components are ordered into Federal service and sent into battle, it is still necessary to replace them with a new strategic reserve and additional manpower required for this purpose. Also, it takes time to make untrained manpower into usable military units.

Many criticize the draft system because they feel it is unfair that they be called to duty while others aren't. The number drafted each year depends on our military commitments and the manpower needed to meet them. The National Advisory Commission on Selective Service looked into eliminating the draft altogether and creating an all volunteer military force, but found that there were not enough volunteers to supply the need. Random selection appears to be the fairest way for the draftees to be chosen.

When a student reaches the age of eighteen and receives his draft card, he realizes he probably will not be able to complete his education before being drafted. Most students strongly opposed to the draft fail to consider the advantages and opportunities offered to a young man while in the service. There is an unlimited number of fields he may choose to serve in, most help prepare him for civilian jobs. During his service he may take courses paid for by the government, and work toward a college degree. He may wish to pursue a military career to retirement. If he decides not to make the military a career, he serves long enough to complete his obligation. In either case, he returns to civilian life a more valuable citizen.

Military service can transform an immature youth into a self-reliant individual. It teaches to accept responsibilities and make sure they are carried out. An individual can gain valuable training in leadership, and experiences with people of all types, that he could not otherwise achieve.

Those criticizing the military forces and Selective Service System do not give much thought to their purpose. If they would stop being critical of their government and think about the freedom and protection it provides, they would realize the soldier, sailor, or airman is risking his life to insure the existence of freedom and democracy in his nation and the world.

Protest is a part of the American tradition, but so is "duty, honor, and country." Those who are called to serve in the armed forces should be proud to have a part in protecting the interests of their nation and all mankind.

COMPLETION OF THE RAMA ROAD IN NICARAGUA

Mr. HOLLAND. Mr. President, I am happy to report to the Senate the fact that the United States has completed its longstanding commitment for the construction of the Rama Road in Nicaragua. The last and largest single structure on that road—the bridge over the Siquia River—near the city of Rama, the eastern terminus of the road, was dedicated in a colorful inaugural ceremony at the bridge on Sunday, January 21, 1968, at which President Anastasio Somoza-Debayle was the principal speaker. It was my very great pleasure to attend that ceremony as a guest of Nicaragua. Because of the longstanding nature of our commitment on this matter, and the fact that I have had some connection with it since 1952, I felt that it would be appropriate to have my report of the affair become a part of the permanent CONGRESSIONAL RECORD.

Early in World War II, President Anastasio Somoza, the father of the present President of Nicaragua, came to the United States for a visit with President Franklin D. Roosevelt in connection with the war in which Nicaragua had joined the United States by declaring war a few hours following our own declaration. In the course of that visit, the two Presidents entered into an agreement for the construction by our country of a road from the Inter-American Highway at San Benito to Rama and for surveying a practical route for a highway between Rama and El Bluff on the Caribbean coast. President Roosevelt entered into this agreement under the War Powers Act; and under date of August 18, 1942, he authorized the allotment of the sum of $4,000,000 from the appropriation entitled "Emergency Fund for the President, National Defense 1942 and 1943" to be expended through the Bureau of Public Roads.

I should add that Nicaragua, as consideration for our agreement to build the Rama Road, made available to us certain ports on the Pacific Ocean which were needed by our Navy. It also agreed to drop its contention that our longtime arrangement with Nicaragua relative to our right to build a second interoceanic canal passing through Lake Nicaragua was a binding obligation to build such a canal. Our country had always understood and contended that we had acquired nothing but an option to build such a canal.

By the agreement above mentioned between the two Presidents, it was mutually agreed by the two countries that the arrangement for building the said canal was simply an option, as long contended by us. Subsequent to the original agreement between the two countries, an amendment was approved deleting the surveying of a practical route between Rama and El Bluff.

The Rama Road begins at San Benito, 36 kilometers north of Managua, on the Inter-American Highway—which supplies a highway connection to the Pacific—and thence extends in an easterly direction through rough, rolling country rising to an elevation of 400 meters at Santo Tomas. From thence it gradually descends into the Atlantic coastal plain and rain forest to the town of Rama at an elevation of 5 to 10 meters above sea level. The town of Rama is at the head of deepwater navigation on the Escondido River which accommodates LSM type and other shallow draft vessels. Hence, the Rama Road, as completed, allows highway access from the Pacific to deep water on the Atlantic, constituting the first highway interoceanic connection across Nicaragua.

From 1943 until 1955, all work was performed by force account, with the Nicaragua Highway Department personnel performing the work under the direction of our Bureau of Public Roads. In 1952, after a vigorous fight in Congress, the Rama Road was authorized as a civil project; and appropriations have been made periodically from that time under which the work has been completed by a series of contracts. The total cost to our country of the completed project was $16,850,000, including the $4,000,000 which was spent under the original allotment made by President Roosevelt. Frankly, I do not see how our highway engineers could have done so much with so little under the difficult conditions prevailing.

The road is a graded, drained, gravel packed, all-weather road, 160 miles long with 35 bridges. The longest bridge, that over the Siquia River, near Rama, is a 765-foot cantilevered truss bridge spanning a navigable tributary of the Rio Escondido quite near the town of Rama. This bridge is a major landmark on the new highway and, as I have already stated, was the picturesque site of the dedication ceremony. Up to the present, the Nicaraguan Government has paved about one-third of the roadway, and I understand it will continue the surfacing process until the paving is fully completed.

Since I served on the committee which conducted the hearings in 1952, took part in the debate at that time, and served on the conference committee where the authorization was finally worked out, and since I handled for some years, for our Senate Appropriations Committee, periodic inspections of the Inter-American Highway from which the Rama Road branches off at San Benito, I have always had a lively interest in this road and have twice before been over most of the road prior to the dedication ceremony which I have already mentioned.

On that day, Sunday, January 21, I was happy to be in Nicaragua at the invitation and as the guest of the President and of the Ambassador of Nicaragua, the Honorable Guillermo Sevilla Sacasa, the dean of our diplomatic corps. I left Washington on Friday evening, January 19, arrived at Managua at noon Saturday, January 20, and was entertained at the Presidential Palace Saturday night and Sunday night, coming back to Washington on Monday, January 22. I should add that our Assistant Secretary of State for Inter-American Affairs and U.S. Coordinator for the Alliance for Progress, Hon. Covey T. Oliver, was in Nicaragua with a party which was meeting with the President, his Cabinet, and other officials of Nicaragua to discuss various programs in which the two countries have a common interest. Our able Ambassador, Hon. Kennedy M. Crockett, and Mrs. Crockett, entertained President Somoza, Secretary Oliver, Representative JOHN M. MURPHY, of New York, representing the House of Representatives, who was a classmate of President Somoza at West Point, and other members of the Washington party at our Embassy at noon Saturday. That night President Somoza and his lovely wife were hosts at a most delightful reception at the Presidential Palace.

On Sunday the men in our party, including representatives of the Bureau of Public Roads and ambassadors of sev-

eral other nations, took the trip to the point of the dedication, later having luncheon with President Somoza at Rama.

The dedication ceremony was a most colorful one, attended by several thousand cheering citizens and eloquently addressed by President Somoza, Secretary Oliver, and others.

I was tremendously impressed with the whole affair and with the spirit of friendship between our two nations which was so clearly evident. I was also greatly pleased to see the amount of development already occurring along the Rama Road. During my three visits along the road the amount of increasing, substantial development has been quite noticeable; and at this visit it was clear, indeed, that the road is going to be a tremendous help in the development of the interior part of Nicaragua and also in better communications between the Pacific and Atlantic areas of that friendly nation. Where there were miles of forest on my first visit some years ago, there are now many villages and country homes, numbers of developed ranches, and quite a number of farms which are already producing. One of the clearest evidences of the greater development which will surely come in the future was the fact that a new branch of the National Bank of Nicaragua was dedicated by President Somoza at Rama immediately after our luncheon there. I predict that Rama will soon become a much larger and more prosperous city and the Atlantic port for Nicaragua, with great business potentialities.

All in all, I was delighted to be present at this most inspiring occasion and to enjoy the warm friendship which was extended to all visitors from our country and to our country as a whole by the Nicaraguans, from the President to the most humble citizen. I am sure that we have no better friends in the hemisphere than President Somoza and Ambassador Sevilla Sacasa, and that the same is true as to most of their compatriots.

The more I see of the Rama Road and the Inter-American Highway as a whole, in whose construction we have played a major part in the six Central American countries—though Mexico has built with her own resources the 1,600 miles of that highway extending across Mexico—the more I am sure that mutual undertakings of this kind are the very finest sort of assistance we can give to our friendly neighbors and that they will become channels of trade and tourism which will be of mutual advantage to our neighbors and to ourselves.

I should say in closing that I am deeply indebted to President Somoza, Ambassador Sevilla Sacasa, and to Col. Heberto Sanchez of the Nicaraguan Air Force, who was assigned to me as a most helpful and friendly aide, for all of the acts of warm hospitality and friendship which they bestowed upon me and which I regarded as evidence of their feeling toward our country as a whole, for whom I was one of the representatives on this historic occasion.

Mr. President, the English translation of the eloquent speech of President Anastasio Somoza-Debayle, delivered by him on Sunday, January 21, at the inaugural ceremony, which I have already mentioned, will be placed in the RECORD of the House of Representatives today by Representative JOHN M. MURPHY, of New York, the representative of that body at the ceremony. This seems most appropriate in view of the fact that the President was a classmate of Representative MURPHY at West Point and also in high school, and they have thus been warm, personal friends for many years. I hope that all Senators will avail themselves of the privilege of reading the President's able speech, since it gives so much light on the Rama Road, the spirit of the inaugural occasion, and the attitude of Nicaragua toward our country. For myself, I am happy to offer for the RECORD an English translation of the brilliant speech made in Spanish on that occasion for our country by the Honorable Covey T. Oliver, Assistant Secretary of State for Inter-American Affairs. I ask unanimous consent to have printed at this point in the RECORD the text of Secretary Oliver's speech.

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

REMARKS BY COVEY T. OLIVER, ASSISTANT SECRETARY OF STATE FOR INTER-AMERICAN AFFAIRS AND U.S. COORDINATOR FOR THE ALLIANCE FOR PROGRESS, ON OCCASION OF THE INAUGURATION OF A BRIDGE ON THE NEW RAMA ROAD, NICARAGUA, JANUARY 21, 1968

As a United States citizen, as a special United States Delegate to various conferences, as Ambassador, and now as Assistant Secretary of State, I have had the honor of attending many dedication ceremonies in Latin America in the past 20 years. However, I believe that none has been more significant than this one today, because the dedication of this great bridge and highway represents nothing less than the unification and integration of a country, a successful step in its development, providing access to both the Atlantic and the Pacific and opening up the boundary region in the eastern part of the country.

This project began in 1942 as a result of talks between former President Anastasio Somoza Garcia and former President Franklin D. Roosevelt. At that time, our countries were Good Neighbors and also comrades in World War II. Today, 25 years later and after an expenditure by us of more than 16 million dollars and a large contribution by you, the highway has come to Rama, and what a success it is! The highway is in service throughout its length. A highway 256 kilometers long that can be used for all kinds of transport, including heavy transport, is in full operation. This bridge, 233 meters long, the largest, the longest, of all Nicaraguan bridges, is finished; and lastly, the final section of the highway to Rama.

Furthermore, your country's national program, of which the Rama highway is a splendid example, has achieved a great deal in the past 25 years. I understand that in 1943, there were in Nicaragua slightly less than 600 kilometers of roads, and fewer than 500 employees in the Ministry of Public Works, as compared with more than 8,000 kilometers of roads and a very experienced staff of more than 4,000 employees at the end of 1966.

And, as an example of this effort by our two countries and as a graphic demonstration of the cooperation and friendship uniting us in behalf of the welfare and progress of Nicaragua, we see here the work of a quarter of a century, the culmination of our joint efforts. And my hope for this bridge and this highway is that they may serve this country for all time to come as a link between its two principal regions; that they may open up new opportunities for all Nicaraguans; and that they may serve as an eternal symbol of the friendship between our two nations.

FAILURE OF COMMUNIST BLOC COUNTRIES TO RATIFY FORCED LABOR CONVENTION OPENS THEM TO SUSPICION—HOW ABOUT UNITED STATES?

Mr. PROXMIRE. Mr. President, only Poland, of all the Communist block countries of Europe, has ratified the Human Rights Convention on Forced Labor. Albania has not ratified this convention; Bulgaria has not ratified; Byelorussia has not ratified; Czechoslovakia has not ratified; Hungary has not ratified; Yugoslavia has not ratified; the Ukraine has not ratified; and finally the U.S.S.R. has not ratified the Human Rights Convention on Forced Labor.

Mr. President, the conclusion we have drawn from these countries' failure to ratify is that they must be practicing forced labor, otherwise what do they fear from ratification? However, the United States has failed to ratify not only the Convention on Forced Labor but in addition, the Convention of Genocide, Political Rights of Women, and Freedom of Association. Cannot the same inference be drawn from our inaction as we are so prone to draw from the Communist bloc countries' reluctance to ratify the Forced Labor Convention? We cannot have it both ways. If other countries' failure to ratify any human rights conventions is strong evidence to us of their having something to hide, then our failure can represent the same to them. In order to clear up any lingering misconceptions about the United States, I urge Senate ratification of these human rights conventions during this International Human Rights Year.

MORE TYRANNY IN THE INTERNAL REVENUE SERVICE

Mr. LONG of Missouri. Mr. President, recently, I received a letter from a retired professor in California complaining about harassment by the Internal Revenue Service. The professor apparently successfully avoided the activities of local IRS agents, but only as a result of his fighting back, and his threats to take the entire situation to Washington.

Unfortunately, not too many of us are either knowledgeable or able to fight back, especially when the IRS agent is knocking at the front door.

I ask unanimous consent that the entire correspondence be printed in the RECORD, for I believe that Senators should be aware of these situations.

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

PALO ALTO, CALIF.,
October 12, 1967.

SENATE JUDICIARY SUBCOMMITTEE ON ADMINISTRATIVE PRACTICE AND PROCEDURES,
New Senate Office Building,
Washington, D.C.

GENTLEMEN: I have been informed that your Committee is interested in correcting Federal abuses detrimental to public interest such as I believe are being practiced by the Internal Revenue Service. My major purpose

in writing is to call to your attention certain highly questionable practices of the IRS that are harmful and unfair to your constituents and bring disrepute upon the IRS agency.

One of these objectionable practices falls upon retired land owners, principally retired farmers who rent their lands upon a crop share basis. A second widespread practice affecting every class of tax-payer is that of billing tax-payers on snap judgment for assumed tax "deficiencies" or "assessments" which have no legal foundation, yet by the use of the U.S. Mail and IRS "form" notices containing threatening paragraphs and innuendo, usually unsigned, the IRS Tax Examiners try to bluff, intimidate and harass citizens into paying additional fees over items any competent Examiner knows is not justified. The writer can illustrate these practices from his own experience here in California, and which is further well corroborated by a well documented article titled "Tyranny in the Internal Revenue Service" appearing in the August issue of Reader's Digest, written by one of the editors who investigated practices throughout the United States.

The writer farmed in the Sacramento Valley of California until 35 years of age, then responding to a boyhood ambition, went to the University of California, obtained his Ph. D., and spent his professional life in college teaching and research. Upon retirement the rental from our farmland became our principal income. It is clearly pointed out in IRS Instructions that Farmers and Fishermen are exempted from filing a "Declaration of Estimated Income" and the payment of quarterly taxes provided they pay the total income tax by February 15 of the following year. What is not made clear is that the land owner who obtains his rental as a share of the farm products also qualifies as a farmer for Income Tax purposes if his farm income constitutes at least two-thirds of his income. This fact is stated in Farmer's Tax Guide, IRS Publication #225, page 54, but the IRS Examiners attempt to require everyone who collects rent to file a "Declaration of Estimated Income" and pay quarterly or be assessed interest thereon. All instructions issued by IRS suggest that if the taxpayer has any questions he should write or call his nearest IRS Office. In practice the IRS pays no heed to questions or explanations written to them and their verbal information is often unreliable. The IRS just continues sending the victim demand "forms" bearing various threatening, intimidating statements. However, the IRS suddenly becomes "alive" when they are threatened with investigation.

In spite of the fact our Income Tax was received in San Francisco Jan. 15 a month in advance of the dead-line for 1964 the IRS filed an "assessment" for interest on unpaid quarterly payments. I wrote an explanation pointing out their error, requesting a reply which did not come. Instead the San Francisco IRS transferred the claim to San Jose Office which again sent a threatening form. I wrote an explanation to San Jose, then later telephoned the San Jose Office and was assured that I would have to pay the assessment. I then went to San Jose and explained the situation in detail and was informed that it was impossible for me to be classed as a "farmer" unless I took an active part in the operation, and in such a case my income would be subject to a Social Security Tax. *All that advice was absolutely incorrect* as any IRS agent should know. I then wrote the District Director at San Francisco personally and he grudgingly admitted I was right and eventually an "Adjustment" form was received closing that claim. Mr. Cullen (via rubber stamp) advised that hereafter I note on the 1040 Form that the rental was "based on Farm Production", which I did. Again the San Francisco Examiner filed an assessment on our 1965 Income Tax Report for the same reason. Again I wrote an explanation, and again the San Francisco IRS transferred the claim to San Jose which in turn sent a threatening notice. I advised them I was fed up with the matter and would take it up with Washington. I was immediately informed that would not be necessary, another "Adjustment" form was received and the matter closed. It appears that clearly the IRS knew from the outset that such claims are illegal.

One of the most flagrant abuses that I have experienced was about a Tax Return I prepared for an aged relative eleven years ago. Her 1040 Return Form showed she was over 65, blind, widowed, had no Social Security number (which indicated she did not operate the farm). Her income was from rental of a ranch just as had been reported for the previous 16 years, her deductions showed she did not owe any tax. Her mailing address was 125 miles from the location of her income. An "eager beaver" Examiner filed an assessment for Social Security Tax on her income. I personally wrote the San Francisco IRS explaining the situation, giving my S.F. Office phone number for any further explanation desired, and asked for a reply which I did not receive. The San Francisco IRS transferred the matter to San Jose Office which sent a Form threatening to attach her bank account unless paid in 7 days. I informed San Jose that if she were disturbed any further I would initiate an investigation, and promptly received a telephone call to disregard the notices. Eventually an "Adjustment" form was received closing the claim.

I have written in detail to illustrate how an important governmental agency paid for its services by taxpayers, is using its prestige and power to ends far removed from its legitimate functions, simultaneously wasting time and expense for the IRS as well as the taxpayer. I have all the correspondence to support my statements and shall be glad to supply copies if desired. That similar practices by IRS are widespread are indicated by the article in the August issue of Reader's Digest.

Apparently the IRS has been given wide powers to initiate regulations to collect legitimate taxes and some officials use these powers and the U.S. Mail to have a "lark" collecting tax by any means possible. I have a collection of thirteen different Forms. I received one personal letter (rubber stamp signature) admitting I was right (evidently there is no form for such an eventuality), blaming me for not making myself clear earlier, which I actually had done. Most of the forms have threatening paragraphs, few of them bear any signature, four bore rubber stamp signatures, two bore legal signatures. Often the forms are more confusing than informative as to just what the claim refers. Naturally one wonders why the IRS assiduously avoids answering questions and explanations as the instructions promise, then persistently use the U.S. Mail to harass the taxpayer when that Office is fully aware he does not owe the claim. Is there a reward in money or prestige for fleecing the public? The taxpayer should be protected by adequate Federal laws from such treatment and the IRS cleared of agents that follow such practices.

Following the unsuccessful attempt to collect one Illegal assessment against our 1965 Return the IRS began questioning our Deduction for repair of the roof of our home. Inasmuch as this was wholly an expense to maintain the house in a state of repair but not a capital investment we consider it deductible. I have four times requested answers to the following questions: 1) On what *legal grounds* can Income Tax be assessed for maintenance due solely to natural depreciation? 2) Considering the fact that expenses which arise due to natural depreciation occur in many instances at intervals of a few to several years, is it permissible to estimate and report deductions annually based on experience?

I received either no answer or an evasive statement and a Form 1902E suggesting I "consent" to the assessment. On August 30 I advised that unless an answer were forthcoming promptly I should take up the matter with Washington agencies and received a reply by return mail that the matter was being given attention and a reply expected within 3 weeks.

We have no objection to paying *legal* taxes but in view of the previous illegal attempts to collect unjust taxes we wish to know upon what grounds an assessment is made on items we consider as deductible. This question is essentially the same as we believe a proposed bill is designed to correct. We are seeking answers to the two above questions and will highly appreciate any opinions or comments you may offer. We fail to see how money spent strictly for maintenance for the home, upon which taxes and interest are deductible, differs from maintenance costs for other property, and question the right of the IRS to make a distinction.

Summarizing:

(1) The IRS files claims or "assessments" having no legal basis.

(2) It issues IRS "forms" containing intimidating statements often without any legal signature.

(3) It uses the U.S. Mail in attempts to collect "assessments" that the Office knows are unjust.

(4) It does not answer inquiries directed to it as the IRS Directions indicate it will.

(5) It issues "forms" that are confusing to the general public.

(6) It does not define the term "Farmer" clearly.

(7) It employs Tax Examiners and agents that appear to be wholly incompetent.

In view of the foregoing facts which affect a vast cross-section of U.S. citizens it seems necessary that Federal laws should be enacted to prevent such practices and the following suggestions are respectfully offered:

(1) All Income Tax Directions shall point out the conditions under which land owners qualify as "farmer" for Income Tax purposes.

(2) Any statement or assessment issued by the IRS questioning the accuracy of a Tax Report shall *clearly* indicate for what the claim is made and shall be *legally signed* by a responsible official.

(3) Questions and explanations made by tax-payers seeking information shall be answered as indicated by IRS Instructions.

(4) The U.S. Mail shall not be used to collect assessments that have no legal basis.

(5) Any Person who uses the U.S. Mail to collect an assessment that has been shown to be unjust becomes guilty of obtaining money under false pretenses and is punishable by Federal law just as ordinary citizens are under State laws.

Having been a research chemist for the Federal government for more than ten years previous to retirement I cannot conceive how an important segment of our government can be permitted to follow such policies. I shall appreciate any aid or clarification you may give in the correction of these practices.

Respectfully yours,

RAY C. CHANDLER.

SENATE SUBCOMMITTEE ON ADMINISTRATIVE PRACTICE AND PROCEDURE, COMMITTEE ON THE JUDICIARY,

October 20, 1967.

MR. RAY C. CHANDLER,
Palo Alto, Calif.

DEAR MR. CHANDLER: Thanks very much for your recent letter. You offer some excellent suggestions.

Would like your permission to place your letter in the *Congressional Record* so all of

my colleagues could have the benefit of your views.

Kind regards.

Sincerely,

EDWARD V. LONG,
Chairman.

PALO ALTO, CALIF.,
October 31, 1967.

HON. EDWARD V. LONG,
Chairman, Subcommittee on Administrative Practice and Procedure, New Senate Office Building, Washington, D.C.

DEAR SENATOR LONG: Thank you for your letter of October 20. This letter is to grant permission for the use of my letter of October 12, 1967 in the Congressional Record. A copy of the entire correspondence respecting the three cases of proven errors will be furnished if you wish.

Very truly yours,

RAY C. CHANDLER.

A TRIBUTE TO A DISTINGUISHED HAWAIIAN, FLORA K. HAYES

Mr. FONG. Mr. President, it was with profound sorrow and a sense of deep personal loss that I learned of the death of a long and dear friend, Mrs. Flora Kaai Hayes. Her passing last Saturday night in Honolulu came as a shock to her many friends because she had been active until shortly before she was stricken and died a few hours later in a hospital.

All Hawaii mourns the loss of an able and dedicated public servant, a supporter of a strong public school system, and a scholar of Hawaiian lore.

Her zeal for public service was illustrated by the fact that she was an announced candidate for a seat in this year's convention that would consider modifications to the Hawaii State constitution drafted in 1950. Mrs. Hayes was an elected delegate to that first, historic convention.

A former member of the territorial house of representatives, Mrs. Hayes served in that body from 1939 to 1959. She was chairman of the house education committee for five terms and a member of the house land and institutions committee. She considered her greatest political achievement to be the passage of a bill establishing kindergartens in public schools.

During her long tenure in the house of representatives, I was a colleague and admirer of her devotion to the cause of public education and the welfare of the Hawaiian people. In both the legislature and in the 1950 constitutional convention, in which I also served, she was most concerned with the preservation of Kamehameha Schools and the Hawaiian Homes Commission. Her public service in these causes will long be remembered by those whom she championed.

Mrs. Hayes was born in a grass house in Hana, Maui, 74 years ago. Her mother was English-Hawaiian, a descendant of Keoua, high chief of Maui. Her father, a Hawaiian, was a descendant of Kaiana, chief of Kauai, who was Kamehameha's most formidable adversary and who was killed in the Nuuanu battle of 1795.

In 1913, she married Dr. Henry Homer Hayes, who died in 1957. He was one of Hawaii's first government physicians.

An avid scholar of Hawaiiana, she translated from Hawaiian the letters of King Kalakaua, Queen Kapiolani, and Prince Kuhio for the Bishop Museum.

One of her fondest memories was riding as a child in Prince Kuhio's campaign caravan.

Her father, Samuel Kaai, was the district judge at Hana. He also served in the legislature and was vice speaker of the house for one term.

Flora Hayes' active concern for the betterment of Hawaii's schools was demonstrated by her active leadership of the Hawaii Congress of Parents and Teachers and the Kamehameha Alumnae Association, having served as president of both organizations. She was also a past president of the Hawaiian Civic Club.

She was also associated, at various times, with the Hawaii Statehood Commission, the territory welfare board, and the Kaahumanu Society.

She was awarded the Ke Alii Pauahi Award by the Kamehameha Schools, and the David Malo Award by the Rotary Club of West Honolulu. She also received the annual award of the National Society of Arts and Letters.

Mrs. Hayes was a member of St. Clement's Episcopal Church and a former president of the St. Andrew's Cathedral Hawaiian congregation.

Flora Hayes will be sorely missed not only as a community and political figure but as a gracious individual—a vivacious personality, a generous and kind individual, a charming personification of the true aloha spirit of Hawaii.

Ellyn and I join the people of Hawaii in extending our heartfelt sympathy to the family in their bereavement. Our sorrowful aloha is expressed for the loss of a great woman and a distinguished Hawaiian.

THE ADMINISTRATION'S WAR ON CRIME

Mr. DODD. Mr. President, on the occasion of the first anniversary of the introduction of President Johnson's Safe Streets Act, Deputy Attorney General Warren Christopher, speaking February 2d to the Commonwealth Club of California in San Francisco, once again appealed for public support for a total war against crime.

Mr. Christopher said:

The tradition of local responsibility for general crimes does not mean there is no Federal role. On the contrary, we believe the Federal Government must join with cities to build excellence in the local police as the first priority in the fight against crime. More broadly, we believe that the time has come for massive Federal assistance to the whole system of law enforcement and criminal justice. As President Johnson said in the State of the Union Message, the national government should help cities and states in their war on crime to the full extent of its resources and Constitutional authority.

I concur. Help is needed. New ideas, new money and a new will to succeed in containing crime and the criminal.

We are living in the last half of the 20th century while virtually your whole crime control system is floundering in the last half of the 19th century.

All levels of government have failed in the mission to provide a safe and secure society where our people can reasonably undertake the pursuit of happiness. Crime, criminality of all types, and violence in our streets have upset the balance. Our domestic tranquillity is now only a sometime thing.

And Mr. Christopher once again asserted the administration's determination to secure the passage of a law to control the now free and easy sale of firearms to criminals, addicts, juveniles and others who should not have them—S. 1, amendment No. 90.

It is encouraging to see that President Johnson, his legislation beset by eroding attacks of wealthy lobbies and by legitimate sportsmen misinformed by those lobbies on what the law would do, is continuing to seek effective gun controls.

Mr. Christopher said:

The President and the Department of Justice strongly believe that the Federal Gun Control Bill—and nothing less effective—should be enacted without further delay.

Mr. President, I ask unanimous consent that Mr. Christopher's remarks be printed in the RECORD. I believe that Senators will find them valuable as they consider the crime legislation to be debated in the Senate in the near future.

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

ADDRESS BY DEPUTY ATTORNEY GENERAL WARREN CHRISTOPHER, THE COMMONWEALTH CLUB OF CALIFORNIA, SAN FRANCISCO, CALIF., FEBRUARY 2, 1968

Crime in America has many faces and many masks. It is a bank robber putting the torch to a safe and a housebreaker cutting a screen; it is an addict stealing to support his habit and a loan shark putting the strong arm on a debtor; it is a teenager going for a joy ride in a stolen car, and a rioter throwing a fire bomb; it is an executive conspiring to fix prices, and it is the Cosa Nostra lieutenant bribing a public official.

There is crime in the streets, but there is also crime in homes and hotels, in banks and barber shops, in public offices and in private offices, too. Crime comes in all ages, sizes, colors, sexes, and from both sides of the tracks. No group is immune and none has a monopoly.

One thing we know for sure about crime is that there is too much of it. Most of the data on the growing level of criminal activity comes from the FBI's Uniform Crime Reports. These reports deal with crimes of violence such as murder, rape, robbery, and assault and crimes against property such as burglary, larceny and auto theft. Between 1960 and 1967, reported violent crimes increased 72 percent, and crimes against property rose 90 percent.

In the main, the crimes reflected by these statistics are local in nature. They are violations of state law, and they take their toll against local citizens and local property. Tradition and logic have combined to lodge responsibility for coping with such crimes in the local and state authorities.

The documents and debates surrounding the drafting of our Federal Constitution leave doubt about the views of our founding fathers. They firmly intended that administration of criminal laws should rest primarily with local and state units. In the Constitution, the absence of a federal police agency was a deliberate reflection of the framers' repugnance for the monarchies of Europe.

This is no antiquated or outdated view. One of the architects of the new federalism, Mr. Justice Frankfurter put it plainly when he said: "In our Federal system, the adminis-

tration of criminal justice is predominantly committed to the care of the states." (*Rochin* v. *California*, 342 U.S. 165, 168). In the same vein, Mr. Justice Black stated: "Extortion, robbery, embezzlement, and offenses of that nature are traditionally matters of local concern. Federal assumption of the job of enforcing these laws must of necessity tend to free the states from a sense of responsibility for their own local conditions." In emphasizing the primacy of state responsibility, Mr. Justice Black noted that "Here, as elsewhere, too many cooks may spoil the broth." (*Rutkin* v. *United States*, 343 U.S. 130, 142–143, 1951).

There are deep underlying reasons for these views:

First, we are a free people intent on maintaining an open society. The Constitutional fathers knew and abhorred the heavy boot of a national police. In our own time, this abhorrence has been reinforced by our observation of the oppressive national police in Hitler's Germany and Stalin's Russia.

Second, no governmental activity is more sensitive, and none has greater need to be responsive to the people, than the administration of the criminal laws. The shorter the distance between the policy maker and the citizens, the more likely there will be quick and accurate responses to the needs of the people.

Finally, successful crime fighting often requires that decisions be made quickly by those on the scene. This required speed and flexibility can only be achieved through local law enforcement.

The tradition of local responsibility for general crimes does not mean there is no Federal role. On the contrary, we believe the Federal Government must join with cities to build excellence in the local police as the first priority in the fight against crime. More broadly, we believe that the time has come for massive Federal assistance to the whole system of law enforcement and criminal justice. As President Johnson said in the State of the Union Message, the national government should help cities and states in their war on crime to the full extent of its resources and Constitutional authority.

For decades we have neglected law enforcement and criminal justice. According to the National Crime Commission, our nation spends only about $4 billion a year on the entire system of criminal justice—courts, corrections and all our Federal, state, and local police. We spend twice that much for tobacco, and three times that much for whiskey. Do you have any doubt that we need a re-ordering of our priorities?

We need to pay policemen a salary that will attract the finest among us and keep them on the force. At the present time, the median salary for a policeman is $5,300 a year. That kind of a salary means that those who would engage in the public service of police work are forced to moonlight—to work nights to support their family.

There is no deep mystery why police work is not attractive to our young men. The answer is in the pay scale. Under the present scheme of things, many perhaps most police departments are not able to maintain their authorized strength. Until we pay our police adequately, we cannot expect the excellence which is essential to control crime and lawlessness.

While improving salaries is the single most important step, it is only a beginning. If we are to achieve excellence in law enforcement, there must be improvements in training and police administration, in the quantity and quality of equipment, and there must be a concentrated effort to bring new techniques and technologies to police work. In short, we must develop 20th Century police forces to stop 20th Century crime.

Moreover, law enforcement is only one element in the system of criminal justice. This whole system—courts, prisons, probation, and parole as well as police—requires an infusion of additional resources if it is to fulfill the heavy burden society has placed on its shoulders.

A year ago this month, President Johnson sent to the Congress pioneering legislation to help meet these requirements. Known as the Safe Streets and Crime Control Act, this proposed legislation would provide massive Federal aid to local and state law agencies. It would provide direct grants of Federal funds to local and state law enforcement agencies for salaries, equipment, training and research as well as for support of all agencies involved in this whole system of criminal justice.

President Johnson has proposed $100 million in the new budget for grants during the first year under this Act. As experience is gained in making such grants, we can look forward to annual Federal grants several times larger than those of the initial year.

One version of the Safe Streets Act has passed the House of Representatives. However, the legislation has been stymied in Senate Committee for more than six months. The principal source of the delay is not a debate over the merits of the bill itself, but rather it involves the desirability of several highly controversial additions or amendments to the basic legislation. One of these is a proposal to "reverse" the constitutionally-based rule of the Supreme Court on confessions. Another would drastically limit the jurisdiction of Federal courts in habeas corpus and other cases. Still another would add long and highly complex provisions authorizing wire-tapping and bugging under judicial supervision.

Each of the amendments involves deeply held beliefs and emotions, and each has its strong supporters and strong opponents. Generally speaking, the Department of Justice is in the latter category, but that is not the point. The point *is* that the resolution of these closely divided issues should not impede enactment of the Safe Streets Act which I believe will command overwhelming support if only it can be brought to a vote.

The delay in the enactment of this legislation aggravates the long-standing neglect of law enforcement. In the strongest terms, with the greatest urgency, we ask Congress to act upon the Safe Streets Act and take the pioneering step of providing massive Federal grants to assist local law enforcement and criminal justice agencies. When this is done, Congress can work its will on the other questions which present quite different issues.

A second bill, now pending before the Congress, also has a tremendous potential for assisting state and local government in the fight against crime. Known as the Gun Control Bill, its purpose is to strengthen local gun control laws by restricting mail order sales and out-of-state purchases. Its aim is to keep firearms out of the hands of criminals, mental defectives, drug addicts and children.

The need for this bill is plain. In 1966 guns were involved in more than 6,500 murders and 43,500 aggravated assaults. Firearms have been used in 96 percent of all killings of police officers since 1960. More than two-thirds of the persons committing this vicious crime would not be able to purchase a hand gun in California because of their criminal records. But in the absence of Federal gun control legislation, they could easily subvert California laws by travelling to another state with lenient laws or by ordering a gun through the mails.

In California, even those who may lawfully purchase hand guns cannot do so without having a record of the purchase filed with the California Bureau of Criminal Identification and Investigation and with their local law enforcement agency. But a criminal or mental defective can easily circumvent this reporting requirement by making the purchase out of state or through the mails.

Opponents of the Federal Gun Control bill have suggested that there is little connection between crime and weak firearms control. This is not true. FBI statistics demonstrate that a higher proportion of homicides are committed with firearms in those areas where firearms regulations are weak. Even more germane to the Federal bill is a study by the Massachusetts State Police showing that 87 percent of concealable firearms used in Massachusetts crimes in recent years were obtained outside the state. So long as potential criminals can so easily evade state gun control laws, there is a grave and unnecessary threat to safety. The President and the Department of Justice strongly believe that the Federal Gun Control Bill—and nothing less effective—should be enacted without further delay.

Crime in the form of riots and civil disorder have scarred our landscape for the last four years. Last summer alone 85 died, 3,200 were injured, and property damage exceeded a hundred million dollars. The legacy of hate and bitterness which follows in the wake of this violence cannot be measured in dollars, but it represents a severe impediment, sometimes fatal obstruction, to progress in education, employment, in housing and other areas where remedial action is long overdue. Surely this is the kind of cost America can least afford.

The Federal Government's twin goals are to prevent riots and, when disorder does occur, to control it with minimum loss of human and material resources.

The President's National Advisory Commission on Civil Disorders will soon have a statement on the underlying causes of riots. At the moment, our attention is focused on preventive measures which will yield immediate results. Several weeks ago President Johnson directed the Attorney General to initiate a series of conferences for municipal leaders to make, as he said, "maximum use of the skills and experience . . . of local officials who have been successful in preventing and controlling disorders." In cooperation with the International Association of Chiefs of Police, the Department of Justice has designed a series of conferences to make the fullest use of the practical and transferable methods of riot prevention and control. This series, which is already underway, will consist of four week long general conferences in Washington, D.C., followed by 10 special conferences at locations throughout the United States.

The basic premise and belief of these conferences is that riots can be prevented. At these conferences the Chiefs of Police and mayors of 120 major American cities are having the opportunity, in a quiet environment and away from the pressures of their daily existence, to think through the avenues for prevention in their own city.

In addition to prevention, the conference is dealing with riot control. Here the premise and belief is that riots, when they occur, can be controlled by a balanced approach in which the police are fully cognizant of the dangers of either underacting or overacting. We find that the keynote of these discussions is planning—intensive planning and intensive efforts at implementation from now on.

Another area of deep Federal concern is organized crime. Organized criminal activity began in this country before the turn of the century. It matured during the era of prohibition, but it has grown in both wealth and influence since the 1930s.

The most powerful criminal group operating today is La Cosa Nostra. It operates through 24 highly organized subunits called families. These 24 families have more than 5,000 members, and their control of criminal activities extends far beyond this hard-core membership.

The pervasiveness of organized crime cannot be measured with precision or certainty. It is known that its most profitable operation is gambling. Estimates of the yearly gross take on gambling operations alone

range to $50 billion with potential profits as high as $15 billion. It is the profits from the gambling operations which provide the funds for loan sharking, narcotics, and infiltration of legitimate businesses.

Organized crime corrupts politicians, police, and citizens. Too many people do not think twice about placing an illegal bet. If they can afford to lose the money, they think there is no harm. Yet the odds are that the citizen who makes an illegal wager in supporting the organization which supplies narcotics to young people; he is supplying funds which may be used to corrupt our public officials; he is making a contribution to the power of the most corrosive crime force in America.

La Cosa Nostra is a nationwide conspiracy whose criminal activities span the continent. A crime in California may be planned in New York and staffed by family members from Nevada, New Jersey, and Michigan. Because the Cosa Nostra is a highly disciplined, closely knit nationwide syndicate, we must combat it with national as well as local resources.

Prior to 1960 the Federal effort against organized crime was at best sporadic. In 1960, the Organized Crime and Racketeering Section of the Department of Justice handled only 19 indictments. Since 1960, the Department of Justice has given top priority to its operations against organized crime. By last year, the number of racketeers indicted by the Organized Crime and Racketeering Section had grown to an annual rate of more than 1,100. Convictions last year included three "bosses" or Cosa Nostra family heads and two "underbosses", the second ranking member of the family. J. Edgar Hoover, Director of the FBI, said recently that 1967 "marked one of the most effective all-out drives against organized crime in the history of law enforcement".

The Department of Justice efforts in fighting organized crime are being further intensified during 1968. Last year the Department tested and found highly effective a new technique—the "Strike Force" technique. These Strike Forces are composed of attorneys from the Organized Crime and Racketeering Section and investigators from other Federal agencies who devote their full time to the organized crime activities in a given city or area. Working closely with state and local law officers, these Strike Forces coordinate law enforcement and pool intelligence data relating to the structure, intentions, and, most important, the vulnerabilities of organized crime groups. Strike Force Number One, centered in a large Northeastern City, has already been responsible for 33 indictments.

These, then, are some of the federal activities which we believe will go a long way toward meeting the challenge of crime in a free society. But they do not purport to the ultimate solution. For they are all deeply rooted in the Constitutional principle of local law enforcement. And a community's success or failure in controlling crime will, in the final analysis, be determined by the people of the community.

Let me assure you that the Federal government will help to the full extent of its resources and its constitutional authority. We will press for the control of guns, for the planning and training needed to prevent and control riots, for a nationwide attack on organized crime and—most importantly—for the renaissance in criminal justice proposed in the Safe Streets and Crime Control Act. We believe that, by working together, America can control crime.

FARMERS HOME ADMINISTRATION MEANS PROGRESS FOR TEXAS

Mr. YARBOROUGH. Mr. President, recently Secretary of Agriculture Orville L. Freeman was quoted as saying that the Farmers Home Administration is one of the "unsung heroes of the Federal Government." As one who has worked closely with the agency for many years and has observed what it has accomplished in my own State of Texas, I quite agree with Secretary Freeman.

Quietly and without fanfare, the Farmers Home Administration goes about its job of helping small farmers with supervised credit, helping rural people to improve their housing, and assisting thousands of rural communities to construct basic community facilities.

The progress FHA has made under this administration since 1961 with the cooperation and support of Congress is nothing short of amazing.

In Texas, for example, the number of people now being served by FHA credit has increased nearly fivefold since 1960. The total amount of credit advanced to rural people in my State in fiscal 1967 was $129,719,947 as compared to $34.3 million in 1960.

In 1960, only two rural communities in Texas received financing from the agency to build water systems. The loans totaled only $104,100. Last year, by comparison, 156 small towns in my State received a total of $18.5 million to build community water and waste disposal systems.

Since all these loans go to borrowers who are unable to get credit elsewhere, the repayment record on these loans is remarkable.

Our Texas State director, Lester "Cap" Cappleman, and his dedicated staff deserve much of the credit for the fine achievements being made in rural Texas by this agency.

Mr. President, I ask unanimous consent that a table showing the progress of this agency in my State since 1960 be printed in the RECORD.

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

SELECTED ACTIVITIES DURING 1960 AND 1967 FISCAL YEARS IN THE STATE OF TEXAS

	Fiscal year 1960		Fiscal year 1967	
	Number	Amount	Number	Amount
I. Loans and grants made by type of assistance:				
Operating loans	7,307	$22,699,251	4,885	$32,305,612
Economic opportunity loans			811	1,709,329
Emergency and special livestock loans	2,278	7,566,405	4,107	27,142,888
Farmownership loans	104	1,758,917	575	13,839,251
Soil and water loans	21	86,202	52	291,970
Rural housing loans	241	2,184,216	3,695	27,058,727
Rural rental housing loans			4	178,400
Farm labor housing loans and grants			3	969,380
Assistance to associations:				
For domestic water or sewer projects:				
Loans	2	104,100	141	17,568,570
Development grants in connection with loans			15	976,770
Total, water or sewer	2	104,100	156	18,545,340
For recreation projects (loans)			22	4,871,110
For grazing associations (loans)			2	2,200,060
Total, all types of associations	2	104,100	180	25,616,510
Comprehensive area water and sewer planning grants to organizations			19	142,880
Watershed protection loans	0	0	2	465,000
Grand total, all types of loans and grants	9,953	34,399,091	14,333	129,719,947
Percent change in amount 1960 and 1967				277
II. Number of people using FHA credit during year	73,500		360,000	
III. Amount of loans written off as percent of total cumulative loan advances as of June 30 (current loan programs):				
Loan advances		$463,326,958		$1,010,287,613
Principal writeoffs		$3,108,909		$14,112,145
As percent of loan advances		0.67		1.40

PROGRAM ON ENVIRONMENTAL QUALITY CONTROL

Mr. JACKSON. Mr. President, in the last session of the 90th Congress, I introduced, along with the senior Senator from California, S. 2805 to provide for a Council on Environmental Quality in the Executive Office of the President, and also an expanded program of research on environmental problems. This bill was referred to the Senate Interior and Insular Affairs Committee, of which I am chairman.

In gathering background information for hearings to be scheduled later this year, the committee's professional staff noted that a growing body of literature and informed opinion is being addressed to the environmental theme as an important area of Federal and scientific responsibility. Citing the rapidity of environmental change in our country, strong pleas have been made in many technical writings for consideration of the total biophysical environment as an integrated resources system. Administrative and policy issues relating to this proposition have been studied and discussed from several points of view, including those of natural resource management, landscape protection and beautification, urban design, public health, economic growth, and the assessment of technological innovations.

A growing consensus among many scientists supports the view that existing natural resource programs, highly fractionized at the Federal and State levels, are inadequate to the task of mounting an effective and flexible attack on the overall problem of environmental deterioration. Carefully documented studies have concluded that it is now feasible and desirable to establish a high level body, representing both the social and natural scientists, which would assist the President in formulating sounder policies and coordinated programs to maintain the quality of our natural resources endowment.

I believe that the benefits such a body could bring to the conservation field, and thus to the welfare of this Nation, make its establishment urgently important.

Mr. President, with the assistance of the Legislative Reference Service the Interior Committee's staff has compiled a few extracts from selected writings and reports which describe various needs and ongoing programs and also propose several new solutions for achieving better controls over environmental change. I request unanimous consent to have printed in the RECORD the text of this short report in the hope that it will receive wide attention from all groups and individuals who may be interested in presenting testimony or otherwise expressing their views on S. 2805.

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

SELECTED EXCERPTS ON ENVIRONMENTAL MANAGEMENT POLICY

(Compiled by Wallace D. Bowman, Specialist in Conservation and Natural Resources, Legislative Reference Service)

However plentiful our natural resources may be they are inadequate to satisfy all the demands placed upon them. An increasing number of scientists are becoming concerned about the declining quality of our total resources environment. Many who have written on the subject of environmental deterioration have discussed the increasing difficulties of anticipating the harmful side-effects of rapidly applied technology. Another concern running through many writings is the inadequacy of existing institutional machinery, both in the Federal structure and the scientific community-at-large, to appraise the overall needs of environmental quality control and to formulate sound national policies. Several possibilities for encouraging environmental surveillance and elaborating national environmental policy are set forth in the excerpts below.

"1. *Natural Resources, A Summary Report to the President of the United States,* National Academy of Sciences–National Research Council, Committee on Natural Resources (NAS–NRC Pub. No. 1000, 1962, pp. 18–19)

"Perhaps the most critical and most often ignored resource is man's total environment. Increasing awareness of the importance of understanding the balances of nature is reflected in the gradual development of interest in ecological studies. The study of the interaction of all biologic species, among themselves and with the inanimate forces of nature, requires coordination of the contributions of all the sciences, natural and social.

"The wisdom of examining environment in the totality of its interaction with man becomes increasingly apparent in view of the rapidity of environmental change in our country. We live in a period of social and technological revolution, in which man's ability to manipulate the processes of nature for his own economic and social purposes is increasing at a rate which his forebears would find frightening.

"Man is altering the balance of a relatively stable system by his pollution of the atmosphere with smoke, fumes, and particles from fossil fuels, industrial chemicals, and radioactive material; by his alteration of the energy and water balance at the earth's surface by deforestation, afforestation, cultivation of land, shading, mulching, over-grazing grasslands, reduction of evapotranspiration, irrigation, drainage of large swamp lands, and the building of cities and highways; by his clearing forests and alterations of plant surface cover, changing the reflectivity of the earth's surface and soil structures; by his land-filling, construction of buildings and seawalls, and pollution, bringing about radical changes in the ecology of estuarine areas; by the changes he effects in the biologic balance and the physical relocation of water basins through the erection of dams and channel works; and by the increasing quantities of carbon dioxide an industrial society releases to the atmosphere.

"There is a continuing worldwide movement of population to the cities. The patterns of society are being rapidly rearranged, and new sets of aspirations, new evaluations of what constitutes a resource, and new requirements in both type and quantity of resources are resulting. * * *

"In summary, it is apparent that man must concern himself with a variety of changes in the environment, both those caused by human beings and those reflecting man's responses. Some are good; some may be very harmful. That we often do not have any clear-cut idea of their impact on man, or of man's response, is cause for concern. It would seem unwise to continue to tamper with environment without, concurrently, striving to determine the real and lasting effects of our actions."

"2. Weiss, Paul, *Renewable Resources, A Report to the Committee on Natural Resources of the National Academy of Sciences-National Research Council* (NAS-NRC Publ. No. 1000A, 1962; pp. 2, 4, 15)

"The problems of renewable natural resources have been approached by two essentially different types of operations, one going on continuously, the other occurring in sporadic episodes. The former is carried on systematically as part of the mission of government departments or agencies (e.g., Department of Agriculture, Fish and Wildlife Service, Forest Service), certain foundations (e.g., Resources For the Future, Inc., Conservation Foundation, Nature Conservancy), and a few academic institutions. The latter is represented by individual conferences, surveys, and reports. These are mutually supplementary. The former suffers from preoccupation with narrow, segmental views of the total problem, but has the advantage of continuity and operational effectiveness in action programs; while the latter is essentially confined to evaluating and advisory functions, without power of implementation, but giving more balanced attention to the total perspective. Many of the current practices and the underlying guiding policies in the various sectors of the field have proved themselves by their past successes and, therefore, are becoming rather firmly established, formalized, and institutionalized. But their tested adequacy pertains to current conditions only. If these patterns were to be frozen and mechanically continued into the future, the whole system would lose its flexibility and become unfit to respond and adapt itself to the unpredictable evolutionary changes which the current conditions will undergo. Today's successes can thus become the very sources of the failures of tomorrow The risks become even greater where the rigidity of established patterns is not only based on usage but incorporated in law. * * *

"In view of the irreversibility of many actions that will be taken in our time (for instance, in the reallocation of land from forest to agriculture or from agriculture to industrial uses), it seems vital to establish without delay a broad-gauged agency charged with the continuing examination, identification, and assessment of changes in the natural resources picture, and of their potential effects upon each other and on the material and spiritual welfare of man in a free society. * * *

"Such a body would function in essence as an intelligence agency in matters of human ecology. It should keep itself constantly informed of all physical, biological, sociological, geographic, and economic events and developments of potential bearing on man's optimal adjustment to his environment, and attempt to evaluate in scientific terms the probable net effect of their mutual interactions on man's future—short-range and long-range—in national, regional, and global respects. In this pursuit, it should avail itself of the cooperation of the best talent of the country in the natural sciences and relevant branches of the social sciences. It should determine for any single alteration in the total scene—man-made or beyond man's control—the net balance between risk and benefit, not in absolute terms of the intrinsic properties of that particular change, but in relative terms of its putative consequences for the whole fabric of human affairs. In view of the ever-increasing rate of man-made alterations, with their ever-widening circle of sequelae, such an intelligence agency of broad scope would have to cultivate the highest degrees of perceptiveness and sensitivity so as to be able to feel the pulse of the ecosystem, as it were, and to register and assess incipient developments before they have reached critical dimensions. These diagnoses would then serve as guides for action programs, precautionary measures and the exploration of alternative courses. By its cultivation of a total integrative overview, such an organization would be in the most favorable position to detect signal gaps and incongruities in the map of existing knowledge in need of filling or reconciling by further research. And by its anticipatory point of view, it would be singularly qualified to identify what kinds of research might be undertaken or intensified in order to forestall, counteract or rectify predictable *future* disruptions and imbalances of the human ecosystem. The contemplated agency should not, however, be given powers of decision or enforcement and it should steer clear of the political arena."

"3. Commoner, Barry, *Science and Survival* (Viking Press, 1963, pp. 122–23)

"As a biologist, I have reached this conclusion: we have come to a turning point in the human habitation of the earth. The environment is a complex, subtly balanced system, and it is this integrated whole which receives the impact of all the separate insults inflicted by pollutants. Never before in the history of this planet has its thin life-supporting surface been subjected to such diverse, novel, and potent agents. I believe that the cumulative effects of these pollutants, their interactions and amplification, can be fatal to the complex fabric of the biosphere. And, because man is, after all, a dependent part of this system, I believe that continued pollution of the earth, if unchecked, will eventually destroy the fitness of this planet as a place for human life.

"My judgment of the possible effects of the most extreme assault on the biosphere—nuclear war—has already been expressed. Nuclear war would, I believe, inevitably destroy the economic, social, and political structure of the combatant nations; it would reduce their populations, industry and agriculture to chaotic remnants, incapable of supporting an organized effort for recovery. I believe that world-wide radio-active contamination, epidemics, ecological disasters, and possibly climatic changes would so gravely affect the stability of the biosphere as to threaten human survival everywhere on the earth.

"If we are to survive, we need to become aware of the damaging effects of technological innovations, determine their economic and social costs, balance these against the expected benefits, make the facts broadly available to the public, and take the action needed to achieve an acceptable balance of benefits and hazards. Obviously, all this should be done *before* we become massively committed to a new technology. One of our most urgent needs is to establish within the scientific community some means of estimating and reporting on the expected benefits and hazards of proposed environmental

interventions *in advance*. Such advance consideration could have averted many of our present difficulties with detergents, insecticides, and radioactive contaminants. It could have warned us of the tragic futility of attempting to defend the nation's security by a means that can only lead to the nation's destruction."

"4. Brooks, Douglas 1, 'Environmental Quality Control' *Bioscience*, 17:12, Dec. 1967, pp. 873–877.

"Views of what we mean by the complex term 'environment' vary from person to person, group to group, and time to time, as do preferences regarding the meaning of quality control and methods for achieving it * * *

"First is the decay represented by the impoverishment of our resources. Two kinds of resources are involved here: essential resources such as food, minerals, water, and living space; and desirable resources such as wildlife, play space, walking space. * * *

"A second kind of decay is represented by the increasing level of pollution, noise, and ugliness within which we are being immersed. The evidence here is too well known to need elaboration.

"A third involves increasing crowding, congestion and hence conflict over incompatible uses of the environment. Let me mention only one, the competition for space between men and their cars. * * *

"The fourth variety of environmental decay manifests itself in the increasing depersonalization or 'thingification' of life, due to growth in size complexity, and ubiquity of cities, traffic, and mass communication media.

"Fifth, and finally, there is the environmental decay of potentially Wagnerian proportions, in which inadvertent and perhaps irreversible modification of the earth's weather and climate caused by man's activities could make all the other kinds of decay of only academic concern. The production of carbon dioxide by world-wide burning of fossil fuels promises, according to some, to so increase the 'greenhouse effect' of the heat absorbing constituents of the atmosphere that a worldwide climatic warming may take place, perhaps melting the Antarctic and Greenland icecaps and raising the sea level by a couple of hundred feet. Whether this will be in part counter-balanced or perhaps overbalanced by the solar radiation-reflecting effect of the increased cloudiness expected from air pollution is a moot question. * * * I believe the time has come to recognize environmental decay as an ubiquitous problem of unprecedented complexity and seriousness. We need to recognize environmental quality control as a vital social objective and take steps to establish the field of Environmental Management as a new cross-disciplinary applied science professional activity of extraordinary challenge and importance.

"In doing so, we can and should take advantage of the analogy provided by such precedents as military operations research and systems analysis. Five features of these precedents are especially important when taken in combination. They are:

"(1) The methodological and philosophical advances in the physical and mathematical sciences, begun by Bolzman and Gibbs and culminating in the work of Wiener, Shannon, and the cyberneticists, which permit the modeling of complex systems with inherent randomness and uncertainty and, in particular, the purposeful 'open systems' characterizing the human social half of the man-environment system,

"(2) The systems approach of operations research and systems analysis with its emphasis on rational decision-making models and techniques,

"(3) The new technology, particularly the new information system technology, based on the computer, which has already permitted spectacular advances in modeling one highly complex component of the environment, the atmosphere and its weather, and the application of this technology to observational or environmental monitoring systems,

"(4) The establishment and linking together with the action agencies of government of three types of R&D institutions:

"(a) innovative, technology, or science-oriented laboratories, pushing the 'state-of-the-art.'

"(b) advisory 'think-tanks' of two sorts, one closely linked to the day-to-day or tactical decision problems of agencies, the other broadly chartered to study and advise on the long-term or strategic problems of Environmental Management.

"(5) The development and cultivation of an outlook which can best be described as ecological, or ecosystems oriented, an outlook which asks what stable and reciprocally-fit man/environment configurations are there and how are the consequences and side effects of actions and events at various levels, personal and social, industrial and governmental, likely to affect the prospects of achieving one or another of these configurations in the future?"

"5. Caldwell, Lynton K. 'Administrative Possibilities for Environmental Control', In *The Future Environments of North America* (Garden City, 1966, pp. 648–671)

". . . [The] functional divisions of public administration impose formidable barriers to effective environmental policy. At the federal level, coordination of natural resources policies and their administration has long been a matter for study and concern. The National Resources Planning Board represented the closest approach to comprehensive environmental planning attempted for the nation as a whole. The Tennessee Valley Authority is, of course, an instructive example of comprehensive public environmental planning in action. But federal organization generally reflects the interests or needs of special resource users—in forestry, grazing, mining, navigation, irrigation, and outdoor recreation, for example.

"The principal but only partially effective coordinating agency in relation to these user interests has been the Bureau of the Budget. Its concerns, however, are primarily fiscal and secondarily economic (cost-benefit justification, for example). The Bureau is assumed to apply the over-all policy guidelines laid down by the President. In actual fact, presidential policy must often be a product of bargaining, maneuvering, and compromise among the federal administrative agencies. The Bureau's functions are largely political and, in a narrow sense, technical. It is seldom in position to provide the analysis and integration of substantive policy that environmental issues require. At best it may require the administrative agencies to iron out their differences and coordinate their efforts. Meanwhile the basic environmental issues at stake may never be posed; the questions that matter most may never be asked.

"The fact is that the federal government is not structured for the effective administration of complex environmental issues. Compensatory measures have been sought through legislation requiring joint consultation and planning in specified cases of natural resources administration. The effectiveness of these measures is difficult to assess. They represent an improvement in environmental policy making over the earlier exclusiveness and competitive behavior of the natural resource agencies. But they are palatives rather than basic reforms, and their accomplishments are largely at the technical rather than policy level. Nevertheless these legislative requirements for interagency consultation evidence recognition of the need for coordintaion in environmental policies. These measures may prove to be transitional stages toward future and more fundamental reforms, but they do not answer the need for high-level-policy leadership * * *

"Before government can become generally responsible for safeguarding the quality of the biophysical environment, at least three prerequisites must be met. These can be identified and described under the headings:

"*a*. vision and leadership,

"*b*. minimal consensus, and

"*c*. instrumental means.

"*Vision and Leadership*. The first of these prerequisites may be divided for discussion, but must be united for action. Someone must be able to visualize how society can deal comprehensively with its environment before the other prerequisites can acquire a practical relevance. This vision is less an act of individual inspiration than the slow and random accumulation of concepts and ideas from many sources that one day fall into place as a coherent and persuasive doctrine of social responsibility. To make this vision meaningful and to catalyze consensus is the function of leadership. This function is not only one of interpretation; it is also one of integration. The diversity of interests and values of people in relation to the biophysical environment are major factors in the fractionalizing of public responsibility. Comprehensive environmental policy becomes possible only when a sufficient number of these diversities and resulting conflicts are reconciled, adjusted, or transcended to permit the degree of consensus needed for public action.

"*Minimal Consensus*. The level of consensus necessary for public action will of course vary with the character of society, with the political situation, and with the issue upon which consensus is sought. Under effective authoritarian rule, minimal consensus may be very minimal indeed. In open, democratic, politically active societies, a large percentage of the population—perhaps a strong majority—must be agreed on basic legislative concepts. However, on specific issues, such as those affecting environments, agreement among small but relatively influential minorities may be sufficient for public action. The history of rivers, harbors, and reclamation projects illustrates the way in which the machinery of government can be mobilized on behalf of relatively local, minor, and short-term interests. It is also true that public action on behalf of unique habitats or specific natural areas and wildlife has often been the work of dedicated minorities. But for comprehensive public policies some breadth of popular consensus must be won. The efforts to enact the federal Wilderness Bill illustrate the ways in which a necessary minimal consensus is developed.

"Public action on behalf of these projects (good, bad, or indifferent) is possible because of a vague, inarticulate consensus that public "improvements" or conservation of resources are in the public interest. Lacking an adequate comprehension of ecological cause-and-effect relationships and of a strong or clearly defined concept of environmental values, Americans generally tend to be apathetic and uncritical in matters of environmental change. To arouse public interest, environmental issues have to be posed in most dramatic form, as in Rachel Carson's *Silent Spring*. Efforts to institute more comprehensive environmental policies and controls in government characteristically meet the concerted opposition of natural resource users whose economic interests are threatened, without gaining support from the public-at-large that is the intended beneficiary.

"Absence of consensus for comprehensive environmental policy is no more inherent in our social or political system than formerly was absence of consensus for old-age insurance, employment security, or space exploration. Prior to the forming of a minimal public consensus on these matters, their realization through public action seemed quite as hopeless as comprehensive environmental administration seems today. Crisis is often a creator of consensus, and ideas widely viewed as utopian may, under compelling conditions, become public demands. The eco-

nomic debacle of the early 1930s wrought changes in public opinion that made possible sweeping innovations in public law and policy for which only a few years earlier no popular consensus could be found.

"The crises of environmental change, however, tend to be 'quiet crises.' The more violent environmental catastrophes (fires, floods, drouths, and earthquakes) tend to be viewed as discrete events or 'acts of God,' and the remedies sought are characteristically directed to the event itself with little regard to the combination of circumstances which made the event, in man's view, a catastrophe. Thus, millions are spent in an ultimately futile effort to contain floods rather than to follow the less costly and more dependable course of environmental planning. But the more widespread and ultimately more disastrous environmental changes are those occurring so slowly and steadily as to escape attention until possibly irremedial harm is done. Cumulative environmental poisoning by wastes, pesticides, or radioactive materials proceeds in this unobtrusive manner. Soil erosion and depletion, disappearance of wildlife habitat, breakup of open space, spreading deterioration of settled areas both urban and rural are other examples of progressive environmental decline with which government, as now constituted, is poorly equipped to cope.

"Instrumental Means. The machinery of government may have been adequate to do what it was originally intended to do. But it falls short of adequacy in the performance of many of the tasks that confront it today. It has not, for example, been intended for the coordinated public management of the biophysical environment. Law and the weight of judicial precedent tend to favor particularist interests—ecological concepts and the public interest in its environment are as yet inadequately developed in American legal doctrine."

"6. Brewer, Michael, 'Resource Quality: New Dimensions and Problems for Public Policy,' In *Natural Resources: Quality and Quantity* (University of California, 1967, pp. 197–212)

"If natural resources are to be managed in conjunction with plans for economic growth or broad qualitative objectives, the programs and policies of the various action agencies must be coordinated. To achieve this, planning must be comprehensive enough to incorporate the programs of all the agencies concerned. Planning on a broad scope can best be accomplished in a single, central unit, which would provide guidelines for the policies and programs of the operational agencies.

"The functions of this resource analysis unit may be considered in two major categories. The first includes the following functions: (a) the identification of relevant problems for analysis; (b) the acquisition of adequate and timely data; (c) the competent performance of the research and analysis these problems involve; (d) the development of analytical methods and procedures that are relevant for the analysis of resource policies.

"A second category of functions is needed if the results of the analytical unit are to provide a basis for resource policy: (a) the assessment of the implications of such analysis for existing programs and policies; (b) the making of this information available to resource agencies and to the public; (c) the utilization of the information within the decision-making process.

"Performance of these functions requires certain properties or conditions within the analysis unit:

"1. A broad perspective must be established and maintained. The scope of concern must include all natural resources so that their interrelationships may be considered in the formulation and analysis of relevant problems. Such a scope has been approached at the regional level in the development of plans for river-basin development, but it is not broad enough, in terms of the resources or the geographical areas considered, for the functions identified above.

"2. Long-run shifts in resource supply and demand and their relation to economic growth must be considered if federal research, development, and management are to elicit the greatest contribution from our natural resources. More research is needed on the timing of resource planning and management.

"3. Multidisciplinary skills are needed in the formulation of policies, and the interrelation among the physical, biological, and social sciences must be more clearly understood.

"4. There should be access to both governmental and nongovernmental analytical skills, facilities, and data.

"5. Specification of the research problem, selection of data, and interpretation of the analytical results should be objective and free from bias.

"One of the obstacles in achieving a research analysis unit is the unwillingness of the resource agencies to create a superauthority for planning, whether it be a department or an office under an independent authority. Another obstacle is the unwillingness of Congress to relinquish its traditional political role in specifying the alternatives for resource programs.

"The first obstacle may be likened to the difficulties encountered in proceeding from an oligopoly to a monopoly. The executive agencies have proceeded in a *quid pro quo* pattern in the past. Their relationships and alliances within the executive branch and with Congress have been predicated on this *modus operandi*. A new pattern of deciding what needs to be done and who will do it holds the threat of uncertainty for individual agencies. New lines of communication, bargaining, and mutual reinforcements would be required to protect and perpetuate agency interests.

"Similarly, Congressional objection stems from the threat of losing a historical position as initiator of policies for federal resource development. With the important exception of agriculture, legislative committees, including the substantive and appropriation bodies in both houses, have initiated federal policies on natural resources, thus reversing the traditional 'proposing' and 'disposing' functions of the executive and legislative branches.

"One significant distinction between the executive resource agencies dealing with resources and the Department of Agriculture has been the strong research tradition of the latter. Even before the organization of the Bureau of Agricultural Economics, the Department fulfilled research functions greater in scope and with a more adequate technical staff than was true of the Department of Interior or other resource agencies. This strong research arm led to an intradepartmental analysis of problems and possible solutions that culminated in strong proposals for national policy. Other resource agencies, lacking the tradition, the proficiency, and the reputation for research of high professional quality, were handicapped in this regard.

"Furthermore, there was greater legislative interest in resource development programs than in agriculture. These programs meant brick-and-motar projects with their immediate impact on local employment and prospects for tangible monuments to the beneficence of local representatives. This strong motivation for control over programs and policy initiatives by the legislative branch and the increasing competitiveness among the executive resource agencies led to an accumulation of power in the legislative domain. Paralleling this shift, the office of Secretary of the Interior has become less effective in executive branch coordination for national resource policies. Indeed, since the 1930's this function has been increasingly taken over by the Budget Bureau. This unit, however, in the capacity of 'broker' for all administration policies, is not structured or staffed to perform this task for the natural resources sector.

"The inevitable result has been alliances between the individual resource bureaus and agencies and the legislative committees. The resulting proposals have often been initiated by the legislative bodies, fitted into the mission-oriented rationale of the resource agencies, and forwarded to the Budget Bureau. At this juncture the Budget Bureau attempts to transform the Administration's proposals into legislation. In the process there is substantial *quid pro quo* 'trading,' during which many of the original proposals may be scrapped. The important point, however, is that no coordinated set of proposals is considered and, of even greater importance, no overall guide for integrated development of resources emerges.

"While there are no indications that a central analysis unit will be established in the immediate future, several concrete steps recently taken show an awareness of the need for comprehensive, coordinated planning to deal with the problems of natural resources quality. These changes effectively broaden the scope of research in two important areas.

"Evidence of the first type of change may be found in the Bureau of Outdoor Recreation, initially established in 1961 to provide a 'secretariat' for the President's Recreational Resources Council. This Council, parallel in structure to the Water Resources Council, was comprised of the secretaries of the four resource departments and reported directly to the President. Staff for the agency was to be provided by the Bureau of Outdoor Recreation, housed in the Department of the Interior, but staffed by all departments represented on the President's Recreational Resources Council. Ambiguity in the wording of the executive order establishing the office made it uncertain whether the Bureau was to become an integral organ of the Interior Department, a multidepartmental entity reporting to the Council, with secondary responsibilities to all participating departments.

"Some of the original ambiguity has been clarified. The Bureau's budget became a separate item in the 1965 budget, and its staffing has proceeded independently of the Department of Agriculture, the Corps of Army Engineers, and the Department of Health, Education, and Welfare. The Bureau of Outdoor Recreation seems to be evolving into an integral part of the Department of the Interior. Having no physical programs, the Bureau has been oriented toward the Office of the Secretary. Thus in its research function it will deal with problems relevant to the entire Department of the Interior. It remains to be seen whether it will make recommendations on the management of individual resources, such as water or grazing, which would unify the impact of various resources on recreation.

"A parallel development is the recent passage in the House of the Watershed Planning Act, which legitimizes the *ad hoc* Water Resources Council and provides a basis for the Council to assemble its own staff. Here again is the possibility of establishing research competence adequate to promulgate policies and guidelines for problems of resource quality.

"If this trend is continued, the executive branch should be able to initiate resource policies and programs that take explicit account of quality objectives. Federal policies for natural resources would then be more closely in line with those for agriculture, restoring the traditional function to the executive branch of the federal government.

"Simply to criticize existing policies and programs for their failure to stress the qual-

ity of natural resources is neither meaningful nor constructive. The present resource agencies are not well constituted to perform the research and planning needed to achieve a comprehensive program. The Administration appears to be building up research and planning competence in several interagency organizations. While this approach will help the federal establishment deal with qualitative problems, it does not seem fully adequate for coping with problems involving key programs in competitive departments. Problems of this type require an authority with supercabinet status. Although other demands prevent the President from giving these issues more than a small percentage of his time, their political leverage is high—perhaps sufficiently so that these decisions will always remain a Presidential function."

"7. Long, Norton E. 'New Tasks for All Levels of Government' in *Environmental Quality in a Growing Economy* (Johns Hopkins Press, 1966, pp. 141–155)

"There is some evidence that the President is aware of the highly limited range of the indicators that are at present included in his reports to the Congress and the public. The statistics are narrowly economic and even narrow within economics. A State of the Union message that deals with a more inclusive and more broadly relevant body of data representing the human condition is badly needed. The philistinism that has concerned itself more with statistical accuracy than relevance, and that has eschewed the qualitatively significant for the quantitively measurable, distorts the public definitions of the situations that confront us. We are in important ways the prisoners of the measures that now determine the facts we collect and hence the limited and peculiar range of facts to which we attend.

"Indicators of environmental quality need to be built into the national public reporting system at the Presidential level. This would be a major policy and institutional change, for it would place front and center a definition of what the situation is and what it is becoming. The fact that measurements cannot be precisely made is no excuse for not making them, especially if what is possible is vastly better than doing nothing. We need to realize that standards are tools that serve our purposes and are created out of human efforts. They do not emerge fully accredited from nature. To await such a miracle is to avoid the necessary political task of hammering out agreement on purposes and the necessarily imperfect, but improvable, means of their attainment."

"8. Beuscher, Jacob H. 'Some New Machinery to Help Do the Job' In *Environmental Quality in a Growing Economy* (Johns Hopkins Press, 1966, pp. 156–163)

[Commentary on Norton Long, see 7 above]

"We * * * need within the Office of the President a Council of Environmental Advisers. As Professor Long indicates, the Office of the President is a logical center for a coordinated national reporting system on environmental quality. In the absence of such a co-ordinating mechanism, there will be separate caches of pertinent scientific, engineering economic, and other data in a number of agencies. Besides, as Professor Long also points out, standards and indicators of danger need to be evolved. As he says, they will not emerge fully accredited from nature. Where the environmental problem involves more than one bureau, as it often does, we cannot rely on separate agencies to cross bureaucratic lines. As technology constantly changes, we need to bring together related facts and set integrated standards. When line responsibilities are assigned to public agencies in the resource or environmental field the agencies become myopic to problems. They also are prone rather quickly to fill up the assigned regulatory field with lots of rules and regulations, and then to be rather unresponsive to change indicated by new technological knowledge.

"So it would be well to have in the Office of the President a small group of highly trained scientists, economists, and public administration experts as technical integrators constantly checking with the data collectors, the analyzers, the certifiers, the standard makers and the regulators in the various federal agencies. They would keep a centralized bank of selected data, check out interrelationships that might escape the individual agencies and report to the President, thus making his pulpit more effective. They would also recommend to the President, as needed, the appointment of special task forces for particular environmental evaluations.

"Also needed at the national level, but outside government, is a foundation-financed Environmental Action Clearing House. Its library on environmental quality would be complete and current. Its reports would present in laymen's oversimplified terms central issues and problems in the field. It would be a source of up-to-date information about institutional experimentation and innovation in the field, including new administrative and legal techniques. For example, the latest information on open space easements, affluent charges, flood plain regulation, and scenic zoning would be available here."

"9. *Report of the American Association for the Advancement of Science Committee to advise the board of directors concerning studies of chemical and biological agents that alter the environment, 1967*

"For three billion years, life has developed in intimate relationship with its environment. The effectiveness of environment in sustaining abundant life has been based on its tendency to approximate an open thermodynamic steady state, using solar energy in the elaboration and recycling of nutrient materials. This pattern, essential to the future continuance and well-being of life, is vulnerable to human interference, whether for good or ill.

"In 1859, Darwin demonstrated that environmental conditions have exerted a selective influence on survival and reproduction. In 1863, Marsh produced evidence that man had become a major 'natural' force capable of profoundly modifying his environment and of lowering or destroying its potential. Man does modify the environment; he has to use it. But it is the only environment man has, and the long-term consequences of what man does are not always predictable. The accelerating and highly visible effects of human activity upon terrestrial space, soil, air, and water have now become matters of grave import.

"Man's relation to the environment is surely one of the most important problems facing society today. Yet these changes are still of limited public concern and have been given insufficient attention, especially by natural and social scientists.

"Constructive action will require a deeper understanding of cultural values and their change over time, motivational changes, and new institutions, for little can be effected through uncoordinated individual enterprise. Fortunately, the world's fundamental ecological system is sufficiently open and flexible to permit a range of choice in planning and policy making. Wise choices and social arrangements that assure their widespread adoption must rely upon sound and ample information from the natural and social sciences, widely disseminated.

"We therefore recommend the establishment by the AAAS of a continuing Commission on the Consequences of Environmental Alteration.

"One objective of the Commission on the Consequences of Environmental Alteration would be to facilitate the development of disciplined means of collecting information, planning, studying, and controlling large-scale technological interventions into natural systems. For example, the Commission might establish committees of specialists to anticipate large-scale interventions or to detect them at an early stage, and might also consider the establishment of agencies for early recognition of unexpected effects. The Commission might thereupon undertake an inquiry into the proposed technological process to determine what information would be required to evaluate, in advance of enactment, the full range of effects of the proposed intervention.

"Another objective would be the development of suitable procedures to regulate large-scale experimentation that is likely to produce changes in the biosphere and atmosphere that would adversely affect other types of scientific research.

"In cases of technological intervention or large-scale scientific experimentation in which it is not possible to anticipate all of the consequences that might turn out to be harmful, suitable procedure would call for designing into the plan means of stopping the intervention or the experiment if damaging consequences begin to appear.

"A third objective of the Commission would be to foster increased understanding of and improved education about the environment and man's relation to it. Better understanding and education are desirable at several levels.

"Improved public understanding is essential, for successful methods of preventing great and perhaps irreversible damage to the environment will often require public financing and public acceptance, and may require changes in law or in social customs or institutions.

"At neither undergraduate nor graduate level are there now adequate opportunities for the study of the kind of problems with which the Commission would be concerned. In most cases, these problems do not fit into the confines of single disciplines. They are not currently 'fashionable' in science. Some are complicated and difficult. Sometimes it takes a long time to get answers to research questions. But the importance of the problems mentioned above is beyond question. One of the functions of the Commission will be to encourage colleges and universities to develop training opportunities and research arrangements appropriate for students who wish to work in this challenging area.

"Communication of information, research findings, and the analysis of problems to scientists will also be an objective of the Commission.

"One of the tasks of the Commission would be to review, keep informed about, and sometimes to help publicize or disseminate reports of studies conducted by the National Academy of Sciences, the Ecological Society of America, the Conservation Foundation, the National Audubon Society, the National Center for Atmospheric Research, the Environmental Science Services Administration, the U.S. Public Health Service, the U.S. Department of Agriculture, industrial laboratories, and other agencies that may be concerned.

"The Commission, perhaps itself or perhaps through specially appointed committees or panels, would conduct studies of particular problems.

"On occasion, it may be desirable for the Commission to make arrangements to have studies conducted by others. We recommend that the Board of Directors consider requesting the National Academy of Sciences to arrange a continuing study and scientific record of the effects of chemical and biological warfare agents on soil, biota, and human health.

"If the Commission is to be effective, it is essential that the Association provide a staff aide who is professionally qualified.

"Membership of the Commission should be broadly representative, for the problems it

takes up should be considered from social and esthetic as well as scientific and technical points of view.

"Both continuing financial support for the Commission and its staff and special financing for particular studies will be required.

"The Commission should be able to call upon the other resources of the Association. One means of communication to scientists would be through symposia at the Association's meetings. One possibility would be to organize symposia that would bring together the interests and resources of several disciplines in the analysis of the manifold effects the automobile is having on the environment. Similarly, other products or developments that have brought about widespread changes in the environment could be analyzed in public symposia."

"10. *Special Analyses, Budget of the United States 1969:* Analysis J—"Federal Research, Development, and Related Programs", p. 141 (U.S. Government Printing Office, 1968)

"ENVIRONMENTAL QUALITY

"Increased attention is being given to the review and evaluation of the total Federal effort related to control and abatement of pollution. The ongoing Federal effort in 10 agencies involves approximately $250 million for research, development, and demonstration work relating to the control of pollution. In April 1967 a Committee on Environmental Quality was established by the Federal Council for Science and Technology. The Office of Science and Technology, with the assistance of this Committee, will give additional attention to balance and priorities in scientific and technical aspects of Federal programs. Also advice will be provided by a continuing Panel on the Environment which is being established by the President's Science Advisory Committee."

EDUCATIONAL TELEVISION

Mr. BURDICK. Mr. President, KFME, an educational television station operating on channel 13 serving a large area of eastern North Dakota, is celebrating 4 years of great service to this area. Through the schools, colleges, as well as television sets in the home of citizens in this broad area, KFME has been a dynamic force for the education of our people.

Information, education and improvement have been the stock in trade which this television service has offered to our people while operating on a budget that is pale in comparison to other efforts in this area. To those who have donated so much of themselves to make this station a reality at its inception as well as continually improving in its development, we should take the time to pay special tribute.

MILITARY GRANT AND SALES POLICIES IN LATIN AMERICA

Mr. FULBRIGHT. Mr. President, yesterday I inserted in the RECORD two excellent articles on U.S. military grant and sales policies in Latin America. The articles appeared in the Washington Post over the byline of John M. Goshko.

Mr. Goshko's third and last article is up to the high standard of his first two articles.

I ask unanimous consent that this article in the Washington Post of February 6, 1968, be inserted in the RECORD at this point.

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

[From the Washington Post, Feb. 6, 1968]

SHIFT BY UNITED STATES IS CRITICIZED—JET DEALS SNARL LATIN POLICY

(By John M. Goshko)

LIMA.—Defense Secretary Robert S. McNamara had some soothing words not long ago for Congressmen who feared the Alliance for Progress might fall victim to a Latin American arms race.

Testifying before the House Appropriations Committee last April, he said: "We have sought, with considerable success, to avoid diversion of Latin American resources to the creation or support of unnecessarily large or sophisticated military forces."

A Defense Department "fact sheet" issued later said: "The Latin American nations have not been acquiring large amounts of heavy equipment. In contrast to most other areas of the world, there are no supersonic aircraft in Latin America."

Now, less than a year later, these reassurances echo mockingly over the shambles of U.S. arms policy toward Latin America. At home and abroad, it has been charged that this policy is inconsistent, hypocritical and at cross-purposes with professed U.S. support of the Alliance.

In Congress, the controversy became so heated that it threatened to scuttle the whole foreign aid bill. The legislation that finally emerged is so imprecise about future arms shipments to Latin America that aid and policy administrators say they don't understand what it means.

LATINS TO GET JETS

The blowup was triggered by the news that Peru plans to buy 12 to 16 supersonic French Mirage jets, that Brazil is almost certain to do the same and that Argentina is negotiating for modern French AMX-30 tanks.

In reacting to the challenge of the French arms industry, the Johnson Administration has seemed to critics to be abandoning past U.S. efforts to keep sophisticated weaponry out of Latin America.

Suddenly, Washington reversed a long-standing ban on the sale of the Northrop supersonic F-5 Freedom Fighter to Latin air forces. While Administration spokesmen deny that this signaled a switch in policy, they concede that the F-5 embargo was lifted in hopes of blocking France's invasion of the Latin arms field.

They see a danger of Latin armed forces' turning increasingly to France and other European arms vendors. And this, they warn, would shatter the monopoly that the U.S. has held since World War II over the training and advising of Latin military forces.

PRICE FOR COLLABORATION

Their argument amounts to an acknowledgment that the U.S. must pay the price of military assistance for the political collaboration of the Latin armed forces. In the eight years since Fidel Castro came to power in Cuba, Washington has given high priority to maintaining the Latin military as a force capable of checking Castroite subversion in the Hemisphere.

Opponents of this thesis say that if the purpose of close ties with the Latin military is to strengthen its capacity to fight guerrillas, the Latins should be equipping themselves primarily with such counterinsurgency weapons as small arms, grenades, jeeps and helicopters.

SEE SELVES AS DEFENDERS

There has not been a war between two Latin American countries since 1942, and observers discount the probability of another. But this has not stopped most Latin military leaders from nourishing the fiction of the danger of invasion by hostile neighbors. Thus they emphasize buying planes, tanks and warships—things that gratify their pride.

U.S. policy-makers have long anticipated that some modernization of the Latin arsenal would become inevitable as old equipment requires replacement. The question is whether U.S. efforts to be accommodating can be kept to reasonable levels.

State Department and Pentagon officials quote statistics to show that the Latin arms race is really an "arms crawl." They note that the region's combined defense expenditures currently average only 12.7 per cent of total government expenditures. Of the combined Latin defense budgets, only 10 per cent—about $200 million—goes for military hardware.

U.S. RESTRICTIONS

The U.S. Congress has set a ceiling on the total value of military assistance and sales, exclusive of training. Including training activities, the U.S. military assistance package in Latin America is now running about $98 million annually. This figure will drop during the coming year because the current aid bill cuts the statutory ceiling from $85 million to $75 million.

This, officials point out, is only about 7 per cent of all U.S. foreign military assistance and only 7 per cent of total U.S. aid to Latin America. The statistics, they say, hardly support the conclusion that the U.S. is unduly abetting an arms race.

A reply might be that Latin America's social and economic ills are as large as the amount of money available to cure them is small and that siphoning millions of dollars away from urgent social problems into arms buying makes the Alliance for Progress meaningless.

BROTHER OFFICERS

Most U.S. military advisers have a "brother" officers sympathy with the Latins' desire for advanced equipment—regardless of its utility.

Since the French began flirting with the Latin military, many U.S. advisers have also argued that the U.S. stands to lose the financial benefits of Latin arms sales. The reaction in Latin America has been to decry the "hypocrisy" of the United States in rushing forward with supersonic planes when it appears the money will go to Paris rather than Washington.

All this has increased the number of critics, especially in Congress, who believe that the attempt to stay out in front of competing arms merchants can only increase the Latin military's power at the expense of the Alliance for Progress. Many think the U.S. should refuse to sell Latin America anything but internal-security weapons. Some even want to discourage Latin countries that persist in buying planes, ships and tanks by refusing them credit assistance and by making reductions in nonmilitary aid.

A watered-down version of this idea, directing President Johnson to cut aid to countries whose arms purchases he deems "excessive," is written into the current foreign aid bill. But because it fails to spell out standards for excessiveness, its main effect seems to have been to cause confusion in policy-making circles.

Most U.S. officials look with dismay at the use of aid as a lever for holding down the arms race. They think it would cause the proud Latin military to become more stubborn and accelerate its movement away from U.S. influence.

DISSENTING VIEW

Advocates of a tough line concede that punitive aid reductions would cause some hard feelings, and that civilian government programs would be penalized by disciplinary moves aimed at the military.

But, in the long run, they believe the military would also feel the pinch. Until the armed forces are willing to accept a reduction of their powers, they say, chances of making real progress in Latin America will be minimal, anyhow.

These critics are not disturbed by fears that France or other nations might replace the U.S. as mentor of Latin armed forces.

France's basic interests lie elsewhere, they point out, and the de Gaulle government has neither the resources nor the ability to do much in Latin America.

It is unlikely that the Johnson Administration would test a tougher line over the long haul that would be necessary for it to show results. But U.S. policymakers concede privately that arms policy toward Latin America has run off the rails.

NEW APPROACH URGED

No one seriously believes the wreckage can be put together again simply by deciding to sell the F–5. Everyone agrees a new approach is needed. But so far there is no consensus on what it should be.

Some favor a modified get-tough line using the carrot as well as the stick. Others would attempt to win agreement from all arms-producing countries not to exploit the Latin market. Still others hope the Latins themselves can be induced to get together and agree on voluntary arms limitations.

But it is doubtful that any of these ideas can be realized in the foreseeable future. The Latin armed forces will probably continue in their present course, and the U.S. is likely to find justifications for giving them what they want.

PROFILE OF LATIN MILITARY

Country	Armed forces personnel (in thousands)	Population (percent)	Defense budget as percent of gross national product	Number of fighters	Total air force planes
Argentina	137	0.6	2.1	70	375
Bolivia	15	.4	2.0	4	70
Brazil	194	.2	3.2	40	625
Chile	60	.6	2.5	41	221
Colombia	48	.3	1.3	6	150
Costa Rica	1	.1	.4	----------	----------
Dominican Republic	19	.5	3.9	40	110
Ecuador	20	.4	2.0	18	60
El Salvador	5	.2	1.2	6	40
Guatemala	9	.2	.9	15	40
Haiti	5	.1	2.1	4	25
Honduras	4	.2	1.2	20	50
Mexico	68	.2	.8	30	200
Nicaragua	7	.4	1.6	19	60
Panama	3	.3	.1	----------	----------
Paraguay	20	1.0	2.1	----------	35
Peru	54	.5	3.1	70	250
Uruguay	15	.6	1.5	10	60
Venezuela	30	.3	2.2	60	240
Total	720	.3	2.4	453	2,611
United States	3,387	1.7	9.2	----------	20,658

From tables accompanying "The Latin American Military," published by a subcommittee of Senate Foreign Relations Committee. Most figures are for 1966. U.S. Government figures are for last year.

VIETNAM: THE AMERICAN DILEMMA

Mr. SYMINGTON. Mr. President, in the Wall Street Journal today there is a thought-provoking lead editorial "Vietnam: The American Dilemma."

In that this editorial emphasizes that aspect of the conflict which has long given me apprehension, I ask unanimous consent that it be inserted at this point in the RECORD.

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

VIETNAM: THE AMERICAN DILEMMA

The savage Communist attacks on Saigon and the provincial capitals underscore what has always been a fundamental question about the American involvement: The quality of the determination of the South Vietnamese government and people. In turn, the question poses a warning for the U.S.

It may be true, as Secretaries Rusk and McNamara were maintaining Sunday on "Meet the Press," that the enemy failed to win a military victory or take any city, although fighting was still going on in Saigon yesterday and the Reds held large sections of Hue. True also that, in this type of war, neither the South Vietnamese nor the U.S. forces can wholly protect the cities and the populace from terrorist assaults.

Granted, further, that the politically conscious elements of the population are at least vocally anti-Communist. The peasantry may be largely apathetic or understandably eager for peace at almost any price, but the government officials, the political parties and the religious sects sound firm in refusing to submit to Hanoi's domination.

None of this, however, exercises the grim doubts about the viability and will of South Vietnam as a nation we are trying to help. Something, our Mr. Keatley writes elsewhere on this page today, must be awfully wrong.

The fact that the Communists were able to infiltrate on such a scale and do so much damage is strong ground for suspecting that they had the covert support of some nominally anti-Communist South Vietnamese, perhaps even within the government. No one knows that the Vietcong-North Vietnamese objective actually was to capture cities or overthrow the government; the aim may have been that which has been accomplished—a terrible demoralization, showing up, for all the South Vietnamese (and the U.S.) to see, the frailty of the government and its military forces.

Mr. Rusk and Mr. McNamara, while claiming the Communists had failed militarily, had to concede that they had inflicted severe psychological blows. In the thoughtful words of Max Frankel of the New York Times, increasingly the name of the game out there is who can protect whom from whom. The South Vietnamese government, with all the vast aid of the U.S., has revealed its inability to provide security for large masses of people in countryside and city.

The U.S., of course, has all along been haunted by the specter of the South Vietnamese nation dissolving, as it were, before its eyes. For our part, we have said from the beginning that the outcome of the U.S. efforts would be in doubt unless the government and people were fully committed. It may be a cliche, but in the long run the U.S. cannot effectively give military aid to another country unless that country is determined to help itself stay out of the Communist grip.

Now we suppose the Saigon government will manage to stay in power, or if it goes there will be another, as there have been so many. But if it doesn't really have the support of most of the people or the ability to save them from nation-wide terror and murder, how good is it? What, indeed, is the U.S. trying to save?

This same South Vietnamese government, moreover, is showing something of an anti-American bias. It will not take the steps our authorities consider essential: Make a full war effort, get the South Vietnamese army in fighting shape, crack down on the unspeakable corruption and inexcusable misallocation of U.S. aid. And it tells Washington in no uncertain terms that the Saigon regime is running the show, including the search for peace; it doesn't want bilateral U.S.-Hanoi negotiating.

The temptation therefore may grow for the U.S., out of frustration with the Saigon generals and the slow progress of the war, to take over the nation, keeping a facade government but in fact finally waging a war the way our military leaders believe it should be waged.

Any idea of that sort of escalation, it seems to us, is a counsel of desperation. It would probably mean fighting, for a while, the South Vietnamese military as well as the Communists. More important, it would undermine our case for being there. We are mired down badly enough as it is; let's not make it worse.

One can strive to be optimistic, hoping that the attacks of the past week are the enemy's last big drive before agreeing to peace talks. One can still figure that the dangers of pulling out—in terms of Communist aggression throughout Southeast Asia and maybe beyond—are greater than the dangers of staying in.

Yet it is hard to escape the conclusion that the Communist onslaught has gravely deepened the American dilemma. It raises in the starkest form not only the question of weakness in Saigon but of whether the U.S. effort is reaching a point of diminishing returns.

GUADALUPE MOUNTAINS NATIONAL PARK STILL UNFUNDED—WEST TEXAS CHAMBER OF COMMERCE REQUESTS FUNDING

Mr. YARBOROUGH. Mr. President, in west Texas one of the great sights of our Nation rises above the plains—the Guadalupe Mountains, declared a national park in 1966 by congressional action. These beautiful, rugged mountains will provide an attraction for Americans on vacation for years to come, thanks to this concerted action by Congress. I hope that every Member of Congress who acted on that bill will have the chance to visit this magnificent range, and to view the craggy, colorful scenery which remains one of the great attractions of the wild west.

However, it will be some time now before anyone, Member of Congress or private citizen, will be able to visit the Guadalupe Mountains National Park. The park, although created in 1966 by act of Congress, has not yet been completed; in fact, development of the park cannot yet even be begun. For only one-third of the funds needed to make this area public property, open to all Americans, was appropriated during the last Congress.

The people of west Texas were jubilant in 1966, when they heard that the magnificent range which had so long towered over their western horizon had been declared a national park. Since that time, they have been waiting for it to open, so that they and all Americans could enjoy the country which forms an impres-

sive part of the American West. They are still waiting, puzzled, while reports pour in of overcrowding in our national parks and of insufficient room for the people of America.

Recently, the West Texas Chamber of Commerce, headed by Jack G. Springer and Don Wooten, expressed its concern in a resolution passed at a meeting of the board of directors. West Texas, represented by this concerned body, has long known the beauty which lay in this corner of their State. They urge that Congress act now, that development be begun, that the land be acquired, and the park be opened to the Nation.

Mr. President, I ask unanimous consent that the resolution by West Texas' Chamber of Commerce be printed in the RECORD.

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

WEST TEXAS CHAMBER OF COMMERCE, ABILENE, TEX.

Resolved, that upon the recommendation of its Special Park Committee, the Board of Directors of the West Texas Chamber of Commerce, in Fall Meeting in Fort Worth, November 30, 1967, respectfully requests and urges the Members of the West Texas Delegation in Congress and Texas' two United States Senators to continue support for funds to acquire the necessary additional land and immediate development of the newly designated Guadalupe Mountains National Park in West Texas;

Be it further resolved, that we again express our appreciation to the above named for their past support and work for the creation of this great new scenic, recreational and historic attraction; and

Resolved further, that a copy of this Resolution—together with our sincere thanks for the leadership shown in this worthwhile project—be sent to Secretary of the Interior Stewart Udall.

JOINT STATEMENT BY SENATORS ON CIVIL RIGHTS BILL

Mr. TYDINGS. Mr. President, yesterday afternoon a joint statement was issued by 35 Senators expressing in unequivocal terms a determination to insist upon protecting all of the activities which would be protected by the Committee on the Judiciary version of H.R. 2516, now pending before the Senate. I am proud to be one of the signers of that statement.

I believe the statement accurately mirrors the mood of the Senate today. When all the talking is done, I believe that we will follow the course staked out by the House of Representatives, which approved a basically similar bill by overwhelming vote last August.

In view of the importance of this statement, I ask unanimous consent that it be printed in the RECORD.

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

JOINT STATEMENT OF SENATORS ON LEGISLATION TO PROTECT AGAINST VIOLENT INTERFERENCE WITH CIVIL RIGHTS, FEBRUARY 5, 1968

The following statement was issued today by those Senators whose names are listed below:

"We want to reemphasize our strong support of the Senate Judiciary Committee version of H.R. 2516, which is now the pending business before the Senate. We understand that discussions are going on at the present time about the development of an amended version of this legislation, and we therefore think it relevant to call attention to our position at this time.

"The version of the legislation which is before the Senate is a moderate but extremely vital piece of legislation for which there is the strongest of precedent. The constitutional theory upon which it is premised also underlay the protections which the Voting Rights Act of 1965 provided for persons engaged in voting rights activity. And the Supreme Court of the United States has made it clear in recent decisions that the Fourteenth Amendment approach is constitutional.

"Moreover, all that this legislation seeks to do is to provide a concurrent federal jurisdiction to handle the prosecution of crimes which are or should be covered by and punished under State law. Concurrent federal jurisdiction for the protection of civil rights from violent interference is necessary because state authorities in a great number of cases have not provided adequate protection. In view of this moderate aim, we cannot state too strongly our view that the coverage which is provided by the legislation now pending before the Senate must not be diminished. Whatever constitutional theory or theories are used as the basis for this legislation, we believe firmly that its coverage must not be less than that involved in the Senate Committee version of the bill. Indeed, legislation similar in structure and coverage has already passed the House—by the overwhelming vote of 326–93 on August 16, 1967."

BIRCH BAYH, EDWARD W. BROOKE, QUENTIN N. BURDICK, CLIFFORD P. CASE, JOSEPH S. CLARK, THOMAS J. DODD, HIRAM L. FONG, ERNEST GRUENING, FRED R. HARRIS, PHILIP A. HART, VANCE HARTKE, MARK O. HATFIELD, HENRY M. JACKSON, JACOB K. JAVITS, EDWARD M. KENNEDY, ROBERT F. KENNEDY, THOMAS H. KUCHEL, EDWARD V. LONG, WARREN G. MAGNUSON, EUGENE J. MCCARTHY, GALE W. MCGEE, GEORGE S. MCGOVERN, THOMAS J. MCINTYRE, LEE METCALF, WALTER F. MONDALE, JOSEPH M. MONTOYA, WAYNE MORSE, CLAIBORNE PELL, CHARLES H. PERCY, WILLIAM PROXMIRE, ABRAHAM RIBICOFF, HUGH SCOTT, JOSEPH D. TYDINGS, HARRISON A. WILLIAMS, JR., STEPHEN M. YOUNG.

GOLDEN ANNIVERSARY OF THE UKRAINIAN NATIONAL REPUBLIC

Mr. BURDICK. Mr. President, every day of the year is an appropriate day for us to remember the benefits of freedom and liberty which we enjoy as U.S. citizens. Liberty, justice and equality are things that we should cherish by appropriate moments of remembrance for sacrifices which have been made to guarantee them for us. I have just returned from one of the frontiers of this freedom, from places such as Saipan and Kwajalein where so many Americans have given of themselves during World War II to assure us today of these freedoms.

I think it is also appropriate that we stop for a few moments to remember the sacrifices that have been made by the freedom loving people of the Ukraine who have given of themselves in their efforts to obtain peace and freedom for their people. The golden anniversary of the Ukrainian National Republic is this year, and I feel strongly that this anniversary of the proclamation of Ukrainian independence should be remembered by all people who cherish individual liberty.

It is my further hope that through its inclusion in the RECORD that the Congress of the United States can make appropriate recognition of the proclamation of Ukrainian Independence Day in North Dakota.

I ask unanimous consent that the proclamation signed by the Honorable Wielean L. Gery, dated January 15, 1968, be printed in the RECORD.

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

PROCLAMATION

Whereas, On January 22, 1968, Ukrainians in North Dakota and throughout the free world will solemnly observe the 50th anniversary of the proclamation of a free Ukrainian state, and

Whereas, After a defensive war lasting 4 years, the Ukrainian state was destroyed in 1920 and a puppet regime of the Ukrainian Soviet Socialist Republic was installed, later becoming a member state of the Soviet Union, and

Whereas, The once free Ukraine is now no more than a colony of Communist Russia and its vast human and economic resources are being exploited for the purpose of spreading communism, and

Whereas, The United States Congress and the President of the United States of America have recognized the legitimate right of the Ukrainian people to freedom and national independence by respectively enacting and signing the "Captive Nations Week Resolutions" in July, 1959, which enumerated Ukraine as one of the captive nations enslaved and dominated by Communist Russia, and

Whereas, Some 25,000 Americans of Ukrainian descent now living in North Dakota have made significant contributions to both state and nation,

Now therefore, I, William L. Guy, Governor of the State of North Dakota, do hereby proclaim Monday, January 22, 1968, as "Ukrainian Independence Day in North Dakota," and urge all citizens to demonstrate their sympathy with an understanding of the aspirations of the Ukrainian nation to again achieve its rightful inheritance of freedom and independence.

In witness whereof, I have set my hand and caused the Seal of the Great State of North Dakota to be affixed the 15th day of January, 1968.

WILLIAM L. GUY,
Governor.

EDUCATION IN CONGRESS IN 1968

Mr. YARBOROUGH. Mr. President, "Education, the Fifth Freedom"—President Johnson's message on education—is at once a document of inspiration and disappointment.

It is inspirational because it eloquently invokes the highest aspirations and ideals of this Nation and directs them toward improving the process whereby we impart knowledge to our children. It ranges from preschool to postgraduate education and addresses itself to improving equality of educational opportunity, to bridging the gap between education and work, and to eliminating both economic and racial barriers to higher education.

These are lofty and admirable goals—of that there can be no doubt. But when placed in the context of the funding requested in the budget, these lofty and admirable goals, this inspiration, result in disappointment—in an awareness that perhaps T. S. Eliot was right when in "The Hollow Men" he wrote:

Between the idea
And the reality
Between the motion
And the act
Falls the Shadow

During the last session, Congress passed into law the Bilingual Education Act which I introduced and worked for. Authorization for this vitally needed legislative item was set by Congress at $30 million for fiscal 1969, yet the budget request is for only $5 million. This sort of tokenism will not do for the nearly 2 million Mexican-Americans of our Nation who are cut off from full participation in the educational process by a barrier of language.

BETWEEN THE IDEA AND THE REALITY

In his message the President urged us "to extend and strengthen the Higher Education Facilities Act of 1963." Under this act, Congress last year authorized appropriations of $936 million for construction of undergraduate facilities, yet the appropriation requested in the budget amounts to only $67 million. And under this act, we authorized last year the appropriation of $120 million for the construction of graduate school facilities, yet this has been cut back to only $8 million. I have received a tremendous number of letters from institutions of higher education all over the State of Texas who already are suffering because of the decision to cut back on construction of college facilities.

BETWEEN THE MOTION AND THE ACT

In his message the President announced that he is directing the Secretary of Health, Education, and Welfare to begin preparing a long-range plan for the support of higher education in America. I endorse and embrace this proposal, and last fall introduced legislation—the Universal Postsecondary Educational Opportunity Act—which would accomplish substantially the same purpose.

In proposing the Educational Opportunity Act of 1968 the President urges us to "unify and simplify several student aid programs—college work-study, educational opportunity grants, and National Defense Education Act loans—so that each college can devise a flexible plan of aid tailored to the needs of each student."

The goal of providing flexible aid tailored to each student is admirable, but until the Secretary of Health, Education, and Welfare returns to Congress with an acceptable plan of aid to postsecondary education I urge caution on the Members of Congress in tampering with the loan program set forth in the National Defense Education Act. I pledge myself to scrutinize this section of the Educational Opportunity Act of 1968 with great care to see to it that no erosion is made of the NDEA loan provision.

In declaring another essential human freedom, the fifth freedom—freedom from ignorance—the President has challenged the Congress. He states that—

We can see a new spirit stirring in America, moving us to stress anew the central importance of education.

But he concludes that—

That new spirit cannot be fully measured in dollars or enrollment figures.

That "spirit" invoked by the President is the "idea" and the "motion" invoked by T. S. Eliot. And the lack of dollars is Eliot's "shadow." Working within the framework of a limited budget and the need to establish priorities let us strive to prove Eliot wrong; let us keep the shadow from falling.

A CRUMBLING POLICY

Mr. GRUENING. Mr. President, a realistic appraisal which fully confirms everything I have been saying on the floor of the Senate for nearly 4 years, in protest against our military intervention in Southeast Asia, is validated by a full-page editorial comment by Walter Lippmann in the current—February 12—issue of Newsweek magazine.

The administration should take this solemn warning and penetrating analysis by the most knowledgeable of our public commentators to heart and start reorienting, or rather deorienting, itself with the purpose of developing an effective means of withdrawing from our overbloated and overextended position in Asia.

I ask unanimous consent that the article by Walter Lippmann, entitled "A Crumbling Policy," be inserted in the RECORD at this point in my remarks.

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

A CRUMBLING POLICY

(By Walter Lippmann)

The seizure of the Pueblo has brought home to us that in the coastal waters of Asia lie the outer limits of our conventional military power. It has been a humiliating affair. But it is only an incident in a chain of events which teaches the same lesson, that the Johnson-Rusk Asian policy is a miscalculation of our own power in relation to the power that can be arrayed against us.

The Pueblo affair has made all but the most irresponsible realize that we cannot afford to have a second land war in Asia. This realization has come to us a few weeks after Great Britain, our only important and independent ally in the world, has announced that she will abandon her role as a military power in South Asia—from Suez to Singapore. This leaves us without the support of a single large power anywhere in the world. The withdrawal of Britain from Asia confirms the total isolation of the United States.

The financial crisis which caused the British decision to withdraw left the dollar exposed and vulnerable. By various devices at home and abroad a crisis has been averted. But if the war in Asia spreads and intensifies, there can be little doubt that these financial devices and palliatives will break down. This may well cause a worldwide financial crisis.

Our international financial troubles have now been capped by the domestic budget. Because it is impossible to foresee the course of the war, it is a mystifying budget. The only certain thing about it is that it marks the end of the great "war" on poverty and the promises of a "Great Society."

Amidst all these troubles we are facing the biggest battle of the war in Vietnam. In this battle, General Westmoreland does not have the initiative.

ATTEMPTING THE IMPOSSIBLE

The series of setbacks would seem to indicate that the Johnson-Rusk policy in Asia is crumbling. What is crumbling is the notion that the United States can by military force determine the order of things on the continent of Asia.

We have had plenty of warning from American soldiers and American experts not to attempt the impossible in Asia. They have told us that we cannot invade and conquer, that we cannot "contain" by surrounding, the masses of Asian peasants.

It is not necessary to read Chinese and Sanskrit in order to understand the essential facts of the strategic and military relationship between America and Asia. It is necessary only to look at a map and to study the statistics. The Johnson-Rusk policy in Asia is based on the assumption that 200 million Americans, because they have a superior technology, can lead and direct the two-thirds of the human race which inhabits the continent of Asia. It cannot be done.

The size of Asia is too great. The distance from America is too great. The distrust of the Western white man's rule is too great. The reluctance of the Western white man to go bankrupt and die is too great. The foundations of the policy are rotten, and they were bound to crumble.

The Pueblo reminds us that in making the strategic mistake of engaging the bulk of our military power at one point, like Vietnam, the response can and will break out at other points. The war is already spreading into Laos, Thailand, Cambodia and Korea. Perhaps it will spread to Quemoy and Matsu, perhaps to the Middle East. The Johnson-Rusk policy of "containment" is like trying to squeeze a gallon of water into a pint-size bottle.

NO VICTORY IN ASIA

The cardinal mistake in Washington has, however, been the failure to realize that the Soviet Union could not and would not allow us to win the war in Asia. This quite self-evident truth has now been reaffirmed by Chairman Kosygin in his interview with Life magazine: "The United States cannot defeat Vietnam. And we, for our part, will do all we can so that the United States does not defeat Vietnam."

Despite the Communist habit of making big threats, this is a very serious statement. For in this case the Soviet Union not only has real reasons for helping Vietnam but it has the practical ability to do what it says it will do. We cannot prevent the Soviet Union from supplying North Vietnam, and we may be sure that China will not interfere.

But besides supplying Hanoi, the Soviet Union can unleash or foment outbreaks at a dozen places from Korea to the Mediterranean. Even the blindest among us can see that the United States, which has no effective ally in the world, cannot have military superiority all over the globe.

Until the miscalculations of our present policy are understood, the formation of a constructive policy in the emerging and awakened Asian continent will not be possible. We are witnessing the frustration of a military policy. Until we have learned the lesson of the mistake which has caused it, we shall have little political influence in Asian affairs.

"PUEBLO" INCIDENT

Mr. BENNETT. Mr. President, I am sure that in dealing with the *Pueblo* crisis the President has heard a great deal from the people back home. I think the same can be said for each Senator and Member of Congress. The American people are very much concerned about the *Pueblo* and have been insulted and offended by the actions of the Korean Communists.

We must accept the fact that the ship was in international waters; consequently this is a very serious act against not only our Navy or the Government, but the American people.

Most of the letters being written to me reflect the grave concern of the people of Utah. Such a letter is one I have received from Mr. Harry J. Glick, who has clearly and lucidly outlined his views on the subject. I ask unanimous consent that the letter be printed in the RECORD.

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

SALT LAKE CITY, UTAH,
January 25, 1968.

DEAR SENATOR BENNETT: This is the first time I have ever expressed my feelings to either a Senator or a Congressman; but this latest Communist provocation regarding the "Pueblo" is enough to move even the most lethargic of citizens off "dead-center."

My father served in World War I and he understood why. I served in World War II and I understood why. My oldest son is a Marine in Viet Nam, and is equally convinced he understands why. Summed up, our family loves the hopes, the promises, the simple secure dreams of being American.

We do not enjoy war; we hate it. We do not revel in militarism: we detest it. We do not gloat over the terrors of nuclear destruction; it frightens and appalls us. Nevertheless, if this be the price of our freedom, our dignity as human beings, our right to exist without a thread-held sword dangling constantly over our heads; then as for me and mine, we'll pay it!

Sincerely,

HARRY J. GLICK.

DAVID SCULL

Mr. BREWSTER. Mr. President, recently I informed the Senate of the untimely passing of David Scull, a dedicated public servant and a personal friend.

At the memorial service for David Scull, his brother-in-law, Blair Lee III, delivered on behalf of the family a statement which illustrated the depth of David Scull's commitment to his fellow man.

I ask unanimous consent that the statement be printed in the RECORD.

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

REMARKS OF BLAIR LEE III, AT SCULL MEMORIAL SERVICE

DEAR FRIENDS AND RELATIVES: If this were a funeral service, which it is not, it would be a very sad occasion, because we have sustained a great and sudden loss—we in Montgomery County and we in the State of Maryland—we in Metropolitan Washington and we in David Scull's family.

But this is a memorial service. It is a time for remembrance and gratitude—a time to remember what a great and good man this was and a time to be thankful that we had the pleasure of his company—and to be grateful that he left his imprint on the body politic here and on our personal lives.

In a period of time that seemed to spawn angry men on all sides, Dave Scull was a uniformly and consistently happy man. He went about his work with a zest that communicated itself to everyone around him and made the undertaking—whatever it might be—seem so much easier.

Dave had his ups and downs like all the rest of us. He won some elections and he lost some. He negotiated some very successful real estate leases and he had some blow up in his face. He gave the Republican Party a couple of good shakings, and it gave him a couple in return.

Like most of us, he enjoyed the successes, but, unlike most of us, he never let the reverses get him down. He just went on—philosophically and quite happily—to the next order of business.

The fact that Dave was such a happy man adds an interesting dimension to the private social work that occupied so much of his time. This was not the result of some neurosis that needed therapy, nor was it a coldly intellectual response to books and learned papers.

No, the simple fact is that Dave always had a deep and wonderful feeling for people—individually and collectively—and an absolute commitment to the idea of the brotherhood of man. If somebody else was in trouble, Dave was concerned, and "concern" did not mean merely a wringing of hands; it meant doing something about it. The creation and development of Emergency Homes, Inc., is perhaps the classic example of what I'm talking about.

There is no doubt in my mind that this wonderful attitude had a strong religious orientation and that it tapped some wellspring deep in the Philadelphia Quaker heritage that was his.

Dave enjoyed working for people and he also enjoyed organizing them for useful purposes. This brought him first to the United Givers Fund and then—inevitably—to party political activity. His organizational talent was matched by an utter disinterest in the old doctrine of party regularity. This led him into some extraordinary situations which have been amply recounted in the press.

He hewed to a very straight line, and there were chips all over the landscape.

In public affairs, as distinguished from party affairs, Dave's career was as brilliant as it was short.

It seems incredible that he actually held public office little more than two years—briefly on the Park Planning Commission, briefly as President of the County Council and very, very briefly as President of the Council of Governments of Metropolitan Washington—because in that brief span he set in motion so many things and brought so many of them to actual fruition.

In his public career Dave Scull embodied a fascinating blend of idealism and pragmatism—which is, I suppose, another way of saying that he was a practical and a very effective do-gooder.

Great leadership cannot be found in the idealist who is divorced from reality to the point that he never accomplishes anything—nor in the pragmatist who gets so involved in technique that he loses sight of his objective.

Dave steered a sure course between those two hazards. He figured out the right direction to go and he knew how to get there. He was a real leader.

Like many another good leader, he was thoroughly impatient of delay—of legal complication and administrative detail—a characteristic which perhaps ought to be in greater supply in a world which seems bent on strangling itself in its own red tape.

But Dave's real genius was his ability to see the big picture clearly . . . to figure out the right answer to the tough problem . . . and then to attack it with skill and courage.

I should like to conclude by addressing a word of advice to the baker's dozen of Dave Scull's young nephews and nieces—my brother Brooke's children and my own—who are here today. And I shan't object if it is heeded by others as well.

You loved and admired your Uncle Dave. That I know. If you want to erect a memorial to him, build not a tangible structure, not a stone monument. Build your memorial in your hearts and in your minds. Mark well the example of this man. Recall the grace, the compassion, the courage, the commitment to mankind.

When your time comes to go out into the world, remember the way Uncle Dave did it—and go thou and do likewise.

PRESIDENT JOHNSON'S CONSUMER PROPOSALS DESERVE SPEEDY ENACTMENT

Mr. LONG of Missouri. Mr. President, President Johnson's eight-point program for consumers submitted today to Congress proves again his determination to be the consumer President. I would like to see the 90th Congress become the consumer's Congress, and I think we are well on our way to earning that designation.

In the last session, we enacted four important consumer bills, among them a very progressive Meat Inspection Act. We now have before us eight more bills included under the administration's consumer program. The new bills the President proposes in his 1968 message will help round out a very solid and lasting consumer program.

I am particularly pleased that the President is calling for an expansion of the Federal Trade Commission's power to protect consumers from home improvement flimflamming. Summertime sales and autumn defaults have become a nationwide problem and something must be done about it.

Too many people—particularly the old and the poor—are being swindled out of their savings or their homes by fraudulent promises of home improvement and other sales rackets.

The Deceptive Sales Act, which President Johnson has proposed, would merely empower the FTC to obtain injunctions against frauds while the practices are tried before courts or are being heard by the Commission. This is no minor matter, however, for frequently even the most blatant swindles can keep their legal battles running for years while more and more Americans are being ruined by them.

I think we should move swiftly and assuredly to give the FTC the powers it needs to turn back the tide of fraud that could easily flood the American marketplace.

President Johnson has reminded us on many occasions that no laws are more basic to the people's welfare than is consumer legislation.

The President is determined to promulgate a new Consumer Bill of Rights built upon the foundation of new laws and protections.

I believe the 90th Congress will join with the Johnson administration in making these rights a reality for all.

THE PRESIDENT'S CONSUMER MESSAGE

Mr. BREWSTER. Mr. President, President Johnson's comprehensive consumer message cannot help but impress us all with its scope and aggressiveness.

Each of the items proposed deserves to be acted upon early in this session of Congress.

A few months ago the Washington Post shocked the Washington community with stories about abuses in the home improvements field. Such abuses should not be allowed to continue, and I welcome the President's proposal to expand the powers of the Federal Trade Commission to stop fraudulent and decep-

tive practices by obtaining a Federal court injunction. The Federal Trade Commission needs the power to go after the problem as soon as the abuse is discovered.

In addition to this new administration proposal, there is another measure which, if passed, will provide further protection against sales abuses. S. 1599, introduced in April 1967, by the Senator from Washington [Mr. MAGNUSON], with myself as cosponsor, gives the buyer a "cooling-off period" in which he can cancel a sales contract entered into in his home. Hearings on this bill will begin March 4, and I expect the Consumer Subcommittee will hear ample testimony on the need for protection of this sort.

I should like also to draw attention to the portion of the consumer message devoted to automobile insurance, long an area of major concern to those interested in consumer protection.

Proposed legislation is pending in Congress today to authorize the Department of Transportation to undertake a detailed study of the automobile insurance industry, and the President's proposal in this area underlines the obligation of Congress to act quickly to get the study started. I applaud the recognition the President has given to the seriousness of the difficulties the American consumer faces in obtaining sufficient automobile liability coverage at reasonable rates.

RETURN TO HARVEST OF SHAME

Mr. WILLIAMS of New Jersey. Mr. President, the Subcommittee on Migratory Labor, continues its work of bringing the realities of the migrant labor situation to the attention of Congress. Each Congress, legislation reported by the subcommittee has been enacted with the hope that the tragic situation could be alleviated.

Last night, the National Educational Television Network pictorially and movingly confirmed the economic plight of the migrant farmworker, and demonstrated in pragmatic fashion the enormity of the job remaining to be done. The National Educational Television Journal documentary, "No Harvest for the Reaper?" was an excellent production similar in quality, but little different in subject matter or message, to Edward R. Murrow's "Harvest of Shame" which was first shown 8 years ago. The program has received high praise in the reviews, as evidenced by the New York Times article of February 6, 1968, which I ask unanimous consent to be printed in the RECORD after my remarks.

Although the documentary presented scenes depicting only Arkansas Negroes transported to New York State farms, the same pattern of life is repeated each year throughout the country, and includes over 1 million citizens that are paid miserably low wage rates, and left to the mercy of unscrupulous crew chiefs. Health care is inadequate or totally lacking, and housing is unsanitary and unsafe. Unrestricted child labor is prevalent, and migrant children have little or no opportunities for education. Compounding these shocking conditions is the fact that migrants are excluded from enjoying social and economic benefits available to all other American citizens, such as unemployment, social security, and workmen's compensation insurance; and, farmworkers are excluded from the protections of the National Labor Relations Act. The television program graphically showed living conditions akin to those present in the slave days of involuntary servitude.

The National Educational Television documentary confirmed in all major respects the urgent need for this Nation to meet the goals for which the subcommittee has been working. For example, the film clearly depicted the impact of the low wages received by the migrants for their long hours of work, and confirmed our contentions that coverage of minimum wage legislation should not only be extended to include more workers, but that the minimum rate must be increased.

The need to extend and expand the migrant health program as provided in S. 2688, which I introduced, was also emphasized by the documentary. This legislation, enacted 6 years ago, extended in 1965, but due to expire June 30, 1968, has been a very successful health program for the 23 percent of the migrant families actually reached. The continuing need is indicated by a comparison of the Nation's per capita expenditures for health care: For all citizens—over $200 annually; for Indians—over $320; yet, for migrants—only $8, except for the areas where the program is in effect, then annual per capita expenditure is only $36. The subcommittee has completed hearings on S. 2688, and has reported the bill to the full Committee on Labor and Public Welfare. It is urgent not only that Congress enact this legislation soon in order to keep the program alive, but it is self-evident that an increase in the authorized appropriation of last year is necessary.

The partnership of the farmer with the unscrupulous crew leader was also emphasized and the documentary showed the mechanics and effects of the crew leader's exploitation of workers. Although the need to protect the migrant was partially met in 1965 when Congress passed the Farm Labor Contractor's Registration Act, the problem still deserves continued and special attention, for most crew leaders are still not registered and enforcement of the act is limited by insufficient Labor Department personnel authorizations. Furthermore, as often discussed in the subcommittee's annual reports, the problem will continue to exist until such time as we enact programs to deal with the broader problems of underemployment and unemployment and recruitment of sufficient workers to meet the seasonal labor demands of the industry.

Finally, the film graphically portrayed the urgent need to provide the agriculture industry with the advantages and protections of the NLRA. We must guarantee farmworkers the freedom to organize, and to choose a union to represent them in presenting grievances and in collective bargaining. The NLRA should be made available to provide needed stability in the industry, and to protect the employee, the employer, and unions against unfair practices by providing them with the procedures and processes of the NLRB. Extension of NLRA coverage to the agriculture industry is incorporated in S. 8, which I introduced at this session.

For Senators who did not see the program I urge them to view a repeat telecast on Sunday, February 11, 1968, at 5 p.m.

Furthermore, on February 12, 1968, the National Education Television Network will present yet another migrant worker documentary on the struggle of migrants to gain union recognition entitled "Huelga." I strongly commend this program to them. I ask unanimous consent that the documentary 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, Feb. 6, 1968]

TV: EXPLOITATION, 1968—RECRUITMENT OF MIGRATORY WORKERS FOR LONG ISLAND HARVESTS RESULTS IN NEW SLAVERY

(By Jack Gould)

Eight years ago the late Edward R. Murrow cast the spotlight of television on the nation's "Harvest of Shame," the plight of the exploited migratory worker who picks the food that is taken for granted in supermarkets and swank restaurants. Last night Morton Silverstein of National Educational Television did a superb sequel. Nothing has changed.

Under the title of "What Harvest for the Reaper?", Mr. Silverstein studied the cynical recruitment of Negro workers in the small towns of Arkansas and their transportation to a decrepit labor camp in Cutchogue, L. I. In Suffolk County they learn of slavery in the North, their continuing indebtedness to a sophisticated Negro crew chief, who leases the camp from the former membership of the Eastern Suffolk Cooperative.

"What Harvest for the Reaper?", which was seen locally over Channel 13, was the recurringly depressing chronicle of the many elements of society that turn their heads when exploitation of a human being is profitable.

The farmers complained of depressed prices for their produce, the unreliability of imported labor and smugly shifted responsibility for the camp's operation to the crew chief. The crew chief, in turn, argued that he hadn't cheated anyone: out of the worker's weekly wage averaging $47 for 40 hours of toil—he deducted food, lodging, transportation and other expenses, which devoured the weekly pay check or more.

The economic arguments notwithstanding, the N.E.T. Journal, narrated by Philip Sterling, spoke for itself. The camp, described as not the worst of barracks for migrant laborers in New York State, resembled a primitive prison. A single bathroom was used by 38 men, and the living quarters lacked even rudimentary privacy or relaxation. And the testimony of the migrants was that over the years the scene shifted monotonously from Long Island to Florida and back again.

In some respects the most interesting aspect of "What Harvest for the Reaper?" was that such exploitation knows no color bars. The emphasis on the crew chief showed that he had qualms in making an estimated total of $40,000 a year for imposing economic bondage on the young Arkansas Negroes. And Mr. Silverstein documented the fact that a contract between potato processors and Local 202 of the Teamsters Union was nonexistent for practical purposes. A bottle of cheap wine to blot out the tedium sold

for $1 in camp as compared with 51 cents in town, according to Mr. Silverstein.

A spokesman for the Suffolk County Department of Health spoke of the Cutchogue camp as meeting minimum standards and then in the next breath conceded there has been inadequate maintenance, inadequate cleanliness and inadequate supervision. Some of the farmers blamed the migrants for camp conditions and overlooked the built-in frustration of the chilling environment.

Next week on N.E.T. Journal there will be a documentary on the struggle of California migrants to gain union recognition. Last night's hour, for which A. H. Perlmutter was the executive producer, left no doubt that correction of the migratory worker's social and economic disenfranchisement still has a long way to go.

Mr. Murrow would be the first to be pleased that a new generation of sensitive TV craftsmen has renewed his battle in unsparing word and haunting photography. The wanderers who feed us all remain among the forgotten.

THE ADMINISTRATION UNDERESTIMATES EFFECTS OF RECENT EVENTS IN SOUTH VIETNAM

Mr. GRUENING. Mr. President, the recent Vietnam eruptions in many populated centers of South Vietnam show a high degree of intricate planning and split-second timing.

Various explanations have been put forward by administration spokesmen to account for these actions. From these explanations it is evident that the administration is still misreading events in South Vietnam.

One point which should be brought home to the administration most forcefully is that the Vietcong strength among the people of South Vietnam living in the populous centers is much greater—very much greater—than the administration has led the American people to believe. How else to explain that the Vietcong fighters were able to penetrate deep into many South Vietnamese cities without being given away by the population? How else to explain the vanishing Saigonese police force when the penetration surfaced? How else to explain the inability of the South Vietnamese armed services to cope with the Vietcong attacks?

The United States can rig as many elections as it wants to but the sad fact will remain that the vast majority of the people of South Vietnam—those who are not benefitting from the war financially—do not support the Thieu-Ky corrupt government.

Another sad truth to be learned from last week's events in South Vietnam is that the much vaunted pacification program—the "other war"—the war to win the "hearts and minds" of the South Vietnamese people—is dead.

As Ward Just, writing in the Washington Post for February 4, 1968, stated:

When the Vietcong flags are finally taken down from the score or more cities where they flew (including for three days the ancient Citadel of Hue, the capital of central Vietnam—its American analogy would be Boston), the bodies counted, the damaged buildings reoccupied and the constitution unsuspended, it will come time for the assessment, for the after-action reports and the "lessons learned."

This will almost certainly be that the raids, audaciously conceived and executed with extraordinary ferocity, have as a practical matter killed dead the pacification program—and most of the assumptions that went with it.

According to the leading editorial in the Washington Daily News for February 3, 1968, the Vietcong attacks accomplished the following:

. . . dealt damaging blows to many Allied positions thru the country, proved even urban strongpoints are no more secure than admittedly vulnerable lesser towns and villages, reduced civilians' faith in their government's ability to protect them, caused redeployment of allied forces to handle the offensive (thus weakening security in pacification areas), strengthened the morale of their own forces, supporters and the North Vietnamese behind them, and upped their price in negotiations, if they occur.

But the basic fact that the administration must learn from the events in South Vietnam last week is that try as it will—as it has for years—to pervert what is going on there into "aggression from the North" the real fact remains that the United States, to subvert the plain intent of the Geneva accords, barged into a civil war which it largely precipitated in South Vietnam, aggravated the situation there, and supported as puppet rulers one corrupt military junta after another.

Must American boys be sent 10,000 miles away to die or be wounded to keep in power in South Vietnam a corrupt, venal military junta in Saigon which is more interested in lining its own pockets than in establishing democratic institutions and defending them?

I ask unanimous consent that there be printed in the RECORD the editorial from the Washington Daily News; the editorial printed on February 3, 1968, entitled "The President Explains"; and the article entitled "Guerrillas Wreck Pacification Plan," written by Ward Just, and published in the Washington Post of February 4, 1968.

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

[From the Washington (D.C.) Daily News, Feb. 3, 1968]

THE PRESIDENT EXPLAINS

With the next Presidential election just nine months away, President Johnson could be expected to put a rosy explanation on the week-long communist offensive. But even allowing for politics, the President's analysis of the communist attacks as a "complete failure" from a military standpoint constitute either a grave misreading of the facts or an insufficient regard for the level of frankness required by the American people at this moment.

The President duly cited allied casualties at his news conference Friday, then emphasized that only 15 U.S. planes and 23 helicopters were destroyed—giving it the silver-lining twist that this was "a very small proportion" of our total.

While many thousands of civilians buried their dead or lay wounded in hospitals—if indeed they could get coffins or a hospital bed—and while fighting continued in Saigon and three provincial capitals, LBJ spoke of the "disruption of public services" the attackers had caused—the kind of thing, he said, "a few bandits" can do in any city.

The President said he had known "for several months" the communists planned a major offensive—then failed to explain how, if so, thousands of communist troops could penetrate the heart of half the nation's 44 provincial capitals plus lesser towns, and storm scores of bases and the American Embassy itself.

Mr. Johnson also took satisfaction that the communists found little popular support for their offensive—tho battalion after battalion entered "secure" cities without a single reported instance of townspeople showing sufficient devotion to the government to sound a warning to sieve-like security troops deployed to provide protection.

It does no good if generals, ambassadors, Cabinet officials or the President himself ignores the seriousness of what the communists have done—and adds this to the months of underestimating the costs and casualties of the war.

Let's face it. In suicide attacks, rampant terrorism and sustained attacks in force, the Communists have accomplished these results: dealt damaging blows to many Allied positions thru the country, proved even urban strong-points are no more secure than admittedly vulnerable lesser towns and villages, reduced civilians' faith in their government's ability to protect them, caused redeployment or allied forces to handle the offensive (thus weakening security in pacification areas), strengthened the morale of their own forces, supporters and the North Vietnamese behind them, and upped their price in negotiations, if they occur.

President Johnson said the communists lost more than 10,000 killed this week. The figure is bound to be greeted with skepticism, but even if it is accurate, the cost by standard communist measurement was well worth the sacrifice. Their gains—military, political, psychological—are major.

The President ended his explanation by saying he didn't want to seem unduly optimistic or give false assurances. He wound up doing both.

[From the Washington (D.C.) Post, Feb. 4, 1968]

GUERRILLAS WRECK PACIFICATION PLAN

(By Ward Just)

Most officials in Washington who know anything about South Vietnam and the war—officials who have served there, or visited regularly, who have spent time on the ground *in the countryside*—view the past week as a political disaster for the Allies. These views vary only in their estimate of the extent of the damage. That they are voiced privately rather than publicly is testimony to the atmosphere here, not there.

It was a week in which the Johnson Administration more than ever resembled a Chinese court, with the mandarins assembled to tell the leadership what it wanted to hear. A major general remarked on Wednesday that he wished people understood that a military commander in the field had to voice optimism, was obligated to give reassurances of progress. But of course people do not understand that.

PACIFICATION IS DEAD

When the Vietcong flags are finally taken down from the score or more cities where they flew (including for three days the ancient Citadel of Hue, the capital of central Vietnam—its American analogy would be Boston), the bodies counted, the damaged buildings reoccupied and the constitution unsuspended, it will come time for the assessment, for the afteraction reports and the "lessons learned."

This will almost certainly be that the raids, audaciously conceived and executed with extraordinary ferocity, have as a practical matter killed dead the pacification program—and most of the assumptions that went with it.

These assumptions were that the people were tired of the war and sought only protection; that the Vietcong, though strong,

could mount only limited offensives; that the capacities of the South Vietnamese government were growing; that soft words and good works in the villages and hamlets would produce a population confident enough of Allied intentions to drop off the fence and declare allegiance.

Or, alternatively, it was assumed that the enemy would become so demoralized that, in Henry Cabot Lodge's phrase, "one day the guy with the gun in the paddy would look up and say, 'The h—— with it; I'm going home; I'm giving up.'"

DEGREE OF TRANQUILITY

All of these assumptions are now called into question. It is obvious, or would seem so, that to think in terms of "pacification" in a country where the revolutionaries can hold the Citadel of Hue for three days and where North Vietnamese regulars can penetrate Saigon is to misunderstand the degree of tranquility in the country. Which of the 59-man cadre teams will now want to venture into the countryside when even Saigon and the provincial capitals are not safe from rampaging guerrillas?

They control—whether by intimidation or persuasion is not the point—more than we think they did: more people, more land, more resources. There was apparently no solid intelligence on the nature of the attacks. "We had intelligence that an attack was coming," said one official. "But h——, we have advance intelligence on everything. Even, sometimes, on things that don't happen."

The peasants didn't squeal, and that is the central fact. The Vietcong, with their reputation for meticulous planning, had to have thought out the raids many weeks in advance.

There were many rumors in Saigon, but few hard facts. Only three Marines were guarding the American Embassy when the assault started. One official here remarked bitterly Friday that protection of the Embassy was "the responsibility of the host country," that is, the responsibility of the Army of the Republic of Vietnam.

Much of the Vietnam population is (in Sen. Edward Kennedy's words) "a disenchanted people." They appear to have little stomach for the fight, and the government of Nguyen Van Thieu shows little talent for inspiration. The revolutionary atmosphere, and the vigor that goes with it, is still the property of the Communists.

Officials here who have experience in Vietnam do not think it is especially useful to speak, as Sen. John Tower (R.-Tex.) did last week of the raids being an indication of "the death rattle" of the Vietcong. Nor do they think, as Lt. Gen. Victor G. Krulak told a meeting of newspaper publishers in Beverly Hills, that the raids were "acts of desperation" aimed at getting into "the newspapers."

Nor is the body count of enemy dead regarded as a useful index of victory or defeat. (Is it plausible to imagine that body counts were taken as troops fought house to house, and in provincial capitals whose *hotels de ville* flew Vietcong flags?)

FAMILIES MURDERED

It would seem the only rational conclusion to reach at the end of last week was that Vietcong strength and determination is far, far greater than had been thought. The task of bringing the population to the side of the Saigon government—where the contest, by common agreement, will be won by the side that can offer consistent protection—now seems more difficult than ever.

Some South Vietnamese regular army officers returned to their homes in Saigon after the battles Wednesday to find that the Vietcong had assassinated their wives and children. In the center of Saigon, the Vietcong occupied the grounds of the American embassy for five hours. Is it therefore believable when the government says it can protect the population? If it cannot protect Saigon, how can it protect a hamlet or a village with a 59-man cadre team and a Ranger company five miles away?

It seems reasonable to suppose as well that the carnage will engender among South Vietnamese not hatred of the Vietcong, but renewed hatred of the war. The scenes on American television are horrifying; in real life they must be unbearable. Perhaps the compulsion will be to seek accommodation. Even the Vietnamese, whose resilence is nothing short of unbelievable, must have a breaking point. Is that now being reached?

And for the Communists, who would not calculate in emotion but in hard fact, what are the debits? How much, in men and materiel, have they spent? Could they order new assaults? Or will it take months to reconstitute the sapper companies and combat battalions? Have they, for the moment, exhausted the arsenal?

These are the questions that the Americans and the Vietnamese will be asking, after they find and bury their dead. After martial law in Saigon is suspended. After the estimates are in, when it is calculated what has been gained and how much has been lost American officials, as always, are entitled to some sympathy. What is there really to say?

THE PRESIDENT'S MESSAGE ON EDUCATION

Mr. PELL. Mr. President, it was with great pleasure that I read President Johnson's message on American education. Truly the last 4 years have been the education years here in the Senate. It is my hope that using the Presidential message as a guideline, we will continue to authorize programs which will invest much of our Nation's wealth in the education of our children. For of all Government expenditures, those funds spent on knowledge are in effect an investment in the future well-being of our country.

I was greatly interested in the broadened scope of those programs which enable students to go on to higher education. It is my hope, however, that as we study the proposed Educational Opportunity Act of 1968, we also think of the complete philosophical thought underlying our present student aid programs. Today there is a large structure of loans, scholarships, grants, and work-study programs. Much of this aid is dependent upon the availability of money on the open market. Other programs are dependent upon family income and high class ranking.

To my mind, it is unthinkable that youngsters in our country should not be able to attend college because of a lack of funds. The programs I mentioned, while helpful, do not insure that each student will be able to go on to a higher educational experience. I have introduced S. 366, the Higher Education Scholarship Act. Upon enactment, this bill would provide for a scholarship of up to $1,000 per year for the first 2 years of higher education, as a matter of right. In effect I am calling for public education of 14 rather than 12 years. Only with an approach such as this can we say that our educational system is free and open to all.

And, in advancing this view, I wish to emphasize that I am in no way seeking to force education on anybody. What I am saying—and have been saying—is that at least 2 years of college should be available as a matter of right to any young person desirous of it and fully capable of absorbing it.

It was also most gratifying to read the President's call for extension of the national arts and humanities endowments. As principal Senate sponsor of the enabling legislation, I could not agree with the President more fully on this point. It is my hope that the Senate Committee on Labor and Public Welfare will soon report to the full Senate, S. 2061. This bill extends the life of the endowments on the arts and the humanities. A start has been made on bringing a new facet to the life of our country. Government support of esthetic endeavors is not only laudable, but workable.

Mr. President, I should like to commend President Johnson on his far-reaching program for education, and express the wish that its many constituent parts will soon be enacted into law.

ARLINGTON OPEN HOUSING

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent to insert in the RECORD letters to the editor which appeared in the Washington Star of February 2, 1968. The letters are with reference to the subject of open housing in Arlington, Va.

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

ARLINGTON OPEN HOUSING

SIR: Some people have been led to believe that the two meetings held by the Arlington County Board indicated that the majority of Arlington residents were for immediate "enforced open housing." This is far from the truth.

At the first meeting on Jan. 15, which was somewhat of a surprise to those opposed to open housing, it was predominately "for." A very liberal group who had evidently been forewarned, and were ready. Though many present tried to speak, it had been too well organized, for there was no room on the agenda for opposition.

At the second meeting on Jan. 17, many opposing tried to get on the agenda by phoning in to the Board, but were told that there were fourteen left over from the first meeting who had to be heard first. However, one resolution read in opposition represented a group of nearly 300 women, but nothing was mentioned in the papers about that.

We have been appalled at the conduct of these two meetings, as speaker after speaker represented departments in the United States Government. At the last meeting, Jan. 17, there was a speaker from Neighbors', Inc., in Washington, who integrated their lives completely some years ago. What right had those people to so monopolize a meeting in Arlington, thereby depriving our citizens a voice?

The next meeting is to be held on Feb. 5, and is also a held-over meeting for those who have already been scheduled to speak. I know there will be some opposition heard, and there would be more had they been able to get on the speakers' list.

I have contacted many people who have been residents here for years, some born in Arlington. I do not know anyone who is for enforced open housing, and my acquaintance is very large, having lived here for over forty years.

My husband and I vigorously oppose "enforced open housing" as un-American and unconstitutional; certainly an infringement on the rights of a taxpayer and homeowner.

MRS. FRED N. WINDRIDGE, Sr.

SIR: Since it was obvious that the speaking agenda at the "open" housing hearing on Jan. 17 at Williamsburg School was packed in advance by those who would advocate an "open" housing ordinance, I am forced to take this means of making my opinion known.

Inasmuch as I am convinced that not even a majority has the right to legislate against anyone's property or civil rights, consider then how offensive I find the suggestion that the Arlington County Board, a minority, should entertain for even one moment the thought of passing this subversive ordinance.

Particularly disturbing to me was the Board's permitting non-Arlingtonians to capture and keep the floor to the exclusion of bona fide Arlington residents. I am herewith requesting that, at the next hearing, it correct this injustice. There is no valid reason why we Arlingtonians should be a captive audience at our own county board meetings, while residents of Richmond, the District, Fairfax and Maryland drone on and on. And I especially resent these same "ringers" being referred to by the news media as responsible Arlington citizens.

JANE B. HIX.

SIR: I am opposed to open housing laws such as the one being proposed for Arlington. In a county in which the individual has traditionally had the right to own and dispose of property I question the right of the state to specify to whom a property-owner must sell. Only in the past decade has there been discovered a civil right of a buyer to purchase what the seller/owner does not wish to sell him.

Proponents of open housing argue that legislation is needed to attain a desirable social end. Is it necessarily true that this end can be achieved only through legislation or judicial fiat? We read in the newspapers that many of the people who support open housing legislation are well-educated and are homeowners. In today's society it is this type of person who moves every three to five years in the course of his career development. We also read that many Negroes can afford to purchase $17,000 to $50,000 homes but cannot find them for sale in desirable areas. We read too that proponents of open housing legislation argue that voluntary open housing does not work hence the need for a law.

All this leads me to wonder why those who favor open housing don't attempt to sell their homes to persons of other races and creeds when they move? Can't they find any such purchasers, are they in such a minority that their voluntary contribution to open housing would be de minimis, or do they lack the courage of their convictions?

ARLINGTONIAN.

SUMMER RIOTS

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent to insert in the RECORD an article which appeared in the New York Times on February 3, 1968, entitled "Alinsky, 'Professional Agitator,' Warns of Chicago Summer Riots."

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

ALINSKY, "PROFESSIONAL AGITATOR," WARNS OF CHICAGO SUMMER RIOTS

(By Donald Janson)

CHICAGO, February 2.—Saul D. Alinsky, the "professional agitator," believes his home town is ripe for violence this summer.

Chicago's overcrowded slums, he said in an interview yesterday, have become "one mass ulcer of discontent." He said antiwar demonstrations would focus on the Democratic National Convention in August, and Negro pressure for better jobs, housing and education opportunitities might explode before that.

Unless Mayor Richard J. Daley shifts from talk of forceful repression to negotiation, he said, Chicago will explode in violence.

"If this town blows," the 59-year-old organizer asserted, "It's going to make Detroit look like a sideshow."

Mr. Alinsky, who has organized the poor in the slums of many cities, said "hatred" of Mayor Daley as a symbol of an "oppressive white power structure" existed throughout the West and Southside Negro areas.

As a consequence, he said, rioting cannot be confined to a limited geographical area as it was in Detroit.

LIVES IN CALIFORNIA

Mr. Alinsky has lived in Carmel Highlands, Calif., for several years. Except to visit the headquarters office of his Industrial Areas Foundation, he has been away from Chicago altogether for a year and a half.

He returned last week and plans to be here through the summer. He said he had come in response to entreaties from friends, priests, ministers and community leaders who hope he can help find an alternative to the summer violence they fear is in store for Chicago.

Black power, antiwar, anti-Johnson and anti-Daley spokesmen in Chicago, New York, St. Louis and elsewhere have threatened massive demonstrations at the convention. Mr. Alinsky said the Mayor's response had stressed repression by force.

"Nothing will induce violence more surely," he said. "In effect, he is saying, 'you stay in your rat holes like good second-class Negroes should'. Like a little kid, he is drawing a line and saying, 'you cross this line and we fight'. The result is a fight."

Mr. Alinsky said "picketing, open dissent and a lot of hell blowing around the convention hall is the essence of a democratic society." But he said he drew the line at violence.

Mayor Daley can solve the crisis peacefully, Mr. Alinsky said, by meeting with representatives of slum neighborhood groups. There are many in Chicago, including four originally organized by Mr. Alinsky's foundation. They have been unaligned since the Rev. Dr. Martin Luther King, Jr., pulled out of Chicago in 1966 and the Coordinating Council of Community Organizations lapsed into dormancy. Mr. Alinsky envisions a "coalition of fragments" to confront Mayor Daley.

To avert upheaval, Mr. Alinsky said, "the Mayor must deliver on substantial issues that affect black life, so black people will have confidence that he's finally on the level."

Lack of jobs is the most important problem, the outspoken Chicagoan said. Unemployment among the million Negroes here is three times the rate for whites.

"What we need is public works projects," Mr. Alinsky said.

He said the poor should meet with Mayor Daley and demand them.

"Put Johnson on the spot," he said. "Let us get some of the swag instead of Vietnam. Nobody there is on our side except Thieu and the people who profit from the war. The South Vietnamese people hate our guts."

ACTIVITIES OF SUBCOMMITTEE ON MONOPOLY OF THE SELECT COMMITTEE ON SMALL BUSINESS

Mr. LONG of Louisiana. Mr. President, for many years it was my privilege to serve as chairman of the Monopoly Subcommittee of the Committee on Small Business and devote a great deal of my time to it.

When I became assistant majority leader of the Senate and chairman of the Senate Committee on Finance, I felt that I should relinquish my former post to a dedicated Senator who might be able to devote more attention to the duties of that important subcommittee. The senior Senator from Oregon [Mr. MORSE], who has made a magnificent record in the area of monopoly and antitrust matters, joined with me in recommending that the junior Senator from Wisconsin [Mr. GAYLORD NELSON] should be made chairman of the Monopoly Subcommittee, and the chairman of the Small Business Committee. The Senator from Florida [Mr. SMATHERS] heartily agreed with our recommendation.

During the year that has transpired since that time, Senator GAYLORD NELSON has courageously and fearlessly conducted an investigation in depth of the outrageously high prices of certain prescription drugs. It was in considerable measure because of Senator NELSON'S exposures of price gouging by certain drug manufacturers that I was able to attach an amendment to the social security bill of last year which sought to protect the public from unreasonably high prices. Much remains to be done in this area, and I am sure that much more good will be accomplished due, in large measure, to the tireless and diligent efforts of Senator GAYLORD NELSON.

As one who has labored in the same vineyard in prior years, I am sure that Senator NELSON'S staff assistant, Ben Gordon, performed devoted work in helping Senator NELSON to be as effective as he has proved to be.

Every public official and, indeed, every American, would do well to study the disclosures that Senator NELSON makes in one of his recent speeches. While the revelations are shocking, they seem to be rather typical of abuses that have been occurring for years and continue to occur in every city, town, and hamlet in America.

I would like to particularly draw attention to the fact that nothing in Senator NELSON'S speech reflects in any measure upon the community drugstore nor the hometown pharmacists of America. In fact, the largest organization of American druggists, the American Pharmaceutical Association, speaking for more than 45,000 members, has actively supported some of the measures which Senator NELSON and I have been advocating to assure the public better quality of drugs at reasonable prices.

In his speech before a consumer's group in Milwaukee, Senator NELSON reviewed some of the highlights of the Nelson committee hearings, and some of the results so far.

I believe my colleagues and the public will benefit by a reading of his remarks.

I ask unanimous consent that the complete text of his speech be printed in the RECORD at this point.

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

HIGHLIGHTS OF THE 1967 PRESCRIPTION DRUG PRICE HEARINGS

Eight months ago, as chairman of the Senate Monopoly Subcommittee, I began hearings to explore the pricing structure of the prescription drug industry.

Involved in the inquiry would be studies

of patent policy, government buying for health and welfare programs, the nature and quality of drug advertising, and the airing of the generic versus trade name controversy.

Yet after eight months, we have only really begun. We have a long way to go, and most of the anticipated subjects have not yet been touched.

However, the hearings have uncovered the essential fact that chaotic and quixotic price structure exists which defies logical explanation.

Many prices simple cannot be justified.

Discriminatory pricing practices are found in the industry which penalize the American consumer and the American pharmacist.

One example is a drug used for hypertension and high blood pressure. The generic name is reserpine. CIBA, a Swiss American pharmaceutical company manufactures and sells the drug under their trade name of "Serpasil."

CIBA sells this drug to the American community pharmacist for $39.50 for 1,000 0.25 milligram tablets.

Yet during the same period, CIBA sold the drug to German pharmacists for $10.53, to Swiss druggists for $11.09, and to British druggists for $11.20. The American community pharmacist, therefore, was paying three times as much.

While CIBA was selling reserpine for $39.50 to your neighborhood druggist, they offered to sell it to the Defense Supply Agency, who buys for all the Armed Forces, for $3.95 for 1,000 tablets. But another company won the bid at $.89.

The Committee discovered that during this same period, CIBA sold the drug to the Veterans Administration for $1.10 per 1,000 tablets.

But, when CIBA submitted a sealed bid of $1.10 per thousand to New York City for use in their vast hospital and welfare programs, they were beaten by the American Pharmaceutical Company, a good but smaller company, who bid $.72 per 1,000 tablets.

The difference between $39.50 and $.72 is about 5,500%.

Another dramatic example occurs with a drug whose generic name is prednisone.

This is a very effective medicine essential in the treatment of arthritis and certain kinds of allergies and asthmatic conditions.

The Medical Letter, a distinguished and unbiased authoritative journal in the field of drugs, recently presented the results of a study of 22 brands of prednisone.

The editorial board of the "Medical Letter," consisting of noted and distinguished doctors and pharmacologists, concluded that all 22 brands tested could be used with confidence in the clinic. Moreover, the "Letter" said, "The great price spread among tablets purchased from different pharmaceutical companies suggests the desirability of prescribing by generic name and specifying—at least for patients of limited means—that the prescription be filled with low-priced prednisone tablets."

In other words, all 22 brands were equivalent—except in price.

Schering, the company which controlled a substantial share of the retail market, sold its prednisone under the name of Meticorten—and charged $17.90 per 100 tablets.

Parke, Davis, which sold much less than its competitor, marketed its prednisone under the name Paracort at $17.88 for 100 tablets.

And then the prices ranged downward precipitously to a low of 59¢ per 100 tablets from a reputable generic company. Other brand name companies, such as Upjohn and Merck sold their prednisones for $2.20 and $2.25 for 100 pills.

On July 24, 1967, I asked Mr. Burrows, the President of Parke, Davis (who was testifying): "Is there any difference, so far as you know, between your brand name and any other prednisone that meets USP standards?"

President Burrows' reply on page 606 of the hearings record states: "I don't know of any significant difference."

I then asked why a physician would prescribe a version of prednisone which costs $17.88 rather than one which costs 59¢ or $2.20.

President Burrows replied: "I cannot explain it, except I am sure that the physician is doing what he thinks is in the best interests of his patient, all things considered, including the reputation of the company that supplies the drug that he is prescribing . . . Physicians apparently feel that the product at $17.88 for their particular patients is worth the difference."

That answer by the witness pays tribute to the advertising campaign on which the drug companies spend $800 million every year to influence the doctors into prescribing their particular brands of drugs.

That amounts to about $3,000 per doctor per year in advertising—not to the general public, but only to the medical doctors.

Later the same day, I questioned Mr. Conzen, the President of the Schering Company about his prednisone.

According to the hearing record, on page 638, I stated: "What I am asking is, does the Schering Corporation have any double-blind clinical test to prove that the therapeutic efficacy of its prednisone is better than any other one of the 22 prednisones listed in the Medical Letter?"

Mr. Conzen: "No, sir."

Senator Nelson: "Is there any evidence at all that it is better than Upjohn's Deltasone (selling for $2.25) in terms of its therapeutic efficacy?"

Mr. Conzen: "We have no such comparative clinical studies."

Further on, I again asked for proof Meticorten was a better drug.

Conzen replied, "We have no proof it is better."

Finally, on page 639 of the Record, I said, "What we are really concluding here is that there is no clinical evidence to prove that any one of these 22 is any better or any less effective, including Schering's?"

Mr. Conzen: "That is right."

Senator Nelson: "Isn't that correct?"

Mr. Conzen: "Yes."

During the interchange that day, the Committee was informed by Mr. Burrows that Parke, Davis' cost to manufacture 100 tablets of Paracort—their prednisone—was 50 cents. The markup, therefore, was roughly 3,600%.

The inconsistent pricing structure can be further demonstrated by citing a few examples which resulted from a survey which I asked my staff to conduct last summer.

I wrote 77 countries and cities to inquire about the drugs they were buying and the prices they were paying for their health and welfare programs.

Twenty-nine answers were received, and they clearly demonstrated that there is no rationale which can explain the wide differences.

Quantities sold were completely unrelated to prices.

For example, Grand Rapids, Michigan paid $160.00 for 5,000 reserpine tablets while Chicago paid only $2.09, even though both bought about the same quantities.

Des Moines, Iowa, and Newark, New Jersey, paid $22.60 for 1,000 dextrocamphetamine tablets while Los Angeles paid 53 cents for like quantities.

Every city surveyed paid about $32.91 for tolbutamide tablets used for diabetes even though quantities ranged from $60,000 worth purchased in a single year by Chicago down to communities which bought only one or two hundred dollars a year.

The patent on these tablets, which do away with the need for insulin taken by injection in some cases of diabetes, is owned by Upjohn. That company is the sole supplier throughout the country, so there is no generic equivalent and, therefore, no competition.

Almost a half dozen drug companies have appeared to testify on their own behalf, and hours upon hours of testimony had been delivered by the representatives of the Pharmaceutical Manufacturers Association before a respected and revered name in the industry volunteered to give a most courageous and clear statement about drug company prices.

Mr. George S. Squibb, the fourth generation of the distinguished family to bear that name involved in the drug business, testified before our committee in November.

Mr. Squibb told the public what no other drug company executive had dared to do.

He said that if the drug industry does not settle for "ordinary profits" rather than "windfalls" in future, it will invite regulation like a public utility.

Squibb said: "This may come as a shocking idea to those who set the prices . . . but it is an idea which must be accepted or it will be imposed by regulation.

"It is clearly false and stupid to say that prescription drug prices cannot be reduced," Squibb told the Committee. "It is to be hoped that industry will take the leadership to do it. If not, others will."

"The concept of more and mode profits from the miseries of the sick, the aged, and the malnourished . . . seems to run counter to the swelling trend towards state-supported medicine," he said.

"Exploitation . . . of medicines used in life-preserving and life-saving situations, by setting prices far above the cost must be deliberately and conscientiously avoided," he stated.

On the day he testified, the Federal Trade Commission revealed that the drug industry had now moved into first place in average profits earned by all industry groups. The fact is that drug companies earn an average of 21.1% profit on investment—after taxes.

A single company reports a year-after-year profit of over 30%—sometimes as high as 40%—after taxes. And a major drug company, which has been purchased by a group of speculators in the early 1950's—was bought and paid for in less than five years.

When I asked George Squibb to comment on these figures, he said, "Because the government now is preparing to pay so much of the medical bill of the public, the drug industry cannot expect its return on sales after taxes to increase from 10% to 12% and then 15% and even 18% over a five or ten year plan."

He agreed that about "12% profit" would be adequate and would still support "good" research and development, a position that nobody else in the industry has yet had the courage to support.

George Squibb's testimony may have been the most significant breakthrough we have yet made in the course of these hearings.

Another matter was explored by the Committee which does not relate directly to drug prices, but does indicate the attitudes of at least one company.

Chloramphenicol is a potent antibiotic, and is sold by Parke, Davis under the trade name Chloromycetin.

The Physicians Desk Reference, a catalogue of drugs, says that chloramphenicol is the drug of choice in typhoid fever. It is also indicated in certain kinds of meningitis and rickettsia diseases such as Rocky Mountain spotted fever.

Since 1952, the AMA and its Journal have carried many warnings against prescribing chloromycetin in minor infections such as colds, influenza, throat infections, or where other less potentially dangerous agents will be effective.

A Boston blood specialist, Dr. William Damashek, said in 1960: "By some means, whether by regulation or by self-discipline, promiscuous use of the drug should be avoided and its use restricted to impelling circumstances, i.e., for conditions in which no other antibiotic is currently effective." Among 30 cases of aplastic anemia seen

within the previous three years, he said, eight had received Chloromycetin, "almost invariably for minor infections. Of the 10 most recent cases . . . five had followed therapy with chloramphenicol. The tragic thing about all these seriously ill cases, most of whom died, is that the drug need never have been given."

Dr. William P. Creger, addressing the San Diego Academy of General Practice, said that the drug "is the leading cause of" the often fatal aplastic anemia and that physicians "are using it far too much."

He attributed 350 aplastic anemia deaths to its use in the past 10 years.

In 1960, the President of Parke, Davis testified before the Kefauver Committee that the drug had caused the company to be involved in 25 damage suits. Most were settled out of court on undisclosed terms.

However, in 1962 a record judgment of $334,000 was awarded to a California woman because the jury found that the doctor who prescribed the drug and the company which manufactured it were liable for damages.

On February 20, 1967 a two-page advertisement appeared in the Journal of the American Medical Association, which described the use of Chloromycetin to the doctor. In *1300* words of warning, and in a large, black bordered box, the ad warned the physician that: "serious and even fatal blood dyferaslas (aplastic anemia, hypoplastic anemia . . .) are known to occur . . . chloramphenicol should be used only for serious infections caused by organisms which are susceptible to its antibacterial effects," and it went on to warn against use for minor infections.

I asked the quality control director of the Parke, Davis Company if he agreed that the warning was necessary and appropriate.

He concurred that the the warning was important and had to be an integral part of the ad; that the drug had dangerous side effects; that deaths had occurred which were directly attributable to the use of the drug.

Then I produced an advertisement for Chloromycetin, run by Parke, Davis in the British Medical Journal on February 11, 1967—nine days prior to the American ad.

Not a single word of warning appeared in the British ad. No mention was made of the drug's potentially fatal side effects, to at least alert the British physicians.

I asked the drug company representative why there was no warning.

His counsel replied that the company complies with the law of the country where it advertises, and the British don't require the warning.

I asked him whether he cared what happened to the British patient.

And what about the underdeveloped countries where the buyers were even less sophisticated and doctors were few and far between?

Didn't the company care about those people, I asked?

He again replied that the company obeyed the laws in whatever form they found them.

I was shocked, and I told them I didn't know how they could sleep nights, taking that kind of an attitude.

Another example exists which demonstrates the attitude of the Pharmaceutical Manufacturers Association. Some of you probably have seen an eight-page section in a recent issue of the Reader's Digest magazine which extolls the virtues of trade name drugs.

Under the sponsorship of the Pharmaceutical Manufacturers Association, several articles appeared in a form which were made to look as if they were a part of the regular run of articles which ordinarily appear in the magazine. The casual reader looking at these pages easily can be misled by this calculated deception into believing that generic drugs are inferior, and perhaps even harmful, compared with the brand name drug.

The articles were identical in type and layout to other Reader's Digest articles, and were identified only at the top of the first page, in small print, as advertising matter. The back page stated that the articles appeared as a "public service" by the Pharmaceutical Manufacturers Association.

Opposite the first page, a small box with an arrow pointing to the articles—which were perforated for easy removal—said that one could obtain another section by writing to "Health," in care of a numbered box in Washington, D.C. The fraud was compounded at this point by again leading one to believe that an altruistic organization connected with "health" had sponsored the articles.

Reader's Digest printed and circulated over 17 million issues of that magazine carrying this deceptive advertising. In addition, the PMA bought and sent to its constituents all over the country another one million reprints on which the words "Special Advertising Section" had been removed.

The cost to PMA for this was over $250,000 for the initial issue. And they plan to advertise in three more issues, at a total cost of over $1 million.

Meanwhile, Pharmaceutical Manufacturers Association admitted to our Committee that they made a grave error. The Post Office Department also has notified me that PMA has broken the Federal statutes by mailing the unmarked advertisements through the mail.

It is obvious that the stakes are high to the drug companies, but they are even higher to the prescription drug buying public.

Early in the hearings, it appeared clear that the drug prices could be reduced and that the companies could still make a decent profit.

As a consequence of exposing some of these prices thus far, in November the Schering Company announced that it was cutting the price of Meticorten, their brand of prednisone, from $17.90 to $10.80 per 100 tablets—a 40% decrease.

I then wrote to Parke, Davis. In response to my inquiry, President Burrows notified me that he had substantially lowered the price of Paracort—again prednisone—by 80%. The price for 1,000 tablets had been reduced from $169.98 to $34.50. (The Company has decided to discontinue its smaller 100 tablet packages selling for $17.88.)

Sometimes prices can be raised beyond the point of what the traffic will ordinarily bear.

On December 29, 1967, in Federal District Court, three major pharmaceutical manufacturers, Chas. Pfizer & Company, American Cyanamid Co., and Bristol-Myers Co., were found guilty of a criminal conspiracy to fix prices on the "wonder" antibiotic drugs which a great many of us have or will use sometimes during our lives.

During the trial, the anti-trust division of the Department of Justice produced confidential company papers which showed extraordinary profits on antibiotics.

In the six years ending in 1955, for example, gross profits of $342 million were realized by American Cyanamid's Lederle Laboratories Division on sales of $407 million, or between 82.6 and 85.7% profit a year.

There are other figures just as startling, but they all exhibit one of the single, most important reasons why the drug industry is so fantastically profitable.

I believe the Monopoly Committee can render a service to the country by publicly airing the circumstances of these situations, and others, as they present themselves.

Continued progress in drug price reductions remains a hopeful promise for the future.

ASSAULT ON PRAYER

Mr. BYRD of West Virginia. Mr. President, the founders of the United States, having noted the corruption of governments by the church in other countries and the corruption of the church by governments, wisely decreed a separation of church and state for this Nation. People would be free to worship as they pleased, or not to worship—free of government coercion in either direction.

American customs and institutions developed within this sound concept and strong framework for more than 170 years until the Supreme Court began to meddle with it in the 1962 New York school prayer case that banned religious observances in the public schools.

That and subsequent decisions of a similar nature, in my opinion, Mr. President, have gone beyond and have distorted the intent of the Constitution as I understand it, for the Bill of Rights says only that—

> Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof.

These Court rulings, Mr. President, have had the unfortunate effect of making it appear that the Federal Government is throwing its weight against religion, despite the fact that evidences of our religious faith as a Nation are apparent at all levels of government from the opening prayers in legislative halls to the affirmation of our belief in God that appears on our coins.

This thesis, Mr. President, is well developed in an editorial appearing in the Wheeling, W. Va., News-Register for January 27, dealing with the latest Supreme Court action affecting prayer in the schools. I ask unanimous consent that this editorial by Mr. Harry Hamm, the editor of the News-Register, be inserted in the RECORD.

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

ASSAULT ON PRAYER IN OUR AMERICA

All of the great Presidents of the United States who have guided this country through happy and perilous times returned pious gratitude to what George Washington called the "Invisible Hand" or the "Providential Agency" which blessed the Nation and helped establish its character.

Our leaders never hesitated to admit the existence of a Supreme Being and the inaugural addresses of our Presidents are liberally sprinkled with humble prayers. Thus it is most disappointing to see the continuing assault today on the religious traditions of our country.

Last week while the Nation was locked in grave crisis there came word that the United States Supreme Court had let stand an earlier ban on recitation of grace-type verse in public school kindergartens. The little verse which has stirred up so much travail simply reads:

"We thank you for the flowers so sweet:
"We thank you for the food we eat;
"We thank you for the birds that sing;
"We thank you for everything."

And so it is wrong now for youngsters to utter these words in the schoolhouses of a land so abundantly blessed by the Almighty! What a pity.

It had been an historical practice at many schools to open the day with a short prayer in much the same manner that both Houses of Congress now begin each day's session with a prayer.

Other schools chose not to have prayers, but the important point is that each State or local school was free to decide that question for itself.

Since the Supreme Court first ruled on the question of prayers in the public schools in

1962, freedom is a one-way street. The children in the public schools are free not to pray, but they are not free to pray even if they want to. This really is freedom from religion, and not freedom of religion.

Once again we have seen a cruel distortion of the Constitution. Any objective student of American history cannot deny the clear and simple purpose of the First Amendment. The writers of this part of the Constitution did not want a state church. Our Founding Fathers did not want any church—whether it be Presbyterian, Methodist, Episcopalian, Catholic, Baptist, or any other denomination—to be maintained by tax funds. That was it. There is no evidence that any of the Founding Fathers had any idea of driving a belief in God out of our National life. They just did not want a tax-supported church.

The history of the Constitution clearly shows that the drafters intended no hostility toward religion. The excesses of the church in old Virginia prompted political hostility and thus the First Amendment was drafted to put an end to tax-supported churches. There was no intention to create a society acceptable only to unbelievers.

One wonders where the godless minority will strike next in our country. Shall we be forced to do away with chaplains in our armed forces and the chapels in our military academies? Shall we no longer hear school children lift their voices in the inspiring song, "God Bless America"? Pray tell what is next?

Dean Erwin Griswold of the Harvard Law School has stated it well: "In a country which has a great tradition of tolerance, is it not important that minorities, who have benefited so greatly from that tolerance, should be tolerant, too, as long as they are not compelled to take affirmative action themselves, and nothing is done which they cannot wait out, or pass respectfully by, without their own personal participation, if they do not want to give it?"

Our system of government which emphasizes the freedom of the individual, is connected with religious faith. It would be a sad day in the history of our country if it should cease to be so. But there is fear this day that we are drifting ever closer to a time when all of the religious traditions of our country will be destroyed.

It shall be tragic indeed for our beloved America if her people turn to God only in times of great danger as suggested by the little card posted in one school which reads, "In case of atomic attack the Federal rule against praying in this school will be temporarily suspended."

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morn-business is terminated.

INTERFERENCE WITH CIVIL RIGHTS

Mr. HART. Mr. President, I ask unanimous consent that the unfinished business be laid before the Senate.

The PRESIDING OFFICER. The clerk will state the bill by title.

The ASSISTANT LEGISLATIVE CLERK. A bill (H.R. 2516) to prescribe penalties for certain acts of violence or intimidation, and for other purposes.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the unfinished business.

The Senate resumed consideration of the bill.

Mr. STENNIS. Mr. President, I do not intend to detain the Senate for any great length of time on the pending matter, but I have been concerned for several years with the general subject matter of law enforcement, the attitude of a great number of people about observance of the law, the attitude and sentiment that has crept in gradually, a feeling described as civil disobedience, the actual preaching by a number of people in high, responsible positions, even in church life, of civil disobedience being justified under some conditions.

My growing concern with respect to law enforcement and the attitude toward obedience of the law throughout the country is based partly upon my experience as a practicing lawyer for a good number of years. Part of that time I was a district attorney and dealt with a great number of serious cases, as well as minor ones. I was also privileged to be a trial judge for some 10 years.

I really wanted to get together what might be called a specially prepared speech on this subject. I am going to discuss part of it briefly today, even though the speech is not complete.

Mr. President, my basic belief is that the matter of law enforcement is not one of just added criminal laws of any kind. The lack of criminal laws is not where the trouble lies. I think the basic need is to restore to the minds and hearts of the people of this country a wholesome respect for law and order, a demand for law and order, rather than tolerating organized resistance or violation of the law, minor or major.

I think there must be generated again in the communities of this great Nation, down at the community level, a wholesome atmosphere for obedience of the law. Also we must emphasize again, rather than talk all the time about rights for this and rights for that, the basic need for responsibility and duty that lie at the very threshold of citizenship and the very threshold of the training of our youth—any youth—for a position in society. Those ideas have not been altogether abandoned, but they certainly have been neglected.

I am certainly not critical of the home and the school, but I do not see in the home and the school anywhere the good, solid, stern training that I think is necessary for the good of our youth during their formative years, the right attitude toward those duties and responsibilities, and the feeling of how dependent they are on respect for law, and how dependent all of us are on discipline and self-control in the first place, discipline of mind and body, and the need for discipline in society.

I think we have wandered off somewhere on the idea that all the trouble is with the police department; that all the trouble is with the Congress for failing to pass laws or appropriate money; that all the trouble is somewhere else. Then these people go out and organize and get the sympathy of some well-meaning people, and before we know it, there is a movement. All of these matters have culminated in the wrong emphasis with reference to obedience of the law and law and order.

I think that I speak with all due deference to the court. I do not wish to attack the court as an institution—never. And I have no attack to make on any individual member of the court.

But as a practicing lawyer of considerable experience, having dealt in the problems of public life for a long time, there is no doubt in my mind that this series of cases, beginning with the Mallory case about 10 years ago, and coming on down to the present, to which there have been many very respectable dissents, has only served to handcuff the law-enforcement officials, particularly with respect to the admissibility of evidence.

Mr. TALMADGE. Mr. President, will the Senator yield at that point?

Mr. STENNIS. I am happy to yield to the Senator from Georgia. He is a very competent man in this field, with vast experience, not only as a lawyer, but as chief executive of his State.

Mr. TALMADGE. I appreciate the generosity of my distinguished friend from Mississippi.

Did the Senator from Mississippi see the article in the Washington newspapers that I saw last week, reporting that a confessed murderer had been discharged by a court here in the District of Columbia, under the so-called Mallory rule, because he allegedly had been held for a certain period of time before they had arraigned him?

Mr. STENNIS. Yes. As a matter of fact, I have that article here in my hand, since the Senator has mentioned it. It was not the article that prompted my remarks on this subject, but I did bring it with me.

Mr. TALMADGE. Does not the distinguished Senator agree that court-made law such as that helps to account for the enormous increase in crime we have experienced? If my memory serves me correctly, I think there was an increase of some 16 percent in the first 9 months of last year.

Mr. STENNIS. I think the Senator has stated the matter well and truthfully. I can answer it further in this way: I believe it is up to Congress, now, to get some measures passed that will offset the trends of these decisions, and get it over to the people some way, through constitutional amendment or otherwise, that we have to begin to put the proper emphasis on the protection of the people, the masses of the people, the great body of the people, rather than continuing to lean over backwards to protect the few who may be charged with crime, or other special groups.

We have to get laws that will force the courts—in a constitutional way, of course—to do more in terms of protecting the people, the body of the people, the public, and to counteract this trend of strained interpretations of the Constitution, never heard of until a few years ago.

Mr. TALMADGE. Will the Senator yield further?

Mr. STENNIS. I yield.

Mr. TALMADGE. Does not the Senator feel that the rights of law-abiding, God-fearing, honorable citizens, who work for a living and pay taxes, are equal to the rights of some murderer or some rapist who runs rampant on society?

Mr. STENNIS. The Senator's question, of course, is well stated and answers itself. They are not only of equal importance, but more important, are necessary to the preservation of society.

Mr. TALMADGE. It is necessary to protect the rights of the masses of the people, is it not?

Mr. STENNIS. Yes. That is the whole basis of the law.

Mr. TALMADGE. Does not the Senator feel also that some of these people who run around the country preaching that it is all right to violate laws you feel are unjust, unwise, and immoral contribute to the breakdown of law and order in our society, as we see it occurring today?

Mr. STENNIS. I do not think there is any doubt that that is the way these things start and grow, and grow until there is an avalanche, and we are in the avalanche period now to a degree, although that spirit does not yet represent the thinking of the majority of the people.

I believe people are standing speechless in amazement that such a thing could happen and is happening, and that we seem unable to do more about it.

Mr. TALMADGE. I agree with the able Senator. I think that a majority of the people of America today regard the breakdown of law and order, the spirit of anarchy that is running rampant in this land, the violence that we see from day to day and from night to night, that the crime problem is equal in importance to the war in Southeast Asia itself; does not the Senator agree?

Mr. STENNIS. Yes, I think so; and the Senator from Georgia and I both put great emphasis on the suffering and loss of life of our boys in Southeast Asia, and are deeply concerned about it.

This situation we face at home is of equal importance, and could develop more and more into a situation that would be a more serious challenge to our national security, even, than a war.

Mr. TALMADGE. The District of Columbia, which is the Capital City of our Nation, should be the model city of our Nation—yes, even the model city of the free world; yet almost every morning we read of heinous crimes being committed here on the streets and in the public parks of our Capital City; is that not true?

Mr. STENNIS. It is true, and it has been true now for several years, increasing without interruption and seemingly without end. It shows all too clearly where the emphasis has been: "Leave them alone, do not harass them, do not question them, you cannot do anything to them."

As the Senator pointed out, this article refers to just one instance where the court officially turned one loose because of the Mallory rule. The police, of course, have turned loose hundreds that never get to court because of these same restrictions, that had never been heard of until a few years ago.

Mr. TALMADGE. Is it not a fact that grown, able-bodied men are apprehensive about walking the streets of the District of Columbia at night, not to mention the fear that females must fear?

Mr. STENNIS. It has come to that, yes. In fact, one is apprehensive about leaving home early in the morning, too, as to what might happen, even after the day has already come, to those we leave behind at home, even right here in the city of Washington, on Connecticut Avenue where I live. I know that from personal experience.

Mr. TALMADGE. Is it not a sad commentary on the law of our land when that can take place in the Nation's Capital?

Mr. STENNIS. It is not only sad, but alarming; and this trend must be stopped. My point at the beginning, before the Senator came into the Chamber, was that we are not going to be able to do it just by passing more laws.

Mr. TALMADGE. I agree.

Mr. STENNIS. We have to put the emphasis where it belongs.

Mr. TALMADGE. Does the Senator view with alarm, as I do, the articles that we frequently see in the news media, reporting that when a law enforcement officer goes out and makes an arrest, mobs will form, not to aid the law enforcement officer, but to go to the aid of the criminal?

Mr. STENNIS. That is right. As someone expresesd it, you get assaulted on the street, and before they get you to the hospital, they have already turned loose the man who assaulted you, under some of these rules that have been put out by the courts; and if a trial does occur, they come nearer trying the victim and the police than the man who made the assault. It is almost that bad.

Mr. TALMADGE. If they do not try the victim, they at least attempt to try the arresting officer, and find some alleged violation of the law he committed. They yell "police brutality" and bring him before some magistrate somewhere; do they not?

Mr. STENNIS. The Senator has correctly stated the situation.

I wish to emphasize, now, that while our discussion of these matters may be regarded by some as just an attempt to kill time or to filibuster, I say that we are bringing up here fundamental issues that are being neglected in this country; and while other Senators are taking time, speaking of them with all deference, to urge the passage of a law already on the books, and already largely enforced, we feel it is imperative that this situation be reversed; and a bill that would help toward dealing with these riots that are feared—I hope unnecessarily—for next summer, is tied up in the same committee that approved this bill now under debate.

That is the bill that is needed. This is a bill that is not needed. I think that is the most convincing thing involved. The same committee passed on these two bills.

Mr. President, I will not develop the Mallory rule here. I said that case was the beginning of the series of shocking decisions about which nothing has been done yet. However, I predict that this Congress will have to do something about these decisions because at some time the people will realize more fully what they mean. The proof of the lack of law enforcement will grow, and the people will then rise up and demand some kind of corrective action.

Another one of those cases is the case of *Massiah* v. *The United States*, 377 U.S. 201 (1964).

The defendant and another were jointly indicted on a narcotics charge and released on bail. Unknown to the defendant, the codefendant decided to cooperate with the Federal agents in a continuing investigation of the case. If they are going to solve all these matters, they have to investigate, of course.

The codefendant was provided with a concealed radio and engaged the defendant in an incriminating conversation which was recorded by Federal agents removed from the scene. The statement was admitted into evidence over the objection of the defendant, and the defendant was convicted. The conviction was affirmed by the Second Circuit Court of Appeals.

The Supreme Court reversed that case and held:

> The petitioner—
>
> Meaning the defendant—
>
> was denied the basic protections (of the Sixth Amendment) when there were used against him at his trial evidence of his own incriminating words, which Federal agents had deliberately elicited from him after he had been indicted and in the absence of his counsel.

There were three dissenting Justices. They were Justices White, Clark, and Harlan. Without going into detail, the substance of their dissent was that this was a new rule that the Supreme Court had evolved. Those three Justices said they considered the rule to be an unnecessary and unwarranted departure from precedent.

Those Justices were merely saying in nice words that the Supreme Court majority went on and legislated on the subject, in effect. And that is not the Senator from Mississippi speaking now. This is what three justices of the Court said about the ruling that they handed down in that case. They said that the ruling was an unnecessary and unwarranted departure from precedent with grave implications for the continued use of out-of-court statements in law enforcement.

That is an exact summary of what has been happening here now for years and years. These are unnecessary and unwarranted departures.

Those Justices said that it was not necessary to evolve that rule in order to protect society or the individual. They further said that it was an unwarranted action by the Court to get up that rule, that it was beyond their authority. That is the way I interpret it. The Justices said that the rule moved away from the precedent and had grave implications.

That case was decided in 1964. This is 1968. We have already seen what some of those implications were and are.

Mr. President, every person who has had much experience in these matters, merely from the use of commonsense and observation, knows that law violations are largely solved not by the assistance of eyewitnesses that have seen the crime, but by continued investigations. Nobody wants any star chamber methods used or any so-called brutality or anything else. However, if we cannot use commonsense activity and ingenuity, certainly to the extent that these officers were doing here, our hands are tide. The authorities are whipped before they ever start.

Who suffers from that? It is the general public. The Court said in that case:

> The requirement of rule 5(a) is a part of the procedure devised by Congress for safeguarding individual rights without hampering effective and intelligent law enforcement.
>
> The scheme for initiating a federal prosecution is plainly defined. The police may not arrest upon mere suspicion, but only on "probable cause." The next step is to arraign the arrested person before a judicial officer as quickly as possible so that he may be advised of his rights, and so that the issue of probable cause may be promptly determined. The arrested person may, of course, be booked by the police. But he is not to be taken to police headquarters in order to carry out a process of inquiry that lends itself, even if not so designed, to eliciting damaging statements to support the arrest and ultimately his guilt.

Mr. President, I have included that quotation because I had commented on the matter and I thought that it would be fair to the majority of the Court to give their reasons. I had commented on what I think is the substance of the dissenting remarks made by Justices White, Clark, and Harlan.

That case is a landmark case in this series of cases, to which I referred back in the beginning of my remarks, that started with the Mallory case.

The Senator from Georgia [Mr. TALMADGE] brought up a matter that happened here in a Washington court a few days ago.

The newspaper headline reads: "Confessed Murderer Freed Because of Mallory Rule." This article is from a Washington Post of 2 or 3 days ago.

It reads in part as follows:

> Harry Gross, a confessed murderer, was set free yesterday because police waited four hours before booking him after he failed a lie detector test.

I must think about the life of the person who was killed. I do not know the merits of the altercation that was had. There may not have been an altercation. It might have been a case that involved waylaying. I do not know the facts. However, I must think of the other person, the person whose life was snuffed out and cannot be recovered.

Merely because the police officer waited 4 hours before booking him after a lie detector test indicated to them that this man might be guilty, he was set scott free. The article did not say that the conviction was reversed. The man was just turned loose under the Mallory rule.

The article reads in part as follows:

> "If the new crime bill were in effect when this man confessed, then he would not be set free today," United States District Judge John J. Sirrica said.

The judge was referring to the new crime bill which we passed last fall solely for the District of Columbia.

The article to which I have referred confirms the fact that we need some legislation that will modify and restrict the application of these series of decisions to which I have referred as the Mallory rule.

Mr. HART. Mr. President, earlier today I advised the majority leadership and others of our desire to attempt to move forward in our effort to dispose of what we believe to be a most important and compelling piece of legislation.

It is our intention to move to table the pending Ervin amendment. In order that that may be advanced, I ask for the yeas and nays on the pending amendment.

The PRESIDING OFFICER (Mr. PELL in the chair). Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HART. Mr. President, we have now obtained the yeas and nays on the amendment. We have not made a motion to table.

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

The PRESIDING OFFICER. The Senator from Michigan has the floor.

Mr. HART. I yield to the Senator from New York.

Mr. JAVITS. Mr. President, I would like to ask the Senator some questions on this procedure which he, as manager of the bill, indicates may be adopted.

Is it not a fact that if the motion to table were ultimately made, which is obviously not debatable, and it should carry, the committee bill would then be open to any amendment, either direct to any portion of the bill or in the nature of a substitute?

Mr. HART. The Senator from New York has stated the situation correctly.

Mr. JAVITS. Is it not also a fact that probably, unless some bill is designed, which does not seem to be within sight right now, which would be suitable to those who have been debating the matter at some length—and I am not taking any position with respect to that because they have that solemn right and privilege; but if that situation persists—the only way we will ever be able in any reasonable time to consider the business of the country and the Senate, and get a vote, after refinement, amendment, and so forth, would be by cloture?

Mr. HART. The Senator has stated the situation correctly.

Mr. JAVITS. So this is an interim procedure. Does the Senator agree with that statement? Under those circumstances this is an interim action which sort of clears the decks for whatever else others in the Senate may have in mind to suggest or offer with respect to this measure.

I think it is fair to say that expresses itself as the eight or nine members, or whatever the number was, on the Committee on the Judiciary expressed themselves that this particular concept, this idea, as a framework upon which to hang a bill is not acceptable, and that the committee frame seems better adapted as a frame on which to hang a bill. That does not mean any amendment would prevail but only that this is a frame upon which to put a bill.

Mr. HART. The Senator from New York has analyzed the situation as I see it also.

We must remember that there are some 25 to 30 amendments that have been filed. We are in the 14th or 15th day of discussion. I think orderly procedure requires us, with a measure of responsibility on the bill, to take the action suggested.

Mr. JAVITS. Does it have some substantive importance indicating the framework within which a majority, if it should carry, wishes to work, is the framework of the bill as reported by the majority of the committee?

Mr. HART. Most certainly that would be the interpretation that should be given to our action if the Senate should favorably support the motion to table.

Mr. JAVITS. Would the Senator expect that is the concept which would then go out to the country; that that is all we have done? Would the Senator, as the manager of the bill, agree with me that this does not mean we have rejected all efforts to change the committee bill or compromise upon some phases of it, just as it would not mean necessarily we exclude any amendment, but only that we have chosen, as the framework within which to work, in an effort to perfect a bill, the bill as reported by the committee?

Mr. HART. As I see it, that is all that would be implied, and that would certainly be demonstrated.

Mr. JAVITS. I wonder if the Senator agrees with me that this represents a test of the action which the manager of the bill is proposing to take in due course, in which I hope to have the privilege of joining with him and standing with him, in that it will at least settle that question. Thereby, in a sense, it would liberate the time from the doctrine argument and free that group in the Senate—if it is a majority, and in my judgment, it is a heavy majority and much more than two-thirds—which does not adopt an approach toward this kind of social question but would be free to deal with it without that approach that there is anything right in a system which does differentiate between different elements of our population, and that we can all work our will on this measure.

Mr. HART. The Senator is correct in his statement. That would be the consequence of favorable action.

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

Mr. HART. I yield.

Mr. DIRKSEN. Mr. President, if there is any doubt, and if it makes any difference as to my own attitude on this matter, I propose to vote against the motion to table.

We have had innumerable meetings in the majority leader's office, and in my office. We have also had the Attorney General, our staffs, the distinguished Senator from North Carolina, the distinguished Senator from Nebraska at our meetings, and we have done our best to come up with three or four different versions.

I thought, as late as yesterday, that probably we had reached the point of agreement where I thought we could go to the distinguished Senator from Michigan and say we hope he probably can take it because I was opposed in committee to the committee bill. But the Senator from Michigan is the Senator in charge of the bill now. It came out of committee by one vote.

As long as the door is open we can continue to talk, we can continue to explore, and we can continue to examine every objection and find out whether we can come reasonably close to a common denominator.

If I had no other reason for so doing, I believe that would be adequate to vote against the motion to table. I should be only too glad to give myself to this problem, as I have done before, and try to exercise a maximum of restraint and patience in so doing.

Frankly, all these meetings were held in good grace and in good spirit. There was no acrimony whatever. We all came in with searching hearts and minds. I can continue to hope that we will continue to do exactly that, because I should like to see a bill before we have to resort to some kind of extreme action, either in the form of cloture or in the form of withdrawing the bill.

If there can be a bill to meet, in large part, the areas that should be served, then I am ready to do so.

Mr. HART. The Senator from Illinois, as always, explains clearly and eloquently the position he is taking and the reason for it.

I hope that the action I propose we take will assist and accelerate the development of an effective worker protection bill. The motion is made in the belief that it will make a contribution to it.

I respect, of course, the feeling of the Senator from Illinois and I make plain that the discussions that he has described have been developed over a period of days and I have never doubted that they were in good faith and in good spirit.

Mr. HOLLAND. Mr. President, will the Senator from Michigan yield?

Mr. HART. I yield for a question.

Mr. HOLLAND. This is a little more than a question. It enlarges the point I made on yesterday and completes that point.

Mr. HART. There are several Senators who are under a time problem here. I would not want the discussion to go to an extent that we would not be able to put the question before about a quarter to 3.

Mr. HOLLAND. The point I make will not go to any length. I thank the Senator for yielding.

Mr. President, yesterday, I called attention, in my brief remarks, to the dangerous and destructive leadership which was being exercised by several of the so-called civil rights leaders, notably—and I name them:

Sammy Davis. Stokely Carmichael. Rap Brown. Dick Gregory. Martin Luther King.

I notice in the Washington Post this morning an article which I believe adds further to this point. It is entitled "King Says 'No' to L. B. J. on March." I ask unanimous consent to have this article printed in the RECORD.

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

KING SAYS "NO" TO L. B. J. ON MARCH

CHICAGO, February 5.—Civil rights leader the Rev. Martin Luther King today rejected an appeal from President Johnson to abandon a planned poverty protest march on Washington in April.

He told a press conference he wished the President would remember that nothing had been achieved in civil rights "without putting real pressure on."

"I will only say to the President," King said today, "that if he will only remember that in December 1964 he told me in his office that he could not get a voting rights bill in 1965 but that same President must face the fact that we went to Selma (Alabama) two weeks later and started a movement," he said.

Dr. King came to Chicago to join other civil rights leaders in backing a planned march by one million mothers in American cities May 12—Mothers Day—to protest against provisions of the new "anti-welfare" Social Security amendments.

Organizers of the Mothers' March—the national welfare rights organization, a Nationwide group of welfare recipients—announced it would be followed by Nationwide demonstrations June 30 and July 1, when the welfare measure begins operating.

Dr. King also announced he would "probably join" planned protest demonstrations during the Democratic National Convention in Chicago in August.

Mr. HOLLAND. Mr. President, I read briefly from the article as follows:

CHICAGO, February 5.—Civil rights leader the Rev. Martin Luther King today rejected an appeal from President Johnson to abandon a planned poverty protest march on Washington in April.

The last sentence reads:

Dr. King also announced he would "probably join" planned protest demonstrations during the Democratic National Convention in Chicago in August.

Mr. President, I merely reiterate the point I made yesterday, that so long as we have these dangerous and destructive tactics by the leadership of a member of a race who has been shown honor, and has been allowed, in some instances, to attain distinction in this country under our democratic process, so long as we allow his fellow racists to exercise this dangerous, destructive, and false leadership, we can look forward to further trouble in the future. That is what I am sure every Senator in this body seeks ardently to avoid rather than to bring about.

Mr. SCOTT. Mr. President, will the Senator from Michigan yield?

Mr. HART. I yield for a question.

Mr. SCOTT. Will the Senator from Michigan not agree that on all great issues, including the civil rights issue, there is, at times, a tendency on the part of advocates on both sides to go beyond the normally defined limits of responsibility. I am sure that the Senator from Michigan does not excuse anyone who does that any more than I do.

I am sure that the Senator from Michigan would agree that in the Senate we do not equate those things which we cannot accept as responsible with our responsibility.

On that note, yes, I am very glad to say, loud and clear, in this Chamber, that the bill came out of committee because of my affirmative vote. I support it and I hope that the Senator's motion to table will carry.

Mr. HART. The vote of the Senator from Pennsylvania, as we all know, was most significant and most dramatic.

Mr. HRUSKA. Mr. President, will the Senator from Michigan yield?

Mr. HART. I yield for a question.

Mr. HRUSKA. I have just one brief comment. I join the minority leader in suggesting that it would be wise to reject any motion to lay the pending Ervin amendment on the table. I have been actively searching for a compromise position between the Ervin amendment and the committee bill.

There have been diligent, good-faith efforts to compose such a compromise and I think those efforts should continue. However, should the motion to lay the amendment on the table prevail, the area in which any Senator is interested in composing a compromise will be severely restricted. That should not be allowed to happen. I believe that with a little more time, we can determine either that there is no possibility of compromise or that there is a sufficiently strong likelihood of agreement.

But I should very much dislike—and I think that any Senator who is interested in securing the enactment of legislation on this point would dislike—to see the possibility of a compromise thrown away or limited so much as to make it impossible.

I hope that the substitute will not be tabled, but that the Senate will allow us to function a little more freely in searching for a solution to this problem.

I thank the Senator from Michigan for yielding to me.

Mr. HART. The Senator from Nebraska states his case very well. If I shared his point of view, I would not, of course, make the motion I shall now make. I believe it will clarify the situation for all Members of the Senate.

Mr. President, I now move——

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

Mr. HART. I yield.

Mr. MILLER. The Senator from Nebraska [Mr. HRUSKA] has expressed my sentiments very well. I certainly want it understood that I am not sold on the Ervin amendment. If the motion should not prevail, it would be my full intention to join with other Senators in seeking to perfect the amendment.

I know that the leadership has worked hard to try to devise a compromise. I have the uneasy feeling that if the motion should prevail, the work of the leadership will have gone down the drain. At least, the leadership will be much more inhibited than it otherwise would be.

I think that most of us have the feeling that if the motion to table prevails, that will not necessarily mean that the bill will not be amended; and that if the motion does not prevail, we who voted against the motion to table will be overjoyed and excited about the Ervin amendment.

The Ervin amendment contains many good points. But there are some points to which I do not subscribe. So when I cast my vote, it will be with the understanding that we will continue to try to perfect the proposed legislation without regard to what has happened.

Mr. KENNEDY of Massachusetts. Mr. President, I have given a great deal of thought to the arguments presented these past days by those Senators who oppose the enactment of H.R. 2516. I think it can be fairly said that most of their stated objections fall into one of these general categories:

Most insistently of all, we have heard that this bill would protect rioters, loot-

ers, and criminals generally and, correspondingly, would hamper and harass law enforcement officers, particularly in dealing with urban riot situations.

The opponents to this bill claim, further, that it somehow violates the spirit of the equal protection clause of the 14th amendment, by giving special benefits to one class of persons. Thus, it has been argued that the proposed statute would, in effect, discriminate against the majority—in particular, against those white persons from our southern States.

We have also heard that H.R. 2516 would be an unconstitutional invasion of State authority. Opponents have claimed that the enactment of the bill would flood the Federal courts with cases heretofore solely within local jurisdiction, and that many innocent persons would be necessarily swept into the net of Federal criminal sanctions.

Strangely enough, we have also heard, on the other hand, that this statute would be impossible to enforce, since the required intent would rarely be capable of proof.

These, then, are the basic criticisms of H.R. 2516 made by the opposition. I strongly believe that each is based on incorrect views of the actual scope of the bill itself, of the law in this area, and of the factual circumstances which the statute seeks to meet. I should like to deal with each of these criticisms, and to reiterate in the process some of the many aspects of the committee bill which render it not only desirable but necessary.

RELATION TO LAW ENFORCEMENT

First, I should have thought it would be clear to any objective student of this bill and its history thus far, that it is not intended to and would not condone or protect rioters or other violators of local criminal law. The present widespread concern over mass violence in our cities, as well as with the rising national crime rate, does indeed indicate the need for urgent congressional action on such measures as safe streets and the gun bill. However, this distressing situation does not diminish or overshadow the need for a Federal bill to punish interference with the lawful exercise of Federal rights.

We have heard many times during this debate that, because of its application to anyone, "whether or not acting under color of law," H.R. 2516 would harass and inhibit law enforcement officers in attempts to suppress riot activities or in everyday enforcement of local criminal laws. Nothing could be further from the truth.

Section 242 of the Federal criminal code, which authorizes prosecution of those interfering with Federal rights under color of law, has proven to be a more usable, effective, and comprehensive tool than section 241, which proscribes private conspiracies. Although the new section 245 could facilitate prosecutions of errant law enforcement officers insofar as it would obviate proof of action under color of law in the commission of the crime, the main thrust of the proposed bill has always been viewed by its proponents as the extended coverage of violence by private individuals.

Today, excessive force to effect an arrest, or official coercion of a confession would subject a law enforcement officer to Federal sanctions under section 242, as well as to State criminal penalties or departmental disciplinary action. Police officers may also be subject to civil liability for such excesses. And, of course, the case against an accused may be lost because of an officer's invasion of his rights.

Some people believe that local law enforcement is inhibited by these existing sanctions, although it seems to me that a policeman who tries to perform his duties fairly with respect to all citizens would be most unlikely to breach the bounds of legality. Whatever the merits of existing restrictions, however, I cannot see how any law enforcement officer who approaches his duties and responsibilities seriously, could feel constrained by a statute which prohibits him from using threats and force to deprive people of their federally guaranteed rights, a prohibition to which he is already largely subject under Federal and State laws.

This new law would provide that when a law enforcement officer totally abandons his duty in order to violently intimidate individuals seeking lawfully to exercise certain enumerated Federal rights, he will be punished like any other citizen. The actions upon which a conviction could be based would not be those of an officer doing his duty; I can conceive of no justification for excluding such acts from coverage merely because the agent of violence wears a uniform.

Along these lines, much has been made of the absence of the word "willfully" from the committee bill's description of prohibited acts. It has been claimed, for example, that a policeman who uses force to arrest a man under a local penal law, which is later invalidated as unconstitutional, could be convicted under section 245, since, as determined retroactively, the victim acted lawfully and the officer thereby interfered with his rights.

This line of criticism, however, ignores the clear requirement of an intention to invade the rights of a person because of his race or ethnic affiliation, or because of his advocacy of equality in the areas enumerated in section 245(a). So long as it appears that an officer reasonably believed he was doing his duty, that is, that the arrest took place because of a perceived violation of a then-valid law, no case of knowing interference with civil rights could be made against him.

VICTIMS OF VIOLENCE

I turn now to the potential victims of racially motivated violence. During this debate, we all have tended to speak rather loosely of the "protection" offered to various persons by this bill. It is true that any penal statute "protects" members of society insofar as it deters criminal acts against them. But criminal legislation does not confer new rights on prospective victims; nor does it relieve any persons from pre-existing duties and prohibitions.

Thus, with respect to the committee bill before us, it can be said that all persons would indeed be "protected" from violence, insofar as such violence would be deterred. But this would not render any person immune from prosecution for crimes he commits. Nor would the enactment of this bill imply any condonation of their crimes by the Federal Government. A citizen would, for example, be protected from being shot because he supported equal voting rights, but if he chose to express his support by illegally interfering with someone else's rights or property, he would be subject to the full penalties of the law.

Contrary to the frequent cries of opponents, this bill does not in any way rest upon a jurisdictional basis of "diversity of race." The race, religion, or national origin of the defendant and the victim would be merely incidental facts. The central element in the establishment of an offense, in addition to the act or threat of force, would be the defendant's motive.

The prohibited acts or threats of violence would be those motivated by a desire to interfere with the activities enumerated in section 245(a) because of the race, religion, or national origin of those who would otherwise enjoy them. The criticisms hypothesized on the basis of the difficulty of determining whether a given victim was in fact Negro, or on some supposed disparity of coverage when a group of victims or assailants consists of members of more than one racial or religious group, do not withstand a close reading of all three subsections of the proposed statute.

The potential victims under this bill could be members of any group, minority or majority. Subsection (c) would protect all officials or private employers or owners of public accommodations who seek to afford nondiscriminatory benefits. Subsection (b) would also protect persons of any race or religion urging such equality. Even under subsection (a), coverage would be provided no matter what the race or religion of the victim, as long as the intimidation is racially motivated and many situations can be foreseen where the victim would be white.

Consider, for example, the voting district comprised predominantly of members of one racial or ethnic minority group. Punishment of violence to intimidate voters of another race or religion, even though it predominates nationwide, is surely contemplated by subsection (a).

CONSTITUTIONALITY

Our power to enact H.R. 2516 derives from several sources, depending upon the victim's activity. It has long been settled that Congress may make it a crime for any person to interfere with the exercise of rights arising out of a relationship with the Federal Government or rights created by legislation enacted under article I, section 8, of the Constitution, which enumerates congressional powers. Thus this bill is plainly not subject to objection insofar as the activity interfered with is in the areas of Federal elections, employment, Federal jury service, common carriers, public accommodations, or federally administered or funded programs, facilities, or services.

Opponents to enactment concede all this, but would limit coverage with respect to employment, public accommodations, and common carriers to the scope of the substantive civil rights legislation we have enacted under the commerce clause. However, Congress is not

constitutionally bound by the lines of coverage announced in the 1964 Civil Rights Act. These limits were based primarily on other considerations relevant to that measure, and were not compelled by the Constitution. But if the enjoyment of the rights affirmed in these existing substantive laws is to be secured, we must prohibit all racial violence which is likely to inhibit such enjoyment. If racial violence directed against activities closely related to those protected by the 1964 act is permitted to go unpunished, the exercise of the protected activities will also be discouraged.

H.R. 2516 also would vindicate the right to the equal enjoyment of State facilities or programs, including, specifically, participation in purely State elections, in public education unassisted by the Federal Government, in employment by State and local agencies, and in State jury service.

There is no question that Congress has the power under the enabling clauses of the 14th and 15th amendments to punish criminally State officials who forcibly seek to deny these rights.

But perhaps most significantly, the measure before us would also reach purely private interference with the enjoyment of these 14th and 15th amendment rights. The opponents of this bill have quoted many judicial statements which appear to question Congress ability to enter this area. In fact, however, many of these decisions have dealt with the unconstitutionality of a State statute or other official action as determined directly by the equal protection clause. These cases did not deal with the question of whether the enabling clauses of the 14th and 15th amendments grant Congress the power to legislate with respect to private interference with rights which the State must affirmatively grant.

I am convinced that we have the power to reach private acts of racial violence intended to interfere with the exercise of 14th amendment rights. We have already made such a judgment, in enacting the criminal provisions of the 1965 Voting Rights Act, under the enabling clause of the 15th amendment. And six of the nine Justices of the Supreme Court, in the 1966 case of United States against Guest, have announced agreement with that judgment as applied to 14th amendment rights.

I have already met much of the argument that this bill violates the spirit of the equal protection clause. We have heard that cry of "reverse discrimination" before in our consideration of other civil rights statutes. Presumably opponents of such legislation believe that any bill which seeks to deal honestly and directly with the problems created by centuries of persecution of Negroes—and thus explicitly mentions the word "race"—is somehow granting Negro citizens special privileges.

As I pointed out earlier, this claim is particularly baseless with respect to criminal legislation, which grants no new rights at all, but is aimed at penalizing invasions of preexisting rights. And, looking for a moment at the whole spectrum of civil rights laws which have been, and, I hope, will be, enacted, we see only an attempt to counteract the effects of previous violations of our Nation's basic premise of the equality of all men before the law.

COVERAGE AND PROOF

It is strange that the opposition criticizes H.R. 2516 as an infringement upon State criminal jurisdiction, yet supports an amendment which would punish acts as to which no need for Federal intervention has been indicated. The committee bill limits its coverage to violence motivated by issues of race, color, religion, or national origin—violence which prevents the full implementation of Federal civil rights legislation and has often met no local sanctions.

Yet it is unlikely that a conviction could ever be obtained under this statute for actions which would not also be punishable by adequate State laws rigorously and evenhandedly applied. Thus, the argument we have heard that innocent persons would be harassed by Federal prosecutions has no more application to this statute than to any other penal law. Innocent persons could not fear conviction under this law—that is the crucial fact.

As other proponents of this bill have already pointed out in greater detail, this bill would clearly be far more effective, both as a deterrent and as a basis for prosecution, than existing legislation or any suggested substitute. In conclusion, I wish to express my hope that H.R. 2516 will be promptly enacted.

Mr. HART. Mr. President, I now move to table the Ervin amendment, which is pending. On the motion, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. MANSFIELD. Mr. President, I ask that the Chamber be cleared, in accordance with the recently adopted regulations. The doors are being blocked.

The PRESIDING OFFICER. All persons not authorized to be in the Chamber will withdraw. The clerk will desist from the rollcall until they have withdrawn. The Sergeant at Arms is instructed to carry out the order.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Michigan to table the amendment (No. 505) of the Senator from North Carolina [Mr. ERVIN]. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. MANSFIELD (after having voted in the affirmative). Mr. President, on this vote I have a pair with the distinguished senior Senator from Georgia [Mr. RUSSELL]. If he were present and voting, he would vote "nay." If I were permitted to vote, I would vote "yea." Therefore, I withdraw my vote.

Mr. BYRD of West Virginia (after having voted in the negative). Mr. President, on this vote I have a live pair with the distinguished senior Senator from Rhode Island [Mr. PASTORE]. If he were present and voting, he would vote "yea." If I were permitted to vote, I would vote "nay." I withdraw my vote.

Mr. DIRKSEN (after having voted in the negative). Mr. President, on this vote I have a pair with the distinguished Senator from California [Mr. KUCHEL]. He is unavoidably absent. If he were present and voting, he would vote "yea." If I were free to vote, I would vote "nay." Therefore, I withdraw my vote.

Mr. BYRD of West Virginia. I announce that the Senator from Alaska [Mr. BARTLETT], the Senator from Mississippi [Mr. EASTLAND], the Senator from Indiana [Mr. HARTKE], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Hawaii [Mr. INOUYE], the Senator from New York [Mr. KENNEDY], the Senator from Minnesota [Mr. MCCARTHY], the Senator from Utah [Mr. MOSS], the Senator from Rhode Island [Mr. PASTORE], the Senator from Connecticut [Mr. RIBICOFF], and the Senator from Georgia [Mr. RUSSELL], are necessarily absent.

I further announce that, if present and voting, the Senator from Alaska [Mr. BARTLETT], the Senator from Indiana [Mr. HARTKE], the Senator from Minnesota [Mr. MCCARTHY], and the Senator from Utah [Mr. MOSS], would each vote "yea."

On this vote, the Senator from Connecticut [Mr. RIBICOFF], is paired with the Senator from Mississippi [Mr. EASTLAND]. If present and voting, the Senator from Connecticut would vote "yea" and the Senator from Mississippi would vote "nay."

On this vote, the Senator from New York [Mr. KENNEDY], is paired with the Senator from South Carolina [Mr. HOLLINGS]. If present and voting, the Senator from New York would vote "yea" and the Senator from South Carolina would vote "nay."

On the vote, the Senator from Hawaii [Mr. INOUYE], is paired with the Senator from California [Mr. MURPHY]. If present and voting the Senator from Hawaii would vote "yea" and the Senator from California would vote "nay."

Mr. DIRKSEN. I announce that the Senators from California [Mr. KUCHEL and Mr. MURPHY] are necessarily absent.

The Senator from Tennessee [Mr. BAKER] is detained on official business, and, if present and voting, would vote "yea."

The pair of the Senator from California [Mr. KUCHEL] has been previously announced.

On this vote, the Senator from California [Mr. MURPHY] is paired with the Senator from Hawaii [Mr. INOUYE]. If present and voting, the Senator from California would vote "nay" and the Senator from Hawaii would vote "yea."

The result was announced—yeas 54, nays 29, as follows:

[No. 5 Leg.]

YEAS—54

Aiken	Griffin	Montoya
Allott	Gruening	Morse
Anderson	Harris	Morton
Bayh	Hart	Muskie
Bible	Hatfield	Nelson
Boggs	Jackson	Pearson
Brewster	Javits	Pell
Brooke	Jordan, Idaho	Percy
Burdick	Kennedy, Mass.	Prouty
Cannon	Lausche	Proxmire
Case	Long, Mo.	Randolph
Church	Magnuson	Scott
Clark	McGee	Smith
Cooper	McGovern	Symington
Cotton	McIntyre	Tydings
Dodd	Metcalf	Williams, N.J.
Dominick	Mondale	Yarborough
Fong	Monroney	Young, Ohio

NAYS—29

Bennett	Hayden	Smathers
Byrd, Va.	Hickenlooper	Sparkman
Carlson	Hill	Spong
Curtis	Holland	Stennis
Ellender	Hruska	Talmadge
Ervin	Jordan, N.C.	Thurmond
Fannin	Long, La.	Tower
Fulbright	McClellan	Williams, Del.
Gore	Miller	Young, N. Dak.
Hansen	Mundt	

NOT VOTING—17

Baker	Hollings	Moss
Bartlett	Inouye	Murphy
Byrd, W. Va.	Kennedy, N.Y.	Pastore
Dirksen	Kuchel	Ribicoff
Eastland	Mansfield	Russell
Hartke	McCarthy	

So Mr. HART's motion to lay Mr. ERVIN's amendment on the table was agreed to.

FAIR HOUSING

Mr. MONDALE. Mr. President, I submit an amendment which I send to the desk, and ask that the reading of the amendment be waived and that it be printed in the RECORD.

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

Mr. MONDALE's amendment is as follows:

AMENDMENT NO. 524

On page 11, line 5, insert the following:

"TITLE II

"POLICY

"It is the policy of the United States to prevent discrimination on account of race, color, religion, or national origin in the purchase, rental, financing, and occupancy of housing throughout the United States.

"DEFINITIONS

"SEC. 2. As used in this Act—

"(a) 'Secretary' means the Secretary of Housing and Urban Development.

"(b) 'Dwelling' means any building, structure or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure or portion thereof.

"(c) 'Family' includes a single individual.

"(d) 'To rent' includes to lease, to sublease, to let and otherwise to grant for a consideration the right to occupy premises not owned by the occupant.

"(e) 'Discriminatory housing practice' means an act that is unlawful under section 4, 5, 6, or 7.

"(f) 'State' means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, or any of the territories and possessions of the United States.

"EFFECTIVE DATES OF CERTAIN PROHIBITIONS

"SEC. 3. Except as exempted by section 8, the prohibitions against discrimination in the sale or rental of housing set forth in section 4 shall apply—

"(a) Upon enactment of this Act, to—

"(1) dwellings owned or operated by the Federal Government;

"(2) dwellings provided in whole or in part with the aid of loans, advances, grants or contributions made by the Federal Government, under agreements entered into after November 20, 1962;

"(3) dwellings provided in whole or in part by loans insured, guaranteed or otherwise secured by the credit of the Federal Government, under agreements entered into after November 20, 1962; and

"(4) dwellings provided by the development or the redevelopment of real property purchased, rented or otherwise obtained from a State or local public agency receiving Federal financial assistance for slum clearance or urban renewal with respect to such real property under loan or grant contracts entered into after November 20, 1962.

"(b) After December 31, 1968, to—

"(1) dwellings included within subsection (a);

"(2) dwellings no parts of which are occupied by their owners as residences prior to the particular sales or rentals involved; and

(3) dwellings designed or intended for occupancy by, or occupied by, five or more families.

"(c) After December 31, 1969, to all dwellings.

"DISCRIMINATION IN THE SALE OR RENTAL OF HOUSING

"SEC. 4. As made applicable by section 3 and except as exempted by section 8, it shall be unlawful—

"(a) To refuse to sell or rent, to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, or national origin.

"(b) To discriminate against any person in the terms, conditions or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color, religion, or national origin.

"(c) To make, print, or publish, or cause to be made, printed, or published any oral or written notice, statement, or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, religion, or national origin, or an intention to make any such preference, limitation, or discrimination.

"(d) To represent to any person because of race, color, religion, or national origin that any dwelling is not available for inspection, sale, or rental when such dwelling is in fact so available.

"(e) For profit, to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, or national origin.

"(f) Nothing in this section shall apply to an owner with respect to the sale, lease, or rental by him of a portion of a building or structure which contains living quarters occupied or intended to be occupied by no more than four families living independently of each other if such owner actually occupies one of such living quarters as his residence.

"DISCRIMINATION IN THE FINANCING OF HOUSING

"SEC. 5. After December 31, 1968, it shall be unlawful to deny a loan to a person applying therefor for the purpose of purchasing, constructing, improving, repairing, or maintaining a dwelling, or to discriminate against him in the fixing of the amount, interest rate, duration, or other terms or conditions of such a loan, because of the race, color, religion, or national origin of such person or of any person associated with him in connection with such a loan or the purposes of such a loan, or of the present or prospective owners, lessees, tenants, or occupants of the dwelling or dwellings in relation to which such a loan is to be made.

"DISCRIMINATION IN THE PROVISION OF BROKERAGE SERVICES

"SEC. 6. After December 31, 1968, it shall be unlawful to deny any person access to or membership or participation in any multiple-listing service, real estate brokers' organization or other service, organization or facility relating to the business of selling or renting dwellings, or to discriminate against him in the terms or conditions of such access, membership, or participation, on account of race, color, religion, or national origin.

"INTERFERENCE, COERCION, OR INTIMIDATION

"SEC. 7. It shall be unlawful to coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of his having exercised or enjoyed, or on account of his having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by section 4, 5, or 6.

"EXEMPTION

"SEC. 8. Nothing in this Act shall prohibit a religious organization, association, or society, or any nonprofit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association, or society, from limiting the sale, rental or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of race, color, or national origin.

"ADMINISTRATION

"SEC. 9. (a) The authority and responsibility for administering this Act shall be in the Secretary of Housing and Urban Development.

"(b) The Department of Housing and Urban Development shall be provided an additional Assistant Secretary. The Department of Housing and Urban Development Act (Public Law 89–174, 79 Stat. 667) is hereby amended by—

"(1) striking the word 'four,' in section 4(a) of said Act (79 Stat. 668; 5 U.S.C. 624b (a)) and substituting therefor 'five,'; and

"(2) striking the word 'six,' in section 7 of said Act (79 Stat. 669; 5 U.S.C. 624d(c)) and substituting therefor 'seven.'

"(c) The Secretary may delegate any of his functions, duties, and powers to employees of the Department of Housing and Urban Development or to boards of such employees, including functions, duties, and powers with respect to investigating, conciliating, hearing, determining, ordering, certifying, reporting, or otherwise acting as to any work, business, or matter under this Act. The persons to whom such delegations are made with respect to hearing functions, duties, and powers shall be appointed and shall serve in the Department of Housing and Urban Development in compliance with sections 3105, 3344, 5362, and 7521 of title 5 of the United States Code. Insofar as possible, initial hearings shall be held in the cities or other localities where the discriminatory housing practices allegedly occurred. The Secretary shall by rule prescribe such rights of appeal from the decisions of his hearing examiners to other hearing examiners or to other officers in the Department, to boards of officers or to himself, as shall be appropriate and in accordance with law.

"(d) All executive departments and agencies shall administer their programs and activities relating to housing and urban development in a manner affirmatively to further the purposes of this Act and shall cooperate with the Secretary to further such purposes.

"(e) The Secretary shall conduct such investigations, make such surveys and studies, issue such reports, establish such policies, standards, criteria, and procedures, and prescribe such rules, regulations, and forms as in his judgment are necessary or appropriate to further the purposes of this Act.

"EDUCATION AND CONCILIATION

"SEC. 10. (a) Immediately after the enactment of this Act the Secretary shall commence such educational and conciliatory activities as in his judgment will further the purposes of this Act. He shall call conferences of persons in the housing industry and other interested parties to acquaint them with the provisions of this Act and his suggested means of implementing it, and shall endeavor with their advice to work out programs of voluntary compliance and of enforcement. He may pay per diem, travel and transportation expenses for persons attending such conferences as provided in section 5703 of title 5 of the United States Code. He

shall consult with State and local officials and other interested parties to learn the extent, if any, to which housing discrimination exists in their State or locality, and whether and how State or local enforcement programs might be utilized to combat such discrimination in connection with, or in place of, the Secretary's enforcement of this Act. The Secretary shall issue reports on such conferences and consultations as he deems appropriate.

"(b) In any case in which he holds hearings and issues orders, or in which he contemplates doing so, the Secretary shall first endeavor to eliminate the alleged discriminatory housing practices by informal methods of conference (conciliation and persuasion. Nothing said or done in the course of such informal endeavors may be made public or used as evidence in a subsequent proceeding under this Act, without the written consent of the persons concerned. Any employee of the Secretary who shall make public any information in violation of this provision shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not more than $1,000 or imprisoned not more than one year.

"ENFORCEMENT

"SEC. 11. (a) The Secretary is empowered, as hereinafter provided, to prevent any person from engaging in any discriminatory housing practice. Any person who claims to have been injured by a discriminatory housing practice or who believes that he will be irrevocably injured by a discriminatory housing practice that is about to occur (hereafter, 'person aggrieved') may file a charge with the Secretary. Charges shall be in writing and shall contain such information and be in such form as the Secretary requires. Within thirty days after receiving a charge the Secretary shall investigate it and give notice in writing to the person aggrieved whether he intends to resolve it. If the Secretary decides to resolve the charge, he shall proceed to try to eliminate or correct the alleged unfair housing practice by informal methods of conference, conciliation, and persuasion. If the Secretary declines to resolve a charge, or if he fails to give notice of whether he intends to resolve it within thirty days as prescribed, or if he is able to settle a charge by informal methods of conference, conciliation, and persuasion but the person aggrieved does not consent in writing to the terms of such settlement, the person aggrieved may commence an action in any United States district court or State or local court of competent jurisdiction to enforce the rights granted or protected by this Act, insofar as such rights relate to the subject of the charge. Such actions may be brought in United States district courts without regard to the amount in controversy. Courts shall decide such actions without regard to the fact that the Secretary may have declined to resolve the charges to which they relate or failed to give timely notice of his intent to resolve them, or that he may have settled a charge with the respondent but failed to obtain the written consent of the person aggrieved.

"(b) If the Secretary determines after trying to settle a charge by informal methods of conference, conciliation, and persuasion that further efforts are unwarranted, which determination shall not be reviewable in any court, he shall issue a complaint and promptly serve a copy of the complaint on the person or persons who allegedly committed or are about to commit the discriminatory housing practices concerned (hereinafter, 'the respondents') and shall also furnish a copy to the person or persons aggrieved. The Secretary may also issue complaints without a charge having been filed, if from his own investigation he has reason to believe that a discriminatory housing practice has occurred or is about to occur. No alleged discriminatory housing practice shall be made the subject of a complaint or of a civil action issued or commenced under this subsection more than 180 days after the alleged practice has occurred, except that a civil action may be commenced with respect to the subject of an informally settled charge to which the person aggrieved did not consent in writing within sixty days of such person having received notice of the terms of such settlement.

"(c) Complaints shall be in writing and shall state the facts upon which the allegations of a discriminatory housing practice or practices are based and when and where a hearing on such allegations is scheduled to take place. Related proceedings may be consolidated for hearing. Complaints may be reasonably and fairly amended at any time. After the respondents have been given reasonable notice and an opportunity to be heard, the Secretary shall state his findings of fact and, if he finds that no discriminatory housing practices have occurred, shall issue an order dismissing the complaint, or if he finds that discriminatory housing practices have occurred or are about to occur, shall issue an order requiring the respondent to cease and desist such practices and to take such affirmative action as will effectuate the policies of this Act. Such orders may require a respondent to make reports from time to time showing the extent to which he has complied with an order. Findings of fact and orders made or issued under this subsection shall be determined on the record.

"(d) At any time after a complaint is issued the Secretary may issue a temporary order restraining the respondent from doing any act that would tend to render ineffectual a final order that the Secretary might issue. Temporary orders may extend beyond ten days only if the respondent is first given reasonable notice and an opportunity to be heard. The Secretary may condition the issuance of a temporary order upon the posting of a bond by the person or persons seeking protection from discrimination, with such sureties, if any, as the Secretary considers necessary.

"(e) A respondent may file an answer to the complaint against him and with the leave of the Secretary, which shall be granted whenever it would be reasonable and fair to do so, may amend his answer at any time. Respondents shall be parties and may appear at any stage of the proceedings, with or without counsel. Persons aggrieved may submit briefs or other written submissions on each occasion when such are permitted or directed, may be present to observe at any stage of the proceedings, with or without counsel, and may appeal or petition for review to the same extent as a party, but without the permission of the Secretary persons aggrieved may not otherwise participate in the proceedings. The Secretary may grant such other persons a right to intervene as respondents or persons aggrieved or to file briefs or make oral arguments as amicus curiae or for other purposes, as he considers appropriate.

"(f) Hearings shall be on the record. All testimony shall be taken under oath. Hearings shall be open to the public unless the respondent and the Secretary agree that they be private.

"INVESTIGATIONS; SUBPENAS; GIVING OF EVIDENCE

"SEC. 12. (a) In conducting an investigation the Secretary shall have access at all reasonable times to premises, records, documents, individuals and other evidence or possible sources of evidence and may examine record, and copy such materials and take and record the testimony or statements of such persons as are reasonably necessary for the furtherance of the investigation. The Secretary may issue subpenas to compel his access to or the production of such materials, or the appearance of such persons, and may issue interrogatories to a respondent, to the same extent and subject to the same limitations as would apply if the subpenas or interrogatories were issued or served in aid of a civil action in the United States district court for the district in which the investigation is taking place. The Secretary may administer oaths.

"(b) Upon written application to the Secretary, a respondent shall be entitled to the issuance of a reasonable number of subpenas by and in the name of the Secretary to the same extent and subject to the same limitations as subpenas issued by the Secretary himself. Subpenas issued at the request of a respondent shall show on their face the name and address of such respondent and shall state that they were issued at his request.

"(c) Witnesses summoned by subpena of the Secretary shall be entitled to the same witness and mileage fees as are witnesses in proceedings in United States district courts. Fees payable to a witness summoned by a subpena issued at the request of a respondent shall be paid by him.

"(d) Within five days after service of a subpena upon any person, such person may petition the Secretary to revoke or modify the subpena. The Secretary shall grant the petition if he finds that the subpena requires appearance or attendance at an unreasonable time or place, that it requires production of evidence which does not relate to any matter under investigation, that it does not describe with sufficient particularity the evidence to be produced, that compliance would be unduly onerous, or for other good reason.

"(e) In case of contumacy or refusal to obey a subpena, the Secretary or other person at whose request it was issued may petition for its enforcement in the United States district court for the district in which the person to whom the subpena was addressed resides, was served, or transacts business.

"(f) Any person who wilfully fails or neglects to attend and testify or to answer any lawful inquiry or to produce records, documents, or other evidence, if in his power to do so, in obedience to the subpena or lawful order of the Secretary, shall be fined not more than $5,000 or imprisoned not more than one year, or both. Any person who, with intent thereby to mislead the Secretary, shall make or cause to be made any false entry or statement of fact in any report, account, record or other document submitted to the Secretary pursuant to his subpena or other order, or shall wilfully neglect or fail to make or cause to be made full, true and correct entries in such reports, accounts, records, or other documents, or shall wilfully mutilate, alter, or by any other means falsify any documentary evidence, shall be fined not more than $5,000 or imprisoned not more than one year, or both.

"PATTERN OR PRACTICE ACTIONS

"SEC. 13. Whenever the Attorney General has reasonable cause to believe that any person or group of persons is engaged in a pattern or practice of resistance to the full enjoyment of any of the rights granted or protected by this Act he may bring a civil action in any appropriate United States district court by filing with it a complaint setting forth the facts pertaining to such pattern or practice and requesting such preventive relief, including an application for a permanent or temporary injunction, restraining order or other order against the person or persons responsible for such pattern or practice, as he deems necessary to insure the full enjoyment of the rights granted or protected by this Act.

"DISOBEDIENCE OF ORDERS; JUDICIAL REVIEW

"SEC. 14. (a) It shall be unlawful to fail to comply with an order that has not been stayed or set aside by the Secretary or by a court as provided in subsection (b) of this section. After having first given the respondent or other person allegedly in disobedience of an order reasonable notice and an opportunity to be heard, the Secretary, if he determines that it has been disobeyed,

may issue such supplemental orders as he considers appropriate to encourage compliance with such order. Supplemental orders may include an order to forfeit not more than $50 for each day during which the person found to have disobeyed an order continues to disobey it. Moneys so forfeited shall be paid into the Treasury of the United States.

"(b) At any time after he has issued an order the Secretary may petition a court for its enforcement. Within thirty days after the Secretary has given notice to all respondents and persons aggrieved of his decision on the last appeal to him which is available with respect to a final order isued under subsection (c) of section 11, or within five days after he has given such notice with respect to a temporary order issued under subsection (d) of section 11 or a supplemental order issued under subsection (a) of this section, a respondent or person aggrieved may petition a court for review of any such order. The filing of a petition for enforcement or review shall not in itself operate to stay an order. Petitions for enforcement or review of final orders, other than final orders based on voluntary settlements, shall be to the United States court of appeals for the circuit in which the discriminatory housing practice occurred or in which the respondent resides or transacts business. Petitions for enforcement or review of voluntary settlements, of temporary orders issued under subsection (d) of section 11 or of supplemental orders issued under subsection (a) of this section shall be to the United States district court for the district in which the discriminatory housing practice occurred or in which the respondent resides or transacts business; except that when enforcement or review is sought concurrently both for orders that should be brought before a district court and for orders that should be brought before a court of appeals, the petition with respect to all such orders shall be to the appropriate court of appeals.

"(c) Promptly after he petitions for enforcement or after he receives notice that a petition for review has been filed, the Secretary shall file in the court a copy or the original of the portions of the record which are material to the petition for enforcement or review. Upon the filing of a petition the court shall conduct further proceedings in conformity with sections 701 to 706 of title 5 of the United States Code, shall cause notice of the filing to be served upon all parties and persons aggrieved and shall thereupon have exclusive jurisdiction of the proceedings. It shall have power to grant such stays, temporary relief or restraining orders as it deems proper, to affirm, modify, or set aside the findings or orders of the Secretary in whole or in part, or to remand the case to the Secretary for further proceedings. The findings of fact of the Secretary shall be conclusive if supported by substantial evidence. Enforcement or review shall be upon the record which the order was based, except that the court may, in its discretion, take additional evidence upon a showing that it was offered to and improperly excluded by the Secretary or could not reasonably have been produced before him or was not available.

"(d) The Attorney General shall conduct all litigation to which the Secretary is a party pursuant to this Act.

"EFFECT ON STATE LAWS

"SEC. 15. Nothing in this Act shall be construed to invalidate or limit any law of a State or political subdivision of a State, or of any other jurisdiction in which this Act shall be effective, that grants, guarantees, or protects the same rights as are granted by this Act; but any law of a State, a political subdivision, or other such jurisdiction that purports to require or permit any action that would be a discriminatory housing practice under this Act shall to that extent be invalid.

"COOPERATION WITH STATE AND LOCAL AGENCIES ADMINISTERING FAIR HOUSING LAWS

"SEC. 16. The Secretary may cooperate with State and local agencies charged with the administration of State and local fair housing laws and, with the consent of such agencies, utilize the services of such agencies and their employees and, notwithstanding any other provision of law, may reimburse such agencies and their employees for services rendered to assist him in carrying out this Act. In furtherance of such cooperative efforts, the Secretary may enter into written agreements with such State or local agencies, and such agreements may include provisions under which the Secretary shall refrain from issuing complaints in any class of cases specified in such agreements. The Secretary shall terminate any such agreement whenever he determines that it no longer serves the interest of effective enforcement of this Act. All agreements and terminations thereof shall be published in the Federal Register.

"APPROPRIATIONS

"SEC. 17. There are hereby authorized to be appropriated such sums as are necessary to carry out the purposes of this Act.

"SEPARABILITY OF PROVISIONS

"SEC. 18. If any provisions of this Act or the application thereof to any person or circumstances is held invalid, the remainder of the Act and the application of the provision to other persons not similarly situated or to other circumstances shall not be affected thereby."

Mr. MONDALE. Mr. President, the Senator from Massachusetts [Mr. BROOKE] and I jointly submit this amendment for ourselves, Mr. PROXMIRE——

Mr. STENNIS. Mr. President, may we have order so that Senators may hear?

The VICE PRESIDENT. The Senate will be in order. Attachés will please take their seats. The Senator will withhold until order is restored.

The Senator from Minnesota may proceed.

Mr. MONDALE. Mr. President, the Senator from Massachusetts [Mr. BROOKE] and I jointly submit this amendment for ourselves, Mr. CASE, Mr. PROXMIRE, Mr. MUSKIE, Mr. WILLIAMS of New Jersey, Mr. LONG of Missouri, Mr. MCGEE, Mr. NELSON, and possibly other members of the Committee on Banking and Currency.

Mr. President, I ask unanimous consent to have printed in the RECORD a summary of the proposed amendment, questions and answers describing the proposed fair housing amendment, with the exception of the Mrs. Murphy exception, and a summary of the constitutional arguments which establish, in my opinion beyond doubt, the constitutionality of the Fair Housing Act.

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

Mr. MONDALE. I thank the Presiding Officer.

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

THE PROPOSED FAIR HOUSING ACT OF 1967: SUMMARY

The Act would gradually prohibit discrimination on account of race, color, religion or national origin in the sale or rental of housing. Housing already subject to the President's Order on Equal Opportunity in Housing would be covered immediately. Housing held for sale or rent by someone other than its occupant and housing for five or more families would be covered from and after January 1, 1968. All housing other than exempted housing of religious institutions would be covered from and after January 1, 1969, with the exception of the "Mrs. Murphy" provision.

The Act would also prohibit "blockbusting," discrimination in the financing of housing, discrimination in the provision of services or admission to membership by real estate organizations, and interference with or threats against persons enjoying or attempting to enjoy any of the rights which the Act grants or protects.

Responsibility for administration and enforcement would rest with the Secretary of Housing and Urban Development. He would use the time during which the enforcement provisions gradually went into effect to consult with housing industry leaders and state and local officials and otherwise carry on educational and consultation activities.

The Secretary would be required to seek a voluntary solution in every case. If his attempt was unsuccessful, he would be authorized to issue a complaint, hold hearings and, if the evidence disclosed that discriminatory acts had occurred, issue orders granting appropriate relief. All orders of the Secretary would be subject to judicial review.

A person who believed that he had been injured by a discriminatory housing practice could file a charge with the Secretary. The Secretary would not be required to conciliate or to issue a complaint on the basis of every charge so filed, but if he did not, the person filing the charge could commence an action himself in any court of competent jurisdiction.

The Attorney General would be empowered to initiate suits in United States district courts to eliminate patterns or practices of housing discrimination. The Secretary could cede his jurisdiction to state or local fair housing agencies in appropriate cases or cooperate with them without ceding his jurisdiction.

QUESTIONS AND ANSWERS ON THE PROPOSED FAIR HOUSING ACT OF 1967

1. *Who will be covered?*

The Act will cover brokers, property owners, managers and anyone else who participates in the sale, rental or financing of housing.

2. *What are the stages of coverage?*

The first stage is federally assisted housing—essentially, housing with FHA or VA-guaranteed mortgages or public housing. This is the same housing which is already covered by the President's Order on Equal Opportunity in Housing of November 20, 1962 (Exec. Ord. 11063). (The implementation of that Order by federal agencies, however, has not been quite as broad as the Order itself. In particular, because they lacked sufficient enforcement personnel, the agencies exempted owner-occupied one- and two-family homes.)

The second stage, from and after January 1, 1968, is housing held for sale or rent by someone other than its occupant and housing for five or more families, whether or not one of its occupants is its owner.

The third stage, from and after January 1, 1969, is all housing. (But religious institutions could continue to give preference in housing to persons of their own religion.)

The Act's prohibitions against discrimination in the financing of housing, and in membership in, or obtaining the services of, real estate organizations will *not* become effective in stages. They go completely into effect on and after January 1, 1968. To have put them into effect in stages would not have made sense. For example, how can a real estate organization not discriminate as to membership only with respect to five-family homes?

The Act's provision against threats or coercion of persons who exercise the rights it grants or protects becomes effective imme-

diately. Thus, as the previous rights become effective, in stages or from and after January 1, 1968, this provision will come into effect to protect persons in their exercise of them.

3. *Why does the Act go into effect only gradually?*

Responsibility for enforcement of the Act will rest with the Department of Housing and Urban Development, which already has the responsibility for enforcing the President's Order on Equal Opportunity in Housing. Thus, the Department can begin the first stage of enforcement with very little "tooling up," because the first stage of coverage is identical to the coverage of the President's Order. The next two stages of coverage are timed to coincide, roughly, with the time it will take the Department to hire and train its new personnel and establish its operational procedures.

The delay will also permit the Department of Housing and Urban Development to carry on educational and consultation activities, to acquaint the housing industry and the country generally with the provisions of the Act before it goes into effect.

4. *What exemptions does the Act have?*

There is an exemption to permit religious institutions or schools, etc., affiliated with them, to give preference in housing to persons of their own religion despite the Act. But religions whose membership is limited to persons of particular races, colors or national origin are not permitted to make use of this exemption.

There is a "Mrs. Murphy" exemption. And, insofar as a homeowner honestly chooses a roomer on the basis of personal friendship, or because he is a relative, for example, he would not violate the Act. The act forbids refusals only on the basis of "race, color, religion or national origin."

5. *How will the Act be enforced?*

Primary responsibility for enforcement is vested in the Department of Housing and Urban Development. It will establish local offices throughout the country for this purpose as needed. The Department will employ hearing examiners, who will be appointed and will serve in accordance with the Administrative Procedure Act.

Persons who believe they have been discriminated against may file a charge with the Department. If the Department decides to process the charge, it will so notify the person. If it decides not to, or fails to give notice within 30 days, the person can bring his own action in any court of competent jurisdiction.

The Department must always first try to settle a charge voluntarily, by conciliation and agreement. Only if that fails can it issue a complaint and hold hearings.

The Attorney General will also be empowered to enforce the Act, but only when a "pattern or practice" of resistance to its provisions is found to exist.

6. *Will persons who disagree with the Department of Housing and Urban Development's interpretation of the Act have any recourse?*

All orders of the Department will be subject to review by the Federal courts. In addition, the Department will be subject to the provisions of the Administrative Procedure Act in all its operations under the Fair Housing Act.

7. *What effect will the Act have on State or local fair housing laws?*

None. It will leave them in effect. In appropriate cases, the Department of Housing and Urban Development may even cede its jurisdiction to State or local agencies, or cooperate with them in joint operations.

8. *What effect would the Act have on the President's Order on Equal Opportunity in Housing (Exec. Ord. 11063)?*

None. It will leave it in effect. However, once the Act becomes fully effective, the Order will no longer be necessary, because the Act will cover everything which it covers, and more. The President will then presumably rescind the Order.

9. *Does Congress have the constitutional power to prohibit discrimination in housing?*

Yes. Supreme Court decisions clearly state that Congress has this power both under the Fourteenth Amendment and the Commerce Clause. A summary of these decisions has been prepared and is available.

10. *Will the Act prohibit "blockbusting"?*

Yes. Section 4(e) prohibits blockbusting.

11. *Will the Act make it a crime to discriminate in housing?*

No. All its enforcement provisions are civil in nature. An individual who disobeys the Act and refuses voluntarily to correct the harm he has done may be ordered by the Department of Urban Development (or, if necessary, by a court) to take appropriate action, but such orders cannot include fines, imprisonment or other criminal punishment.

12. *Why does the Act cover religious as well as racial, color, and national-origin discrimination?*

Although discrimination on religious grounds is not a major problem in housing, it nevertheless exists and is appropriately dealt with along with the other forms of discrimination.

13. *Will not the passage of a Fair Housing Act lower property values?*

No. Careful, well documented studies have shown that in the overwhelming majority of cases property values in unsegregated neighborhoods actually rise slightly faster than property values in all-white neighborhoods. The only general exception is when panic selling occurs, and even then the drop is temporary. The Act deals with this exception, too, by prohibiting "blockbusting"—the practice of frightening homeowners into selling at a low price by telling them that their neighborhood is, or is about to be, integrated.

State and local fair housing laws have been in existence for several years, and in no area have there been reports that property values have fallen on that account.

14. *Would the Act prohibit a person from refusing to sell or rent for any reason other than race, color, religion or national origin?*

No. Other reasons for refusing would continue to be as valid as they are now. For example, property owners will continue to be free to refuse to sell or rent to people who cannot meet the price, who have bad credit ratings, who fail to provide adequate character or financial references, etc.

15. *Will a person against whom a complaint of discrimination is issued have to prove that he did not discriminate?*

No. The burden of proof rests on the Department of Housing and Urban Development, or the complaining person, to prove that the defending person *did* discriminate on the basis of race, color, religion or national origin.

Fair Housing Act of 1967

Summary of Constitutional Bases

The Constitution provides two independent bases of support for Federal fair-housing legislation: the Fourteenth Amendment and the Commerce Clause.

The 14th Amendment

Section 1 of the Fourteenth Amendment includes the Equal Protection Clause, which forbids a State to deny to any person within its jurisdiction the equal protection of the laws, and Section 5 of the Amendment reads:

"The Congress shall have power to enforce, by appropriate legislation, the provisions of this article [*i.e.*, of this Amendment.]"

One kind of law which Congress may validly enact to enforce the Equal Protection Clause is a law to remove obstacles in the way of persons' securing the equal benefits of government—benefits which a State could not discriminatorily deny them without violating the Clause itself. *Katzenbach* v. *Morgan*, 384 U.S. 641. A law prohibiting discrimination in housing on account of race, color, religion or national origin is such a law because discrimination in housing forces its victims to live in segregated areas, or "ghettoes," and the benefits of government are less available in ghettoes.

That the benefits of government are less available in ghettoes can be amply documented. The ghetto child is more likely to go to an inferior school. His parents are more likely to lack adequate public transportation facilities to commute to and from places of work, and so will miss employment opportunities. Local building and housing laws are not, or cannot be, effectively enforced in ghettoes. Federal subsidies for private housing bypass the ghetto and flow instead to the suburbs. Freeways are typically routed through ghettoes, because land there is cheaper and their inhabitants less able to organize politically to oppose them. Most significantly of all, law enforcement is least effective in the ghetto, although it is there that it is needed most. The slum inhabitant must take for granted that he and his children live in continual danger of physical attack.

It is no objection to its validity that Federal fair housing legislation would prohibit private acts of discrimination in housing as well as discrimination by State or local governments. The objection arises from a false analogy between judicial enforcement and congressional enforcement of the Equal Protection Clause. The power of a court to enforce the Clause arises directly from the Clause itself, which speaks only of what States are forbidden to do. Hence, the courts can only forbid action by States (or their local subdivisions). But the power of Congress to enforce the Clause arises from Section 5 of the Fourteenth Amendment (quoted *supra*), from which grants a legislative power, and legislative powers are exercisable in accordance with the Necessary and Proper Clause. That Clause grants Congress the power, "To make all Laws which shall be necessary and proper for carrying into Execution . . . all . . . Powers vested by this Constitution in the Government of the United States, . . ." (The Constitution, Article I, Section 8, Clause 18.)

The scope of the Necessary and Proper Clause has been settled at least since Chief Justice Marshall formulated it in 1819 (*McCulloch* v. *Maryland*, 4 Wheat. 316). It is amply broad enough to include laws affecting private conduct as well as laws forbidding actions by State or local governments. *Katzenbach* v. *Morgan*, *supra*, 384 U.S. at 648–51; *United States* v. *Guest*, 383 U.S. 745, 762, 782–84.

The Commerce Clause

Housing is one of America's principal industries. In 1965, it added $27.6 billion of new investment to the economy—more, for example, than the $22.9 billion contributed that same year by all American agriculture. And a large part of the housing industry is interstate. Forty-one million tons of lumber and finished wood stock were shipped in the United States in 1963, and forty-three per cent of it was shipped 500 miles or more. About one out of six residential mortgages are on property located in a different state from that of the mortgage lender. Every year more than two million people move their place of residence from one state to another.

The meaning of these statistics was illustrated by the testimony last year of Mr. William J. Levitt to Subcommittee No. 5 of the House Judiciary Committee. Mr. Levitt is the President of Levitt & Sons, Inc., a major builder of homes, and is a supporter of fair housing legislation. He testified:

"Perhaps 80 per cent of the materials that go into our houses come from across state lines."

"With the possible exception of the New York Community that we are building now, every other community in which we build re-

ceives its financing from a state other than the one in which it is located."

"75 to 80 per cent" of Levitt & Sons' advertising is interstate.

"Out-of-state purchasers run from about 35 to 40 per cent, on the low side, to some 70 per cent, on the high side."

Discrimination in housing affects this commerce in several ways. The confinement of Negroes and other minority groups to older homes in ghettoes restricts the number of new homes which are built and consequently reduces the amount of building materials and residential financing which moves across state lines. Negroes, especially those in the professions or in business, are less likely to change their place of residence to another state in order to obtain better employment positions when housing discrimination would force them to move their families into ghettoes. The result is both to reduce the interstate movement of individuals and to hinder the efficient allocation of labor among the interstate components of the economy.

The Commerce Clause grants Congress the power to protect interstate commerce from adverse effects such as these. *Katzenbach* v. *McClung*, 379 U.S. 294. Its power to do so is not restricted to goods actually in transit. *Labor Board* v. *Jones & Laughlin Steel Corp.*, 301 U.S. 1, 36–37. Nor does it matter that when Congress exercises its powers, its motive is not solely to protect commerce. It can as validly act for moral reasons. *Heart of Atlanta Motel* v. *United States*, 379 U.S. 241, 257. And it does not matter that the effects against which Congress legislates may be minor or that, taken individually, they are insignificant. The constitutional basis is present so long as the effects on commerce, taken as a whole, are present in measurable amounts. *Wickard* v. *Filburn*, 317 U.S. 111, 125 (Agricultural Adjustment Act of 1938 applied to a farmer who sowed only 23 acres of wheat and sold none of it in interstate commerce, because it nevertheless affected how much other wheat would be shipped in interstate commerce.) *Mabee* v. *White Plains Publishing Co.*, 327 U.S. 178. (Fair Labor Standards Act applied to a newspaper whose circulation of 9000 copies included only 45 copies mailed to another state.)

Mr. MONDALE. Mr. President, we submit it as an amendment to H.R. 2516, the pending bill, to protect civil rights workers. The amendment is title IV of the Civil Rights Act. It would extend the principle of fair housing to the sale and rental of real estate in our country.

It is very clear at this point that this will be our only opportunity for Senate consideration of civil rights legislation in this session. It is also clear that there simply will not be time for the Senate Banking and Currency Committee to act on S. 1358, the proposed Fair Housing Act, so that it might be considered and acted upon during this debate.

Senator BROOKE and I have therefore prepared S. 1358 as an amendment to H.R. 2516, and offer it with but one change. We have included the so-called Mrs. Murphy amendment which was contained in the Civil Rights Act of 1966, as passed by the House in 1966. This would exempt from coverage the sale or rental of owner-occupied dwellings of up to four units—approximately 2.3 million dwellings in our country. In doing so, we are aware that the Banking and Currency Committee has not had executive sessions on the bill, but I am pleased to announce that a majority of the members of that committee support the proposal.

The Banking Committee sponsors of the amendment are myself, the Senator from Massachusetts [Mr. BROOKE], the Senator from Wisconsin [Mr. PROXMIRE], the Senator from Maine [Mr. MUSKIE], the Senator from New Jersey [Mr. WILLIAMS], the Senator from Missouri [Mr. LONG], the Senator from Wyoming [Mr. MCGEE], and the Senator from Illinois [Mr. PERCY].

It is a clear majority of the membership of the Banking and Currency Committee that joins me in sponsoring a fair housing amendment.

Mr. SYMINGTON. Mr. President, I cannot hear the speaker.

The PRESIDING OFFICER. (Mr. YOUNG of Ohio in the chair). Let there be order in the Chamber.

Mr. MONDALE. Mr. President, we are most hopeful that the Senate will give careful and thorough consideration to this fair housing amendment, because in our judgment the case for it is compelling.

There is no doubt that national fair housing legislation is a controversial issue, but the grave urgency of the urban crisis requires immediate congressional action. The barriers of housing discrimination stifle hope and achievement, and promote rage and despair; they tell the Negro citizen trapped in an urban slum there is no escape, that even were he able to get a decent education and a good job, he would still not have the freedom other Americans enjoy to choose where he and his family will live.

Outlawing discrimination in the sale or rental of housing will not free those trapped in ghetto squalor, but it is an absolutely essential first step which must be taken—and taken soon. For fair housing legislation is a basic keystone to any solution of our present urban crisis. Forced ghetto housing, which amounts to the confinement of minority group Americans to "ghetto jails" condemns to failure every single program designed to relieve the fantastic pressures on our cities. No amount of education aid will repair the inherent weakness of segregated schools, whether de jure or de facto. No amount of money spent on manpower training or jobs will eliminate ghetto unemployment when the jobs are moving to the suburbs. Declining tax base, poor sanitation, loss of jobs, inadequate educational opportunity, and urban squalor will persist as long as discrimination forces millions to live in the rotting cores of central cities.

Even more important, our failure to abolish the ghetto will reinforce the growing alienation of white and black America. It will insure two separate Americas constantly at war with one another, increasingly unable to come to terms on any issue.

There is a critical debate now underway in the ghetto. The issue is quite simple—whether there is any basic decency in white America and whether white America ever really intends to permit equality and full opportunity to black Americans, with all that that equality and opportunity involves. We believe that our continuing failure to put an end to segregated housing lends a powerful argument to the black separatists and black racists, and can only speed the process of separation and alienation.

Finally, there are two new and hopeful trends which are worthy of special attention. There is growing evidence of changing attitudes on the part of both the public and the real estate industry. Twenty-two States have adopted fair housing laws, five of them during 1967. In addition, 84 cities, villages, and counties, together with the District of Columbia, have adopted fair housing ordinances. Forty-three of these were adopted during 1967. Most of these laws and ordinances have serious shortcomings in coverage and enforcement, and may even be tokenistic frauds, they are important in informing the Congress that local communities recognize the need and desirability of taking a stand on fair housing.

This community acceptance does affect housing policies. The Department of Defense testified, in respect to its efforts to promote desegregated off-base housing, that the existence of a State law or local ordinance created a better climate of cooperation on the part of the local community and landlords in the community. With this important shift in public understanding of the issue, the Congress should proceed to pass an adequate, comprehensive law which provides equal coverage for all areas of the country.

Representatives of significant segments of the real estate industry indicated during hearings last summer that the viewpoint of the industry may be changing, and that many realtors no longer accept the myths about fair housing, and are arguing for a change in national policy. They emphasized with equal vigor that fair housing legislation must be national and uniform in coverage.

It is our hope that we will be able to discuss this amendment fully and completely, and after that time, proceed to a vote on its merits. In 1966, a majority of the Senate voted for cloture on a bill containing fair housing legislation, and we believe that a majority of the Senate would approve this measure in a vote on its merits.

Mr. President, while it is true that the Banking and Currency Committee has not had an opportunity to act formally on the proposal which I offer with the sponsorship of the Senator from Massachusetts [Mr. BROOKE] and others—a majority of that committee—to the Senate today, we did have sweeping, impressive, and thorough hearings before that committee.

Those hearings have been printed and are available to the Members of the Senate. The hearings were held on August 21, 22, and 23, of last year.

The record made at those hearings, in my opinion, represents the final and complete argument in favor of the adoption of the amendment which we propose today. The hearings brought together, under one cover, a host of new evidence and information that showed the importance of this proposal, its necessity, and its workability.

The hearings established several points.

The first point established is that fair housing is an essential and indispensable ingredient if we are going to solve the problems of American cities.

Witness after witness, from Roy Wilkings to leaders in the real estate industry,

leaders of the clergy, and witnesses from every other walk of life, testified that the insult of racially segregated housing patterns creates a sense of rage and frustration and a crisis which contributes enormously to the explosiveness of these communities. Some have said that fair housing is a formalistic ritual, traditionally carried out by civil rights leadership.

But one of the key issues established beyond doubt by the hearings to which I have referred is that fair housing is a key and indispensable part of any solution of the interracial problems of our country.

The record also established that property values do not in fact fall, as is the myth, when Negroes move into previously all-white neighborhoods. Almost every study confirms this fact. In fact, the very practice of blockbusting is based on the opposite theory—that prices in fact will rise.

The most well-known study was done by Mr. Luigi Laurenti, in 1960, in which he analyzed 10,000 property transfers in seven cities. The data showed that the entry of nonwhites into formerly all-white neighborhoods does not necessarily send real estate prices plunging downward. In 85 percent of the cases involved, the property values increased, and in only 15 percent did the prices decrease.

The next point of a fundamental nature that was clearly established in these hearings is that the old monolithic opposition of the real estate industry to fair housing proposals has been broken, and we begin to see a change, a fundamental change, in the attitude of the real estate industry. Many responsible, substantial, and experienced realtors from across the country appeared to testify in the most urgent terms on behalf of a sweeping fair housing proposal. The testimony to which I have referred, which appears in the record, shows that the old notion that all realtors are opposed to fair housing is no longer a fact. I would say that the more responsible leadership in the real estate industry now predominantly favors a resolution of this dispute through fair housing legislation.

This certainly has been the experience in my own State, where initially the real estate industry opposed fair housing legislation; but now that they have experienced it, many now stand in its support, and most of the opposition has disappeared.

Third, the hearings destroyed the constitutional issue. In the period from the time fair housing was first introduced and the time when we will consider it in voting, the U.S. Supreme Court has issued many rulings which clearly develop, without any doubt, the validity of this proposal on constitutional grounds.

During the course of these hearings we heard from the distinguished Attorney General of the United States, Mr. Clark, who testified that he had "no doubt whatsoever" about the constitutionality of this measure. We heard from the distinguished deans of law schools throughout the country—Dean Robert F. Drinan, Dean Jefferson Fordham, and Dean Louis Pollak, of three nationally respected law schools—all of whom testified that in their judgment such legislation is constitutional and would be upheld by the U.S. Supreme Court.

In addition, a committee of distinguished constitutional experts and lawyers, headed by the impressive Mr. Sol Rabkin, of the Legal Committee of the National Commission Against Discrimination in Housing, testified that the legislation was absolutely and unqualifiedly constitutional.

The law school deans also testified that the privacy or inviolability of personal property rights is a nonexistent right, because the possession or the use of property has always been subject to regulation by the State.

Dean Fordham said it this way:

> The familiar insistence that an owner be protected is a freedom to dispose of his property as he pleases, especially his residence, is not compelling. It is elementary that property rights are not absolute. They are subject to all sorts of restraints in the public interest. I suggest that from the standpoint of human need and fulfillment, freedom to acquire and enjoy is more important than freedom of disposition. And I lay particular stress upon this point.

We could explore the constitutional issue at great length, but the hearings to which I have referred amassed overwhelming and irrefutable authority establishing without doubt the constitutionality of the amendment I have presented to the Senate.

The next point that the hearings established was that such legislation, while exceedingly important, is actually a fairly modest proposal.

Finally, the laws of economics will determine who can buy a house. All that legislation such as this would do would be to eliminate the discriminatory business practices which might prevent a person economically able to do so from purchasing a house regardless of his race.

The next point which the hearings established—I believe a very significant point—is that States which have fair housing laws have not experienced mass migration of Negroes into white neighborhoods. Indeed, one of the standard arguments traditionally against fair housing, which we have heard from the real estate industry and from others, is a host of nightmares which they have conjured up about the disarray and tensions which would develop if housing were available without discrimination, and the horror stories that have been told to the American people about what would happen if fair housing laws were in fact adopted.

Mr. President, we have had an opportunity to test those theories. It is no longer a question of what might happen in the abstract. Several States have sound fair housing laws. Many more communities have had them and have dealt with them for some years.

Those horror stories have been proved to be only nightmares, and, in fact, in every instance the fair housing statutes and fair housing ordinances have worked exceedingly well, without disruption. Many communities that have fought bitterly over this measure have wondered, after the fact, what the basis was for all the consternation.

Next, these hearings established that this bill is an absolute and necessary part of any solution to the urban crisis. It is equally as important psychologically to the decent Negro, and will disarm some of the black racists.

One of the real issues that this Congress cannot avoid is the fact that the moderate civil rights leader in the ghetto is under siege. He is being attacked by his black racist competitor on the ground that there is not a decent America; that white America does not intend, in fact, to permit all persons, regardless of color, to enjoy the fullness of American life; that there is a basic indecency in white America that is incorrigible through lawful processes; and that, therefore, the only way the Negro in our Nation can receive his fair share of the fullness of American life is through violence, through threats, through resort to illegal tactics, through hatred, and through intimidation.

Our friends in the ghetto who believe in due process—thankfully, they are by far in the majority—have not abandoned their hope that lawful processes can adjust these outrageous wrongs. But we have provided little by way of example from which they can argue. We have not shown in a substantial way that white America in fact is a decent white America, that those who argue for moderation and lawful processes are correct in that strategy.

As Whitney Young said with respect to another issue, but it is relevant here:

> I do not need your compliments, but I must have something in my hand.

Moderate leaders have continued to fight, but we must strengthen them against the forces of violence. We can strengthen them not through rhetoric but acts of solemn commitment; not through good will, but through measures that have teeth and meaning, in the eyes of every American, black or white, measures that cannot be argued with.

Mr. President, next this hearing clearly established the value and effect of law as a teacher, as an influence in changing community attitudes and viewpoints. Several of the State and local officials stressed this point. That was the experience under the Civil Rights Act of 1964 in the desegregation of public accommodations.

Next this hearing gave us hope for the future of this legislation. Primarily it appears that the attitude of the country is changing. We see increasing growth of voluntary citizens' committees throughout the country urging decency in the sale and rental of housing. We see dramatic growth in the number of laws on a State and local level which demonstrates the desire of decent Americans for the solution of this problem. We see a growing number of public officials who support fair housing and who have, through intelligent discussion of that issue, shown that Americans will respond affirmatively when they understand.

We are seeing that a growing number of Negro Americans are increasingly insisting that this outrageous insult of segregated racial living patterns be removed from American society.

The next point that this hearing disclosed is that one of the biggest problems we face is the lack of experience in actually living next to Negroes. In areas

where there is integration there is generally good harmony and this underscores a point that is fundamental to a healthy America. If we are going to live separately in white ghettos and Negro ghettos, if all we are going to know about each other is not who we are, what our abilities might be, what are our strong and weak points, then all we will ever learn about each other is what we see through caricature, through indirection, through distance, and through lack of human understanding. In that case, I see little or no hope for a truly United States.

This issue is, again, not one of theory. It is one of fact. There are many, many integrated living areas in this country. The experience in them has been far more enriching and fulfilling than one might initially believe. Therefore one wonders whether the understanding which this Nation needs and the people need of each other can be accomplished unless we decide we will live together and not separately.

The next point that this hearing established without any doubt is that housing discrimination has a serious effect on Negro employment and an adverse effect, because industries are increasingly locating in the suburbs.

We have heard of the experience of the plant which Aero-Jet General established in Watts following that tragic riot. I think my figures are correct. They advertised for 75 employees to work in this military tent factory and 5,500 residents applied for those 75 jobs. The truth is that more and more jobs are fleeing the rotting core of American cities. They are, as Secretary Weaver pointed out, going "horizontal" into cheaper land areas of our suburbs. The Negro finds himself, not alone in substandard housing, but in a predicament where jobs he once held have left his area and are beyond his reach.

Secretary Robert Weaver testified regarding the effect of segregation on employment as follows: Between 1960 and 1965 from one-half to two-thirds of all new factories, stores, and other mercantile buildings in all sections of the country, except in the South were located outside the central cities of metropolitan areas. This indicates that expanding job opportunities are going to be in or near suburbia rather than in the core cities. Since 80 percent of the nonwhite population of the metropolitan areas in 1967 lives in central cities, the handicaps of nonwhite jobseekers are apparent. Unless they are going to be able to move in the suburban communities through the elimination of housing discrimination and the provision of low- and moderate-cost housing, they are going to be deprived of many jobs because they will be unable to live in the central city and work in the suburbs—simply because they cannot afford the high cost of transportation.

One of our witnesses testified to the relocation of one of these plants from a central city location to the suburbs. This Negro witness pointed out that his white fellow employees simply purchased housing near the new site of the plant, but that he was unable to do so because of discrimination in the sale of housing and he had to commute many miles every day, a great disadvantage, to work in the plant that previously had been but a few blocks from his home.

Representatives from the National Committee Against Discrimination in Housing testified regarding recent U.S. Department of Labor reports relating to subemployment in slum ghettos in large cities. These reports show that unemployment is so much worse in the slum ghettos than in the country as a whole. The national unemployment rates are utterly irrelevant in considering the problems of minority workers. Any thinking about unemployment in terms of 3.7 or 4 percent completely ignores the slum. In the slum in contrast to the national unemployment rates, a few persons have a decent job, up to one-half are unable to earn better than a poverty-level income, and between 10 to 20 percent of those who should be working are not working at all. Thus, it is not an issue of jobs alone or an issue of housing alone.

The next point these hearings clearly establish is that housing discrimination has a serious adverse effect on education in the ghettos.

Rabbi Rudin testified that it is virtually impossible to provide high quality education to disadvantaged minorities as long as they are restricted to living in older congested sections of cities. The opportunity to go to school with members of other racial and ethnic and economic groups tends to improve the educational achievement of disadvantaged children, according to findings of educational research on the subject. De facto segregation in schools and education is directly traceable to the existing patterns of racially segregated housing. This Nation simply cannot afford to allow its efforts to provide the best education possible to all its people to be thwarted by actions of private persons, actions which are at least antisocial and immoral and ultimately amount to a covert contravention of our public policy in favor of equal educational opportunity. Fair housing is, therefore, more than merely housing. It is part of an educational bill of rights for all citizens.

George Meany testified that it is not an exaggeration to say that open housing is absolutely essential to the realistic achievement of such accepted goals as desegregated schools and equal opportunity. Schools are the most obvious example that much of the statutory civil rights progress of recent years will be little more than theoretical until open housing becomes a reality. The typical public grammar schools and neighborhood operation, the composition of the study body, is therefore determined by that of the residents. In the long run the soundest way to attack segregated education is to attack the segregated neighborhood.

The U.S. Commission on Civil Rights has recently published a study entitled "Racial Isolation in the Public Schools." This report demonstrated that there is a relationship between the confinement of Negroes to central city ghettos and inferior educational opportunity. For this reason, since housing discrimination produces inequality of educational opportunity, the Commission recommended in that report a Federal fair housing law in order to minimize the impact of housing segregation on education.

Mr. President, in the 1967 report of the U.S. Commission on Civil Rights, there is a separate chapter which deals with heartbreaking conditions in education in the ghettos of our country.

As they put it:

> You just can't make it. They want in on the American dream that they see on their broken-down television screens in living rooms with the sofa that has half broken down.
>
> Past generations of Americans have escaped from the economic insecurity and meanness of ghetto life by bettering their economic circumstances, obtaining for themselves or their children a good education, and moving outside the ghetto. For many reasons these avenues are closed to most Negroes.

One of the most significant barriers impeding progress and opportunity for Negroes is in the ghetto schools which provide inadequate education for Negroes and has failed to equip Negroes with the skills needed for competition in the job market.

> Negroes are less likely to finish public school than whites and they are much more likely to attend schools with high dropout rates. In Cleveland, John Stafford, principal of the almost all-Negro Glenville High School, testified that almost 30 percent of his students dropped out of school between 10th grade and graduation.
>
> As early as the third grade, the average Negro student in the United States is one year behind the average white student in verbal achievement. And by the 12th grade, the average Negro student is nearly three years behind the average white student.
>
> John Solar, Executive Director of the Harlem Neighborhood Association and a resident of Harlem, told the New York State Advisory Committee:
>
> *"[N]ow it really isn't . . . necessary to say to a person, I am sorry, you can't have the job because you are Negro. What happens more frequently now is that they say, you can't have the job because you are not properly educated, you are not motivated, you are not prepared.*
>
> *"This is quite damning, because you see how this prejudice has operated for so long that now it's no longer necessary to say, I don't want you because you are black. I don't want you because you are just not prepared, and it has been an educational system that has worked to create this condition."*

Mr. President, recently I completed reading a new book, entitled "Death at an Early Age," the story of the experience of one teacher trying to teach the culturally deprived, predominantly Negro students, in the ghettos of Boston.

I defy any American to read the experience of this young, committed teacher to see the destruction of the feelings, of the hopes, of the aspirations of these children in this Boston ghetto school, and stand up and say that we are dealing fairly with all Americans in our country.

At the heart of the educational problem is the deeply seated and growing pattern of racially segregated housing throughout the land.

The next point that the hearings develop is that State and local laws, while experience has been generally good, just have not been in existence long enough to change the complexion of the ghetto.

In failing to come to grips with the

problem of residential segregation and its attendant evils, Congress appears to be oblivious to what has been happening throughout the country. At this moment, 22 States have adopted fair housing laws, five of them during 1967. The laws of four other States, Connecticut, Indiana, Massachusetts, and, I am proud to say, my own State of Minnesota, were amended this past year in order to strengthen them. Minnesota's law is now one of the strongest in the Nation and covers most of the housing market.

In addition to the States, 84 cities, villages, and counties, together with the District of Columbia, have adopted fair housing ordinances. And for those of us who live in the Metropolitan Washington area and believe housing discrimination is a national disgrace, it has been a source of local pride to have Maryland this year become the first border State to adopt a fair housing law and both Montgomery County and Prince Georges County adopt separate ordinances that improve upon the statewide law.

It is some measure of the rate at which such laws are being passed that of the 84 local ordinances, 43 were adopted in 1967, the great majority since midsummer.

And even these figures are becoming outdated almost as I speak. For example, Detroit, Mich., adopted a fair housing law only last week. In Alexandria, Va., just across the Potomac River, the city council is establishing a new department to carry out a voluntary open housing policy. And within the past few days, open housing laws have been enacted in Louisville, Ky., by a newly elected Democratic city council which reversed the decision of the previous Republican-controlled council, and in Milwaukee, Wis., where a white Catholic priest, Father James Groppi, has led more than 100 marches demanding enactment of a strong open housing law.

Perhaps at this point some Members of this body will feel that if progress is being made in open housing, there is no need for Congress to act. I do not believe so. These scattered and local developments, far from absolving us from action, make it even more important than before that Congress enact a national fair housing law that will place all States and all localities upon an equal footing.

The local and State open housing laws being enacted represent a hodgepodge of good and bad. Some are good laws, but most are ineffective at best, and a few are tokenistic frauds. Too many of them have glaring loopholes in coverage and totally inadequate enforcement.

But they all represent progress for their mere adoption is an official recognition by the community that housing discrimination does in fact exist, that it is undesirable, and that laws are needed to eliminate it.

As the Milwaukee Journal noted in an editorial following approval of that city's limited open housing law:

> Local enforcement of the open housing right within the narrow coverage limits of the state law . . . has finally become the official policy of the city of Milwaukee. It is no great thing, but at least the council did move. It is a beginning.

And, Members of the Senate, it is time Congress made its beginning. This is a case where it is manifestly clear that, rather than leading in the fight for open housing throughout this land, the Federal Congress in fact is one of the slowest institutions to respond to what is known concerning the need for this kind of activity.

There is no longer any economic, political, moral, or other justification for segregated housing. On this one issue alone, liberals and conservatives alike can be condemned, and we all know that justice, morality and the national interest demand that the Congress act.

As the chief author of the Federal fair housing bill, I have found nothing more frustrating than trying to make real progress on this issue—which for the first time involves northerners as well as southerners—and call upon this Nation to declare the principle that we are going to live together and not separately.

The charge is made against those of us who have participated in the past civil rights debates in this body that we find it very easy to point the finger at the South, but that we find it difficult to point our finger at the North where racial patterns exist.

I accept the challenge. I think all representatives of the Northern, Western, and Southwestern States of this Union ought to realize that one of the reasons why we resent that charge is that there is some truth to it.

This issue raises the question whether those of us who have northern and western constituencies favor civil rights measures which are manifestly needed when they affect, not just Georgia or Alabama, but Minnesota, Montana, and every State in the Union. Each of us will have to leave this Chamber with a red face if we insist that civil rights measures are only for the South, and not for matters which we know exist just as fully throughout the northern and western communities of this Nation.

The next point is that there is a pent-up demand for more housing among ghetto residents. For example, an HHFA study in 1963, based on 1950 and 1960 censuses, found that in the 21 areas analyzed, the total number of nonwhites earning more than $4,000 a year increased nearly 15 times from 1949 to 1959—from 59,000 to 940,000 persons.

In the Commission on Civil Rights Report for 1967, on page 60, these remarks are found:

> Asked at an open meeting what she would do if she had a better income, Mrs. Charlotte Gordon, a resident of a Gary slum, replied: "The first thing I would do myself is to move out of the neighborhood."
>
> Another resident of the same area, Mrs. Friels, in reply to the identical question, said she would like to move to "someplace where we could have a lawn, you know, and just breathe free air for a change."
>
> To many slum residents, just as to other Americans, moving to a better neighborhood may mean more than obtaining better housing. For one thing, it may give their children the opportunity to grow up in a healthier atmosphere. Mrs. Gordon explained why she wanted to move:
>
> *"I feel this is a slum, and if your children grow up in this kind of thing, never seeing anything else, what are they to know about it? You tell them about it, but how can you tell them about it?"*
>
> The opportunity to move outside the ghetto also may mean the opportunity to send children to better schools. And it may bring one closer to job opportunities; the flight of jobs from central cities would not present a barrier to employment opportunity for Negroes if they were able to live in the areas where the jobs were being relocated.
>
> Negroes who live in slum ghettos, however, have been unable to move to suburban communities and other exclusively white areas.
>
> In part, this inability stems from a refusal by suburbs and other communities to accept low-income housing. Even Negroes who can afford the housing available in these areas, however, have been excluded by the racially discriminatory practices not only of property owners themselves, but also of real estate brokers, builders and the home finance industry. An important factor contributing to exclusion of Negroes from such areas, moreover, has been the policies and practices of agencies of government at all levels.
>
> *Owners and Realtors.* Walter Sowell, a Negro who was Superintendent Engineer with the Cleveland Metropolitan Housing Authority, testified at the Cleveland hearing that he had "looked over the entire Cuyahoga County" for a home and a neighborhood within his means. He was told on the phone that he could not buy a house because he was Negro, "but never face to face . . . there were a lot of excuses given. . . . [T]he second call or third call, usually the house was sold or something happened and it was transferred to another real estate company."

We had several witnesses before our subcommittee who were Negro, who testified that they had the financial ability to buy decent housing in all-white neighborhoods, but despite repeated good-faith attempts, were unable to do so. The pattern of frustration, the pattern of misleading statements, the lies and deceits were found in each of their experiences. Never, or rarely, was race given as a reason, but always it was absolutely obvious that no other good reason could be given.

I cite to the Senate an example which shows this problem in its most extreme and outrageous and indefensible terms, for in this record is the testimony of a Negro naval officer, a lieutenant in the U.S. Navy. At page 193, this testimony of Lt. Carlos Campbell is recited. I was chairing the subcommittee at the time he testified. He is a young, handsome, intelligent, magnificent example of the finest that American youth is contributing to the defense of our Nation. He has served this country for 8 years. He has gone wherever this Nation has asked him to go. He has pledged himself to risk even his life for the defense of this Nation. What have we done in exchange?

In March of 1966 he was ordered to report for duty with the Defense Intelligence Agency at Arlington, Va. The story he told as he tried time and time again to find decent housing, which he was able to pay for, within reasonable distance of the post to which he was assigned by the U.S. Government, is a story of shame, of unconscionable racist abuse that should be a burden on the conscience of every decent American. Lieutenant Campbell went to over 39 separate homes, many of which had been listed with the Department of Defense Housing Office as available on a nonsegregated basis. Time and time again he

was met with excuses, lies, and deceit, and it was only through the intercession of a friend that he was finally able to find decent housing for his family.

I think this experience by any American is an outrage, but the fact that it happened to someone whom we thought was good enough to defend our country, who had accepted the challenge to help defend this Nation, and yet one whom we apparently would not permit to live amongst us only because of his color, is shameful.

We had another example, that of Gerard A. Ferere, professor of French and Spanish, St. Joseph's College, Philadelphia, Pa. It was my privilege once again to be present when he testified. He was not merely bright, Mr. President; he was brilliant. He has had a remarkable and distinguished career in the academic field. He earns an income, as I recall, in excess of $11,000 a year; to be exact, $11,056. That would place him in the upper half of Americans in terms of income. He spent more than half a year trying to find housing in a nonsegregated community.

We could state figures, which are also available in this record, showing the growing number of Negroes economically capable of buying decent housing outside the ghetto, but the percentage who succeed is so infinitesimally small as to decisively pin down the point that there is a substantial market of financially able Negroes prevented from buying housing of their choice because of deeply entrenched patterns of discrimination in the sale and rental of housing in our country.

How insane can this policy be, when a lieutenant in the U.S. Navy, an attractive, decent, impressive young man, has to go to 39 different places—not because he wanted to live there, but because the Nation required him to serve at that base—only to find that while he was good enough to protect this Nation, he was not good enough to live with us?

How absurd can this policy be, when a distinguished professor in one of our great colleges in this country, financially able to buy decent housing, spends more than half a year and cannot find one single suitable alternative available to him in a nonsegregated community?

Those who are interested will find in this record detailed information on the growing capacity of Negroes to afford decent housing. How many of them today, how many thousand, how many millions of Negro Americans, are asking questions about the decency of our country when they have a capacity to break free from the ghetto, but we will not permit them to do so? What kind of hatred, what kind of rage must be just below the surface when they face this hideous alienation, this total insult which too often faces them?

Mr. President, this measure, as I have stated earlier, is a modest one. It would implement the principles of fair housing in three stages. First, upon adoption, it would prohibit discrimination in the sale or rental of housing now covered under the Executive order of 1962. In December of 1968, its coverage would extend to all nonowner occupied dwellings, and dwellings with five or more units; and in December 1969 it would cover all housing, except for the famous "Mrs. Murphy" exception which is described in the legislation.

I repeatedly asked the witnesses on what point of the scale of importance they would place the need for the adoption of fair housing legislation. Without exception, these top leaders, who know better than any of us—because they are in the frontlines of this problem—testified that this was the No. 1 issue in our country today, if we are going to deal with the question of fairness in our country.

Mr. President, this testimony came not alone from the traditional leaders of the civil rights movement, but it came from substantial, widely respected leaders of the business community of both political parties, of all walks of life—a distinguished panel of clergy; a distinguished panel of deans of law schools; a highly impressive panel of established, experienced realtors—who testified perhaps with more urgency than any of the rest of us what the need for fair housing will be.

Mr. President, I referred to the impressive testimony of business leaders and leaders from other walks of life on behalf of this legislation.

It impressed me, for example, that Mr. James W. Cook, president of the Leadership Council for Metropolitan Open Communities, Chicago, Ill., came to Washington and testified in a brilliant and experienced fashion because he had dealt with this problem for many years. He urgently pleaded with Congress to do its duty in this field.

He was not merely a professional civil rights leader, as important and indispensable to the health of American life as is that profession, but he is also the president of the Illinois Bell Telephone Co.

Mr. Cook came to Washington representing a committee which included many of the top business leaders of the Chicago community. And in testimony as urgent and as compelling as anything that we have heard, this established leader of American business pleaded with us to do our duty.

Other witnesses, similarly situated, testified. These witnesses represented significant portions of American business leadership.

The testimony of Mr. Andrew Heiskell appears on page 423 of the transcript of hearings. Mr. Heiskell, in addition to being a key member and chairman of the board of directors of Urban America, is a top official of Time-Life Corp. He came to Washington at his own expense. He came here to say that the time had come for this country to be true to its ideals and to enact the measure which has now been presented to the Senate.

He said this:

> If I may, I would like first to speak personally as a citizen. As such, it is my conviction that true democracy in this country requires, in addition to many other conditions, that every citizen have an equal opportunity to buy or rent housing without regard to racial or religious origin. However, far more is at stake today than personal theory or ideology.
>
> It is no exaggeration to say that we are now at the point where the social, economic, and physical future of our metropolitan complexes is dependent on the elimination of racial segregation.
>
> As this committee well knows, many, if not most of our metropolitan areas, are well on their way to becoming central cores inhabited by Negroes, surrounded by suburbs that are almost exclusively white. The core ghettos have become the centers of economic, social, educational, and health problems. The white ring is more and more disavowing any concern for the cities without which these very suburbs would be meaningless.
>
> This summer we have seen the tragic results of this polarization. It is regretted but it must be admitted that Government policy and private enterprise have jointly contributed to this result. Heavy migration to the cities, combined with lack of construction during the depression and World War II built up an enormous pressure in terms of housing needs. The most obvious immediate answer was to construct millions of units on an open suburban land.
>
> With the help of the Federal Housing Administration and the Veterans' Administration, the home-building industry was able to bring about a seemingly quantitative answer to these needs.
>
> In an expanding economy, new housing was built for those who could pay the full price but thereby relegating the Negro to the central city, because of his generally low income. Furthermore, FHA's conservative mortgage appraising policies, by stressing stability within a social and racial context, reinforced the division between the black core and white suburbia.

I am pleased to say that FHA has long since changed its policy in this regard under the leadership of Secretary Weaver and Under Secretary Wood and is prodding FHA administrators more effectively than ever before to bring responsible credit back into the ghettos.

A sordid story of which all Americans should be ashamed developed by this country in the immediate post World War II era, during which the FHA, the VA, and other Federal agencies encouraged, assisted, and made easy the flight of white people from the central cities of white America, leaving behind only the Negroes and others unable to take advantage of these liberalized extensions of credits and credit guarantees.

Traditionally the American Government has been more than neutral on this issue. The record of the U.S. Government in that period is one, at best, of covert collaborator in policies which established the present outrageous and heartbreaking racial living patterns which lie at the core of the tragedy of the American city and the alienation of good people from good people because of the utter irrellevancy of color.

I commend this hearing record to my colleagues because it brings up to date the total available information bearing upon this issue. It shows the breadth of support which Americans from every sector bring to bear in urging the adoption of this proposal.

It underscores the urgency that our country take this long overdue step to a rendezvous with its conscience. It asks through one spokesman after another that this country once and for all declare that we intend to live together and not apart, that we intend to be a truly United States, that there is no place in this Nation any longer for the morally indefensible practice by which housing is

leased or sold on the basis of racial principle.

I hope that the Senate will agree to this amendment.

I know of no single action we could take that would contribute more to understanding, to compassion, to the commitment of this country, than the simple matter of Congress declaring that we have had the last of segregation in the sale and rental of living quarters in our country.

Some say that this is not a popular measure. I do not believe it. I have always spoken up for fair housing, and I have done so in circumstances and under conditions in which the public knew where I stood, in which those who have opposed fair housing have had due notice and plenty of political remedies, and they have tried.

I believe that fair housing is a difficult issue only if it is not explained. I believe in the decency of our country and our people, and I do not believe that if they are presented with this issue, there would be any result other than a resounding and unquestioned decision in favor of decency and fairness.

We have heard the same argument in opposition to fair employment. We have heard the same argument in opposition to the Civil Rights Act of 1964. We have heard the same argument in opposition to the Public Accommodations Act.

Time and time and time again, we have been told these are unconstitutional, only to have the U.S. Supreme Court unanimously show its constitutionality. And the same will be true if we adopted fair housing.

Time and time again, we have been told it is politically impossible for this Nation to work its conscience and do what is right on this issue of humanity, only to find that where it has become a political issue, the American people almost invariably have decided the issue in favor of decency and humanity.

In Minnesota we have one of the strongest, if not the strongest, fair housing laws in the country. I have yet to see one proponent of that measure be hurt politically because of his support.

This is an issue of decency. This is an issue in which men of good will, regardless of political party, will, when they understand it, rise to support those who have discharged their responsibility to their fellow men, to their religious principles, and to the concept that, in final analysis, every man is a child of God. That is the issue we have before us today.

I hope we will act with responsibility, without emotion, and yet with proper human concern for the enormous ramifications of the principle involved.

How do you tell someone who believes in this country, who happens to be black, who speaks up for moderation in our Nation, that a Congress can refuse to adopt such a measure and yet claim to be committed to the principle of living together? I say that the charge in that case would be unanswerable. Now is the time to do our duty.

Mr. President, I call up my amendment.

The PRESIDING OFFICER. The amendment offered by the Senator from Minnesota will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. MONDALE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with. It has already been printed in the RECORD.

The PRESIDING OFFICER. Without objection it is so ordered.

Mr. BROOKE. Mr. President, the introduction of this amendment brings before the Senate what must be considered, of all issues affecting civil rights, one of the most urgent matters of our day. In considering the proposed legislation, we will be entering an area too long neglected by the Senate, an area whose neglect by public authority has contributed more than most people realize to the strife and tension which so sorely try American society in our time.

Fair housing is not a political issue, except as we make it one by the nature of our debate. It is purely and simply a matter of equal justice for all Americans.

If we but look beyond the petty fears and hostilities which have too often marred our national life, we would have no difficulty in seeing that legislation of this kind is clearly required by the ideals and principles on which this Nation has been built. Who among you would say that the cherished dream of a decent home for every American should be abandoned to the ignoble dictates of prejudice and avarice? Yet, in effect, this is the practical result of the outdated customs which have persisted in many communities in this country.

Every argument of principle and pragmatism tells us that the time has come to take action to liberate all Americans from these unhappy practices. The issue is often posed in terms of a contest between human rights and property rights. Even in those terms, I cannot believe that a majority of this body, nor a majority of all Americans, would cast their vote for things instead of people. In the hierarchy of American values there can be no higher standard than equal justice for each individual. By that standard, who could question the right of every American to compete on equal terms for adequate housing for his family? But we know that in 1968 the competition remains less than equal.

Congress and the American people have come far in recent years toward recognizing the awful reality which we have tried to hide from ourselves. We can now see that discrimination is a powerful and ugly force eroding our efforts to achieve the fundamental goals of the Declaration of Independence and the Constitution. We can recognize the manifold and insidious ways in which discrimination works its terrible effects on many of our fellow citizens.

But to recognize an evil is not to eradicate it, and we have been content too long with exhortation rather than action in this field. Millions of Americans have been denied fair access to decent housing because of their race or color. If we perceive this reality, on what possible grounds can we delay the evident remedy?

In this confused and painful period of our national history, we may take some hope from our postwar progress in other questions of civil rights. There have been earnest attempts to alleviate the injustices which kept many Americans from the voting booth. There have been respectable achievements in opening public accommodations to all of our citizens.

But in the critical areas of housing, education, and employment, change has been intolerably slow. It is in these realms that one finds the basic explanation for the malaise which disturbs America. It is in these realms that one finds discrimination still in the saddle and justice trampled underfoot. It is in these realms that our country must achieve its professed ambitions of equal justice under the law, or fail in the most noble aspects of the American experience.

It is in these realms that the Senate must provide the leadership to which the vast majority of concerned and well-intentioned Americans can rally. Without such leadership, without the voice of the Senate proclaiming the true and better spirit of the American citizenry, we must reckon with the danger that baser instincts will continue to prevail in too many sections of our country.

I have stressed that our ideals call us to act on this subject. I cannot fail to add, however, that other less lofty considerations also compel attention to these issues. It is my sober judgment that the issue of fair housing has become nothing less than the first priority in any approach to dealing with the urban crisis in which we are embroiled.

This in no way implies that fair housing is a panacea or anything approaching it. It is to argue that, to the extent we make progress in this area, we may be able to moderate our difficulties in the other critical areas to which I have referred, education and employment.

Fair housing does not promise to end the ghetto; it promises only to demonstrate that the ghetto is not an immutable institution in America. It will scarcely lead to a mass dispersal of the ghetto population to the suburbs; but it will make it possible for those who have the resources to escape the stranglehold now suffocating the inner cities of America. It will make possible renewed hope for ghetto residents who have begun to believe that escape from their demeaning circumstance is impossible.

Most important, in my judgment, this legislation on so vital a matter will offer desperately needed evidence that the American political process remains the most viable and responsive institution yet conceived by man. When the relevance and potency of our institutions come into question, as they have in many quarters, there is no other way to restore public confidence than by demonstrating the capacity and willingness of political leaders to act. What stands between us and action are myths and ghosts, the ancient hobgoblins that opponents of fair housing always invoke.

Most of these myths are unworthy of comment, but we do best to confront even unworthy demons in the light of day. There are those who raise the specter of economic loss if fair housing laws open white communities to Negro families. In one study of 20 neighborhoods in San Francisco, Oakland, and Philadelphia, covering a period of 12 years, property values either remained stable or

increased in 85 percent of the relevant cases. If there is any truth to this myth at all, it is rooted in the unequal access which Negroes have had to housing; this inequality has made possible the worst forms of price gouging on the one hand and blockbusting on the other. Where the entire housing stock is open to all Americans, it is wholly reasonable to expect a neutral impact on housing prices.

There are also some few who raise the claim that the Government is already moving rapidly enough in this field. True enough, between 1950 and today the Federal Government has completely reversed its racial policy, moving from officially sanctioned housing discrimination to a Presidential order in 1962 nominally eliminating discrimination in federally assisted housing. Yet the effect of these moves has been minimal. In 1962 nearly 80 percent of federally subsidized housing remained occupied by one race. And today the Executive order covers only a fraction of the total housing stock. Secretary Weaver estimates that only 40 percent of the stock has been subjected to Federal nondiscrimination rules. We are all familiar with the dreary cycle of the middle-class exodus to the suburbs and the rapid deterioration of the central city. I firmly believe that nothing is so essential to breaking this cycle than prompt action on fair housing legislation.

As the exodus has progressed, more and more jobs and businesses have followed the middle class to the suburbs. The tax base on which adequate public services, and especially adequate public education, subsists has fled the city, leaving poverty and despair as the general condition of the ghetto dwellers. We cannot immediately recreate adequate services in the central city, but we must move toward that goal. At the same time we can and should make it possible for those who can to move to where the better schools and services, the decent homes and jobs are most plentiful. That is the simple purpose of this bill.

Fair housing legislation has been labeled "forced" housing. I believe that the true "forced" housing is exactly that situation in which the ghetto dwellers find themselves—trapped in the slums because they can go nowhere else. The States are concerned that the Federal Government is attempting a further usurpation of their power. But if the States are not inclined to follow the doctrine of the 14th amendment surely the Federal Government has the duty to insure that they can no longer ignore it.

Mr. President, finally, some are worried that this legislation will both invade their privacy and tamper with their right to sell their homes to whom they please. On the contrary, this bill is aimed not at privacy but at commercial transactions. It will prevent no one from selling his house to whomever he chooses so long as it is personal choice and not discrimination which affects his action.

With the enactment of the Civil Rights Act of 1964 there came a gradual but basic shift in attitude toward discrimination in public accommodations. It is my hope and my prayer that the American people will respond to the passage of open housing legislation in the same spirit. The job that faces us is one that must be done.

Mr. President, Negroes in big cities usually pay rent just as high as most whites, but receive much less for their money. Moreover, since they have lower income, paying equal rents works a greater hardship on them. These conclusions can be demonstrated by data from the 1960 census for Chicago.

There both whites and nonwhites paid median rents of $88, and proportions paying rents below that median were almost identical. However, units rented by nonwhites were typically smaller and in worse condition; 30.7 percent of all nonwhite units were in deteriorated or dilapidated areas as against 11.6 percent for whites. They contained more people.

The median household size was 3.53 for nonwhites against 2.88 for whites.

Authoritative figures prove conclusively that Negroes paid significant extra housing costs in 1960 as a result of racial discrimination against them by whites.

The major mechanism through which this took was housing. Prior to 1948, direct exclusion of Negroes from white residential areas was legally enforceable by means of restrictive covenants incorporated in property deeds. After the Supreme Court declared this unconstitutional there was a shift to other means of discrimination. The two principal means are a conspiracy by white realtors to refuse to sell or rent to Negroes in all-white areas, and withdrawal of whites in areas where Negroes begin to live in sizable numbers.

Many States have now outlawed racial discrimination by realtors in the sale or rental of housing, though such laws do not always cover all forms of housing. These laws have, as yet, had no measurable effect in breaking down patterns of racial segregation.

A recent exhaustive study of such segregation reveals its presence to a very high degree in every single large city in America. Minor variations exist between North and South, suburbs and central cities, and cities with large and small Negro populations. But in every case Negroes are highly segregated, more so than Puerto Ricans, orientals, Mexican Americans, or any specific nationality group. In fact, Negroes are by far the most residentially segregated group in recent American history.

The authors of one study devised an index to measure overall segregation. The values indicate the percentage of nonwhites who would have to shift from the block where they live to some other block in order to provde a perfectly proportional, unsegregated distribution of population by block in that city. The mean segregation index for 207 of the largest U.S. cities was 86.2 in 1960. Index values were somewhat high in the South, a mean of 90.9, than in the Northeast, with a mean of 79.2, the North-Central, with a mean of 87.7, or in the West, with a mean of 79.3. But only eight cities have values below 70, whereas over 50 have values above 91.7.

Two additional findings from that study are extremely significant.

First, this nearly universal pattern of residential segregation cannot be explained as resulting from economic discrimination against all low-income groups. Careful analysis of 15 cities indicates that white upper and middle-income households are far more segregated from Negro upper- and middle-income households than some white lower-income households.

Thus, racial discrimination appears to be the key factor underlying housing segregation patterns.

Second, the degree of racial segregation rose significantly in all parts of the country from 1940 to 1950, but declined slightly in all parts, except the South, from 1950 to 1960.

The average segregation index value for all 207 cities was 85.2 in 1940; 87.3 in 1950, and 86.2 in 1960.

From 1950 to 1960, only 15.6 percent of all cities in the North and West experienced segregation index increases as compared to 77.8 percent in the South. This shift in the North and West was undoubtedly affected by the outlawing of racially restrictive covenants in 1948, plus the end of the general U.S. housing shortage in the mid-1950's.

Nevertheless, the decline in segregation even in the North and West was relatively small. From 1950 to 1960, regional average index scores dropped 4.7 points in the Northeast, 1.5 percent in the North Central, and 6.5 points in the West.

These figures indicate that any really large reduction of residential segregation through "natural" developments in the near future is extremely unlikely.

Mr. President, many expect a ruling from the Supreme Court on the Jones against Mayer case to take some action on fair housing. But are we to wait until the Court acts? If Congress waited in the area of segregated education, surely Congress should speak forthrightly on this matter and not wait for the Court to lead where the elected representatives should be in the vanguard.

Mr. President, already we can see that the fair housing principles are being accepted in many States and localities. The National Committee to End Discrimination in Housing estimates that 60 percent of the American population is already covered by some form of fair housing legislation. These statutes are far from uniform and are very uneven in coverage and enforcement. But they reflect, in my opinion, receptivity to action in this field which should end congressional timidity once and for all.

Mr. President, I now refer to a statement concerning the Fair Housing Act of 1967, in the hearings before the Subcommittee on Housing and Urban Affairs of the Committee on Banking and Currency, U.S. Senate, 90th Congress, first session, under the paragraph heading "The Ghetto and the Master Builder."

The words are these:

> We make two general assertions: (1) that American cities and suburbs suffer from galloping segregation, a malady so widespread and so deeply imbedded in the national psyche that many Americans, Negroes as well as whites, have come to regard it as a natural condition; and (2) that the prime carrier of galloping segregation has been the Federal Government. First it built the ghettos; then it locked the gates; now it appears to be fumbling for the key.
>
> Nearly everything the Government touches turns to segregation, and the Government touches nearly everything. The billions of dollars it spends on housing, highways, hos-

pitals and other community facilities are dollars that buy ghettos. Ditto for the billions the Government has given to American cities and suburbs in the name of community planning—money which made it simple for planners to draw their two-color maps and to plot the precise locations of Watts, Hough, Hunter's Point and ten-thousand other ghettos across the land.

* * * * *

At present the Federal example is murky; it has an Alice-in-Wonderland quality that defies easy summation. On the one hand, the Government is officially committed to fighting segregation on all relevant fronts; on the other, it seems temperamentally committed to doing business as usual—which, given our current social climate, means more segregation. It hires many intergroup relations specialists—HUD has forty-seven—but deprives them of the power and prestige to achieve meaningful integration. Similarly, it cranks out hundreds of inter-office memoranda on how best to promote open occupancy, but it fails to develop follow-up procedures tough enough to persuade bureaucrats to take these missives seriously. The Federal files are bulging with such memoranda—and our racial ghettos are expanding almost as quickly.

The road to segregation is paved with weak intentions—which is a reasonably accurate description of the Federal establishment today. Its sin is not bigotry (though there are still cases of bald discrimination by Federal officials) but blandness; not a lack of goodwill, but a lack of will. The Federal failure to come to grips with segregation manifests itself in all kinds of oversights. For example, a recent FHA pamphlet for house-buyers includes an italicized explanation of Federal antidiscrimination rules and regulations. Good. It also includes a photograph of a house in a suburban subdivision which had won an FHA "Award of Merit" for community development. Bad—because the subdivision was all-white, and its builders, according to a state human relations official, "discouraged Negro families from buying." Nobody checked this out before publishing the pamphlet because nobody cared enough to ask the right questions.

What adds to the murk is officialdom's apparent belief in its own sincerity. Today's Federal housing official commonly inveighs against the evils of ghetto life even as he pushes buttons that ratify their triumph—even as he ok's public housing sites in the heart of Negro slums, releases planning and urban renewal funds to cities dead-set against integration, and approves the financing of suburban subdivisions from which Negroes will be barred. These and similar acts are committed daily by officials who say they are unalterably opposed to segregation, and have the memos to prove it.

The words have lost their meaning. Many housing administrators in Washington have on their office wall a framed reproduction of a statement President Johnson made to his Cabinet on April 25, 1965: "The Federal service must never be either the active or passive ally of any who flout the Constitution of the United States. Regional custom, local traditions, personal prejudices or predilection are no excuses, no justification, no defense in this regard." But when you ask one of these gentlemen why, despite the 1962 fair housing Order, most public housing is still segregated, he invariably blames it on regional custom, local traditions, personal prejudices of municipal housing officials.

The upshot of all this is a Federal attitude of amiable apartheid, in which there are no villains, only "good guys"; a world in which everyone possesses "the truth" (in the files, on the walls), but nearly everyone seems to lack a sense of consequences. In such a milieu, the first steps toward a genuinely affirmative policy of desegregation in housing are endlessly delayed, because no one is prepared to admit they have not already been taken.

"The rule is," said the Queen to Alice, "jam tomorrow, and jam yesterday—but never jam today."

In other words, our Government, unfortunately, has been sanctioning discrimiation in housing throughout this Nation. The purpose of this bill, as well stated by my able colleague from Minnesota, is not to force Negroes upon whites. It is to give black Americans an opportunity to live in decent housing in this country.

In the summer of 1966 and the summer of 1967 our Nation witnessed its greatest shame. If we are to avoid a recurrence of this unsightly, unconscionable bitterness between white and black Americans, it is encumbent upon our Government to act, and to act now. The most important action that we can take is to enable black Americans to live in decent housing; and this amendment is intended to do exactly that.

The fears and myths I have spoken about have been aired time and time again. Whenever there was a debate on open occupancy, whenever there was an attempt by the Federal Government to move against discrimination and segregation, these same myths, these same fears, have been argued in debate.

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

Mr. BROOKE. Yes; I yield to the Senator from Minnesota.

Mr. MONDALE. First, I would like to express my personal appreciation to the distinguished Senator from Massachusetts for his characteristic courage and strength of leadership on this issue. The Senator from Massachusetts terminated a very important study trip through Africa and flew several thousand miles to assist me as cosponsor of this measure and be ready this afternoon with his proposal. In addition to that, he prepared the most impressive remarks by which we have just been benefited.

In each of our comments, we emphasized many of the material aspects of this problem, whether it is the quality of housing or the quality of education, the availability of decent employment, the environment in terms of water, air, and transportaiton, law enforcement, playgrounds, and all the other aspects of a desirable community; but I wonder if perhaps more important than any of those is the psychological insult and the impact of that insult upon the ghetto dweller.

I asked these questions of Mr. Algernon Black, who testified on behalf of the American Civil Liberties Union. The questions and answers appear on page 178 and 179 of the hearings. I think this is one of the most brilliant expressions of this aspect of the problem. I said to Mr. Black:

I particularly liked the sentence in your testimony that goes as follows:

"Deeper than the material and physical deprivation is the humilitation and rejection and what this does to human beings.".

This past Sunday in the New York Times supplement there was an article by a Negro sociologist talking about the impact of conditions of oppression on the mental outlook of the Negro male. And it points out in effect we have given traditionally in the United States the Negro the option of risking his life or losing his manhood.

And while that ancient option that was once true in the South is no longer as much true as it was, in the North we have this kind of repression in housing and living conditions by which we crowd Negro America into the rotting cores of our central cities. And it is today's grace from a material standpoint, but its cost in terms of the impact that flows from the humilitation and the insult of segregation is an incalculable cost that perhaps is even greater.

This was his response. He said:

I am also former chairman of the New York State Committee Against Discrimination in Housing, the first State committee of its kind to pioneer with State legislation and from which was born the National Committee Against Discrimination, whose representatives and officers you will hear this afternoon. I am chairman of its board of directors.

This is the point he made, which I thought was powerful and unanswerable. He said:

The real evil in the ghetto effects is the rejection and humiliation of human beings. As former chairman of the Police Complaint Review Board of New York City, I found that the most humiliating and injurious thing that police can do is not physical but psychological and spiritual, when they humiliate a man in the presence of his wife or his children. This is the enraging and destructive thing to a man's soul—and the injury it does to a child's psyche—because the man, who is supposed to protect the family, to make the home, and is made to feel that he is nothing by one who represents the authority of society.

This sense of humiliation goes all through the ghetto. It is the primary cause of the frustration and rage in the youth which has acted with such violence in the recent riots. In the ghetto no matter what they do, what they become, they don't get anywhere. They feel they are in a cage. And this is why this bill is of crucial importance now.

I think that is one of the most remarkable and unanswerable arguments I have heard for the importance and the immediacy of this measure. It is hard to quantify and make tangible this psychological problem; and yet, when I go into the ghettos, as I have, and talk to ghetto residents, they seem to be trying to express something different from the physical problem, although that is important, and I believe that Mr. Black expressed the result of the humiliation of segregation better than I have heard it expressed by anyone else.

Mr. BROOKE. I certainly concur in the statement of the distinguished Senator from Minnesota, and I am very grateful for his generous remarks. I assure him that I am deeply proud to be associated with him in the sponsorship of this important amendment.

I wholeheartedly agree with what Mr. Black said in testimony before the Senator's committee. The psychological impact is a great impact. It is a profound one. I can testify from personal experience, having lived in the ghetto, what it does to the inside of a man to live in such shameful conditions, to be in an area which has been marked for second-class citizens, in an area which few are able to escape.

Oh, I must confess that I was one of the lucky ones, that I did escape from the ghetto, that my parents were able

to educate me and we were able to move out into a better neighborhood. But there are millions of my brothers who have not been able to escape, who still live in ghettos, who still live in indecent housing, who still lack a quality education, who still are unemployed or underemployed. So I know the psychological impact of which Mr. Black speaks.

This year, I have served on the President's Advisory Commission on Civil Disorders, with the opportunity to go to Detroit, to Newark, to Roxbury, and to other places around the country, and to talk with people who live in the ghettos, who every day experience the shame and the ignominy, who find it impossible to move out of those areas of squalor, and who feel so strongly that they are being denied their rights. I have seen the impact upon them, and I know very well what they mean when they say, "It is not just the fact that I am the last hired and the first fired; it is not even the bad conditions under which I am forced to live; but it is that I do not feel like a man, that I am denied the right to feel, to act, and to stand as a man, to live with human dignity. That is what is most important to me. I want to feel like a man. I want to act like a man. I want to live in dignity."

Time after time, I heard this testimony from the lips of those who lived in the very areas—the real areas—that have plagued our country with violence and bloodshed this year.

They told me that when a policeman approaches them, it is not so much that he makes an arrest, but that he treats them like dogs.

What they are really asking for is respect as individuals. They do not want to be denied it merely because their skin happens to be black.

This is what Mr. Black was talking about when he appeared before the Senator's committee. I think the material things are important, and quite rightly, but they are only secondary to that psychological lift that could be given to black America if it could only be given the opportunity to live where it pleased.

Mr. MONDALE. Mr. President, I said earlier that the statement of Dr. Black was the best on the subject I had ever heard. I have just heard a better one, on the psychological and spiritual aspects of this problem, from the lips of the distinguished Senator from Massachusetts.

I think his words should be engraved in gold and brought to the attention of every American. I think if they were, the response of Congress would be immediate, swift, and favorable on this issue.

One of the questions we faced during the hearings, as the Senator from Massachusetts knows, was: How important is fair housing as a part of the total spectrum of needs in the American ghetto?

The Senator from Massachusetts is well aware, both from his experience on the riot commission and from his other experiences, that there are those who say that this is a sort of nominal, vestigial, relatively meaningless aspect of the total spectrum of answers to the problems in our ghettos.

One of the things that impressed me during the hearings was the number of times and the number of sources which stated that that was not the case, that this is not only an important aspect of the solution, but an indispensible feature of any adequate solution.

I asked Mr. Wilkins—who, incidentally, is from Minnesota; you will find most of the key leadership of any decent organization originated in that State: Mr. Wilkins, who was born there, Clarence Mitchell, who learned everything he knows there; Whitney Young, who would not have gained leadership without his experience there; and the same is true. of many others—whether that was true.

Mr. BROOKE. Will the Senator yield, and say all those who were not born in Massachusetts?

Mr. MONDALE. I decline to yield to say that.

Mr. Wilkins' answer to that question, which appears at pages 119 and 120 of the record of the hearings, was as follows:

> I might say as sort of a confession that while I have always believed that housing and employment and schools are the inseparable trio that must be dealt with as far as the ghetto living is concerned, I have been a little astonished to discover in recent years the tremendous feeling about housing, and even more so than unemployment. Ordinarily we would say unemployment is No. 1. I personally say schools are No. 1, but I think unemployment is only about a nostril behind, you might say, but I have been astonished to find the number of persons who consider housing. The refusal of housing as a crushing rebuttal of their human—the position as human beings as citizens. There is nothing more humiliating to a father and a mother and two small children when he is on the threshold of a successful career or looking forward to it, and he wants to purchase a home, and somebody tells him you can't do it because you are black. This hurts his wife, it hurts his children. It is a crushing thing. He would say, "Well, I would rather almost work as a day laborer if I could be free to pick my house, and I would rather not be what I am, a college graduate, and so on, if I could choose." So in that sense, I guess it is the No. 1 consideration. As you said, an important part, I would say almost that it is almost No. 1 if not No. 1.

Mr. President, this is one of the most distinguished, experienced, and committed Americans in this field, and he says, in a reasoned answer, that this may very well be the single most important issue that we face and must successfully deal with, if we are to solve this problem.

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

Mr. MONDALE. I yield.

Mr. BROOKE. Mr. President, I am very pleased to hear the distinguished Senator from Minnesota speak so highly of Mr. Roy Wilkins of the National Association for the Advancement of Colored People.

Roy Wilkins is truly one of the greatest leaders in the fight for civil rights the Nation has ever known. He is well respected and able. And he is a man who thinks well and acts with conviction.

I think it is very appropriate that the Senator from Minnesota has cited Mr. Wilkins' testimony before his committee. I know that Mr. Wilkins has given his entire life to this subject and is certainly an expert on these matters.

Mr. Wilkins states, as the Senator pointed out, that housing is almost the number one priority. He gives his reason, as he always does.

I think that we should take heed of this.

As I said, I served on the President's Commission for Civil Disorder. Mr. Wilkins is also a member of that commission. I think that if he were to testify before us now, after his service on the Commission, he would be even stronger in his convictions concerning the importance of housing. We have seen what has happened in the ghettos as the whites have moved out of the inner city into suburbia. We not only find decay and deterioration in the central city, but we find also that business has moved out of the ghettos into suburbia with the white population.

On the floor of the Senate in the last session of Congress, we debated the question of whether Federal funds should be spent for the location of certain industries out in suburbia where Negroes are unable to live and be near their jobs.

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

Mr. BROOKE. I yield.

Mr. MONDALE. Mr. President, the Senator will recall that when we had the matter of the Weston, Ill., 200-Bev. appropriation before us last year, the testimony was that if a Negro obtained a job in that Federal facility—the largest perhaps that we have ever created to this time—he would have to commute on an average of 74 miles a day because he would have to come from the ghettos of Chicago.

Mr. BROOKE. The Senator is correct. That is one of the examples that we gave. I think it is a very flagrant and startling one. I am sure that we could give other examples that would certainly point to the need—the very great need—to open up housing. Obviously any Negro that has to travel 74 miles a day cannot hold the job. He would not only be denied housing, but he would also be denied employment by reason of that fact.

Where are the schools the worst? They are worst in the central cities where the Negroes are living today, and from which they cannot escape. So, we have education and employment affected by housing.

I would certainly place housing as the top priority. I think it is very important, because if Negroes are able to live where they want, then they will be able to get these jobs.

Again, in the last session of the Congress, we had legislation proposed for government incentives to be offered for the location of industry in areas where Negroes were living. If Negroes could live anywhere, we would not have to relocate industry all over the country.

We are trying to keep Negroes living in segregated ghettos in the Nation, and what we need to do is to destroy these ghettos.

That will not happen overnight. It will take time. However, I think, as the able Senator from Minnesota well set forth in

his opening statement, there will not be this great rush to the suburbs. There never has been. As people are educated and have the opportunity and the wherewithal to move, they ought to be able to move. That is all that the amendment would provide.

Mr. MONDALE. Mr. President, I am glad that the Senator from Massachusetts pointed that out.

I included before an observation to the effect that all of the horror stories of the real estate lobby have proven to be untrue. They have not proven to be true in those States which adopted reasonable and meaningful fair housing laws.

I speak from personal understanding because my State has one of the strongest fair housing statutes in the country. We have had it for some years. We strengthened it again in 1967.

One of the witnesses before our committee was Kennon Rothchild, one of the remarkable citizens from my State, president of the mortgage bankers of the State at the time he testified, and a former chairman of the State commission against discrimination, and a common realtor in his own right. Mr. Rothchild pointed out what had happened in Minnesota when we passed the law.

If we were to believe the real estate lobby, disasters and holocausts were shortly to be the standard diet for Minnesota, and we would have anarchy. In fact, all of these horror predictions proved to be totally false. The effect has been that slowly and responsibly, without any fanfare, several hundred families have been permitted to move into those homes that they could afford.

There has been not a single instance of violence, virtually no instances of deep and serious community problems. It has worked out beautifully. And while it has not worked perfectly, it has been a definite, encouraging, exciting, and inspiring experience.

It is hard to find a person in Minnesota who is opposed to fair housing. During the days when the real estate lobby was predicting what would happen, I would say that most Minnesotans were opposed to and fearful of what would happen.

I am reminded of an experience I had as a student when we were making a survey of a community in a wealthy part of South Minneapolis. One of the persons who lived there was a man who later became famous. He is a man by the name of Carl Rowan, a good friend of mine.

A questionnaire had been prepared by the department of sociology. The first question was, "Did you know that a Negro lived in the community?"

The first housewife whom I asked the question said, "No. Is that true?"

The second question was, "Has it affected the real estate values?"

She said, "It certainly has."

And I think this shows the groundless fear and suspicion that we have.

This was the case of a Negro family that lived in a house because it could afford to do so and was permitted to do so because some realtor—thank God—was not a segregationist. That family lived there with no difficulty whatever. Indeed, most of the people in the community did not know it. And the only time any of the citizens became concerned was when they learned about it long after the fact. The fears simply were not realized. It is not a problem. It is something that we think is a problem because we are ignorant. We live in separate, segregated communities, and we have to go on what is not truth but caricatures, not friendship, but the fears of a people alienated from each other.

I am distressed that there are still so many in American society who still harbor these fears which are so groundless.

Mr. BROOKE. Will the Senator yield?

Mr. MONDALE. I yield.

Mr. BROOKE. Mr. President, I am very proud that I come from a State that also has fair housing legislation. I certainly agree with my colleague, the Senator from Minnesota, that the fears that were voiced when this legislation was proposed were groundless.

People are now living in integrated cities and towns in the Commonwealth of Massachusetts.

Giving a personal reference again, I now live in an integrated district in Massachusetts, in Newton Centre. Many other Negroes live there as well. People of the Jewish faith, protestants, Catholics, all live together, without incident, and they do well. In Washington, I live in Tiber Island, which is integrated, again without incident.

It is difficult for me to comprehend how fears, as my colleague from Minnesota has stated, still persist so widely, when actually there has been more integration in housing in the South than in the North. When one goes down South, he will find Negroes and whites living side by side to a greater extent, I believe, than he will find in the urban centers of the North. This has gone on for generations and generations, and whites have not moved out necessarily because there was a Negro living beside them. I believe that is just a myth. It is one of those myths that was dragged out to scare people about the problems they will encounter if there is integrated housing.

For a moment, let us explore the reverse of such legislation. Suppose all the Negroes lived in all the cities of the Nation and all the whites lived in all the suburbs. That is the trend as it is presently going, because there has been great migration to the great urban centers of the North, particularly. But even in the South more Negroes have left the farms and have gone into the central cities of the South, and the whites have escaped and gone to suburbs in the South, as well as in the North. They are finding that the cities are breaking down behind them: great leadership, competition in schools, the tax base—all go down, as property devaluates in the urban ghettos. The problems of the central cities magnify to the point of explosion, as they did in 1966 and 1967.

Do we want a nation in which all the blacks live in the city and all the whites live in the country? I do not believe we do. I do not believe it would be helpful for this Nation. I do not believe this Nation will exist with an urban black population and a suburban white population.

I believe that all we are saying in this amendment is that we are giving the opportunity for people to live where they want to live and where they can live. I believe it has well been pointed out that nothing is being forced upon anyone. A person can sell his property to anyone he chooses, as long as it is by personal choice and not because of motivations of discrimination.

This is sound legislation. It is good legislation. What is more important, it is needed legislation. It is almost what I would like to call essential legislation. In fact, I will call it essential legislation.

I do not want to say what our Commission on Civil Disorders will report. We hope to report on or before March 1 of this year. We have been studying this very problem—among other problems, to be sure. The problem of housing certainly has been one of the great priorities in that Commission in finding the causes for the explosions of 1966 and 1967, so that we can prevent them in the future.

So I am indeed very grateful to my colleague, the Senator from Minnesota, for his able presentation of the amendment and for the opportunity to work with him in the proposal of this essential legislation.

Mr. MONDALE. I thank the Senator from Massachusetts for his most useful and important contribution to this discussion.

I believe his experience on the Commission on Civil Disorders uniquely qualifies him to speak as an authority on the relationship between this measure and the problems with which that Commission deals.

Mr. President, I ask unanimous consent that the amendment which has previously been called up be considered as having been read for all purposes under rule XXII.

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

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

Mr. MONDALE. I am glad to yield further to the Senator from Massachusetts.

Mr. BROOKE. As I have previously mentioned, Massachusetts has been a leader in fair housing. As attorney general of my native Commonwealth, this legislation is of special concern to me.

I recall that my distinguished colleague from Minnesota was also the attorney general of his great State. We served together, as he will recall, in committees of the attorneys general of the Nation.

I know that the fair housing principle has the strong support of my constituency. I believe that most Americans are prepared to support the same principle. Someone once said that most Members of Congress—and I would say most members of our society—usually want to do the right thing; they just need a good excuse to do it. I believe that that truth was never more relevant than in respect to fair housing. The Members of Congress must know what is the right thing to do in this field.

What better excuse for action could there be than the imperative pressure to relieve the unbearable tensions in the ghetto, to make it possible for ghetto residents, by dint of their honest labor, to earn and acquire a better home for themselves and their families? What

higher purpose could any legislation serve than to restore the faith of all Americans in the possibility of realizing the constitutional promises of equal opportunity for all citizens?

That, Mr. President, is the purpose of this proposal. In my opinion, the Senate should not miss this precious opportunity to vindicate the aspirations of those who have, for so long, been denied a fair chance to acquire decent housing.

Mr. MONDALE. I thank the Senator from Massachusetts.

We have had similar experiences, having served as the chief lawyers of our respective States. Both of us have been active on this issue on the State level as well. I was pleased to be one of those who helped frame our fair housing law and to be active in that movement from the beginning, and to have been the law enforcement officer first vested with the responsibility of the enforcement of that measure. The belief I have always had in the elimination of discrimination has been strengthened by that experience. Not only am I more persuaded that the objective is right, but also that it is achievable in a reasonable and responsible way. The experience of the Senator from Massachusetts is obviously similar, and I am grateful to him for having mentioned that aspect as part of this discussion.

STRIKE BY SEABOARD COAST LINE TRAINMEN

Mr. HOLLAND. Mr. President, I have been shocked to learn this afternoon that without any notice at all the operating trainmen and other employees of the Coast Line Railroad have gone on strike. I do not know anything about the merits of the controversy. I do know something about the cruel imposition which has been caused by having a strike on this important railroad at this very time when our perishable commodities, both citrus and vegetable, are moving at their greatest volume.

I am not surprised to have received within the last few minutes wires which I shall place in the RECORD. The first telegram I have is from James S. Wood, chairman, Tampa Port Authority, which reads as follows:

TAMPA PORT AUTHORITY,
Tampa, Fla.

HON. SPESSARD L. HOLLAND,
The Capitol,
Washington, D.C.:

Urge immediate action to settle strike of Seaboard Coast Line trainmen. Work stoppage affecting economy of Tampa area in peak shipping season. If prolonged will result in prohibitive demurrage because of ships waiting to load in port.

JAMES S. WOOD,
Chairman.

Mr. President, another telegram is from Dade County, the county where Miami is situated, which is very much to the point. That telegram is signed by the Dade County Growers Exchange, Inc., Princeton, Fla., and reads as follows:

PRINCETON, FLA.,
February 6, 1968.

HON. SPESSARD HOLLAND,
U.S. Senate,
Washington, D.C.:

Regards Seaboard Coast Line strike, request all possible speed settlement due to volume perishables moving from South Florida area at this time.

DADE COUNTY GROWERS EXCHANGE, INC.
C. & C. PACKING CO.
C. C. CARPENTER FARMS.

Mr. President, a third telegram is from the Superior Fertilizer & Chemical Co. in Tampa, Fla., in which they state they have enough materials for only 2 days, at the peak of their fertilizer output season. This is the season for the fertilization of citrus groves. That telegram reads as follows:

SUPERIOR FERTILIZER & CHEMICAL CO.,
Tampa, Fla., February 6, 1968.

Senator SPESSARD L. HOLLAND,
Senate Office Building,
Washington, D.C.:

I was shocked to learn of the rail strike this morning. We are in the middle of our busy season and have less than two days supply of various materials in storage. We cannot truck sufficient materials to handle our business although we can gain partial relief. Our entire business is 75 percent dependent on prompt rail service at this time of year. We are not a large company and therefore cannot afford to absorb the substantial losses that can result if this strike is allowed to continue.

I hope you do not view this telegram as just another businessman bringing his point of view to your attention. I cannot think of anything that will injure our business more than a rail strike. Isn't there some way that service can be restored while issues are being negotiated?

We had no warning of this strike, therefore have not been able to build up any inventory. I urge you to give this matter your immediate attention.

JAMES S. WOOD,
President.

Mr. President, a fourth telegram is from J. H. Williams, Jr., president of the Greater Tampa Chamber of Commerce stressing the untold economic damage this strike will have on industry—small businesses that will shortly be out of business as they maintain small inventories and will be unable to meet delivery commitments. This telegram reads as follows:

GREATER TAMPA CHAMBER OF COMMERCE,
Tampa, Fla., February 6, 1968.

HON. SPESSARD L. HOLLAND,
Senate Office Building,
Washington, D.C.:

Even in early hours of strike of trained crewmen, the telephone is ringing—industry urgently calling for help. Companies with low inventory unable to meet delivery commitments and will shortly be out of business for the duration of strike. Others will soon feel the pinch and results will be layoffs of personnel and untold economic damages. Port will suffer severely. Respectfully and strongly urge that everything possible be done to halt strike, thereby avoiding serious injury to commerce and economic stagnation.

J. H. WILLIAMS, Jr.,
President.

Mr. President, this is the kind of thing which completely alienates the confidence and respect of great numbers of our people in the railroad unions.

I have called the White House. I am told that they are immediately considering the matter. The Florida delegation in a letter signed by all of us, is requesting the immediate action of the President in the appointment of a fact finding board and assistance in getting the line running again.

I am told that the workmen of nine lines take this position. I am not acquainted with the other lines involved.

I cannot say too forcefully that no action at this time of the year means utter confusion in the handling of perishable crops worth many millions of dollars and is a direct blow at the economy of my State, and could be perhaps ruinous at this time to hundreds, and perhaps thousands of growers.

The Florida delegation as a whole requests President Johnson to take immediate action to resolve this emergency. We expect the unions to realize the enormity of their actions, coming as this does without any warning or opportunity for industries to be protected, and at the height of our production season of highly perishable fruit and vegetable crops.

Mr. President, I shall not say more at this time but I do want the RECORD to reflect the tremendous concern of the entire Florida delegation, both Democrats and Republicans, and the fact that we expect the Chief Executive to move with all speed to bring the railroad back into operation.

We have also received some telephone calls of the same nature as the telegrams. I have not had the chance to reduce them to a written brief.

This is a calamity if it is allowed to continue. It is a manmade calamity against the good people of our State who are in the business of producing these highly perishable crops.

TRIBUTE TO TV STATION KVOO–TV IN TULSA, OKLA.

Mr. MONRONEY. Mr. President, in view of some of the irresponsible activities by certain segments of the news media—particularly TV—during the riots which occurred last summer, and the sit-ins and protest marches which have taken place recently in various parts of the country, I would like to take this opportunity to commend the policy of a great TV station from my own State of Oklahoma—station KVOO–TV in Tulsa.

Mr. Harold Stuart, president of Central Plains Enterprises, KVOO–TV's operating company, is personally responsible for this policy. Mr. Stuart has rendered much valuable service to his community and his Nation over a long period of years. He fully appreciates the responsibility that television has to report the news honestly and objectively, and at the same time his experience as an attorney and public servant provides him with a deep understanding of his responsibility for law and order.

Mr. Stuart tells me that he has discussed the problem of news coverage of riots and civil unrest with many of his colleagues in the television industry. I know that his views carry great weight, because of Mr. Stuart's outstanding service to the Nation as Assistant Secretary of the Air Force from 1949 to 1951, his service on the Board of Visitors of the Air Force Academy, and his far-reaching activities in the fields of education, transportation, petroleum and in the civic affairs of his community.

This policy problem is of growing significance to all television executives. My respect for Mr. Stuart's judgment in matters of serious public concern dates back to his early years as a common

pleas judge in Tulsa, before his magnificent military service in World War II.

I have had some correspondence with Mr. John Devine, who is executive vice president and general manager of this NBC station, regarding their stand on these matters, and I ask unanimous consent that his letter be printed in its entirety at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. MONRONEY. Mr. President, I should like to laud Mr. Stuart and Mr. Devine and KVOO–TV for this policy. The station has recognized the influence it wields in the news field, and its entire staff has made an exceptionally intelligent effort, and a successful one, I might add, to accept its community responsibilities in this area of reportorial activity.

I share Mr. Stuart's and Mr. Devine's opinion that this is certainly no time for "yellow" journalism. The stated policy of KVOO–TV certainly reflects the mature and intelligent approach to a situation which carries a high potential for widespread trouble.

I am concerned about these things that are happening, and I know that all Americans share my concern. It is my earnest hope that this sound, reasonable policy which governs KVOO–TV of Tulsa, Okla., will be, as time progresses, the only one that is universally accepted.

Mr. President, many TV stations in my State have observed a policy of self-censorship or the postponent of carrying live pictures of riots or pictures of violence in the streets on television. I think that they deserve recognition. I would welcome the opportunity to give them such recognition, if such be their policy.

It is my earnest hope that a sound and reasonable policy will be adopted by all television stations, including even the large networks, as being one which will add to the tranquility and the feeling of friendly relations among all citizens of this great land of ours.

EXHIBIT 1

KVOO–TV,
CHANNEL 2,
Tulsa, Okla., January 11, 1968.

Hon. A. S. "MIKE" MONRONEY,
U.S. Senate,
Senate Office Building,
Washington, D.C.

DEAR SENATOR: This is in answer to your letter concerning our policy on racial coverage and/or matters of violence.

We work very closely with the local officials on matters such as this, and check with them before releasing any news concerning a possible emergency or "riot" scare. We do not show any films of people being pushed around or carried in or out of places, regardless of whether it would feature a colored person or a white man. When emotions are running high, it is our opinion that there is certainly no need to add fuel to the fire.

We have been accused by a few people of blacking out so-called civil rights news. This is absolutely untrue. We will report it verbally, and by reporting I mean give the facts, making every effort not to over-dramatize the situation. All facts are checked first with the police department and any other responsible party involved in the situation.

As a matter of fact, the police department in the past has requested our cooperation in releasing news items pertaining to potentially dangerous situations. I am happy to say that we have cooperated with them 100%.

We are in no way trying to bury our head in the sand with the idea that the bad part will go away, but I repeat, we do not overdramatize any unfortunate happenings that may occur. This is a time when the essential facts are sufficient and we want no part of "yellow" journalism. Last summer there were some rumbles in Tulsa about possible racial strife. We went so far as to rent two cars for our news department. We thought it would be unwise to use marked cars—in other words, ones with our call letters on the side. As you well know, the appearance of broadcasting persons could trigger some premature action. We will continue with our policy of using unmarked cars to cruise areas where there may be some trouble.

Should you desire any further information along this line, I will be happy to answer your questions.

Hope all is going well with you, and give us a visit whenever you are in town.

Warmest personal regards.

Sincerely,

JOHN DEVINE,
Executive Vice President, General Manager.

PRESIDENT TURNS THE NATIONAL SPOTLIGHT ON AUTOMOBILE INSURANCE

Mr. MONRONEY. Mr. President, each and every citizen who owns an automobile, or hopes one day to buy one, owes a debt of thanks to the President for turning the national spotlight on serious problems in the automobile insurance industry.

The statistics are staggering. There were 13.6 million accidents in 1966 in which 53,000 persons were killed, 3.7 million injured and 24.3 million cars damaged.

The automobile insurance industry today involves $9.2 billion in annual premiums, 78 million cars, 98 million licensed drivers, and $12.3 billion in annual accident losses. Since 1960, there have been 78 known failures of companies writing auto insurance, leaving over a million policyholders without protection.

Couple these figures with the phenomenal rise in the cost of insurance, and it should be unnecessary to say that something has to be done.

I am sure that most of us have received letters from constituents complaining of high-handed methods, price increases, arbitrary canceling of policies, and tremendous time lapses from the date of an accident to final receipt of compensation. But there is also concern within the industry itself. The Insurance Information Institute expressed gratification that President Johnson himself had taken an interest in automobile insurance in his state of the Union message. And Bradford Smith, Jr., chairman of the Insurance Company of North America, placed a full-page advertisement in Newsweek magazine last October 30 to point out the problems and to call for a solution. He summed up his concern as follows:

As strong supporters of the free enterprise system since our founding in 1792, Insurance Company of North America is deeply concerned with the need to satisfy the public interest by finding an insurance solution to these problems. That interest now calls for changes, even radical changes, in the law and in the present American system of automobile insurance. INA, with 175 years of insurance leadership, stands ready to work with the insurance industry and government officials to accomplish that change.

It is our job here in Congress to lay the foundation from which Government and the industry can work to bring this wish to fruition. The President has given us fresh impetus for a new look at the industry and the problem. This is consumer consciousness at its best.

Mr. President, I ask unanimous consent to have printed in the RECORD the excerpt from the President's message concerning automobile insurance.

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

AUTOMOBILE INSURANCE

One area of major concern to the consumer is automobile insurance. Every motorist, every passenger, and every pedestrian is affected by it—yet the system is overburdened and unsatisfactory.

Premiums are rising—in some parts of the country they have increased by as much as 30 percent over the past six years.

Arbitrary coverage and policy cancellations are the cause of frequent complaint—particularly from the elderly, the young, the serviceman, and the Negro and Mexican-American.

A number of "high risk" insurance companies have gone into bankruptcy—leaving policyholders and accident victims unprotected and helpless.

Accident compensation is often unfair: Some victims get too much, some get too little, some get nothing at all.

Lawsuits have clogged our courts. The average claim takes about two and one-half years just to get to trial.

This is a national problem. It will become even more of a problem as we license more drivers, produce more automobiles and build more roads.

With more than 100 million drivers and 96 million motor vehicles in the United States, the insurance system is severely strained today.

While many proposals have been made to improve the system, many questions remain unanswered. The search for solutions must be pressed.

I propose legislation to authorize the Secretary of Transportation to conduct the first comprehensive study of the automobile insurance system. He will undertake this review with the full cooperation of the Federal Trade Commission and other appropriate agencies of the Executive Branch.

In recent months we have acted to make our cars and our highways safer. Now we must move to streamline the automobile insurance system—to make it fair, to make it simple, and to make it efficient.

LYNDON B. JOHNSON HELPS AMERICA'S WHEATGROWERS

Mr. MONRONEY. Mr. President, I am pleased to support the International Grains Arrangement which President Johnson sent to the Senate today. The International Wheat Agreement expired last July 31. World wheat prices have weakened since then but fortunately have remained fairly stable.

Wheat farmers in the Plains, the Northwest, and in the Corn Belt have benefited from the supported past wheat agreements.

I hope that the Foreign Relations Committee will hold early hearings and that the Senate will promptly approve the arrangement.

This arrangement continues our successful efforts of international cooperation in wheat marketing which goes back 20 years.

The higher minimum prices will bring better returns to our farmers. I am assured that provisions of the arrangement and the policy of the Department of Agriculture will keep U.S. wheats competitive in world markets and will keep our exports expanding.

This is an important development for American wheatgrowers. The arrangement will greatly enhance their economic security. And the President can be assured that his efforts to bring this arrangement to fruition have not gone unnoticed in America's wheat-producing States.

I am proud to support the President's excellent arrangement.

Mr. President, I ask unanimous consent to have printed in the RECORD the President's message to Congress with reference to the International Grains Arrangement.

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

To the Senate of the United States:

Today I submit to the Senate for its advice and consent the International Grains Arrangement of 1967.

This Arrangement is another step forward in our overall effort to strengthen and stabilize our farm economy, to improve our balance of payments, and to share our abundance with those in need.

The Arrangement is an outgrowth of the Kennedy round of trade negotiations. It was agreed to last August at the International Wheat Conference in Rome. It has already been signed by most of the countries that are major exporters and importers of grain.

The Arrangement is in two parts: the Wheat Trade Convention, which will provide new insurance against falling prices in the wheat export trade, and the Food Aid Convention, which will bring wheat exporting and wheat importing nations into partnership in the War on Hunger.

THE WHEAT TRADE CONVENTION

The Wheat Trade Convention will help to stabilize prices in world commercial trade.

It sets minimum and maximum prices for wheat moving in international trade at levels substantially higher than those specified in the International Wheat Agreement of 1962. This will give our farmers additional protection against price cutting in world markets.

At the same time, the Arrangement includes provisions to insure that our wheat will be priced competitively in world markets; and that no exporting member country is placed at a disadvantage because of changes in market conditions.

Importing countries also receive protection and benefits under the Convention. In periods of shortage importing member countries will be able to purchase their normal commercial requirements at the established maximum price. After this requirement has been met, exporting member countries will be free to sell above the maximum price.

America's wheat farmers have supported the pricing provisions of previous wheat agreements. I am confident they will welcome the stronger price assurances of this Arrangement.

THE FOOD AID CONVENTION

The Food Aid Convention marks an important new international initiative in the assault on hunger throughout the world.

The countries participating in this Convention—both exporting and importing nations—undertake to establish a regular program of food aid over the next three years.

The program calls for 4.5 million tons of grain to be supplied each year; 4.2 million tons are already subscribed.

The U.S. will supply 1.9 million tons in grains—under the authority of the Food for Freedom program.

Other countries will supply 2.6 million tons—either in the form of grain or its cash equivalent.

This new program is a major joint effort to supply wheat and other food grains to needy nations on a continuing basis. It will help the developing nations of the world meet their food deficits while they work to expand their own food production. As these countries prosper and grow, many will become cash customers for agricultural products.

I enclose, for the information of the Senate, the report of the Secretary of State on the International Grains Arrangement.

I urge the Senate to give it early consideration.

LYNDON B. JOHNSON.

THE WHITE HOUSE, *January 25, 1968.*

ADJOURNMENT

Mr. LONG of Louisiana. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in adjournment until 12 o'clock noon tomorrow.

The motion was agreed to; and (at 5 o'clock and 29 minutes p.m.) the Senate adjourned until tomorrow, Wednesday, February 7, 1968, at 12 o'clock meridian.

NOMINATIONS

Executive nominations received by the Senate February 6, 1968:

POSTMASTERS

The following-named persons to be postmasters:

ALABAMA

Della Mae Warren, Bear Creek, Ala., in place of Nola Bull, retired.

ARKANSAS

Jesse Doyne, Jr., Genevia, Ark., in place of F. M. Pearson, retired.

CALIFORNIA

Robert J. Nicklas, Paso Robles, Calif., in place of Teddy Chiappari, retired.

CONNECTICUT

Anthony S. Facas, New London, Conn., in place of T. J. Sullivan, retired.

GEORGIA

Hazel T. Bradley, Adairsville, Ga., in place of E. C. Brock, retired.

Ira M. Maples, Cohutta, Ga., in place of Beatrice McDonald, retired.

HAWAII

Taishi Tomono, Hawaii National Park, Hawaii, in place of F. S. Abe, retired.

IDAHO

Lyman W. Merrill, Weston, Idaho, in place of A. V. Lott, retired.

ILLINOIS

Joe Skender, Canton, Ill., in place of L. F. Weller, deceased.

Helen C. Gast, Gilberts, Ill., in place of H. A. Stumpf, deceased.

Glen E. Bettis, Palmyra, Ill., in place of H. H. Cox, retired.

INDIANA

Robert L. Funcheon, Lafayette, Ind., in place of A. L. Pyke, retired.

MINNESOTA

Basil D. Walker, Moorhead, Minn., in place of J. E. Ruddy, transferred.

MONTANA

Kenneth E. Lizotte, Bonner, Mont., in place of L. L. Fleming, retired.

NEBRASKA

John F. Ahlers, Belgrade, Nebr., in place of M. H. Andersen, retired.

David V. Fuchs, Humphrey, Nebr., in place of J. J. Weidner, retired.

Kenneth W. Rees, Liberty, Nebr., in place of O. M. Moore, retired.

Raleigh R. Robertson, Morse Bluff, Nebr., in place of James Vopalensky, retired.

NEW HAMPSHIRE

John F. Waterhouse, Raymond, N.H., in place of W. H. Roberts, retired.

NEW JERSEY

Frederick H. Martin, Camden, N.J., in place of Edward Praiss, retired.

NEW YORK

William Rosenberger, Hortonville, N.Y., in place of M. E. Miller, retired.

Henry W. Dicker, Millbrook, N.Y., in place of R. T. Stanton, retired.

Margaret E. Doherty, Rocky Point, N.Y., in place of Gladys Behr, retired.

Joseph D. Bergen, Valley Stream, N.Y., in place of W. A. Todd, retired.

Walter J. Krein, West Camp, N.Y., in place of O. L. Schlenker, retired.

NORTH CAROLINA

Harold B. Humphrey, Farmville, N.C., in place of H. D. Johnson, deceased.

Joseph H. Coe, Pilot Mountain, N.C., in place of A. G. Badgett, retired.

Dwight M. Tallent, Vale, N.C., in place of J. V. Leatherman, transferred.

OHIO

Grant J. Cook, Celina, Ohio, in place of J. R. Murlin, retired.

William E. Lehart, Tipp City, Ohio, in place of T. A. Brayshaw, retired.

OKLAHOMA

Glen W. Jones, Bixby, Okla., in place of B. E. McClendon, retired.

OREGON

David C. Fuiten, Forest Grove, Oreg., in place of R. A. King, retired.

Irma M. Johnson, Moro, Oreg., in place of L. R. Johnson, deceased.

PENNSYLVANIA

Joseph L. Bosak, Bendersville, Pa., in place of D. F. Kennedy, deceased.

Alfonzo Fanella, Indiana, Pa., in place of M. E. Martin, retired.

Robert B. Robinson, Orrtanna, Pa., in place of D. O. Deardorff, retired.

PUERTO RICO

Pedro N. Peterson-Matta, Dorado, P.R., in place of C. A. de Torrens, retired.

RHODE ISLAND

Robert E. Benoit, East Greenwich, R.I., in place of J. R. Brennan, retired.

SOUTH CAROLINA

Ryan J. Baker, Cades, S.C., in place of P. J. Sauls, retired.

Dallas L. Nelson, Jonesville, S.C., in place of O. H. Garner, deceased.

TENNESSEE

Arzo Hale, Caryville, Tenn., in place of M. S. Asbury, retired.

CONFIRMATION

Executive nomination confirmed by the Senate, February 6, 1968:

COUNCIL OF ECONOMIC ADVISORS

Merton J. Peck, of Connecticut, to be a member of the Council of Economic Advisers.