tain material offered for sale to minors, to protect the public from the offensive intrusion into their homes of sexually oriented mail matter, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. GARMATZ (for himself, Mr. CLARK, and Mr. KEITH):

H.R. 15694. A bill to authorize appropriations for procurement of vessels and aircraft and construction of shore and offshore establishments for the Coast Guard; to the Committee on Merchant Marine and Fisheries.

By Mr. MILLER of California:

H.R. 15695. A bill to authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management, and for other purposes; to the Committee on Science and Astronautics.

H.R. 15696. A bill to authorize appropriations for activities of the National Science Foundation, and for other purposes; to the Committee on Science and Astronautics.

By Mr. WATTS:

H.R. 15697. A bill to allow a deduction for income tax purposes of the entire amount of carrying charges paid on installment purchases; to the Committee on Ways and Means.

By Mr. OTTINGER:

H.J. Res. 1076. Joint resolution proposing an amendment to the Constitution of the United States relative to equal rights for men and women; to the Committee on the Judiciary.

By Mr. GIAIMO (for himself, Mr. WEICKER, Mr. REES, Mr. CHARLES H. WILSON, Mr. BEALL of Maryland, Mr. TUNNEY, Mr. TIERNAN, Mr. HALPERN, and Mr. EDWARDS of California):

H. Res. 820. Resolution creating a select committee to conduct an investigation and study of the National Collegiate Athletic Association; to the Committee on Rules.

By Mr. MICHEL (for himself, Mr. VANDER JAGT, Mr. COLLIER, Mr. MCDADE, Mr. ADAIR, Mr. SCHEUER, Mr. DON H. CLAUSEN, Mr. LOWENSTEIN, Mr. GUBSER, Mr. DERWINSKI, Mr. KUYKENDALL, Mr. RAILSBACK, Mr. CLARK, Mrs. REID of Illinois, Mr. MATHIAS, Mr. STEIGER of Arizona, and Mr. TAFT):

H. Res. 821. Resolution creating a select committee to conduct an investigation and study of the National Collegiate Athletic Association; to the Committee on Rules.

By Mr. SISK (for himself, Mr. BOLLING, Mr. YOUNG, Mr. SMITH of California, and Mr. LATTA):

H. Res. 822. Resolution to establish a Select Committee on Lobbying Practices; to the Committee on Rules.

PETITIONS, ETC.

Under clause 1 of rule XXII,

385. The SPEAKER presented a petition of the Common Council of the City of Mount Vernon, N.Y., relative to Federal financing of health, education, and welfare, which was referred to the Committee on Ways and Means.

SENATE—*Wednesday, February 4, 1970*

The Senate met at 11:30 o'clock a.m. and was called to order by the President pro tempore (Mr. RUSSELL).

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

O Lord, our God, it is not in our worthiness but in our need we come to Thee. Fill this sacred minute with a sense of Thy reality that the deliberations of each succeeding hour may be in tune with Thy spirit. May what we say and what we do speak with equal eloquence. We do not ask to see the distant scene but for courage to take the next step and wisdom to move steadily in the right direction. When burdens seem too heavy for human strength and problems beyond finite wisdom, infuse our lives with divine strength and that higher wisdom which comes from the beyond so that we may have a good conscience and the Nation be well served.

Through Jesus Christ our Lord. Amen.

MESSAGES FROM THE PRESIDENT—APPROVAL OF A BILL

Messages in writing from the President of the United States were communicated to the Senate by Mr. Leonard, one of his secretaries, announced that on today, February 4, 1970, the President had approved and signed the following act:

S. 476. An act for the relief of Mrs. Marjorie Zuck.

EXECUTIVE MESSAGE REFERRED

As in executive session, the President pro tempore laid before the Senate a message from the President of the United States submitting a nomination, which was referred to the Committee on Foreign Relations.

(For the nomination received today, see the end of Senate proceedings.)

ORDER OF BUSINESS

The PRESIDENT pro tempore. Under the order of yesterday, the Senator from Montana (Mr. MANSFIELD) is recognized.

Mr. MANSFIELD. Mr. President, I yield to the distinguished senior Senator from Missouri (Mr. SYMINGTON).

The PRESIDENT pro tempore. The Senator from Missouri is recognized.

Mr. SYMINGTON. I thank the majority leader.

IT IS TIME FOR THE TRUTH ABOUT LAOS

Mr. SYMINGTON. Mr. President, it is generally recognized that John S. Knight, head of the Knight newspaper chain, is one of the most thoughtful and constructive observers of the American and world scene.

With that premise, I would hope that every Senator would, and every citizen could read Mr. Knight's signed Sunday "Notebook" of February 1 entitled "It's Time Nixon Told Public About U.S. Role in Laos."

I ask unanimous consent that this article be inserted at this point in the RECORD.

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

IT'S TIME NIXON TOLD PUBLIC ABOUT U.S. ROLE IN LAOS

Some nine years ago—Jan. 1, 1961 to be precise—I was saying something like this:

"What should concern us today is the possibility of U.S. military intervention in Laos, a mountainous little Buddhist country about the size of Idaho which lies between Thailand and Burma to the west and the two Vietnams on the east.

"Since 1954 (mark the date), the United States has given an increase of $398 million to sustain Laotian independence and keep Laos out of the communist orbit.

"The forces which hope to dominate Laos comprise the Pathet Lao, a communist guerrilla movement, and the communists of North Vietnam. The Southeast Asia Treaty Organization has charged that troops from North Vietnam have infiltrated Laos.

"Great Britain and France, both signatories to the SEATO pact, have shown no interest in rushing to the defense of Laos. If anything is done the United States will be expected to act.

"Our military involvement there would be, as President-elect Kennedy stated in the campaign, 'the wrong war at the wrong place and at the wrong time'—unsound militarily, unnecessary to our security and unsupported by our allies.

"No Russian soldiers died in Korea and none will die in Laos if we are silly enough to get caught in a conflict where there is no chance of winning decisively and achieving permanent peace in that region."

Nearly a decade has elapsed since that warning was first printed, a period in which Vietnam and not Laos was to provide the setting for a bloody war in which more than 40,000 Americans have died.

Yet we have never been idle in Laos despite reassurances from Secretary of State William P. Rogers that "we are not going to fight any major wars on the mainland of Asia . . . We are not going to send American troops there."

As revealed by James McCartney of the Knight Newspapers, here is a brief summary of American activities in Laos:

The U.S. is providing massive air support to the Royal Laotian Army now combatting the communists.

United States bombers from both Vietnam and Thailand are attempting to interdict infiltrators into South Vietnam on the Ho Chi Minh Trail which travels through Laos.

U.S. fighters are being used for tactical air support to Laotian forces.

U.S. helicopters are being used to transport Laotian forces from one scene of combat to another.

U.S. advisers are all but running the Laotian army. Some are Central Intelligence Agency employes attached to the American embassy with innocent sounding titles.

There are 2,150 Americans in Laos, 830 of them in official government positions. The U.S. has lost at least 100 pilots on Laotian missions and about 25 other Americans have been killed in line of duty.

This summation of U.S. engrossment shows a marked similarity to the Vietnam war buildup in the early 1960s.

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

So the disturbing question arises as to whether the Nixon administration is actually escalating military activities in Laos while de-escalating the war in Vietnam.

Senate Foreign Relations Chairman J. William Fulbright maintains the government is "hiding the extent of our involvement in Laos . . . its cost in money and lives."

Sens. Fulbright, Mansfield and Symington are bristling over the State Department's withholding of secret evidence on Laos which was given to the committee in four days of testimony last October.

These senators are properly indignant over a vastly enlarged American participation in Laos without public announcement or Senate approval.

Having been burned once in believing Lyndon Johnson's Vietnam campaign promises of 1964, they are no longer in a trusting mood and in fact suspect the worst.

While the nation is disposed to be patient with the Nixon administration in its efforts to disengage from Vietnam, be warned that Laos contains the same ingredients of future trouble.

It was a somnolent Senate, remember, which condoned our growing entrapment in Vietnam in the days when spirited debate might have prevented the tragic consequences of a full-scale war.

In the light of correspondent McCartney's revelations, we think the President now has an obligation to take the American people into his full confidence on the Laotian situation.

And we applaud the Senate Foreign Relations Committee for demanding that the truth be told as it is without further fraud or deception.

JOHN S. KNIGHT.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Tuesday, February 3, 1970, be dispensed with.

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

LIMITATION ON STATEMENTS DURING TRANSACTION OF MORNING BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that at the conclusion of my remarks there be a limitation of 3 minutes on statements in relation to routine morning business.

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

THE ABM MISSILE SYSTEM

Mr. MANSFIELD. Mr. President, last year the Senate and the Congress approved the building of an ABM missile system at two missile sites in Montana and North Dakota. That decision was made by the Congress, I repeat. That decision is in effect today and, without question, the projects in Montana and North Dakota will go ahead, because that is the intent of the Congress and the administration as far as these two proposals are concerned.

Mr. President, last year—last April 25—I also put in the RECORD a comparative relationship between the Soviet Union and the United States in the field of ICBM's, SLBM's, and intercontinental bombers.

According to the information I had, in 1968 we had a total of 1,054 intercontinental missiles, a figure we still have, because there have been no additions; and the Soviet Union at that time had 905.

According to what information I have been able to obtain the Soviet Union now exceeds this Nation in ICBM's by approximately 25 to 30 missiles of that type.

In the field of sea-launched ballistic-missile launchers—that is, the Polaris type—we had, in 1968, 656 missiles in all our Polaris submarines. Incidentally, this is a matter of public information, so I am not divulging anything secret. Compared to that number, the Soviet Union had 45 of a similar type.

Undoubtedly, the Soviet Union has increased its missiles of the Polaris type in its submarines, but I would hazard the guess that at the present time it does not exceed the number of 100; which would indicate, if that assumption is correct, that we have a 6-to-1 superiority in the field of Polaris missiles over the Soviet Union.

In the field of intercontinental bombers, in 1968 we had 646, and the Soviet Union had 150. Our bombers were the B-52 and the B-58, and the Soviets' were the Bear and the Bison.

It is my understanding that the number 150, as far as the Soviet Union is concerned, has decreased somewhat, but that the number which we had, 646, has remained fairly constant.

So there we find an approximately 4-to-1 U.S. superiority in the field of intercontinental bombers. In the field of Polaris missiles we have a 6-to-1 superiority. And while the Soviet Union may have 25 or 30 more ICBM's than we do, that is virtually a standoff because both nations already possess destructive power beyond the point of saturation.

Mr. President, on Sunday I appeared on a television program on ABC known as "Issues and Answers." A good portion of that program was used by Mr. Scali and Mr. Clark in asking me my opinion about the President's statement at the last press conference that phase 2 of the ABM program was going to go into effect and that Secretary Laird would make an announcement giving the details within 30 days.

Mr. President, I ask unanimous consent that the pertinent parts of that TV appearance be incorporated at this point in the RECORD.

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

Mr. SCALI. Yesterday you denounced the Nixon Administration's plans to expand the antiballistic missile defense system and said that another great debate is in the offing. Won't this wind up as a rehash of the debate that you and other opponents lost after 29 days of argument and counter-argument last year?

Senator MANSFIELD. Let me say "denounce" is a pretty harsh word. We haven't seen the details yet. What I want to see is a bill of particulars and I want to see also whether or not the questions which were in our minds last year have been answered to our satisfaction.

I would point out that as far as the two sites in Montana and North Dakota are concerned, they are under way. They were agreed to on the basis of a 50-50 vote in the Senate and an overwhelming vote in the House, so they will go ahead. It is the expansion beyond that which disturbs me, plus the fact that the questions which were raised last year will be raised again this year.

For example, it is our information that the radar system is highly vulnerable and if it is hit the whole ABM system dependent on the radar will be knocked out. We are not as yet anywhere near certain that the computer system is reliable and accurate and we have some questions about the shell of the Spartan which indicates on the basis of what the scientists tell us that it would be a little slow, unless it has been corrected in meeting an incoming missile.

May I say that as far as the ABM is concerned that no one in the Senate that I know of is against it if it is needed, reliable and accurate. If we are going to go into this area, then I think we better face all the facts, recognize it is going to cost tens of billions of dollars. On the basis of what little I know about the new proposals which will be made, it seems to me to be a combination of the Safeguard and Sentinel systems and the Sentinel system was supposedly discarded last year.

Mr. SCALI. Senator, you said the expanded ABM system might cost as much as $50 billion.

Senator MANSFIELD. That is correct.

Mr. SCALI. A figure which I think is far higher than any administration spokesman has put on it. Where do you get that figure and how do you support it?

Senator MANSFIELD. Well, I would point out that it was estimated that the Sentinel system itself would cost somewhere in that vicinity, if not more, and if we are getting a combination, it appears to me that with the cost increase which must be added to it that it would come at least to that figure if you put in the whole system because, remember, it takes the Northwest Washington state, southern New England, Texas, the Southeastern part of the United States, Michigan, two sites in California, Washington, D.C., and perhaps eventually sites in Alaska and Hawaii. Those last two have not been mentioned, however.

May I say also that the present estimates for the hard point missile systems in Montana and North Dakota have already far exceeded the original estimates.

Mr. CLARK. Well, Senator, do you think if the President had told Congress last year that the ABM system was needed for defense of American cities rather than for the very limited protective system that was submitted to Congress for our own antimissile sites, that he would have won that big Senate battle which, of course, he won by only one vote?

Senator MANSFIELD. Well, he didn't win it by one vote really because it was a stand-off and an amendment having to do with any particular to a bill fails because of——

Mr. CLARK. The margin was essentially one vote.

Senator MANSFIELD. The margin was essentially one vote.

I don't know. I would imagine that the results would have been the same whether it was a Sentinel system or a Safeguard system.

Mr. CLARK. There were two or three Senators at least—Senator Scott was one who had indicated some reservations about the system but then swung the other direction when the President proposed only the very limited system. You don't think some people who voted with the President last year might not be now pulled back the other way?

Senator MANSFIELD. That I couldn't say because this matter was in effect just sprung on us. I had only read speculative reports that there would be an expansion of the present system. Those reports were denied and then the President, of course, made it official in his press conference the other night.

Mr. CLARK. Do you see anything that has

happened in the past year in the conduct of Red China that would justify the shift in the Administration's position to point that anti-missile system now at China rather than just protecting our own missile sites?

Senator MANSFIELD. I have no access to such information, though I am quite certain the President undoubtedly has. There certainly can't be any question but that the Chinese are going ahead with their missile system. How good it is, how effective it is, whether it is an IRBM or an ICBM, I do not know at the present time—well, I do know they at least have the IRBM's, but whether they have developed an ICBM capacity, I am not in a position to state. But I do recall that the President last year, in giving one of his reasons for turning down the Sentinel System, said that he couldn't buy the idea that this system was being set up for use against a possible Chinese threat.

Mr. SCALI. Senator, I gather from what you say that the President's revised plans come as somewhat of a surprise to you. You talk with him and meet with him frequently. Were you consulted in advance at all? Did you discuss this?

Senator MANSFIELD. No, and I wouldn't expect to be, but in all fairness I must say the President indicated that he had talked it over with the National Security Council before he made his announcement. He also said that Mr. Laird would make an announcement within 30 days. I would anticipate that he would call down the joint leadership and other appropriate Members of the Congress to discuss with them what his plans are, just as he did last year.

Mr. SCALI. Senator, as an expert on Asia, you appraised President Nixon's doctrine which would force the Asians to rely more on their own manpower while we hold a nuclear umbrella over their heads for safety. Aren't the opponents of this new plan making it impossible to carry out that doctrine by making the United States vulnerable to a sudden attack by Red China?

Senator MANSFIELD. No, I don't think so because I don't think we are vulnerable at this time to a sudden attack by Communist China and I believe the President made it very clear in his press conference that this was somewhere in the future, in the seventies.

Mr. SCALI. Well, in the future, aren't you in effect denying the President the kind of safety that is needed to protect our own missiles while we hold a nuclear umbrella over the heads of our allies?

Senator MANSFIELD. No, I wouldn't say so because as I have indicated, nobody is against the ABM if it is reliable, if it is accurate. Everybody in the Senate so far as I know is in favor of continued research and development, but I would hate to see a system put in which, if necessary to be used, couldn't be effective.

Mr. CLARK. Senator, if we can explore just a bit more the President's plans to expand this anti-missile system to protect the country against the possibility of a surprise attack by Red China, does this get to the heart of the new Nixon doctrine for Asia? In other words, you, in supporting this doctrine, if as we pull American troops out of Asia we have to extend a nuclear umbrella or maintain a nuclear umbrella over our Asian allies, is it the necessary to go to an anti-missile system in this country, no matter what the cost? Is this part of the price of the Nixon doctrine?

Senator MANSFIELD. Oh, if it is necessary, the cost is of no significance. If it has to be done, it will be done, and it should be done. But if it is going to be done, it ought to be done on an accurate and reliable basis. The money shouldn't be wasted. There shouldn't be an overcost in the program. There is in the present ABM program and as I have been informed, and I think quite accurately by the GAO, there is at the present time a 20.8 billion dollar over-cost on weaponry contracts which have been let by the Department of Defense.

Now, I must say that practically all, if not all of these contracts had been let under a previous Administration and I think that Mr. Laird is doing a pretty good job in trying to correct some of these deficiencies.

Mr. SCALI. Senator, you mentioned the reliability several times. Is there any reason for you to believe that this system is less reliable now than it was when you voted on it last year?

Senator MANSFIELD. That is one of the questions we have to ask. We want to find out what has been done in the meantime to make the computers more reliable, to make the radar screens less vulnerable, and to see what has been done about the Spartan missiles as far as their speed capacity is concerned.

Mr. SCALI. Do you think that disclosure of these plans at this time will in any way jeopardize the beginning of the dialogue with Red China which the Nixon Administration has set up after so much effort?

Senator MANSFIELD. That is one of the things which worries me because we have the SALT talks going on which seek to bring about a diminution in the amount of armaments, missiles and other weapons of destruction which we are both developing, and we both have enough to obliterate the world ten times over. We are probably on the verge of a mad momentum. I don't know what is going to happen if we keep on this way because if we keep on building weapons, someday you are going to use them and someday the people of the world are going to suffer.

Mr. CLARK. Senator, we have heard a great deal of talk from the Democrats in recent months about reordering national priorities. Now what happens to national priorities and how much we set aside to spend for pollution or health or education, if you get into an extremely costly program of anti-missile defense which you say is all right with you as long as the President in effect can prove that it is needed.

Senator MANSFIELD. Then priorities go out the window. What I want to see is a balance between our security needs and our domestic needs, and balance is the key word. It won't do us any good to have the best security system in the world if we have uneasiness, discontent, in some instances rebellion, at home. What we have to do is to have a good security system and we have to face up to the problems of pollution, the needs of the cities, the needs of our people here at home. Both of them must go together.

Mr. SCALI. Do you think the President is attaching too high a priority to defense, then, Senator?

Senator MANSFIELD. I think so, but I must admit that he has more information available to him than I have but we have been going helter skelter in the spending of defense funds and only in the past year or so has the Congress and especially the Senate been raising questions and trying to draw back on some of those over-costs, some of these ill-conceived contracts and some of these weapons which have proved useless but on which billions of dollars have been spent.

Mr. CLARK. There is, Senator, a mounting impression in Washington that Democrats are allowing the President to preempt the field in the critical areas of priorities, in thinking of pollution and health and welfare programs, even draft reform where the President moved in at the last minute in the last Congress.

Are Democrats being out-manuevered by a President who is a wiler politician than they expected in the White House?

Senator MANSFIELD. No, I don't think so, and after all it is the welfare of the nation, the welfare of the people which must always come first. It isn't a matter of being politically astute or trying to take political advantage. It is a matter of doing what you can for the country as a whole and if it affects you personally and you lose, that is immaterial. The country must come first always.

Mr. MANSFIELD. Mr. President, last Friday's announcement of a new and expanded ABM is most disturbing. What the administration is proposing is to shift the mission of this anti-ballistic-missile system once again to defending cities. It is a mission which was first assigned to the so-called ABM Sentinel during the Johnson administration but was expressly discarded by the present administration as a practical impossibility. It is a mission, moreover, which the administration described last year as not only impractical but as unduly provocative and escalatory of arms competition. It decided, instead, to rename the system "Safeguard" and to move the proposed ABM sites away from the cities. It assigned the weapons the function of defending, not cities, but a principal component of the Nation's nuclear deterrent, the hardened ICBM sites, specifically at Grand Forks, N. Dak., and Malmstrom Air Force Base in Montana.

At the time, it was said quite clearly that the Sentinel system had to be abandoned because it could not safeguard the Nation's urban centers from substantial enemy missile attack. To protect a city from a missile attack, it was pointed out, the ABM screen would have to be more than just half-safe. It would have to be all-safe—inexhaustible as well as infallible.

All agreed, last year, that the Sentinel-Safeguard components—whatever the mission, wherever placed—could not claim perfection. The Sentinel-Safeguard system—the rationale for which has shifted four times in 4 years—still uses the same components each year and those components were designed in 1962. The components were then and they still are less than infallible.

By general recognition, an ABM defense screen that permits any penetration by a nuclear warhead is no defense of a city at all. If a dozen are stopped but one substantial warhead enters, it is quite enough to do the deadly job of human annihilation. The incinerated inhabitants of a city almost perfectly shielded by an ABM would find little consolation in statistics showing near perfection.

Last year, the President, quite properly in my judgment, announced that the Sentinel system was being abandoned because it could not be made to work to defend cities against a hypothetical attack of Soviet warheads and because he would not "buy" the contention of its value for that purpose against a hypothetical attack of Chinese warheads. Yet, this year it is proposed that Safeguard be extended to include defense of cities against precisely such an attack from Chinese sources. It is disturbing to find the facts stating one conclusion one year and the same facts stating the opposite the next. A true credibility gap does, indeed, open up when, each year for 4 years, these changing rationales are presented for the same system. As the distinguished Senator from Maine (Mrs. SMITH) so aptly stated last year:

This shifting against whom to defend—first Russia then Red China and then back to Russia—coupled with the shifting of what to defend—first the cities and population centers and now the missile sites—not only taxes one's credulity but even challenges one's imagination as to what the next shift will be by the advocates of the ABM.

I fear that the "next shift" of which the distinguished Senator from Maine spoke is about to be presented.

It may be helpful to refresh memories at this point on some of the complicated questions which were clarified during last year's debate on the ABM. Among the weaknesses of the system—as they were revealed at the time—were the vulnerability of the radar components and the unreliability of the computer. The weaknesses of these links are fundamental weaknesses. Last year, the ABM system was regarded as less than fully reliable and less than invulnerable in its protection of the hardened missile sites against incoming warheads from the Soviet Union. This year the proposal for the extension of the system suggests that the same components are now reliable and no longer vulnerable. The implication is that even if the system cannot guard cities against Soviet warheads, it will be able to protect the Nation's urban regions, a few years hence, from Chinese warheads which do not yet exist but which may exist at that time.

Last year, the President announced that a further expansion of the Safeguard system beyond the two sites would not be requested of the Congress until the completion of a special study. That study was to take into consideration the technical feasibility of any extension of the system, the state of international tensions and the experience of phase 1; that is, the experience with the initial two sites in Montana and North Dakota.

Where is the study? Has the Senate Armed Services Committee had access to it? Has anyone in the Congress seen it? Have the Secretary of State and the Secretary of Defense examined it? I assume that there is such a study somewhere in the executive branch because the President made clear that it was a prerequisite for any request to the Congress for expansion of the ABM system. And according to the President's announcement, Congress will be asked this year to provide for an expansion.

Since that is the case, I presume that there is not only a study but that the study must have found the state of international tensions to have grown more serious, very serious, during this past year. It must have concluded, too, that the SALT talks are not yielding fruitful results. Has it found, as well, that the technology of the Safeguard is now perfected to the point of infallibility and, hence, that the system can be usefully installed for urban defense? Has that conclusion, moreover, been strengthened by experience in handling the missiles at the first two sites?

In all candor, Mr. President, it is difficult to understand how that can be the case. There can hardly have been an accumulation of technical experience with these weapons at the two sites because installation has yet to take place. So far as I am aware, most of the year has been spent in buying land and building approaches and in other of the most preliminary of preparations. So far as I am aware, all that the experience to date has proven is that actual costs are far higher than the original cost estimates for the installations.

I am at a loss, too, to understand how any study can justify going ahead with expansion of the ABM system on the grounds of an increase in international tensions. The public reports of the administration on that score suggest precisely the opposite. We have had nothing but reassurances from the administration on the improvement of the international climate and on the progress of the SALT negotiations with the Soviet Union.

What must now be asked is whether the proposed expansion of Safeguard to a population-defense concept will have the effect of upsetting the negotiations being held in Helsinki. In the esoteric chess of war gamesmanship, with which the SALT negotiations are interwoven, an attempt to defend cities on either side is regarded as an escalation in the arms race whereas a defense of ICBM installations is not. From that viewpoint, therefore—from the viewpoint of the Soviet technicians and negotiators in Helsinki—it is hard to see how the new proposal to expand the system can be construed as other than an escalation, notwithstanding the President's desire last year to remove that element from the ABM system. Nor does the contention that the proposed extension is a protection of cities against Chinese missiles rather than Soviet missiles change that fact. It seems to me very likely, therefore, that these talks will now fall into stalemate—along with those in Paris on Vietnam—at least until the development of this system by us is matched by a similar development of an ABM on the Soviet side. In this paranoiac peace of mutual terror neither side is likely to acquiesce in an advance in technology on the part of the other, notwithstanding rhetorical assurances that the objective of the advance is a third country.

The proposal, in my judgment, therefore, may well compel another round of escalation and add billions to the costs of defense in both countries. In the end, it may well leave the Soviet Union and the United States in a state of near fiscal exhaustion but neither nation in a more advantageous defense situation.

May I add that cost is not the block if an essential and practical addition to the defense of the Nation is at stake. The Senate has never stinted on that kind of outlay in the past; it is not likely to do so now. To ask funds for a defense system that is necessary and effective is understandable. To importune the Congress to make a commitment to spend, in the end, tens of billions of dollars for the exercise of another round in nuclear gamesmanship, however, is alarming, to say the least. To ask for this commitment to a system that gives the impression of technological invulnerability and the illusion of security but provides neither is an invitation to disaster.

Many, many questions have arisen, Mr. President, in the wake of this latest development regarding the ABM. I have today dispatched a number of questions to the chairman of the Committee on Armed Services, the Senator from Mississippi (Mr. STENNIS), with the request that they be considered by his committee when the question of ABM expansion is undertaken by that group. I anticipate, knowing the Senator's integrity, forthrightness, and honesty, that my request will be honored and that this information will be forthcoming.

The Senate will want to review most carefully the specific proposals both in committee, under the distinguished chairmanship of the Senator from Mississippi (Mr. STENNIS), and on the floor.

The overriding concern will be to weigh the need for a costly extension of the ABM system in the scales of the overall needs of the Nation. What is involved in this proposal is a commitment which, in the end, would claim, probably, upward of $50 billion of the Nation's fiscal resources. These funds will be asked for not at once, but in chunks, this year and the next and the next and so on into the future. They will be requested in order to counter a type of nuclear threat from China which the President states does not exist even hypothetically at the present time but which may exist, hypothetically—I repeat, hypothetically—10 years from now.

Before the Senate endorses this commitment, it seems to me essential to ask about the inner needs of the Nation, needs which arise not 10 years hence but which are present now. If vast resources are diverted to the countering of hypothetical threats to the Nation's security, what is left for our response to these actual, urgent, and accumulating needs of the present?

Let no one say that the state of a pollution-laden environment is not a threat to the security of the Nation inherent in the disintegrating cities and the rising crime rates. Let no one dismiss the threat which arises from a continuing inflation, a spreading recession, and vast pocket of poverty. There is an imbalance, it seems to me, if we lend to these pressing domestic threats a lesser urgency than that which is assigned to hypothetical foreign dangers a decade hence. So far as I am concerned, this imbalance will be at issue when the proposed expansion of the ABM system comes before the Senate.

I am confident that the Senate will undertake a deep and thorough examination of this matter. That is our responsibility. It cannot be, it will not be, and it must not be ignored.

(At this point Mr. ALLEN assumed the chair.)

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

Mr. MANSFIELD. I yield.

Mr. SYMINGTON. I congratulate the majority leader on his address this morning, delivered in his typically quiet and constructive manner, on one of the most important subjects facing this country and the world today. I predict it is one of the more important addresses to be made on the floor of the Senate this year.

The majority leader points out that

this is the fourth change, shift on this ABM matter. The first was when the Joint Chiefs of Staff recommended to the previous administration that there be a thick area ABM system. The second was the change in the recommendation by the previous administration that there be a thin system, entitled "Sentinel." When that came to the floor of the Senate in 1968, the premise being it was necessary for us to defend the United States against a nuclear attack from China, I opposed it, considered at that time the justification was absurd and so stated on the floor of the Senate. Last year, the name "Sentinel" was changed to Safeguard—same design, but now for a different purpose.

Frankly, Mr. President, that application appeared as more logical. My only apprehension was the relative vulnerability of the two radar systems, primarily the MSR; but I was worried about possibilities the computer would not function properly, because the software had not yet been installed in the computer planned. However, the Safeguard was approved by the Senate. The majority leader will recall that at that time arguments were used in an effort to obtain the approval of the Safeguard system by illustrating why the planned application of the Sentinel system—area defense—was not the correct system for the defense of the United States.

For these reasons, it is difficult to understand why the administration now reverts back to the concept of the discarded Sentinel system. To me this is especially unfortunate, because, based on my knowledge of the subject, I think it makes very difficult indeed any possibility of reaching agreement in the SALT discussions with respect to MIRV control, not to mention what it might do to ABM limitation agreement. I should not go into the details of that at this time, but have studied the matter, and that is my belief.

Second, many cities in the United States will not agree to only a thin area defense. People will say, "If you are going to defend some cities, why not defend mine?"

The figure the distinguished majority leader uses—$50 billion—may well not be nearly adequate to cover the cost of a thick system that can now be just around the corner.

For these reasons, Mr. President, again I commend the majority leader for bringing this important matter before the Senate. We have spent over $100 billion in postwar Europe and over $100 billion in Vietnam; and at the same time we know we have increasing problems with respect to our domestic requirements—such problems as air pollution, water pollution, education, and adequate housing—in all of which areas the people have been asking for with an increasing voice during recent months.

To add this gigantic burden so as to obtain a system which, at best, is questionable, and base that request on the discarded arguments used year before last, when the Sentinel came before the Senate for discussion, is hard for me to understand.

I thank the majority leader, and again congratulate him on his outstanding address.

Mr. MANSFIELD. I thank the Senator.

Mr. President, may I say that, to the best of my knowledge, no Member of the Senate is against continued research and development. No Member of the Senate would be against the ABM if the need and practicability were demonstrated. No Member of the Senate would be against appropriating all funds necessary to put in such a system if that happened to be the case. But there are questions relative to the reliability of a system which, if fully carried out at a cost of tens of billions of dollars—that it would not be protective, would not enhance our security, but would be only a myth, created to shroud the fears of the people of this Nation against other nuclear powers.

I want to make it very plain, Mr. President, that the Senate and the Congress last year expressed approval for the two sites in North Dakota and Montana. That decision has been made, and that decision will be carried out.

What we will be faced with this year is an expansion, beyond the two hard missile sites, into places like the northwestern part of the State of Washington, southern New England, the Michigan-Ohio area, the Southeastern United States—I suppose around Florida and Georgia, the Texas area—and two sites in California, one in the northern part and one in the southern part.

While no mention was made of Alaska or Hawaii, they were mentioned a year ago in relation to the Sentinel system. I would assume that further consideration would be given to them.

Whether these areas which I have mentioned are accurate, I do not know. I am going on the basis of newspaper reports and a newspaper map which seemed to indicate that that is where the new sites might be.

I think that the Senate has a responsibility in this matter, and it will live up to it, win or lose, as it did last year.

I am certain that the President will, as he did last year, face up to his responsibility. But there is a wide gap between us at the present time, because we do not know what has been done in the way of research and development.

A total of $14 million was allocated this year for construction for continued research and development in Kwajalein. It was stated in the Senate last year that the sites in Montana and North Dakota would be used for research and development purposes.

Well, that could not be as yet, because they are still purchasing the land and making preparations. The hard work will not get underway this spring in North Dakota or in Montana. It will be many months—many, many months—before an ABM system will be installed. As a matter of fact, I believe it will take about 4 years.

How we can carry on research and development on that basis, in the amount of time which has elapsed, I am not at all certain.

Mr. SYMINGTON. I have always been for intense research and development, but not for premature deployment.

Mr. MILLER. Mr. President, I wish that I could join with my colleague from Missouri in extending congratulations to the distinguished majority leader on his speech. I regret very much that all I can do is to deplore it, and deplore it deeply.

The arguments set forth in the distinguished majority leader's report are not new. We have heard them all before, two or three times over, during previous debates on this subject. They have been rejected—true, by a narrow margin in the Senate, but by an overwhelming margin in the House of Representatives.

I do not believe that it is helpful in enlightening anyone, much less the general public, to rehash these arguments time after time after time.

For example, the distinguished majority leader started out on the premise which the opponents used last year, which is most unfortunate and most unrealistic, by calling attention to what the situation is today vis-a-vis the Soviet Union with respect to military power.

Mr. MANSFIELD. Mr. President, will the Senator from Iowa yield briefly there?

Mr. MILLER. I yield.

Mr. MANSFIELD. I do not consider anything unfortunate or unrealistic which happens to be public knowledge. I stated specifically that I was not revealing any secrets but stating what was public knowledge.

Mr. MILLER. May I respond by saying that I am not suggesting it is unfortunate that the distinguished majority leader reveals public information. I am suggesting that it is unfortunate the public knowledge he repeats constitutes a very unfortunate premise and that is: What the situation is today vis-a-vis the Soviet Union with respect to military power, particularly strategic nuclear power, and that this does not help anyone because in discussing the ABM we are not concerned about what the situation is today. The whole problem——

Mr. MANSFIELD. Mr. President, will the Senator from Iowa yield right there?

Mr. MILLER. Is concerned with respect to what the situation will be in 1975 and 1980.

Mr. MANSFIELD. Mr. President, will the Senator from Iowa yield right there?

Mr. MILLER. I am happy to yield.

Mr. MANSFIELD. Were the figures I gave accurate?

Mr. MILLER. To the best of my knowledge, the figures the Senator from Montana gave in his speech are accurate and have been used before.

Mr. MANSFIELD. Have been used publicly.

Mr. MILLER. And publicly. But that is not the point. The point is that it is not going to be helpful in an ABM discussion to talk about what the situation is today. We are not talking about today. The opponents of the ABM, of course, are talking about today. But that is not responsive. The responsive question is, What is the situation going to be in 1975 or in 1980?

Now the Senator from Montana did allude to this——

The PRESIDING OFFICER (Mr. EAGLETON in the chair). The time of the Senator from Iowa has expired.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senator from Iowa proceed for——

Mr. MILLER. Ten minutes?

Mr. MANSFIELD. Ten minutes.

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

Mr. MILLER. The Senator from Montana did allude to this when he criticized the use of hypotheticals as a basis for planning. But the Senator from Montana well knows—and there is no one who knows it better than the Senator from Missouri (Mr. SYMINGTON)—that in the problem of national security we have always used hypotheticals. We do not necessarly use the word "hypotheticals." We used "anticipated" or "expected" "danger to the security of the country." And we are following the same approach right now in the course of trying to cope with the hypothetical dangers from pollution of the environmental—hypotheticals with respect to population expansion, hypotheticals with respect to additional pollutants——

Mr. MANSFIELD. If the Senator will yield there, except they are not hypothetical. Those problems are here right now.

Mr. MILLER. Well, the problem of security is here, right now too.

Mr. MANSFIELD. The Senator was just saying it was hypothetical looking ahead in the 1970's.

Mr. MILLER. That is correct. Just like the worst pollution that will occur, if we do not do something about it, is the basis for the program of antipollution control today.

Mr. SYMINGTON. If the able Senator will yield as long as he used my name, I would appreciate his yielding to allow me to say, with great respect, that I am not quite sure I know what he is getting at.

Mr. MILLER. Well, Mr. President, I know that the Senator from Missouri does not wish to have me compliment him too highly, but he is a distinguished member of the Armed Services Committee and I have had the honor to serve there with him. We have jointly, and with other members of the committee, discussed future problems with respect to national security. We can call them hypothetical, but they have been the basis for the planning and the programing of the entire Military Establishment. The Senator from Missouri is a former member of that establishment, a former Secretary of the Air Force, and my colleague from Missouri well knows what I am talking about. That is the point I wanted to make.

Mr. SYMINGTON. I am sorry my able friend from Iowa left the Armed Services Committee, but I do feel, based on a recent briefing from highest intelligence, that the remarks of the majority leader this morning with respect to the relative position of the two countries today are extremely pertinent, not only with respect to the problem as it is today, but also with respect to what it will be tomorrow.

I went to the extremely interesting hearing conducted by the distinguished senior Senator from Tennessee, chairman of the Arms Control Subcommittee of the Foreign Relations Committee, where we had an extensive review of the SALT talks presented to us by Mr. Gerard Smith, in executive session. As a result, I believe the remarks of the majority leader are truly pertinent to this discussion.

We cannot say now, that the present is not important to the future, when justification for the future is now being based on thoughts that were discarded in the past.

Mr. MILLER. Mr. President, I appreciate the comments of the Senator from Missouri. But I repeat that, while they may be pertinent, they are not helpful, because everyone in the Senate has recognized these figures as being public figures.

This is the "hangup," if I may use the word, that the anti-ABM people had on the subject last year. By discussing the situation today, they overlook the fact that the pro-ABM people are not concerned about that. We are sure that our present security is adequate. Instead, we are talking about where this country will be in 1975 and 1980.

The Senator from Montana talked about a credibility gap. I must respectfully suggest that if there is a credibility gap, it exists in his mind and not in the RECORD. I participated in the ABM debate last year. And I call attention to the fact that one of the justifications made for the President's program was to provide a "thin" defense against a Red Chinese attack on our cities. And the point made was that an area defense could provide this—at least it would be better than nothing—against the relatively small number of ICBM's which the Red Chinese are now developing and are expected to have a capability in by 1975.

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

Mr. MILLER. I yield.

Mr. MANSFIELD. Mr. President, may I say that when I used the word "credibility," I was using it in its broadest sense. I was applying it to no one in particular, but to the fact that there is a void as far as the Senate is concerned on what the administration intends to do, because we are not told, except that sometime during the next 30 days an announcement is to be made by the Secretary of Defense, Mr. Laird.

We are groping in the dark. We had a debate which took 2 months in this Chamber, 2 months well spent, very well spent.

We were given certain assurances by the administration at the time that the Safeguard system was announced as a replacement for the Sentinel. We find there are questions which have to be answered in the committee chaired by the distinguished Senator from Mississippi (Mr. STENNIS) and in the committee chaired by the distinguished senior Senator from Tennessee (Mr. GORE).

These questions will be presented to both committees, and hopefully they will be answered. But all we have is an announcement with no facts to back it up. We have an announcement made by the President, and that is the highest authority in the country—that within 30 days we will go into the second phase of the ABM system and that the Secretary of Defense will tell us about it at that time.

To the best of my knowledge, there is no Member of the Senate who has as yet been informed. I am not speaking of myself, but I am speaking of the leaders of the defense committees and the leaders of both parties on those committees.

Mr. MILLER. Mr. President, I would hope that my interpretation of the remarks of the distinguished Senator from Montana is inaccurate, because I had felt from some of the things said that he had prejudged this matter before it had gone through the hearings before the Senate Armed Services Committee and before the Secretary of Defense had an opportunity to present the facts and the justifications for going ahead with the ABM system and would have probably anticipated and covered many of the questions the distinguished majority leader had.

If this is prejudgment, it is unfortunate. If it is not prejudgment, but merely a matter of suggested questions that all of us in the Senate would like to have answered, that is another matter.

I regret the use of the phrase credibility gap. I appreciate the fact that the Senator from Montana delimited it as he did.

Mr. MANSFIELD. Just a moment, I said it went on over a period of 4 years. It takes in two administrations, because the same facts are presented each year for a different objective.

Mr. MILLER. I do not wish to suggest that the Senator is being partisan in this matter. The debate last year was a bipartisan debate. But as one of those who supported the ABM system, along with many others on the other side of the aisle, I want to make it very clear that there was nothing in our position that suggested a credibility gap. Nothing has come along that I know about that has created any credibility gap, because the arguments and justifications for the ABM a year ago included a thin defense of our cities against a Red Chinese capability.

One of the points made by the Senator from Montana was that we have received a justification for going ahead on the ABM, to protect our cities. That was one of the justifications a year ago. There is no change on that point.

Finally, no one in the Senate is more hopeful of fruitful results from the SALT talks than the Senator from Iowa. However, I think it is well known, because it has been expressed in many speeches and by leading columnists and writers and Senators themselves have made the point, that fruitfulness from the SALT talks might not occur for years.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senator be permitted to continue for an additional 3 minutes.

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

Mr. MILLER. And anyone who suggests that there is going to be fruitfulness from the SALT talks in a matter of months is just not being realistic.

The fact that we have not had any tangible results from these talks does not

indicate to me that international tensions are any greater or less than they were. It indicates that things are about the same.

As I understand it, the SALT talks are going forward. We hope and pray that in due course they will be fruitful. But the suggestion that this will happen within a few months is not a realistic suggestion.

There was a point made by the distinguished columnists Evans and Novak about a week or so ago to the effect that the fact that we had made a decision to go ahead with the ABM has enhanced the chances of success of the talks.

It was their observation of the preliminary SALT talks that, if the United States had not made the decision to go ahead with the ABM, we would have no negotiating power or not enough to enhance the possibilities of success.

The SALT talks may not get off the ground. They may not be successful. However, let us not use an invalid premise that if they are not successful it will be because of the decision on the ABM.

Mr. AIKEN. Mr. President, while I have enjoyed the very informative discussion that has taken place on the floor of the Senate concerning a proposal which it is presumed the Secretary of Defense will make to Congress some time this year, possibly in the near future, nevertheless I do not know what we would do if somebody struck the words "hypothetical" and "academic" from the dictionary.

Mr. GRIFFIN. Mr. President, I shall add only a few observations to the colloquy which has already taken place. Obviously, the statement made by the distinguished majority leader has been listened to very carefully and respectfully by Senators on this side of the aisle.

I would venture to suggest, however, that to debate the issue now would be somewhat premature, a point made by the Senator from Iowa (Mr. MILLER). Of course, the distinguished majority leader is perfectly free to fire the "opening salvo" in this new round of discussions which promises to be lively. He is entirely within his rights to do that, but he admits at the same time that the proposal has not yet been presented by the President or the Secretary of Defense.

The distinguished majority leader used the term "groping in the dark." We do not know how much research has been done; we do not know the details of the plan; we know very little about the case that will be laid before Congress. Because that is true, I must say that I share the disappointment—I guess I will use that word which was used by the Senator from Iowa—that the majority leader already seems to have come to very firm conclusions even before the case is presented.

I would certainly share the observation of the distinguished Senator from Iowa that the very hard and strong language used by the majority leader, with respect to the effect of the proposal upon the SALT talks, is disappointing. As far as the SALT talks to date are concerned, I do not think the record would indicate that the action taken by Congress last year has had an adverse effect upon the SALT talks. In fact, there is a great deal of informed opinion that the action of Congress last year was important and helpful in the SALT talks to date. So a judgment on that point is very much subject to question.

I believe that the statement of the majority leader, important as it is, should not be answered in full today. And no attempt should be made today to do so. The time to debate this issue will come after the President and the Secretary of Defense have presented their case, which will be within a reasonable period of time.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that I may proceed for 1 additional minute.

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

Mr. MANSFIELD. May I say that perhaps it would be wiser to present the case ahead of time rather than to be presented with a fait accompli.

Mr. GRIFFIN. Of course, there could be no fait accompli until Congress acts. We have an independent responsibility, as has often been emphasized. We will have something to say about this decision.

Mr. MANSFIELD. Let me say the "initial" fait accompli.

TWENTY-SECOND ANNIVERSARY OF CEYLON'S INDEPENDENCE—FEBRUARY 4, 1970

Mr. AIKEN. Mr. President, the people and the Government of Ceylon are today celebrating their 22d anniversary as an independent nation.

During this time, Ceylon has established a very stable parliamentary democracy which compares favorably with other countries which have been independent for a much longer period of time.

The present Government of Ceylon, under the leadership of Prime Minister Dudley Senanayake, has been concentrating on building the nation.

The Government's objective has been to develop as rapidly as possible its own food supply.

The U.S. Government and the World Bank have aided in developing Ceylon's economy.

In the past 3 years, the Bank has given Ceylon credits amounting to $47.3 million for development projects.

A great bulk of this credit—$31.5 million—has been for the Development Finance Corp. of Ceylon, a hydropower project, and a drainage and land reclamation project.

Ceylon hopes that in the future this assistance will allow her to develop her own economy without reliance on outside help.

In foreign affairs, Ceylon continues to follow a policy of nonalinement.

At the same time, United States-Ceylon relations have been strengthened through cultural programs, and the future looks bright.

For all of these examples of patriotism, industry, humane government, and wise management of domestic and foreign affairs, we congratulate our 12 million friends in Ceylon and wish them well in the years ahead.

Mr. MANSFIELD. Mr. President, I join the distinguished Senator from Vermont in paying tribute to the country of Ceylon on the occasion of its 22d birthday. And I assure the Senator that we look back upon our visit there most pleasantly.

I am delighted to join the Senator in paying tribute to Ceylon.

Mr. AIKEN. I think we can learn an awful lot from some other countries in the world no matter how small they are.

THE PROJECTED NIXON BUDGET SURPLUS IS INADEQUATE TO STOP INFLATION

Mr. PROXMIRE. Mr. President, the projected Nixon budget surplus of only $1.3 billion is pitifully inadequate to stop inflation. We need a surplus of at least $10 billion which the President could attain if he would really cut military spending, space spending, and public works outlays.

In my judgment, this small budget surplus is an invitation to further inflation. It is not only inadequate in itself, but the fact that the President is refusing to enforce other policies and is relying entirely on this minute budget surplus to stop inflation merely emphasizes that it cannot do the job.

Inflation has been speeding up in the last few years. Last year the rate of increase in the consumer price index was 6.1 percent. Wholesale prices, which literally had been stable during the 10-year period from 1958 to 1968, were up 5 percent last year. Most alarming, we had wage settlements which averaged 8.5 percent, and wage costs, because of the very small increase in labor productivity, of more than 7 percent.

The President refuses to institute wage and price guidelines. He refuses to use the Proxmire credit control law the Congress has just passed. And Dr. Arthur Burns, the President's former resident White House economist and now Chairman of the Federal Reserve Board, told the Senate Banking Committee he would recommend that the Board ease up on the tight money policy once the President proposed a balanced budget. I think that is right, provided we have an adequate surplus, but $1.3 billion is not an adequate surplus.

If Chairman Burns keeps that pledge, this tiny budget surplus is the only weapon we are relying on to fight inflation. And if the past is any guide to the future, this small projected surplus at the end of fiscal year 1971, which is almost 18 months from now, is most likely to end up as a deficit. In a $200 billion budget, it is only a little more than one-half of 1 percent of the budget. In a trillion-dollar economy it is only a little more than one-tenth of 1 percent.

A $1.3 billion surplus in a $200 billion budget and a $985 billion economy will not stop inflation. It is a woefully deficient amount at a time of unprecedent price rises and inaction by the President on all other fronts.

Let me cite a series of facts and events as proof that much more could be done to cut the budget and stop inflation. Among them are:

First. The Secretary of Defense has

announced that Vietnam costs will drop from $30 billion to $17 billion, or by $13 billion by June 30, 1970. Yet, the total cut for fiscal year 1971 for the Defense Department is only $5.3 billion. The Vietnam cuts should be reflected in a lower defense budget.

Second. The GAO has just reported to my Subcommittee on Economy in Government that 38 major weapons systems are costing a minimum of $20.9 billion more than their original estimates. Huge savings could be made here.

Third. We should sharply reduce the 429 major and 2,972 minor bases scattered over 30 countries throughout the world. Many of these are obsolete or are used for obsolete purposes.

Fourth. We should bring home and discharge from the armed services at least 100,000 of the 310,000 American troops now serving in Europe. The Europeans will refuse to make the sacrifice to meet this heavy military burden as long as we do it for them. Then should we not Europeanize Europe's defense just as we are Vietnamizing the Vietnam war or trying to?

Fifth. In view of the very questionable wisdom of deploying the ABM, and especially its second phase, of building the supersonic manned bomber—B-1—and in MIRV'ing our existing ICBM's, significant cuts could be made in these vastly expensive projected new weapons systems.

Sixth. The moon probe although reduced is still costing hundreds of millions of dollars a year with virtually no benefit. By stretching out the space program and substituting unmanned for manned flights, large savings could be made.

Seventh. The Federal highway program is costing $5 billion a year and is one of the most inflationary of all programs because expenditures have a multiplier effect. Highway building should be postponed, slowed down and stretched out.

Eighth. We could cut the enormous cost of funding the fight on pollution by institution of an effluent charge or tax on the polluters. This would yield at least $1.5 billion, which could be used to build municipal waste treatment plants.

This would provide the twin effects of a clear economic incentive for polluting firms to reduce pollution while not upsetting the budget.

To the extent the President is reluctant to make these substantial cuts in the budget, he should certainly be willing to invoke that part of the Proxmire Credit Control Act that would restrain business from continuing to make their enormously inflationary purchases of new plant and equipment.

This investment is the single most inflationary element in the economy today and is proceeding at an unjustified rate in a period when business is operating at only 82 percent of capacity.

Why does it continue? It continues because business does not believe the Government means business about stopping inflation and that the same investment a few years from now will cost much more.

If the President really means business, he will cut far below the $1.3 billion projected surplus and use those weapons which Congress has provided him to fight this unprecedented and unacceptable inflation.

Mr. President, I ask unanimous consent to have printed in the RECORD a chart relating to Defense expenditures.

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

Department of Defense—Military (outlays):	
Fiscal year:	
1969	$77.87
1970	76.5
1971	71.19
Cut—1970 to 1971	−5.3
Above, plus military assistance (outlays):	
Fiscal year:	
1969	78.66
1970	77.0
1971	71.79
Cut—1970 to 1971	−5.2
Above, plus Atomic Energy,[1] Defense related activities (stockpile, draft, etc.) (outlays):	
Fiscal year:	
1969	81.2
1970	79.4
1971	73.58
Cut—1970 to 1971	−5.85

[1] Atomic Energy is cranked in at $2.4 but only about $1 billion is for defense as such.

NOTE.—The relevant figure is the first one—DOD military. The $73.58 billion is for National Defense but includes items not directly spent by the Pentagon or on military hardware.

Mr. PROXMIRE. Mr. President, Mr. George Wilson, writing in the Washington Post this morning, questioned whether the military budget had been cut anything like the amount which has been heralded by the administration and its allies.

I also believe that the cut in military outlays is very much smaller than it should be in view of the Vietnam cuts, the projected drops in personnel, and a variety of other savings which have been announced or are contemplated. Later, I shall make a longer speech in the Senate addressing these issues in detail.

Meantime, I believe the Senate and the country should read Mr. Wilson's article, in which some of these important and fundamental issues are raised. I ask unanimous consent that the article be printed at this point in the RECORD.

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

[From the Washington Post, Feb. 4, 1970]

BUDGET FIGURES DON'T REFLECT FUTURE IMPACT OF DEFENSE CUTS

(By George C. Wilson)

Defense Secretary Melvin R. Laird's widely advertised $10 billion saving in military spending is nowhere to be found in President Nixon's new budget.

Also, in the military functions accounts Congress lumps together when it appropriates money for the Pentagon, the difference between Fiscal 1970 and Fiscal 1971 is only about $1 billion.

And finally, the current rate of Pentagon spending is still way up despite all the announced cutbacks in manpower, military bases and weapons buying.

All this is why the Pentagon's new budget—only two days old—is under assault in Congress, with one lawmaker calling it a Madison Avenue document as far as claimed savings are concerned.

But defense officials do have explanations for the seeming contradictions.

Laird started it all by declaring several times that the Pentagon's Fiscal 1971 budget—the year ending June 30, 1971—would be $10 billion below the $83 billion the Johnson administration planned to spend that year.

Robert N. Anthony, Pentagon controller until August, 1968, said in an interview yesterday, "I don't know where that $83 billion figure comes from. It doesn't square with any figures we worked with."

Other Pentagon sources said the planning figure for Fiscal 1971 was $66 billion during the Johnson administration because the future cost of the Vietnam War was not included in the five-year budget projections.

Robert C. Moot, the present Pentagon controller, said the $83 billion estimate was made in January, 1969, during a "budget scrub" of the military money requests the new administration inherited from the old one.

Such estimates, however, are treated as confidential. They are nowhere on the public record other than in statements Laird chose to make before the Fiscal 1971 budget was made public.

What the new Pentagon budget figures do show is a spending figure of $71.8 billion for Fiscal 1971 compared to $77 billion for Fiscal 1970, a saving of $6.8 billion. (National defense spending estimates in the President's budget book come out higher because he includes such other items as the nuclear warheads the Atomic Energy Commission furnishes for Pentagon missiles.)

Congress deals in the new money the Pentagon wants to spend on top of that it already has on hand. This account, called new obligational authority, shows a much smaller saving between Fiscal 1970 and 1971 than the spending estimates.

In a significant bit of retrenchment, Congress last year cut the Defense Department budget down to $69.6 billion for the main military functions (military personnel, retired pay, operation and maintenance, procurement, research and development).

This year, the Pentagon is asking for $68.7 billion in new money to finance those functions in Fiscal 1971, or only a difference of about $900 million.

The fairer comparison for new obligational authority, defense officials assert, is $73.9 billion for Fiscal 1970 and $71.3 billion for Fiscal 1971—a saving of $2.6 billion. Those higher totals include military assistance to foreign nations.

As for Defense Department spending right now, the President's Council of Economic Advisers shows the rate at $78 billion a year.

Some economists find that rate extremely high. They contend the advertised military retrenchment should be showing up by now in the form of lower monthly spending by the Pentagon.

One economist of this view said yesterday that the government should save about $50,000 for every man it takes out of Vietnam and does not replace. So far, President Nixon has withdrawn about 67,000 men from Vietnam, or a saving of 3.35 billion. Yet the rate of defense spending remains high, with the Vietnam war slice of the total put at $28.8 billion for Fiscal 1969 and $23.2 billion for Fiscal 1970.

Laird has predicted the cost of the Vietnam War will drop to between $17 billion and $18 billion by the start of Fiscal 1971. The impact of this reduction and other Pentagon economies have not shown up in the defense spending figures.

Here is why: the planned reductions of 551,296 uniformed personnel and 130,412 civilians employed by the Department of Defense by June 30, 1971, are just taking hold.

Since July 1, 1969, military personnel is down by only 151,000 of the planned cut and civilian personnel by only 15,000.

Similarly, thousands of jobs in the defense industry are about to dry up. The Pentagon predicts 640,000 layoffs in the two years between July 1, 1969, and June 30, 1971, with only 40,000 of them lost so far. The job layoffs stem largely from reduced Pentagon procurement.

Defense officials sound this warning to politicians doubting the announced retrenchment is real: "Just wait." The cutbacks in manpower and procurement will hit hard within the next few months—probably too hard for political comfort.

PRESIDENT'S BUDGET SHOWS CONCERN FOR THE NEEDY

Mr. GRIFFIN. Mr. President, from time to time there has been an effort in some quarters to create the impression that the Nixon administration lacks a "heart" and does not really care about the plight of the poor. But, as the new budget indicates, nothing could be further from the truth.

President Nixon's budget for the very poor is $3.2 billion higher than the last budget prepared by the Johnson administration.

In all, Federal spending for the very poor will be $32.9 billion, compared with $29.7 billion in the Johnson budget of a year ago.

Mr. President, I ask unanimous consent that an article from the New York Times of February 3, 1970, dealing with this part of the budget be printed at this point in the RECORD.

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

POOR PEOPLE TO GET MORE AID; BUT THE EMPHASIS IS ON INCOME

(By Jack Rosenthal)

WASHINGTON, February 2.—To the nation's 24 million poor people, the first Federal budget developed entirely by the Nixon Administration will mean the following things:

Another increase in spending on their behalf, but not as big an increase as last year's.

Sharply increased emphasis on Federal efforts to help the poor get more money, rather than, as in the past, to help the poor by supplying more services.

The new budget increases poor people's share of total Federal spending. They now receive 15 cents of every Federal dollar spent. In the new budget, the figure rises to 16.4 cents.

But this budget falls below the budget for the current fiscal year, both in total increase ($3.2-billion vs. $3.5-billion) and in the rate of increase (10.8 percent vs. 13.4 percent.)

Nearly half of the $3.2-billion increase will be used to reform the welfare program, increase employment and feed the hungry.

These outlays are in accord with the administration's philosophy toward antipoverty programs, emphasizing income rather than services. President Nixon expressed this philosophy in his Budget Message when he referred to "the income strategy adopted by this Administration."

The poverty budget as such is not contained in the budget data released today, but it can be calculated from figures that Federal experts have extracted from the overall budget of $200.8-billion.

POVERTY LEVEL IS DEFINED

This poverty budget, totaling $32.9-billion, consists of programs entirely for the poor plus those amounts of other programs, such as veterans benefits, attributable to poor recipients. "Poor" is defined by an income level of $3,410 for an urban family of four.

An acknowledged drawback of such a poverty budget is that it excludes persons who are, in effect, not quite poor enough. Among these are recipients of Federal assistance that raises their income above the defined level.

For example, the Administration proposes $500-million for its reform of welfare—the family assistance program. But the poverty budget includes only $400-million. Federal experts estimate that the other $100-million will go to families just over the poverty line.

The full annual cost of family assistance, once enacted and in full gear, would be $4.4-billion.

Increases of about $600-million are proposed for traditional welfare programs.

The category showing the most dramatic increase is hunger. The Administration proposes to increase food assistance by about $800-million.

* * * * *

TABLE OF AID TO POOR

[Billions of dollars]

Welfare	Fiscal 1970	Fiscal 1971	Amount change
Social security	$10.0	$9.9	[1] −$0.1
Public assistance	3.9	4.5	+.6
Family assistance plan		.4	+.4
Hunger			
Food stamps	.6	1.3	+.7
Child nutrition	.5	.6	+.1
Health			
Medicare	2.4	2.6	+.2
Medicaid	2.1	2.3	+.2
OEO programs	.1	.2	+.1
Employment			
Manpower development	1.0	1.2	+.2
Unemployment insurance	.6	.6	--------
Employment service	.2	.3	+.1
Work incentives	.1	.2	+.1
Education and youth			
Disadvantaged children	1.1	1.2	+.1
Educational opportunity grants	.1	.2	+.1
Other	.5	.6	+.1
OEO programs	.5	.5	--------
Housing			
Public Housing and rent supplements	.3	.4	+.1
Model cities and other	.2	.3	+.1
Other			
Veterans' Administration	3.0	3.0	--------
Other HEW programs	1.3	1.3	--------
Other agencies	.5	.6	+.1
Other OEO programs	$0.5	$0.5	--------
Indian affairs	.1	.1	--------
Rural poverty	.1	.1	--------
Total	29.7	32.9	+$3.2

[1] Social security has in fact increased. This apparent cut means that social security increases have lifted many persons above the defined poverty line and thus out of the scope of this table.

Source: Data supplied by Bureau of the Budget and Office of Economic Opportunity.

DEATH OF ARLIS WHITEMAN, A LEADER OF THE CROW INDIAN

Mr. MANSFIELD. Mr. President, yesterday morning, when I was speaking with several friends of the Crow Indian delegation back here, to plead with Congress and the administration to allow them to build a road behind the Yellowtail Dam to the Big Horn recreation development area, I was distressed to learn of the death of Arlis Whiteman, one of the foremost leaders of the Crow Indian Nation.

Arlis Whiteman was one of the early supporters of the Yellowtail Dam and the Big Horn recreation development.

At the time of his death, he was a member of the tribal council and the Crow Recreation Commission.

The untimely death of Arlis Whiteman in an auto accident last Friday is a serious blow to the Crow Nation.

Arlis had been in Washington many times. He was a man devoted to the cause and progress of his people.

At this time, I wish publicly to extend, on behalf of Mrs. Mansfield and the entire Montana congressional delegation, our sympathies to Mrs. Whiteman, his family, and their many friends in Montana and the Northwest.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

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

PROPOSED LEGISLATION TO AUTHORIZE APPROPRIATIONS TO THE NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

A letter from the Administrator, National Aeronautics and Space Administration, transmitting a draft of proposed legislation to authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management, and for other purposes (with accompanying papers); to the Committee on Aeronautical and Space Sciences.

REPORT OF THE OFFICE OF STATE TECHNICAL SERVICES

A letter from the Secretary of Commerce, transmitting, pursuant to law, a report of the activities of the Office of State Technical Services for the fiscal year 1969 (with an accompanying report); to the Committee on Commerce.

PROPOSED AMENDMENT OF THE FOREIGN MILITARY SALES ACT

A letter from the Secretary of State, transmitting a draft of proposed legislation to amend the Foreign Military Sales Act (82 Stat. 1320) (with accompanying papers); to the Committee on Foreign Relations.

REPORT OF THE NATIONAL ADVISORY COUNCIL ON INTERNATIONAL MONETARY AND FINANCIAL POLICIES

A letter from the Advisory Council on International Monetary and Financial Policies transmitting, pursuant to law, a report of the Council for the fiscal year 1969 (with an accompanying report); to the Committee on Foreign Relations.

PROPOSED LEGISLATION TO AUTHORIZE APPROPRIATIONS FOR THE NATIONAL SCIENCE FOUNDATION

A letter from the Director, National Science Foundation, transmitting a draft of proposed legislation to authorize appropriations for activities of the National Science Foundation, and for other purposes (with accompanying papers); to the Committee on Labor and Public Welfare.

REPORT OF FEDERAL BUREAU OF INVESTIGATION WITH RESPECT TO POSITIONS IN GRADES GS-16, GS-17, AND GS-18

A letter from the Director, Federal Bureau of Investigation, reporting, pursuant to law, a report with respect to positions in Grades GS-16, GS-17, and GS-18 in the Bureau for the calendar year ended December 31, 1969; to the Committee on Post Office and Civil Service.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Hackney, one of its

reading clerks, announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

H.R. 1951. An act to confer United States citizenship posthumously upon Sp4c. Aaron Tawil;

H.R. 2012. An act to amend the Act of October 25, 1949 (63 Stat. 1205), authorizing the Secretary of the Interior to convey a tract of land to Lillian I. Anderson;

H.R. 3908. An act for the relief of Elizabeth B. Borgnino;

H.R. 5365. An act to provide for the conveyance of certain public land held under color of title to Mrs. Jessie L. Gaines of Mobile, Ala.; and

H.R. 12089. An act for the relief of Rose Minutillo.

ENROLLED BILL SIGNED

The message also announced that the Speaker had affixed his signature to the enrolled bill (S. 1438) for the relief of Yau Ming Chinn (Gon Ming Loo), and it was signed by the President pro tempore.

HOUSE BILLS REFERRED

The following bills were severally read twice by their titles and referred, as indicated:

H.R. 1951. An act to confer U.S. citizenship posthumously upon Specialist Four Aaron Tawil; and

H.R. 12089. An act for the relief of Rose Minutillo; to the Committee on the Judiciary.

H.R. 2012. An act to amend the act of October 25, 1949 (63 Stat. 1205), authorizing the Secretary of the Interior to convey a tract of land to Lillian I. Anderson;

H.R. 3908. An act for the relief of Elizabeth B. Borgnino; and

H.R. 5365. An act to provide for the conveyance of certain public land held under color of title to Mrs. Jessie L. Gaines of Mobile, Ala.; to the Committee on Interior and Insular Affairs.

PETITIONS

A petition, was laid before the Senate, and referred as indicated:

By the PRESIDENT pro tempore:

Resolution of the Commonwealth of Massachusetts; to the Committee on Banking and Currency:

"Resolutions memorializing the Secretary of Housing and Urban Development to restore sixty million dollars in Federal funds to the Boston Redevelopment Authority

"Whereas, The Secretary of Housing and Urban Development has informed the city of Boston that its request for seventy-six million two hundred thousand dollars of urban renewal funds has been reduced by sixty million dollars; and

"Whereas, This disastrous and totally unexpected reduction in such funds comes at a time when the city of Boston is in dire need of new and better housing for its less fortunate citizens; and

"Whereas, This matter being of highest priority which transcends partisan politics, the mayor of Boston and the Boston Redevelopment Authority director and the members of the Massachusetts Congressional delegation have appealed directly to Secretary Romney for a review of his proposed reduction in federal funds; now, therefore, be it

"Resolved, That the Massachusetts Senate urges Secretary Romney immediately to restore the amount of sixty million dollars to the Boston Redevelopment Authority for its urban renewal projects; and be it further

"Resolved, That a copy of these resolutions be transmitted forthwith by the Secretary of the Commonwealth to the President of the United States, to the Secretary of Housing and Urban Development, to the presiding officers of each branch of the Congress and to the members thereof from the Commonwealth.

"NORMAN L. PIDGEON,
"*Clerk.*

"Attest:

"JOHN F. X. DAVOREN,
"*Secretary of the Commonwealth.*"

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. ELLENDER, from the Committee on Agriculture and Forestry, with amendments:

S. 2595. A bill to amend the Agricultural Act of 1949 with regard to the use of dairy products, and for other purposes (Rept. No. 91-654).

By Mr. JORDAN of North Carolina, from the Committee on Rules and Administration, without amendment:

S. Con. Res. 52. Concurrent resolution authorizing the printing of a compilation of the hearings, reports, and committee prints of the Senate Subcommittee on National Security and International Operations entitled "Planning-Programing-Budgeting" (Rept. No. 91-655).

By Mr. LONG, from the Committee on Finance, without recommendation:

S. 3108. A bill to provide additional Federal assistance in connection with the construction, alteration, or improvement of the airway system, air carrier and general purpose airports, airport terminals, and related facilities, and for other purposes.

PROVISION OF AN ADDITIONAL SOURCE OF FINANCING FOR THE RURAL TELEPHONE PROGRAM—REPORT OF A COMMITTEE (S. REPT. NO. 91-653)

Mr. TALMADGE, from the Committee on Agriculture and Forestry, reported an original bill (S. 3387) to amend the Rural Electrification Act of 1936, as amended, to provide an additional source of financing for the rural telephone program, and for other purposes, and submitted a report thereon; which bill was placed on the calendar, and the report was ordered to be printed.

THE AIRPORT AND AIRWAYS DEVELOPMENT ACT OF 1969—REPORT OF A COMMITTEE

AIRWAYS USER TAX

Mr. LONG. Mr. President, yesterday the Committee on Finance met and considered the airway user tax legislation. Two bills were before us: S. 3108, the Commerce Committee bill providing for the construction program; and H.R. 14465, a House-passed bill providing for both a construction program and a financing program.

Since the Constitution dictates that revenue measures originate in the House, the Committee on Finance confined its work to H.R. 14465. We amended the bill in several respects; and for the information of the Senate, I ask unanimous consent that the committee announcement of our decisions on the measures be included at this point in the RECORD.

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

AIRWAY USER TAX BILL REPORTED BY FINANCE COMMITTEE

Senator Russell B. Long (D. La.), Chairman of the Senate Committee on Finance, announced today that the Committee had completed action on proposals to levy airport and airway user taxes and to establish an Airport and Airway Trust Fund.

Two bills were before the Committee:

(1) H.R. 14465, a House-passed bill with two titles. Title I of the bill would authorize a Federal airport and airway development program, and title II would establish an Airport and Airway Trust Fund and would impose user taxes to provide revenues for the Fund.

(2) S. 3108, a bill already reported by the Senate Commerce Committee. This will would authorize a Federal airport and airway development program and would establish a trust fund; the bill contains no provisions raising revenue for the fund.

Following the Commerce Committee's action on H.R. 14465 and S. 3108, both of these bills were rereferred to the Committee on Finance for consideration of the necessary tax provisions.

Senator Long announced that the Committee on Finance had ordered reported H.R. 14465 with title I deleted and with certain modifications of the tax provisions in title II. The Committee also ordered S. 3108 returned to the Senate calendar without recommendation. Senator Long noted that it was the intention of Senator Warren G. Magnuson, Chairman of the Senate Commerce Committee, following completion of Senate floor action on S. 3108, to insert the text of S. 3108 as a substitute title I of H.R. 14465. He indicated further that because there were trust fund provisions in both bills it would be necessary to perfect S. 3108 during floor debate to avoid this duplicate authority.

The changes in the House bill approved by the Committee on Finance are summarized in the following paragraphs.

Tax on Passenger Transportation.—Under present law, passengers pay a 5 percent ticket tax on domestic flights; under the House bill the tax rate would be increased from 5 percent to 8 percent. The Committee on Finance approved a tax which will yield about the same revenue, but the tax would be paid by the airline instead of the passenger, and it would be imposed on the airline's gross receipts from the sale of passenger tickets for domestic flights. At the same time, the Committee bill would direct the Civil Aeronautics Board to fix higher airline passenger fares to reflect the added cost of the tax to the airline. Under the Committee bill, passengers would not be delayed while airline ticket agents calculated an 8 percent ticket tax.

The House bill would terminate the exemption from the passenger tax now extended to Federal government employees, State and local governments and private non-profit educational institutions. The House bill would continue, however, the exemptions from the tax under present law for the Red Cross and for international organizations. The Finance Committee amended the House bill to repeal all these special exemptions. Under the Committee bill, the tax on the air carrier's gross receipts would cause passenger fares for these groups to rise by about 8 percent.

International Departure Tax.—The House bill imposes a tax of $3 on each person departing from this country on an international flight. The Finance Committee gen-

erally approved this tax but agreed to designate it as an "international travel facilities use tax."

Cargo Tax.—The Finance Committee bill, like the House bill, would levy a new air freight tax assessed at a 5 percent rate. However, the Committee approved an amendment to provide treatment of cargo shipments to Alaska and Hawaii in a manner comparable to passenger tax treatment under present law. Under the Committee amendment, only that portion of the flight to Alaska or Hawaii which takes place over United States territory would be subject to the cargo tax.

The Committee also approved two other amendments to the cargo tax provision of the House bill. First, the Committee agreed to exempt excess baggage charges from the transportation taxes. Second, the Committee agreed to make clear that the amounts paid by REA express to the airlines for air transportation would be the base on which the cargo tax would be levied on air express shipments.

Fuel Tax.—Under present law, a net tax of two cents per gallon is levied on gasoline, whether used in general aviation or by air carriers; there is no tax on jet fuel. The Committee approved the provisions of the House bill repealing the two cent tax on gasoline used by air carriers, and imposing a seven cent per gallon tax on all fuel (both gasoline and jet fuel) used in general aviation.

Registration Tax.—The House bill would impose an annual aircraft registration tax of $25 plus two cents per pound for a piston-powered aircraft; the registration tax would be $25 plus 3.5¢ per pound for turbine-powered aircraft. This tax would be imposed on both general and commercial aircraft. The Finance Committee bill would impose a $25 registration tax on all aircraft, but it would not impose the poundage tax of the House bill on any aircraft with four seats or less. This modification would relieve 55 percent of the aircraft used in general aviation from the poundage portion of the registration tax.

The Committee bill would permit a lessee to pay the registration tax if he so desired; if the lessee did not pay the tax, the owner of the aircraft would remain liable.

The House bill would provide for a refund of a portion of the registration tax when the aircraft is used in foreign commerce. In cases where foreign transportation constitutes a significant proportion of the use of the aircraft, the Finance Committee bill would permit a reduction in the current registration tax owed, based on the carrier's experience during the previous year. Appropriate adjustment would be made at year-end to assure that the correct tax is paid.

Airport and Airway Trust Fund.—The Committee approved the provisions of the House bill establishing an airport and airway trust fund. Since both S. 3108 and Title II of H.R. 14465 contain provisions for a trust fund, the Committee on Finance approved a Committee floor amendment which would strike the trust fund authorization provisions from S. 3108.

Effective Date.—The House bill was passed in November 1969, and the taxes under the bill would have been effective beginnng January, 1970. The Finance Committee amended the effective dates as follows:

(1) The passenger transportation tax, the cargo tax and the $3 international travel facilities use tax would be effective as of May 1, 1970.

(2) The registration tax for aircraft *not* subject to the poundage tax (that is, planes with four seats or less) would be effective July 1, 1970.

(3) The registration tax for aircraft subject to the poundage tax would be effective April 1, 1970. Since the tax is levied on a fiscal year basis (from July 1 to the following June 30), the tax due on April 1, 1970, would only be for one-quarter of the year.

(4) The 7¢ tax on fuel used in general aviation would become effective April 1, 1970.

Termination of New Taxes.—The Finance Committee bill would terminate the additional taxes and the trust fund on June 30, 1980, unless the Congress acts to extend the taxes beyond that date.

Revenue Estimates.—The revenues to the new trust fund under the House bill and under the Finance Committee bill are shown in the following table:

FISCAL YEAR 1971 REVENUE ESTIMATES

[In millions of dollars]

	House bill	Finance Committee bill [1]
Passenger transportation tax	507	526
5-percent cargo tax	43	43
7 cents per gallon fuel tax on general aviation	46	47
International travel facilities use tax	27	28
Registration tax	27	24
Tax on aircraft tires and tubes	3	3
Total	652	671

[1] Based on revised estimates from the Department of Transportation. Only the estimate of the registration tax receipts reflect substantive changes by the Committee on Finance.

Mr. LONG. Mr. President, from the Committee on Finance I am herewith reporting S. 3108 without recommendation. In effect, this action restores the Commerce Committee approved bill to the Senate Calendar. In a few days, I will report the Finance Committee amendments to H.R. 14465.

It is my understanding that the chairman of the Commerce Committee intends to follow the procedure of perfecting the construction program legislation by reference to the provisions of S. 3108, and that when the construction program has been perfected, the text of that bill will be substituted for title I of the House bill.

That being the case and in accordance with the request of the chairman of the Commerce Committee, the Committee on Finance has included among its amendments to H.R. 14465 the deletion of title I.

I call attention to the fact that both S. 3108 and title II of H.R. 14465 contain provisions establishing new airway trust funds. The provisions differ in some respects, most of them minor. In order to avoid this duplicative legislative authority and to assure that only one trust fund is established and that its provisions are complete, the Committee on Finance has authorized and directed me to offer an amendment striking out the trust fund provisions in S. 3108 when that legislation comes before the Senate for debate.

Mr. President, I believe that this legislation demonstrates more completely than any legislation we have dealt with recently how two committees with jurisdiction over the same measure can consider the legislation and report the best possible amendments to the Senate without either committee raising the hackles of the other committee. The progress of this legislation through the committee system has been marked by constant contact between the chairman of the Commerce Committee and the chairman of the Finance Committee, and also by steady liaison between the staffs of these two committees. We received nothing but the best cooperation from them, and I am confident that the Finance Committee amendments to title II are better amendments because of the suggestions made to us by the Commerce Committee.

The PRESIDING OFFICER. The bill will be placed on the calendar.

SENATE RESOLUTION 353—RESOLUTION REPORTED TO PAY A GRATUITY TO SUZANNE K. PALMER

Mr. JORDAN of North Carolina, from the Committee on Rules and Administration, reported the following original resolution (S. Res. 353); which was placed on the calendar:

S. RES. 353

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Suzanne K. Palmer, widow of James E. Palmer, Jr., an employee of the Senate at the time of his death, a sum equal to one year's compensation at the rate he was receiving by law at the time of his death, said sum to be considered inclusive of funeral expenses and all other allowances.

BILLS INTRODUCED

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

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

S. 3385. A bill to amend title 38, United States Code, to increase the income limitations applicable to non-service-connected pension for veterans and widows, to increase the income limitations applicable to dependency and indemnity compensation for dependent parents, and to liberalize the rates of such pension and such dependency and indemnity compensation; to the Committee on Finance.

(The remarks of Mr. TALMADGE when he introduced the bill appear later in the RECORD under the appropriate heading.)

By Mr. BENNETT (for himself and Mr. Moss):

S. 3386. A bill authorizing the conveyance of certain lands to the University of Utah, and for other purposes; to the Committee on Interior and Insular Affairs.

(The remarks of Mr. BENNETT when he introduced the bill appear later in the RECORD under the appropriate heading.)

By Mr. TALMADGE:

S. 3387. A bill to amend the Rural Electrification Act of 1936, as amended, to provide an additional source of financing for the rural telephone program, and for other purposes; placed on the calendar.

(The remarks of Mr. TALMADGE when he reported the bill appear earlier in the RECORD under the appropriate heading.)

By Mr. SCOTT:

S. 3388. A bill to establish an Environmental Quality Administration; to the Committee on Government Operations.

(The remarks of Mr. SCOTT when he introduced the bill appear later in the RECORD under the appropriate heading.)

By Mr. JACKSON:

S. 3389. A bill to provide for the protection, development, and enhancement of the public recreation values of the public lands;

S. 3390. A bill to amend the act of September 19, 1964 (78 Stat. 986) entitled the Classification and Multiple Use Act; and

S. 3391. A bill to amend the act of September 19, 1964 (78 Stat. 989) as amended, entitled the Public Land Sale Act; to the Committee on Interior and Insular Affairs.

(The remarks of Mr. JACKSON when he introduced the bills appear later in the RECORD under the appropriate headings.)

By Mr. FONG:

S. 3392. A bill to amend the Tariff Schedules of the United States to accord to the Trust Territory of the Pacific Islands the same tariff treatment as is provided for insular possessions of the United States; to the Committee on Finance.

S. 3393. A bill for the relief of Rufina R. Olpindo; and

S. 3394. A bill for the relief of Rodolfo Evangelista Corpus; to the Committee on the Judiciary.

S. 3385—INTRODUCTION OF A BILL TO INCREASE THE INCOME LIMITATIONS AND LIBERALIZE THE RATES OF PENSIONS FOR VETERANS AND WIDOWS OF VETERANS

Mr. TALMADGE. Mr. President, I introduce, for myself and for the distinguished chairman of the Veterans' Affairs Subcommittee of the Labor and Public Welfare Committee, Senator CRANSTON, a bill to increase the income limitations and liberalize the rates of pensions for veterans and widows of veterans.

The bill would increase pension benefits by $160 million annually. The largest increases would go to those veterans and widows who have the greatest need: those with little or no income other than their pensions.

The Veterans' Administration has prepared a detailed analysis of pensioners under the current law which shows that about one out of six veterans receiving a pension has virtually no income other than his pension. About half of those veterans receiving pensions under the current law have incomes of less than $100 a month other than their pension. As far as widows are concerned, one out of seven has virtually no other source of income other than her widow's pension. Half have incomes of less than $75 a month. These are the veterans and widows who would receive the greatest increases under the bill I am introducing today.

My colleagues in the Senate are no doubt aware of another problem that this bill is aimed at solving. About four out of five pensioners also receive social security. Since the benefits under the veterans' pension program are related to income, they are reduced when social security benefits go up.

In virtually all cases, the social security increase is greater than the decrease in the veterans' pension, but even so the veteran or widow is denied a portion of the social security benefit increase that other social security beneficiaries receive.

Under present law, the 15-percent increase in social security benefits just passed by the Congress in December will not be taken into account for veterans' pension purposes until January 1971.

But if the Congress does not take legislative action before next January, about 1,230,000 pensioners—69 percent of those on the rolls under the current law—will face a pension reduction in January 1971.

Under the provisions of the bill I am introducing today, however, only 160,000 pensioners—9 percent of those on the rolls—will face a pension loss. In other words, more than a million pensioners, 60 percent of those on the rolls, will be saved from a pension cut if my bill becomes law.

The bill does this in three ways.

First, pension rates are increased to more than make up for the loss which would otherwise occur because of the social security increase.

Second, income limitations under the pension program are increased substantially, from $2,000 to $2,300 in the case of a single veteran or widow, and from $3,200 to $3,600 in the case of a veteran or widow with dependents.

Third, my bill removes the present exclusion of 10 percent of social security and certain other income and substitutes instead a higher, more equitable pension rate structure.

The relatively few veterans who would face a pension reduction even under my bill are the pensioners who are receiving a substantial dollar increase in their social security benefits. Even for these veterans, the pension reduction they would face is smaller than it will be if no legislative action is taken.

Mr. President, I would like to illustrate the impact of the bill with some concrete examples.

A veteran with no dependents who received a social security benefit of $85.90 in December 1969 was eligible for a pension of $88, for a total monthly income of $173.90. The Congress has just increased his social security benefit to $98.80. Under present law, his monthly pension would be cut $4 in January 1971 for a total income of $182.80.

Under my bill, not only would his pension not be cut—it would actually be increased $2. Thus this veteran would get both the full benefit of his social security increase, plus an additional small increase in his pension for a total income of $188.80.

Let us take a second case a married veteran whose social security benefit in December 1969 was $112.70. He was eligible for a $103 monthly veteran's pension, for a total income of $215.70. The Congress increased his social security benefit to $129.60.

Under present law, his pension will be cut to $101 next January, making his total income $230.60. Under the bill I am introducing today, his pension will be increased to $110 instead of cut, and he will have the full benefit of the social security increase plus a $7 pension increase for a total income of $239.60.

Now let us take a case that falls in the small group of veterans whose pension will be reduced even under my bill. This would happen in the case of a married veteran with a social security benefit of $179.70 in December 1969. This veteran was eligible for a monthly pension of $84, for a total income of $263.70. The Congress increased his social security benefit to $206.70.

Under present law, his pension will drop to $75—a $9 cut—next January, bringing his total income to $281.70. Under my bill his pension would be reduced only $1 and the veteran's total income would be $289.70. In other words, this veteran's social security benefits are going up $27 monthly, while his pension under my bill will go down only $1.

As a last case, Mr. President, let us consider the case of a widow with one child whose monthly social security benefit in December 1969 was $106. She was eligible for a $83 widow's pension for a total income of $189. The Congress increased her social security benefit to $122.

Under present law her pension would drop to $79 in January 1971 bringing her total income to $201. Under my bill, her pension will not be cut, but instead will be raised to $85, giving her the full benefit of her social security benefit increase and raising her total income to $207.

Mr. President, I would hope that the Subcommittee on Veterans' Legislation will act on this measure to increase the pension income limitations and liberalize the pension rates in a timely manner to avoid reductions that would otherwise take place.

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

The PRESIDING OFFICER. The bill will be received and appropriately referred; and, without objection, the bill will be printed in the RECORD.

The bill (S. 3385) to amend title 38, United States Code, to increase the income limitations applicable to nonservice-connected pension for veterans and widows, to increase the income limitations applicable to dependency and indemnity compensation for dependent parents, and to liberalize the rates of such pension and such dependency and indemnity compensation introduced by Mr. TALMADGE, for himself and Mr. CRANSTON, was received, read twice by its title, referred to the Committee on Finance, and ordered to be printed in the RECORD, as follows:

S. 3385

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the table in subsection (b) of section 521 of title 38, United States Code, is amended to appear as follows:

"Column I		Column II
Annual income		
More than—	but Equal to or less than—	
----------	$400	$120
$400	500	117
500	600	114
600	700	110
700	800	106
800	900	102
900	1,000	98
1,000	1,100	94
1,100	1,200	90
1,200	1,300	86
1,300	1,400	81
1,400	1,500	76
1,500	1,600	70
1,600	1,700	64
1,700	1,800	58
1,800	1,900	52
1,900	2,000	46
2,000	2,100	38
2,100	2,200	34
2,200	2,300	30".

(b) The table in subsection (c) of such section 521 is amended to appear as follows:

"Column I Annual income More than—	but	Equal to or less than—	Column II One dependent	Column III Two dependents	Column IV Three or more dependents
		$600	$130	$135	$140
$600		700	128	133	137
700		800	126	131	134
800		900	124	129	131
900		1,000	122	127	128
1,000		1,100	120	125	125
1,100		1,200	118	122	122
1,200		1,300	116	119	119
1,300		1,400	114	116	116
1,400		1,500	112	113	113
1,500		1,600	110	110	110
1 600		1,700	107	107	107
1,700		1,800	104	104	104
1,800		1,900	101	101	101
1,900		2,000	98	98	98
2,000		2,100	95	95	95
2,100		2,200	2	92	92
2,200		2,300	89	89	89
2,300		2,400	86	86	86
2,400		2,500	83	83	83
2,500		2,600	80	80	80
2,600		2,700	77	77	77
2,700		2,800	74	74	74
2,800		2,900	71	71	71
2,900		3,000	68	68	68
3,000		3,100	64	64	64
3,100		3,200	60	60	60
3,200		3,300	56	56	56
3,300		3,400	51	51	51
3,400		3,500	43	43	43
3,500		3,600	35	35	35".

(c) The table in subsection (b) of section 541 of title 38, United States Code, is amended to appear as follows:

"Column I Annual income More than—	but	Equal to or less than—	Column II
		$400	$80
$400		500	78
500		600	76
600		700	74
700		800	72
800		900	69
900		1,000	66
1,000		1,100	63
1,100		1,200	60
1,200		1,300	57
1,300		1,400	54
1,400		1,500	51
1,500		1,600	47
1,600		1,700	43
1,700		1,800	39
1,800		1,900	35
1,900		2,000	30
2,000		2,100	24
2,100		2,200	21
2,200		2,300	18".

(d) The table in subsection (c) of such section 541 is amended to appear as follows:

"Column I Annual income More than—	but	Equal to or less than—	Column II
		$600	$97
$600		700	96
700		800	95
800		900	94
900		1,000	93
1,000		1,100	92
1,100		1,200	91
1,200		1,300	89
1,300		1,400	87
1,400		1,500	85
1,500		1,600	83
1,600		1,700	81
1,700		1,800	79
1,800		1,900	77
1,900		2,000	75
2,000		2,100	73
2,100		2,200	71
2,200		2,300	69
2,300		2,400	67
2,400		2,500	65
2,500		2,600	63
2,600		2,700	61
2,700		2,800	59
2,800		2,900	57
2,900		3,000	55
3,000		3,100	53
3,100		3,200	51
3,200		3,330	49
3,300		3,400	47
3,400		3,500	45
3,500		3,600	42".

(e) Subsection (d) of such section 541 is amended by striking out "$16" and inserting in lieu thereof "$17".

(f) Section 542 (a) of title 38, United States Code, is amended by striking out "$40" and "$16" and inserting in lieu thereof "$43" and "$17", respectively.

SEC. 2. (a) The table in subsection (b) (1) of section 415 of title 38, United States Code, is amended to appear as follows:

"Column I Total annual income More than	but	Equal to or less than—	Column II
		$800	$94
$800		900	90
900		1,000	86
1,000		1,100	82
1,100		1,200	76
1,200		1,300	69
1,300		1,400	62
1,400		1,500	55
1,500		1,600	48
1,600		1,700	41
1,700		1,800	34
1,800		1,900	23
1,900		2,000	22
2,000		2,100	16
2,100		2,200	14
2,200		2,300	12".

(b) The table in subsection (c) of such section 415 is amended to appear as follows:

"Column I Total annual income More than—	but	Equal to or less than—	Column II
		$800	$63
$800		900	61
900		1,000	58
1,000		1,100	54
1,100		1,200	51
1,200		1,300	47
1,300		1,400	42
1,400		1,500	37
1,500		1,600	32
1,600		1,700	28
1,700		1,800	24
1,800		1,900	21
1,900		2,000	18
2,000		2,100	15
2,100		2,200	13
2,200		2,300	12".

(c) The table in subsection (d) of such section 415 is amended to appear as follows:

"Column I Total combined annual income More than—	but	Equal to or less than—	Column II
		$1,000	$63
$1,000		1,100	62
1,100		1,200	60
1,200		1,300	58
1,300		1,400	56
1,400		1,500	54
1,500		1,600	52
1,600		1,700	50
1,700		1,800	48
1,800		1,900	46
1,900		2,000	44
2,000		2,100	42
2,100		2,200	40
2,200		2,300	38
2,300		2,400	36
2,400		2,500	34
2,500		2,600	32
2,600		2,700	30
2,700		2,800	28
2,800		2,900	26
2,900		3,000	24
3,000		3,100	22
3,100		3,200	20
3,200		3,300	18
3,300		3 400	16
3,400		3,500	14
3,500		3,600	12".

SEC. 3. Clause (G) of section 415(g) (1) of title 38, United States Code, and clause (6) of section 503 of such title are hereby repealed.

SEC. 4. The amendments made by this Act shall become effective January 1, 1971.

INCREASE IN VETERANS' PENSIONS

Mr. CRANSTON. Mr. President, a few days ago I joined with the distinguished chairman of the Subcommittee on Veterans' Legislation of the Committee on Finance (Mr. TALMADGE) in introducing a bill to increase compensation payments to disabled veterans whose disability is service-related—S. 3348.

Today I am pleased to join with him in introducing a bill—S. 3385—to improve and increase payments under the veterans' and widows' and orphans' pension program.

One major aim of the bill is to increase pension benefits to veterans, widows, and orphans. The bill provides a larger increase—about 8 percent—to those widows, veterans, and orphans who have little or no income other than their pension.

The bill's second major aim is related to pensioners who receive social security benefits as well as veterans' pensions. Four out of five pensioners fall in this category.

In December, Congress passed a 15-percent social security benefit increase which I strongly supported as essential to help those on fixed income cope with rapidly increasing costs of living. I have received many letters from pensioners who are concerned lest their pension benefits be reduced as social security benefits rise.

As Senator TALMADGE has pointed out, under present law, the social security increase will produce no reduction in pensions during 1970. However, the Congress must act legislatively this year if we are to protect seven out of every 10 pensioners from an unfortunate pension reduction next January, due to the social security increase, at a time when their fixed incomes will, I fear, despite efforts to moderate inflation, be worth less in purchasing power. The bill I am privi-

leged to cosponsor today meets this problem directly.

First, under the bill the income limitations would be substantially increased: from $2,000 to $2,300 for a veteran or widow with no dependents, and from $3,200 to $3,600 for a veteran or widow with dependents.

Second, the bill would increase pension rates as I have just described.

Third, as a part of this overall revision in the pension structure—increasing rates and income limitations—the bill would delete the present 10-percent exclusion of social security and certain other retirement income.

The result of the rate schedules in this bill would be that all veterans, widows and orphans would receive more than they will if no legislation is enacted. Less than 10 percent of the pensioners under current law will face a slight reduction in their pension next January even if this bill becomes law; but, most importantly, as Senator TALMADGE has already so well pointed out, this reduction will be minimized by the bill's provisions. In other words, the pensions of virtually all pensioners will not only not be reduced if this bill becomes law, but they will be increased. The small number who will face a slight reduction even under the bill are those whom the Congress has already granted a substantial increase in social security benefits.

Mr. President, all disabled veterans and their families owe Senator TALMADGE a great vote of confidence for his outstanding leadership on this bill and S. 3348. I am hopeful that this needed legislation will be enacted this year, and I will continue to work closely with the distinguished Senator from Georgia to achieve these important legislative goals.

S. 3386—INTRODUCTION OF A BILL RELATING TO RELOCATION OF BUREAU OF MINES BUILDING AT UNIVERSITY OF UTAH

Mr. BENNETT. Mr. President, on behalf of myself and my colleague, the junior Senator from Utah (Mr. Moss), I introduce, for appropriate reference, a bill to authorize the Department of the Interior to build and equip a metallurgy research center on land previously owned by Fort Douglas Military Reservation.

I understand similar legislation is being introduced today in the House. The bill is an authorization to relocate certain buildings on the University of Utah campus. The present Bureau of Mines building is in the heart of the university campus on property that is desperately needed for other purposes. The university is anxious that the Bureau of Mines facility be transferred to the area where its new research park is being built.

Such a move would be in the best interest of the university and the Bureau of Mines. I have worked very closely with the Department of the Interior and university officials on this legislation and I urge the Senate Interior Committee to take early action on it.

I ask unanimous consent that a background description of the problem prepared by the university be printed in the RECORD at this point.

The PRESIDING OFFICER. The bill will be received and appropriately referred; and, without objection, the description will be printed in the RECORD.

The bill (S. 3386) authorizing the conveyance of certain lands to the University of Utah, and for other purposes, introduced by Mr. BENNETT (for himself and Mr. Moss), was received, read twice by its title, and referred to the Committee on Interior and Insular Affairs.

The material, presented by Mr. BENNETT, is as follows:

BACKGROUND MATERIAL ON THE PROPOSED U.S. BUREAU OF MINES-UNIVERSITY OF UTAH LEGISLATION

On February 21, 1855, the 33rd Congress, Second Session, approved a land grant to the University of the State of Deseret (now the University of Utah), Chapter CXVII. It was just ten months later that the legislature of the territory of Utah granted and confirmed a campus tract of 560 acres for the University. Approximately seven years later, in 1862, Colonel Patrick Edward Conner of the United States Army led federal troops in the Great Salt Lake Valley and established a camp east of Salt Lake City on the University grounds. Although designated by a rock wall and generally spoken of as "the University grounds" no University buildings as yet occupied the site. As the commanding officer of the Third Infantry of California volunteers, he issued an order establishing Camp Douglas on a four square mile tract at this point. On September 3, 1867 this was officially designated a military reservation by the President of the United States.

In the years since this time the Army and the United States government has relinquished a major portion of this land and a great deal of it has been restored to the University of Utah. However, a small plat of thirteen acres located almost in the very center of the present University of Utah campus was retained by the government for the establishment of the United States Bureau of Mines. Laboratory facilities were constructed there by the government in 1939. Supplementary buildings consisting of a garage, a shop building and a warehouse were subsequently constructed. The United States Bureau of Mines facility has been, and still is, a welcome part of the University community. Actually, since 1913 the Bureau of Mines has been on the campus and until 1939 occupied a University building.

However, in the ensuing years since 1939 the University has experienced tremendous growth. It has surrounded the Bureau of Mines property with University buildings on three sides and contemplates additional development on the fourth side. Student automobile traffic contributes to what might be considered engulfment of the Bureau of Mines property by University activity.

In October of 1968 when the Army declared surplus a major portion of its Fort Douglas properties, the United States Bureau of Mines acquired thirty four acres on what is designated as the Fort Douglas Rifle Range. This site is adjacent to the University of Utah campus and immediately contiguous to property acquired by the University for the establishment of a University Research Park. The establishment of this Research Park has the wholehearted cooperation and support of the Governor and the people of the state of Utah. Several industrial organizations including a major mining company are presently negotiating for site locations on the Research Park area. Planning is proceeding to designate a "mining area" which will lie contiguous to the new U.S. Bureau of Mines property.

The proposal provides for the sale of the existing U.S. Bureau of Mines property located on the University of Utah campus to the University of Utah at such time as the U.S. Bureau of Mines has obtained new facilities and is removed from its existing site. The legislation should provide for restoration of land to the University which the government gave to it in 1855 and also provide for the sale of existing facilities at a fair market value to the University of Utah.

S. 3388—INTRODUCTION OF A BILL TO ESTABLISH AN ENVIRONMENTAL QUALITY ADMINISTRATION

Mr. SCOTT. Mr. President, I introduce legislation to consolidate and coordinate our basic national environmental quality efforts through the creation of an Environmental Quality Administration.

At the present time, there are at least 90 separate Federal environmental quality programs. Twenty-six quasi-Governmental units and 14 interagency committees share in the responsibility for environmental efforts. Counter productive efforts—for example, the solid waste disposal plant that pours black fumes into the environment—are inevitable in this type of helter-skelter arrangement. At the very least, these overlapping agencies create a jungle of redtape through which only the most determined applicants can hack their way.

My bill would alleviate this problem by consolidating, under a single Environmental Quality Administration, existing programs in the three basic environmental quality areas. The Environmental Quality Administration would have an air pollution control division, a water pollution control division, and a division of solid waste disposal. The overall direction of this effort would be left to an administrator, who would be appointed by the President and confirmed by the Senate.

This approach, I believe, would create a functional agency within workable jurisdictional limits. Obviously, questions of population density and mass transportation are closely related to the three basic areas of air pollution, water pollution, and solid waste disposal. Similarly, I recognize that the Farmers' Home Administration, the Appalachian Regional Commission, and the Tennessee Valley Authority are engaged, too, in efforts affecting the environment. Therefore, while not seeking a direct transfer of these responsibilities as well, my bill would provide a "clearinghouse" function for the administration. Under this concept, the Envirnomental Quality Administration would be responsible for compiling data, aiding applicants, and disseminating information on related efforts which would continue to be administered by their parent agenices.

Mr. President, since the opening of this 91st Congress, a tremendous number of speeches have been devoted to our critical environmental quality problem. According to Newsweek, environmental quality will surpass the war in Vietnam during 1970 as the issue to which the most lineage in the CONGRESSIONAL RECORD will be devoted. In spite of this torrent of verbiage, our environmental quality problems continue to worsen. I need only look at the black emissions billowing from automobile exhausts on my way to the Capitol

to know that the situation is not improving.

Money alone cannot provide an instant panacea. From fiscal years 1957 through 1969, the Federal Water Pollution Control Administration awarded grants to States and their subdivisions totaling $1.2 billion for the construction of sewage treatment facilities. According to a recently published report of the General Accounting Office, the 9,400 projects constructed with FWPCA grants: "have contributed to abating water pollution because the problem would have been worse if the projects had not been constructed. GAO believes, however, that the benefits have not been as great as they could have been because many waste treatment facilities have been constructed on waterways where major polluters—industrial or municipal—located nearby continued to discharge untreated or inadequately treated wastes into the waterways."

As long as the administration of water quality and other environmental quality programs is handled by a large number of separate agencies, a coordinated attack on environmental quality problems will be impossible.

Mr. President, the sand in our environmental hourglass is about to run out. The parade of horribles that will result if we do not take quick effective action has been adequately described in several articles. My bill would consolidate existing programs in a workable Environmental Quality Administration. I urge the prompt enactment of my measure as a positive step toward making good on President Nixon's promise "to make clean air, clean water, and open spaces once again the birthright of every American."

I ask unanimous consent that a section-by-section analysis of the bill be printed in the RECORD.

The PRESIDING OFFICER. The bill will be received and appropriately referred; and, without objection, the analysis will be printed in the RECORD.

The bill (S. 3388) to establish an Environmental Quality Administration, introduced by Mr. SCOTT, was received, read twice by its title, and referred to the Committee on Government Operations.

The analysis, presented by Mr. SCOTT, is as follows:

SECTION-BY-SECTION ANALYSIS OF BILL TO ESTABLISH AN ENVIRONMENTAL QUALITY ADMINISTRATION

Section 1 establishes the "Environmental Quality Administration" and provides that the Administrator shall be appointed by the President with the consent of the Senate.

Section 2 establishes a Division of Water Pollution Control, an Air Pollution Control Division, and a Division of Solid Waste Disposal within the Administration. A Deputy Administrator appointed by the President is to head each Division.

Section 3 transfers certain functions to the Administration:

A. From the Department of Health, Education, and Welfare all functions relating to solid waste disposal, water hygiene research, and air pollution control.

B. From the Department of Housing and Urban Development all functions relating to construction grants for water and sewer facilities.

C. From the Department of the Interior all functions relating to atmospheric water resources, saline water conversion, and water resources programming.

D. The Federal Water Pollution Control Administration and the Water Resources Council will become part of the Environmental Quality Administration.

E. Section 3(f) gives the President the authority to transfer related functions into the Administration for 180 days after the effective date of this act.

Section 4 gives the Administration a "clearing house" function with respect to certain programs administered by other agencies. The Administration will compile information, assist applicants, and disseminate information on the following:

A. Water and sewer grants and water conservation loans under the Farmers Home Administration.

B. Sewage treatment and public works supplemental grants from the Appalachian Regional Commission.

C. Grant and loan programs available through the Economic Development Administration of the Department of Commerce and the Tennessee Valley Authority.

Section 5 gives the Administrator the authority to carry out the various functions assigned to his Administration.

Section 6 provides for the submission of an annual report to the President and Congress.

Section 7 specifies the dates when the various provisions of this act will become effective.

S. 3389—INTRODUCTION OF THE PUBLIC LAND RECREATION ACT OF 1970

Mr. JACKSON. Mr. President, on July 8 of last year on the floor of the Senate I observed that Americans in increasing numbers are visiting the 450 million acres of public land administered by the U.S. Department of the Interior, Bureau of Land Management. I called attention to a publication of the Bureau entitled "Room To Roam."

The lands are there. Our population is growing. Our people have discovered that there is "room to roam" on these public lands which encompass 20 percent of the Nation's land area. Yet we have neglected the responsibility to meet the growing use of these lands.

Since pioneer days the public lands have played a significant role in the surging growth of the United States. This Federal land base grew as new territories were purchased or acquired and shrank as disposals were made for homesteaders, State selection, railroads, and other grants.

Yet today there remains this 450 million acres of public land. Some of it may be suitable for disposal. But much of this vast resource has those unique characteristics which call for its retention for public use and proper management in the interest of its owners—the American people.

Mr. President, the Public Land Law Review Commission, of which I am a member, is presently completing its study of our public land laws. The report of the Commission will be submitted on June 30 of this year. Many important recommendations will be presented to Congress and the executive branch for implementation. Pending receipt of those recommendations there are certain actions we can take now. We must respond to an obvious and critical need to gain the most benefits from our national land resource.

These lands range from the Arctic Ocean's edge to the border with our good neighbor, Mexico. They embrace arid desert and arctic tundra. In fact they contain about every imaginable type of climate, terrain, and water.

Desert, grassland, forest, and tundra; valley, plain, or mountain; land or swamp, lake or stream—these lands abound in opportunity for they truly give man room to roam.

Recent figures reveal that over 30 million recreation visits a year are made to these public lands with a projected increase to 50 million visits by 1974.

Now being discovered for their full recreational potential, the public lands are experiencing this explosive growth in use.

Yet today's appropriations for the construction and operation of recreational facilities is about one-twentieth the amount provided for our national parks two decades ago when their annual visits were equal to what the public domain lands receive today.

For the national parks we had Mission 66 which outlined and substantially carried forward a plan and financing to upgrade the national parks by 1966.

Similar support for development of the national forests produced substantial forward momentum for that great resource.

But on the public domain lands administered by the Department of the Interior, there has been a void—both in announced short-range and long-range plans as well as in funding.

The legislation I am introducing today is designed to treat this void in public land management.

Hearings will be scheduled at which time our committee will explore in depth the recreational opportunities on the public lands, the goals that ought to be set—both short and long term and the financing that ought to be provided.

With a forecast of 50 million recreation visits to the public lands the present unplanned approach cannot continue.

Under the concepts of multiple use we have an obligation to those who have permits to use the public lands and their resources to better assure that use conflicts are resolved. With 30 million recreational users, largely concentrated, there have been conflicts. This resulted because there is no adequate provision of law for wise and flexible utilization of these lands in harmony with other uses.

The public lands have recreational opportunities for everyone. Hiking, camping, and picnicking are popular. A growing legion of people take to the public lands in summer on motorbikes and sand buggies and in winter on skis and snowmobiles. Rock collectors swarm over choice areas and explore hidden canyons. The fisherman and hunter seek the geese and ducks, the bass and trout, the antelope, the deer, the elk, the moose, and the mountain sheep. The camera hunter stalks the game that abounds, the plants, and the scenery.

Many campgrounds exist on the public lands but they lack an assured safe water supply, sanitation facilities, or fireplaces. Despite the fact that campground facilities are grossly inadequate and despite the lack of good access roads, the public has been using these lands in increasing numbers.

The demand on these public lands will continue to grow as the Nation's population, affluence, and mobility increase while the land base remains static.

Years of neglect have created many problems on the public lands administered by the Bureau of Land Management. The lack of regulations and enforcement authority have resulted in wanton vandalism and destruction of resources. The lack of sanitation facilities has created health hazards. Overuse, littering, and neglect have created unsightly blights on the landscape. The lack of public access has "locked up" millions of acres of public land for the private use of but a few, and many outstanding hunting, fishing, and other opportunities are not available. The lack of enforcement authority and lack of interpretative and restoration work has resulted in loss of irreplaceable archeological values.

With this bill, I offer the opportunity to take a giant stride forward and tap the recreation potential of these "forgotten lands" for all of our citizens with only a modest investment required. The land already belongs to the public, and very little acquisition will be necessary. What is needed is realistic support for development of this potentially great asset. The natural, cultural, and historic qualities of this great land must be protected and developed within the framework of multiple use management.

The public lands contain many sites of great archeological value where the works of an earlier civilization await scientific discovery, evaluation, and protection.

All of those resources need a plan for development, a program for use, and a system of protection made operative within a multiple use framework. Then those 450 million acres of "room to roam" can serve all 200 million Americans as they should.

I therefore introduce this legislation to alert all who have an interest in these public lands that the time has come for action. The committee will want the best advice it can obtain from local and State governments, from all who use the public lands, and from the Department of the Interior.

In a spirit of cooperation and consultation we can fashion a policy and a program that realizes the opportunities and meets the obligations we have for this priceless portion of America's environment.

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

The bill (S. 3389) to provide for the protection, development, and enhancement of the public recreation values of the public lands, introduced by Mr. JACKSON, was received, read twice by its title, and referred to the Committee on Interior and Insular Affairs.

S. 3390 AND S. 3391—INTRODUCTION OF PUBLIC LAND LEGISLATION

Mr. JACKSON. Mr. President, in 1964 Congress enacted three legislative proposals of great significance to the administration of our public domain lands. They were first, the act to establish the Public Land Law Review Commission; second, the Classification and Multiple Use Act; and third, the Public Land Sale Act.

The Public Land Law Review Commission is near the end of its work. Its report to the President and to Congress is due on June 30 of this year. The authority under the other two acts also expires 6 months after the Commission's report is filed.

Mr. President, when the report of the Commission is submitted, the Secretary of the Interior will need more than ever the authority contained in the Classification and Multiple Use Act and the Public Land Sale Act if he is to implement the Commission's recommendations. More than that, the authorities contained in those acts have proven to be valuable tools in the management of our public lands over the past several years. Therefore, I am introducing legislation today which would make these acts permanent. I believe they have given the Department of the Interior, through its Bureau of Land Management, a valuable and effective mechanism for administering properly our national land resources.

The Committee on Interior and Insular Affairs will explore these bills very carefully in public hearings which will be called after ample time for their study has elapsed. We will welcome the comments of all those groups and individuals who are interested in this great American asset—our national resource lands.

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

The bills, introduced by Mr. JACKSON, were received, read twice by their titles, and referred to the Committee on Interior and Insular Affairs, as follows:

S. 3390. A bill to amend the act of September 19, 1964 (78 Stat. 986) entitled the Classification and Multiple Use Act; and

S. 3391. A bill to amend the act of September 19, 1964 (78 Stat. 989) as amended, entitled the Public Land Sale Act.

ADDITIONAL COSPONSORS OF BILLS

S. 2561

Mr. DOMINICK. Mr. President, I ask unanimous consent that, at the next printing, the names of the Senators from West Virginia (Mr. BYRD and Mr. RANDOLPH) be added as cosponsors of S. 2561, to incorporate Pop Warner Little Scholars, Inc.

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

S. 3190

Mr. DOMINICK. Mr. President, I ask unanimous consent that, at the next printing, the name of the Senator from Illinois (Mr. SMITH) be added as a cosponsor of S. 3190, the Marihuana and Health Reporting Act.

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

S. 3238

Mr. JAVITS. Mr. President, I ask unanimous consent that, at the next printing, the name of the Senator from Alaska (Mr. STEVENS) be added as a cosponsor of S. 3238, to amend the National Foundation on the Arts and Humanities Act of 1965, as amended.

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

S. 3267 AND 3268

Mr. DOMINICK. Mr. President, I ask unanimous consent that, at the next printing, the name of the Senator from Illinois (Mr. SMITH) be added as a cosponsor of S. 3267, to amend title II of the Higher Education Act of 1965, and S. 3268, to amend title V of the Higher Education Act of 1965. Both of my bills have as their purpose the improvement of educational opportunities for our Indian Americans.

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

S. 3348

Mr. BYRD of West Virginia. Mr. President, at the request of the Senator from Georgia (Mr. TALMADGE), I ask unanimous consent that, at the next printing, the name of the Senator from Maryland (Mr. TYDINGS) be added as a cosponsor of S. 3348, to increase the rates of compensation for disabled veterans, and for other purposes.

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

SENATE RESOLUTION 354—SUBMISSION OF A RESOLUTION AUTHORIZING THE PRINTING OF ADDITIONAL COPIES OF THE COMMITTEE PRINT OF THE COMMITTEE ON FINANCE ENTITLED "MEDICARE AND MEDICAID—PROBLEMS, ISSUES AND ALTERNATIVES"

Mr. LONG submitted a resolution (S. Res. 354) authorizing the printing of additional copies of the committee print of the Committee on Finance entitled "Medicare and Medicaid—Problems, Issues and Alternatives," which was considered and agreed to.

(The remarks of Mr. LONG when he submitted the resolution appear later in the RECORD under the appropriate heading.)

SENATE RESOLUTION 355—SUBMISSION OF A RESOLUTION PROVIDING FOR PRINTING AND BINDING OF MATERIALS RELATING TO THE HISTORY OF THE COMMITTEE ON FINANCE

Mr. LONG. Mr. President, I submit a resolution providing that a compilation of materials relating to the history of the Committee on Finance be printed as a Senate document with illustrations, and appropriately bound as directed by the chairman and approved by the Joint Committee on Printing; and that there be printed 2,700 additional copies of such document for the use of that committee.

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

The resolution (S. Res. 355) was referred to the Committee on Rules and Administration, as follows:

S. RES. 355

Resolved, That a compilation of materials relating to the history of the Committee on Finance be printed as a Senate Document with illustrations, and appropriately bound

as directed by the Chairman and approved by the Joint Committee on Printing; and that there be printed two thousand seven hundred additional copies of such document for the use of that Committee.

EXTENSION OF PROGRAMS OF ASSISTANCE FOR ELEMENTARY AND SECONDARY EDUCATION—AMENDMENT

AMENDMENT NO. 482

Mr. DOMINICK (for himself and Mr. PROUTY) submitted an amendment, intended to be proposed by them, jointly, to the bill (H.R. 514) to extend programs of assistance for elementary and secondary education, and for other purposes, which was ordered to lie on the table and to be printed.

THE ELEMENTARY AND SECONDARY EDUCATION ACT AMENDMENTS OF 1970—AMENDMENTS

AMENDMENT NO. 483

Mr. YARBOROUGH (for himself, Mr. PELL, Mr. PROUTY, Mr. DOMINICK, and Mr. EAGLETON), submitted an amendment, intended to be proposed by them to the bill (H.R. 514) to extend programs of assistance for elementary and secondary education and for other purposes, which was ordered to lie on the table and to be printed.

(The remarks of Mr. YARBOROUGH when he submitted the amendment appear later in the RECORD under the appropriate heading.)

ADDITIONAL COSPONSOR OF AN AMENDMENT

NO. 440

Mr. BOGGS. Mr. President, I ask unanimous consent that, at the next printing, the name of the Senator from Indiana (Mr. BAYH) be added as a cosponsor of amendment No. 440 to S. 2838, to establish a comprehensive manpower development program to assist persons to overcome obstacles to suitable employment, and for other purposes.

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

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, February 4, 1970, he presented to the President of the United States the enrolled bill (S. 1438) for the relief of Yau Ming Chinn (Gon Ming Loo).

NOTICE OF HEARINGS

Mr. RIBICOFF. Mr. President, the Subcommittee on Executive Reorganization will continue hearings on consumer protection legislation, S. 2045, S. 3097, S. 3165, and S. 3240, on Friday, February 6, 1970. The hearings will be in room 3302, New Senate Office Building at 10 a.m.

NOTICE OF HEARINGS ON S. 3011 AND S. 3313

Mr. TYDINGS. Mr. President, as chairman of the Senate Committee on the District of Columbia, I wish to give notice that the hearings on S. 3011, to establish a revolving fund for the development of housing for low- and moderate-income persons and families, and to provide for the disposition of unclaimed property, and on S. 3313, to exempt Federal Housing Administration and Veterans' Administration mortgages and loans from the interest and usury laws of the District of Columbia, will be held Thursday, February 12. The hearings will begin at 10 o'clock in the morning in room 6226 of the New Senate Office Building.

Persons wishing to testify on this legislation should notify the Senate District Committee in room 6218 of the New Senate Office Building.

WHO SHOULD POLICE THE POLLUTERS?

Mr. MUSKIE. Mr. President, the New York Times of February 1 carried a story entitled "Who Should Police the Polluters?" written by E. W. Kenworthy.

The philosophy of existing and pending environmental legislation is that agencies responsible for promoting activities should not be responsible for control of the environmental effects associated with those activities. In this regard I recently commented on proposals to provide the Federal Aviation Administration with authority to regulate air pollution emissions from jet aircraft. I think that Mr. Kenworthy's article provides another useful example of why the environmental control functions should be kept separate from environmental impact functions.

I ask unanimous consent that the article be printed in the RECORD.

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

WHO SHOULD POLICE THE POLLUTERS?

(By E. W. Kenworthy)

WASHINGTON.—The Congressional Joint Committee on Atomic Energy holds its hearings in a small, stuffy room tucked under the Capitol roof. Last Tuesday morning when Chairman Chet Holifield, California Democrat, opened the second round of hearings on the environmental effects of producing nuclear power, the room was jam-packed with A.E.C. officials, lawyers, power company representatives, observers for conservation societies, students and reporters.

At the witness table was Harold LeVander, the Republican Governor of Minnesota, flanked by John P. Badalich, executive director of the state's Pollution Control Agency, and Dr. Ernest C. Tsivoglou, a Georgia Tech physicist and consultant to the pollution agency. They were there to defend the state's asserted right to set more rigid limits on radioactive discharges than required by the Atomic Energy Commission for a nuclear power plant being built by the Northern States Power Company at Monticello, 30 miles north of Minneapolis.

The company requested and received an A.E.C. operating license that would permit a "stack release" of 41,400 curies a day, or over 15 million a year. The state Pollution Control Agency in its permit to the company set a limit of 860 curies a day or just over 300,000 a year—about 2 per cent of the A.E.C. limits. Northern States has taken the issue into Federal court.

Governor LeVander began by saying that the state's position was that it had a right and responsibility to set the more exacting standards to safeguard the health of its own citizens and protect the Mississippi from thermal pollution which results from dumping very hot water from the plant into the river.

Immediately Chairman Holifield and Craig Hosmer, Republican of California, pounced on him like a pair of prosecuting attorneys. Mr. Holifield, while protesting that his committee was not "pro-pollution or pro-radiation damage," insisted that, by law, the A.E.C. had pre-empted the regulation of radioactive waste. Mr. Hosmer questioned the scientific credentials of Dr. Tsivoglou and said that his report, on which the state's requirements were based, was "half-cocked" and politically motivated.

To all this, the Governor and his aides replied that they did not question the Federal Government's authority to set minimum standards but did challenge its power to forbid a state from setting standards more rigorous than the A.E.C.'s, especially when those standards were technically feasible and would not increase costs beyond the consumers willingness to pay.

"What is the objection if a state wants to go an extra mile in protection?" Governor LeVander asked.

The courts must settle this particular Federal-state conflict (eleven states are supporting Minnesota's position). But the contentious hearing did dramatically illustrate two problems that must be faced if the Federal Government is to do effective combat to protect the environment.

The first is what H.E.W. Secretary Robert Finch has called "the hopelessly fragmented" responsibility for antipollution programs, with his agency in charge of air pollution and solid waste disposal, the Interior Department in charge of water pollution, the A.E.C. in charge of radioactive discharges, and other departments having (or claiming) authority in such areas as auto and jet aircraft emissions, and stream pollution.

Second, and perhaps, more important, is the well-known tendency of Government departments and even regulatory agencies to become identified with the interests of the industries with which they deal, or at least, to give the views of those interests a more than sympathetic hearing. In the same way, Congressional committees are sympathetic to the departments and industries with which they deal.

Senator Edmund S. Muskie, chairman of the Senate Subcommittee on Air and Water Pollution, and several other legislators would meet this difficulty by establishing a new agency (not a department) in which would be concentrated authority for all antipollution programs—that is, the authority to protect. They would also establish a joint Congressional committee which, while not having legislative power, would maintain an "oversight" on environmental policy, much as the Joint Economic Committee does on economic policies of the Government.

THE NEBRASKA MUSEUM OF AEROSPACE HISTORY

Mr. HRUSKA. Mr. President, on January 8, 1970, it was my pleasure to attend a dinner in Omaha, Nebr., commemorating the transfer of the Strategic Aerospace Museum to the State of Nebraska. This museum, first envisioned by Col. A. A. Arnhym of the Strategic Air Command in 1959 to portray the role of SAC in history, was opened in May 1966 under SAC auspices with eight outdated aircraft. The search for artifacts still continues today as the museum continues to grow. The museum traces the history of aviation from the days of the "brown shoe" air force of the 1920's culminating in today's highly professional and powerful Strategic Air Command.

Each plane on exhibit has made a distinct contribution to the rise of air power. The museum contains the Martin MB-2 biplane which was the first bomber used by Billy Mitchell to sink a battleship, the Flying Fortress, the Liberator, the Stratofortress, the B-36 Peacemaker, the B-47 Stratojet, and the B-52.

Since the opening of the museum in May of 1966, the yearly attendance of visitors and tourists has grown steadily. Last year the museum boasted an attendance of some 644,000 people. There has been a great need for a museum building and recently the State of Nebraska has fulfilled that need. In 1969, the Nebraska Legislature appropriated $260,000 to be used for design and part of the building costs for a museum building to be the center of attraction for the Nebraska Museum of Aerospace History. It is expected to be built during fiscal 1972.

In a ceremony celebrating the transfer of the museum from the Strategic Air Command to the State of Nebraska a plaque was given to Gov. Norbert T. Tiemann. On hand at the dinner when Governor Tiemann officially accepted the "keys" to the museum from Col. Joseph D. Hornsby, Director of the Air Force Museum, Wright-Patterson Air Force Base, Dayton, Ohio, was Air Force Assistant Secretary Philip N. Whittaker.

Mr. Whittaker, in his remarks at the dinner, said that the museum represented "a real physical means to remind ourselves, our fellow citizens, and our children of some of the great men, some of the outstandingly effective organizations, and some of the marvelous machines which have given this country the power to remain free through earlier troubled times—times when we have been threatened by external, rather than internal, forces."

Mr. President, I ask unanimous consent that the complete text of Mr. Whittaker's very interesting remarks about the museum be printed in the RECORD at the conclusion of my remarks.

Nebraska is proud to show to the Nation its great interest in aviation by opening and supporting the Nebraska Museum of Aerospace History. I extend a hearty welcome and invitation to all Senators and their constituents to visit the museum when they are in Nebraska.

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

REMARKS BY HON. PHILIP N. WHITTAKER, ASSISTANT SECRETARY OF THE AIR FORCE

I am proud to join with General Ryan, the Air Force Chief of Staff, and with General Holloway, the SAC Commander, and to represent the Secretary of the Air Force on this significant occasion.

All of us here this evening are truly helping to write—if not a chapter—at least a big exclamation point—in the history of the United States Air Force, as we participate in the transfer of the Strategic Aerospace Museum to the great State of Nebraska.

This ceremony comes at a particularly fitting moment. As the decade of the 60's closed, the voices of dissent have been heard abroad in this land—voices imputing the most sinister of motives to the military—voices critical of Defense budgets, Defense industry, Defense weapon systems, Defense ways of conducting its business and managing its affairs—in fact, anything connected with national defense and the military has been fair game, not only in Washington, but in many places throughout this country in recent days, and there may be more to come.

So why do we participate in a ceremony making the transfer of this Strategic Aerospace Museum? Why, in this time of questioning, of criticism—of a real and growing neo-isolationism? Why don't we keep our heads down, reduce the visibility of this component of the Defense Department, say and be seen as little as possible?

It seems to me that to ask these questions is to at least partially provide the answers.

As we look out across today's environment and face our challengers and our critics, it seems we need, as never before, a real physical means to remind ourselves, our fellow citizens, and our children of some of the great men, some of the outstandingly effective organizations, and some of the marvelous machines which have given this country the power to remain free through earlier troubled times—times when we have been threatened by external, rather than internal, forces.

They include determined and dedicated pioneers—men like Eddie Rickenbacker, flying the baling wire crates of World War I; Billy Mitchell and his history-making Martin bombers; Hap Arnold proving the long distance worth of the B-10; Jimmy Doolittle flying bomb-laden B-25's from an aircraft carrier; Toohey Spaatz directing massive strategic flights of B-17's, B-24's and B-29's; and research pilots like Chuck Yeager and Frank Everest who pioneered supersonic flight. Others like Gus Grissom extended controlled flight into space.

Although many aviation pioneers were essentially independent operators, the awesome capability we today know as The Strategic Air Command represents an organization the total strength of which far exceeds the sum of its parts measured separately. The roots of SAC go way back to the Army Signal Corps which in turn was followed by the creation of the Army Air Service in 1920, the Army Air Corps in 1926, often recalled sentimentally by many of you veterans here tonight as the "brown shoe" Air Force. Finally came the U.S. Air Force as a separate service in 1947. These fundamental steps show an increasing recognition of the value of air power, culminating in today's highly professional and powerful Strategic Air Command with its world-wide chain of communications, its tankers and bombers stationed at the ready throughout the world, its missiles standing as silent deterrents in silos throughout the land.

And finally, there are the machines themselves, some that antedate SAC, but each has made its contribution: like the Martin MB-2 biplane, the earliest bomber bought by the Air Service in 1921 and used by Billy Mitchell to sink the German battleship; and the Martin B-10 of 1933. There were names like the Flying Fortress, the Liberator, and the Stratofortress of World War II fame; the B-36 Peacemaker, the first airplane to have the capability of flying 10,000 miles. No other plane symbolizes SAC's movement into the jet age more than the B-47 Stratojet and, of course, the B-52 which has been the SAC backbone for some 14 years and which won't be retired with honors for some few years to come.

And now, of course, although bombers are still very much a "now" thing, as the youngsters say, we have moved into the missile age, and many of the early leaders of U.S. air power would be amazed to hear the lingo and see the hardware which exists today.

So it was not only fitting that the Strategic Aerospace Museum be established, but it is particularly timely as we now move into the decade of the 70's that its visibility be enhanced by transfer to the State. This act will usefully serve to remind us afresh of the aerospace shield which has protected our country over the years and which has played such a major role in the security and prosperity of the United States.

Let me add a personal observation as a newcomer to the Air Force and as a civilian that, in my short tenure, I have been deeply impressed with the dedication and competence of so many of the officers in this service with which I am privileged to associate. Therefore, this evening's proceedings are particularly significant to me, personally, as a means of saluting a great team, both past and present.

Let me also add my congratulations to the State of Nebraska for its initiative in sharing in this great undertaking. The Strategic Aerospace Museum will serve as a constant reminder to all who are privileged to visit it of the proud heritage of the United States Air Force and its role in maintaining world peace and the security of this nation. The museum will bear witness to the truth of the words of another great Air Force leader, the Chief of Staff from 1953 to 1957, General Nathan Twining, who said, "The United States Air Force will have served its finest purpose if it is never required to engage in combat."

ENVIRONMENTAL CRISES AND THE FUTURE OF MAN—ADDRESS BY SENATOR MUSKIE

Mr. SPONG. Mr. President, the distinguished Senator from Maine (Mr. MUSKIE) recently underscored his continuing commitment to environmental protection and control in a speech delivered to the American Association for the Advancement of Science in Boston, Mass.

In his remarks, Senator MUSKIE underscored the need for a more organized effort to protect our resources of air, water, and land. The Senator, chairman of the Subcommittee on Air and Water Pollution, has emphasized that rhetoric is not a substitute for action and that we cannot afford to depend solely on voluntary efforts by the private sector.

I ask unanimous consent that Senator MUSKIE's speech be printed in the RECORD.

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

ENVIRONMENTAL CRISES AND THE FUTURE OF MAN

Eighty-six years ago, Henry Augustus Rowland told the American Association for the Advancement of Science that "American Science is a thing of the future, and not of the present or past."

Today we may well ask whether science which has given us much of our past and our present—has prevented the future—or whether it will make possible worthwhile future for man.

Until very recently the question of man's future was related to the threat of nuclear war. That threat remains, but it has been joined by the threat of environmental contamination. Man has so misused the fruits of scientific endeavor, he threatens his own existence.

Some threats come in bits and pieces, the by-products of our industrial economy.

The daily newspapers carry samples of such threats, as in the following two examples published during the week-end before Christmas:

". . . when the sulfur dioxide content of the air in New York City rises above .2 parts per million, ten to 20 people die as a result. In the past five years, sulfur dioxide has reached this level at least once every 10 days." ("Intelligence Report," PARADE magazine, December 21, 1969)

". . . the modern industrial economy is dependent upon hazardous materials that are shipped throughout the country . . . in

the last five years, over 50 cities and towns have had to be evacuated as a result of accidents involving hazardous materials." (Joshua Lederberg, The Washington Post, December 20, 1969)

Some threats come from defense projects designed to protect our national security, as noted in the following item:

". . . the President's statement (on germ warfare) has not ruled out the production of toxins. The Department of Defense does not find in the President's directive any specific prohibitions to the production of toxins." (The Washington Post, December 20, 1969).

Some threats are the result of efforts to dispose of wastes from the conversion of materials and energy. Outside Denver, for example, a farmer's well produces the weed killer, 2,4-D. His neighbor's well flows gasoline. In Ponca City, Oklahoma, springs bubble refined motor oil into residential basements.

The culprit in these cases is called deep well disposal. Under this system billions of gallons of salt water mixed with oil and other liquid wastes are being pumped back into the ground. Texas alone has 30,000 such wells.

On the East Coast, one scientist has proposed the construction of a 48-inch, 80 mile long pipeline to carry municipal and industrial wastes from the lower Delaware River basin out into the Atlantic Ocean. The discharge of up to four million gallons a day would be beyond the continental shelf.

The scheme would reduce pollution in the Delaware basin—at the expense of the ocean. It is like so many other examples of pollution control programs: it proposes to dump the load on someone else, downstream.

We are learning, however, that there is no one else downstream from us. We have made the world smaller with our population increases and our transportation advances. We have contaminated the land and water we use and the air we breathe, with wastes of our own making.

We have gone beyond the point where the issue of conservation is limited to those who want to protect a stream, or forest, or stretch of shore. That protection is still needed, but it is not the central issue. The central issue is the health of man, wherever he lives and whatever his station.

1. This is the issue the young people understand.

2. This is the issue which has placed the environment at the center of campus concerns following the Vietnam War.

3. This is the issue which cuts across economic, social and racial lines. It binds the suburbs to the cities, in a common life-related problem.

Such an issue—touching as it does the lives of the young and the old, the rich and the poor—is a deep and strong political issue. It is real, and therefore susceptible to emotional appeals. It is broad, and therefore subject to many uses.

When such an issue arises, would-be leaders and voters will look for scapegoats; and those who resist change will dismiss environmental complaints as "uniformed demagoguery."

Scapegoats will not be hard to find.

1. There are business and industrial leaders who reject any responsibility for pollution or its clean-up.

2. There are public officials who avoid the unpleasant encounters so necessary to change.

3. There are managers of public programs—civil and military—too "mission oriented" to admit any responsibility for protecting the environment.

4. And there are scientists whose commitment to their own projects has been so complete they have ignored the environmental consequences of their work.

Protection of man and his environment cannot be achieved by casting our scapegoats; neither can it be advanced by scorn for environmental complaints.

The pollution of our environment is not the product of a small band of men, and it is not the product of our particular economic system. It is the special product of any society which places the consumption of goods and services high on its scale of values, and which has the means to provide those goods and services in abundance. It is not who owns the means of production, but how the means of production are managed, that determines the impact of an industrial-technological society on the environment.

Pollution is a world-wide problem, which will not give way to political code words. It can be exercised only through intelligent public action, based on an understanding of its causes, an appreciation of its constantly changing aspect, and a comprehension of its implications.

From my comments it may appear that nothing has been done to protect man from the follies of his waste. This would be an inaccurate appraisal, and a misleading one.

Since the latter part of the 1940's we have been chipping away at the obvious sources of water pollution from municipal and industrial sources.

1. The greater part of our limited success in this area has come in the last six years, with the development of our water quality standards program, a substantial increase in our commitment to build sewage treatment plants, and attacks on specific problems such as oil pollution, thermal pollution and vessel pollution.

2. Work on the problems of air pollution came later, because its threats were not so obvious and because we did not make the connection between it and public health. Nevertheless, we have launched a program which is designed to achieve high standards of air quality in all parts of the nation. It is a program which deals with moving and stationary sources. Most important, it is organized to build on scientific data and to stimulate the gathering and use of such data as it relates to public health.

3. Finally, we are in the process of converting the solid waste control program from an exercise in the disposal of waste to an attempt to reduce the volume of waste in our society and to encourage the more efficient use and reuse of materials and energy.

These are programs dealing with the obvious and straightforward problems of pollution, the physical by-products of our activities and our production. They are, if you will, the first-stage problems of an environmental protection program. The next stage will involve the organization of our public institutions to deal with the more subtle and pervasive questions of (1) land and resource use, (2) of population distribution and industrial location, (3) of hazardous substances, (4) of noise and aesthetic pollution, (5) of ecological balances and urban design.

Such questions affect the way we organize Federal, State and local governments, planning decisions, systems of taxation, public works projects, support of research and development, and even decisions of defense policies. Increasingly such questions will involve our relations with other countries, in this hemisphere, in Europe, Africa and Asia.

Efforts are underway to provide a base for this second-stage effort in the Federal Government. The Congress has, for example, (1) sent to the President the National Environmental Policy Act of 1969. That act presents a statement of national policy on the environment, (2) directs all Federal agencies to comply with that policy, (3) provides the President with a Council of environmental quality, and (4) requires the President to submit to the Congress and the people an annual environmental quality report.

The Water Quality Improvement Act of 1969, now in conference between the Senate and the House of Representatives, complements the National Environmental Policy Act in two important respects. First, it expands the requirements for Federal compliance with water quality standards to include activities and projects supported or authorized by the Federal Government. Second, it establishes an office of environmental quality to provide staff support to the President, the Cabinet-Level Environmental Quality Council, and the newly-created Council on Environmental Quality.

Those of you who are sensitive to the implications of words for politicians have probably noted our shift from "pollution control and abatement" to "environmental quality."

The object of our proposals for expanding the President's capacity to deal with Federal responsibilities in environmental protection is (1) partially a recognition of the increasing complexity of the problem, and (2) partially an admission of the confusion which has hampered various pollution control efforts in the past. We face a similar problem in the Congress.

Members of the Senate and the House of Representatives, recognizing the need to expand their own understanding of environmental problems and the need to coordinate more closely their efforts to improve the environment, are proposing the creation of a non-legislative joint committee on environmental quality. This is an outgrowth of my own proposal for a select committee on Technology and the Human Environment.

These proposals are based on recognition of the fact that environment protection concerns cannot be isolated from other concerns. Membership on the proposed committee would be drawn from the several legislative committees whose activities affect the environment. Those committees include Public Works, Agriculture, Interior, Government Operations, Banking and Currency and Labor in both Houses, Commerce in Senate, and Merchant Marine and Fisheries and Interstate and Foreign Commerce in the House of Representatives.

Such a committee should develop a body of knowledge which would guide our Legislative Committees in their activities, and give more visibility to environmental concerns on a day to day basis. It would provide a forum and a clearing house for those who question, those who want change, and those who have ideas for the betterment of Man's place in the universe.

In the Executive branch, a more formal reorganization is needed to insure proper status for environmental protection. I am not the first to note the way in which pollution control and abatement protection programs are scattered through several departments and agencies. (1) The Federal Water Pollution Control Administration is housed in the Department of Interior. (2) The Air Pollution Control Administration is part of the consumer protection and environmental health services program in the Department of Health, Education and Welfare, along with the Environmental Control Administration.

The Congress has assigned responsibilities for Pesticide Control to the Department of Agriculture, which also promotes the use of pesticides for increased Agricultural production. The Atomic Energy Commission supervises radiological protection from the uses of nuclear energy, which the Commission promotes. The Corps of Engineers is responsible for some pollution control on navigable waters, which the corps dredges and into which it authorizes the sumping of spoil. Some responsibilities for solid waste programs lodged in the Department of the Interior's Bureau of Mines, which has as its primary mission the promotion of mineral resource development and use.

We have also given authority to the Department of Housing and Urban Development and the Farmers Home Administration in the Department of Agriculture to make grants and loans for the construction of sewage systems.

Such proliferation of activities and overlap of responsibilities are not unique to environmental protection programs in the Federal Government. But, increasingly, such proliferation and overlap are intolerable because of their adverse effects on our efforts to improve the environment.

The time has come for us to create an independent, watch-dog agency to exercise the regulatory functions associated with environmental protection. Bureaus, divisions, and administrations housed in separate departments cannot marshal the resources required to combat the interlocking assaults on our air, water and land resources. They have neither the status nor the manpower to deal with one of the fundamental and insidious threats to our society, even with the new staff support we are providing the President.

I am not talking about a new department of natural resources or Department of Conservation. Environmental protection is not the same as conservation, although sound conservation practices should enhance the environment. For example, some conservation projects developed and promoted by the Soil Conservation Service, the Bureau of Reclamation or the Corps of Engineers are not consistent with broader societal needs and the quality of life. Consider what we have done to Southern Florida and the Everglades with our conservation projects in South-Central Flordia.

There is an additional reason for not proposing a Department of Natural Resources or a Department of Conservation to manage environmental protection programs. The traditional concerns of conservation activities have been too closely identified with the protection of natural resources separated from the population centers. Our primary concern must be man where he lives and the interrelationship between the natural environment and his man-made environments.

An Independent Agency, charged with responsibility for (1) developing and implementing Federal environmental quality standards, (2) supporting basic research on problems of environmental quality, (3) stimulating and supporting research on control techniques, and (4) providing technical assistance to State, Interstate and local agencies, would reflect the National commitment we need if we are to avoid ecological disaster.

The establishment of such an agency must be backed up by a commitment of resources to (1) eliminate the discharge of municipal and industrial wastes into our public waterways, (2) to drastic reduction in air pollution emissions from stationary sources and moving vehicles, (3) to prevent the distribution of materials and products which threatens man and other species, and (4) to stand up and be counted on environmental questions which have risen at home.

The commitment of resources means money and manpower, and hard decisions on where to allocate those resources and where not to allocate them. It means making environmental protection and improvement more than a conventional political issue.

Environmental protection is too important to be left to the emphases of public opinion polls, or the prospects of political action, confrontation and court suits. It is too vital to man's survival to be dressed up in new committees, councils and agencies—unsupported by a willingness to invest in that survival.

In the final analysis, the administration, the Congress and state and local governments, will move to improve the environment in direct proportion to the degree of public awareness of the problem, the determination of the public to be heard, and the amount of informed opinion which is brought to bear on the problem. This is particularly true of those subtle threats to man's health and well being which do not result in immediate death and obvious damage, but which lower our capacity to resist disease and accidents and interfere with our ability to live up to the full potential of our capacities.

Scientists have a special responsibility to society in meeting that need. We have relied on science for generations to teach us more about our world and the universe, and to increase our capacity to use the resources of our planet. Now we have found that in exploiting scientific knowledge and the secrets it has unlocked we have been exploiting ourselves. The time has come for us to adapt our scale of values and our approaches to the uses of science to man's long-term survival. The object of basic and applied science should not be to increase man's creature comforts and to overcome the natural environment, but to free man from unnecessary hazards and to enable him to live in harmony with his environment.

Can we implement such a concept of science and the future of man? I think the prospects are excellent. The goal of a healthy environment is an idea whose time is come.

As we look to the future, the so-called policy makers are confronted by two realities:

1. It is clearer than ever before that man's survivability depends upon what he himself does to and about his environment—that the continuation of his current behavior patterns means a daily reduction in his prospects for a healthy life on this planet—and that the deterioration may already be irreversible in some vital respects.

2. The threshold of public patience with our failure to come to grips effectively with this problem is lower than ever before, and the level of public demand that we do what needs to be done is rising rapidly.

To put it bluntly:

The crisis is here.

The people are ready.

What will the leaders do?

When I say that the people are ready, I mean that they are aware of the danger and receptive to a call to action.

Many or most of them may be inclined to believe that someone else's behavior patterns are at fault, and that the problems can be licked if someone else makes the appropriate sacrifices.

Most can be persuaded to accept restraints upon their own activities and costs they must share.

An entire new generation, disturbed by what we are doing to their environment, is demanding that steps be taken now to protect and enhance the environment, to protect and improve man's health, to restore the balance in man's relationship to other species. They are pushing me, and they will be pushing you.

Let me quote to you the portion of some remarks made recently at the 13th National Conference of the U.S. National Commission for UNESCO. The speaker was Pennifield Jensen, a graduate student at San Francisco State College.

"We don't want merely to survive; we want to live. There is only one place in which to live and that is on this planet and we must live here together."

I welcome Mr. Jensen and all others of like mind in his generation and mine to continuing struggle. It is a struggle we must win if science is to be worth advancing and man is to have a future.

THE FISCAL 1971 BUDGET

Mr. CRANSTON. Mr. President, I wish to offer a few comments on the President's fiscal year 1971 budget as it relates to programs under the jurisdiction of the Subcommittee on Veterans' Affairs, which I am privileged to chair.

I will touch on three aspects of the VA budget request:

First, I will discuss the anticipated GI bill participation rate and the funds proposed for that purpose.

Second, I will make a tentative evaluation of the funds included for VA medical care and construction of medical facilities.

Third, I will comment on the projected reduction in overall VA outlays in fiscal year 1971.

With respect to GI bill financing, I am extremely pleased to note the administration's estimate that participation in the GI bill by veterans, war orphans, wives, and widows is expected to rise by over 400,000 trainees by the close of fiscal year 1970. This unanticipated and very large increase will require a supplemental appropriation of approximately $200 million apart from any GI bill rate increase. It is also gratifying to learn of the expectation for increased GI bill participation of 150,000 more trainees in fiscal year 1971.

However, these increases in GI bill participation, although they make present GI bill participation more comparable to those under prior GI bills after a similar period of operation, still mean that approximately 75 percent of our eligible veterans do not take advantage of these all-important benefits. Moreover, there is no indication in these figures that the participation of the most severely disadvantaged veteran—the high school dropout—has increased beyond the grossly inadequate 8 percent present rate. Substantially increasing participation by these nearly a quarter of a million men separated from the military annually is the purpose of title II of the Senate version of H.R. 11959, which will shortly be the subject of a House-Senate conference.

With respect to the budget for VA medical care, the request for approximately $160 million above the fiscal year 1970 estimate represents an increase of just 1 percent. This would allow for approximately 1,556 additional permanent positions in the VA hospital and medical care system as compared with the fiscal year 1970 estimate. The fiscal 1970 estimate is 658 above actual fiscal year 1969 experience. Yet, as far as I have been able to discover, as of January 31, 1970, the Veterans' Administration, rather than increase its medical care permanent positions, has experienced a reduction of 1,100 from fiscal 1969 levels. I am thus reluctant to place very much stock in these personnel ceiling estimates.

But, even if an increase over fiscal 1969 of some 4,500 VA permanent positions is actually implemented by the administration in fiscal 1971, this is half again too small at the very best.

Based on the results of hearings before the Veterans' Affairs Subcommittee over the last several months, it is obvious to me that an augmentation in the medical care item and employment level of many times the requested increase is absolutely necessary. Otherwise, Veterans' Administration medical care cannot be first quality, and in many places it is not now first quality. I will make specific recommendations to the Appropriations Committee and the Senate on this in the near future.

With respect to the construction of

necessary VA facilities, I am gratified to see that the administration plans to obligate nearly four times the amount it expects to obligate in fiscal 1970. The reason for this, however, is that the administration used virtually none of the $69 million which was appropriated for fiscal year 1970. This resulted in a further uneconomic, and in some places highly damaging, postponement of necessary construction, renovation, and modernization of VA hospitals, domiciliaries, nursing homes and research facilities. Continually putting off these vital costs will further jeopardize the quality of care in many outmoded VA facilities. My initial impression is that the $120 million which the administration proposes to obligate in fiscal 1971 for construction purposes is insufficient to meet the growing needs, particularly for research and teaching space in VA hospitals and for air conditioning of the many, many VA hospitals in climates with year-round high temperatures.

Finally, I think a word is in order with respect to the President's asserted $1.3 billion total fiscal year 1971 budget surplus. This includes, for example, projected reduction of approximately $200 million in outlays in the VA's fiscal 1971 budget as compared with outlays in fiscal 1970. This reduction, however, is achieved by classic executive branch fiscal juggling. For example, it includes a $40 million savings through proposed new legislation to authorize reimbursement from private insurers for the cost of medical care and treatment provided veterans for non-service-connected disabilities. Although this is a worthwhile recommendation, it promises to be a very controversial one, and it will require further working out even within the executive branch before implementing legislation is proposed.

In the education area, the budget includes only $88 million for anticipated GI bill rate increases in fiscal 1971. Yet the House-passed bill currently pending in conference proposes an increase of at least $226.5 million for that purpose. And the Senate-passed version of that bill is estimated to cost $485 million in fiscal year 1971. Thus, the President's budgeting on this item seems grossly understated.

This certainly leads me to wonder at the real nature of the so-called $1.3 billion surplus for the total budget request.

VERMONT TO PROPOSE EFFLUENT CHARGE SYSTEM

Mr. PROXMIRE. Mr. President, I was much pleased to read a report in the Washington Post this morning that the attorney general of Vermont will propose "a flexible fee system as a part of a 'pay-as-you-pollute' water pollution control legislation." The attorney general's proposal, the article stated, would require the polluter to "pay a fee for being allowed to dump his waste materials in State waters."

The proposal by the Vermont attorney general is alike in kind, although not in language, to the bill that I recently introduced in the Senate.

My bill, S. 3181, has three principal advantages.

First, by establishing a system of national effluent charges to be imposed on industries that pollute our rivers and lakes, an economic incentive will be provided for business to stop polluting. It will prove less costly in the long run to develop and install antipollution devices than to pay the effluent charge and continue polluting.

Second, the money collected from the effluent charges will be directed back to the problem of pollution. This money will be made available to municipalities and regional water development associations to build waste treatment facilities.

Finally, this proposal will not necessitate huge governmental expenditures. This is particularly important in light of the inflationary period we are presently facing.

It is quite evident to me, as it must have been to the Vermont attorney general, that the present efforts to control water pollution have been without success. Our Nation's waterways are more polluted than ever before. A new approach is drastically needed. I am convinced that the effluent charge proposal, implemented on a national scale, is the new approach that is required.

I ask unanimous consent that the article from the Washington Post entitled "Vermont Weighs Charge for Polluting" be printed in the RECORD.

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

VERMONT WEIGHS CHARGE FOR POLLUTING

MONTPELIER, VT., February 3.—The attorney general's office will propose a flexible fee system as part of the first-in-the-nation "pay-as-you-pollute" water pollution control legislation.

The plan would require that a person gain a temporary permit for the privilege of polluting, and that he pay a fee for being allowed to dump his waste materials in state waters.

Assistant Attorney General John Hansen said today the basic fee system will permit the water resources board to charge an individual according to the type and volume of waste material he discharges.

In addition, Hansen said, the board will have the option of charging a fee based on the cost of installing adequate antipollution equipment in addition to, or instead of, the base effluent charge fee.

CONDITIONS IN LITHUANIA

Mr. PERCY. Mr. President, on the anniversary of Lithuanian independence, February 16, I call on Senators and on all other Americans to pause and reflect on the tragic situation which has befallen the Lithuanian people since their country was occupied in 1940. The courageous Lithuanians deserve the sympathy and support of all freedom-loving peoples, because they have somehow managed to maintain their historical and cultural heritage in the face of the deeply repressive measures imposed on them.

Since the 13th century, Lithuanians have contributed importantly to the culture of mankind, in good times and bad. But today they know only bad times, and reports indicate that their religious, educational, and cultural life is being systematically squeezed and limited by the authorities.

I am especially concerned about reports that some priests are losing their permits and others are being excessively taxed. Another report states that St. John's Church, at the University of Vilnius, a beautiful edifice that I visited in 1966, will be made a museum and auditorium very soon, and that the teaching of Lithuanian literature is being distorted by measuring it against Marxist-Leninist standards. It is also said that the seminary in Kaunas is now allowed to enroll only six students a year.

These conditions should be widely publicized in the world, because all should know that the people of Lithuania continue to bear heavy burdens. They are an admirable people, and I shall never forget their spirit under the most difficult circumstances of living.

"SESAME STREET" A SUCCESS

Mr. TYDINGS. Mr. President, recently there has been some discussion concerning the continuation of "Sesame Street," the charming and delightful children's program designed to improve the language and numerical skills of preschool children. The program, produced by the "Children's Television Workshop" and sponsored by the Ford Foundation, the Language Corporation, and the U.S. Office of Education, and the Corporation for Public Broadcasting, has drawn widespread critical acclaim and attracted a huge audience of happy children.

Due to doubts about the efficacy of other preschool programs aimed at helping deprived children, many have awaited test results of this new, sophisticated approach to learning. According to the New York Times of Wednesday, January 28, 1970, tests revealed that this program, over a 6-week period, tremendously increased the rate of learning for those who watched it. These are tremendously encouraging results. I certainly hope that "Sesame Street" will be able to continue.

I bring this to the attention of Senators, for the program is shown by nearly 200 television stations across the Nation and affects preschoolers in every State. I ask unanimous consent that the New York Times article be printed in the RECORD.

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

TESTS INDICATE TV PROGRAM IMPROVES CHILDREN'S SKILLS

(By William K. Stevens)

"Sesame Street"—a brisk, rib-tickling, television program that is designed to improve the language, numerical and reasoning skills of preschool children, particularly those from poor families—appears to be achieving many of its goals.

According to preliminary tests in three states, poor children who viewed "Sesame Street" regularly in the program's first six weeks of daily hour-long, presentations made gains two and one-half times as great as those made by poor children who did not watch the program.

Other surveys indicate that the program is reaching about five million children, including substantial numbers of those from poor homes.

The results of the tests and surveys were disclosed yesterday in a report by the Children's Television Workshop producer of "Sesame Street," to its sponsors—the Carnegie Corporation, the Ford Foundation, the United States Office of Education, the Markel Foundation and the Corporation for Public Broadcasting. The report was made at a meeting at the Essex House.

HOPE FOR ANOTHER YEAR

After the meeting, Mrs. Joan Ganz Cooney, executive director of the workshop, said that she hoped the test results would persuade the sponsors to support the experiment for another year and that she was optimistic about this. The initial 26-week, 130-program series began last Nov. 10 and will end on May 29. It cost $8-million to produce.

Although the program has been widely acclaimed for its high degree of professionalism, originality and general level of quality, and although there was evidence that many children had become enthusiastic devotees, no evaluation of "Sesame Street's" educational impact had been available until yesterday.

In the preliminary evaluation conducted by Dr. Edward Palmer, the workshop research director, 3-, 4- and 5-year-olds in three day-care centers for poor children of working mothers in Maine, New York and Tennessee were randomly divided into two groups in each center. One group watched "Sesame Street" regularly for its first six weeks. The other group never wanted it.

Before "Sesame Street" went on the air, each child in each group was asked 217 test questions to find out how well he could recognize letters, numbers and geometric forms, and how well he could sort out objects.

After six weeks of "Sesame Street," the same test was given again. The regular viewers, as a group could answer 10 per cent more of the 217 questions than they could at the start. The nonviewers could answer 4 per cent more.

In the ability to name letters, the viewers made a 9 per cent gain, against a 3 per cent gain for the nonviewers. In naming numbers, there was a 12 per cent gain for the viewers against a 4 per cent gain for the nonviewers.

Substantial gains, sometimes 25 per cent or more, were made by regular viewers in their ability to sort, differentiate and classify objects and group them by twos and threes.

But, in one important area—recognizing the sounds of letters—there was no difference between the performance of viewers and that of nonviewers, leading Dr. Palmer to suggest that "Sesame Street's" approach in that area may have to be modified.

"Sesame Street" is broadcast each weekday by nearly 200 television stations from Maine to American Samoa. In about 100 communities it is seen both in the morning and the late afternoon. Five stations carry it a total of six times a day in the New York area—WLIW (Channel 21,) WNDT (Channel 13), WYNE (Channel 25), in WNYC (Channel 31) and WPIX (Channel 11).

The program is considered the first major national effort to harness the most effective of contemporary television techniques to the task of preschool education. In particular, it adapts to the teaching of letters and numbers the fast-paced, high-impact, repetitive commercial techniques that have been successful in selling toys.

NEW HAMPSHIRE PENAL AUTHORITIES REPORT DRUG USE ON THE INCREASE

Mr. McINTYRE. Mr. President, we are all aware that drug abuse, particularly among the young, is growing at an alarming rate. We also know that no parent can afford complacency, because drug use cuts across ethnic, religious, social, educational, and financial lines. The children of four prominent political figures have been arrested for drug possession, within the past several weeks, and one was the son of a man who campaigned for better drug control in his State.

To determine whether drug abuse has grown significantly in my own State of New Hampshire, I went to two men who see instances of it every day in their work—Dr. Michael Morello, director of the State Industrial School in Manchester, and Parker Hancock, warden of the State prison in Concord. This is what they told me:

Dr. Morello said:

More than 50 percent of the boys and girls we admit to the school have had some experience with drugs and 25 percent are frequent or steady users.

Though most of these use the so-called soft drugs—amphetamines, barbiturates, marijuana and glue-sniffing—we're beginning to see more and more heroin and LSD.

The alarming thing about all this is how suddenly it has come about. From 1961 to 1967, it was rare, indeed, to admit a boy or a girl who had tried drugs. The sharp increase has occurred since 1967, accelerating particularly in the past 12 months.

Warden Hancock said:

We are alarmed and deeply concerned because of an increase in our prison population during the past three years which can be directly attributed to the sale, use, and possession of narcotics.

Virtually all of these offenders are users, and the majority of them are between 18 and 22. Most of these offenders have used narcotics, heroin, speed, and tranquilizers.

We have made all treatment facilities of this institution available, and in addition we've received some assistance from other state services.

But it is our considered opinion that our treatment efforts with these young narcotic users have not been effective. There is a need for specialized treatment for those committed to this institution for drug offenses.

Warden Hancock, currently president of the Wardens Association of America, told me that wardens in other States report a similar jump in drug use and similar concern about it.

NATIONAL MATERIALS POLICY

Mr. BOGGS. Mr. President, in President Nixon's budget message earlier this week, he made a strong and persuasive argument for updating and reevaluating our national stockpiles of strategic materials.

The budget states:

For example, the basic concept underlining the present objectives of the Nation's stockpile of strategic and critical materials must be re-evaluated and modernized. Many commodities in the stockpile are now far in excess of foreseeable needs. Expanded authority will be sought to permit the disposal of $750 million of these materials in 1970.

The President is to be congratulated for making this decision to modernize our stockpiling program, making certain that it reflects today's and tomorrow's needs, rather than yesterday's.

In an effort designed to seek a similar goal, I submitted an amendment to S. 2005 last fall. That amendment would establish a National Commission on Materials Policy, a Commission that would be authorized to evaluate and examine our Nation's materials needs and uses. The commission would emphasize the need to recycle once-used materials back into our economy to lessen the pollution of solid wastes.

The President's call to update our stockpiling program fits into the goals of a National Commission on Materials Policy. Therefore, I believe it would be in the best interests of the Nation if we coordinated these studies, bringing the broader subject of materials demand and use into a reexamination of the need to have a strategic stockpile.

It is my hope, therefore, that the President will look to the proposed National Commission on Materials Policy as the proper vehicle to carry out his proposed reevaluation.

GALBRAITH AND THE FITZHUGH COMMISSION

Mr. PROXMIRE. Mr. President, on October 28, 1969, I criticized President Nixon's Blue Ribbon Defense Panel, known as the "Fitzhugh Commission." This Panel was created to conduct a broad study of the Defense Department's organization and, according to the press releases which announced it last June, procurement policies and practices.

The Fitzhugh Commission was compared by Secretary Laird with the Hoover Commission studies of 1947 and 1953 when the Secretary expressed his hope that the review of the Defense Department would help it to regain "credibility."

In my October statement, I pointed out how difficult it would be for this commission, loaded as it is with defense-oriented members, to produce anything credible. The fact that men such as Mr. Gilbert Fitzhugh were named to the Commission can only be interpreted as incredible.

Mr. Fitzhugh, who is Chairman of the Panel, is also chairman of the board of the Metropolitan Life Insurance Co., which not only holds $34 million worth of common stock in some of the largest defense contractors, but has outstanding loans to 24 top defense contractors, valued at almost $1.4 billion.

I have now obtained a copy of correspondence between Prof. John Kenneth Galbraith, former Ambassador to India, and Mr. Gilbert Fitzhugh. It appears that I am not the only person who is deeply disturbed over the Fitzhugh Commission and the likelihood that it is embarked on nothing more than a whitewash of the Pentagon.

In October 1969, Professor Galbraith received a letter from Mr. Fitzhugh, together with the "Blue Ribbon Defense Panel Charter" and a copy of a questionnaire. Professor Galbraith was puzzled by the following sentence in the letter from Mr. Fitzhugh, inviting him to respond to the questionnaire:

Please keep in mind that the Charter of the Panel directs it to study possible improvement in the Defense Department's operations—it does *not* include consideration of the basic national policies or priorities

within which the Department carries out its assigned functions.

Professor Galbraith quite properly questioned his severe limitation on the panel's charter, and he pointed out that it was being asked to study only how the Pentagon does things, not whether what it does is in the public interest. As Professor Galbraith said in his reply:

As I understand it, you are studying the Pentagon subject only to the limitation that what it does, including what it buys, is outside of your Charter. There is to be no consideration of whether money is spent unnecessarily on research and development; or of the need for nuclear aircraft carriers; or if ABM is worth the money; or of the gold-plating of the tank; or of support to the indigent armies around the world. Your only concern is whether things are done efficiently.

In my judgment, Professor Galbraith's indignation at the manner in which the Fitzhugh Commission is proceeding is well justified.

Professor Galbraith made this point in his final letter to Mr. Fitzhugh on December 3:

You are supposed to find out how money can be saved without considering on what the money is spent. You did not become head of one of the largest business firms in the United States without the ability to realize how nonsensical that is. And being nonsensical, it is a fraud on the American people.

No one in Congress has been more concerned than I over the problems of inefficiency, mismanagement, and waste in the Department of Defense. But efficiency by itself is hardly a worthy goal. A proper concern with priorities, with wise decisions about the use of resources, must be coupled with a set of practices that assures the efficient use of those resources. In the final analysis, we must, as Professor Galbraith says, examine not the procedure of waste, but the object of waste.

I ask unanimous consent that the correspondence between Professor Galbraith and Mr. Fitzhugh be printed in the RECORD.

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

OFFICE OF THE SECRETARY OF DEFENSE,
Washington, D.C., October 2, 1969.

Dr. KENNETH GALBRAITH,
Cambridge, Mass.

DEAR DR. GALBRAITH: As you probably know, President Nixon and Secretary of Defense Laird have appointed a "Blue Ribbon Defense Panel" to study the organization and operation of the Department of Defense and to recommend improvements.

The "Charter" of the Panel and a list of its members are attached.

The Panel would very much appreciate receiving the thoughts and suggestions of a large number of interested people regarding the subjects of its studies. To this end, I am enclosing a list of questions that seem to us worthy of careful thought. We wish we could have the benefit of a personal discussion, but time does not permit this for the wide scope of people and interests whose thoughts would be helpful to us. Accordingly, we hope that you will write us the benefit of your own thoughts and experience on these matters. We would be glad to have your general observations, but naturally any specific recommendations for changes, or suggestions as to specific areas you believe worthy of special study, would be particularly helpful.

We realize this is a long questionnaire, and may include areas in which you have no special interest or knowledge. However, we thought you might be interested in the full scope of our inquiries. Please feel free to comment on all or any of the questions, as you prefer. Of course, if you would care to comment on any matters not included in the questions listed, we would be glad to have them also. Please keep in mind that the Charter of the Panel directs it to study possible improvement in the Defense Department's operations—and does *not* include consideration of the basic national policies or priorities within which the Department carries out its assigned functions.

To facilitate analysis of your replies with those of others, it would be helpful if you would identify your comments, when possible, with the particular question raised in the attachment.

Your cooperation will be most appreciated by all of us and will be of great help to the Panel in discharging its important task. It would be particularly helpful if we could hear from you by October 22, with either your full or preliminary reply or a note telling us when you will be able to supply it at a later date.

Very truly yours,
GILBERT W. FITZHUGH,
Chairman.

BLUE RIBBON DEFENSE PANEL CHARTER

The general scope of the panel is to study, report and make recommendation on:

The organization and management of the Department of Defense, including the Joint Chiefs of Staff, the Defense Agencies and the military services, as it affects the Department's mission performance, decision making process, the command and control function and facilities, and the coordination with other governmental departments and agencies, with emphasis on the responsiveness to the requirements of the President and the Secretary of Defense.

The Defense research and development efforts from the standpoints of mission fulfillments, costs, organization, time and interrelation with the scientific and industrial community.

The Defense procurement policies and practices, particularly as they relate to costs, time and quality.

Such other matters as the Secretary may submit to it from time to time.

BLUE RIBBON DEFENSE PANEL
QUESTIONNAIRE

A. ORGANIZATION

1. Do you believe the present organizational and reporting relationship between the Office of the Secretary of Defense (including the Assistant Secretaries of Defense), the Service Secretaries (including their Assistants), the Joint Chiefs of Staff and the Joint Staff are the most efficient?

If not, what changes would you recommend?

2. Do you believe the present system results in appropriate grouping of responsibility, authority, and accountability for basic planning and decision making?

If not what changes would you recommend?

3. Do you believe it is practical to reduce

(a) the number of layers of supervision,

(b) the volume of reporting and paper work through decentralization, simplification of committee structures, or otherwise?

If so, how?

4. Do you believe that the frequency of change in important positions in the Department of Defense, both military and civilian, adds to administrative and control problems?

If so, how would you improve the situation?

5. Do you believe that the present operations command structure, including the responsibilities of the Secretary of Defense, the Service Secretaries, the Joint Chiefs of Staff, the Chiefs of Staff of the military services, and the unified, specified and component command structure, is best designed for effective operation in both peace and war?

If not, what changes would you recommend?

B. MANPOWER

Do you have any specific suggestions for improvement in present recruitment, training, rotation, compensation or "fringe benefits" policies for either military or civilian employees of the Department of Defense?

C. RESEARCH AND DEVELOPMENT AND PROCUREMENT

Do you have any specific suggestions for improvement of the Department of Defense Organization, procedural processes, or management practices in research and development or procurement programs?

D. SYSTEMS ANALYSIS

Do you have any specific suggestions for the improvement of the utilization of the systems analysis function in the Department of Defense or any of its organizational elements?

E. BUDGET PROCESS

Do you have any suggestions for improving the planning-programming-budgetary process of the Department of Defense or for improving the contribution to that process by:

(a) The Office of the Secretary of Defense.
(b) The military service secretaries.
(c) The military services.
(d) The Joint Chiefs of Staff.
(e) The Bureau of the Budget.
(f) The White House.
(g) The Committees of Congress.

F. Do you have any specific suggestions as to how the Department of Defense could make more effective and economical use of studies made for it by outside contractors and consultants?

G. Do you have any specific suggestions for improving the operation of properties owned by the Department of Defense?

H. Do you have any specific suggestions as to how the Department of Defense could make a larger contribution than it does toward accomplishing other objectives on housing, medical and hospital services, equal opportunity, etc.?

I. Do you have any suggestions as to how to improve the procedures for determining national policies and priorities (both short- and long-term), with particular reference to how the Department of Defense fits into these procedures? (This question refers to procedures only. The Panel charter does not include consideration of the substance of the policies.)

J. Do you have any specific recommendations to improve the relationships or interfaces between the Department of Defense and:

(a) the various Committees of Congress (this could include any recommendations you may have on Congressional procedures also),
(b) the Department of State
(c) the National Security Council
(d) the Bureau of the Budget
(e) the General Accounting Office
(f) the Press
(g) the Public

BLUE RIBBON DEFENSE PANEL

Fitzhugh, Gilbert W., Chairman, Board Chairman of Metropolitan Life Insurance Co., New York City.

Blackie, William, Board Chairman of Caterpillar Tractor Co., Peoria, Illinois.

Champion, George, President of Economic Development Board of New York City.

Clements, William P., Jr., President of Sedco, Inc. (Southeast Drilling), Dallas, Texas.

Fluke, John F., President of Fluke Manufacturing Co., Seattle, Washington.

Goldberger, Dr. Marvin L., Physicist at Princeton University, Princeton, New Jersey.

Jackson, Robert C., Chairman of Ryan Aeronautical Co. and Continental Motors Corp., San Diego.

Kirkland, Lane, Secretary-Treasurer and Exec. Asst. to President Meany, AFL-CIO, Washington, D.C.

Lewis, Hobart D., President, Readers Digest Association, Inc., Pleasantville, N.Y.

McNeil, Wilfred J., Director and Adviser of Fairchild-Hiller Corp., New York City.

Mettler, Dr. Ruben F., Vice President and Assistant President, TRW Inc. (formerly Thompson Ramo Wollridge, Inc.)

Peterson, Dr. Martha E., President of Barnard College, New York City.

Powell, Lewis Franklin, Jr., Attorney and Industrialist, Richmond, Virginia.

Stigler, Dr. George J., Professor of American Institutions, University of Chicago.

Thurman, Leona P., Attorney, Kansas City, Missouri.

Young, Claude (Buddy), Special Administrative Assistant to the Commissioner of the National Football League, New York City.

CAMBRIDGE, MASS.,
October 8, 1969.

Mr. GILBERT W. FITZHUGH,
Chairman of the Board, Metropolitan Life Insurance Co., New York, N.Y.

DEAR MR. FITZHUGH: I have your letter of October 2. Surely you can't be serious. As I understand it, you are studying the Pentagon subject only to the limitation that what it does, including what it buys, is outside of your charter. There is to be no consideration of whether money is spent unnecessarily on research and development; or of the need for nuclear aircraft carriers; or if ABM is worth the money; or of the gold plating of that tank; or of support to the indigent armies around the world. Your only concern is whether these things are done efficiently. Your last question on "relationship or interfaces" between DOD and Congress, State, NSC, etc., spectacularly omits the most important relationship of all, that with the defense industry. You propose to ignore what even one of my sophomores assumes as a matter of course, namely that the Pentagon is subject to industrial persuasion as to military need. You don't even raise the question of movement of personnel between the Services and the industry and its consequences.

You are a man of reputation, the head of a very large company with great public responsibilities. You cannot afford to be associated with anything that is so patently and transparently and even hilariously a fraud. Would you ever consider studying the costs of running New York City while excluding from consideration the things the city does? Or of supporting your family while excluding all questions of what the family buys? Would you initiate a study of the high costs of insuring certain classes of risk carried by your company which excluded consideration of accident and disease? It is always unwise to underestimate the intelligence of the American people—and Senator Proxmire.

I urge you in the interest of your reputation, the Metropolitan, and your policyholders to get out of this one at once. Do tell me you agree.

Yours faithfully,
JOHN KENNETH GALBRAITH.

BLUE RIBBON DEFENSE PANEL,
Washington, D.C., October 15, 1969.

Hon. JOHN KENNETH GALBRAITH,
Harvard University,
Cambridge, Mass.

DEAR DR. GALBRAITH: Based on your letter of October 8th, I can only assume that my letter of October 2nd must have been very unclear. Many of the things you assume we are ignoring are very much within our terms of reference and we are addressing ourselves to them very carefully.

It is true that basic national policies are outside of our jurisdiction. Many knowledgeable people are deeply involved in consideration of those policies. We feel there is a large area remaining as to how the Department of Defense can best implement the policies finally decided upon. We intend to do our best to make a significant contribution in this important area.

Very truly yours,
GILBERT W. FITZHUGH,
Chairman.

CAMBRIDGE, MASS.,
October 27, 1969.

Mr. GILBERT W. FITZHUGH,
Chairman of the Board,
Metropolitan Life Insurnace Co.,
New York, N.Y.

DEAR MR. FITZHUGH: I have your letter of October 15, 1969. I hope that you will have another look at your letter to me of October 2, 1969. At the bottom of the first page you ask me to "please keep in mind that the charter of the panel directs it to study possible improvements in the Defense Department's operations—it does *not* include consideration of the basic national policies or priorities within which the Department carries out its assigned functions." (The emphasis is yours.) The only possible meaning that I or any other recipient could attach to this is that you are excluded from considering individual weapons and weapons systems and therewith the total Defense Department budget. For if national policies and priorities have any meaning whatever they refer to decisions on such weapons systems and therewith on the totals allocated to defense purposes. Later, on page 2 of the questionnaire, as though to reinforce the point you say of question "I" that "This question refers to procedures only. The panel charter does not include consideration of the substance of the policies." Accordingly I cannot conclude that your letter and the accompanying questionnaire were unclear. I can only conclude that it was wholly specific in its intention to exclude such questions as, for example, whether the purchase of an ABM system is justified. The only questions within your term of reference concern the procedures by which those funds are spent.

May I note as a less important matter that you were singularly silent as to explanation of why you do not consider the "relationships or interfaces" between the Department of Defense and the defense industries. Surely this omission calls for some explanation. In the absence of further explanation which I earnestly hope will be forthcoming I must continue to conclude that you have lent your name and that of your company to, if not an outright fraud, at least an enormous effort to mislead the American people. This comes at a time when there is a particular anxiety in a large part of our community over the way in which people in positions of trust have been lending themselves to such efforts. Accordingly I very much hope that I will hear from you of your intention to disassociate yourself from this effort—in the absence at least of a clear revision of your charter and a clear intention to examine not the procedure of waste but the object of waste.

Your faithfully,
JOHN KENNETH GALBRAITH.

BLUE RIBBON DEFENSE PANEL,
Washington, D.C., November 20, 1969.

Dr. JOHN KENNETH GALBRAITH,
Professor of Economics,
Harvard University,
Cambridge, Mass.

DEAR DR. GALBRAITH: Reply to your letter of October 27th has been delayed because I have been in Europe visiting a number of our defense installations.

We seem to be having trouble communicating. In your first paragraph you refer to the fact that our Panel's charter does *not* include consideration of basic national policies. This is indeed true, as I pointed out twice in my letter to you and as was made very plain by Secretary of Defense Laird in his widely reported press conference announcing the appointment of the Panel. Your particular reference to whether or not an ABM system should be purchased is one of the examples we have been giving regularly as the type of thing the Panel is not to consider. However, this does not mean that the scope of our study is as confined as you seem to feel.

In your second paragraph you seem to feel that we are not considering the relationships or interfaces between the Department of Defense and the defense industry. If you will look at the third and fourth paragraphs of our charter, you will see that it is clearly within our scope to study, report, and make recommendations on

"The Defense research and development efforts from the standpoints of mission fulfillments, costs, organization, time and *interrelation with the scientific and industrial community.* (Emphasis added)

"The Defense procurement policies and practices, particularly as they relate to costs, time and quality."

This point was covered in our questionnaire under the heading "C. Research and Development and Procurement". In any event, our Panel has had from the beginning of our deliberations very prominently in mind the whole question of the relationship between the Department of Defense and defense contractors, and has made and will continue to make a study of this aspect an important part of its activities.

Accordingly, it seems clear to me that there has been no effort whatever "to mislead the American people." The objective of all those concerned with our study has been just the opposite. Our whole purpose is to make as objective and well-documented a study of the areas assigned to us as is within our capacities—and to present our findings and recommendations as clearly as possible.

Very truly yours,
GILBERT W. FITZHUGH,
Chairman.

DECEMBER 3, 1969.

Mr. GILBERT FITZHUGH,
Metropolitan Life Insurance Co.,
New York, N.Y.

DEAR MR. FITZHUGH: I note your reference to the difficulty in communication; I hope you won't feel badly if I say that I think the problem is on your side. You have a difficult case to make. On the matter of relations to the defense industry I am prepared to agree that the language you find does save your soul. I think you will have to agree in return, however, that there was something embarrassingly Freudian about its omission from the other list of relationships. On the main point I can only take your letter of November 20 as one of agreement. You are supposed to find out how money can be saved without considering on what the money is spent. You did not become head of one of the largest business firms in the United States without the ability to realize how nonsensical that is. And being nonsensical it is a fraud on the American people. And being so it will be recognized and pointed out. I would hope some of your colleagues would similarly see that you were being had.

Yours faithfully,
JOHN KENNETH GALBRAITH.

THE MARIHUANA AND HEALTH REPORTING ACT

Mr. SMITH of Illinois. Mr. President, the distinguished Senator from Colorado (Mr. DOMINICK) has introduced a bill, S. 3190, the Marihuana and Health Reporting Act. It is my pleasure to

join with Senator DOMINICK as a cosponsor to this bill.

In introducing the bill, Senator DOMINICK has called attention to the serious lack of definitive biomedical information on marihuana. By calling for annual reports to Congress on the results of continuing research on marihuana, he has gone beyond the provision for a 2-year study required by the Controlled Dangerous Drugs Act, which we have just passed.

If Congress is to discharge its responsibilities in this area, we must be kept constantly informed of all new biomedical research; and we must encourage that research.

Science News for January 24 contains an excellent article outlining the needs and difficulties faced in providing the biomedical research upon which we must base intelligent answers to the problems of drug abuse.

Mr. President, I ask unanimous consent to have printed in the RECORD the Science News article entitled "Pot Facing Stringent Scientific Examination," written by Barbara J. Culliton. It clearly illustrates the need for Senate action on S. 3190, the Marihuana and Health Reporting Act.

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

POT FACING STRINGENT SCIENTIFIC EXAMINATION

(By Barbara J. Culliton)

To cool the heated controversy that surrounds marijuana, parents, Congressmen and even the medical community are calling for some definitive word on the pros and cons. What is wanted is something in the nature of the Surgeon General's 1964 report on smoking, which laid out the hazards in exhaustive detail. Immediate action is being demanded.

In the Senate, Peter H. Dominick (R–Colo.) has already introduced a bill requiring an annual report to Congress on the current status of biomedical knowledge, including recommended legislation. In the House, Rep. William E. Minshall (R–Ohio) has proposed a similar bill.

It is an ambitious demand.

Progress reports on marijuana research are possible. The definitive biomedical statement the proposals seek is not. Not enough is known yet (SN: 9/27, p. 263).

For all that has been said and written on marijuana, little is founded on a firm scientific base. In spite of man's long history of pot smoking—records of its use date at least to 2737 B.C. when it was listed in the herbal compendium of the Chinese Emperor Shen Nung—the chemistry and pharmacology of the active ingredients of the cannabis plant have attracted only slight research attention. Fact and folklore regarding its effects remain to this day virtually inseparable.

But distinctions are in the offing. In the face of prevailing concern over the mushrooming use of pot in the United States, and its possible medical and social consequences, marijuana research is being approached with an unprecedented sense of urgency. Dr. Stanley Yolles, director of the National Institute of Mental Health, has promised Congress answers within two years. While not all marijuana researchers share his optimism, virtually everyone involved concedes that there is enormous pressure to get things moving and come up with data soon.

To this end the Government, through the NIMH, has invested nearly $10 million. As of April, 67 projects in the biological, social and psychological sciences were approved for funding, through most are only now getting under way.

The delay, and the flaw in what previous work there is, rests with the lack of good marijuana for study. The essence of an experiment is the reproducibility of its results. Until last fall, this was virtually impossible because no two scientists could be sure they were testing the same chemical.

By and large, tests have been made with material extracted from marijuana confiscated by the Federal Bureau of Narcotics. Because methods of extracting pure chemicals from the raw plant are not standardized, and because the quality of chemicals varies from plant to plant, comparisons of various results have been relatvely meaningless. Foreign data, too, have little applicability because European and Asian marijuana is generally more potent than its counterpart from crops grown in the United States.

To eliminate this deficiency, two types of projects were initiated. At the University of Mississippi, where scientists have $115,000 in NIMH money, marijuana is being grown. Comparative studies will be made of plants from various parts of the world in an effort to define the chemical characteristics of canabis compounds and to determine relative degrees of potency.

Standardized crops are also being developed. "Only now," says Mississippi's Dr. Coy Waller, "are batches of drug from these plants becoming available." They will be released to investigators through a special NIMH panel that meets every three months.

The second line of attack focuses on the preparation in the laboratory of two of the active constituents from the female cannabis plant—data 9-THC (tetrahydrocannabinol) and delta 8-THC. In nature the former appears to be the primary active ingredient, since only very low levels of the delta 8-THC molecue have been isolated from cannabis. Contracts for the THC synthesis have been issued to the Arthur D. Little Co. in Cambridge, Mass.

Synthesis of crude THC is relatively simple. As one chemist puts it, "You can make it in the bathtub." But producing the large quantities of pure delta 8-THC and delta 9-THC for research in animals and for clinical study is another matter. According to Dr. Harry Pars, Arthur D. Little chemists have spent a year ironing out problems in the synthetic process, which involves the same requirements for quality control and large-scale production that major drug houses face.

Supported by NIMH contracts of approximately $150,000, the company will make about 2.5 kilograms each of delta 8-THC and delta 9-THC, to be released only through NIMH.

"At this point," Dr. Pars says, "we have produced more than half of the total amount. The delta 8 is 98 percent pure or better and we believe we can approach that purity with the delta 9, which is about 90 percent pure now." The current supply should meet research needs in laboratory animals for a couple of years, since doses used are relatively small. A marijuana cigarette containing 500 milligrams of material would be at most one to two percent delta 9-THC.

Pure THC, made from ingredients that chemical and drug companies are becoming increasingly careful about selling, is a highly viscous material that looks like dark molasses. Highly insoluble in water, it must be mixed with a solvent for injection and is not well absorbed when taken orally. It appears to degrade or decompose with time, and is best handled by sealing it under nitrogen and storing it at lower than room temperatures.

In another project, at the Research Triangle Institute in North Carolina, chemists are concentrating on the synthesis of radiolabeled delta 8-THC and delta 9-THC. They plan to produce up to five grams under an $85,000 contract, also from NIMH. At the same time they are working to perfect methods of extracting red oil from marijuana plant material confiscated by the Narcotics Bureau, as a guide to extracting standardized compounds from freshly grown plants. "Red oil," syas Dr. Munroe Wall, director of the chemistry and life sciences division, "is a semipure concentrate, a dark reddish-brown in color, which can be obtained in large amounts and is representative of the whole plant. About 20 percent of red oil concentrates is delta 9-THC."

With these materials in hand, scientists are turning to basic studies in the pharmacology, toxicology and biochemistry of marijuana. First in animal studies and then in man, they are comparing the natural and synthetic compounds, examining the nature and effects of components in the natural material other than THC, and studying the fate of all of them in the body.

Dr. Wall and his co-workers, for example, plan long-term toxicity studies with red oil and will use radiolabeled THC in studies of metabolism and biological distribution.

Though studies are just beginning, some information is available. In one case, for instance, he finds that fatty acids are associated with delta 9-THC in some extracts. "This may not be typical of all natural marijuana," he says, "but it is true of material confiscated from Mexico." In a second Research Triangle project aimed at determining where the drug goes in the body and how it is handled, there is preliminary evidence identifying one of the metabolites or breakdown products of THC. "Now we want to see if this metabolite has biological activity or toxicity," he says.

Limited studies of THC in mice at the University of Chicago have yielded some data about its effects on brain chemicals, though, Dr. Richard A. Lovell asserts, "It is far too early to draw any conclusions from our work about marijuana's effects on behavior." THC clearly releases behavior-affecting catecholamines into the blood, but explanations of its metabolism in the brain await further experiments.

Other researchers also have preliminary data. Says Dr. Robert Schlant of Emory University in Atlanta, "There is reasonably good evidence that marijuana causes tachycardia (a rapid beating of the heart) but the mechanism is unknown." Now awaiting his supplies of THC, he expects to explore this phenomenon in animal studies by sewing gauges to the surface of dogs' hearts and then injecting THC to measure its effects.

Also awaiting supplies of THC is Dr. Eugene Boyd of the University of Rochester. He intends to conduct experiments with squirrel monkeys to trace the pathways THC follows to the sensory areas of the brain, in an effort to determine its effects on perception.

At the University of Mississippi, Dr. Henry Pace is beginning animal studies of marijuana's possible teratogenic effects—there is some evidence it crosses the placenta and enters the fetus—and in Massachusetts, at the Worcester Foundation for Experimental Biology, Dr. Sumner Burstein is using radiolabeled THC in rabbits to examine metabolism (SN: 9/27, p. 263). His work, like that of Dr. Wall, indicates a THC metabolite may be an active component.

When these and similar projects show results, it will be possible to describe marijuana with greater precision. At present, the most one can say about it with reasonable certainty is that it is not addictive in the way narcotics are—that is, it does not lead to physical dependence characterized by withdrawal symptoms—and that its possession by anyone other than an approved researcher is illegal.

Research into the chemistry and pharmacology of marijuana is not all designed to fill gaps in existing knowledge. Some scientists are directing their attention to possible therapeutic uses of synthetic drugs that re-

semble THC. Chemically, THC is not like any other known class of compounds. Unlike most compounds derived from plant extracts and active in the central nervous system, THC contains no nitrogen. According to pharmacologist Dr. Louis S. Harris of the University of North Carolina at Chapel Hill, classic drug-study tests are not always applicable to THC. And, he says, though its mode of action is not fully known, it exhibits "a mix of both stimulatory and depressant activity on the central nervous system."

In projects during the last few years, Arthur D. Little chemists have synthesized a number of new classes of compounds that are molecularly like THC but which, Dr. Pars stresses, are not marijuana.

"THC has not been carefully studied heretofore for its effects as a potential drug," he states. Nevertheless, compounds synthetically derived with its molecular structure in mind may be useful.

He lists three areas in which chemical and animal experiments are under way:

Analgesia: Some of the new compounds exhibit definite effects in some of the animal procedures designed to screen and evaluate pain-relieving drugs. These new agents appear to be similar to mild mood elevators as well as to analgesics, and this combination could make them unique and potentially useful drugs.

Blood pressure reduction: Some scientists postulate a form of hypertension that is related to environmental circumstances, unlike forms induced by organic or physiological changes. Among the new agents are some that appear to lower blood pressure by biological mechanisms at present unknown but possibly acting through the central nervous system.

Psychotherapeutics: Again, preliminary evidence indicates that certain of the new compounds, in various pharmacological profiling procedures, act as antidepressants and antianxiety drugs by a mechanism unlike those of available agents.

Considerable animal work remains to be done on these agents before it will be possible to define their therapeutic activity with precision, and it may be a matter of a few years before they can be candidates for the necessary initial trials in man.

The extent to which laws and attitudes to marijuana will be affected by the outcome of scientific investigation remains to be seen, but researchers contend that without the body of information they are accumulating there will be no possibility of reaching rational positions. The present situation, they agree, is founded simply on ignorance.

THE NEED FOR A FARM BILL

Mr. TALMADGE. Mr. President, on Monday of this week, it was my distinct pleasure to address the 32d annual meeting of the National Cotton Council in Atlanta.

Most of the major farm programs expire this year. I discussed in my address the need for a farm bill at the earliest possible opportunity, and particularly I called attention to what I believe is a great need for a modified program for cotton.

I ask unanimous consent that my remarks be printed in the RECORD.

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

REMARKS OF U.S. SENATOR HERMAN E. TALMADGE

It is indeed a pleasure to address the National Cotton Council's 32d annual meeting.

I am glad to see so many of my friends here. I want to take this opportunity to congratulate all of you, and the Council, for your splendid work. I am very much aware of your efforts to strengthen cotton and all of its related industries.

I know of your concern about breathing new life into this vital segment of the agricultural economy. It is actually more than that. It is a vital part of the entire American economy. I hope you know that I stand in your corner in this fight for the cotton industry. You know my record. But I am not content to stand on that.

I intend to keep doing all that I can to assist cotton . . . to guarantee the farmer his fair share of the national income . . . to protect the millions of people who depend upon cotton and its allied enterprises for their livelihood . . . and to put cotton back on the market place in its rightful position in our economy.

All of you, as farmers and businessmen, are concerned about the national economy and current government fiscal polices:

How it affects your crops.

How it affects your business operations.

And even how it affects your wife when she goes shopping for groceries.

The past year saw sweeping changes installed in the Internal Revenue Code. It was the most far-reaching legislation since the Code was adopted in 1913.

It required four months in the Senate Finance Committee of day and night work. The Conference Committee alone, on which I served, lasted five days from early in the morning till late at night. One session ran for 20 consecutive hours.

The net result of the bill is twofold.

One, it will levy a greater burden on those who have not paid their fair share of taxes.

Two, it will relieve people, particularly in the low and middle income brackets, who have been paying more than their fair share.

As you know, the bill went to the Conference Committee dressed like a Christmas tree. We took off the trimming. When the bill emerged, it was non-inflationary in virtually every respect.

This was, of course, the most significant legislation passed last year. I was also very glad that many of the budgetary requests were substantially reduced.

This action should materially alleviate inflation. It should ease some of the erosion of the purchasing power of our people.

Inflation is one of the greatest problems that faces the Congress and the nation today.

We started down the inflationary path in 1965. The situation has grown worse every year since.

These few simple statistics on the Consumer Price Index for the past five years show what has happened.

For 1965 it increased 2.0 per cent.

For 1966 it increased 3.3 per cent.

For 1967 it increased 3.1 per cent.

For 1968 it increased 4.7 per cent.

For 1969 it increased 6.1 per cent.

Behind these statistics is the fact that the public has been spending a lot of money. All it got in return was more and more inflation.

In our free enterprise economy, of course, each spending unit—government, business, or individual—determines whether to spend or save its money.

Thus, it might be argued that the combined action of these total units generates inflationary pressure. To a degree this is true.

However, it is federal government fiscal policy that largely determines how the other units act.

The federal government increases expenditures. Total personal income of the public is raised. Consumers have more money to spend. This leads to increased consumption demands. Business raises its spending to produce more goods and services.

All this produces inflation.

Let me reiterate. It is federal fiscal policy that determines to a large extent whether we have inflation.

In early 1961, we were in the midst of a mild recession. The government decided on an expansionary fiscal policy to stimulate economic growth.

It started spending more to promote consumer demand and business investment.

Moreover, in March 1964, Congress enacted the $12 billion across-the-board reduction in corporate and individual income taxes. As proposed by the Kennedy-Johnson Administration, the argument was—and I believe it was valid at that time—that the tax cut would stimulate economic growth and eventually generate increased federal revenue.

The employment rate declined from 7 to 4.5 percent. Plant utilization increased from 75 per cent to 88 per cent. There was more private investment in new plants and equipment. The deficit for fiscal 1965 amounted to only $1.6 billion. Prices continued to be relatively stable.

The economy seemed to be producing the results we wanted.

But . . . it was at this time that the United States became very deeply involved in the war in Vietnam.

From that year forward, the deficit increased annually. In 1968, it reached $25.2 billion.

I recall more than 2½ years ago warning that the line must be drawn. I said at that time that we could not continue to maintain federal spending at a high level and fight a $30-billion-a-year war—without inviting more inflation or more taxes, or a combination of both.

Unfortunately, my position was a minority one. There seem to be a great many members of Congress who believe that if it is good to spend some money, then it must be better to spend more.

The chickens have come home to roost. We have the surtax. We have rampant inflation.

If we are going to reduce inflation, proper action must begin with the federal government. We cannot go on pursuing a policy of business and spending as usual, and expect to halt inflation.

All non-essential spending must be curtailed. Those programs that can be postponed must be postponed. Programs that need to be drastically reduced, such as foreign aid and overseas military commitments, must be reduced. New programs that can wait, must wait.

Every possible effort must be made to balance the budget and keep it balanced.

Appropriations for fiscal 1970 have been cut by $5.6 billion below that requested by the President. We had a $3.2 billion surplus in fiscal 1969. We expect another surplus in fiscal 1970.

These are encouraging signs. I hope this trend will continue.

We have had a buy now—pay later policy for far too long. The American people are paying through the nose.

They are fed up. I am fed up.

Agriculture is one segment of the American economy that suffers the most . . . not just from the state of the economy, but also from an inadequate farm program.

I was born and raised on a farm. I live on a farm by choice at the present time. Of all the things I have done in my life, I have gotten more genuine pleasure and satisfaction out of farming . . . and received the least money . . . than anything I ever undertook.

That is a fair portrayal of what is taking place today on the American farm.

We have seen throughout the Southeast and all across the nation little farms being plowed under year after year for more than 30 years.

People with few skills and little education have flocked to the cities, hoping for a bet

ter life. There, many of them have become objects of welfare and created greater burdens and problems for the taxpayers.

I submit that it is far more expensive to try to subsidize refugee farmers and farm workers in metropolitan areas on welfare, than to use subsidies to try to keep farms in operation.

One of the greatest subsidies of all is the subsidy that rural areas contribute to urban areas.

First, it is a subsidy of brainpower. Most able young men and women in rural areas, when they finish high school or college, migrate to urban centers seeking better job opportunities.

Think of that cost. Rural counties educate those children, furnish police and health protection, and all the other services that local governments provide. Then when they reach maturity, off they go to the city.

So the first subsidy is the brain drain.

The second subsidy is this: The American farmer provides more food and fiber at less cost, in proportion to his income, than anywhere else on the face of the earth. Americans spend less of their take-home pay for food than citizens of any other major nation.

So the second subsidy are benefits enjoyed by the average American citizen at the expense of the average American farmer.

Most of the major farm programs expire this year. Time is of the essence. It is imperative the Congress pass a farm bill at the earliest possible opportunity.

I repeat. In all the nation, while every other sector of the economy increases its income, it is the American farmer who is kept standing still, or even pushed backward.

Farmers are living on capital heretofore accumulated. They are going more heavily into debt. They are paying more and getting less.

This is what faces the farmers today.

This could not be more true than in your own industry.

Cotton is at the cross roads. I am talking about all segments of the cotton industry: the cotton growers, the ginner, the crusher, the warehouse man, the merchant, the spinner, and the co-ops.

When we think of cotton, we need to go beyond the 1,300,000 people who live on cotton farms and the 5 million Americans who depend upon producing, marketing, and processing cotton and cotton seed for employment.

When we think of what is important to the cotton industry, we must also consider what is vital to citizens in every town, farm, and city throughout the nation.

Take, for example, the textile and apparel industry which employs 2½ million people.

Think of agribusiness . . . machinery bought by the producer . . . chemicals and fertilizers utilized by the producer . . . transportation . . . and all the millions that are employed in those industries, and in many, many more.

In terms of the nation's fiscal affairs, consider cotton's contribution to the balance of payments.

This is how we need to think of cotton.

If cotton means so much to untold millions of American citizens and to the national economy, it is not only an industry worth saving, it is worth making it grow.

The federal government has got to make up its mind whether it wants cotton as part of the national economy. If it does, steps must be taken, not only to save the industry but to promote it.

In fact, agriculture and cotton have been made a scapegoat and even the villian. We need to balance the budget. We must assist the needy and alleviate poverty. We must direct attention and resources to critical urban problems.

But in so doing, we do not have to emasculate the farmer.

We desperately need to arrive at a sound and reasonable solution to this issue, especially as it affects cotton.

Cotton costs more to produce than it brings in the market place.

Therefore, the federal government is responsible for designing a cotton program that will accomplish two principal goals:

1. Produce cotton in necessary quantities.
2. Compensate the farmer for the loss he incurs between the cost of production and the market place.

The present law offers the best mechanism for doing this, with certain modifications. The present law, however, contains the provision for one-price cotton which must be retained.

Present law was written and put into effect when there was a surplus. Today there is a shortage of cotton.

We can, and I believe we should, rewrite the law to meet the changed situation. Right now, one of the big problems in cotton is to produce enough to meet domestic and export needs. In order to do this, we will have to have a payments program that will encourage farmers to produce needed quantities.

The government has been doing this for wool and sugar for years. Both wool and sugar are crops that require payments to promote production. Cotton is now in the same situation.

I think we need to offer the cotton farmer a cost adjustment payment. This would cover the difference between what it costs to produce cotton and what the farmer sells it for.

The Department of Agriculture has the facilities to accurately determine the cost of cotton production in the various states, regions, and on various sized farms. Thus, the cost adjustment payment could be equitable and variable.

The cost adjustment payment would be substantially less than the total subsidy paid under existing legislation.

Secondly, I suggest a supplemental income adjustment payment for cotton. Large producers have the ability to adjust their own incomes. But small and medium-size farms need more than just a cost adjustment payment . . . if they are to be encouraged to grow cotton. To encourage them, we must supplement their income.

What will the program I have proposed do?

It will permit farmers to produce cotton if they want to.

It will encourage them to do so.

I believe it will result in a cotton crop of the size we need. At the same time, it will provide some measure of economic equity and assistance to those farmers who need it the most.

In closing, one thing further: government and business must form a stronger alliance in imaginative and creative research . . . to create new markets for cotton . . . to find more uses . . . and to reduce the cost of production.

Cotton has been put on the defensive because there has not been adequate research. It can get back on the offensive . . . if the federal government, the National Cotton Council, the Cotton Producers Institute and other interested parties combine to launch an all-out effort.

When we have a more practical and benefical cotton program, when we reap the returns of creative research, then we will have a growing and vibrant cotton industry, instead of one fighting always for its very existence.

I pledge my full support to these efforts.

THE GENOCIDE CONVENTION—ADMINISTRATION ENDORSEMENT NEEDED

Mr. PROXMIRE. Mr. President, yesterday I quoted these words from President John F. Kennedy's inaugural address: "Unwilling to witness or permit the slow undoing of those human rights to which this Nation has always been committed, and to which we are committed today at home and around the world." That was in 1961.

Eight years later, President Richard Nixon spoke these words in his first state of the Union message to the Congress:

> The moment has arrived to harness the vast energies and abundance of this land to the creation of a new American experience, an experience richer and deeper and more truly a reflection of the goodness and grace of the human spirit. . . . How we seize the opportunities I have described today will determine not only our future, but the future of peace and freedom in this world in the last third of this century. May God give us the wisdom, the strength, and, above all, the idealism to be worthy of that challenge, so that America can fulfill its destiny of being the world's best hope for liberty, for opportunity, progress and peace for all peoples.

Without action on the part of the administration or of the Senate, these words mean nothing.

Secretary of State William P. Rogers and Attorney General John N. Mitchell have agreed that the Senate should be asked to ratify the United Nations convention outlawing genocide. The Departments of State and Justice now are awaiting approval by President Nixon before forwarding a request for action to the Committee on Foreign Relations.

It is true that how we seize the opportunities will determine not only our future, but the future of peace and freedom in this world in the last third of this century. One of these opportunities is before us. I strongly urge President Nixon to give his support and the power and influence of his office in behalf of the ratification of the Genocide Convention. I am hopeful that with the endorsement of the administration, the Senate will ratify the Genocide Convention immediately.

ANTIPESTICIDE ACTION BY MICHIGAN FRUITGROWERS

Mr. HART. Mr. President, many words are spoken in Congress and elsewhere about the need to preserve the environment. I am happy to be able to share with Senators an example of effective action by a group of Michigan growers. The Grand Traverse Fruit Growers Council and the Leelanau County Horticultural Society recently supported the deletion of the persistent pesticides DDT, Dieldrin, endrin, Lindane, DDD, and BHC—benzenehexachloride—from recommendations and use on all fruit crops in their area in northwest Michigan.

These fruitgrowers decided on this course of action even though it will raise the cost of their produce. Clearly, here is a group of producers, who, as responsible citizens, have recognized their obligation to the world around them. I warmly applaud this action and ask unanimous consent that the statement issued by Robert L. Underwood and Edwin Mawby on behalf of these two groups at Traverse City, Mich., January 21, 1970, be printed in the RECORD.

There being no objection, the state-

ment was ordered to be printed in the RECORD, as follows:

FRUIT GROWERS URGE DISCONTINUED USE OF MANY PERSISTENT PESTICIDES IN NORTHWEST MICHIGAN

(By Robert L. Underwood and Edwin Mawby)

The Grand Traverse Fruit Grower's Council and the Leelanau County Horticultural Society have taken a position on the use of certain persistent pesticides.

Due to the continued development of newer chemicals which may, in time, be able to control the problem insects currently affecting fruit crops, growers support the deletion of the persistent pesticides DDT, Dieldrin, endrin, Lindane, DDD, and BHC (benbenehexachloride) from recommendations and use on all fruit crops in this area.

Fruit growers have decided on this course of action even though it will raise the cost of their produce. This group will also continue to support the development of safer, more effective ways of producing clean, wholesome and salable crops. These new efforts may be either in chemical control or in the development of more advanced biological techniques.

Fruit growers, always aware of the consumers needs for high quality insect-free fruit, but also concerned over any possible environmental pollution, are anxious to use less persistent methods even though this will result in higher costs.

The grower's long attachment to the natural beauty and environmental resources of this region and their interest as part of a concerned citizenry has prompted this action. Recognizing also the minor role played by pesticides in the total pollution picture the Council and Society urge rapid cleanup action on all sources of air, land and water pollution here and elsewhere.

This action is being taken through cooperation with the Michigan Department of Agriculture and Michigan State University School of Agriculture and Natural Resources.

TWENTY-SECOND ANNIVERSARY OF CEYLON'S INDEPENDENCE

Mr. MUSKIE. Mr. President, I wish to take note on the 22d anniversary of the independence of Ceylon. More than 2,000 years ago the Ceylonese had in their art, religion, and architecture produced works of the first magnitude for the record of human civilization. This rich cultural and religious consciousness is still central to the lives of Ceylonese today.

In the past 22 years, moreover, Ceylon's achievements in establishing its political institutions and furthering its economic growth deserve special commendation. Stable parliamentary rule, based upon universal adult suffrage, has existed for over a generation. Under the energetic leadership of Prime Minister Dudley Senanayake, Ceylon has also achieved noteworthy advances in its industrial and agricultural development.

On this day, therefore, I desire to wish for this historic and promising state a future of continued stability and accelerated economic progress.

THE 52D ANNIVERSARY OF LITHUANIAN INDEPENDENCE

Mr. SCOTT. Mr. President, this year, citizens of Baltic descent in the free world observe the 52d anniversary of the establishment of independence of the Baltic Republics. Lithuania, the largest and most populated of the three Baltic countries declared its independence on February 16, 1918. Estonia and Latvia made separate declarations later that year.

Today, I join the Lithuanian-Americans in my Commonwealth of Pennsylvania and those throughout the Nation, in their celebration. Unfortunately, the privilege is denied those who live in their native land now occupied by Communist Russia.

Lithuania is an ancient civilization, with roots reaching back to the second century. In modern times, it had thriving political, economic, and social record. But her life as a proud nation was snuffed out in 1940, along with the lives of many thousands of citizens, when the Soviet Union's troops took over.

The attempt to destroy national identity of Lithuania and the Baltic nations continues unceasingly. But Russians have learned that freedom is the most irrepressible and contagious of men's desires.

We in the free world, who have the liberty to speak, must give voice to those whose cries are muffled. We must not relax our pressure on the Soviet Union to make it live up to the charter and principles of the United Nations. We shall continue our support for the noble aspirations of all men and nations to freedom and self-determination.

WATER QUALITY STANDARDS

Mr. COOPER. Mr. President, today President Nixon issued an Executive order that will require all projects or installations owned by or leased to the Federal Government to be designed, operated, and maintained so as to conform with air and water quality standards—standards that have been and are being created pursuant to the Federal Water Pollution Act, as amended, and the Clean Air Act, as amended. This is another manifestation of the President's deep commitment to environmental quality most recently stated in his state of the Union message.

As ranking member of the Committee on Public Works, I have often heard the testimony of private citizens and corporations stating that they were being subjected to air and water control standards to which Federal agencies were exempt. This has been a difficult problem; one involving availability of appropriations, the Department of Defense activities, and is compounded by the complexity of coordination among Federal agencies. The President has taken a significant step in closing this obvious discrepancy in the achievement of air and water quality.

The Committee on Public Works is at present in conference on a bill, H.R. 4148 that, as it applies to water quality, will further strengthen the President's hand in dealing with this difficult problem of pollution abatement from Federal facilities. I applaud his efforts and ask unanimous consent that at the conclusion of these remarks the statement by the President announcing the Executive order and the text of the Executive order be inserted in the RECORD.

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

STATEMENT BY THE PRESIDENT

A wise man once told a friend, "What you do speaks so loudly, I cannot hear what you say." Because actions speak louder than words, I have today issued an executive order which will eliminate air and water pollution caused by Federal facilities.

Over the past several years, the Federal government has become one of the nation's worst polluters. Clearly, the Federal government cannot be an effective leader in the battle to save the environment so long as this intolerable situation continues.

The order I am issuing today will require that all projects or installations owned by or leased to the Federal government be designed, operated and maintained so as to conform with air and water quality standards—present and future—which are established under Federal legislation.

Specific performance requirements for each facility will be set by agency heads with the approval of the Secretary of Health, Education and Welfare in the case of air pollution controls and the Secretary of the Interior in the case of water pollution controls. All existing facilities must comply with this order by December 31, 1972. The order establishes a $359 million program for achieving this objective and prohibits the transfer of these funds to other programs. The order also requires that all facilities which are built in the future must be pollution free; budget requests for new facilities must include all necessary funds for pollution control.

Orders similar to this one have been issued in the past but their requirements have been ambiguously worded, poorly enforced, and generally ineffective: This order remedies the deficiencies of these earlier efforts: it sets precise standards, it provides for strict enforcement, and it guarantees that pollution control funds will not be diverted to other uses. The order also establishes procedures for operating pollution control facilities, handling materials which may cause air or water pollution, and eliminating pollution of ground waters.

The order I am issuing today represents another important step in our efforts to clean up the environment, one which takes advantage of the fact that Federal legislation already set quality standards for air and water. There are other Federal activities, of course, which affect the environment other important ways. I have asked the Environmental Quality Council to maintain surveillance over such activities and to recommend any further actions which may be needed.

Federal facilities are owned by all the people. This order will see to it that they are operated in the interests of all the people. As the Federal government considers and institutes further pollution abatement measures in the future, it can do so with the confidence that it has first moved to sweep its own doorstep clean.

PREVENTION, CONTROL, AND ABATEMENT OF AIR AND WATER POLLUTION AT FEDERAL FACILITIES

By virtue of the authority vested in me as President of the United States and in furtherance of the purpose and policy of the Clean Air Act, as amended (42 U.S.C. 1857), the Federal Water Pollution Control Act, as amended (33 U.S.C. 466), and the National Environmental Policy Act of 1969 (Public Law 91-190, approved January 1, 1970), it is ordered as follows:

SECTION 1. *Policy.* It is the intent of this order that the Federal Government in the design, operation, and maintenance of its facilities shall provide leadership in the nationwide effort to protect and enhance the quality of our air and water resources.

SEC. 2. *Definitions.* As used in this order:

(a) The term "respective Secretary" shall mean the Secretary of Health, Education, and Welfare in matters pertaining to air pollution control and the Secretary of the In-

terior in matters pertaining to water pollution control.

(b) The term "agencies" shall mean the departments, agencies, and establishments of the executive branch.

(c) The term "facilities" shall mean the buildings, installations, structures, public works, equipment, aircraft, vessels, and other vehicles and property, owned by or constructed or manufactured for the purpose of leasing to the Federal Government.

(d) The term "air and water quality standards" shall mean respectively the quality standards and related plans of implementation, including emission standards, adopted pursuant to the Clean Air Act, as amended, and the Federal Water Pollution Control Act, as amended, or as prescribed pursuant to section 4(b) of this order.

(e) The term "performance specifications" shall mean permissible limits of emissions, discharges, or other values applicable to a particular Federal facility that would, as a minimum, provide for conformance with air and water quality standards as defined herein.

(f) The term "United States" shall mean the fifty States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, and Guam.

SEC. 3. *Responsibilities.* (a) Heads of agencies shall, with regard to all facilities under their jurisdiction:

(1) Maintain review and surveillance to ensure that the standards set forth in section 4 of this order are met on a continuing basis.

(2) Direct particular attention to identifying potential air and water quality problems associated with the use and production of new materials and make provisions for their prevention and control.

(3) Consult with the respective Secretary concerning the best techniques and methods available for the protection and enhancement of air and water quality.

(4) Develop and publish procedures, within six months of the date of this order, to ensure that the facilities under their jurisdiction are in conformity with this order. In the preparation of such procedures there shall be timely and appropriate consultation with the respective Secretary.

(b) The respective Secretary shall provide leadership in implementing this order, including the provision of technical advice and assistance to the heads of agencies in connection with their duties and responsibilities under this order.

(c) The Council on Environmental Quality shall maintain continuing review of the implementation of this order and shall, from time to time, report to the President thereon.

SEC. 4. *Standards.* (a) Heads of agencies shall ensure that all facilities under their jurisdictions are designed, operated, and maintained so as to meet the following requirements:

(1) Facilities shall conform to air and water quality standards as defined in section 2(d) of this order. In those cases where no such air or water quality standards are in force for a particular geographical area, Federal facilities in that area shall conform to the standards established pursuant to subsection (b) of this section. Federal facilities shall also conform to the performance specifications provided for in this order.

(2) Actions shall be taken to avoid or minimize wastes created through the complete cycle of operations of each facility.

(3) The use of municipal or regional waste collection or disposal systems shall be the preferred method of disposal of wastes from Federal facilities. Whenever use of such a system is not feasible or appropriate, the heads of agencies concerned shall take necessary measures for the satisfactory disposal of such wastes, including:

(A) When appropriate, the installation and operation of their own waste treatment and disposal facilities in a manner consistent with this section.

(B) The provision of trained manpower, laboratory and other supporting facilities as appropriate to meet the requirements of this section.

(C) The establishment of requirements that operators of Federal pollution control facilities meet levels of proficiency consistent with the operator certification requirements of the State in which the facility is located. In the absence of such State requirements the respective Secretary may issue guidelines, pertaining to operator qualifications and performance, for the use of heads of agencies.

(4) The use, storage, and handling of all materials, including but not limited to, solid fuels, ashes, petroleum products, and other chemical and biological agents, shall be carried out so as to avoid or minimize the possibilities for water and air pollution. When appropriate, preventive measures shall be taken to entrap spillage or discharge or otherwise to prevent accidental pollution. Each agency, in consultation with the respective Secretary, shall establish appropriate emergency plans and procedures for dealing with accidental pollution.

(5) No waste shall be disposed of or discharged in such a manner as could result in the pollution of ground water which would endanger the health or welfare of the public.

(6) Discharges of radioactivity shall be in accordance with the applicable rules, regulations, or requirements of the Atomic Energy Commission and with the policies and guidance of the Federal Radiation Council as published in the Federal Register.

(b) In those cases where there are no air or water quality standards as defined in section 2(d) of this order in force for a particular geographic area or in those cases where more stringent requirements are deemed advisable for Federal facilities, the respective Secretary, in consultation with appropriate Federal, State, interstate, and local agencies, may issue regulations establishing air or water quality standards for the purpose of this order, including related schedules for implementation.

(c) The heads of agencies, in consultation with the respective Secretary, may from time to time identify facilities or uses thereof which are to be exempted, including temporary relief, from provisions of this order in the interest of national security or in extraordinary cases where it is in the national interest. Such exemptions shall be reviewed periodically by the respective Secretary and the heads of the agencies concerned. A report on exemptions granted shall be submitted to the Council on Environmental Quality periodically.

SEC. 5. *Procedures for abatement of air and water pollution at existing Federal facilities.* (a) Actions necessary to meet the requirements of subsections (a)(1) and (b) of section 4 of this order pertaining to air and water pollution at existing facilities are to be completed or under way no later than December 31, 1972. In cases where an enforcement conference called pursuant to law or air and water quality standards require earlier actions, the earlier date shall be applicable.

(b) In order to ensure full compliance with the requirements of section 5(a) and to facilitate budgeting for necessary corrective and preventive measures, heads of agencies shall present to the Director of the Bureau of the Budget by June 30, 1970, a plan to provide for such improvements as may be necessary to meet the required date. Subsequent revisions needed to keep any such plan up-to-date shall be promptly submitted to the Director of the Bureau of the Budget.

(c) Heads of agencies shall notify the respective Secretary as to the performance specifications proposed for each facility to meet the requirements of subsections ((a)(1) and (b)) of this order. Where the respective Secretary finds that such performance specifications are not adequate to meet such requirements, he shall consult with the agency head and the latter shall thereupon develop adequate performance specifications.

(d) As may be found necessary, heads of agencies may submit requests to the Director of the Bureau of the Budget for extensions of time for a project beyond the time specified in section 5(a). The Director, in consultation with the respective Secretary, may approve such request if the Director deems that such project is not technically feasible or immediately necessary to meet the requirements of subsections 4 (a) and (b). Full justification as to the extraordinary circumstances necessitating any such extension shall be required.

(e) Heads of agencies shall not use for any other purpose any of the amounts appropriated and apportioned for corrective and preventive measures necessary to meet the requirements of subsection (a) for the fiscal year ending June 30, 1971, and for any subsequent fiscal year.

SEC. 6. *Procedures for new Federal facilities.* (a) Heads of agencies shall ensure that the requirements of section 4 of this order are considered at the earliest possible stage of planning for new facilities.

(b) A request for funds to defray the cost of designing and constructing new facilities in the United States shall be included in the annual budget estimates of an agency only if such request includes funds to defray the costs of such measures as may be necessary to assure that the new facility will meet the requirements of section 4 of this order.

(c) Heads of agencies shall notify the respective Secretary as to the performance specifications proposed for each facility when action is necessary to meet the requirements of subsections 4(a)(1) and (b) of this order. Where the respective Secretary finds that such performance specifications are not adequate to meet such requirements he shall consult with the agency head and the latter shall thereupon develop adequate performance specifications.

(d) Heads of agencies shall give due consideration to the quality of air and water resources when facilities are constructed or operated outside the United States.

SEC. 7. *Procedures for Federal water resources projects.* (a) All water resources projects of the Departments of Agriculture, the Interior, and the Army, the Tennessee Valley Authority, and the United States Section of the International Boundary and Water Commission shall be consistent with the requirements of section 4 of this order. In addition, all such projects shall be presented for the consideration of the Secretary of the Interior at the earliest feasible stage if they involve proposals or recommendations with respect to the authorization or construction of any Federal water resources project in the United States. The Secretary of the Interior shall review plans and supporting data for all such projects relating to water quality, and shall prepare a report to the head of the responsible agency describing the potential impact of the project on water quality, including recommendations concerning any changes or other measures with respect thereto which he considers to be necessary in connection with the design, construction, and operation of the project.

(b) The report of the Secretary of the Interior shall accompany at the earliest practicable stage any report proposing authorization or construction, or a request for funding, of such a water resource project. In any case in which the Secretary of the Interior fails to submit a report within 90 days after receipt of project plans, the head of the agency concerned may propose authorization, construction, or funding of the project without such an accompanying report. In such

a case, the head of the agency concerned shall explicitly state in his request or report concerning the project that the Secretary of the Interior has not reported on the potential impact of the project on water quality.

SEC. 8. *Saving provisions.* Except to the extent that they are inconsistent with this order, all outstanding rules, regulations, orders, delegations, or other forms of administrative action issued, made, or otherwise taken under the orders superseded by section 9 hereof or relating to the subject of this order shall remain in full force and effect until amended, modified, or terminated by proper authority.

SEC. 9. *Orders superseded.* Executive Order No. 11282 of May 26, 1966, and Executive Order No. 11288 of July 2, 1966, are hereby superseded.

RICHARD NIXON.

THE WHITE HOUSE, *February 4, 1970.*

Mr. BOGGS. Mr. President, I echo the words of the distinguished Senator from Kentucky (Mr. COOPER) and commend President Nixon on his issuance of the Executive order on prevention, control, and abatement of air and water pollution at Federal facilities.

This order represents a necessary step forward. It has long been my belief that the Federal Government can only provide leadership in the enhancement of the environment when the Government first cleans up its own house. The order also establishes a $359 million fund to achieve the objective of pollution control from Federal facilities.

As the President states:

Over the past several years, the Federal Government has become one of the nation's worst polluters. Clearly, the Federal Government can not be an effective leader in the battle to save the environment so long as this intolerable situation continues.

This Executive order charters the way to assure that the Federal Government will meet its responsibilities in the vital field of pollution control. I commend the President for making this decision.

INDIAN WATER RIGHTS

Mr. KENNEDY. Mr. President, last month the Joint Economic Committee released a compendium of papers on "Economic Development of Indian Communities." The compendium contains numerous useful and challenging, as well as informative, studies on many aspects of economic development: tax incentives, Federal programs, employment and income date, trust funds, and water rights, to name a few. This compendium should become a standard reference work in the office of every Senator and Congressman—indeed every citizen—interested in Indian affairs.

The newspaper articles on the compendium, appearing on Sunday, all focus on one particular and most important paper: William H. Veeder's "Federal Encroachment on Indian Water Rights and the Impairment of Reservation Development." I ask unanimous consent that the articles, appearing in the Washington Post, the Washington Star, and the New York Times, be printed at this point in the RECORD.

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

[From the New York Times, Jan. 18, 1970]

FEDERAL EXPERT SAYS BUREAUCRATIC CONFLICTS IN CABINET AGENCIES ARE DEPRIVING INDIANS OF WATER RIGHTS

(By Neil Sheehan)

WASHINGTON, January 17.—An Interior Department expert on Indian water resources has accused his department and the Justice Department of depriving Indians of the water rights the departments are pledged to protect.

William H. Veeder, the water resources specialist of the Bureau of Indian Affairs, charged that the historic encroachment of the white man on the Indian's water resources was continuing because of "outrageous" conflicts of interest within the two departments.

Mr. Veeder made the accusations in a laboriously documented report included in a two-volume series on the economic plight of the American Indian. The series was published today by the Senate-House Joint Subcommittee on Economy in Government, headed by Senator William Proxmire, Democrat of Wisconsin.

In effect, Mr. Veeder wrote, the Government has stolen the water rights from the Indians, causing irreparable damage" to the American Indians in the western United States by severely hampering the economic development of the reservations."

Water resources are a prerequisite for economic development of the majority of the Indian reservations because they are situated in the arid and semi-arid regions of the West and Southwest.

TWO RESPONSIBILITIES

The basic conflict, Mr. Veeder explained, arises from the fact that, while the Interior and Justice Departments are required by law to safeguard Indian property rights in land and water, they are also responsible for administering the nation's public lands and streams for the benefit fo the white majority.

Although Indian interests are supposed to be treated as separate and private property, they are in practice handled as public land and water resources, he said.

Mr. Veeder recommended the establishment by Congress of an independent agency, divorced from the Interior and Justice Departments, to protect and safeguard Indian land and water rights in order to rectify what he called "the unconscionable course of conduct" by the Federal Government toward the Indians.

Unless an independent agency is created, he warned, "economic development of the American Indian reservations in the western United States will continue to be prevented or severely curtailed."

As an example of the present problem, Mr. Veeder wrote, the Bureau of Indian Affairs, charged with protecting the Indians, is outweighed in the bureaucratic infighting by other interior agencies, such as the Bureau of Reclamation, whose objective is to expropriate Indian water resources for the white man's use. The Bureau of Reclamation is responsible for irrigation and hydroelectric development.

These agencies, oriented to the white man, are invariably backed by "powerful political forces"—the Congressmen and Governors of the Western states and the lobbyists for ranching and hydroelectric interests, Mr. Veeder continued.

Mr. Veeder is considered probably the foremost expert within the Government on the complex subject of the Indian's rights to use the water of rivers, streams and lakes that lie within or that directly border on their reservations. His agency, the Bureau of Indian Affairs, is an arm of the Interior Department.

Speaking of the conflict within the Interior Department, Mr. Veeder wrote.

"Practical politics—the life-blood of the Bureau of Reclamation—are daily confronted with good conscience and the need to fulfill the trust and responsibility to the Indians. Erosion of Indian title to rights to the use of water is the consequence."

Before joining the Bureau on Indian Affairs in 1965, Mr. Veeder said in a telephone interview, he worked for 20 years in the Department of Justice as an attorney dealing mainly with Indian land and water rights.

He said that a situation identical to that in the Interior Department existed in the Justice Department, where, he said, attorneys who supposedly take court action to protect Indian rights to land and water are overwhelmed by others whose objective is to take these away from white interests.

The over-all result, he wrote, is that despite pious statements to the contrary, the main thrust of Federal policy remains, as it has been historically, the gradual and steady expropriation of Indian land and water resources for the use of * * *.

The amount of land held by Indian reservations shrunk from roughly 130 million acres in 1890 to 50 million acres as of 1968.

Mr. Veeder cited as the most glaring current example of this policy the progressive destruction by the Bureau of Reclamation of Pyramid Lake.

The lake, a remnant of a prehistoric inland sea 30 miles south of Reno, Nev., lies entirely within the reservation of the Northern Paiutes.

"The history of Pyramid Lake is a reflection of the callous disregard of Indian property, their rights and interest," he wrote, adding: "More over, it is a prime example of the disdain of unchecked political power exercised against a woefully weak minority deprived of any means of preserving the most elemental features of human dignity."

Pyramid Lake is larger than the well-known Lake Tahoe, but its level has declined 82 feet since 1902, when Congress authorized the Bureau of Reclamation to drain off water from the Truckee River, the lake's sole source, for irrigation of the Newlands Reclamation Project. Trout, once the Paiutes' chief means of livelihood, can no longer spawn.

Interior's Bureau of Outdoor Recreation has estimated that if Pyramid Lake were developed for recreation it could bring in an income of $202.3 million by the turn of the century and lift the Paiutes from dire poverty into prosperity.

Instead, Mr. Veeder wrote, the Bureau of Reclamation is destroying the lake by preparing to drain off more water from the Truckee for the new Washoe Reclamation Project.

[From the Washington (D.C.) Post, Jan. 18, 1970]

INDIAN BUREAU LAWYER SAYS TRIBES ARE POORLY REPRESENTED

(By William Greider)

Government lawyers in the Justice and Interior Departments are like a law firm that serves clients on both sides of a case when they represent Indian tribes in legal fights over water rights.

The accusation was made yesterday by William H. Veeder, a lawyer who works in Interior's Bureau of Indian Affairs. Veeder, a water conservation specialist, called the situation an "irreconcilable conflict which could never prevail in a private law office."

COMPENDIUM PUBLISHED

The result, Veeder asserted, is an "uneven struggle" that has cost Indian tribes valuable water rights needed for development in arid western states.

His charge is contained in a compendium of papers by experts on Indian economic development, published yesterday by the Joint Economic Committee on Congress. The committee noted that Veeder's views are his own, not the Interior Department's.

Veeder said that Interior's Solicitors Office and the Justice Department's Lands Division are caught in a conflict because they represent government agencies such as the Bureau of Reclamation in litigation affecting Indian rights. The division of Justice, while representing Indians in water cases, also represents the United States government against the Indians in cases before the Indian Claims Commission and the U.S. Court of Claims.

Veeder's contention is that government attorneys have failed to pursue untested legal claims of the western tribes that would yield substantial water rights on western rivers. He urged that a separate agency be created to handle the job of representing the tribes and the responsibility taken away from Justice and Interior lawyers.

The Joint Economic Committee assembled papers on subjects ranging from job-training programs to development of natural resources as a guide to future policy for development of Indian reservations. But the committee has no plans to proceed with hearings on the problems.

STAFF MEMBER DISMISSED

Frazier Kellogg, the staff member who compiled the study, has been dismissed and his introductory paper for the two volumes was not printed with the other reports.

Kellogg's paper, like many of the others, attributed the lack of economic development for Indians to competing economic interests that are non-Indian and exploit the reservations' resources.

The compendium includes proposals for future economic growth on Indian reservations and some harsh comments on the existing programs. A study by economist Alan L. Sorkin noted that in 10 years of government efforts to bring industry to reservations fewer than 4,000 new jobs have been created for Indians—only 3 per cent of the labor force on reservations where unemployment averages nearly 40 per cent.

On the issue of defending Indian legal rights, Veeder noted that the Interior Solicitor's Office represents the Bureau of Indian Affairs, which supervises the Indian lands held in trust, the Reclamation Bureau, which develops dams and irrigation projects, the Bureau of Land Management, which oversees the vast federal holdings, and other Interior bureaus that sometimes have conflicting objectives.

In the competing roles of the Justice Department lawyers, Veeder asserted, department lawyers "have actually been engaged in preparing to defend against claims asserted by the Indians simultaneously with another group of attorneys in the same division preparing to try suits to protect those Indian rights. As a consequence, the attorneys acting on behalf of the fiduciary are confronted in the same office with the attorneys defending against the claims, thus presenting the irreconcilable conflict which could never prevail in a private law office."

CONTROVERSY IN NEVADA

The BIA official cited more than a half-dozen recent cases in which he said the Indian position suffered from the conflicting roles.

The most celebrated is the Pyramid Lake controversy in Nevada in which reclamation officials hope to divert more water from the Truckee River for irrigation, thus threatening the future of the lake, the only source of income for the Paiute tribe there.

In the long controversy over the Truckee reclamation project, Veeder said, Interior lawyers have failed to assert the tribe's historic legal rights, which would give it priority over other proposed uses for the water.

"Practical politics, the life-blood of the Bureau of Reclamation, is daily confronted with good conscience and the need to fulfill the trust responsibility to the Indians," Veeder wrote. "Erosion of Indian title to rights to the use of water is the consequence."

[From the Washington (D.C.) Sunday Star, Jan. 18, 1970]

UNITED STATES VIOLATING INDIAN'S RIGHTS, FEDERAL SPECIALIST CHARGES

(By Robert Walters)

An Interior Department conservation specialist has charged that "conflicting interests, responsibilities and obligations" within both his agency and the Justice Department have resulted in the illegal denial of Supreme Court-guaranteed water rights to many Indian tribes.

Because of those conflicts, the Indians have suffered "irreparable damage," said William H. Veeder. He specifically cited "malnutrition, high infant mortality rate, reduced life expectancy, disease and the shattering loss of human dignity."

Veeder, a water conservation and utilization specialist with Interior's Bureau of Indian Affairs, formerly worked in the Justice Department's Lands Division and is regarded as one of the government's foremost authorities in the highly specialized field of water rights.

His views were published in a compendium of papers on Indian problems, entitled "Toward Economic Development for Native American Communities." The two-volume collection of 31 papers was released yesterday by the House-Senate Joint Economic Committee.

CLEARED BY DEPARTMENT

Veeder's paper on "Federal Encroachment on Indian Water Rights and the Impairment of Reservation Development" represents a rare instance of a federal official publicly criticizing—and challenging the legality of—past actions taken by two government departments.

Although the paper includes a footnote saying that the analysis and conclusions "do not necessarily represent the position of the Bureau of Indian Affairs or the Department of the Interior," it was submitted to and cleared by department officials.

Those officials later sought to have the Veeder paper returned by the congressional committee and replaced with a less forceful document prior to publication of the compendium, but their request was turned down by members of the committee staff.

Experts in the field of Indian affairs in both the legislative and executive branches of government regard Veeder's lengthy analysis, buttressed by more than 100 legal citations, as a major new contribution to the literature on the problems facing the country's Indians.

FORT BELKNAP CASE

Veeder's analysis relies heavily on a case decided in favor of the Indians by the U.S. Court of Appeals for the 9th Circuit in 1906 and by the Supreme Court in 1907. It involved a water-rights dispute on the Fort Belknap Indian Reservation in Montana.

An 1888 agreement limited the Indians to a small semiarid tract which could be made habitable only through irrigation, using water from the Milk River, whose center was the reservation's north boundary.

In 1889, non-Indians constructed a series of dams and other water-diversion projects on the river, impairing the Indians' irrigation facilities. Both federal courts held that the Indians had made the initial land grant to the United States, not the other way around.

The two courts also ruled that the Indians had a clear right to utilize water from the river to make their land habitable, even though water rights were not specifically defined in the land transfer agreements.

RIGHTS BEING ERODED

But despite that ruling and numerous later court decisions reaffirming the rights of Indians living in arid and semiarid areas of the West to access to water to make their land habitable, the Interior and Justice Departments have allowed "abridgement or loss of Indian rights to the use of water," said Veeder.

"As a consequence of the actual practice, as distinguished from legal niceties, the American Indians' rights to water are being rapidly eroded away," Veeder added.

He said that without access to the needed water, "the reservations are virtually uninhabitable, the soil remains untilled, the minerals remain in place and poverty is pervasive."

The conflict within the Interior Department, said Veeder, stems from the fact that "the chief competitor with the Indians for that insufficient supply" of water is Interior's Bureau of Reclamation.

SAME LEGAL COUNSEL

"Politically oriented and powerfully backed, the Bureau of Reclamation has taken and continues to take from the American Indians throughout western United States rights to the use of water for the projects which it builds," Veeder added.

Both the Bureau of Indian Affairs and the Bureau of Reclamation are represented by the same legal counsel—the Interior Department's solicitor's office. According to Veeder, a conflict between the two usually results in a victory for the Reclamation officials because of their far greater political influence.

"In their struggle to protect the last vestige of their heritage in the streams of western United States states, the American Indians are confronted with a coalescence of forces far beyond the control of those who are charged with the legal responsibilities for protecting their interests," said Veeder.

"It is not an overstatement to declare that the (Interior Department) solicitor's representatives are frequently professional victims of a system ill-suited to protect much less advocate, the Indian interests," he added.

CONFLICTS CITED

The Justice Department's Lands Division faces conflicts which are "similar—sometimes more severe," Veeder said. He described the following situation:

"Charged with the obligation of prosecuting suits to protect and have Indian rights declared, that agency is likewise charged with the obligation of representing the United States when Indians seek restitution for seizure of their rights by other agencies of the government.

"Thus, attorneys in the Department of Justice have acutally been engaged in preparing to defend against claims asserted by the Indians simultaneously with another group of attorneys in the same division preparing to try suits to defend those rights . . . thus presenting an irreconcilable conflict which could never prevail in a private law office."

The best known of the currently pending water rights disputes involves Pyramid Lake, on the California-Nevada border, but there are similar legal battles in the Colorado and Missouri River basins and in the Northwest and Southwest.

Mr. KENNEDY. Mr. President, Mr. Veeder and others have written about Indian rights to the use of water before, usually in law reviews with limited and somewhat local circulation. But this is the first time that the conflicts of interest within the Government have been so thoroughly documented and the wide range of issues so completely cataloged. As Mr. Veeder observes, the Indians are not protected in relation to the interests represented by the Bureaus of Land Management, Outdoor Recreation, and Reclamation. Yet, they must rely on the same lawyers, in the Interior Department's Solicitor's Office, as the other Bureaus representing competing interests. And so far the Pyramid Lake

Paiutes, Crow, Yakima, Pala Rincon, Navajo, Fort Mohave, Pueblo, Fort Berthold, and other reservations have learned the implications of this situation the hard way.

Water is crucial to economic development of Indian communities, who find themselves in the context of strong competing interests for scarce water. As Mr. Veeder's paper documents, they have usually turned out to be the loser. Yet the Interior Department has the sacred trust responsibility to insure that this does not happen.

A number of proposals advanced throughout the years would elevate the Commissioner of Indian Affairs to the Assistant Secretary level or would remove the Indian Bureau from the Interior Department completely. In light of the final reports of the Indian Education Subcommittee, published last November and Mr. Veeder's paper, these proposals must be faced squarely. But even without organic changes in the Federal Indian structure, procedures should be developed immediately to provide greater protection of Indian rights and to assure Indian knowledge of and participation in governmental decisionmaking affecting them.

The Joint Economic Committee compendium shows clearly the challenge that Congress, the Executive, and the private sector face in meshing economic progress in Indian communities with self-determination. This is no mean challenge, and it will take more than good intentions to meet it.

HOUSING NEEDS AND TIMBER SUPPLY

Mr. HATFIELD. Mr. President, it has been my privilege on several occasions to discuss the problems of Oregon's timber industry on this floor. I know that my colleagues have expressed their concern about meeting our Nation's housing goals. My purpose today is to again reemphasize the relationship between our Nation's timber supply and our Nation's housing needs.

I am pleased to note an article in the current issue of the New Republic, dated February 7, 1970, which describes in some detail the need for a better job of managing our national forests. Mr. Rogers, the author of the article, outlines the financial needs to salvage the down and diseased timber in our existing forests which would in itself almost double our present cut with no damage to our timber stocks. He, indeed, pinpoints the acute need for enactment of the National Forest Timber Conservation and Management Act which will provide the Forest Service with the funds needed to do an adequate job of managing. We are only halfway meeting our stated housing goals. Congress and the administration can do no less than to make it possible and practical for each and every citizen to be decently housed. Mr. President, I ask unanimous consent that Mr. Roger's article be printed in the RECORD.

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

TIMBER

A bill now in Congress called the Timber Supply Act has created a flurry of concern in conservation circles over exploitation ("Raiding the Forests," Michael McClosky, *NR*, Dec. 13, 1969). In my judgment what we ought to be more concerned about is the conservatism of our forest policies. In northern California there are peaks, between the inland highway and the coast 150 miles west, that are over 10,000 feet high and that almost no one has ever seen. In Oregon there is a stretch of timber between the McKenzie highway and Willamette Pass that is about 60 miles long and some 30 to 40 miles wide without a sign of a road. If we could get into these areas, we could have small crews with light equipment salvage the dead and down timber and keep alive lumber mills that otherwise will have to shut down. But Mr. McCloskey and the Sierra Club make any such venture sound sinful.

Mr. McCloskey says the premises of increased cutting of timber are faulty on every count. Just how does he spirit away the better than 100 billion feet of dead and down timber that will be lost if an extended road system is delayed? How does he spirit away the maybe 10 or 15 billion feet lost each year to natural disasters? In 1958, Senator Morse fought to get roads into the Mt. St. Helens area in Oregon, to no avail. Some three billion feet of old growth silver fir were killed by bugs and rotted away as a result.

Many West Coast communities lack the money to activate more intensive forest management. The Timber Supply Act is designed to provide those additional funds, from timber sales of National Forests.

For many years the men in the Forest Service have had to do things they did not want to do, because of limited funding. Only by a sort of quasi-legal skullduggery have they managed as well as they have. The Forest Service has been selling timber partly on a barter basis; it has given the logger the chance to build a bridge, or a few miles of logging road as part payment for timber, with the rest in cash. This may mean little to people far from forests, but only by such means have the timber managers been able to push logging roads into the high ridges; timber of low value has been logged, instead of the much more valuable timber from the bottomlands. We still have some fine stands of timber in the western mountains, much of it now unreachable, and it is this high quality timber that can pay the high wage scales needed to keep the timber industry alive. Yet this sort of bartering has its limits. To the best of my knowledge the Forest Service has done all that it can with such arrangements, and we are losing mills right along.

The problems of the mills and the National Forests are many, but too few dollars for timber management is at the heart of most of them. With larger funds available, through regulated sale of timber from the national forests, the Forest Service could in short order put in a comprehensive network of logging roads, opening up to salvage logging many billions of feet of dead and down timber in the western mountains. There are many sections of back country with no roads, particularly in California, Oregon, Washington and Idaho. I am told that at the rate we are now going, it will be more than 40 years before a complete network of roads will be built, and that in Oregon alone there are some 40 billion feet of dead and down timber that will be lost if road construction waits on the normal pattern of development. This timber is old growth largely; it is of far more value than a similar stand of live young timber.

Since most of the timber in the western mountains is in very heavy stands, new roads will be paid for largely by the sale of timber on the right of way alone. In the event of natural disasters (wind storms, fires or disease), the timber lost could be rapidly salvaged.

In Oregon again, some ten million acres of national forests have new stands of second growth, some of which can be thinned of larger trees, thus permitting smaller, otherwise stunted trees to spring to life. It is estimated that as much timber can be obtained from such cuttings (that is from dead and down trees, disasters and thinnings) as is being harvested in all of Oregon at present. It would increase the present cut of some eight billion feet to 16 billion, without a tree being planted and with no damage to timber stocks.

This program is entirely separate from replanting millions of acres of old, burned areas which are not coming back to timber. We could do that too. There are a great many jobless young men in our cities, yet there is work to be done. In the Job Corps camps, some few thousand have been doing it, in forestry camps. But that program has now been cut back. There is an almost unlimited need for the work such men can do—and not just in the West. The main source of growth potential is in the hundred million acres of forest land east of the Mississippi and north of the Ohio.

The 1958 Timber Resource Review of the Forest Service forecast a timber need in the year 2000 of twice that being cut in the 1950s. The report saw an increasing growth over cut until the year 1985, and then a marked increase of cut over growth for the future—unless policies are radically changed.

Wilderness lovers are alarmed at the thought of an invasion by bulldozers. The alarm seems to be unwarranted. Many areas of wilderness that are now totally inaccessible can be made usable by extending our roads. We have in the Columbia gorge area, miles of high cliffs and peaks which no one is able to get near. They are set aside as recreational lands, partly for the highly unusual scenery, and partly because the roughness of the scenic country does not lend itself to commercial forestry. What few trails were created by the CCC boys have long since grown over. It is an old wilderness that can be brought to people only by a timber access road system behind the gorge. If we do no more than we are doing, we shall go on losing that timber that can't be reached, while at the same time lumber prices will reach new and unhealthy heights, limiting the building of homes that we need and running up welfare costs that we don't need.

CARSWELL'S WARTIME FRIEND SPEAKS OUT IN HIS BEHALF

Mr. GURNEY. Mr. President, Representative BRADFORD MORSE, of Massachusetts, brought to my attention today a letter he received from one of his constituents concerning Judge Carswell. The letterwriter, Mr. Allen L. Levine of Lowell, Mass., served with Judge Carswell in the Pacific during World War II aboard the U.S.S. *Baltimore*. Carswell and Levine served together for more than 2 years and knew one another at close hand in combat situations and at times of leisure. Here is how Mr. Levine describes Carswell's racial attitude:

> During all that time, I never heard George—Carswell—utter any point of view that could be described as racist or illiberal. His attitude was a truly humanistic and liberal one in that he reacted to people as individuals and not as stereotypes.

I think this is a very significant and valuable insight into Judge Carswell's personal philosophy. Mr. Levine speaks

as a man who knew Carswell in times of stress, in times of relaxation and respite from combat. The two men were bunkmates on the cruiser for a year and in Levine's words they talked and shared their views on "everything under the sun." This makes Mr. Levine's assessment all the more creditable. I have the permission of Representative MORSE and Mr. Allen Levine to make Mr. Levine's letter public and I ask unanimous consent that it be printed in the RECORD.

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

JANUARY 24, 1970.

Hon. F. BRADFORD MORSE,
House of Representatives,
Washington, D.C.

DEAR BRAD: Although I realize that you will not be called upon to vote on the confirmation of Judge G. Harrold Carswell, I am writing to you to share information which may be of some interest to those who will be required to decide how to vote on the matter.

You have no doubt read that Judge Carswell served in the United States Navy during World War II. He and I reported for duty aboard the U.S.S. *Baltimore* early in 1943 at the Fore River Works in Quincy, Mass. We were both newly-commissioned ensigns, and we were put in the junior officers bunkroom together with about twenty other civilians in uniform.

The *Baltimore* shook down in the Caribbean, then went to the Pacific and operated as part of the fast carrier striking force screen, participating in all the invasions of the Central Pacific campaign—Gilberts, Marshalls, Saipan, Guam, Iwo, Philippines, Okinawa—interrupted only by a return to the West Coast in August, 1944 to pick up President Roosevelt and take him to Pearl Harbor to meet with General MacArthur and Admiral Nimitz.

George Carswell and I were aboard all during that period, until he was detached in February, 1945, to attend staff school, and I was aboard until May, 1945, when I was ordered to Japanese Language School. We were promoted to junior grade lieutenants and moved out of the J.O. bunkroom and into a cabin for two officers, where we were roommates for about a year. We had a chance to learn each other's views during a period when we were both under a good deal of combat-generated emotional pressure. I think that under such circumstances a lot of basic human values become evident, and during that year we talked about everything under the sun—education, politics, philosophy, sex, history, movies and anything else that came to mind.

During all that time, I never heard George utter any point of view that could be described as racist or illiberal. His attitude was a truly humanistic and liberal one in that he reacted to people as individuals and not as stereotypes. This was especially apparent in his behavior toward black sailors. At that time Navy policy was segregationist, and black sailors could only serve in the wardroom mess as steward's mates. There were other officers of Southern origin who were outspokenly antagonistic to the steward's mates for racial reasons, but George Carswell was always pleasant and considerate to all. Our Gunnery Officer, Comdr. Truesdell, felt that the steward's mates ought to be given the opportunity to serve in a more meaningful capacity, and saw to it that their station at general quarters was to man a battery of 20 millimeter anti-aircraft guns. While other officers questioned the desirability of this, George Carswell was enthusiastically in favor of it.

I remember that once during a shore excursion in the forward area George and I together encountered for the first time a black petty officer, evidence that at long last the Navy was beginning to move away from its segregationist policies, and George could see the wisdom of that too.

In view of the attacks on Judge Carswell's legal philosophy by civil libertarians, and especially in view of the pro-segregationist views expressed in his campaign for election to the state house of representatives from a rural constituency in Georgia in 1948, which he recently has firmly and, I am convinced, sincerely repudiated, I am sure that members of the Senate must be subject to pressure to vote against his confirmation to the Supreme Court. At the same time I am sure that the Administration would welcome an expression of regularity and support by an affirmative vote.

My own position is this: I have no axe to grind for or against whatever position Senators may take, but I hope that you may find useful the opinion of a concerned constituent who happens to have had some extended personal contact with Judge Carswell. My opinion is that Judge Carswell was not and is not a racist or a bigot. He is a warm, friendly, outgoing person, extremely intelligent, and about as liberal as the Southern milieu into which he was born could produce at that time. I have no fear of his subverting past actions and decisions of the Court should his appointment be confirmed. While I do not think that his elevation to the Court would warrant the probability of his development into a liberal of the Hugo Black variety, neither do I believe that we should fear the emergence of a modern Roger B. Taney. Out of personal knowledge and affection for George Carswell as I knew him during the war, I am happy to be able to give some justification for a favorable consideration of his appointment.

Sincerely yours,

ALLAN L. LEVINE,
Executive Vice President, Towers Motor Parts Corp.
LOWELL, MASS.

NEWS MEDIA AND VIOLENCE

Mr. HRUSKA. Mr. President, over the past several months we have heard a great deal about the relationship and influence of the news media on public attitudes. The Vice President explored the matter in two speeches last year, and it has been the subject of a considerable debate and soul searching in the media itself. The awesome power of the projected picture and the printed word in a society with almost total access to the media is properly a subject of concern for all of us.

A significant contribution to this important dialog was made by Dr. W. Walter Menninger, of the Menninger Foundation in Topeka, Kans., speaking to the members of the National Press Club in Washington this afternoon. Dr. Menninger's special concern in that address was with the news media and violence, a subject he is uniquely qualified to discuss.

He was the only psychiatrist on the 13-member National Commission on the Causes and Prevention of Violence, where I was honored to serve with him. The Commission's findings were reported in December 1969.

In addition to serving as a staff psychiatrist at the Menninger Foundation, of which he is a cofounder, the doctor is a consultant to the Topeka Police Department and a lecturer in the department of preventive psychiatry.

He served as the chief medical officer and psychiatrist at the Federal Reformatory in El Reno, Okla., and in 1965 was a member of the advisory panel on correctional programs of the Office of Law Enforcement Assistance. He now serves on the Governor's council on the Kansas penal system, is a trustee for Volunteers in Probation, Inc., and is senior psychiatric consultant to the Peace Corps. In 1967 he was appointed to a 4-year term on the National Advisory Health Council, and has served as a consultant to a wide variety of governmental and other activities.

Dr. Menninger has contributed extensively to the professional literature on violence and is widely sought for public addresses.

This brief résumé of Dr. Menninger's qualifications describes only a part of his accomplishments and responsibilities, but it is sufficient to establish his authority in the field.

Mr. President, Dr. Menninger's thoughtful and incisive comments on the relationships between violence and the media deserve the widest possible audience. I ask unanimous consent to have printed in the RECORD the text of his remarks.

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

REMARKS OF DR. W. WALTER MENNINGER

It is indeed a special honor and pleasure to be invited to address the National Press Club. I come before you with the awareness that the news media has been the target of a good deal of criticism of late, some intentional, some unintentional.

Just last week, a public relations officer of an urban police force, addressing a group on the increase in crime, stated: "It is important to realize that 75 per cent of the crime in this country is caused by reporters. . . . I mean, repeaters!"

Then there's the facetious observation attributed to a politician who complained that, "the press is unfair; it's quoting everything I say!" It might be reasonable to assume that a certain nominee for the Supreme Court must feel this way.

From my brief, amateur experience as a part of the news media—if $50 a month as managing editor of a college daily doesn't destroy my amateur standing—I've felt a special concern about the media. One might say that I've just taken up a different aspect of communication as my profession, for the specialty of psychiatry is primarily occupied with understanding and treating breakdowns of communication between and among people.

My topic today is the News Media and Violence. Violence is a subject that has all but displaced the weather as something everyone talks about, but nobody does anything about. In recent years, there has been an intense interest in violence, prompted by a number of factors. First, violence is an intensely emotional issue,—often more heat than light is shed by discussions of the subject. Second, the mass media have made violence much more visible and much more immediate in our lives. Every television news broadcast has its newsclips of violence, whether in Viet Nam or on our highways or in violent crime or civil disorder. Third, statistical studies point to an absolute increase in the amount of violence, whether in the incidence of major crimes or the escalation of campus disorders and urban conflict. Finally, we have been acutely aware in recent years of the loss of some important leaders because of assassination—John Kennedy, Martin Luther King, Robert Kennedy. As you know, it was the assassination

of Robert Kennedy that prompted President Lyndon Johnson to establish the National Commission on the Causes and Prevention of Violence, which occupied a substantial part of my time over the last 18 months.

The primary task of the news media is communication. As individuals we communicate in many ways, with words oftentimes being much less important in conveying meaning and feeling than the context or placement of our words, and the accompanying gestures, intonations, inflections, pauses and especially actions.

The development of language, a refined means of communication by words for the sharing of feelings and ideas, represents a great achievement of man. In my clinical work, understanding communication is a vital responsibility. Human communication is an exceedingly complex process and not always a function of our conscious intent, as exemplified in the slip of the tongue of the police public relations officer. My professional task as a psychiatrist is to help people find better, less destructive ways to communicate their strivings, fears, and hopes than the ineffective or disruptive ways which prompt their referral to me for help. Consistently, the therapeutic challenge is to help the patient express himself verbally, instead of by actions.

Actions do speak louder than words—they are often irreversible and embarrassing in ways that words are not. When a message is not received, is not understood, or is not acknowledged, the sender of the message must make greater efforts to communicate. He must do so with more intensity or volume and in such a way as to gain attention. While there are some segments in our society where violent action is learned as the primary means of communication—so-called subcultures of violence—all too often violence represents a breakdown in civilized communications.

The psychologist William James explained the phenomenon this way: "No more fiendish torture can be devised than when you speak, no one answers; when you wave, no one turns; but everyone simply cuts you dead. Soon there wells up within you such hostility, you attack those who ignore you, and if that fails to bring recognition, you turn your hostility inward, upon yourself, in an effort to prove you really do exist."

Clearly, the news media have great power in influencing actions of people, both positively and negatively, constructively and destructively. Few forces influencing human behavior have a comparable power. Consider, if you will:

16 October 1969—The Mets win the World Series and thousands of New Yorkers respond to the news with joyful ecstasy, pouring tons of wastepaper into the streets.

4 April 1968—Angry, violent, spontaneous disturbances occur in black ghettos across the country in response to the news of the assassination of Dr. Martin Luther King.

22 November 1963—Government comes to a standstill and a nation of nearly 200 million people goes into mourning with the assassination of President John F. Kennedy.

7 December 1941—Disbelief is followed by fury and intense resolve to retaliate, after news of the attack on Pearl Harbor; thousands of young men volunteer for military duty the next day.

Any number of other dates and events might be cited to illustrate the powerful stimulus of news—from the early rulers who killed the bearers of bad tidings, to the panicky listeners to fictitious news reports of an invasion from Mars broadcast in 1938.

The careful in-depth reporting of less "immediate" news may prompt behavior of a more deliberate character. For example, the press deserves a great deal of credit for stimulating the improvement in the care of the mentally ill in Kansas back in 1949. It was the careful exposition of the atrocious state mental hospital conditions that prompted citizen, administration and legislative reaction to propel Kansas from ranking 47th of the then 48 states in the care of the mentally ill to the topmost rank.

On a lesser scale, I am constantly impressed by the quick response which the news media can gain in situations where ordinary citizens are frustrated and helpless—as exemplified in the "Action Line" feature of a number of metropolitan newspapers. Some of the "Speak-up" talk shows on the radio and television prompt similar reactions.

The fact that the news media can prompt such a response points to that vital function of the fourth estate as a guardian of our free society. A free and effective press is essential for the sustenance of our democracy, serving to check the abuses of government and others in positions of power, making the public aware of their activities, and maintaining, insofar as possible, an enlightened electorate.

The power and visibility of the news media inevitably subject the media to attack and criticism. Like all human institutions and professions, the news media have, along with their strengths and positive elements, frailties and imperfections. For a profession whose job is reporting on the performance, non-performance and mal-performance of others, it is somewhat intriguing that we find a large number of the media thin-skinned and sensitive to criticism from outside the profession. Recognizing their positive role in our society, I would hope that the press might anticipate the inevitability of criticism, and not get "up tight" over some faulting of their efforts. Indeed, we couldn't have some of the serious troubles that we do in our society and expect any profession—doctors, lawyers, teachers, businessmen, political, clergymen, reporters, etc.—to be entirely free of some responsibility for the present state of affairs.

All professions in these times have had their work complicated by new knowledge and new technology. The information explosion has profoundly affected the news media—with the capacity to report millions of words of information across the newswires, but without much more space or time in which to report it, and certainly no comparable increase in the attention span of the public to assimilate it. The problem of the great increase in news is exemplified in the observation that in days gone by, everybody knew what everybody else was doing, and the only reason you read the weekly newspaper was to find out who got caught at it!

Besides the problem of the great explosion of news, there are many additional problems facing media with some relevance to the subject of violence. The Media Task Force of the Violence Commission released a 600 page compendium reviewing some of the issues two weeks ago. They addressed such concerns as the "credibility crisis," access to the media, time and space limitations, coverage of civil disorders and media practices and values, including discussion of the important fact that the media is a business.

In my remarks, I wish to discuss just two aspects of the news media, which I see as having a significant role in the provocation or amelioration of violence. These two aspects: the eye of the beholder, and the consistent focus of the media on conflict.

If we were constantly rational, dispassionate and objective, we wouldn't have to be concerned about the "eye of the beholder." However, Sigmund Freud observed more than 50 years ago: "Students of human nature and philosophers have long taught us that we are mistaken in regarding our intelligence as an independent force, and in overlooking its dependence upon the emotional life. Our intelligence . . . can function reliably only when it is removed from the influences of strong emotional impulses." Freud was simply asserting a fact that we don't like to acknowledge—that we are emotional animals.

Our perception of news and events is subject to emotional bias. Indeed, many of our reactions are determined more by powerful motivating emotional forces within us than by reason. We thus tend to see and hear what we want to see and hear, and to unconsciously "censor" our perceptions according to our inner biases. Repeated studies have demonstrated ways that people select from all their sensory input—both consciously and unconsciously—the things that are consistent with their underlying "set" or expectation. The conscious selectivity is evident in surveys of the viewing audiences for certain kinds of shows or features, e.g., Republicans are roughly twice as likely as Democrats to watch a Republican-sponsored telecast, and on the whole, people tend to read most often the columnists with whom they are more likely to agree.

The unconscious selectivity is a more automatic psychological device, and individuals may go to striking degrees to censor or distort their perception of events in a manner to support their own personal prejudices. Immediately after a special showing to network affiliates of taped highlights of coverage of the disorders in Chicago at the time of the Democratic Convention in 1968, one affiliate hotly demanded to know why the network had not shown any examples of demonstrators tearing down the American flag. Actually, he had censored out his own viewing of three such instances that were contained in the taped highlights.

In noting the reactions of people to news which prompts an emotional response, it is important to realize that very often what really happens in our life isn't half so important as what we think and believe happens. We can get into a terrific argument over a disputed event, and our reaction stems from what we believe to be so, not necessarily what actually happened. This is particularly true when we learn of events second and third hand—an inevitable consequence of news reporting. It is also a special problem with news on radio and television, which is just briefly noted, and then subject to the vagaries of the perceptual and memory distortions of the listener/viewer. Most of us can't run an "instant replay" of the news in our homes. Thus one finds the phenomenon which so many broadcasters saw in peoples' recollection of the events in Chicago in August, 1968. As one media executive put it, "Never before have so many people remembered it like it wasn't!"

The eye of the beholder is a factor in news of violence because violence is an emotional issue. We react to it not only because of fear or anxiety insofar as it might actually affect us. Equally significant, or more so, is our inner struggle against violent impulses which we have to control in order to remain civilized. Few of us can deny that at one time or another we have experienced feelings of rage or violence. Often, violent feelings are provoked by news of events which threaten our self-esteem and sense of worth or integrity. It is not surprising that the members of the fourth estate might react angrily to an attack which impugns their efforts and motivation as being unpatriotic or not in the best interests of our country. And it is not surprising that many Americans reacted angrily to the indictment by the Kerner Commission of "white racism." Most citizens do not consider themselves to be "racist" even though thoughtful, reflective observation reveals the deep-seated pattern of racial prejudice in our society, North and South.

The problem of the eye of the beholder is relevant because the news media should have some awareness of how news will be perceived and how the play of certain highly-charged emotional issues can raise or lower the level of tension and the likelihood of

violence. Of no less importance is the obligation of the news reporters, commentators and editors to acknowledge the degree to which they are themselves "beholders" who, wittingly or unwittingly, introduce their own bias into their reporting.

Conflict is a universal phenomenon. Much of our energy, both emotional and physical, is devoted to coping with conflict—not only conflict with others, but also conflicts within ourselves. It is not uncommon for individuals to become violent with others because of their inner personal conflicts, as opposed to real grievances; this situation has been particularly true for assassins and mass murders in this country. In our relationships with others, there is a continuing challenge to find a non-violent resolution to differences of opinion. In increasingly intricate and interdependent society, the news media have an important role to play in fostering communications between and among groups of differing viewpoints, providing a free and open marketplace for ideas and opinions, disseminating complete and correct information as a basis for people solving problems without violence.

It is not surprising that conflict receives so much attention on the news wires. It is generally obvious and readily comes to the attention of the media, in contrast to some less obvious, but no less newsworthy human transactions. Regrettably, the news media does not always place the reports of conflict in the context of its causes. Such reports contribute to misunderstanding in the public mind if they overlook or ignore the broader perspective or the substantive message of dissenters in conflict, while playing up the conflict itself. Two particular instances were noted by Violence Commission Task Forces:

At the time of the Watts riot in Los Angeles, a television news report of a community meeting reported in full a provocative, angry statement of a disgruntled young man. Not reported, or edited out, was the fact that in contrast to the angry statement, the general tone of the meeting urged a calm response, and the young man's statement was greeted by jeers and general disapproval. In the disorders at San Francisco State College, television news presentations of a mob breaking through the glass doors of the administration building, combined with a statement of the then-president of the college, incensed viewers throughout the state. Public reaction forced trustees to call an emergency meeting to chastize the president, politicians to call for his firing, legislators to consider investigating him—all to be quieted when the full story was presented, noting the president's liaison with the San Francisco police in making his statement, and the fact that the situation was not as riotous as portrayed on the television screens.

In each of these instances, the news reports were true, but they are perhaps better described as half-truths, for an important half of the story, which was also true, was not presented. Such reports prompt reactions of considerable intensity, evoking violent feelings.

It is unfair to indict all the news media for such shortcomings. Especially salutary are the increasing efforts of the media—in particular the wire services and the networks—to provide documentary and in-depth stories to place conflicts in a broader perspective. Without this perspective, the populace becomes increasingly polarized, tending to see only one side or the other, being "for" or "against." If we are to find unity, to bring people together, we must help everyone realize that all human beings on this earth have many things in common—our anatomy, our physiology, our psychology; and motivating desires to achieve pleasure and avoid pain as much as possible in this frustrating and painful world.

Conflict cannot be resolved rationally unless each participant has an accurate perception of the intentions and goals of others. There must be at least a degree of mutual trust. There must be confidence in the desire of each to reach a non-violent and mutually satisfactory accommodation of divergent interests. The media cannot create trust, for they cannot make a dishonest man honest; but they can make an honest man treacherous. The media cannot make an extremist seek accommodation, but they can provoke a moderate to extremism. Regardless of their performance, the media will never be able to assure the non-violent resolution of conflict, but they can prompt the violent resolution of conflict.

My observations prompt me to be so bold as to offer three suggestions to the media:

First: A time-honored question in a free society is, Who shall guard the guards? Freedom of the press is the only guarantee of the Bill of Rights which cannot be exercised by each individual citizen. Practically speaking, this privilege can be exercised only by those in the journalistic profession. Thus, journalists and broadcasters hold an important public trust as guardians of democracy. How does the public have any guarantee of the quality and integrity of these guardians? In other professions with a public trust—medicine, law, education—laws for licensure and certification assure the public that the practitioner has fulfilled minimum standards, met certain requirements for training and demonstrated competence in the profession. The public is entitled to similar safeguards for the quality of the practitioners of this most important cornerstone of our democratic society, the news media.

Second: Related to the first concern for standards and certification for professionals in the news media is the question of where can the public now go to gain redress for inept performance of the press? In one-to-one communication, a governing factor of importance is "feedback," the reaction of the receiver to the news transmitted by the sender. If the sender perceives that he has been misunderstood, he can promptly retransmit the news to attempt to correct any distortion or misunderstanding. This is impossible in the news media; the correction rarely gets the exposure of the original news report. A particularly frustrating problem of feedback and of credibility is the lack of recourse for the ordinary citizen who lives in a one-newspaper or one-television station community and who disagrees with the news presented by that newspaper or television station, both of which may be owned by the same corporation. Many citizens are highly critical of the job being done by their local news media and at the same time feel completely helpless to prompt any significant change, frustrated by the monopoly of local news. The citizen's usual recourse, aside from a letter to the editor, is to simmer and experience less and less confidence in the news transmitted by the media. It behooves the profession, therefore, to provide a more effective means for responsible citizen feedback on press performance.

Finally. During these times when we experience so much divisiveness among us, there is a major challenge to identify and elaborate areas of commonality while providing fair access to the media by concerned groups.

All too often, groups have concluded that the best way to gain access to the media is through conflict and violence, by negative action. It is therefore important for the media to demonstrate that constructive newsworthy events are effective means for access to the news media. It would be interesting to compare the number of words which have been written and spoken on campus disruptions with the words describing significant efforts of students in constructive causes—students establishing volunteer services centers; medical students establishing health care programs in the ghettos; the activities of the more than 450 chapters of Alpha Phi Omega, national service fraternity committed to constructive efforts on campuses.

In our society, humility is not our strong suit. We almost violently reject the prospect of being a loser. Yet, we must be prepared to accept that we can be wrong. If we are so insecure as to feel we are worthless if we make a mistake, and thus cannot manfully acknowledge our mistakes, we are in deep trouble. One of the ills of this nation is the insecurity of so many people who have to believe we are always right, that we have never erred—that we are infallible. That is a delusion.

We must acknowledge that, being human, we have made, are now making and will continue to make mistakes in our conduct. Hopefully, these mistakes are minimal. But the challenge for us all is to be open enough and honest enough to accept constructive criticism and learn from our mistakes. We count on the news media not only to accept the implications of this challenge as a profession, but to help our society as a whole to do likewise.

CARSWELL JUDICIAL RECORD

Mr. KENNEDY. Mr. President, we who were fortunate enough to be present at the hearing of the Judiciary Committee yesterday on the nomination of Judge G. Harrold Carswell to the Supreme Court heard some of the most concise and persuasive testimony ever offered in any Senate hearing that I have ever attended. Working under a strict time limit, Mr. Clarence Mitchell and Mr. Joseph Rauh presented a most forceful and reasoned set of arguments demonstrating beyond question that there are serious issues which each Senator on the committee and in the full Senate must resolve before casting his vote on the Carswell nomination. I strongly urge every Member of this body to read that testimony before deciding how to vote, and since today's press reports subordinated the substance of yesterday's committee proceedings to our procedural impasse, and because the print of the hearings will not be available for several days, I ask unanimous consent that the testimony be printed in the RECORD, with the understanding that it is in preliminary form and subject to editorial corrections.

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

TESTIMONY OF MR. CLARENCE MITCHELL AND MR. JOSEPH RAUH BEFORE THE SENATE JUDICIARY COMMITTEE, FEBRUARY 3, 1970, ON THE NOMINATION OF G. HARROLD CARSWELL AS ASSOCIATE JUSTICE OF THE SUPREME COURT

The Committee met, pursuant to recess at 9:10 o'clock a.m., in Room 2228, New Senate Office Building, the Honorable Joseph D. Tydings presiding.

Present: Senators Tydings (presiding), Ervin, Hart, Kennedy, Burdick, Bayh, Fong, Thurmond, Cook, Mathias, and Griffin.

Also present: John H. Holloman, III, Chief Clerk.

Senator TYDINGS. We will continue the nomination hearings of Judge Carswell to be Justice of the Supreme Court.

I would like to welcome before this committee Joseph L. Rauh, Jr., and Clarence Mitchell, whose illustrious background and biographical sketch needs no further mention.

STATEMENTS OF JOSEPH L. RAUH, JR., AMERICANS FOR DEMOCRATIC ACTION AND CLARENCE MITCHELL, DIRECTOR, NAACP

Mr. MITCHELL. Thank you, Mr. Chairman and members of the committee.

I must say that as a native of the State of Maryland, I feel especially happy to be before you as chairman of this committee, acting Chairman of the committee, and also Senator Mathias. I admire both of you greatly, and I feel this is a wonderful opportunity to present our case.

I would like to say before I begin, Mr. Chairman, that I have heard a number of reports which indicate that there are those who have thrown in the towel, and it is assumed that this presentation is an exercise in futility.

I do not come here in that spirit. I come here in the spirit that this committee is still open to hearing what we have to say, and that it will weigh what we present in reaching its decision.

I also believe that the Senate of the United States will take the evidence into consideration when it considers this nomination. I would not take up the time of this committee if I thought that the result had already been determined, and it was useless to present our case.

Senator MATHIAS. Mr. Chairman, if I could interrupt the witness just very briefly, I would like to respond to his opening remarks and say that we welcome him here not only as a distinguished citizen of Maryland, but he and I have had an opportunity to do business together in the other body as well as here on a number of matters, and I have always found that the information that he brings to the Congress is useful, dependable, and I know that on this occasion as on all occasions in the past it will receive the kind of consideration that its author merits.

Mr. MITCHELL. Thank you very much, Senator Mathias.

Mr. Chairman, on a procedural matter, I would just like to mention that ordinarily I try to save the time of the committee by summarizing my statement, but in this instance I have given considerable thought to this. I have tried to weigh its contents, and with your indulgence I would like to read it in full. I also would like to call attention to the fact that joining with me is one of the most distinguished lawyers in our country, who is the general counsel of the Leadership Conference on Civil Rights, and at the close of my testimony I would appreciate an opportunity for him to follow immediately, because it is our arrangement that questions arising on legal matters that are included in this testimony would be answered by him.

I would like to just say that I have this brief statement about his background that I would like to read. He has been so deeply engaged in so many crusades for the public interest that people tend to lose sight of his remarkable scholarly attainments.

Mr. Rauh graduated from Harvard College in 1932 magna cum laude, and first in his class. He served as a law clerk to both Justices Cardoza and Frankfurter, to whose seat Judge Carswell now aspires.

Mr. Rauh has argued many significant constitutional cases before the Supreme Court, and has written widely on the subject of human rights. I am sure all will agree that he is uniquely qualified to analyze the nominee's record before this committee.

Now my prepared statement begins.

Mr. Chairman and Members of the Judiciary Committee:

I am Clarence Mitchell, Director of the Washington Bureau of the National Association for the Advancement of Colored People, and Legislative Chairman of the Leadership Conference on Civil Rights. The NAACP and the Leadership Conference are opposed to the nomination of Judge G. Harrold Carswell to the United States Supreme Court.

It is not easy for one to appear before this or any other committee for the purpose of opposing a Presidential appointment to high office. Because he has been elected by the people of the United States, there is a proper and wholly understandable inclination of citizens to accept the President's recommendations on those who will carry out his policies and programs in the Executive Branch of government.

To some extent, the same attitude applies when a President makes appointments to the Judicial Branch of government. However, there is a major difference. The Executive Branch appointees are usually for the duration of the President's term or terms in office. The judicial appointments are for the lifetime of the nominees and through such nominees, Presidential policies may stretch far beyond the term or even natural life of a Chief Executive.

In these times the people have a right to demand that appointees to all of the courts, and most especially the United States Supreme Court, be scrutinized with great care. The people have a right and a duty to insist that the nominees be free from racial bias and also free from a record of advocacy or the practice of racial bias.

The record of Judge Carswell is not free from the taint of racial bias. It is tragic that he is already a member of the Judiciary in the Fifth Circuit. This tragedy will be compounded if he is approved for a place on the Supreme Court.

At three points in Judge Carswell's adult life he has elected to cast his lot with those who seek to deprive Negroes of first class citizenship. On each of these occasions he has chosen to take on the protective coloration of the wrongdoers because that was the accepted practice in the area where he lived at the time. We do not challenge his right as an individual whether as a technique of survival or because of personal beliefs to consort with racists and advocates of segregation. We do challenge his right to sit in judgment in our Federal courts at any level when he joins those who seek to maintain a society in which some citizens are consigned to second class status simply because they are not white.

Judge Carswell's first opportunity to take a stand came in 1948 when he was a candidate for State office in Georgia. In order to understand the seriousness of what candidates were saying in that time it is necessary to look at the events which were occurring. On December 5, 1946, President Harry S. Truman issued Executive Order No. 9808 establishing the President's Committee on Civil Rights. In issuing that Executive Order the President said:

"Freedom from fear is more fully realized in our country than in any other on the face of the earth. Yet, all parts of our population are not equally free from fear. And from time to time, and in some places, this freedom has been gravely threatened. It was so after the last war, when organized groups fanned hatred and intolerance, until, at times, mob action struck fear into the hearts of men and women because of their racial origin or religious beliefs.

"Today, freedom from fear, and the democratic institutions which sustain it, are again under attack. In some places from time to time, the local enforcement of law and order has broken down, and individuals—sometimes ex-servicemen, even women—have been killed, maimed, or intimidated."

The State of Georgia was among those riven by strife created by those who were determined to keep the Negro "in his place" as they say with force, violence and murder. There was but a short step from the inflammatory phrase spoken in the political hustings to the physical attack on individuals solely because of their race.

The committee appointed by President Truman carried out its assignment. In 1948, it published a report setting forth four basic rights which "influenced its labors." These rights were safety and security of the person, citizenship and its privileges, freedom of conscience and expression and equality of opportunity.

One gruesome example of the committee's findings occurred on July 20, 1946, when four Negroes were lynched in Monroe, Georgia. This is the direct quotation from the committee's report:

"On July 20, 1946, a white farmer, Loy Harrison, posted bond for the release of Roger Malcolm from the jail at Monroe, Georgia. Malcolm, a young Negro, had been involved in a fight with his white employer during the course of which the latter had been stabbed. It is reported that there was talk of lynching Malcolm at the time of the incident and while he was in jail. Upon Malcolm's release, Harrison started to drive Malcolm, Malcolm's wife, and a Negro overseas veteran, George Dorsey, and his wife out of Monroe. At a bridge along the way a large group of unmasked white men, armed with pistols and shotguns, was waiting. They stopped Harrison's car and removed Malcolm and Dorsey. As they were leading the two men away, Harrison later stated, one of the women called out the name of a member of the mob. Thereupon the lynchers returned and removed the two women from the car. Three volleys of shots were fired as if by a squad of professional executioners. The coroner's report said that at least 60 bullets were found in the scarcely recognizable bodies. Harrison consistently denied that he could identify any of the unmasked murderers. State and Federal grand juries reviewed the evidence in the case but no person has yet been indicted for the crime."

The reaction of the country to the report was varied. Some viewed it with great acclaim and others denounced it. Most of those who denounced it were in the areas of the most acute racial discrimination, particularly in the State of Georgia.

This report and other efforts to liberalize the racial policies of the Democratic Party became a major campaign issue; some individuals who sought office or were public officials in the South attempted to defend the principle of equal treatment under law. Some left the party to form or participate in other political organizations. Some remained in the Democratic Party but adopted an outright racist stance during their campaigns. Judge Carswell was in this last group that adopted the outright racist stamp in the campaign. His statement while campaigning said:

"I am a Southerner by ancestry, birth, training, inclination, belief and practice. I believe that segregation of the races is proper and the only and correct way of life in our State. I have always so believed and I shall always so act. I shall be the last to submit to any attempt on the part of anyone to break down and to weaken this firmly established policy of our people. If my own brother were to advocate such a program, I would be compelled to take issue with and to oppose him to the limit of my ability. I yield to no man as a fellow candidate or as a fellow citizen in the firm vigorous belief in the principles of white supremacy and I shall always be so governed."

It is interesting to note, this statement did not come to general public attention until twenty-two years after he made it. The question arises, how can a man be investigated for the office of United States Attorney, United States District Judge, United States Judge on the Circuit Court of Appeals and as a nominee for the United States Supreme Court without this significant part of his life being weighed in the consideration of his fitness for the office? It emphasizes the cal-

lous approach to racial matters in our country. There are a great many people who just do not take such statements seriously. We do take them seriously. We do not think they are excused by the youth of those who make them. But, even if youth is a defense, Judge Carswell was a mature adult at the time he made this statement and cannot claim that his tender years provide immunity from the censures that attach to such statements. In addition, there is nothing to show that in the long period of his public life between 1948 and the present that the judge has rejected, retracted or reformed with respect to his 1948 views; only now, when the prize is a place on the United States Supreme Court does he come forth to acknowledge that such a statement was error.

Because this statement was brought to light by a private citizen, it is reasonable to assume that a more careful investigation by the duly authorized government representatives may well reveal other expressions of this kind made at a later date. Indeed Newsweek magazine only this week in the current issue contains a story about the judge's telling of one of the things that in the old days we used to call darkie stories at a meeting of distinguished lawyers in which he said he talked to a black man in Indo-China and asked him whether he was from Indo-China, and he said, "No, I'se from Outdo' Georgia."

Well, in order to get the point of that joke this is a play upon dialect that Negroes are supposed to use as clowns and persons unworthy of recognition as first class citizens.

Senator KENNEDY. When was that?

Mr. MITCHELL. This according to Newsweek was just two months ago. He was the principal speaker at the Georgia State Bar Association meeting in Atlanta, and the story says one of the lawyers indicated "that some of us were really shocked" because this is recognized to be in poor taste now by public officials, and it is really one of the indiciae of an attitude of consigning Negroes to an unimportant status, so that when they get killed it is not very important or when they are subjected to discrimination in jobs, housing and things of that sort, really you do not take them quite as seriously as you would a normal human who would happen to be white.

It is reasonable to assume, as I said, that a more careful investigation would reveal similar statements, but we contend that standing alone the statement that the judge made in 1948 as an appeal to persons for the vote is sufficient to bar him from the Supreme Court.

We do not say you should never forgive anybody for making a mistake, but we do say with the Supreme Court it is a different kind of a situation, and that is enough to bar a candidate.

No amount of political expediency, no amount of personal criticism expressed against those who oppose this appointment and no attempts to dismiss the statement as one made in the "heat of the campaign" will ever be accepted by most Negroes in the United States and most civilized people in the world as legitimate excuses for approving this nomination. The stark fact now is this. An advocate of racial segregation has been named by the Nixon Administration to serve on the United States Supreme Court. Now that this fact is known, those who vote for the approval of this nomination will be voting to place a segregationist on the United States Supreme Court.

There is a second chapter in Judge Carswell's life which must also be reviewed in the context of the times. It is interesting I had that "in the text" in my statement and Senator Hruska mentioned that yesterday that we have to look at things in the context of the times, and I think it is fair to do that. In the 1940s the Negro of the United States expanded his legal attacks on segregation to include swimming pools, golf courses, play grounds, parks and other recreational facilities owned and operated by State, municipal or other government units.

In St. Louis, Missouri, a court granted an injunction against the city for its refusal to allow Negroes to use a municipal swimming pool. (Draper v. City of St. Louis, 1950)

I might say, Mr. Chairman, that I have the citations on the cases that I have included here on a separate sheet. I offer that for the record in case anybody wants to check on it.

Similar decisions had been given in California (Lopez v. Seccombe, 1944) and in municipally owned golf course (Law v. Mayor and City Council of Baltimore, 1948).

In 1950 a Florida court upheld regulations providing for the use of a municipal golf course by Negroes on Monday only, the claim being that the allocation of time to one day was in proportion to the Negro use (Rice v. Arnold, 1950). The Florida Supreme Court upheld this decision on the basis of the "separate but equal" doctrine. Subsequently, the United States Supreme Court held that racial segregation on publicly owned golf courses was unconstitutional (Holmes v. City of Atlanta, 1955).

To avoid complying with the clear intention of the Supreme Court decision, many public officials either closed the facilities that were available for recreation or transferred them to private ownership.

I would just like to backtrack, Mr. Chairman and members of the committee to point out that I said in my statement the Supreme Court had held that racial segregation on golf courses was unconstitutional. Because this is the Judiciary Committee, I think I might indicate what was technically correct. The law case which I have mentioned in the City of Baltimore went up to the Supreme Court, and the Holmes case of Atlanta also went up to the Supreme Court, and the Supreme Court in two memoranda decisions held that these cases had to be reviewed in the light of each other, and also in the light of the Sweat case, which had been decided by the Supreme Court, and the Florida State Supreme Court, when the case got back there, interpreted that to mean that separate but equal was permissible.

The Florida Supreme Court held that it was possible to meet the Supreme Court's requirements simply by having one day set aside for Negroes on the golf course, because this was all that the traffic seemed to require.

To avoid complying with even this limited interpretation of the Supreme Court, many public officials either closed the facilities that were available for recreation or transferred them to private ownership.

For example, in 1956, the Georgia State Parks Director leased nine of the parks to private citizens at an average price of $2,000 per month to preserve segregation. In 1957 the residents of Marshall, Texas, voted to sell their municipal swimming pool after a suit was filed against segregation. The New York Times for July 10, 1957, reported that Fort Lauderdale, Florida, sold its $1 million golf course for $526,400 to private people to evade a Federal court ruling permitting Negroes to use the course.

All of these events certainly should have come to the attention of persons in the city of Tallahassee.

On April 24, 1956, citizens of Tallahassee, Florida, where Judge Carswell was then residing, changed their golf course from a municipally owned facility where Negroes played on a very restricted basis to a privately owned facility where Negroes could not play at all. They were banned because of race.

I understand that some of the citizens down in Tallahassee have submitted affidavits to the committee, and I have copies of those affidavits here with respect to this matter. The first one is from Mrs. Christina Ford Knowles, and it is dated the first day of February, 1970. She says:

"I am an adult black citizen residing in Tallahassee, Florida, who has worked as an Administrative Assistant to the Reserve Officers Training Corps for five and a half years, ten years public high school teacher, ½ year Business Manager of Tallahassee A and M Hospital, and at the present 2 years and 10 months as Educational Specialist, Federal Correctional Institution, all of Tallahassee, Florida. I reside at 819 Taylor Street, Tallahassee, Florida.

"I remember in 1956 deeply resenting the transfer whereby 205 acres of what was formerly municipal property converted to private ownership. At the time, Reverend C. K. Steele, myself, and other members of the Local SCLC chapter were disturbed at what was clearly an attempt to bar Black people from using the golf course. It was evident to us that the transaction, that is the leasing of the course to a private group, had but one real intent. Tallahassee was in a racial uproar over the bus boycott and other protests—bringing a reaction of fear to the white community. The word "private" had increasingly become a code name for segregation.

"The Capital City Country Club incorporation proceedings were well publicized and the racial overtones were necessarily clear to every knowledgeable citizen in the areas, and it would have been surprising to me if an intelligent man, particularly an incorporator was not aware of the repeatedly emphasized racial aspects of this case.

"We did discuss this corporation widely at the time; had we not been so preoccupied with other protests, we would have undoubtedly moved against the corporation in civil suit."

There is another affidavit here from a gentleman who has played on the golf course, and the burden of that is that he played on it while it was under public auspices, but was barred from playing when it went under private auspices.

We have also here an affidavit from a white citizen. This is from Clifton Van Brunt Lewis, and it says:

"I am an adult white citizen who has been a life-long resident of Tallahassee and whose family was domiciled in the city for several generations. I am the wife of the Chairman of Florida's oldest bank, The Lewis State Bank of Tallahassee.

"My interest in the Tallahassee Golf Course goes back to my early childhood, as my father was one of the early golfers of Tallahassee, and had in fact helped to plan the course itself.

"When the original club deeded the course to the City of Tallahassee it was known as the Municipal Golf Course—for some 21 years. The city acquired the splendid 205 acres through an agreement whereby the city paid off a $6,500 note and agreed to obtain funds to improve the property. The agreement stipulated that the funds should be $35,000 of WPA money! The 1935 agreement also gave the club first option to lease the land, which it did in 1956 at the rate of one dollar a year for 99 years!

"My husband and I were invited to join the Capital Country Club at its inception. We refused the invitation because we wanted no part in converting public property to private use without just compensation to the public, and because of the obvious racial subterfuge which was evident to the general public.

"My husband and I have been members of the interracial Tallahassee Council on Human Relations since its inception several years before the Country Club fiasco. In this Council I knew first-hand from Dr. Charles U. Smith, Professor of Sociology at Florida A.M. University, of the desire of specific

Tallahassee black citizens to play on the city golf course.

"This discussion with Mr. Smith was one of many that I had with a variety of parties during that period on the subject of a golf course, the issue being of wide civic concern. I would have been surprised if there was any knowledgeable member of the community who was unaware of the racial aspect of the golf course transaction. The controversy appeared in the local newspaper of the time and a city commissioner was known to have raised questions about the racial implications involved."

At this point, Mr. Chairman, with your permission I would like to offer for the record these affidavits plus a reprint of a story that appeared in the Tallahassee Democrat for February 15, 1956 on page 1. That story is the one to which you referred, Senator Kennedy, yesterday, and I therefore will not read it again, but I would like to offer these for the record.

Senator KENNEDY. They will be facilitated.

Mr. MITCHELL. It is well known that Judge Carswell is listed as one of the incorporators of this private club. If Judge Carswell had been an ordinary citizen unaware of the full implication of signing articles of incorporation or if he had been a lawyer in private practice who wished to be of assistance to his fellow citizen this action would not be important.

I would just like to digress a minute, Senator Kennedy, to point out that I was present when you examined Judge Carswell on that point, and I was struck by his reticence in saying that common sense indicated what a lawyer and a judge should say. You asked him whether he was aware of signing this document, and he said it was just for the purpose of repairing some little broken-down club house. Then when you got into the reading of the articles of incorporation, I think the lawyer and the judge in him triumphed, because he had to admit that he was aware of the purpose of this corporation.

This was no ordinary signing of a document that some friends handed to him and he just signed it.

I can well remember once somebody handed me some articles of incorporation to sell something which they said they would not describe to me, but I took the trouble to look at it, and discovered that it was something promoting what they call civil rights whiskey.

Well, I think Senator Tydings knows that I would get into so much trouble with my mother-in-law if I had signed that document, that I had common sense enough not to sign it, and I certainly think that given the issue of the times, one had to read that kind of document with care, and I cannot believe that Judge Carswell did not know what he was doing. He was the United States district attorney sworn to uphold the Constitution and laws of the United States. As such, he had an obligation, not only to avoid participation in efforts to defy the law, but also to avoid the appearance of participation in such efforts.

He did not fulfill this obligation. He signed a document which, whatever may have been its original objectve, accomplished the result of banning Negroes from a recreational facility solely because of their race. It is interesting to note that those who defend Judge Carswell first excuse him for his 1948 racist utterances on the grounds of youth, but his 1956 action is somewhat more difficult.

Nevertheless, they are inclined to excuse this also because it was a so-called routine signature and he paid a small sum of money to accomplish the noble purpose of repairing a damaged club house located on the golf course property, according to his version.

It may be that the members of this committee can accept this explanation given by Judge Carswell and still be at peace with their own consciences, but it is unlikely that reasonable men and women outside of the Senate will accept it. Those who favor racial segregation undoubtedly will rejoice if the explanation is accepted because it will be proved that sophisticated methods of evading the law have triumphed, but they most likely, even though segregationists, will know that it is ridiculous on its face.

Those who do not favor racial segregation will feel the cold iron pressure of the chains of frustration once again restrain their efforts to achieve a society in which those who deny equal treatment to their fellow citizens are now rewarded with high office and new opportunities to poison the wells of justice as judges on the bench.

The third opportunity for Judge Carswell to demonstrate by his action that he had repudiated the 1948 speech came after the great decision of the United States Supreme Court outlawing racial segregation in the public schools.

By that time he was a judge on the bench of the northern district of the State of Florida. Others have dealt more in detail with his record as a judge, and Mr. Rauh will also comment on that point.

Therefore, I offer one example which indicates how he again became a part of the pattern which is exemplified by the words of his 1948 speech. It is well known that the unthinking and unskilled advocates of segregation resisted the 1954 decision with force, intimidation, violence, economic pressure and even murder. It is also well known that the wiser and more sophisticated forces of resistance resorted to changes in the laws of states, relays through extended litigation and other obstructionist tactics under the color of law.

Judge Carswell was a part of this latter strategy. Even if we assume that he was unknowingly a part of it, the end result is the same. He was a force which contributed to the pattern associated with the delay in implementation of the school desegregation decision. The example I offer is Steele v. the Board of Public Instruction of Leon County, Florida, largely chargeable to Judge Carswell was not submitted until 1967, and counsel talked about it yesterday in the hearings.

In closing this presentation, it should be remembered that in a convention of wolves it is always easy to pass a resolution justifying raids on the sheepfold because the occupants thereof willfully and knowingly stimulate the flow of gastric juices in the digestive system of the predators. This lupine type of reasoning is widely used in our society today—especially in the area of civil rights.

We urge our citizens to rely upon the law, but we appoint prejudiced law officers as enforcers. We breathe a sigh of relief when Negroes go into the courts instead of into the streets, but we then confront them with judges who have decided to deny them relief even before they enter the courthouse door.

The one great exception to all of this has been the United States Supreme Court. This Court is under attack and condemnation because it has handed down decisions that destroy longstanding unjust practices. The State Legislatures pass unconstitutional restrictions on freedom and the Supreme Court is condemned because it strikes down such monstrous attacks on liberty. Those who vilify the Supreme Court have learned to make use of vague words and phrases that arouse base passions and protests against the most noble tribunal in the civilized world.

One of the phrases current today is "strict constructionist." One may very well ask what does that mean? The simple answer is it means everything and it means nothing. Therefore, it is better to speak in plain words when one describes the qualifications that are being sought in a judge who is to be elevated to this high court. When one makes a plain word substitute for this term it is necessary to look at the policies and practices of this Administration.

The Nixon Administration:

These policies and practices are clearly designed to create further and inexcusable delays in the desegregation of public schools. This is the policy now employed by the United States Department of Justice. It was the policy of Judge Haynsworth and it is a clearly discernible thread in the decisions given by Judge Carswell.

We believe that if the Administration's desire to have a so-called "strict constructionist" on the Supreme Court has any meaning in the case of the nominee now before this committee, it means that the President wants a judge who will use his office to delay school desegregation in particular and all other civil rights progress in general.

But, let us see what Judge Carswell thought about that term "strict constructionist." He did not give a clear definition in a reply to a question on that point. Instead, he offered the committee a new phrase by saying that, "I do not think the Supreme Court should be a continuing constitutional convention."

The hearer is entitled to ask what does that mean? Does it mean that the Court was sitting as a convention when it upheld the right of Negroes to play on a publicly-owned golf course? Does it mean that the Nation's highest tribunal is no longer acting as a court when it orders implementation of a fifteen year old decree against segregation in the public schools?

In the light of his past record, it is fair to conclude in these instances that Judge Carswell would believe that such decisions are the products of a "continuing constitutional convention" rather than the constitutionally sanctioned decisions of a court of law.

We have seen and heard many of the supporters of his nomination. Some of them are reasonable men who have appeared from time to time as champions of civil rights. Their advocacy of approval for this nomination is another indication of the wide gulf that separates the reality faced by the oppressed and the insulated world in which their sympathizers live. As one travels about the country, it is clear that the victims of racial discrimination are not convinced that Judge Carswell has really abandoned his belief in the wisdom of racial segregation and the variety of white supremacy. Perhaps it would be possible for the men of good will, who support Judge Carswell to understand the feelings of the victims of racial discrimination if those gentlemen would suppose for a moment that they are considering a nominee who in his early adult career had blatantly expounded the doctrines of Adolf Hitler or Josef Stalin.

We might accept his profession of a change of ways twenty years after the speech was made, but we would not put him on the United States Supreme Court or any other Federal court. Most of the black citizens of the United States do not believe there is any difference between European demagoguery and the home grown variety which, for want of a more odious term, we call racism.

The Negroes of America are waiting to see whether the Senate of the United States will ratify racism by confirming this nominee in spite of his speech and in disregard of his record. We hope that the grave error which was committed when Judge Carswell was nominated will not be riveted into the history of our country by the Senate of the United States. Therefore, we ask that the nomination be rejected.

This concludes my testimony and I yield to Mr. Rauh, Mr. Chairman.

Senator TYDINGS. Mr. Rauh.

VOICE. Excuse me, I would like to make a statement.

Senator TYDINGS. We have two witnesses, Mr. Mitchell and Mr. Rauh now, and we are going to hear from Mr. Rauh at this time.

The Chair recognizes Mr. Rauh.

Mr. RAUH. Members of the Senate Judiciary Committee:

My name is Joseph L. Rauh, Jr. I appear here today with Mr. Mitchell. I am general counsel of the Leadership Conference on Civil Rights. I am also appearing as Vice Chairman for Civil Rights of Americans for Democratic Action.

On August 2nd, 1948 then Mr. Carswell said: "I yield to no man in the firm vigorous belief in the principles of white supremacy, and I shall always be so governed."

That is possibly the worst statement ever made by a candidate for the U.S. Supreme Court. It is certainly the worst statement made by a candidate for the U.S. Supreme Court in this century.

Worse yet, Judge Carswell still does not understand the enormity of what he said. Let me explain that. Judge Carswell and others referred to the act that this statement was pre-Brown. What difference does it make that it was pre-Brown? Plessy vs. Ferguson, a much hated case, was the law of the land pre-Brown, but Plessy vs. Ferguson stated the proposition that all men are created equal, that they must have equal facilities if separate.

The doctrine of white supremacy espoused by then Mr. Carswell was as much a violation of Plessy vs. Ferguson as he could possibly have done. The law of America at the very moment he spoke was equality, and I think he does not today see that what he did was not anti-just segregation, just pre-Brown. He does not see that white supremacy ended with the end of slavery at the 13th, 14th and 15th Amendments. He still has some idea that it was not so bad because Brown came out later. I hope I have made clear the situation as it was pre-Brown.

Now having made this statement, there is in law a presumption of a continuation of shown condition or state of affairs if the contrary is not shown:

"From proof that a certain relationship status, condition or state of affairs has existed, it may be presumed that such status, condition or state thereafter continued to exist in absence of proof to the contrary. Where the habits and character of persons have been in issue, the rule has been applied." In Jones Evidence, fifth edition 1958, section 66, page 117.

In other words, the law presumes that Judge Carswell's statement continues to be his position unless he has rebutted that presumption.

Now the testimony I intend to give this morning is to show that there has been no rebuttal of the presumption of continuancy of his white supremacy position, and indeed that everything that has happened since has reaffirmed his white supremacy position.

First, there has been no direct repudiation by Judge Carswell until several days after he was nominated for the Supreme Court of the United States. For twenty-two years that stood as an unrepudiated statement reaffirming the presumption that it continued as his position.

Furthermore, and more damaging, there has been no indirect repudiation of that statement. No witness here, including Judge Carswell, has pointed to a single writing exhibiting compassion for the Negro of America. Judge Carswell's 1948 white supremacy statement stands unrepudiated and unrebutted on the record of his actions which we can now turn to.

The golf course incident has been much discussed. He was an incorporator and director of a private golf course whose purpose was to deprive Negroes of the opportunity to play on the municipal course. He did this as a United States attorney, and I say this with thought and after serious consideration.

There is a serious question whether incorporation and operation of a segregated golf course under these circumstances was a criminal act. 18 USC 241 makes it a felony to conspire to "injure any citizen in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States."

In United States vs. Price 383 US 78 7th section, that is 18 USC 241, was interpreted to apply to the 14th Amendment rights. Although this ruling came after the golf course incident, there was no change in the law, but a declaration of the intent of the statute as passed in 1870.

If in fact the city, city officials and private persons did scheme to segregate the municipal golf course by passing it into private hands, they were depriving Negro citizens of clearly defined 14th Amendment rights.

Some months previously the Supreme Court had held in Holmes vs. City of Atlanta 350 US 879, I believe it was November 1955, that municipally owned golf courses must be desegregated. It would seem that the present operators of the course, who hold it under a 99-year $1 a year lease continue such a denial of 14th Amendment rights under Burton vs. Wilmington Parking Authority. Therefore the question should arise whether in fact a criminal conspiracy existed.

I do not want to repeat the testimony of yesterday. I only want to refer to the fact that Leroy Clark, a professor of New York University, John Lowenthal, a professor at Rutgers, Ernst Rosenberger, a lawyer in New York City, and Norman K. Knopf, a lawyer in the Justice Department, if he is still there, all came here to testify to the hostility of Judge Carswell in the mid-'60s, not in '48, not in '55, but in the mid-'60s, all four of them, unrebutted, testified that he was hostile to civil rights and civil rights workers in the mid-'60s.

Now before analyzing the fifteen cases that I will show you that Judge Carswell was reversed for denying human and individual rights, I feel it necessary as a lawyer to call this committee's attention to the nominee's wholesale lack of candor on both the white supremacy statement and the golf course incident.

First with respect to the white supremacy statement. When he was told about this, he went on television and referred to the fact it had been attributed to him. He tried to explain that before this committee, but I believe wholly unsuccessfully.

When a man has made that speech, has had those views, he even told Senator Hart, I believe it was, that he believed those views, he should have known that they were not attributed to him. They were the statement he had made.

Furthermore I think his effort to indicate that this was pre-Brown and therefore explained by that was equally a lack of candor, and I think I have said enough about that before.

But the worst lack of candor deals with the golf course incident. There were seven statements, seven statements made during the golf course incident, that if you had had a witness up here for anything else, you would have jumped all over him and made perfectly clear what you thought of his ability to tell the truth. I will give you these seven.

On page 20 of the transcript Judge Carswell said, and I quote, "I read the story very hurriedly." Who in this room would believe that a man nominated for the Supreme Court of the United States, having had the statement on white supremacy come out, having seen a story which corroborated the white supremacy statement, knowing that his job on the Supreme Court was at stake, would have, and I quote, "read the story very hurriedly."

Secondly, on page 22 of the transcript Senator Hruska said:

"Were you an incorporator of that club as was alleged in one of the accounts I read?

"Judge CARSWELL. No, sir."

On page 66 he admitted he had been an incorporator.

At page 21 of the transcript he said:

"I was never an officer or director of any country club any where."

The face of the incorporation papers put in here demonstrate he was a director.

4. On page 24 Judge Carswell was asked by Senator Hruska:

"Were you familiar with the by-laws or the articles of incorporation?

"Judge CARSWELL. No, sir."

But look on page 66:

"Senator KENNEDY. Did you generally read the nature of your business or incorporation before you signed the notes of incorporation?

"CARSWELL. Certainly I read it, Senator."

5. On page 21 he said:

"Judge CARSWELL. Somewhere about 1956 someone, a friend of mine, I think he was Julian Smith, said we need to get up some money to do something about repairing the little wooden country club."

But on page 67 he says, in answer to a question by Senator Kennedy:

"Would this lead you to believe that their only interest was just in the building of a club house?

"Judge CARSWELL. Oh, no, I certainly was aware that there would be things going on around the club house that normally do."

6. "Judge CARSWELL. There has certainly been no racial discrimination among the guests."

The affidavits Mr. Mitchell has put in the record answer that.

7. On page 148, the next day:

"Judge CARSWELL. This was a defunct outfit that went out of business."

What was the true fact about that? A resolution which I believe is part of the record of this corporation, made perfectly clear that it was not going out of business. It made perfectly clear that it was making one small change, namely a shift from profit to a corporation not for profit. Now what actually happened is perfectly clear. Somebody goofed. When they did the original incorporation, they put it under a profit statute of Florida. Well, that was a mistake. Nobody expects a country club to make money. Everybody assumes a country club has got hard times. Anybody who belongs to a country club knows it is a nonprofit operation.

You are damn lucky if you get somebody to pay the deficit. So all they did was shift under the corporate laws of Florida from profit-making corporation to nonprofit, and this is the resolution making the shift.

There are certain whereas clauses. Then it says:

"Whereas it is deemed wise and expedient to change the corporate nature of the Capital City Country Club from a corporation for profit to a corporation not for profit, now therefore be it resolved" we are going to change and then "Be it further resolved that all acts of stockholders and directors of Capital City Country Club, Inc., to this date be and they are hereby approved and ratified, and further that it is the sense of this meeting that all of the directors and officers of this corporation be continued in their present status respectively in the new corporation, Capital City Country Club, when duly organized."

To say that the original one went defunct instead of to say that it went on simply as a different from profit to nonprofit the word "defunct" was absolutely wrong on the basis of that resolution.

I do not know how you describe seven misstatements by a nominee for the Supreme Court on one incident and I guess what I

think you ought to simply do is leave the adjective out. That is up to the committee.

I have stated the facts, and I will leave it at that.

Now I want to come to the fifteen cases in which Judge Carswell was unanimously reversed by the Court of Appeals in the area of human and individual rights. I looked at all of the other cases in the limited time. I did not read the way Van Alystyne and Pollak read. I want this perfectly clear. Van Alystyne and Pollak, who are scholars, they read through books, and their opinion of Judge Carswell comes from reading of say a whole Federal supplement, one case after the other, and they got their low opinion of him that way.

They did a random cross-section of opinions. I think Van Alystyne said that he read them all except in the Court of Appeals, and I think that Pollak said he had read five years. That is not what I did. I am not really adequately any longer qualified to have read it in all the other areas. I do not teach law and there would be some that would be Greek to me. I am testifying on particular cases that I have not only read but studied, and which in my judgment render him unfit for the Supreme Court, which deals so much in the area of civil rights and human rights.

Let us go into these 15 one by one, and where there has been a discussion previously, I would simply like to add to it, not repeat it.

The first case is Augustus vs. Board of Public Instruction of Escambia County, Florida. In the Court of Appeals 306 F 2d 862, in 1962. This is the so-called Pensacola School System case.

The Pensacola School System was wholly segregated as of 1960. Suit was commenced on February 1, 1960 by Negro parents. The first thing that Judge Carswell did was strike the effort by the Negro parents to desegregate the faculties.

Now it would not have been so bad after a hearing to have concluded that way, because the law was unsettled on faculties at that moment. I would be the first to admit that, that the law was unsettled. But Judge Carswell ridiculed these Negro children who sought to get desegregated faculties. He made a joke of them.

Let me read you what he said about them. Judge Carswell thought, by granting a motion to strike the part of the case that dealt with teachers, and this is what he said:

"Students herein can no more complain of injury to themselves of the selection or assignment of teachers than they can bring action to enjoin the assignment to the school of teachers who were too strict or too lenient."

I say a man who makes that comparison to a racial question is a man who has hostility on the racial issue. This is no question of leniency or non-leniency of teachers. This is a question of the inferiority of Negro teachers being alleged, and his laughing at it.

Judge Carswell also—that was the 1960 ruling. You see, while I have only said there were fifteen cases, I am going to show you that in more than one of these cases Judge Carswell was overruled twice in the same case, but I am only counting that as one.

This was in 1960, when Judge Carswell laughed at the idea of faculty desegregation. But then in '61, he got to the actual school plan of Pensacola. Although the suit was filed in February 1960, Carswell did not obtain a desegregation plan from local authorities for a year and a half. Even then, Carswell allowed another year before the first short step was taken toward token desegregation.

He approached a defective plan which provided only vague notification of rights to black parents, allowed only five days a year for Negroes to request transfer to white methods, and authorized the school board to reject transfer applications on a variety of general grounds.

Now the Court of Appeals in '62, the case I have cited, got both of these appeals. They handled the appeal from the motion to strike in relation to the faculty problem, and they handled the appeal of the Negro children in relation to the speed of desegregation, and in both instances the Court of Appeals reversed unanimously.

As to the motion to strike, they were quite caustic in reversing: "Whether as a question of law or one of fact we do not think that a matter of such importance should be decided on motion to strike. A disputed question of fact cannot be decided" and they talk about the problem of whether the children could prove that it affected them to have faculty segregation.

Then in regard to the other problem of the speed of the Pensacola plan, they said flatly: "It has not gone far enough." And then this is kind of I think cute: The Court of Appeals says: "We are reluctant to substitute our judgment for that of the district court." And then they go on and specifically tell them what to do, I take it because they were rather scared he would not do it if they did not tell him exactly what they wanted, and the court then spells out how much further he has to go in order to meet that requirement.

The second case occurs in 1964. Due vs. Tallahassee Theaters, Inc., 333 Fed. 2d 630. This was a complaint under Sections 1981, 82, 83 and 85, of Title 42 of the U.S. Code against the two theater corporations, their managers, the city officials and the city of Tallahassee, alleging a conspiracy to deny negroes the right to go to theaters.

He threw it out on a motion to dismiss, and this is what the Court of Appeals says to him, again chastising him and again unanimous:

"The orders of the trial court dismissing the complaint for failure to allege a claim on which relief could be granted can be quickly disposed of. These orders were clearly in error."

And then they go on to say this. They state in the complaint in the opinion exactly not as the plaintiffs had stated it but as the defendants had stated it, and then they said:

"This appears 'to be a classical allegation of a civil rights cause of action'."

In other words, Judge Carswell without a hearing had thrown out what the Court of Appeals said was a classical allegation of a civil rights cause of action. Then they went on to reverse him a second time in the same case.

He had not only thrown out the case of everyone except the sheriff, but he gave the sheriff summary judgment, because the sheriff in an affidavit said he had not conspired with anybody, and the court said: "You cannot give summary judgment on a sheriff's affidavit that he did not conspire with anybody. You have got to have a trial on whether he conspired with anybody." And they reversed him on that point too.

The third case is Wexler, which has been much discussed and bruited about here, and I regret that Senator Hruska is not here for this discussion, but possibly he will be here later, so we can discuss it after I have concluded my direct testimony.

Wexler, the style of that case is Wexler vs. County of Gadsden, Florida 351 F 2d 311, in 1965. I am not going to repeat the facts in that case. You have heard them from Lowenthel, Knopf and Rosenberger, but there are two points that are worth making.

First, Senator Hruska said that the court "relied on Peacock." I wrote that down. The Court of Appeals in reversing unanimously relied on Peacock and on Rachel. Now I have re-read Peacock and Rachel.

Senator COOK. You mean the Supreme Court?

Mr. RAUH. The Supreme Court, yes, sir. No, sir.

Senator COOK. The Fifth Circuit?

Mr. RAUH. When the Fifth Circuit went back, they sent it back on their own decision in that.

Senator COOK. That is right.

Mr. RAUH. And then later both of those cases went to the Supreme Court. Now I have re-read Rachel and Peacock and the only candid thing a lawyer could say to you is that it is debatable whether the Wexler case fell under Rachel and Peacock. I can state what the problem is easier than I can give you the answer.

Rachel held that if a person is relying on a statute when he does, a Federal statute when he does the act involved, he can remove from a State criminal prosecution for that act. Peacock holds that when he is not relying on a Federal statute as a basis of the act for which he is arrested by the State, he cannot remove simply because he says "I cannot get a fair trial" or "My First Amendment Rights are being involved."

This is not clear which this was in Wexler, and I want to make this perfectly clear, because I think we could spend all day arguing whether Wexler was Peacock or Rachel, and I think it is unnecessary, and that brings me to the second point and the most important point about this case where Senator Hruska was wrong.

He also said that Peacock in the Supreme Court denied the principle of automatic removal, and permitted sua sponte remands without hearings. He did not say without hearings now. I want to make this perfectly clear. He did say sua sponte.

Now Peacock does not do that, and that is the important point for the present situation. In Peacock it is an appeal from two cases. It is an appeal from a case called Peacock in the Fifth Circuit, and it is an appeal from a case called Weathers in the Fifth Circuit. In both of those cases, there was a motion for remand. There was a hearing. In neither of those cases was it either on the judge's own motion to remand or without a hearing.

Then later in the Peacock case in the Supreme Court, the judges are saying why they did what they did. The judges, the five judges are apologizing to a degree to the civil rights movement for what they have done by saying there is not a right of removal.

What they said was if there were a right of removal, everything in the South would be tried in a Federal court and we cannot go that far, and in explaining how far you would go, they say this:

"If the individual petitioner"—and I am now quoting from page 832 of the Supreme Court's decision in Peacock 384 US 833—"If the individual petitioner should prevail in their interpretation of 1443 (1) then every criminal case in every court of every State on any charge from a Five dollar misdemeanor to a first degree murder would be removable to a Federal court upon a petition alleging, (1), that the defendant was being prosecuted because of his race and that he was completely innocent of the charge brought against him or, (2), that he would be unable to obtain a fair trial in the State court. On motion to remand the Federal court would be required in every case to hold a hearing."

What the Supreme Court is saying there is the real point of why we cannot remove all this stuff is because everybody would remove every criminal prosecution from the State court there. Then there would be a motion to remand by the State. Then there would be a hearing before that, and this is too much for the Federal courts. It is the exact opposite I respectfully submit from what Senator Hruska had indicated.

They made perfectly clear in Peacock removal was automatic. There had to be a motion to remand, and there had to be a hearing on that motion to remand.

Now, what did Judge Carswell do? Judge Carswell without a motion for remand, without a hearing remanded, and I respectfully suggest, and I carefully note my words, I respectfully suggest that he thereby evaluated the testimony of Lowenthal, Rosenberger and Knopf when they said that he wanted to remand so they would not get out, and I think that when you see that double violation not on the ultimate substance of Peacock as to which I here have tried to be candid and fair, on the ultimate substance or substantial point of Peacock there is a debate, but on the fact that he remanded without a motion, and the fact that he remanded without a hearing, there is no debate. That was error. That was part of his pique against civil rights workers that you heard here.

Senator BAYH. Could I interrupt just a moment to ask one question to put this in proper perspective. On the motion to remand was that made by one of the parties, in Peacock?

Mr. RAUH. In both of the lower court cases that were reviewed by the Supreme Court in Peacock there were motions to remand, yes, sir, and hearings to remand.

Senator BAYH. By one of the parties on the judge's own——

Mr. RAUH. Yes, sir.

Senator COOK. Mr. Chairman, I merely want to say that we had made an agreement before the Senator from Indiana came that we were not going to interrupt anybody, and I agreed to that at that time, and we took the position then and I think as a matter of fact both of the witnesses, that we wanted to get their statements over before any questions were asked, and I merely want to know whether the procedure is going to be followed or whether when anybody wants——

Senator BAYH. Strike that question from the record.

Senator COOK. No, that is perfectly all right, but I want to make it clear that this is what we agreed to.

Senator HART. The Senator from Kentucky is quite in order. My plane got in not late but on time but you fellows started early and I did not know the understanding. We will respect it.

Senator COOK. I think that is the understanding.

Mr. RAUH. Senator Cook is correct. We both asked, because of the fact that time was limited, that we be allowed to complete our testimony. We are happy to go on with questions, and I think Senator Cook and I could have some fun before the afternoon was up, but we did want to complete our testimony and get it in if there is to be an insistence on the time limitation. As far as Mr. Mitchell and I are concerned we are at your service for as long as necessary, but I see that I have only got approximately an hour more. I am on the third case and I have got lots of work to do here.

Senator HART. All of us wanted an analysis of those cases.

Senator BAYH. I regret that I asked the question. I wasn't aware of the original agreement. I think the point is well taken. I would rather hear your testimony than ask the question. I just wanted to refine this. I would like to hear the discussion between you and the Senator from Kentucky, because I think this would be enlightening to all of us to get a fuller explanation of the problems involved, but I apparently do not have the time to do that.

Mr. RAUH. Maybe we could be invited back at a later time. We are available.

Senator COOK. I apologize for bringing up the matter, Mr. Chairman.

Mr. RAUH. Going on now on the fourth case, Singleton vs. Commissioner of State Institutions 356 F. 2d 771. You have heard this case. It is the Reform School case.

Judge Carswell said that children who were in the reform school and brought a suit to stop the segregation of the reform schools had no standing to continue their suit when they got out.

I can only say that anybody who would have taken that position believed in segregated reform schools because it was obvious those children had a standing to bring this case, and the Court of Appeals rules three to nothing again that they had such a standing.

Senator FONG. What year was that?

Mr. RAUH. That is 1966, sir. In 1967 you get another double reversal. That is Steele vs. Board of Public Instruction of Leon County, Florida 371 F 2d 395.

This is the Tallahassee School Desegregation case. Here Judge Carswell approved a desegregation plan which opened only one grade each year to token desegregation through freedom of choice. This is 1963 and he is approving a desegregation plan which opened only one grade, and only one grade on freedom of choice.

He issued this order in spite of the directive to his court in the Fifth Circuit's Pensacola decision that at least two grades be desegregated the first year, if desegregation did not begin until 1963.

That is how bad it was in 1963, but it got worse in 1965. At a hearing on April 19, 1965, at which Mr. Leroy Clark appeared before Judge Carswell on a motion to change it, he said it was bad enough in 1963, but since then you had the Supreme Court's decisions in Goss and in Griffin and all cases where the Supreme Court had ordered faster action. "We want a new hearing." This is out of the transcript of the hearing in Steele in the district court on April 19, 1965.

"Mr. CLARK. Your Honor, basically our motion for further relief would be proposed or require a reorganization of the present system of assignment."

"Judge CARSWELL. Let me ask you this. You mean this would be an effort to reorganize the plan, that is to change the structural nature of the plan that has been approved by this court in the Fifth Circuit?"

Of course it had not been to the Fifth Circuit yet, so I do not know what Judge Carswell meant by that. Maybe you would like to ask him.

"Mr. CLARK. Oh, yes, I think so.

"The COURT. Well, I do not think we need to go any further. I think I made that very plain in the other motion. There is no necessity for this whatsoever and it would just be an idle gesture regardless of the nature of the testimony."

I say a judge in 1965, who on a motion to reform the Tallahassee school system said "It would just be an idle gesture regardless of the nature of the testimony" is a close-minded segregationist judge. When it got to the Court of Appeals he was reversed on both of his rulings.

Sixth is the third of the three big school districts in his district. You see, Judge Carswell's district essentially has the three big places were Pensacola, Tallahassee, and I have told you about those two school places, and now comes Bay County, which was the third of the big school cases before Judge Carswell.

This reversal was also unanimous on December 1, 1969, but not yet reported. The situation is as follows. This was—well, the style of the case in the Court of Appeals in Youngblood and United States vs. Board of Public Instruction of Bay County, Florida Number 572 in the Court of Appeals, reversed unanimously, Judge Carswell reversed unanimously December 1, 1969.

Of course he was already on the court by that time, but the court reversed his district court action.

This suit was filed by Negro students and parents in November 1963. On July 20, 1964 Judge Carswell made his first ruling in the case. Now remember that this comes in 1964, after Goss and Griffin, and this is what he held:

"Except for students graduating from grade school to junior high, or from junior high to high school, all children would be forced to remain in segregated schools for another year. Then token integration would begin on a grade a year basis. Even though students eligible to transfer the first year could enter white schools only if their parents came to the superintendent's office during working hours on one of only four days allowed for the purpose, even then the school board could use vague general criteria in the Florida pupil assignment law to reject applications."

This was so bad that the United States intervened in September 1966. A Jefferson County freedom of choice decree was entered in April 1967. In June 1968 the private plaintiffs filed a motion for supplementary relief in light of the Supreme Court decision in Green and the companion cases. The United States filed a similar motion on July 16, 1968.

These motions asserted that the freedom of choice plan failed to realistically promise to bring about a unitary school system to Bay County and asked the district school board to devise an effective alternative to free choice. At that time it was anticipated that the 1968–69 school year approximately 75 per cent of the Negro elementary and junior high school students would attend schools traditionally maintained for Negroes. No white students had ever chosen to attend these schools. Four of the twenty elementary schools and one of the four junior highs were all black. The high schools had been desegregated in 1967.

A hearing was held on July 18, 1968, and on August 12, 1968. The court issued an opinion which approved continued use of free choice for the 1968–69 school year. Remember this is after Green made clear what they thought, the Supreme Court thought of free choice. The Supreme Court stated it was not convinced freedom of choice plan has a place in the Bay County School System at the present time or that it is operated ineffectively as a tool of desegregation in Bay County, Florida at the present time.

However, the court already stated that the defendants in formulating a plan for the operation of the Bay County School System for the '69–'70 year have the burden of coming forward with a plan for desegregation.

The court ordered the board to file on or before January '69 tentative plans for the Bay County School System in accordance with the law during the 1969–'70 school year, and to file extensive factual material on the operation of the system. The school board then filed with the district court in response to the August order a request that it be permitted to continue its free choice plan.

The United States filed a response to this request again urging that an alternative to freedom of choice which would abolish the racial ideas of the system's schools should be devised and implemented for the '69–'70 school year.

The court then held a pretrial conference in all the northern district of Florida school cases on January 22, '69. At this conference the school board represented to the court that a bond issue was scheduled for election April 10 and that resulting new construction would fully desegregate the system. The plaintiffs and U.S. asserted the construction plans were vague and were speculative only and urged that the board file a new plan which would be effective by September 1969. The district court then directed defendants shall formulate and adopt a desegregation plan in accordance with the law as set out by the United States Supreme Court in Green and subsequent decisions of the Circuit Court of Appeals.

Such plan was to be filed by March 21, 1969 with a hearing scheduled for April 10, '69. However, on February 14 the court notified

the parties that as time is of the essence, and in order to avoid unnecessary expenditures of public funds, a non-evidentiary hearing was to be held in chambers on February 18.

At this conference the board again asserted its intention to continue freedom of choice, and the plaintiff and United States voiced objections to the continued use of freedom of choice.

Following this hearing, the board pursuant to the court's ordered oral directive where the plan would continue free choice and would establish special programs at the four Negro schools to make said schools more attractive for white students.

The plaintiffs moved for an evidentiary hearing on this plan which was denied. The United States filed further objections which included some possible alternatives to free choice which were available.

A further non-evidentiary hearing was held, and on April 3, five days before the bond issue election, the court entered its order approving continuation of freedom of choice. This was reversed by the Court of Appeals on December 1, 1969. This brings it right up to the present time, his refusal to allow the law of the land to apply to the schools of the district in which he was, and as you know from Mr. Orfield's testimony, the districts in his area were the worst in Florida, and moved the slowest, and in some cases worse than other States, States that were bordering, and I wish there were time to go into all that, but there is not.

The seventh case was reversed under the same circumstance as Youngblood. I would like to make a correction. I gave the number of the Bay County case in the district court. The number of the Bay County case in the Court of Appeals is Number 27683, and the number of the Alachua County case in the Court of Appeals is Number 27983.

The Alachua County situation is roughly similar to the Bay County case, and the reversal was unanimous as in the Bay County case.

The eighth case is the Darkins vs. Green. Their plaintiffs brought an action relying on Dombrousky to enjoin certain prosecutions in the State court, alleging that the defendants, the prosecuting officials of Gainesville, Florida and Alachua County, Florida acted in bad faith in prosecuting the plaintiffs under the color of law enforcement to suppress and give a chilling effect to the exercise of the plaintiffs' rights as secured by the Constitution of the United States.

Despite that allegation, which was a clear allegation under Dombrousky, Judge Carswell on June 4, 1968 granted a motion for summary judgment and dismissed the complaint. Now what had happened was that the defendants filed affidavits saying that they were not in bad faith, and without a hearing he dismissed the complaint, and this is what the Court of Appeals again reversing him unanimously said. Those affidavits have no probative value.

Of course they had no probative value. If you bring a suit against somebody, and you say he is in bad faith, and you offer to prove he was doing this in bad faith, and he files an affidavit that he is not in bad faith, you have still got a right to prove it, and that is exactly what the Court of Appeals said, and anybody who would have dismissed that complaint in Darkins vs. Green, the eighth case I have cited here of unanimous reversal really didn't want to look into that case.

I am afraid I did not give the style of that case and I should have. It is Darkins vs. Green 412 F. 2d 644.

Senator FONG. When was it?

Mr. RAUH. That was 1969, sir. The reversal was '69. I think his action was in '68, sir.

Eight unanimous reversals by the Court of Appeals, some with two reversals in them in civil rights. Now you say eight is not so bad, eight civil rights cases. That is not so bad. He was there eleven years, why shouldn't he get reversed eight times on civil rights. Why doesn't he once get reversed the other way? Why doesn't he once take care of a human situation and get reversed the other way? The story is that everything he did on civil rights, and I am coming to the barber shop, everything he did on civil rights was wrong. This man was unanimously wrong on civil rights. He was justifying instead of rebutting the presumption that goes with his '68 speech and his '56 gold course and his hostility that you heard. Instead of rebutting this, these cases confirm this presumption that comes with this statement.

I have got eight, but I do not have to stop there, and I have got seven more, but I just wanted to put this one in the interstices in this argument. He once sat on the Court of Appeals in a civil rights case and he got overruled two to one because he had his own vote. It is the only civil rights case in which he was not overruled three to nothing because he was sitting on the court.

The name of the case is Gaines vs. Dougherty County Board of Education 334 F 2d 983. This is 1964, ten years after the Brown case. An appeal comes to the Court of Appeals from a school district in Georgia. The Court of Appeals says that they think a minimum requirement would be desegregation of the first two grades of the school together with the desegregation of the twelfth grade. What they say about the twelfth grade is every kid before he gets out of school ought to have one year under the Brown case, which had been decided ten years earlier. Otherwise a whole decade of kids get swept out of school never having gone into a desegregated class, so the Court of Appeals, Judge Tuttle and Wisdom, say this really radical doctrine that you should desegregate ten years after Brown the first year, the second year and the twelfth year.

Judge Carswell is sitting with these two very distinguished judges, and he dissents. He cannot even go along with Tuttle and Wisdom on so little appropriation as two grades at the beginning and one at the end. But then it is worst.

He writes an angry dissent about what they do on page 986 of the Federal Reporter, it reads as follows:

"In my view, this simply violates the longstanding and wise view that no court should rain down injunctions unless there be some demonstrated factual necessity to insure compliance with the law."

Here is a school district that for ten years is totally segregated, and he refers, and I quote "to raining down injunctions" to get three classes integrated, and I do not even count that in my fifteen.

Now there is a thread of no hearings going through Judge Carswell's performance. He does not want to hear the other side. Let us go back and look at these cases just on the point of no hearing. In Augustus he moved to strike the teacher thing rather than give them a hearing. In Due he granted a motion to dismiss without giving a hearing. In Wexler he granted the remand without giving a hearing. In Singleton he granted—he dismissed without a hearing in the reform school case because he said they had no standing.

In Steele, in the second half of it where Clark asked him for a hearing in '65 to change the reorganization plan, he refused a hearing, and in Darkins vs. Green he refused a hearing and said that the affidavit of the sheriff that he was not in bad faith was enough.

The real reprise in this musical comedy of Judge Carswell is that he never wants to give anybody a hearing and I am just coming to that, and I think that is what the lady wants to tell you about. She wants to repeat the testimony on Martin Marietta, and I hope you will allow her. I did not particularly want to interrupt. I have been waiting a long time for this chance, and I simply say that I hope you will hear her too. I meant no discourtesy, but I wanted my day in the sun too.

Senator HART. It is five minutes of eleven, and under the order entered, we conclude at 11:30. If you really want the lady to be heard, we are under a limitation.

Mr. RAUH. I am going to get done just as fast as I can.

Senator HART. I am just saying——

Mr. RAUH. I am doing the best I can, sir. I have got fifteen cases and I have got to show you that the fifteen is a minimum, and a modest estimate, but I want you to leave, I want everybody to leave this room this morning to realize that the record of this man on civil and individual rights in the Court of Appeals of his own State, the Court of Appeals of his own southern colleagues, is 45 to nothing, that there were 15 reversals, each unanimous, and I have just got to go on to prove this matter.

I was talking about no hearings and I was pointing out that that is why the ladies of this country are so up in arms at confirming for the Supreme Court a man who would not even give a hearing to them in Martin Marietta. Now there are seven cases which complete the fifteen. There are seven cases when in review of criminal trials either under 28 USC 2255 or by habeas corpus from State cases, he refused a hearing despite an allegation in the 2255 petition or the habeas corpus petition which was adequate to require a hearing and which the Court of Appeals in so many words three to nothing did reverse him.

The first case which now becomes the ninth case, Meadows vs. United States of America 383 F 2d 942, in 1960, where the petitioner moved under 2255 to set aside the sentence on the ground of a prior determination of mental illness which made it impossible for him to make intelligent waivers and pleas. The Court of Appeals reversed and just very peremptorily saying this was an adequate petition and obviously should have a hearing.

The tenth case is Dickie vs. US 345 F 2d 508, where the petitioner moved to vacate judgment and sentence under 28 USC 225 on grounds that he was mentally incompetent at the time he waived counsel. He denied the motion without an evidentiary hearing. He was reversed unanimously and instructed to give the man a hearing.

The eleventh case, in Baker vs. Wainright 381 F 2d 248, 1968—and I want to point out here he got it once in '60, he got it a second time in '65 from the Court of Appeals on the simple proposition of law that if you state a case in 2255 or habeas corpus you are entitled to a hearing. Having been reversed unanimously on this proposition in 1960, and in '65 he got five reversals in '68 on this very proposition. Baker vs. Wainright 391 F 2d 248 is the eleventh case of my series, and the first of the five cases in '68 where this occurred.

In that case petitioner alleged that he was denied right to counsel on appeal from his conviction. After conviction, petitioner filed affidavit of insolvency in prosse notice of appeal. State court did not apprise him of his right to have counsel appointed.

Judge Carswell on habeas corpus denied without evidentiary hearing. Judges Wisdom, Bell and Dwyer reversed and remanded for evidentiary hearing.

The twelfth case and the second in '68 in Darkins vs. Crevas 391 F 2d 921. This is the Darkins case that we had before on the bail issue, and on the bail issue the exact same thing. Petitioner denied without hearing, reversed with direction to enter order granting bail by unanimously Thornberry, Haynsworth and Dwyer.

The thirteenth case and the third in '68

where this occurred is Brown vs. Wainwright 394 F 2d 153 May 1, 1968. Their petition alleged that his incriminating statements used against him were involuntary. It was a habeas corpus proceeding, but the petition was denied without evidentiary hearing. Reversed unanimously and remanded for evidentiary hearing.

The fourteenth case and the fourth in the same year, 1968, is Harris v. Wainwright 399 F 2d 142. Petitioner alleged that he was not sane at the time of offense or at time of trial. No pretrial hearing or motion for an examination had been made, though petitioner had a hearing of mental commitment. At hearing of petitioner's post-conviction attack and State court petitioner was not produced and was not represented by counsel State court held the petitioner was represented by able counsel at trial and the conviction was not illegal.

Judge Carswell denied summarily, without even requiring the respondent to reply to the habeas corpus. He was reversed with directions to determine if issues raised by allegations require evidentiary hearing and for consideration of whether the court should appoint counsel to represent petitioner.

The fifteenth and last of the Court of Appeals reversals but not last of the cases against Judge Carswell is Barnes vs. Florida 402 F 2d '63. Petitioner alleged coercion of guilty plea and ineffective assistance of counsel. He alleges he saw court-appointed counsel on few minutes four days before trial and few minutes prior to trial.

Claims attorney coerced him into pleading guilty, submits portion of certified letter from lawyer as proof.

Judge Carswell in habeas corpus petition denied this petition without evidentiary hearing. Reversed and remanded for evidentiary hearing.

I guess that would be enough, but it is not all that occurred. I mean the trouble is that there is such an overwhelming amount here that you simply cannot get it all in. I think if there were time, there are dozens of additional things that I would like to produce. I think it has been a monumental task with great help from other people, especially the Washington Research Production Action Council, and Mr. Frank Pullhouse, assistant to Mr. Mitchell, that we have been able to put this much together in this short time.

Now if that were all, it is terrible, but those fifteen cases do not include the Gaines case that I gave you, where he dissented from Tuttle and Wisdom. They do not include the refusal to hear Martin Marietta, and they do not include the case of Edwards vs. State of Florida CA Number 1271.

The facts I am about to relate are all contained in the official record of that case, can be inspected in the office of the Clerk of the Court, United States District Court for the Northern District of Florida at Tallahassee.

In October 1966 Ray Eugene Edwards, a prisoner in a Florida jail filed a handwritten petition for a written habeas corpus which he had drawn up while in prison using whatever legal terms were available there.

The Clerk of the District Court then sent him a mimeographed form to fill out. The form was labeled "Petition for Writ of Habeas Corpus" and a filled-out copy was returned to the Clerk of the Court on October 25. From the documents and the court records it appears that Edwards had never directly appealed his conviction. Instead he had tried three times to have his conviction set aside under a procedure set out in Rule 1 of the Florida Rules of Criminal Procedure. The papers do show that he may have been confused, and thought that his Rule 1 motions were appeals.

In his Rule 1 motions he had told the State court that he was indigent and asked that a lawyer be appointed to represent him, that he be furnished with a transcript of the proceedings leading up to his conviction. The State court denied these requests on the ground that an indigent had the right to an appointed lawyer and to a free transcript only on direct appeal from his conviction and not on collateral attack.

In figuring out the form sent him by the Clerk of the District Court, Edwards made the mistake of putting coerced guilty plea in the wrong blank. It should have been placed in the blank under the question asking the grounds for his claim that he was being unlawfully detained. Instead he put this allegation under the question asking the grounds for his attacks on his conviction in the State Court Rule 1 proceedings.

Edwards had put only "Denial of appointment of counsel for appeal" and "Denial of court records" et cetera with which to appeal under the first question. Although Federal statutes set forth a tightly limited time schedule for the speedy handling of habeas corpus petitions, Judge Carswell did not act until February 14, 1967, three months after the time set by statute had expired.

At that time he granted Edwards motion to proceed in forma pauperis but denied his petition. Although allegation that petitioner was forced to plead guilty clearly presents a factual issue which if found to be true would require that the writ of habeas corpus be granted Judge Carswell denied the petition without holding a hearing on the allegation, thereby violating the clear requirements of 280 SC.

His order denying the petition ignored the allegation entirely, choosing to focus only on the item specified under the correct blank. Then almost unbelievably, he denied a certificate of probable cause.

So what you get is not just the 15 reversals. I do not know how many more of these exist. We do not have time. We want to go through the records of this judge. This does not come out of any printed volume. This is not in any book we have easy access to. This comes out of a file. Give us time. This judge, a judge who would do what I just read you in the Edwards case did not do it just once. I have shown you fifteen. But these are the ones we want to look at. These are the ones that you ought to ask for.

Now just a word here. I do not have time, because I do have to make some conclusions from some of this, I do not have time to tell you in full how bad the jury system is that Judge Carswell set up. In this room you have heard at least twice, once from Judge Carswell and once from everybody else about the great jury system he set up. That jury system is discriminatory and is illegal, and I have here a memorandum which I simply cannot read but which I ask to be inserted dealing with the problem "Racial Discrimination in Judge Carswell's System of Selecting Persons for Jury Service. I am available to answer questions to it, but in the short time I am trying to save a couple of minutes for the lady, in the short time I have there are other things I would rather deal with, but this document examined by you, and I have extra copies here, this document examined by you will show that the Carswell jury system far from being in his favor is the other way and I ask that it be inserted in the record at this point.

Senator HART. Without objection it will be printed.

Mr. RAUH. Members of the committee, on behalf of the Leadership Conference on Civil Rights, speaking for Mr. Mitchell and myself, I beg of you not to let the record stand this way. I beg this committee not to close the hearing, not to give the impression to the public of railroading. And let me give you six reasons why we should not close this hearing today.

First, how many other times did he say white supremacy? That was found not by this committee. That statement was found by a telecaster down in Florida. The Newsweek quote was found not by this committee but by a private investigator. I think we ought to find out how many other times. I do not believe there is a man in this country has ever said white supremacy just once.

Second, how can you let the golf course thing rest as it stands with the seven misstatements of fact by Judge Carswell? Don't you have to investigate? Don't you have to go further? Don't you have to find out if I am right when I say that there was a serious question whether there was a crime here?

Third, it is an open secret in this town that there are unreported opinions and actions in the Department of Justice's files of the Civil Rights Division. Those files have never been made available to this committee. I suggest that every case which the Civil Rights Division had in front of Judge Carswell be read by some representative of this committee and be made available to the Civil Rights groups.

Fourth, I think you should go into the jury situation in the memorandum I have just filed in that record.

Fifth, there are other witnesses who have requested to testify besides the lady at my right, and they are quite remarkable people asking to testify. A. Philip Randolph, the Dean, the senior human being, a man whose whole life has been given to this, has asked to come before the committee. Do you really want to say that A. Philip Randolph cannot come before this committee? Dorothy Hight representing literally, I do not know, hundreds of thousands, millions of women in her organization, seeks to come before this committee. Bayard Rustin, a great and trusted leader seeks to come before this committee. The American Jewish Congress, representing a large segment of the Jewish community, wants to come before this committee. Mike Masoka representing the Japanese group wants to come before the committee. I do not know how many others they have got in the other room that want to come before this committee.

Can you really really close this out today?

Sixth and last and most important, we ask that Judge Carswell be recalled. We ask that he explain the discrepancies in his golf course testimony. We ask that he explain the discrepancy in his jury testimony, in testimony on his jury record. We ask that he explain the 1964 incidents. We ask that he answer whether he did in fact turn his back on Leroy Clark.

Let me just say this one thing on this. If Judge Carswell were worthy of the Supreme Court, he would demand the right to come back, because as he sits up there asking if he should be confirmed, asking lawyers to explain things through every lawyer's mind in this country standing before Judge Carswell will be the question "You didn't explain the discrepancies in your own testimony, the discrepancies in your actions. You hid, you fled."

He has a right to demand to come back here. I use the analogy of Justice Black. He explained. Judge Carswell has not explained, and we ask that he be recalled and if he were qualified to sit on this bench, he would come back, and insist he could come back.

In conclusion therefore, gentlemen, I respectfully suggest to you that Judge Carswell is Judge Haynsworth with a cutting edge. He is Judge Haynsworth with a bitterness and a meanness that Judge Haynsworth never had. A Senate that would not confirm Judge Haynsworth cannot confirm Judge Carswell. It cannot accept the principle that because the Senate refused to confirm someone, it thereby has to confirm somebody worse, or else you will get to the situation where you may never refuse to confirm anybody because there is a threat that it will be worse.

You have heard Mr. Pollak and others say this man has never written one legal

statement for the press, for the public. To put in the seat of Oliver Wendell Holmes, who wrote the Common Law, the seat of Benjamin Cardoza, who wrote The Nature of the Judicial Process, in the seat of Felix Frankfurter, whose writings and scholarship were legion, to put in the seat of those three men a man who has never published one page on the law is to be disrespectful to great justices. Nor is there one opinion cited of his by anybody in his favor with one exception that I am coming to.

Here you had Professor Moore, a great man, who has written, he has read everything. Professor Moore, in order to write the Federal, Moore's Federal Practice and keep it up to date has got to read everything, and he comes before you and cannot cite one case worthy of his note of Judge Carswell.

So you say the Barbershop case. That is the one case anybody has ever talked about. If Judge Carswell is confirmed, God help us. It will be the first time in history that a man ever was confirmed for writing an opinion that his racist barber ought to cut a Negro's hair.

But what about that case? Let us look at the case. It is called Pinkney vs. Malloy, 241 F Supp. 943 in 1965. I am going to read you the statute. The fact anybody should cite this in his favor is real proof that nobody expects him to do anything. I want to read you the statute. You all passed the statute.

Section 201(b)(4) of the '64 law provides "coverage of any establishment which is physically located within the premises of any establishment otherwise covered by this subsection and which holds itself out as serving patrons of such covered establishment."

Two criteria to be covered. First, that it is part of an establishment that is covered, and second, that it holds itself out to serve the patrons of the covered establishment. Gentlemen, both of those points were stipulated by the parties. The stipulation of the party reads as follows:

"The Duval Hotel is located in the city of Tallahassee, is a place of public accommodation as defined by the Civil Rights Act of 1964."

In other words they stipulated the first half of that. And then they say, and this still in the stipulation.

"There are signs in the hotel elevators listing the various services located in the hotel including barbers."

Both halves of the statutory requirement for coverage were stipulated to, and I say that when anybody has got to rely on a case that was stipulated as covered by the law, they are in one heck of a shape.

Members of the committee, this is the worst possible time in our history to put a man on the Supreme Court like Judge Carswell. There is a new revolution going on, and it is going on in two ways in the South. There are those who want to comply. There are people, the decent people who want civil rights for everybody, and this is a slap in the face to them, but then there are others best exemplified by Governor Kirk who are starting a new revolution against it. What you are doing is fanning the flames of that revolution and killing the good revolution by putting Judge Carswell there.

Finally I came here as a lawyer, and I said I was going to prove my case. My case is this. There is a presumption that a man who says he is a white supremacist is a white supremacist until he proves the contrary. I say that the record before you instead of proving the contrary buttressed the 1968 white supremacy speech.

There is the golf course incident, in which he has been not only implicated deeply, but lacking in candor before this committee. There is the hostility running down, I think Leroy Clark said he was there until as late as 1966, insulted, "never letting me finish a sentence, turning his back on me." Do you really believe that Rosenberger, Knopf, Lowenthal and Clark were not telling the truth? You could not believe that if you saw them. They have got nothing to gain out of this. So you have got a record buttressing this white supremacy statement, and then you have got the cases. You have got 15 cases of unanimous reversal, nothing in his favor. You have got, plus what you have really got is 45 to nothing against Carswell plus.

Well, if we have not proved our case, I do not know how anything can prove a case in this country. Don't let the fact that you did not want to do it again—it is not the fault of the Senate that they are here. They did what they had to do on Judge Haynsworth. Don't let the fact that it came back worse discourage you. Remember you will have to live with your conscience, and I am going to predict now that those who vote for Carswell for the nomination to the Supreme Court are going to find as time goes on that more is going to come out. If in two weeks this black record can be built by volunteers, by people with no staff, if so black a record can be built in two weeks, what could be built with an adequate investigation?

I just suggest that caution does not lie with confirming a man who proclaimed and has proved his belief in white supremacy. Caution stands with those of us who ask you to say no.

Senator HART. Thank you very much, Mr. Rauh. The witnesses are available for questioning.

Senator KENNEDY. Mr. Mitchell and Mr. Rauh, would your opinion be as strongly expressed in terms of your reservation about the nominee's attitude on the field of human rights and civil rights if he had not made that speech in 1948? Do you think the events since that time would still justify an expression of reservation on your part?

Mr. RAUH. Yes, Senator Kennedy. I would have been here with those cases proving the case. I would say that these are independent points.

Mr. Mitchell so eloquently made clear that you could not put a man on the Supreme Court who had said that. There are a lot of things you can forgive him for, and you can forgive his statement, if he had really recanted, but you could not put him on the Supreme Court. That is point one.

My point is wholly different and in addition to that point. I would be here opposing Judge Carswell as a segregationist if he had never made the statement. I simply say that the statement illuminates the later history.

Mr. MITCHELL. I think too, Senator Kennedy, that the fact that we in the Leadership Conference oppose his nomination to the Court in the Fifth Circuit when we did not know about his white supremacy statement indicates that we considered him unfit.

Senator BAYH. I have no questions, but I would say that some of the questions I had were answered by the extreme detail in which you examined those cases, and there is a very great concern in my mind on this critical issue.

Senator HART. For Senator Ervin I recognize Senator Burdick.

Senator ERVIN. Senator Cook?

Senator COOK. I was wondering, we have five minutes, I think under our order and I wonder whether it is the desire of the Chairman to hear the lady who wished to testify?

Senator ERVIN. Under the agreement as I understand it, the order of The Chairman and under the tacit agreement of the committee, if Mr. Rauh and Mr. Mitchell have finished testifying, then we will stand in recess. We will adjourn the public hearing and go into executive session.

Mr. RAUH. Sir, it is not 11:30, couldn't the lady be heard? Let her talk.

Senator ERVIN. Have you finished testifying, Mr. Rauh?

Mr. RAUH. I would just like to say one thing in my testimony. I think you would be making a terrible mistake not to hear the lady.

Senator ERVIN. The committee has already made its order and the committee, the public hearing is adjourned and the committee will go into executive session at this time.

(Whereupon, at 11:25 a.m. the Committee proceeded to Executive Session.)

URBAN LAND IMPROVEMENT AND HOUSING ASSISTANCE ACT—WCBS-TV EDITORIAL

Mr. JAVITS. Mr. President, the problem of suburban land use is one which is of increasing importance today. As more people move into our suburban areas, it becomes very important to assure that middle and lower income groups have the opportunity to move to those areas if they desire to do so.

I have introduced a bill (S. 3025), the Urban Land Improvement and Housing Assistance Act, in an attempt to meet some of the problems of urban growth. One of the features of that bill would make Federal grants available to suburban communities to assist them in meeting the increased costs of schools, sewers, and other facilities which may result from the construction of moderate- and low-income housing. This provision in the bill has received favorable comment from WCBS-TV in New York City in an editorial on December 15, 1969. The editorial also recommended the examination of other specific proposals to encourage the construction of moderate- and low-income housing. 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:

SHARING SUBURBIA

In earlier editorials, we noted that suburban zoning practices were facing a court test, a test in which we hoped that zoning that discriminates against poor and lower income families would be found unconstitutional.

But this legal challenge to such zoning practices is essentially a negative one. It may succeed in ending some forms of exclusion in the development of vacant land, but it may not encourage more than a token change in housing practices in the suburbs, practices that reserve almost all open land for the affluent, those earning $15,000 or more.

So we believe other challenges to suburban land use must be mounted, challenges that encourage sharing in suburbia. One area for reform is in property taxation. As we have noted before, suburban communities tend to zone out blue collar workers and the poor in an effort to keep property taxes under control. So one way to bring about more varied land use in suburban communities is to assure those communities that greater population density will not raise their taxes.

Senator Jacob Javits, Republican of New York has introduced a bill—S. 3025—that would, among other things, make federal grants available to help meet local costs of more intensive development. In other words, if suburban communities opened their land for development of more moderate and low-income housing, the federal government would pick up half the bill for any additional public investment in, for example, sewers or schools that the housing would make necessary.

In our opinion, this feature of Senator Javits' bill is particularly attractive, and we would urge passage not only of the Javits' bill, but of similar state legislation using tax incentives to encourage suburbs to make more varied use of their land.

A second approach that merits examination has been enacted in Massachusetts. There the state legislature has approved a zoning law that, in effect, requires every community to provide some of its vacant land for low and moderate income housing.

Another promising approach is through the establishment of state-level public authorities that are empowered to override local zoning regulations to build housing for low-income and moderate-income families. In our next editorial we'll examine the first of such agencies, New York State's Urban Development/Corporation.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill 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.

AMENDMENT OF THE FEDERAL CREDIT UNION ACT

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 2, the unfinished business.

The PRESIDING OFFICER. The bill will be stated by title.

The BILL CLERK. A bill (H.R. 2) to amend the Federal Credit Union Act so as to provide for an independent Federal agency for the supervision of federally chartered credit unions, and for other purposes.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia?

There being no objection, the Senate proceeded to consider the bill.

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SPARKMAN. Mr. President, the House-passed bill, H.R. 2, which has been favorably reported by the Banking and Currency Committee with certain amendments, amends the Federal Credit Union Act by elevating the Bureau of Federal Credit Unions to the status of an independent agency. It is designed to create a National Credit Union Administration, thus placing the credit union supervisory body on a par with the agencies which supervise and regulate banks and savings and loan associations. In the Federal Reserve Board and in the Federal Home Loan Bank Board, we have independent bodies regulating the activities of banks and savings and loan associations. Yet, throughout their history, credit unions have been supervised by agencies which are subordinated within a parent, though nonrelated, Government agency. The current Bureau is located within the Social Security Administration which in turn is located in the Department of Health, Education, and Welfare. This is true even though there are now more federally chartered credit unions in this Nation than there are all other federally chartered financial institutions combined. On that basis alone, a strong argument is made that Federal credit unions should be given the status and recognition which a separate, independent supervisory agency would provide.

But more importantly, the National Credit Union Administration, as proposed in this bill, will go far toward creating a more effective and efficient administration of the Federal Credit Union Act than is possible under the Bureau in its present organizational level. I do not mean to imply that the Bureau is inefficient and ineffective; I merely wish to emphasize that its location in the organizational hierarchy of our Federal Government imposes certain limitations and handicaps which should not exist, and would not exist under a separate agency status.

The Bureau of Federal Credit Unions' position at a third echelon level in a major department of the Federal Government gives it a certain degree of isolation from both the credit unions it supervises as well as from the Congress.

As an example, in major policy matters and decisions, the Director of the Bureau must secure approval from the head of the Social Security Administration, which has no direct concern in its affairs, and then from the Secretary of the Department of Health, Education, and Welfare, after going through channels of numerous assistants to the Secretary. In this organizational setup, the Bureau is essentially a stepchild in a department whose major concerns are not in the financial institution category. The responsiveness of the Bureau to urgent requirements of the Federal credit unions is all too often stymied by the organizational procedures and channels involved in establishing major policies and decisions, which are unnecessarily time consuming and cumbersome.

Another defect of this organizational setup is the fact that it creates additional problems of communication with Federal credit unions on their needs and requirements. Until higher echelon approval is obtained on proposed major policy matters, the Bureau is often restricted in discussing such matters with the credit union movement.

A prime example of this was the reduction early last year of the number of Federal credit union regions from nine to six. Although this move was undoubtedly sound in the interests of economy, it did have a major impact upon Federal credit unions. The action was taken by order of the Secretary of the Department of Health, Education, and Welfare without advance communication, warning, or discussion with the credit unions affected. Certainly, a productive discussion in advance of the reorganization would have been extremely valuable to all parties in this action and would have materially alleviated the concern and confusion which resulted from the completely unexpected announcement.

One of the important features of the bill before us is the creation of a National Credit Union Advisory Board to be appointed by the President, by and with the consent of the Senate. This Advisory Board, composed of one representative from each of the Federal credit union regions with a Chairman to be appointed from the country at large, will be a major factor in improving communication between the administration and the Federal credit unions which it will supervise. Representing all sections of the country, with the diverse problems which each has, the Advisory Board will provide a two-way channel of communication between the administration and the Federal credit unions. Through the Board members, information on needs and problems of the Federal credit unions can flow freely to the administration; and administration proposals can be made known to the field easily and quickly so that the supervisory agency can have the added benefit of various viewpoints and the knowledge of experienced credit union representatives.

An attempt has been made in recent years to provide this two-way communication through a liaison committee of credit union organization representatives. While this has had some small degree of success, it has generally been unsatisfactory both to the Bureau of Federal Credit Unions and to the credit union industry. The committee has had no formal standing, and as such its value to the Director of the Bureau has been materially undermined. That same lack of formal recognition has created dissatisfaction on the part of credit unions themselves with this informal arrangement. At best, the arrangement has been far from successful and generally unsatisfactory to all concerned.

You will note that one of the amendments the Banking and Currency Committee has made in the legislation as passed by the House is the establishment of the Presidentially appointed Board as advisory to the Administrator of the National Credit Union Administration. The committee felt that more effective administration would result if responsibility was clearly vested in the Administrator, with the part-time Board in an advisory role. We believe that the proper function of the Board is to advise the full-time Administrator, but that the Administrator would have the clear-cut responsibility for the conduct and decisions of the administration.

This bill will give the Administrator the tools with which to operate more effectively and efficiently. As an example, the present Bureau is dependent on offices outside his control and jurisdiction for legal opinions and advice. Now the Director must go to lawyers in the Social and Rehabilitation Service Division of the Office of the General Counsel in the Office of the Secretary of the Department of Health, Education, and Welfare.

Undoubtedly, as qualified as this staff is to provide this advice, it is not primarily oriented to credit unions and their problems of operation. Even more important is the fact that this staff has other pressing demands, and that priorities in operations are controlled by other officials. A separate agency would have its own legal counsel—one whose expertise would be solely devoted to credit unions.

The present Bureau is also dependent on other agencies for its personnel administration. While this is not as critical as is its dependence for legal advice, it is still an undesirable situation. With over 450 employees, a personnel office of its own would be most desirable. This again, can be effected under the measure we have before us.

A vitally important consideration in this measure to create a National Credit Union Administration is the fact that it will not cost the Government a single cent. Fiscal year 1969 marks the 15th year that the Bureau of Federal Credit Unions has operated solely on funds received from Federal credit unions for chartering and supervisory services. Since fiscal 1954, Congress has not had to appropriate funds for the administration of the Federal credit union program.

The proposed legislation makes no change in this situation. The independent National Credit Union Administration will continue to be supported entirely by fees assessed for chartering, examining, and supervising Federal credit unions. These fees, I emphasize, would be paid by the Federal credit unions themselves. Not only would the National Credit Union Administration be an independent agency—it would also be a financially independent agency supported entirely by the Federal credit unions which it serves.

Certainly, Federal credit unions who will pay the cost of this agency and who desire so strongly an independent National Credit Union Administration deserve to have the prestige, the recognition, and the equality which an independent agency will give them.

Mr. President, I wish to emphasize that this legislation would not create another Goverment agency per se—it would merely elevate the existing supervisory agency, the Bureau of Federal Credit Unions, to an independent agency status as the National Credit Union Administration. It would enhance the prestige and status of Federal credit unions and give deserved recognition to the over 11 million Americans who are Federal credit union members.

I shall not go into further details on the provisions of this bill. But one point deserves to be emphasized—that this bill does not in any way alter the present provisions of the Federal Credit Union Act insofar as the powers and restrictions placed upon actual Federal credit union operations and control are concerned.

My support of this measure, as amended by the Banking and Currency Committee, is based upon two major considerations: first, that the nearly 13,000 Federal credit unions with over 11 million members are entitled to the same independent supervisory agency as are our other financial institutions; and, second, that this proposed legislation will be without cost to the Federal Government since the Federal credit unions themselves will, as they have for the past 15 years, provide the entire financial support through assessed supervisory and examining fees.

This is sound legislation in my opinion; it is legislation which has been earned and which is justified by the record Federal credit unions have established in 35 years of existence. The overwhelming majority of Federal credit unions have asked for this legislation. Why should we deny them the right to an improved and more effective supervisery agency which they have so clearly justified and earned, and for which they—and they alone—will foot the bill? I wholeheartedly recommend to the Senate passage of this bill.

Mr. BENNETT. Mr. President, there are a number of reasons why I think this bill should be rejected. In the first place, I do not think it will give the credit unions what they want, or what they hope to get out of it.

In the second place, because of a situation that has arisen since the bill was introduced and considered in committee, I think it has become untimely.

It may well be that if this bill is passed, everything that it creates will have to be done over again, for a reason which I shall also explain later.

It was brought out clearly in testimony before our Banking and Currency Committee that the major purpose of this legislation is to provide "prestige and recognition to Federal credit unions which they have earned and deserved." As a member of a credit union and a member of the committee which has jurisdiction over credit unions, I have no doubt that credit unions have provided great benefits to savers and borrowers. In many cases, individuals are able to borrow from a credit union at rates which are more advantageous to them than from any other source. Credit unions in such instances are obviously providing a service to their members, and they deserve recognition for that service and whatever prestige comes about as a result of it.

I might also point out that many credit unions are now paying 6 percent on savings to their shareholders, while all other federally chartered institutions are forbidden to pay such a rate on regular savings accounts. So credit unions already have that advantage. This is an obvious service to members of the credit union, and it grows out of this legal advantage. Thus, I do not question that Federal credit unions have played a significant "role"; and I feel that their future impact, if channeled in the right areas, can be even more significant than it has been in the past. However, it seems to me that some leaders in the movement are hungry for public acclaim and personal recognition and think that this can be generated by legislation.

The lending and borrowing activities of many credit unions have been supplemented by counseling services which have provided recognition and prestige to the credit union movement. I feel that it is not only impossible for Congress to enact legislation providing prestige and recognition above that which the industry itself can earn, but also, that it is unwise to attempt it chiefly to satisfy someone's pride.

It was suggested in our hearings that the establishment of an independent agency for the supervision of Federal credit unions would place credit union affairs on a par with such agencies as the Farm Credit Administration, the Small Business Administration, and the National Science Foundation. Our committee does not have jurisdiction over the Farm Credit Administration or the National Science Foundation, but we do have jurisdiction over the Small Business Administration. If credit unions feel that the establishment of an independent agency is the key to stability for their organizations, they should realize that during the last 10 years the Small Business Administration has had nine Administrators, and financial institutions which operate under the supervision of the Small Business Administration have, therefore, had an extremely difficult time of it if they are jealous of what they may consider unequal interest on the part of the Banking and Currency Committee. I would like to add that, as a member of the committee responsible for the regulatory agencies and legislation regarding financial institutions, I am sure that the problems of the credit unions have had as prompt and thoughtful attention as those of banks, savings and loan associations, and mutual savings banks. We have given the same consideration to the needs and desires of Federal credit unions as would be the case if they were to achieve the new status they seem to want so much.

We received testimony during our hearings that the present Bureau of Federal Credit Unions is a "stepchild" in the Federal Government hierarchy, buried at a third level in the Federal bureaucracy. It is true that in earlier years the responsibility for administering the Federal credit union program was shifted from one department to another and that it lacked the continuity of support which it has received in recent years. In 1948, however, the program was assigned to the predecessor of the present Department of Health, Education, and Welfare and has been an important division of that Cabinet-level agency ever since it was created by President Eisenhower. Federal credit unions have grown and flourished in number, assets, and membership under the present administrative setup. One need only look at the growth statistics to be convinced of that fact.

Since 1948, the number of Federal credit unions has more than tripled, while their counterparts, State-chartered credit unions, have only doubled in number. Assets in Federal credit unions have increased more than thirty-threefold during the same period, while assets in State-chartered credit unions have increased by only nineteenfold. Membership in Federal credit unions is more than seven times what it was in 1948, while

membership in State-chartered credit unions is about five times as great. These statistics not only show the Federal credit unions have had a phenomenal growth in numbers, assets, and membership, but that their Federal status has been a desirable environment because their growth has significantly exceeded that of State-chartered credit unions. There can be no doubt that Federal credit unions have prospered under the present arrangement, and that under the present Director of the Bureau of Federal Credit Unions, Mr. J. Deane Gannon, a good relationship between the Bureau and Federal credit unions has always been maintained. Of course, there have sometimes been differences of opinion between the supervisory bureau and the supervised. It would be unfortunate and suspicious if the officials charged with administering a program would always see eye to eye with those whom they regulate.

In our hearings on H.R. 2, a CUNA—which means Credit Union National Association—International representative testified that the credit union movement was solidly behind H.R. 2 and made a special point of the claim that they represented approximately 90 percent of all credit unions in this country. I have discovered that many of the credit unions whom they claim to represent did not know what was contained in H.R. 2 nor had a survey been made of their local credit unions to find out whether, in fact, they did support the position of the National Association. At one Defense Credit Union Council meeting, for example, the question was asked, "How many were familiar with the provisions of H.R. 2?" It was decided by the officers who, incidentally, are tied in with CUNA, International, that the question was not a fair one because of the word "familiar" and that a person might be somewhat aware of what was contained but would not feel that he could state that he was familiar with the bill. The question was then amended to ask anyone who was generally familiar with the contents of the proposals to so indicate. Not more than 15 of the 50 persons represented had even a general knowledge of the proposal. Following that show of the lack of information about the proposal, those present were then asked how many supported H.R. 2. Only six or seven indicated support for the proposal. Mr. President, I repeat that only six or seven out of a total of 50 at a meeting is not solid support. This is not an isolated incident, and yet it has been represented to our committee that most of the credit unions throughout the country support this measure.

When the witness representing CUNA, International, was before our committee, the strongest criticism that could be made of the present Bureau of Federal Credit Unions was that it did not always consult with CUNA before taking action which would affect credit union operations. Generally, this criticism is very interesting in light of the fact that CUNA has obviously not consulted with its own members with respect to the provisions involved in H.R. 2. The largest credit union in the world, the Navy Federal Credit Union, has recently announced its affiliation with another group called the National Association of Federal Credit Unions, the organization which CUNA, International, refers to as a "rump group." I asked the management of the Navy Federal Credit Union why they decided to become members in NAFCU, and the answer I received was that NAFCU actually does consult its members before it takes a position and actually tries to find out how they feel about credit union matters.

In my discussions with credit union officials, I have asked whether they feel that the Bureau of Federal Credit Unions has been fair and helpful in its dealings with them. The overwhelming majority of those with whom I have talked have answered in the affirmative and have had little criticism, if any, of the relationship between their credit union and the Bureau of Federal Credit Unions.

I believe, Mr. President, that this pretty well defines the support and opposition for H.R. 2. CUNA supported H.R. 2 as passed by the House. The bill passed by the House contained special advantages and special treatment for CUNA, International, over any other credit union group. The Senate bill does not contain those provisions. I have come to the conclusion from information which has come to my attention, that while the Washington office of CUNA gives lip service to the Senate version, in fact, it is privately telling its State league officials that it really does not support the bill. Those State leagues which blindly follow CUNA have in turn apparently passed on information to their members without bothering to see if the information was correct. Some credit union managements are sufficiently on their toes to check into the facts before writing their Congressmen and Senators. I find that those who have checked into the facts are not willing to accept the CUNA "line."

In testimony before our committee and in communications received, the establishment of an independent agency was opposed by the Bureau of the Budget, the Department of Health, Education, and Welfare, and the Treasury Department. In other words, Mr. President, the administration is opposed to the bill, for many reasons, including one which I shall outline in greater detail in a minute. The National Association of Federal Credit Unions which was established a little more than 2 years ago and now has members which have about 10 to 12 percent of the total assets of Federal credit unions also opposes this legislation, chiefly, I suppose, because of the special privilege which was written into the House version of the bill which would be damaging to any other credit union association or credit union not a member of an association.

Mr. President, I feel sure that CUNA is hoping that when the House and Senate go to conference, the House version of the bill will prevail.

Now, Mr. President, I have indicated that there is another reason why I think the bill should not be passed at this time, and that is the question of timing.

In his economic message which reached us last Monday, the President announced that, acting on authority which he possesses, he will appoint a top-level commission to study the whole problem of our financial intermediaries, banks, savings and loan associations, and credit unions. This, I have been told, is intended to be the most serious study made since the Aldrich Commission, out of which the whole Federal Reserve System was created. The study will, I am sure, encompass the structure of these institutions internally, their functions, their relationship to each other and, I suppose, that as a result of this study, we may see what someone has described as a "merger to the center."

In other words, we may well see a broader distribution of powers now held separately by these different institutions. They will, I am sure, study all areas of Government in relation to the financial institutions, the process of Government regulations, the question of insurance which I want to talk about in a few minutes, and the question of taxes. At this point, I do not need to remind my friends in the credit union movement that they are the only lending institutions now with a broad charter that escapes some degree of Federal taxation.

If we pass this bill, it becomes law, and we set up a new pattern for credit unions, then within a year, presumably, the commission will come back with a recommendation which may recommend a completely different pattern than the one which the bill would set up.

Therefore, I think we are in a sense wasting time, effort, and money under the circumstances. Instead of pressing for the pending bill, I think credit unions would be well advised to use their resources and staffs to prepare themselves to present the most useful and workable system possible to the commission when it is in operation.

I expect—and I have no right to do more than speculate—that the personnel of this commission will be announced within the next month or two and that it will swing into immediate activity.

Therefore, I have felt that the pending legislation is bad. It is bad because of the atmosphere in which it was generated—the desire for prestige on the part of one particular association—and this question of timing which, I think, is unfortunate, but which I must admit the committee did not know about when the bill was passed.

In summary, this proposal does not promise to improve the status or prestige of Federal credit unions. It does not promise to overcome any difficulties which they may have had with regulatory authorities under the present arrangement. It is opposed by many Federal credit unions and will result in an increase in the cost of administering the Federal Credit Union Act. This increase must be borne eventually by the individual credit union members. For these reasons, I recommend that the Senate reject this proposal.

Mr. President, I have an amendment to offer. It is my understanding that with the offering of the amendment, we go on a time limitation.

The PRESIDING OFFICER. The Senator is correct.

Mr. PROXMIRE. Mr. President, I am pleased to support H.R. 2, the bill which would establish an independent agency for Federal credit unions. Federally chartered, as well as State credit unions play a vital role in our economy. There are nearly 24,000 credit unions in the country and of this amount, approximately 13,000 are federally chartered credit unions.

There are more credit unions in the country than any other type of financial institutions. The number of federally chartered credit unions exceeds the number of national banks and the number of federally chartered savings and loan associations.

Over the last 30 years, the amount of savings in credit unions has grown from a meager $300 million to over $13 billion. Moreover, the percentage of all loans held by credit unions increased from 3.3 percent in 1941 to 13.5 percent in 1969.

Given the tremendous growth of the credit union movement, it is entirely fitting and proper that an independent agency be established at the Federal level to supervise federally chartered credit unions.

Savings and loan associations are supervised by an independent agency, the Federal Home Loan Bank Board. Commercial banks are supervised by the Federal Deposit Insurance Corporation and the Federal Reserve Board, both of which are independent agencies. By way of contrast, the Bureau of Federal Credit Unions which supervises federally chartered credit unions is buried deep within the Department of Health, Education, and Welfare. The Bureau must go through several layers of the HEW bureaucracy before it is able to obtain decisions on important matters affecting credit unions.

As John Gardner, the former Secretary of Health, Education, and Welfare, has pointed out the Department of Health, Education, and Welfare is perhaps the most farflung and the most difficult-to-administer agency in Washington. The Secretary has an incredibly wide field of responsibilities ranging from the National Institutes of Health to the Office of Education. It is little wonder that the officials of the Department have little time to devote to the technical details and problems of the Bureau of Federal Credit Unions. To a department concerned with establishing policies in the field of education, health, and welfare, the complicated task of supervising 13,000 financial institutions must at best receive only second or third priority.

For all of these reasons, we need to have a vigorous and independent agency to supervise federally chartered credit unions. We need an agency more responsive to the credit union movement and to the Congress. We need an agency that is able to adjust to rapidly changing conditions in our credit economy without becoming enmeshed in bureaucratic redtape.

By this legislation, the Congress is at long last giving recognition to the credit union movement. Credit unions have finally become of age in our financial system. More than 23 million Americans are credit union members. Credit unions now account for over 13 percent of the consumer credit business and their volume is growing substantially. The credit union movement is entitled to the effective, independent and responsive supervision enjoyed by other financial institutions.

I, therefore, enthusiastically support H.R. 2 and recommend its passage by the Senate.

PRIVILEGE OF THE FLOOR

Mr. PROXMIRE. Mr. President, I ask unanimous consent that Mr. Hugh H. Smith, Mr. Kenneth A. McLean, Mr. John R. Evans, and such other members of the staff of the Banking and Currency Committee as may be necessary, be allowed the privilege of the floor during the consideration of the pending bill.

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

Mr. PROXMIRE. Mr. President, as I understand it, the Senator from Utah has pointed out that under the unanimous-consent agreement, as the first amendment is offered, the time limitation goes into effect.

The PRESIDING OFFICER. The Senator is correct.

Mr. PROXMIRE. Mr. President, I yield the floor.

Mr. BENNETT. Mr. President, it is my understanding that there is a time limitation of 1½ hours on the amendment. I yield myself such time as I may require of the 45 minutes allocated under the agreement to the proponents of the amendment.

The PRESIDING OFFICER. The Senator is recognized.

AMENDMENT NO 271

Mr. BENNETT. Mr. President, I call up amendment No. 271, which would amend H.R. 2 so as to provide for share insurance of all Federal credit union member accounts.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

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

Mr. President, I should like to make one correction in the amendment which I introduced in behalf of myself, the Senator from Texas (Mr. TOWER) and the Senator from Massachusetts (Mr. BROOKE).

On page 14, line 15 the figure shown is $15,000. However, since submitting the amendment on November 7, 1969, the amount of insurance provided on accounts in other financial institutions has been increased to $20,000.

Therefore, in order to conform we have modified the amendment to read $20,000, and the RECORD should so show.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment, as modified, will be printed in the RECORD.

The amendment as modified, ordered to be printed in the RECORD, reads as follows:

H.R. 2

On page 5, between lines 17 and 18, insert the following new section:

"SECTION 1. The Federal Credit Union Act (12 U.S.C. 1751–1772) is amended—

"(1) by inserting immediately above the heading of section 2 the following:

" 'TITLE I—FEDERAL CREDIT UNIONS',

"(2) by redesignating sections 2 through 20 as sections 101 through 119, respectively,

"(3) by redesignating sections 21 through 28 as sections 301 through 308 respectively, and

"(4) by inserting immediately above the heading of section 301 as redesignated by this section the following:

" 'TITLE III—MISCELLANEOUS PROVISIONS' ".

On page 5, strike out lines 18 and 19 and insert in lieu thereof the following:

"SEC. 2. Section 101 of the Federal Credit Union Act, as redesignated by section 1, is amended by striking out paragraphs".

On page 5, line 24, strike out "and".

On page 6, line 2, strike out the period and the quotation marks and insert in lieu thereof a semicolon.

On page 6, between lines 2 and 3, insert the following:

"(5) the terms 'member account' and 'account' (when referring to the account of a member of a credit union) mean a share, certificate, or deposit account of a member of a credit union of a type approved by the Administrator;

"(6) the term 'State credit union' means a credit union organized under the laws of any State which in the judgment of the Administrator provide for the organization of credit unions similar in principle and objective to Federal credit unions;

"(7) the term 'insured credit union' means a Federal or State credit union the member accounts of which are insured in accordance with title II;

"(8) the term 'Fund' means the National Credit Union Share Insurance Fund;

"(9) the term 'normal operating level', when applied to the Fund, means an amount equal to 2 per centum of the aggregate amount of member accounts in, and creditor obligations of, insured credit unions; and

"(10) the term 'creditor obligations', with respect to a credit union, means the sum of (1) moneys borrowed and owing by the credit union, (2) accounts payable of the credit union, and (3) other liabilities of the credit union but not including member accounts, undivided profits, and reserves."

On page 6, line 3, strike out "2" and insert in lieu thereof "3".

On page 6, strike out lines 10 through 13 and insert in lieu thereof the following:

"SEC. 4. Section 102 of the Federal Credit Union Act, as redesignated by section 1 of this Act, is amended to read:

" 'CREATION OF ADMINISTRATION

" 'SEC. 102. (a) There is hereby established in the execu-' ".

On page 8, beginning with line 25, strike out through line 1 on page 9 and insert in lieu thereof the following:

"SEC. 5. Section 301 of the Federal Credit Union Act, as redesignated by section 1 of this Act, is amended by adding at the end thereof a new".

On page 9, line 20, strike out "5" and insert in lieu thereof "6".

On page 10, line 13, strike out "6" and insert in lieu thereof "7".

On page 10, line 21, strike out "3" and insert in lieu thereof "102".

On page 10, after line 22, insert the following new sections:

"SEC. 8. After section 119, as redesignated by section 1 of this Act, insert the following new title:

" 'TITLE II—SHARE INSURANCE

" 'BASIC AUTHORITY TO INSURE CREDIT UNIONS

" 'SEC. 201. (a) The Administrator shall insure member accounts in all Federal credit unions, and all Federal credit unions

shall become insured, in the manner provided in this title.

"'(b) The Administrator is authorized to insure, in accordance with the provisions of this title, member accounts of any State credit union which applies for such insurance.

"'INSURANCE OF FEDERAL CREDIT UNIONS

"'SEC. 202. (a) (1) Within six months after the enactment of this title, the Administrator shall review the financial condition and management policies of each Federal credit union in existence on the date of such enactment in order to determine whether it may be insured under this title without undue risk to the Fund. If he determines that it may be so insured, he shall issue to such credit union a certificate stating that it is, as of the date of issue of the certificate, insured under this title.

"'(2) If, after completing such review, the Administrator finds that insurance of a Federal credit union under this title would involve undue risk to the Fund, the credit union shall not be eligible for such insurance until the Administrator finds that the conditions on which such finding was based have been corrected. If such conditions are not corrected within a reasonable time, specified by the Administrator in a notice to the credit union, the Administrator shall, unless the credit union has already gone into voluntary liquidation, place the credit union in involuntary liquidation and appoint a liquidating agent therefor, and the provisions of paragraphs (3), (4), and (5) of section 114 (b) shall be applicable to such liquidation. If he finds that such conditions have been corrected, he shall issue the credit union a certificate stating that it is, as of the date of the certificate, insured under this title.

"'(b) Each Federal credit union chartered after the enactment of this title shall be insured under this title on and after the date its charter is approved by the Administrator, and shall be issued a certificate stating that it is so insured.

"'INSURANCE OF STATE CREDIT UNIONS

"'SEC. 203. (a) Applications for insurance under this title by any State credit union shall be in such form as the Administrator may prescribe, and shall contain an agreement by the applicant—

"'(1) to pay the reasonable cost of such examinations as the Administrator may deem necessary in connection with the issuing of such insurance;

"'(2) to permit and pay for the cost of such examinations as in the judgment of the Administrator may from time to time be necessary for the protection of the Fund;

"'(3) to permit the Administrator to have access to any information or report with respect to any examination made by any public regulatory authority and furnish any additional information with respect thereto, as the Administrator may require;

"'(4) to provide adequate indemnity, as determined by the Administrator, against losses due to burglary, defalcation, and similar causes;

"'(5) to provide adequate reserves satisfactory to the Administrator, to be established in accordance with regulations of the Administrator, before paying dividends;

"'(6) not to issue or have outstanding (A) any demand account or securities, or any other account or securities which guarantee a definite return or have a definite maturity, or (B) any class of account or securites having preference either as to time or amount in the event of liquidation, over any other class of account or securities, or (C) any account or securities the form of which has not been approved by the Adminstrator;

"'(7) to pay the premium charges for insurance (including the charges required by section 208(c)) imposed pursuant to this title; and

"'(8) to otherwise comply with the requirements of this title or regulations thereunder.

"'(b) the Administrator shall reject the application of any State credit union if he finds that the capital of the applicant is impaired or that its financial policies or management are unsafe or if he finds that the powers or purposes of the applicant are substantially dissimilar from those of Federal credit unions organized under title I of this Act.

"'INSURANCE FUND

"'SEC. 204. (a) There is hereby created in the Treasury of the United States a National Credit Union Share Insurance Fund, which shall be used by the Administrator as a revolving fund to carry out this title. Money in the Fund shall be available, upon requisition by the Administrator, without fiscal year limitation, for making payments under section 206, providing assistance and making expenditures under section 207, in connection with the threatened liquidation of Federal credit unions or the liquidation or threatened liquidation of State credit unions, and for such administrative and other expenses incurred in carrying out this title as he may determine to be proper.

"'(b) The Administrator may authorize the Secretary of the Treasury to invest and reinvest such portions of the Fund as the Administrator may determine is not needed for current operations in any interest-bearing securities of the United States or in any securities guaranteed as to principal and interest by the United States, or in bonds or other obligations which are lawful investments for fiduciary, trust, and public funds of the United States, and the income therefrom shall constitute a part of the Fund.

"'(c) (1) If, in the judgment of the Administrator, a loan to the Fund is required at any time to carry out this title, the Secretary of the Treasury shall make the loan, but loans under this subsection shall not exceed in the aggregate $100,000,000 outstanding at any one time. Except as otherwise provided, in this subsection and in subsection (d), each loan under this subsection shall be made on such terms as may be fixed by agreement between the Administrator and the Secretary of the Treasury.

"'(2) Interest shall accrue to the Treasury on the amount of any outstanding advances, made to the Fund pursuant to this subsection, on the basis of the average daily amount of such outstanding advances determined at the close of each fiscal year with respect to such year, and the Administrator shall pay the interest so accruing into the Treasury as miscellaneous receipts annually from the Fund. The Secretary of the Treasury shall determine the applicable interest rate in advance, by calculating the average yield to maturity (on the basis of daily closing market bid quotations during the month of June of the preceding fiscal year) on outstanding marketable public debt obligations of the United States having a maturity date of five or less years from the 1st day of such month of June and by adjusting such yield to the nearest one-eighth of 1 per centum.

"'(3) For the purposes of making loans under this subsection, the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds of the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under the Second Liberty Bond Act, as amended, are hereby extended to include such loans. All loans and repayments under this section shall be treated as public debt transactions of the United States.

"'(d) So long as any loans to the Fund are outstanding, the Administrator shall from time to time, and not less often than annually, determine whether the balance in the Fund is in excess of the amount which is in his judgment needed to meet the requirements of the Fund, and shall pay to the Secretary of the Treasury such excess, to be credited against the advances to the Fund.

"'PREMIUMS FOR INSURANCE

"'SEC. 205. (a) For the purposes of this section, the term "insurance year" means the period beginning on January 1 and ending on the following December 31, both dates inclusive.

"'(b) On or before January 31 of each insurance year, each credit union which was insured under this title (and was not in liquidation) shall, except as provided in subsection (c) (2), pay to the Fund a premium charge equal to one-twelfth of 1 per centum of the total amount of the member accounts in, and the creditor obligations of, such credit union at the close of the preceding year.

"'(c) (1) Each Federal credit union which was in existence prior to the enactment of this title and which becomes insured under this title (unless such insurance is effective on January 1), and each State credit union which becomes insured after January 1 of any insurance year and was chartered prior to the beginning of such year, shall pay to the Fund, for the insurance year in which it becomes insured, a premium charge equal to one-twelfth of 1 per centum of the total amount of the member accounts in, and the creditor obligations of, such credit union at the close of the month before the month in which it becomes insured, reduced by an amount proportionate to the number of calendar months elapsed since the beginning of such insurance year and prior to such month in which it becomes insured. Such payment shall be made within thirty days after the date on which the credit union receives the certificate provided for in section 202.

"'(2) Each Federal credit union which is chartered after enactment of this title, and each State credit union which is chartered after enactment of this title and becomes insured in the insurance year in which it is chartered, shall pay to the Fund, for the insurance year in which it is chartered, a premium computed in the following manner:

"'(A) To the total amount of the member accounts in, and the creditor obligations of, the credit union at the close of the month, in which it was insured, add the total amount of such member accounts and creditor obligations at the close of each succeeding month of the insurance year, and divide the total by the number of such months (including the month in which it was insured).

"'(B) From the figure obtained under subparagraph (A), subtract $10,000.

"'(C) Multiply the figure obtained in subparagraph (B) by one-twelfth of 1 percent.

"'(D) Reduce the figure obtained under subparagraph (C) by an amount which bears the same ratio to such figure as the number of calendar months, in such insurance year, prior to the month in which the credit union was insured, bears to twelve. The figure obtained under this subparagraph is the amount of premium due.

Such premium shall be paid on or before January 31 of the insurance year following the one in which the credit union was chartered.

"'(d) When any loans to the Fund from the Federal Government (and the interest thereon) have been repaid and the amount in the Fund equals or exceeds the normal operating level (as defined in section 301), the Administrator may reduce the premium charge, but he shall not reduce it below the amount necessary, in his judgment, to maintain the Fund at the normal operating level. Any such reduction shall be effective only so long as the Fund remains at or above the normal operating level and no loan to the Fund pursuant to section 204 is outstanding.

"'(e) If in any year expenditures from the Fund exceed the income of the Fund, the

Administrator may require each insured credit union to pay, for such fiscal year, in addition to the regular premium charge payable for such year under subsection (a), a special premium charge which shall not exceed an amount equal to the amount of the regular premium charge.

"'PAYMENT OF INSURANCE

"'SEC. 206. (a) Whenever the Administrator determines that the liquidation of an insured credit union has been completed and that the remaining assets of the credit union are insufficient to pay to each member the total amount of his account, the Administrator, upon proof satisfactory to him but subject to subsection (b), shall make the following payments:

"'(1) He shall pay to each member an amount equal to the difference between (A) the total amount of the account in the member's name (including member accounts, in trust for another person), and (B) the amount rceived by the member from the assets of the credit union with respect to such account.

"'(2) In the case of member accounts in joint tenancy, he shall pay to the member and the joint tenant an amount equal to the difference between (A) the total amount of such account, and (B) the amount received by the member and the joint tenant from the assets of the credit union with respect to such account.

The Administrator may, however, elect to make one or more partial payments to any member prior to the completion of liquidation whenever he finds that such action is consistent with the interests of the Fund and is necessary to prevent undue hardship to the member involved. Upon payment of any amount to a member under this subsection, a proportionate part of the rights and interests of such member in the account involved (equal to the percentage of such account represented by such payment) shall vest in the Administrator.

"'(b) Where the total amount of the account of any one member exceeds $20,000, the insurance provided under this title shall not extend to any part of such account in excess of that figure, except as the Administrator may provide by regulation with respect to member accounts in the name of a minor, in trust, or in joint tenancy.

"'SPECIAL ASSISTANCE TO AVOID LIQUIDATION

"'SEC. 207. (a) In order to restore to normal operation an insured Federal credit union threatened with liquidation, the Administrator may, whenever in his judgment such action is necessary to protect the Fund or the interests of the members of the credit union—

"'(1) take over the assets of and operate the credit union,

"'(2) make loans to, purchase the assets of, or make contributions to the credit union, or

"'(3) take such other action as he deems necessary to place the credit union in a sound and solvent condition.

except that no contribution made under this section shall exceed the amount which the Administrator finds to be reasonably necessary to save the cost to the Fund of liquidating the credit union involved.

"'(b) In the event any insured State credit union is declared to be insolvent by the authority having the supervision thereof, the Administrator shall have authority to act as conservator, receiver, or other legal custodian of such insured credit union, and the services of the Administrator are hereby tendered to the court or other public body having the power of appointment. The Administrator shall have authority (1) to make loans to, purchase the assets of, or make contributions to the credit union in order to restore it to normal operations or (2) to pay the insurance as provided in section 206, in which case he shall have power to bid for the assets of the insured State credit union or to make any other disposition of the matter deemed by him to be in the best interests of all concerned. Contributions under clause (1) of the preceding sentence may not exceed the amount which the Administrator finds to be reasonably necessary to save the cost to the Fund of liquidating the credit union involved.

"'(c) For the protection of the Fund, the Administrator, without regard to the Federal Property and Administrative Services Act, of 1949, may—

"'(1) deal with, complete, reconstruct, rent, renovate, modernize, insure, make contracts for the management of, or sell for cash or credit or lease in his discretion, any real property acquired or held by him under this section; and

"'(2) assign or sell at public or private sale, or otherwise dispose of, any evidence of debt, contract, claim, personal property or security assigned to or held by him under this section.

Section 3709 of the Revised Statutes shall not apply to any purchase or contract for services or supplies made or entered into by the Administrator under this section if the amount thereof does not exceed $1,000, or to any contract for hazard insurance on any real property acquired or held by him under this section.

"'(d) In connection with the liquidation of any insured credit union, the Administrator shall have the power to carry on the business of and collect all obligations to the credit union, to settle, compromise, or release claims in favor of or against the credit union, and to do all other things that may be necessary in connection therewith, subject to the regulation of the court or other public body having jurisdiction over the matter.

"'(e) Money received by the Administrator in carrying out this section shall be paid into the Fund.

"'TERMINATION OF INSURANCE

"'SEC. 208. (a)(1) Any State credit union may terminate its status as an insured credit union under this title by giving written notice to the Administrator. Such notice may be given only if a majority of the members of the credit union have, within one year prior to the giving of the notice, voted to terminate its status as an insured credit union.

"'(2) Whenever in the opinion of the Administrator any insured credit union has violated any provision of its agreement with the Administrator under this title or any provision of this title or any regulation thereunder, or has knowingly or negligently permitted any of its officers or agents to violate any provision of law or regulation to which the insured credit union is subject, the Administrator shall first give to the authority having supervision of the institution, if any, a statement with respect to such violations for the purpose of securing the correction thereof and shall give a copy thereof to the credit union. In the case of a State credit union of a State where there is no supervisory authority, and in the case of a Federal credit union, the statement shall be sent directly to the credit union. Unless such correction shall be made within one hundred and twenty days (or such shorter period of time as the supervisory authority, if any, shall require), the Administrator may issue an order terminating the status of the credit union as an insured credit union on a day no earlier than sixty days after receipt by the credit union of written notice of the Administrator's intention to terminate such status.

"'(b) In the event of the termination of its status as an insured credit union, insurance of the member accounts of a credit union to the extent that they were insured on the date of notice by the credit union under paragraph (1) of subsection (a) or the Administrator's order of termination under paragragh (2) thereof, less any amounts thereafter withdrawn which reduce the accounts below the amount covered by the insurance on the date of such notice or order, shall continue for a period not exceeding one year in the case of a State credit union, and until the liquidation is completed in the case of a Federal credit union; but no shares issued by the credit union (or deposit made) after the date of such notice or order of termination shall be insured under this title.

"'(c) The Administrator shall have the right to examine such credit union from time to time during the period during which such insurance continues under subsection (b). Any such insured credit union shall be obligated to pay, within such period after any such notice or order of termination (and in such installments) as the Administrator may prescribe, as a final insurance premium, a sum equal to the same percentage of the last annual insurance premium paid by it as the number of months during any part of which the insurance is continued pursuant to subsection (b) (and beyond the insurance year to which such last annual insurance premium applies) is of twelve.

"'(d) In the event of termination of the status of a credit union as an insured credit union as herein provided, the credit union shall give prompt and reasonable notice to all of its members whose accounts are insured. It shall include in such notice the fact that the member accounts insured, to the extent not withdrawn, remain insured for one year from the date of such termination, but it shall not further represent itself in any manner as an insured credit union. In the event of failure to give the notice as herein provided to members whose accounts are insured, the Administrator is authorized to give reasonable notice.

"'VIOLATIONS BY FEDERAL CREDIT UNIONS

"'SEC. 209. The Administrator may suspend or revoke the charter of any Federal credit union, or place such credit union in involuntary liquidation and appoint a liquidating agent therefor, upon his finding that such credit union has violated any provision of this title or of any regulation issued under this title.

"'BUSINESS-TYPE FINANCIAL OPERATION

"'SEC. 210. The Administrator shall, with respect to the financial operations arising by reason of this title—

"'(a) prepare annually and submit a business-type budget as provided for wholly owned Government corporations by the Government Corporation Control Act; and

"'(b) maintain an integral set of accounts, which shall be audited annually by the General Accounting Office in accordance with principles and procedures applicable to commercial corporate transactions, as provided by section 105 of the Government Corporation Control Act.

"'ADMINISTRATIVE PROVISIONS

"'SEC. 211. In carrying out this title, the Administrator may—

"'(a) sue and be sued, in his official capacity, in any court of competent jurisdiction, State or Federal;

"'(b) pursue to final disposition by way of compromise or otherwise claims both for and against the United States (other than tort claims, claims involving administrative expenses, and claims in excess of $5,000 arising out of contracts for construction, repairs, and the purchase of supplies and materials) which are not in litigation and have not been referred to the Department of Justice;

"'(c) employ experts and consultants or organizations thereof, as authorized by section 15 of the Administrative Expenses Act of 1946 (5 U.S.C. 55a);

"'(d) delegate to any officer or employee of

the Administration such of his functions as he deems appropriate; and

"'(e) prescribe such rules and regulations as he considers appropriate to carry out this title.'

"SEC. 9. Section 709 of title 18 of the United States Code (relating to false advertising and misuses of names to indicate a Federal agency) is amended by adding after the third paragraph thereof the following paragraph:

"'Whoever falsely advertises or otherwise represents by any device whatsoever that his or its deposit liabilities, obligations, certificates, or shares are insured under the National Credit Union Insurance Act or by the United States or any instrumentality thereof, or, being an insured credit union (as defined in such Act), falsely advertises or otherwise represents by any device whatsoever the extent to which or the manner in which shareholdings in such credit union are insured under such Act; or'".

Mr. BENNETT. Mr. President, it has been said many times by proponents of H.R. 2 that the number of credit unions exceeds the number of all other financial institutions combined. Since there are so many credit unions, it seems obvious to me that the savers in these institutions should have the same protection for their savings that is possible for other financial institutions. The insurance amendment which I have offered will provide the same protection now given for bank deposits by the Federal Deposit Insurance Corporation and to shares in savings and loan associations by the Federal Savings and Loan Insurance Corporation. Federal credit unions are now the only federally chartered savings institutions not covered by a federally sponsored insurance program. This amendment would provide immediate coverage of deposits in all federally chartered credit unions and would make the same coverage available on a permissive basis to State-chartered credit unions. Just as is the case with banks and savings and loan associations, the overall loss experience in credit unions has been relatively small. Yet the losses which have occurred have weighed heavily on a few credit unions and on a relatively few members. Since many credit unions deal primarily with individuals having limited incomes, it is particularly important that they enjoy the same insurance protection enjoyed by savers and depositors in other financial deposit accepting institutions. When I refer to individuals with limited income, I mean the more than 7½ million account holders in Federal credit unions, for example, who have less than $500 savings. This money in many instances represents a substantial portion of the total liquid assets of these people, and I see no reason why their money should be unprotected simply because they have saved in a credit union instead of another institution. I believe that by providing insurance for credit union member accounts as called for in the amendment, thrift would be stimulated among these small savers. The existence of share insurance would provide them with an increased incentive to develop a systematic plan for saving and would at the same time provide safety equal to that now provided by banks and savings and loan associations.

We have had recent testimony in our committee which indicates that credit unions in limited income areas which are specifically set up to assist poor people probably would benefit greatly from share insurance. Mr. Edward C. Sylvester, Jr., testifying for the Urban Coalition Action Council, testified that the lack of deposit insurance is a serious deficiency. He supported share insurance on the basis that it would provide additional funds for credit unions serving residents in the inner city where it is difficult to attract deposits. He was asked why he thought the share insurance proposal was opposed by a major credit union association. He said:

I do not know why they are opposing it. It seems to us to be an essential device really to encourage others to participate in credit unions and in making a great deal more capital available to them than they are apt to get through their normal membership activities.

It is surprising that CUNA, International suggests as a reason for its opposition to share insurance that it would put small credit unions out of business. These are the very ones that need it most, as Mr. Sylvester testified.

While the insurance program contained in the amendment has the potential to cover substantially all of the savings now existing in the credit union movement estimated at over $13 billion, only Federal credit unions would be required to have the insurance. The program would be supported by the credit unions themselves—as FDIC is supported by banks, and FSLIC is supported by savings and loan associations—through premiums paid for the insurance, and it would be administered by the Administrator of the National Credit Union Administration which would be established if H.R. 2 is accepted by the Senate.

As has been explained, the National Credit Union Administration would assume the functions of the present Bureau of Federal Credit Unions which is part of the Department of Health, Education, and Welfare. The need for share insurance has been made clear by a study of regular reserves in Federal credit unions published by the Bureau of Federal Credit Unions last year. In the study, the Bureau noted that 1,204 Federal credit unions completed liquidation in the 5 years ending December 31, 1967. Sixteen percent, or 189 of these were liquidated at a loss to shareholders. Losses to the shareholders, although small in dollar amount, totaled just over 20 percent of the value of shares. The majority of the credit unions which paid less than 100 percent at liquidation were small according to the Bureau's study. Almost four-fifths of them have assets of less than $25,000. It appears quite clear that the burden of loss falls on the smaller credit union and the small saver. Yet the credit union can and should be most useful to those who have a relatively small amount to save. There are more than 9,500 Federal credit unions with assets of less than $500,000 serving people who may have limited access to other thrift and credit facilities. Why should these credit unions and those who are their members be exposed to losses simply because there is no share insurance plan for credit unions? In its 1969 study, the Bureau found that without outside help, another 280 credit unions would have liquidated at a loss. Had this outside help not been available, more than one-third of all the Federal credit unions liquidated in the 5 years ending December 31, 1967, would have done so at a loss to their members. The fact that more of these institutions did not liquidate at a loss is due in large measure to the efforts of State credit union leagues which provided financial assistance to their member credit unions in trouble. Fortunately, the resources of the league funds were generally adequate to meet their members' needs during the period covered by the Bureau's study. It would be a grave mistake, however, to rely on this means alone as a guarantee of the shares of credit union members because the resources available from the leagues to their credit unions represented only about 0.045 percent of the $11 billion in savings held by credit unions in 1967.

Another weakness is that financial assistance is made available to league members only. The owner of a credit union share account may not know that his credit union does not belong to a league organization. The program offered by this amendment would not interfere with the commendable efforts of the league organizations to strengthen the financial reserves of their member credit unions. These private funds would continue to serve as useful supplements to the program of share insurance now being proposed.

Strong support for share insurance is indicated by moves within some States for statewide share insurance. The first effort, in 1955, in Illinois, had to be abandoned in 1964 because of structural weakness and because of internal feuding. Voluntary share insurance for State-chartered credit unions in Massachusetts was started in 1961 and has been highly successful. The Massachusetts Share Insurance Corp. now has assets of $5½ million. During 1969, credit union share insurance bills have been passed in Wisconsin and in Rhode Island. There is considerable interest in share insurance in some other States, showing that share insurance is desired and is needed. The State plans have the disadvantage of not being available to federally chartered credit unions. Thus a Federal system is also needed.

Mr. President, it is a fact that most people who save in credit unions think their shares are insured.

I have spent some time discussing share insurance with some of the credit unions which I feel are among the most progressive in the credit union movement. One of these, which is the largest credit union in the world, is the Navy Federal Credit Union. The Navy Federal Credit Union conducted a detailed survey among its members a couple of years ago. In that survey, 71 percent of the respondents said they thought their shares in the credit union were federally insured as they would be in a savings and loan or a bank which had Federal insurance. The Navy Federal Credit Union management decided that it was living a lie and that it should inform

its membership that its shares were not insured. They found, however, that it was impossible to get this story over to the membership, because they had so fixed in their minds that they had insurance that they would not believe it when told otherwise.

The returns received as a result of a study now underway by the Bureau of Federal Credit Unions indicate that five out of six respondents believed their shares were insured. In answer to a question as how such an understanding came about, one respondent said an employee of the credit union told her that her shares were insured. In addition, she was told that when her savings reached a certain amount, she should divide them into two accounts so that the total amount in both accounts would be insured. Another respondent received the idea that shares were insured from credit union members. Still another stated that "When the credit union was started we were told by the appointed officers that the money was Federally insured." Another respondent stated that he was told by the union financial secretary that his savings would be protected just as they were in the bank in which he had them deposited.

I can understand if a man came up and said, "I cannot decide whether to put the money in the bank or here; I know I am insured at the bank," the other man would take a deep breath and say, "Sure, you are insured here."

Another got the impression from literature received from the credit union. Regardless of where the idea came from, most of these people thought their shares were insured by a Federal agency. The really sad part about all of this is that those who experienced losses in credit unions were generally individuals who were unable to absorb such losses. One person who experienced a loss of over $600 had an annual income of just over $2,600. Another who lost over $300 had no income. A retired foreman lost just over $400. Another individual on social security lost $350, and so it goes.

Mr. President, one of the comments made by a respondent I believe is important, and I quote:

> In this age of consumer protection—this is one area lacking protection of any type.

I was very happy upon the introduction of this amendment to find that there was significant support for it among Federal credit unions and that this support came from all parts of the country. I found, however, that after 2 or 3 weeks had passed, I started to receive letters and telegrams from State leagues affiliated with CUNA, International.

I have received a number of telegrams from credit unions. The telegrams were almost identical in wording and used the number of the Senate bill, which was S. 2298. When we held hearings in our committee, the hearings were actually on both the Senate bill and the bill which was passed by the House, but the action taken by our committee was on H.R. 2. We amended H.R. 2 significantly and then reported it to the Senate. Apparently, whoever was the instigator of the telegrams which were sent to me expressing opposition to my amendment had not followed the action of the Senate sufficiently to give an accurate accounting of what we had done. The fact that all of the telegrams used the Senate bill instead of the House number and the fact that they were all sent at a date much later than the committee action show that these were not spontaneous telegrams. I feel sure that the same is true with most of the telegrams received by other Members of this body opposing the amendment to H.R. 2, which would establish a system of share insurance.

I was aware that CUNA did not support a program of Federal share insurance, so the opposition was not unexpected. What was unexpected, however, is that CUNA would distribute misleading and irresponsible misrepresentations based on scare tactics regarding the amendment to its State affiliates and that the State organizations would pass this misinformation to their member credit unions without question. I was appalled to find that a telegram had been sent from the CUNA Washington office, stating that this amendment, if it were approved by the Senate, would restrict dividends paid by credit unions to a maximum of 4 percent.

There is nothing in the amendment that has anything to do with the rate paid on dividends, and the Federal law fixes the maximum at 6 percent.

Mr. President, I hold in my hand a telegram which says, "Credit unions would be under same restrictions," referring to the same restrictions that exist in the laws affecting banks and savings and loan associations. The telegram states further:

> For example, dividends could not be paid in excess of 4 percent. Strongly urge . . . not to support the Bennett amendment in view above factors.

I ask unanimous consent that the telegram appear in the RECORD at this point in my statement.

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

WASHINGTON, D.C.

WIL W. WYATT,
Managing Director,
California Credit Union,
Pomona, Calif.

Many individual credit unions throughout country urging Senators to support share insurance amendment to H.R. 2 proposed by Senator Bennett. This probably due to lack of knowledge of effect of amendment. All should be informed of following: participation is mandatory for Federals. Premium 1/12th of one percent of shares and creditor obligations per year. This may be doubled in any one year. Credit union members would be paid insurance on completion of liquidation not on closing as are bank depositors. Credit unions would be under same restrictions as other federally insured financial institutions. For example, dividends could not be paid in excess of 4 percent. Strongly urge you advise all credit unions not to support the Bennett amendment in view above factors. Suggest strongest representations be made to Senators by all credit unions voicing opposition to Bennett amendment.

THOMAS.

Mr. BENNETT. Mr. President, such a claim is so patently in error that it could hardly have been a mistake in interpretation of the language. I regard it as irresponsible for an organization such as CUNA to circulate that type of information.

It is equally as irresponsible for the State leagues to reproduce this same false information and distribute it to their member credit unions as has been done in at least five States. CUNA's telegram also stated that many individual credit unions throughout the country are urging support of the share insurance amendment. This is true, and I am sure that it was the fear that individual credit unions, sensing the necessity for share insurance, would support the amendment that caused CUNA to send out the inaccurate and misleading telegram opposing it.

I ask unanimous consent to have printed in the RECORD copies of letters sent by State credit union leagues to their members.

I also ask unanimous consent to have printed in the RECORD a copy of the letter I sent to the managing director of the Utah Credit Union League, Mr. J. Paul White, because it is referred to in the memorandum from the Tennessee Credit Union League and I believe completely misinterpreted.

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

CALIFORNIA CREDIT UNION LEAGUE,
Pomona, Calif., November 28, 1969.

To: All California credit unions.
Subject: Undesirable Amendment Proposed for HR 2.

HR 2 is the House of Representatives Bill which if adopted would establish a separate Federal Agency to administer the Federal Credit Union Act.

An amendment has been introduced that would add:

(a) A mandatory share insurance program for Federal Credit Unions at substantial cost.

(b) Benefits payable under the plan would be delayed until liquidation of the credit union.

(c) Restrictive Federal Administration such as a 4% limit on dividends would be experienced.

The following telegram from General Thomas, CUNA International, urges prompt and direct response in opposition by wire or letter to both:

Honorable George Murphy, 452 Old Senate Office Building, Washington, D.C. 20510.

Honorable Alan Cranston, 2104 New Senate Office Building, Washington, D.C. 20510.

The amendments have been proposed by Senator Bennett of Utah.

Your immediate action with copies to Jack Reidy in Sacramento is requested and will be appreciated.

Sincerely,

WIL W. WYATT,
Managing Director.

MEMORANDUM

DECEMBER 3, 1969.

To: All Florida Federal Credit Unions.
From: Morton E. Jester, Managing Director.
Subject: Share Insurance Amendment to HR-2 (Separate Credit Union Agency Bill).

In order that you may have all possible information pertinent to the above subject the following telegram received in the League office is quoted:

WASHINGTON, D.C.

MORTON E. JESTER,
Managing Director, Florida Credit Union League, Inc., Tallahassee, Fla.:

Urgent—many individual credit unions throughout the country urging Senators to support share insurance amendment to HR-2 proposed by Senator Bennett. This

probably due to lack of knowledge of effect of amendment. All should be informed of following: Participation is mandatory for Federals. Premium 1/12th of one percent of shares and creditor obligations per year. This may be doubled in any one year. Credit union members would be paid insurance on completion of liquidation not on closing as are bank depositors. Credit unions would be under same restrictions as other federally insured financial institutions. For example, dividends could not be paid in excess of 4 percent. Strongly urge you advise all credit unions not to support the Bennett amendment in view of above factors. Suggest strongest representations be made to Senators by all credit unions voicing opposition to Bennett amendment.

THOMAS.

The above information is essential in determining what position and action you may wish to take. It should be noted that CUNA International, Inc. opposes this amendment.

DECEMBER 12, 1969.

Memo to: All Tennessee Credit Unions.
From: V. Lamar Eaker, Managing Director.
Re HR-2, Federal Credit Union Independent Agency.

The above bill to create an independent agency for federal credit unions has been thoroughly reviewed and is supported by the leadership of the credit union movement.

The bill passed the House and was reported out of the U.S. Senate Banking and Currency Committee favorably in spite of some opposition.

Senator Bennett of Utah has offered an amendment to HR-2 which would provide for federal deposit insurance for federal credit unions on a mandatory basis and an optional basis for state chartered credit unions. This amendment was not aired before the Committee hearings which were held on HR-2 nor has the amendment been studied by the leadership of the organized credit union movement to be able to intelligently determine whether or not it would have any detrimental effects on credit unions and their operations. Therefore, CUNA International and your League believe that we should support HR-2 without the Bennett Amendment.

We urge your credit union to contact Senators Albert Gore and Howard Baker, urging them to support HR-2 without the amendment requiring federal deposit insurance.

The amendment provides that the administrator, within six months after the enactment of this bill, shall review the financial condition and management policies of each federal credit union in order to determine whether or not it may be insured without undue risk to the fund. If he determines that it may be insured, he shall issue a certificate to the credit union, stating that it is insured.

If he finds that a federal credit union would involve undue risk to the fund, the credit union will not be eligible for such insurance until the administrator finds that the conditions on which such findings were based are corrected. If the conditions are not corrected within a reasonable time as specified by the administrator, the administrator shall, unless the credit union has already gone into voluntary liquidation, place the credit union in involuntary liquidation and appoint a liquidating agent.

The insurance would not pay the credit union until completion of liquidation. The maximum insurance is $15,000.00 per member and the annual cost is one-half of 1% of the total of the members' shares, notes payable, accounts payable and other liabilities of the credit union.

In any year in which the expenditures of the fund exceed the income of the fund, the administrator may require each insured credit union to pay, in addition to the regular premium charge for such year, a special premium charge not to exceed an amount equal to the amount of the regular premium charge. (The premium can be doubled in any one year.)

There can be regulations issued for administering the fund.

We have been advised that, in a letter to the managing director of the Utah League, Senator Bennett said that he wants credit unions to be under the same regulations that the banks are which are insured by F.D.I.C., including limiting dividend payments to 4%.

The organized credit union movement is working on a proposal which would serve the same purpose as deposit insurance; however, it would not be as restrictive. A question as serious as federal deposit insurance needs to be given serious study and consideration and we have not had the opportunity to do it with Senator Bennett's amendment. We should know just what effect the legislation will have on all sizes of credit unions.

Senator Bennett has long been an opponent of credit unions and credit union legislation. He most likely introduced the amendment, as a trick, in hopes that it would kill H.R. 2, Federal Credit Union Independent Agency Bill.

Contact your Senators now!

NOVEMBER 11, 1969.

Mr. J. PAUL WHITE,
Managing Director,
Utah Credit Union League, Inc.,
Salt Lake City, Utah

DEAR MR. WHITE: I appreciate receiving your letter of November 4, and I think I can understand that you are disappointed because I did not embrace wholeheartedly and without reservation the idea contained in S. 2298.

The desire of the credit union movement to create an independent national structure similar to that available to the banks through the Federal Reserve System and to the savings and loan associations through the Federal Home Loan Bank Board is perfectly natural. My objection to S. 2298 is that it would give the credit unions privileges beyond those available to the other two types of financial institutions without imposing on them some of the obligations the other institutions now carry.

To be specific, the bill would give the industry itself the privilege of nominating its own regulators. I think this is essentially wrong. The President nominates and the Senate confirms the men who serve on the other two regulatory boards, and I think he should have the same freedom with respect to any board set up in an independent credit union structure.

Second, the other two financial systems are subject to a law which gives their regulatory agencies the right to control the rates that they may pay on savings, and this right is varied with the changes in the money market. I think a similar authority should be given to any agency set up to regulate credit unions.

The third difference, and to me a very important one, is that depositors in institutions in the other two financial systems are protected by an insurance program which is mandatory which is managed by a federal agency. This bill did not provide for such protection for depositors or "members" of credit unions.

Finally, the income of banks and savings and loan associations after a proper allowance for reserve is subject to the normal income tax like all other profit-making institutions. In fact, the rates of taxation for these systems has just been increased by the tax bill now before Congress. No bill, including S. 2298, proposes any change in the present complete tax-free status of credit unions. It seems axiomatic to me that if the credit union system wants to have all the privileges of full independence status, it must accept the responsibility already borne by its other financial counterparts to bear a share of the cost of government.

In making these statements, I am not against credit unions. I am only in favor of balance and equity, and if legislation is offered which will produce these results, I would expect to support it.

I note your request for a meeting when I return to Salt Lake. It looks now as though Congress will be in session right up until Christmas, and that the recess between this year's adjournment and next year's return will be fairly short—so short, that Mrs. Bennett and I do not plan to come to Utah for the holiday season. As of now, I would imagine that the first opportunity for the meeting you suggest will not come until sometime next spring.

Again, thank you very much for your letter.

Very truly yours,

WALLACE F. BENNETT.

Mr. BENNETT. The first of the communications that I have placed in the RECORD is from the California Credit Union League and reads, in part:

An amendment has been introduced that would add:

(a) A mandatory share insurance program for Federal Credit Unions at substantial cost . . .

(c) Restrictive Federal Administration such as a 4 percent limit on dividends would be experienced.

Mr. President, I will not take time to read from the other letters sent.

I am happy to say that there are some credit unions which do not take their orders from either the State leagues or from CUNA, International. I am happy to say that there are some credit union officers who will take the time to consider a proposal of this type on its merits and then make a decision which will be for the benefit of their members. Let me include just three of the letters in reaction to the false information. I ask unanimous consent to put those letters in the RECORD at this point.

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

DADE COUNTY FLORIDA TEACHERS,
FEDERAL CREDIT UNION,
Coral Gables, Fla., January 8, 1970.

RUDOLF MODLEY,
Editor, Reports, Inc.,
Kent, Conn.

DEAR RUDOLF: The understatement of the year is that Florida Federal Credit Unions were very upset when we received the Thomas telegram from the League office.

We resented the untruths and false statements made by Mr. Thomas. The whole thing begins to take on the characteristics of a planned and malicious "innocent" error, to be corrected, perhaps, after the intended damage has been done. It has been said that Cuna is against share insurance primarily because they will lose their hold on some of the credit unions throughout the United States.

My predictions for the '70's:

We must have share insurance.

We must have a credit union bank.

We must be permitted to pay dividends in excess of six percent.

We must be permitted to charge more than twelve percent on loans.

Unless we have these items to permit us to raise capital and to borrow funds at reasonable rates, and to compete with the savings and loan market. I predict that credit unions during the '70's will lose all that we gained during the '60's.

Whenever you are in Florida, look me up and come see our beautiful new building.

Very truly yours,

HUBERT O. SIBLEY, Jr.,
Treasurer.

HP&P FEDERAL CREDIT UNION,
Palatka, Fla., December 12, 1969.

Mr. M. E. JESTER,
Florida Credit Union League, Inc.,
Tallahassee, Fla.

DEAR MR. JESTER: At the 1969 annual meeting of the League in Hollywood the membership expressed support for share insurance by an overwhelming vote. In your October 2, 1969 letter to me you said, "I . . . can only assure you and your fellow officials that we shall always do our best to properly represent the position of our League and member credit unions before whatever body we may be called upon to do so."

In view of the foregoing, it is inconceivable that you could have circulated your December 3, 1969 memorandum reproducing a telegram containing inaccurate information and recommending action definitely contrary to the expressed wishes of member credit unions.

We are sending a copy of this letter to every credit union in the State of Florida and are enclosing a copy of the December 5, 1969 letter we received from the National Association of Federal Credit Unions. We feel that each Florida credit union (be it State or Federal) should have full and accurate information on so important a subject.

We are registering with our Congressmen our support of Senator Bennett's credit union share insurance plan which he has offered as an amendment to H.R. 2. The board of directors of each Florida credit union should carefully review your memorandum and the enclosed memorandum from the National Association of Federal Credit Unions, then follow its convictions when writing our Congressmen.

I can only label this telegram quoted in your memorandum as irresponsible and reckless scare tactics, and my own feeling is that you are derelict in your duty for having used league facilities to disseminate this misleading information.

Yours very truly,

J. C. BROCK,
President.

SOMERVILLE MUNICIPAL FEDERAL CREDIT UNION,
Somerville, Mass., Nov. 19, 1969.

Hon. WALLACE F. BENNETT,
U.S. Senate Office Building,
Washington, D.C.

DEAR SENATOR BENNETT: Thank you so much for your reply to our letter which solicited your support for J. Deane Gannon's appointment as the Administrator of the "Independent Agency" for credit unions. At the time we wrote we were led to believe that the passage of the enabling legislation was assured.

Your stand in opposition to the bill meets with our unqualified support. Our credit union was organized in 1942 under FDIC and since 1947 we have been supervised by BFCU, a constituent of HEW. We feel that BFCU's association with HEW has enhanced our movement. A significant point is that this did not cost a single penny of tax revenue, nor did it place any major burden on HEW's administration.

We support your resolution to HR-2 for share insurance and we commend you and Senator Brooke for backing this legislation. We feel that this was a courageous stand in view of the opposition from the Credit Union National Association.

Yours sincerely,

GERALD R. GORMAN,
Manager.

Mr. BENNETT. The first of those letters is from the Dade County, Fla., teachers, which states in part:

The understatement of the year is that Florida Federal Credit Unions were very upset when we received the Thomas telegram from the League office.

That is the CUNA telegram signed by the Washington representative, General Thomas:

We resented the untruths and false statements made by Mr. Thomas . . .

My predictions for the '70's:

We must have share insurance . . .

Unless we have these items to permit us to raise capital and to borrow funds at reasonable rates, and to compete with the savings and loan market, I predict that credit unions during the '70's will lose all that we gained during the '60's.

I read from another letter from the H.P. & P. Federal Credit Union:

I can only label this telegram quoted in your memorandum as irresponsible and reckless scare tactics, and my own feeling is that you are derelict in your duty for having used league facilities to disseminate this misleading information.

In addition to the telegram sent by CUNA, I have received a Louisiana Credit Union League memorandum dated November 17, 1969, which leads me to believe that CUNA's Washington representatives, and perhaps the entire leadership, are tailoring their comments to suit their purposes without regard to whether what they say is consistent or factual.

I ask unanimous consent that the memorandum be included in the RECORD at this point.

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

LOUISIANA CREDIT UNION LEAGUE,
November 17, 1969.

SUMMARY OF LOUISIANA LEAGUE'S RESPONSE TO RECENT DEVELOPMENTS RELATED TO H.R. 2 AND S. 2298—RE: CREATION OF CREDIT UNION AGENCY

To League's Legislative Committee, League's Board of Directors and Alternates, Boards of Directors—Louisiana FCU's.

Recent telegrams and communications advised the League that S-2298 had been heard in the Senate by their Banking and Currency Committee, and in an Executive Session of this Committee, several amendments were made to S-2298 (companion Bill of HR 2). Among the amendments, included:

1. The term "Board" is defined as the National Credit Union Advisory Board. The House bill used the title "National Credit Union Board of Governors."

2. A provision in the House bill that provided that the Board "may make recommendations to the President with respect to the appointment of the Administrator" was defeated.

3. The Senate bill provides for a Board consisting of a chairman and "one member from each of the Federal credit union regions." The chairman is to be appointed from the country at large, and the President is to designate one of the members from a federal credit union region as vice chairman. While six-year terms are designated for Board members, the chairman's term is "at the pleasure of the President." Provision is made that any member of the Board "may continue to serve as such after the expiration of his term of office until his successor has been appointed and qualified." No limitation appears in the Senate version on the number of terms a Board member may serve, although the House bill limited a member to two full consecutive terms.

4. The Senate version deletes that portion of the House bill which provided that "the President shall receive and give special consideration to the nominations (of Board members) submitted by credit union organizations which are representative of a majority of the credit unions located in the region for which a Board member is to be appointed."

5. The Senate version establishes criteria for selection of Board members as follows: "In making appointments to the Board, the President shall consider, along with other relevant criteria, the experience of the person to be appointed in the credit union movement." The House-passed bill had this statement on the selection of Board members: "The persons so appointed as members of the Board shall be selected on the basis of established records of distinguished service in the credit union movement."

6. The Senate version completely eliminates the requirement in the House bill for the Board to render an annual report to the President for submission to the Congress, summarizing the activities of the Administration and making such recommendations as it may deem appropriate. It also eliminates the provision that "Each report shall propose such legislative enactments and other actions as, in the judgment of the Board, are necessary and appropriate to carry out its recommendations."

7. A number of administrative authorities are granted to the administrator of the National Credit Union Administration by the Senate version of the bill. These provisions, which are summarized as follows, did not appear in the House-passed version of HR 2: (a) to appoint personnel as may be necessary to enable the Administration to carry out its functions; (b) to expend funds, enter into contracts with public and private organizations and persons, make payments in advance or by way of reimbursement, and perform such other functions or acts he may deem necessary or appropriate to carry out the provisions of the Act; (c) to pay stipends, including travel allowances to individuals to study in a program assisted under the Act if determined that the studies will be in furtherance of the purposes of the Federal Credit Union Act.

8. The Senate version also authorizes the administrator to place six positions in GS-16 and one position in GS-17 grades in the Administration.

9. The administrator of the National Credit Union Administration is established at Level IV of the Executive Schedule in the Senate bill as in the House bill.

In changing the name of the Board from "National Credit Union Board of Governors" to the "National Credit Union Advisory Board," the Senate Committee apparently desires to make the Board advisory in nature to the administrator, and to insure that the administrator is the principal authority in the Administration. This is further evidenced by the Senate Committee's elimination of the annual report of the Board to the President and the Congress called for in the House version. The House Banking and Currency Committee report on HR 2 on the other hand stated: "Your committee also wishes to make clear that the Board of Governors does not serve merely in an advisory status but rather is to set major policies for the Administration and to make certain that the Administrator carry out the policies of the Board." Obviously, the Senate and House Committees visualize different roles for the Board.

Once the Senate passes the independent agency bill with the changes and amendments made by the Senate Committee, and any changes and amendments that may be made on the floor, the bill will go back to the House for concurrence in the Senate version. If the House does not concur, then a conference committee of Senate and House members will have to work out a compromise bill which would have to be voted upon in both houses of the Congress.

Your Executive Management met Friday, November 15, consisting of Frank A. Lewis, Chairman, League's Legislative Committee, Joseph A. Barreca, League Counsel and Legislative Representative and Edgar L. Fon-

taine, Managing Director, and reviewed such developments and decided on the immediate response, and course of action to be taken. Mr. Brewster Dittmer, as Vice-Chairman of the Committee, was unable to visit at that time. It was decided that the Managing Director would contact Brewster Dittner and first brief him as to the advice and planned course of action; seek further oral advice from General Evert S. Thomas, CUNA's Washington Office; seek further oral advice from Curt Prins, Staff Assistant to Congressman Wright Patman, Chairman of the House Banking and Currency Committee, and author of HR 2; make personal contact with the offices of Senator Russell Long and Senator Allen Ellender and register this League's position, and concern, for the present developments in the Senate; and summarize such developments and action, and release same to the League's Legislative Committee and League's Board of Directors for information and guidance.

On November 17, the following contacts were made pursuant to the above conclusions:

1. Talked with Brewster Dittmer and briefed him on developments, and recent conclusions and planned course of action as determined by Frank A. Lewis, Chairman, Joseph A. Barreca, Counsel, and Edgar L. Fontaine.

2. Spoke with General Evert Thomas in Washington and he indicated that they were opposed to the changes in the Senate Bill—2298, but they did not want to do anything that would cause the Senate Bill not to clear the Senate. Chairman Patman of the House Banking and Currency Committee strongly wants the Bill in any form to go to a House-Senate conferee session, where CUNA and Patman believe changes can be effected to put provisions of HR 2 "on top". General Thomas agreed with our planned contact with Senators Ellender and Long, to oppose the Senate bill in its present form, to possibly offer amendments to restore original provisions, but not to kill the Bill in the Senate. General Thomas agreed that home office communications give the impression that CUNA is not opposed to the Senate Bill as amended, *except the share insurance*, but this is not so. General Thomas was prepared to visit Senators Ellender and Long's office if they will allow such a visit to further explain CUNA's intention. General Thomas agrees that we should talk to Curt Prins to see if there is anything further he can add.

3. Spoke with Curt Prins of Chairman Patman's office, and he gave generally same advice General Thomas provided concerning the Senate Bill, and the amendments. He stated that Chairman Wright Patman anticipated that HR 2 will take precedence in the House-Senate conference session. Mr. Prins did indicate a lack of strong relationship of CUNA on the Senate side, and he expressed concern and amazement that the rump group "NAFCU" had stolen the limelight for the moment. Mr. Prins was very agreeable to any action by Lousiana to stimulate an interest and support of Senators Ellender and Long's office against the present Bill, as amended, but he too cautioned that the Bill should be allowed to clear the Senate with or without the amendments, as per Chairman Patman's plans. Mr. Prins welcomed the opportunity to visit with General Thomas in the offices of Senator Ellender or Senator Long to make contact, establish relationship, and explain Louisiana's position.

4. Mr. Bob Hunter of Senator Russell Long's office assured me that he would allow Mr. Curt Prins and General Thomas to visit with him and provide the whole picture. Mr. Hunter assured me that Senator Long would do whatever was helpful as we would expect him to. We promised to be immediately in touch with Mr. Prins and General Thomas and arrange for their visit with Mr. Hunter in Senator Long's office and await further developments.

5. Spoke with General Thomas again and advised him to contact Mr. Curt Prins and have both of them to contact Mr. Bob Hunter for a personal visit and discussion of developments. General Thomas assured me that he would get in touch with Mr. Prins and do this immediately and further contact me as to the results of the visit. I suggested it was not necessary to formally contact with Senator Ellender's office because Mr. Hunter's office would and arrange for Mr. Prins and General Thomas to visit with Senator Ellender's office, and express Louisiana's views and to seek similar support.

6. Senator Ellender was not in his office but his personal secretary assured me that this development would be brought to his attention as well as our position. She welcomed the suggestion that General Thomas and Mr. Prins visit in Senator Ellender's office with her and his chief legislative assistant, Mr. Girard, at which time the matter could be reviewed in more detail. I assured Senator Ellender's secretary that immediate contact would be made with General Thomas and Mr. Prins and she should expect to hear from them shortly. (This was also carried out by another phone call to General Thomas.)

In view of the developments and actions taken in the recent telephone conversations, it has been concluded that no further action would be taken by the League's Executive Management *at this time pending the action of the U.S. Senate on S–2298 and pending the receipt of the assistance promised by the offices of Senators Long and Ellender.*

The League's Legislative Committee and the League's Board of Directors, and others concerned, should carefully review this material. We hereby alert all concerned to further action which might become necessary and by a larger number of credit union leaders in Louisiana, if and when he proposed legislation eventually is placed before a House-Senate Conference Committee wherein the ultimate intent of legislation creating a credit union administration agency will be decided.

Sincerely,

EDGAR L. FONTAINE,
Managing Director.

Mr. BENNETT. Mr. President, I do not intend to read at length from the Louisiana Credit Union League memorandum, but would like to quote from the action taken by the league on November 17:

Spoke with General Evert Thomas in Washington and he indicated that they were opposed to the changes in the Senate Bill-2298, but they did not want to do anything that would cause the Senate Bill not to clear the Senate. Chairman Patman of the House Banking and Currency Committee strongly wants the Bill in any form to go to a House-Senate conferee session, where CUNA and Patman believe changes can be effected to put provisions of HR 2 on top. General Thomas agreed with our planned contact with Senators Ellender and Long, to oppose the Senate bill in its present form, to possibly offer amendments to restore its original provisions, but not to kill the Bill in the Senate. General Thomas agreed that home office communications give the impression that CUNA is not opposed to the Senate Bill as amended, *except the share insurance*, but this is not so. General Thomas was prepared to visit Senators Ellender and Long's office if they will allow such a visit to further explain CUNA's intention. General Thomas agrees that we should talk to Curt Prins to see if there is anything further he can add.

Upon receipt of this memorandum, I had a member of the Banking and Currency Committee staff call General Thomas and ask him what CUNA's reaction was to the Senate committee bill as reported to the Senate. He said that CUNA did not oppose the Senate language and felt satisfied with it, that the only exception to the language was the amendment providing for share insurance. He was told, of course, that such an amendment had not been accepted by the committee. At that point, he said that the official position of CUNA was that it had no objection to the Senate version and that the board of directors had taken such a stand in a meeting. It is interesting to note how this ties in with the memorandum quoted earlier which says that "General Thomas agreed that home office communications give the impression that CUNA is not opposed to the Senate bill as amended, except the share insurance, but this is not so."

I am appalled that a group which claims to represent more than 90 percent of the credit unions in this country would stoop to this type of lobbying effort on a matter which many of their members feel is in the best interest of the credit union movement. The same memorandum quoted earlier contains strategy which the House expects to follow. Mr. Edgar L. Fontaine, who signed the memorandum, apparently spoke with a Mr. Curt Prins of Congressman PATMAN's office who gave generally the same advice General Thomas provided concerning the Senate bill. He stated and I quote again:

Chairman Wright Patman anticipated that H.R. 2 will take precedence in the House-Senate conference session. Mr. Prins did indicate a lack of strong relationship of CUNA on the Senate side, and he expressed concern and amazement that the rump group NAFCU had stolen the limelight for the moment.

I had never thought of an association which competes with another as being automatically considered a "rump group." Apparently some of the Nation's major credit unions do not thing it is a "rump group" either because they have become members of NAFCU. The latest to become a member is the world's largest credit union, the Navy Credit Union, with about $120 million in assets. I would like to state also that as far as I am concerned, it does not matter to me which of the competing associations receives credit, if any credit is received for actions taken by the Congress. Our decision should be based on merit and not on the fact that a particular organization or association either favors or opposes a proposal.

I would like to point to just one additional comment made by a well-known publication on credit union affairs. The Report on Credit Unions, published by Mr. Rudolf Modley, states:

The new Senate version represents a clear-cut victory for the National Association of Federal Credit Unions (NAFCU), for the many CUNA-affiliated credit unions which objected to the House draft (among them the Virginia league and many California credit unions), and the Administration. CUNA's handling of the entire "independent" agency episode was inept.

It is hard to understand why CUNA leaders claimed "solid, unqualified endorsement"

when they must have fully known that this wasn't the case—and that testimony would show it. CUNA's credibility on Capitol Hill will suffer for a long time to come.

It is indeed difficult to understand why CUNA leaders claimed "solid, unqualified endorsement" for H.R. 2 as it passed the House of Representatives. Mr Modley's comment that "CUNA's credibility on Capitol Hill will suffer for a long time to come" is reinforced and strengthened by the memorandum received from the Louisiana Credit Union League and the telegram which CUNA has sent out misrepresenting what the amendment would do.

Mr. President, we have received many calls from the offices of other Members of the Senate asking about my amendment and particularly asking whether it would limit the dividends payable by Federal credit unions to 4 percent. The answer has always been that there is nothing in this amendment which would in any way limit dividend payment by Federal credit unions. There is no doubt in my mind that the letters and telegrams which have been received in opposition to this amendment have been inspired by false information circulated either by CUNA or its affiliated leagues, and that this information has been a disservice to the credit union movement and a disservice to the credit unions which have placed their trust and confidence in its leadership.

One of the arguments against my amendment is that the cost of providing insurance through this means would be "substantial." "Substantial" is a word which means whatever an individual wants it to mean, but I wish to include for the RECORD the yearly charge which under the amendment, would be required by credit unions of various sizes, to support the insurance programs. They are based on one-twelfth of 1 percent of the deposits of the credit union. I ask unanimous consent that the list be printed in the RECORD.

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

Asset size:	*Yearly charge*
10,000	$8
25,000	20
50,000	40
100,000	80
250,000	200
500,000	400
1,000,000	800
2,000,000	1,600
5,000,000	4,000

Mr. BENNETT. I do not consider these figures to represent a substantial cost in relationship to the amount of shares protected or in relation to the potential for increased deposits.

In addition to the figures which I have quoted showing the required annual charge for the share insurance, I would also like to point out that a share insurance proposal draft by CUNA, International late in 1964 required one-tenth of 1 percent as the annual premium, as compared with my recommended charge of one-twelth of 1 percent, and authorized additional premiums to equal all losses up to one-fourth of 1 percent. That is significantly more costly than the proposal which I have recommended to the Senate. The CUNA proposal also had an additional one-time investment of 1¼ percent of insured accounts which is not required in the proposal pending before the Senate. Thus, the charge that this proposal would be too costly is simply not substantiated by the facts.

It has been suggested by some that the stabilization fund now in effect for credit unions on an international basis is sufficient to handle the problems which exist. I would like to include testimony given by the H.P. & P. Federal Credit Union of Palatka, Fla., in which the use of stabilization funds is discussed along with its broader testimony urging Congress to enact share insurance legislation similar to that provided by the FDIC and the FSLIC.

I shall read just two brief quotations from that testimony:

It is not sufficient to say that the record of credit unions has been very good and that therefore this insurance is unnecessary—one does not cancel the insurance on his home or automobile because he has never had a fire or an accident.

* * * * *

Those who still think that deposit insurance would be an unnecessary expense should poll the banks to find out which would be willing to drop their membership in FDIC. The lack of deposit insurance is the most serious deficiency in the Federal Credit Union Act. Until credit unions obtain deposit insurance they will never be able to attract the substantial savings needed to meet the loan demand of members. We should not accept a program that provides less security for our members than is provided for other financial institutions.

I ask unanimous consent that the entire statement to which I have referred be printed in the RECORD.

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

TESTIMONY, H.P. & P FEDERAL CREDIT UNION, TO CUNA INTERNATIONAL COMMITTEE, ATLANTA, GA., SEPTEMBER 18–19, 1969

The directors of the H.P. & P. Federal Credit Union, meeting on 9/4/69, adopted a resolution urging Congress to enact share insurance legislation similar to that provided by FDIC and FS&LIC. They also voted to send representatives to this meeting to express their views.

Their reasons for this are many. First and foremost, they believe the credit union's primary obligation is to provide for the safety of its members' savings and no credit union has met this obligation until it has provided all the protection possible. In many cases members share accounts represent a lifetime of saving, or years of effort to accumulate funds for some very important goal. Gentlemen, this is, indeed, a sacred trust. It is not sufficient to say that the record of credit unions has been very good and that therefore this insurance is unnecessary—one does not cancel the insurance on his home or automobile because he has never had a fire or an accident.

Because the word "Federal" is used in our credit union's name, many members assume the government is insuring their money and that it is as safe as if in an insured bank or savings and loan association. The fact that many members think they are thus protected makes it doubly important that this coverage be provided.

Consider the well informed member, the one who has accumulated some savings, the smart money if you will. He may make a token deposit with the credit union in order to qualify for the life insurance, if available, however the greater part of his assets are invested in government insured accounts.

Then there are the members who come into possession of large sums of money through settlement of an estate, as beneficiary of a life insurance policy, or the conclusion of a business transaction. In most instances an attorney is involved, and when consulted, he cannot advise placing these funds with the credit union because of the lack of share insurance. The attorney has no choice but to send his client to a bank or savings and loan instead of to the credit union. How much better it would be if this money were available to the credit union for loans in areas of greater human need through the credit union.

In the event of liquidation, and it does happen even to some of the best managed credit unions, the shareholders must wait for their money, sometimes for years. Stabilization funds thus far appear woefully inadequate to the task. Deposit insurance is the only satisfactory answer.

Objections are raised that this insurance will carry with it stricter regulations. The banks and savings and loans have this insurance along with the regulation and it is because of this insurance and regulation that they enjoy the confidence of the public and have prospered. The objection has been heard that this insurance would be expensive to carry. The banks pay less than 1/12 of 1% of their deposits per year and the savings and loans a similar amount. It is, therefore, reasonable to estimate that credit unions should be able to have this insurance for about $1,000 per year per million dollars of assets. This would be the wisest expenditure in a credit union's budget.

Those who still think that deposit insurance would be an unnecessary expense should poll the banks to find out which would be willing to drop their membership in FDIC. The lack of deposit insurance is the most serious deficiency in the Federal Credit Union Act. Until credit unions obtain deposit insurance they will never be able to attract the substantial savings needed to meet the loan demand of members. We should not accept a program that provides less security for our members than is provided for other financial institutions.

Mr. BENNETT. Mr. President, in the 1955 report of the Council of Economic Advisers to the President, there was a recommendation that Congress consider providing share insurance for credit unions. Again this year, the outgoing Secretary of Health, Education, and Welfare in his annual report recommended such a plan. The Banking and Currency Committee in the Senate took testimony last year on the subject of losses in Federal credit union liquidations during hearings on S. 3002, S. 3214, and S. 3395. The House committee took testimony on the same subject, including hearings on H.R. 7347. Meetings with Department and agency officials were also held in that same year.

Mr. President, the time for talking has ended. Many credit unions need this insurance now. I hope that I have cleared away in my talk today some of the fog and misrepresentation that has been created regarding my proposal.

At the same time, I wish to say that I believe that CUNA International has done much to assist the credit union movement. I do not wish what I say to detract from their other activities, simply because I believe that they are 100 percent wrong in their attitude and the tactics used to express their position in this case.

Let me quickly summarize:

First, credit unions are the only federally chartered financial institutions which do not have share insurance for their depositors or customers.

Second, my amendment contains absolutely no provision restricting or in any way limiting the rate that could be paid by credit unions for funds. I should point out, however, that there is presently in the credit union law a maximum ceiling of 6 percent. Perhaps this should be changed. I believe, as I have stated in a letter to Mr. J. Paul White, managing director of the Utah Credit Union League, Inc., on November 11, 1969 which has been inserted in the RECORD that the regulatory agency should have the power to determine the rate paid on savings as is the case with the other Federal regulatory agencies of financial institutions. This would provide more flexibility and could actually when needed increase the rate that could be paid. But this is not covered by the amendment.

Third, my amendment would benefit small credit unions in limited income areas, probably more than any others, by making it possible for them to attract increased savings.

We should take action now, Mr. President, and I hope that the Senate will accept this equitable and relatively simple amendment. I ask for the yeas and nays on it.

Noting that there are not enough Senators present to justify it, I intend to ask for the yeas and nays on the amendment, and therefore I note the absence of a quorum, in order that we may obtain enough Senators for that purpose.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. BENNETT. How much time do I have remaining?

The PRESIDING OFFICER. The Senator has 11 minutes remaining.

Who yields time?

Mr. BENNETT. I am happy to yield to the Senator from Illinois such time as he may desire.

Mr. PERCY. Mr. President, the need for Federal share insurance can be seen by recent developments in a Chicago credit union.

On January 5, 1970, the Hyde Park Co-Op Federal Credit Union voluntarily suspended operations and invoked a 60-day notice of intent to withdraw shares from the credit union. This action was necessary when the credit union was unable to meet the demand for share withdrawals and went into voluntary suspension of operations. The catalyst behind the lack of liquidity was a high rate of loan delinquencies. The demand for withdrawals was precipitated by depositors' fears that they would lose their money. If Federal share insurance had covered shares in the credit union, shareholders would have been assured of getting their money out and the run on the credit union might not have developed.

In the absence of Federal share insurance, a look at the financial figures of the credit union shows why shareholders were uneasy. The Hyde Park Co-Op Credit Union has 7,371 shareholders with $2,259,461 in deposits. Total assets of the credit union are $2,385,270. At yearend, the credit union had 2,259 loans outstanding in a total of $2,236,315.

Of this total loan figure, over 10 percent, $301,088, were delinquent loans; $110,000 of loans were 2 to 6 months delinquent, $88,000 were 6 to 12 months delinquent, and almost $103,000 were over 12 months delinquent. Those loans over 12 months delinquent can be considered almost uncollectable.

When the run on the credit union began near the end of the year, the credit union did not have the cash to cover withdrawal requests. At yearend, the credit union had only about $40,000 in cash and about $50,000 in U.S. Government obligations. This was obviously insufficient to meet potential share withdrawals of $2,259,461. Thus, based on depositor fear, the run began, and the credit union had to voluntarily suspend operations.

Since that time the credit union has had a special meeting of members, on January 18, and has set up committees to try to deal with the problems of the credit union. Committees were set up to try to collect delinquent loans and to persuade people not to withdraw their shares from the credit union. These steps are being taken in coordination with the Chicago office of the Bureau of Federal Credit Unions and hopefully will help to resolve the problem.

But the fact remains that had Federal share insurance been available to shareholders in the credit union, the run might never have developed. Depositors would have known that their savings were safe.

I therefore support wholeheartedly the amendment of the Senator from Utah (Mr. BENNETT). His amendment affords the same protection to depositors in credit unions that depositors in commercial banks or savings and loan associations have. I hope the amendment is adopted.

Mr. BENNETT. Mr. President, will the Senator yield in order that I may ask for the yeas and nays?

Mr. PERCY. I yield.

Mr. BENNETT. Mr. President, I ask for the yeas and nays on this amendment.

The yeas and nays were ordered.

Mr. PERCY. Mr. President, I feel very deeply about this matter. I am a great believer in credit unions. All through the years, I have supported credit unions in every company with which I have been associated. I have seen the great service they have offered as a convenient place for deposits, as well as loans to employees of companies and to other organizations and agencies.

As a friend of credit unions, I also feel very deeply that even though many of them oppose this amendment, sometimes as we look back we wonder why we opposed things that were as good as this amendment would be for the credit union institutions.

I recall when my father was a banker in a neighborhood bank in Rogers Park, Chicago, Ill. I cannot forget the time that bank started to have a run on it. I was a young boy in grammar school, and I think the parents of every student had money in that bank. The word spread like wildfire, "There isn't enough money, and we'd better get ours." Lines formed, phones rang at home, and the panic spread. And it was panic that closed that bank. This is exactly the case that we see in some credit unions today.

I thought we learned our lesson at that time, that insurance and protection for depositors will assure that these things cannot happen. There is not a financial institution around that would not have to close its doors if all the depositors demanded their money overnight. You cannot have 100 percent liquidity at all times. Yet, it was the lack of insurance at that time that closed banks across the country.

I think that once again we will look back, years from now, when credit unions have this insurance, and will say it is the protection they need, in their own self-interest, to provide against the emergencies that have occurred in my State and that will occur in other areas.

Mr. PROXMIRE. I yield myself 10 minutes.

Mr. President, there is a great deal of appeal in the amendment of the Senator from Utah, and I think that the principles and the objectives are salutary. There is no question, as the Senator from Illinois said so eloquently, that we should have insurance for depositors in our financial institutions. The problem, however, is that we ought to have a provision which is very carefully thought out, on which there is a hearing record, on which we have testimony from both sides of the issue, and which is calculated on the basis of our experience in the past.

This is not true with respect to this amendment. There were no hearings on this amendment. This amendment is before the Senate now, and I have great admiration for the legislative skill and understanding of the Senator from Utah; but I think that without hearings on something as complicated and as important as this, we could be making a serious mistake we do not have to make.

The problem of share—or deposit—insurance for credit unions is one which for years has been discussed within the credit union movement itself. As Senators are well aware, credit unions are the only federally chartered financial institutions whose deposits are not covered by some form of Government-supervised insurance program. With the past opposition of the credit union movement on share insurance, with the claims and counterclaims of proponents and opponents of a federally sponsored share insurance program, and with the credit union organizations' own internal safeguards for providing security of members' deposits, it seems obvious to me that we are in no position to act on the amendments proposed by the distinguished Senator from Utah at this time.

I wish to make clear that I am not opposing—nor am I supporting—the Bennett amendment objectives. I merely feel that there is inadequate data and information before us at this time for

us to make an intelligent, informed decision.

The entire problem needs to be fully explored in hearing by the Banking and Currency Committee to determine the facts. There is much we need to know before we are in a position to say that a federally sponsored program is needed. Perhaps we do not need a Government program—maybe the industry's own efforts are adequate to give the protection needed. I might add that within the credit union movement, a number of State credit union leagues have stabilization programs designed to protect the shareholders of credit unions forced to liquidate either voluntarily or involuntarily. The Bureau of Federal Credit Unions in its recently published report on "Regular Reserves of Federal Credit Unions" states that as yearend 1967 stabilization programs were operated by CUNA International and the State leagues in 38 States and the District of Columbia.

Just within the past year, CUNA has initiated a reserve trust program which is designed to augment State league programs and to operate in States which do not have an individual program.

Furthermore, the credit union movement has a strong and effective insurance program to insure credit unions against some of the more common elements leading to financial failure of a credit union—defalcations, robbery, physical losses. Practically every loss factor except poor and ineffective management is protected against. And even management difficulties are closely watched through periodic examinations by internal committees and State and Federal supervisory authorities.

Actual losses to Federal credit union shareholders resulting from liquidations and scaledowns in more than 34 years have amounted to approximately $3,262,566. This amount represents only one-twentieth of 1 percent of the more than $5,986,181,000 in shares held in Federal credit unions at the end of December 1968. Shares at the end of December 1969 have now reached an amount in excess of $6,634,000,000.

The above figures reflect the outstanding performance of the credit union movement in protecting its membership over a period of more than 34 years.

Until these matters are fully explored in hearings, until all the facts are known, we cannot be positive that a Government-operated program is necessary or essential. If the industry can produce its own insurance program which is adequate and effective in the opinion of Congress, why should a Government program be necessary?

I must confess that I do not know the answers at this time. I would confidently expect, however, that committee hearings on the subject would produce the answers and give the Congress the necessary information upon which to act if the need exists—if, indeed, we must act. Our present knowledge and experience is totally inadequate to act on the proposed share insurance program at this time.

Mr. President, I would point out that the provisions in the Bennett amendment indicate that so far as Federal credit unions are concerned, the premium would be one-twelfth of 1 percent, and will cost about $5.5 million. If we include the State credit unions, not Federal credit unions, we can just about double that. It would provide $5.5 million a year for credit unions, although losses last year of credit unions totaled $124,000.

This amendment would provide for $5.5 million in premiums so that the ratio of the premiums to losses would be about 44 to 1.

I know, as the Senator from Utah has pointed out, that this one-twelfth of 1 percent is permissive. But it is for the guidance of the administrator and thus, it seems to me, if the amendment is adopted by the Senate and accepted by the House, a prudent administrator would feel that he had better put that into effect even though there would be some basis for him cutting it back. And that $5.5 million would be $5.5 million less that the credit union depositors will get in dividends.

Whereas the $5.5 million for credit unions is not a great deal in relationship to the total amount of deposits they have, or even in relationship to the dividends they pay, it is something when we consider the fact that the 24 million people who have deposits in credit unions and borrow from them are people who, by and large, watch their money closely and the matter of a few dollars or cents is significant to them.

I would hope, under these circumstances, that the Senate would reject the amendment and give the Committee on Banking and Currency, as its distinguished chairman, the Senator from Alabama (Mr. SPARKMAN) has indicated, an opportunity to consider this matter and make a record and hold hearings.

Finally, let me point out that whereas the bill is only six pages long and is a simple bill, the amendment is 21 pages long and is not, really, a simple amendment. It is very complex, and yet we have held no hearings, and have no record on it. It is also opposed by the credit union organizations and is being opposed vigorously.

Under these circumstances, I would hope that the Senate would not agree to the amendment.

Mr. BENNETT. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER (Mr. HUGHES in the chair). Six minutes remain to the Senator from Utah.

Mr. BENNETT. I thank the Chair.

Mr. President, I enjoy again a discussion with my good friend from Wisconsin. We find ourselves on opposite sides of a good many issues. It is true that we did not have any hearings. The amendment has been before the committee for more than 3 months. The Senator from Utah, being in the minority, has no power to demand hearings. The amendment, however, is not written out of the imagination of the Senator from Utah. We have had nearly 40 years of experience with insurance programs—the FDIC—with banks, and we have had fewer years than that, but a substantial number of years' experience in insuring the deposits of savings and loan associations.

Thus, we know pretty well what the problem is. To me, the fact that CUNA 5 years ago offered a proposal based on one-tenth of 1 percent, and this proposal is based on one-twelfth of 1 percent, would indicate that I cannot be too far out insofar as the cost burden is concerned.

As to the question of not having any hearings, I congratulate my friend from Wisconsin on the fact that when the water pollution bill came up, he got on a revenue bond amendment on which no hearings were held. He and I both know that that is common experience in the Senate.

Mr. PROXMIRE. If the Senator will yield, let me tell him that we had hearings on that amendment the previous year and we also had a record. The Committee on Banking and Currency established the record on that amendment which I offered and it went on the bill.

Mr. BENNETT. But no one during debate was aware of it and the hearings were not available to us at the time the matter was discussed.

Mr. PROXMIRE. I discussed it earlier in some detail when I presented the amendment.

Mr. BENNETT. Senators not on the committee got that information pretty well out of the blue, but that goes on all the time.

There is another problem here that I should have developed earlier, and I shall take just a minute now to point it out. With the banks and savings and loan associations we have professional management. They are paid. They have got to compete and prove their ability to hold their jobs.

However, with small credit unions, the managers are selected from members of the association themselves. They are not paid. They take on this little extra burden for their friends. They have often had absolutely no experience in making loans. They loan on the basis of their friendships, or whatever they may know about the man that works next to them at the lathe. They lack, in the small associations, professionally trained executive management which, to me, is another reason why these people who entrust their money to these amateurs should have the protection of insurance.

Well, Mr. President, unless someone else wishes to speak, I am prepared to yield back the remainder of my time.

Mr. PROXMIRE. May I say to the Senator from Utah, in view of the fact that he has referred to experience with insurance on bank deposits, that the first State bank deposit insured was in 1829 with Martin Van Buren. We took 104 years to provide Federal insurance for banks in 1933. Now the Senator wants to provide insurance to credit unions, in one afternoon, or one part of the afternoon, rather, in fact, just in one hour and a half without a record.

Mr. BENNETT. Against the background and experience which the Senator takes back to Martin Van Buren.

Mr. PROXMIRE. That was for banks. But credit unions are a different kind of institution.

Mr. BENNETT. Credit unions are much more vulnerable than banks, for the reasons I have just stated. Their

management in many instances is not expert. It can be swayed by noneconomic factors.

Mr. PROXMIRE. What do the records show? They show that credit unions have nothing like the kind of failures which banks have had. As I pointed out, going back to the depression, the total losses of credit unions was only $3.5 million. They have been very low. The share insurance premium program proposed by the Senator in his amendment would be 44 times the losses suffered last year by credit unions.

Mr. BENNETT. But we have had some experience. As a member of the Finance Committee, I worked on the question of how much loss reserve should be allowed to banks. Our experience goes all the way back to the 1930's. When we compare losses today with losses in the 1930's, they are negligible. But, do we have any right to assume that, therefore, we should not have any share insurance for banks or that we should change the fee every year?

I believe that the Senator from Wisconsin forgets, when we start a share insurance program, that it will take us a number of years to build up a reserve to the point where the insurance program can stand any sudden shock.

Mr. PROXMIRE. The Senator makes a great deal of sense and there can be a strong argument for a share insurance program. Maybe it should be Federal, and based on an association that credit unions can work out for themselves. At any rate, we do not have a record. We do not have the opportunity for credit union leadership in providing the kind of system that they think will be practical and fair. They oppose the amendment.

Under these circumstances, it seems to me that we should have a chance to build a record and act on that.

Mr. PERCY. Mr. President, I should like to say this about the very good point the Senator from Utah has made about the management of credit unions. I have sat in on many of their meetings, and they are amateur managers in the best sense of that term. They are not sophisticated financial people by any means.

There is one further danger, in that the depositors in a savings and loan institution, or a bank, are widely diversified. They come from the retail, manufacturing, and farm segments of the economy and many others. But in credit unions there is a concentration of employees in one company. What happens when a company like GE shuts down for 3 months? What happens when an industry has a terrific adverse trend? The distinguished Senator from Wisconsin is concerned about unemployment going up.

What if this hits certain industries particularly hard? I think we have to look ahead. I cannot for the life of me see the reason why we should distinguish between a depositor in a savings and loan association or a depositor in a bank and a depositor in a credit union and say that the depositor in a bank or savings and loan needs insurance, but that a depositor in a credit union does not need it. In fact, I would wager that most depositors in credit unions think they have insurance today. Some surveys seem to show that. I do not know of any evidence I have seen that would indicate otherwise. Depositors in credit unions would be shocked if they were to realize they did not have insurance.

Mr. PROXMIRE. Mr. President, I yield myself 1 minute.

The PRESIDING OFFICER. The Senator is recognized for 1 minute.

Mr. PROXMIRE. Mr. President, I have never said, and I do not know of any member of the committee who has said, that we should not have share insurance for credit unions. They deserve the same consideration that depositors in banks have. But before we provide insurance for them, we should have hearings and make a record and try to work out something in cooperation with credit union leadership.

We are not proposing to do that in this case. Here it is proposed on the floor, having had no hearings, and the credit unions say they are opposed. I do not think that is fair.

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

Mr. BENNETT. Mr. President, if I have any time remaining, I yield back the remainder of it.

The PRESIDING OFFICER. All time having expired, the question is on agreeing to the amendment of the Senator from Utah, as modified. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. KENNEDY. I announce that the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Alaska (Mr. GRAVEL), the Senator from Oklahoma (Mr. HARRIS), the Senator from Minnesota (Mr. MCCARTHY), and the Senator from Wisconsin (Mr. NELSON) are necessarily absent.

I further announce that the Senator from Montana (Mr. METCALF) is absent on official business.

I further announce that, if present and voting, the Senator from Wisconsin (Mr. NELSON) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. ALLOTT), the Senator from Arizona (Mr. GOLDWATER), and the Senator from Vermont (Mr. PROUTY) are necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from California (Mr. MURPHY) is absent on official business to attend the funeral of a colleague.

The Senator from Oregon (Mr. PACKWOOD) and the Senator from Ohio (Mr. SAXBE) are absent on official business.

If present and voting, the Senator from Colorado (Mr. ALLOTT) and the Senator from South Dakota (Mr. MUNDT) would each vote "yea."

The result was announced—yeas 35, nays 52, as follows:

[No. 33 Leg.]

YEAS—35

Baker	Cotton	Griffin
Bellmon	Curtis	Gurney
Bennett	Dominick	Hansen
Boggs	Ellender	Hatfield
Brooke	Ervin	Hruska
Case	Fannin	Javits
Cooper	Goodell	Jordan, Idaho
Long	Percy	Thurmond
Mathias	Schweiker	Tower
McClellan	Scott	Williams, Del.
McIntyre	Smith, Ill.	Young, N. Dak.
Pearson	Stevens	

NAYS—52

Aiken	Hart	Pastore
Allen	Hartke	Pell
Anderson	Holland	Proxmire
Bayh	Hollings	Randolph
Bible	Hughes	Ribicoff
Burdick	Inouye	Russell
Byrd, Va.	Jackson	Smith, Maine
Byrd, W. Va.	Jordan, N.C.	Sparkman
Cannon	Kennedy	Spong
Church	Magnuson	Stennis
Cook	Mansfield	Symington
Cranston	McGee	Talmadge
Dodd	McGovern	Tydings
Dole	Miller	Williams, N.J.
Eagleton	Mondale	Yarborough
Eastland	Montoya	Young, Ohio
Fong	Moss	
Gore	Muskie	

NOT VOTING—13

Allott	McCarthy	Packwood
Fulbright	Metcalf	Prouty
Goldwater	Mundt	Saxbe
Gravel	Murphy	
Harris	Nelson	

So Mr. BENNETT's amendment was rejected.

Mr. SPARKMAN. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. JACKSON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BENNETT. Mr. President, I yield myself 2 minutes.

During the opposition to the amendment, to which, obviously, I listened very carefully, the only real substantive charge that was made against it was that we had not had any hearings. Therefore, I would like to address myself to the chairman of the committee and ask him, if I introduce the amendment as a complete bill, would he give me the assurance of hearings at the earliest possible time?

Mr. SPARKMAN. Mr. President, I assure the Senator that I will cooperate with him and we will, together, arrange a suitable time for hearings.

Mr. BENNETT. I thank the chairman.

Mr. YARBOROUGH. Mr. President, will the Senator yield to me briefly on the bill?

Mr. SPARKMAN. I yield to the Senator from Texas such time as he may require.

THE CREDIT UNION MOVEMENT—PROMOTING ECONOMIC DEMOCRACY

Mr. YARBOROUGH. Mr. President, today, I want to comment on H.R. 2, a bill which embodies recognition of the maturity of the credit union movement, one of the most important forms of economic democracy, of mutual aid and self-help, in this Nation.

The maturity of the credit union movement is recognized in this bill, which would give the credit unions, like the banks and the savings and loan associations, an independent agency, in this instance the National Credit Union Administration, with the authority to regulate, supervise, and examine the Federal credit unions. The principle of self-help and self-support would be carried over from the credit unions themselves to their regulatory agency; all expenses of the agency will be paid from fees and

assessments on the credit unions, and the Federal agency will be Federal in outlook but not in financing: It will not cost the Federal taxpayer anything at all.

This is an important bill, not for what it commits the Federal Government to do, but for its recognition of the place of the Government in economic affairs. The Government in the credit union movement gives recognition to what people do for themselves and helps through examination and regulation to assure that officers and employees perform in the interests of the membership.

The voluntary efforts of people who have common ties of place of employment, residence, or other interests, in assisting each other to meet their financial problems—to find money when needed, and to find a safe and useful place in which to get a reasonable return on the investment of their savings, have proved so successful and stimulated such emulation, that the movement now warrants a Federal agency concerned only with the credit unions.

The credit union is the most numerous form of financial institution in the Nation today. It is a local association, and the expansion of the credit union movement measures the increase in the benefits brought to local groups; it does not contain any of the possibilities of monopoly and exploitation which may be found in other financial institutions.

This great step forward, recognition of the credit unions' independent status as a major form of financial institution is of special pride to me as a Senator from Texas, for the first Federal credit union was chartered in 1934 in Texarkana. As Senators may know, the present chairman of the Committee on Banking and Currency in the other House, a fellow Texan, WRIGHT PATMAN, has taken the lead in introducing the bills relating to Federal credit unions which have passed that House since 1934.

But the Federal credit union movement is a nationwide movement. Only six States have fewer than 100 credit unions, and they are in three cases very small in area and in three others are sparsely populated. There are seven States which have more than 1,000 credit unions each. Altogether there were 23,600 credit unions in action in 1968.

These local, cooperative, financial institutions have multiplied faster than the institutions which finance the more massive consumer expenditures for housing, and the business and governmental expenditures for plant and equipment and public buildings and facilities.

The credit union movement was in motion before the Federal Government first undertook, 35 years ago, to charter new associations. Some States chartered credit unions, as they do now; or most States offered charters. But not every State chartered or supervised credit unions, or established rate limits and other safeguards against turning a cooperative society into a means of exploitation. Federal charters were necessary. Since the Federal act became effective and the first charter was granted in Texarkana, the number of credit unions has multiplied 10 times; membership is 50 times as numerous as in 1934, and assets total about 350 times as much as in 1934. Within the last decade, assets have multiplied four times. The credit unions have grown more rapidly than any other institution which extends credit to consumers, so that they have increased their share in the rapidly rising total of consumer installment credit from around 9 percent of the total, to nearly 12 percent of the total, within a decade. They were about equal in total installment credit to the small loan companies a decade ago, but now hold almost 50 percent more credit outstanding than are held by the small loan or personal finance companies. The assets of the credit unions have increased more rapidly than those of consumer creditors of every other sort; they have increased more rapidly than those of any of the larger financial institutions which finance business and homes, as I have remarked already.

It is not just the growing importance of consumer credit which accounts for the multiplication and the expansion of the numbers, membership, and assets of the credit unions. It is their efficiency and their responsiveness to the needs of their members, both savers and borrowers, which account for their unmatched growth.

These unions, small and local except in such unusual circumstances as the credit unions in the Defense departments, have grown to a size where the sum of the assets of all the more than 23,000 now in existence, is now about equal to the assets which had been accumulated by the principal home financing agency—the savings and loan associations 20 years ago. Small personal loans, financing household equipment, automobiles, and all of the other modest loans which can be made within the restrictive limits of the Credit Union Act, have totaled as much now as home loans—each of which was many times as great as the usual credit union loan—had totaled when the 1949 Housing Act was enacted.

The volume of credit union loans, the dependence of 20 million depositors on credit unions for some part—often minor but often principal—of their credit, or their return on savings, warrants enactment of H.R. 2. The credit unions stand independently as cooperative financial institutions, in such number that a separate chartering supervisory and regulatory agency, not subject to changing priorities of other programs within a Federal department of the very widest interests, will devote full time to the success of the credit union movement.

Mr. PERCY. Mr. President, I rise in support of H.R. 2 which establishes an independent National Credit Union Administration.

Credit unions are the stepchild of our system of financial institutions. Up to now, they have been shunted from pillar to post among the Federal bureaucracy—always seeking to master their own house and always being relegated to a subservient status.

Yet, the credit union is probably the financial institution closer to the people and more intimately involved in their daily lives than any other financial organization.

Today, there are about 24,000 credit unions in the United States, of which some 13,000 are federally chartered. As the committee report points out, this is a greater number than all other financial institutions combined. More than 20 million Americans are members of a credit union. These institutions have savings exceeding $14 billion, made up in large part of individual accounts totalling $500 or less. The large financiers, the "big money," and the corporations are not those who frequent credit unions. It is, instead, the man on salary, with limited income and heavy family obligations, who places his savings and his trust in credit unions. In turn, it is the credit union which is able to make available loans on signature only for needed household and automobile items at rates comparable with other financial institutions and far less than risk or fringe credit merchants who to many individuals represent the only alternative for credit financing.

In lower income areas, particularly, the credit union may represent the only means whereby residents can regularly and safely save their money and also have a safe, reasonable place to turn to obtain needed credit.

Recently, the Banking and Currency Committee held hearings on legislation introduced by Senator PROXMIRE and Senator SCOTT to encourage the establishment of far larger numbers of credit unions, as well as other financial institutions within lower income areas. Today, the number of banks, savings and loan companies, and credit unions located within lower income areas is discouragingly small. How can we expect limited income individuals to develop proper savings habits and to spend their money wisely if financial institutions are not located where such individuals can have ready access to them.

The benefits that can be reaped through the location of financial institutions are so great and offer such potential good that we must do all we can to encourage their location in these areas. By encouraging Government and private employers to deposit pay and welfare checks in these institutions, the wave of mailbox robberies can be brought to a halt. Even short of this, having a credit union or bank available to a resident for the cashing or deposit of income will encourage savings and lessen impulsive buying at merchant establishments where checks are otherwise cashed. To the extent that savings accounts can be encouraged in these institutions or credit otherwise established, lower income individuals will be able to obtain credit at reasonable rates to purchase necessary appliances and other needed consumer items. This, in turn, will directly or indirectly extend the value of an individual dollar. Directly, it will mean that less money need be taken from limited budgets for payment of critical expenses. It also means that additional money can be earned through interest payments on savings accounts. Indirectly, it means that if, for example, an

adequate refrigerator can be purchased money can be saved through improved local purchasing arrangements.

Establishment of an independent National Credit Union Administration will permit the credit union industry to gain its head and to launch a vigorous program to increase the establishment of credit unions, especially in lower income areas. My support for H.R. 2 has been based to a large extent upon this expectation. In Banking and Currency, we intend to explore additional ways to encourage this move. I urge the new office we plan to establish here to be vigorous, innovative, and courageous. I shall be extremely disappointed if they fail to fulfill the promise now being held out by them.

Mr. BENNETT. Mr. President, I am prepared to yield back my time on the bill.

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

The PRESIDING OFFICER. The question now is on agreeing to the committee amendment in the nature of a substitute.

The amendment, in the nature of a substitute, was agreed to.

The PRESIDING OFFICER. The question now is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed, and the bill to be read a third time.

Mr. JACKSON. Mr. President, I ask for the yeas and nays on passage.

The yeas and nays were ordered.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? The yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. KENNEDY. I announce that the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Alaska (Mr. GRAVEL), the Senator from Oklahoma (Mr. HARRIS), and the Senator from Minnesota (Mr. MCCARTHY) are necessarily absent.

I further announce that the Senator from Montana (Mr. METCALF) is absent on official business.

I further announce that, if present and voting, the Senator from Arkansas (Mr. FULBRIGHT) and the Senator from Alaska (Mr. GRAVEL) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. ALLOTT), the Senator from Arizona (Mr. GOLDWATER), and the Senator from Vermont (Mr. PROUTY) are necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from California (Mr. MURPHY) is absent on official business to attend the funeral of a colleague.

The Senator from Oregon (Mr. PACKWOOD) and the Senator from Ohio (Mr. SAXBE) are absent on official business.

If present and voting, the Senator from South Dakota (Mr. MUNDT) would vote "nay."

On this vote, the Senator from California (Mr. MURPHY) is paired with the Senator from Colorado (Mr. ALLOTT). If present and voting, the Senator from California would vote "yea," and the Senator from Colorado would vote "nay."

The result was announced—yeas 73, nays 15, as follows:

[No. 34 Leg.]

YEAS—73

Aiken	Hart	Nelson
Allen	Hartke	Pastore
Anderson	Hatfield	Pearson
Baker	Holland	Pell
Bayh	Hollings	Percy
Bible	Hruska	Proxmire
Boggs	Hughes	Randolph
Brooke	Inouye	Ribicoff
Burdick	Jackson	Schweiker
Byrd, W. Va.	Javits	Scott
Cannon	Jordan, N.C.	Smith, Maine
Case	Kennedy	Smith, Ill.
Church	Long	Sparkman
Cooper	Magnuson	Spong
Cranston	Mansfield	Stevens
Curtis	Mathias	Symington
Dodd	McClellan	Talmadge
Dole	McGee	Tydings
Eagleton	McGovern	Williams, N.J.
Ellender	McIntyre	Williams, Del.
Ervin	Miller	Yarborough
Fong	Mondale	Young, N. Dak.
Goodell	Montoya	Young, Ohio
Gore	Moss	
Griffin	Muskie	

NAYS—15

Bellmon	Dominick	Jordan, Idaho
Bennett	Eastland	Russell
Byrd, Va.	Fannin	Stennis
Cook	Gurney	Thurmond
Cotton	Hansen	Tower

NOT VOTING—12

Allott	Harris	Murphy
Fulbright	McCarthy	Packwood
Goldwater	Metcalf	Prouty
Gravel	Mundt	Saxbe

So the bill (H.R. 2) was passed.

Mr. SPARKMAN. Mr. President, I move to reconsider the vote by which the bill was passed.

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

The motion to lay on the table was agreed to.

APPOINTMENT BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, in accordance with Senate Resolution 281, 90th Congress, second session, appoints the Senator from Kentucky (Mr. COOK) to the Select Committee to Study the Unmet Basic Needs Among the People of the United States.

EXTENSION OF SUPPLEMENTAL ANNUITIES AND THE MANDATORY RETIREMENT OF RAILROAD EMPLOYEES

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 642, H.R. 13300.

The PRESIDING OFFICER. The bill will be stated by title.

The BILL CLERK. A bill (H.R. 13300) to amend the Railroad Retirement Act of 1937 and the Railroad Retirement Tax Act to provide for the extension of supplemental annuities and the mandatory retirement of employees, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Labor and Public Welfare with an amendment to strike out all after the enacting clause and insert:

That section 3(j) of the Railroad Retirement Act of 1937 is amended by striking out paragraph (3) and by redesignating paragraph (4) as paragraph (3).

SEC. 2. Section 3(j)(1) of the Railroad Retirement Act of 1937 is amended by inserting after the word "shall" where it first appears in the second sentence thereof the following phrase: ", subject to other provisions of this subsection,".

SEC. 3. Section 3(j) of the Railroad Retirement Act of 1937 is further amended by inserting at the end thereof the following new paragraphs:

"(4)(i) For the purposes of this paragraph—

"(A) the term 'eligibility' means possessing all of the qualifications required by law in order to receive a supplemental annuity, other than having retired and been awarded an annuity under section 2(a) of this Act;

"(B) the term 'subsequent work year' means, with respect to an individual, a calendar year subsequent to the calendar year in which such individual first attains eligibility, and during which such individual renders any service as an employee for compensation.

"(ii) The supplemental annuity of an individual shall be subject to a percentage reduction for each of his subsequent work years in accordance with the following schedule:

"(A) If such individual first attains eligibility at age 65, by 25 per centum for each of his subsequent work years;

"(B) If such individual first attains eligibility at age 66, by 50 per centum for his first subsequent work year and by an additional 25 per centum for each subsequent work year thereafter;

"(C) If such individual first attains eligibility at age 67, by 75 per centum for his first subsequent work year, and by an additional 25 per centum for any subsequent work year thereafter;

"(D) If such individual first attains eligibility at age 68 or older, by 100 per centum for any subsequent work year.

"(iii) For the purposes of this paragraph, any individual who attained eligibility prior to, or during, calendar year 1970 shall be deemed to have first attained eligibility at age 65 during calendar year 1970.

"(5) Notwithstanding any other provision of this Act, service rendered by an individual as an employee during any subsequent work year, as defined in paragraph (4), shall not be credited toward such individual's supplemental annuity."

SEC. 4. Section 15(b) of the Railroad Retirement Act of 1937 is amended by striking out the second paragraph thereof.

SEC. 5. Section 3211(b) of the Railroad Retirement Tax Act is amended to read as follows:

"(b) In addition to other taxes, there is hereby imposed on the income of each employee representative a tax at a rate equal to the rate of excise tax imposed on every employer, provided for in section 3221(c), for each man-hour for which compensation is paid to him for services rendered as an employee representative."

SEC. 6. (a) Section 3221(c) of the Railroad Retirement Tax Act is amended by substituting for the first sentence thereof the following "In addition to other taxes, there is hereby imposed on every employer an excise tax, with respect to having individuals in his employ, for each man-hour for which compensation is paid by such employer for services rendered to him during any calendar quarter, (1) at the rate of 2 cents for the period beginning November 1, 1966, and end-

ing March 31, 1970, and (2) commencing April 1, 1970, at such rate as will make available for appropriation to the Railroad Retirement Supplemental Account provided for in section 15(b) of the Railroad Retirement Act of 1937 sufficient funds to meet the obligation to pay supplemental annuities under section 3(j) of such Act and administrative expenses in connection therewith. For the purpose of this subsection, the Railroad Retirement Board is directed to determine what rate is required for each calendar quarter commencing with the quarter beginning April 1, 1970. The Railroad Retirement Board shall make the determinations provided for not later than fifteen days before each calendar quarter. As soon as practical after each determination of the rate, as provided in this subsection, the Railroad Retirement Board shall publish a notice in the Federal Register, and shall advise all employers, employee representatives, and the Secretary of the Treasury, of the rate so determined."

(b) Section 3221 of such Act is further amended by inserting at the end thereof the following new subsection:

"(d) Notwithstanding the provisions of subsection (c) of this section, the tax imposed by such subsection (c) shall not apply to an employer with respect to employees who are covered by a supplemental pension plan which is established pursuant to an agreement reached through collective bargaining between the employer and employees. There is hereby imposed on every such employer an excise tax equal to the amount of the supplemental annuity paid to each such employee under section 3(j) of the Railroad Retirement Act of 1937, plus a percentage thereof determined by the Railroad Retirement Board to be sufficient to cover the administrative costs attributable to such payments under section 3(j) of such Act."

SEC. 7. The Railroad Retirement Board is authorized to request the Secretary of the Treasury to transfer from the Railroad Retirement Account to the credit of the Railroad Retirement Supplemental Account such moneys as the Board estimates would be necessary for the payment of the supplemental annuities, provided for in section 3(j) of the Railroad Retirement Act of 1937, for the six months next following enactment of this Act, and for administrative expenses necessary in the administration of such section 3(j) (which expenses are hereby authorized) until such time as an appropriation for such expenses is made pursuant to section 15(b) of such Act, and the Secretary shall make such transfer. The Railroad Retirement Board shall request the Secretary of the Treasury at any time before the expiration of one year following the enactment of this Act, to retransfer from the Railroad Retirement Supplemental Account to the credit of the Railroad Retirement Account the amount transferred to the Railroad Retirement Supplemental Account pursuant to the next preceding sentence, plus interest at a rate equal to the average rate of interest borne by all special obligations held by the Railroad Retirement Account on the last day of the fiscal year ending on June 30, 1970, rounded to the nearest multiple of one-eighth of 1 per centum, and the Secretary shall make such retransfer.

SEC. 8. No carrier and no representative of employees, as defined in section 1 of the Railway Labor Act, shall before April 1, 1973, utilize any of the procedures of such Act to seek to make any changes in the provisions of the Railroad Retirement Act of 1937 for supplemental annuities or to establish any new class of pensions or annuities, other than annuities payable out of the Railroad Retirement Account provided under section 15(a) of the Railroad Retirement Act of 1937.

SEC. 9. Section 301(f) of the Act of October 30, 1966 (Public Law 89-699) is amended by striking out "for sixty months".

SEC. 10. (a) The provisions of section 3 of this Act for reducing a supplemental annuity by reason of an individual's service as an employee, shall apply only to such service after 1970.

(b) The amendments made by section 6(b) of this Act shall apply to (1) supplemental annuities paid on or after April 1, 1970, and (2) to man-hours with respect to which compensation is paid for services rendered to such employer on or after such day.

SEC. 11. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the remainder of this Act, and the application of such provision to other persons or circumstances, shall not be affected thereby.

Mr. EAGLETON. Mr. President, the pending order of business, H.R. 13300, deals with the supplemental retirement benefits under the railroad retirement system.

H.R. 13300, which has been reported by the Labor and Public Welfare Committee, is the product of a great deal of thought and effort by the members of this committee and especially by the members of the Railroad Retirement Subcommittee. This bill is intended to provide a sound financial basis for the supplemental pension program for retired railroad workers. The fund from which monthly payments are made to the approximately 60,000 beneficiaries has proved insufficient to make the required payments in recent months. Payments due on December 1, 1969, were delayed until nearly the end of the year, while the payments due on January 1, 1970, have not yet been made and the Railroad Retirement Board, which administers this fund, has estimated that there will not be sufficient revenues accumulated to make the January payment until late February. There will be an even longer delay in making the February 1 payment if this bill is not passed.

The supplemental pension plan was developed through collective bargaining in 1966. All of the unions representing railroad workers achieved unanimous agreement with the National Railway Labor Conference, representing the carriers, on a program of supplemental pension for retired railroad workers to be financed entirely by employer contributions. At the request of the parties, Congress enacted the program into law and empowered the Railroad Retirement Board to administer the program and to collect the employer contributions in the form of a tax. Thus, this program originated as a private pension plan in 1966 and the enactment of the program into law was simply to serve the purpose of convenience in administration.

The rate of retirement has exceeded the estimates made in 1966 by about 30 percent; hence, the rate of employer contribution established at that time has proved insufficient to finance the supplemental pension fund. This bill, which is a committee substitute, would provide adequate financing for the program.

Along with many of the members of the committee, I believe that the collective bargaining process is the appropriate method for solving the problems that have developed with respect to this program, since the entire program had its origins in negotiations between management and labor. However, the parties have not been able to reach an agreement, though negotiations have been held, and I believe that Congress now has the responsibility to see that payments to the retirees are no longer disrupted and delayed.

H.R. 13300 as passed by the House contains a provision for mandatory retirement of railroad workers which is opposed by the representatives of a substantial number of railroad employees. The committee substitute would not compel retirement at any fixed age, but rather would provide a retirement incentive by establishing a schedule for the forfeiture of a percentage of the supplemental annuity to which an individual would otherwise be entitled, for each year he works after age 65.

The committee feels that the approach to mandatory retirement contained in the committee substitute is a more preferable policy than that expressed in the House version and we recommend its adoption.

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

Mr. EAGLETON. I yield.

Mr. MILLER. I ask the Senator what the position of the railroad brotherhoods is on this bill.

Mr. EAGLETON. Some of the railroad brotherhoods originally supported H.R. 13300, and did support it before our committee. I am reading their official publication, I now gather that they are now satisfied with the Senate version of the bill, as are now the remaining unions, which very vigorously opposed H.R. 13300 before our committee. The latter unions include the locomotive engineers, the machinists, and other shop craft unions.

The carriers supported the original version of H.R. 13300. They, to my knowledge, are not pleased with this version, the Senate substitute version of H.R. 13300. They feel that the forfeiture provision at age 65 should be 100 percent, if the employee elects not to retire at that age.

Mr. MILLER. Then do I correctly understand that, aside from the point which the Senator has just mentioned, the carriers are not objecting, and that the brotherhoods, including those which were formerly opposed, are now in agreement, and there is a consensus on the bill as reported by the committee?

Mr. EAGLETON. There is a rough consensus on the bill, I will say to the Senator from Iowa, insofar as the members of the various unions are concerned, including the unions that opposed the House version of the bill. I do not think it would be fair to say there is a consensus in so far as the carriers are concerned. They are certainly not satisfied with the 25-percent forfeiture provision.

Mr. MILLER. I understood that point. I simply wanted to make clear that the 25-percent forfeiture provision was the only one to which the carriers were objecting.

Mr. EAGLETON. Yes, I think that is the only point; they object to the amount of the forfeiture. They would support the bill, albeit somewhat reluctantly, if

it provided a 100-percent forfeiture instead of a 25 percent.

Mr. MILLER. I ask the Senator, what does this amount to in terms of load on the carriers? Does the Senator have any figures on that?

Mr. EAGLETON. Let me see if I can find it in the report. My recollection is a bit hazy, but I think it was estimated before our committee to something in the neighborhood of between $700 and $800 million. About $750 million after 1971.

Mr. MILLER. A year?

Mr. EAGLETON. The total cost of keeping the program afloat.

Mr. MILLER. How long is this to——

Mr. EAGLETON. Projected over about 40 years.

Mr. MILLER. Do I correctly understand, then, that this bill is different from the way it came from the House?

Mr. EAGLETON. The Senator's understanding is correct.

Mr. MILLER. And that the differences make it into what we might call a compromise bill to bring the opposing views of the brotherhoods together and to limit to this one point the objection of the carriers?

Mr. EAGLETON. I would say that is a reasonably accurate summation.

Mr. MILLER. Mr. President, I appreciate the responses of the Senator from Missouri.

Mr. SMITH of Illinois. Mr. President, as a member of the Subcommittee on Railroad Retirement of the Senate Committee on Labor and Public Welfare, I have given close and careful attention for some time to the problems which H.R. 13300 was designed to solve. I have set forth in a separate statement my reasons for opposing the bill recommended by the full committee and now being considered here on the Consent Calendar. I shall not repeat those views, but I ask unanimous consent to have them printed in the RECORD at this point.

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

DISSENTING VIEWS OF MR. SMITH OF ILLINOIS

I must respectfully dissent from the action recommended by the majority of this Committee. In so doing, I wish in no way to detract from the diligence of my Committee colleagues. They have labored conscientiously to assist in assuring continuation of the carrier-union agreement on retirement benefits for the Nation's railroad employees.

I am unable to concur in their conclusion on how this is to best be accomplished for the following reasons. The Committee's bill would substitute Congressional arbitration for the Congressionally sanctioned system of collective bargaining to resolve what is clearly a question of compensation between the carriers and the railroad employees.

The program of supplemental annuity benefits for retired railroad employees was agreed to in collective bargaining by most of the railroad unions and the railroads in 1966. By Public Law 89–699, Congress merely ratified this agreement as part of Railroad Retirement Act.

The tax level of two cents per man-hour worked has proven insufficient to support the earned benefits for the program's five year life. The fund will, it is estimated, provide funds for only four of the five years of the 1966 agreement, and is already in arrears of meeting supplemental annuity benefits currently due.

The carriers and representatives of 75–80% of the employees have returned to Congress for legislative approval of their agreement to provide for permanent establishment of supplemental annuity benefits. That agreement is H.R. 13300 as passed by the House.

In effect, the Committee's bill substitutes what amounts to compulsory arbitration by the Congress for the results of orderly labor-management negotiations.

The majority would substitute for the collectively-bargained agreement supported by unions representing 75–80% of the railroad employees and the representatives of virtually all of the carriers an agreement written by the Committee, which admittedly is not supported by either the carriers or the unions.

To my knowledge, the Committee's substitute for H.R. 13300 had the support of no one in the industry or among the employee representatives when it was proposed to the members of the full Committee. On the other hand, the bill as passed by the House of Representatives had the overwhelming support of that body, the House Interstate and Foreign Commerce Committee, which is responsible for originating legislation in this field, as well as both industry and labor. The Committee's bill is, in fact, no more than a shot in the dark which its sponsors hope will find a target of acceptability among those who must live with the force of its impact.

H.R. 13300 as passed by the House of Representatives would establish the supplemental annuities program on a permanent basis for the first time. The scheduled termination date of October 31, 1971, in the present law would be eliminated. The carriers alone would be made responsible for the full continuing costs of the supplemental annuities program on a pay-as-you-go basis. This would entail an expenditure estimated to be over $550 million dollars through July, 1975. This additional expenditure goes far beyond the carriers' original bargain. Indeed, it represents an expenditure through July, 1975, of almost four times the total amount originally agreed to between the parties.

In return for the carriers' agreement to assume these substantial additional costs necessary to fund the supplemental annuities program for the original period and to continue the program on a pay-as-you-go basis in the future, the representatives of 75–80% of the employees agreed to the mandatory retirement of railroad employees, initially at age 70 and ultimately scaling down by January 1, 1976, to age 65. It was also agreed that there would be no change in the supplemental annuities program prior to July 1, 1975, thus extending the present agreed moratorium for an additional three years and eight months. I would note that the extension of this moratorium places no prohibition upon changes being made in the regular railroad retirement system.

The Committee's substitute is purported to replace compulsory retirement with an "incentive" to retire upon reaching age 65 and 25 or more years of railroad employment.

The forfeiture of 25% of supplemental annuity benefits for each year worked beyond age 65 and 25 years of service does not sufficiently counterbalance the increased regular pension earned by the additional years of employment—as the following chart illustrates.

EXAMPLES OF REGULAR AND SUPPLEMENTAL ANNUITIES UNDER PROPOSED SUBSTITUTE FOR H.R. 13300 BASED ON REPRESENTATIVE COMBINATIONS OF AVERAGE EARNINGS AND LENGTH OF SERVICE

Retirement date Dec. 31—	Age	Years of service	Average monthly compensation [1]	Annuities payable under bill			Net gain or loss, working after age 65
				Regular [2]	Supplemental	Total	
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
1970	65	30	$365	$253.00	$70.00	$323.00	
1971	66	31	374	265.45	52.50	317.95	−$5.05
1972	67	32	383	278.15	35.00	313.15	−9.85
1973	68	33	391	290.70	17.50	308.50	−14.80
1974	69	34	399	[3] 323.35		323.35	+.35
1975	70	35	406	[3] 338.10		338.10	+15.10
1970	65	25	400	228.70	45.00	273.70	
1971	66	26	410	242.85	33.75	276.60	+2.90
1972	67	27	419	255.45	22.50	277.95	+4.25
1973	68	28	427	267.90	11.25	279.15	+5.45
1974	69	29	435	[3] 298.80		298.80	+25.10
1975	70	30	442	[3] 312.10		312.10	+38.40
1970	65	24	400	[3] 234.40		234.40	
1971	66	24	410	234.30	45.00	279.30	+44.90
1972	67	26	419	246.75	22.50	269.25	+34.85
1973	68	27	428	259.50	11.25	270.75	+36.35
1974	69	28	436	[3] 289.70		289.70	+55.30
1975	70	29	443	[3] 302.95		302.95	+68.55

[1] Average monthly compensation during the years of service shown in column 3, limited to the amount creditable under the Railroad Retirement Act in each month. Based on railroad employee average earnings.

[2] After the reduction, equivalent to the 7 percent increase under the 1966 amendments, for months in which a supplemental annuity is payable.

[3] No reduction in regular annuity because no supplemental annuity is payable.

Note: Regular annuities computed under existing law; 25 percent of supplemental annuity forfeited for each year retirement is delayed after age 65, except that employees having less than 25 years of service on attaining age 65 forfeit nothing if they retire by the end of the year they complete 25 years of service; no service credited for supplemental annuity purposes after forfeiture provisions begin to apply to the employee.

In essence, the Committee's bill is a determination that the carriers have no right to a mandatory retirement provision and a moratorium to 1975 as the price of permanent funding of the supplemental annuity program. If collective bargaining in the railroad industry is not to be rendered meaningless, that is not a determination which should be made by the Congress, particularly where, as here, the representatives of 75–80% of the employees involved have agreed to accept those terms.

I am unable to support the Committee's substitute language to House passed H.R. 13300. It represents to my mind a misdirection of Congressional initiative and a failure in its intended purpose.

Mr. SMITH of Illinois. Being in opposition to the terms of the bill recommended by the full committee, I shall set forth briefly the reasons I shall not continue that opposition here on the floor but, rather, will accept passage of the bill on the Consent Calendar. I believe Congress has a responsibility to pass legislation to meet the problem created by the inadequacy in the supplemental annuities account. Differences between the carriers and a small percentage of the railroad employees have delayed the framing of an acceptable statute. This delay is now preventing over 57,000 retired railroad employees from

receiving their supplemental annuities. To continue my opposition on the floor would, in my judgment, risk a longer continuance of this harmful delay, without any apparent beneficial results to those who need action.

The House of Representatives passed what I feel is a good bill which reflected without change the collective bargaining agreement reached by unions representing 75 to 80 percent of the employees in the railroad industry and virtually all of the carriers. The committee has rejected this agreement embodied in the House-passed bill and framed a different solution. In my judgment this is not a satisfactory answer, because it departs from the terms of the agreement relating to mandatory retirement and to a period of stability in the supplemental annuities program. These terms are important for safety, efficiency, and economy in the railroad industry. I believe the best way of promptly resolving the problems confronting the railroads and their employees is for this body to adopt a bill without delay and to send that bill to conference. I believe that a larger number of Senators will join me in urging the conferees on the part of the Senate to consider the House bill favorably and to frame a report which will adhere closely to that agreement.

My decisions neither to object to consideration of this bill on the Consent Calendar, nor to try to amend the bill here on the floor, should not be taken to indicate that I shall accept a conference report which deviates in any major measure from the agreement reached by the overwhelming majority of the parties in interest and embodied in the bill passed by the House of Representatives.

Mr. YARBOROUGH. Mr. President, I support H.R. 13300 as reported from the Committee on Labor and Public Welfare.

The bill is a compromise and is an attempt to insure that workers in the railroad industry who have retired with the expectation of receiving a supplemental pension will continue to receive that pension.

As the bill passed the House of Representatives, it contained a provision requiring compulsory retirement. After much consideration, the Labor and Public Welfare Committee concluded that a more preferable method of insuring both a pension for retiring workers and the desire of the railroad industry for early retirement was to give workers who were eligible to retire an incentive for retiring. The committee concluded that the easiest way to do this was to limit the pension to those who have retired by a certain age, and that if an individual did not retire when eligible, his pension would be reduced for each year he continued to work. I think this is an appropriate solution to this dilemma.

Unless we pass the bill soon, these pensioners will not receive their supplemental pensions due in January, until late in February or early March. This constitutes a crisis in payments of supplementary pensions for railroad retirees. As chairman of the full Labor and Public Welfare Committee, I commend Chairman EAGLETON of the Railroad Retirement Subcommittee, and am hopeful that this legislation will be accepted by the House of Representatives, so that our worthy railroad retirees will not be delayed again in the receipt of their supplemental pensions.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. PELL. Mr. President, I congratulate the Senator from Missouri, who is the chairman of the Railroad Retirement Subcommmittee, on his handling of this matter. It was a difficult one.

By custom in our subcommittee, we had sought to avoid legislating those matters subject to collective bargaining that had not already been agreed to as a result of the collective bargaining process. In this case, because of the plight in which the retired railroad workers found themselves, we felt that we had to move ahead.

I would like to make it a matter of record at this time, however, that my own belief is that the function of the Subcommittee on Railroad Retirement has become basically that of putting the cachet of official approval on the collective bargaining arrangement pertaining to a supplemental pension that have been already agreed. It is the only instance I know of in which Congress or the Government has to intervene in this role in private industry.

I yield to the floor.

ORDER OF BUSINESS

Mr. McCLELLAN. Mr. President, I invite the attention of Congress and the public to an article published in the New York Times——

Mr. BYRD of West Virginia. Mr. President, is the Senator speaking on the pending business?

Mr. McCLELLAN. No, I am not. Has that time expired or not?

Mr. MANSFIELD. Mr. President, may I say that, in the circumstances, the Senator from Arkansas held back when he could have proceeded, to allow us to take up the pending bill. So, in view of the fact that this is an unusual circumstance, I think we ought to allow him to proceed at this time.

Mr. McCLELLAN. I do not want any special favors. I have been waiting all day. If we are going to have a 3-hour time when no one can do anything except speak on one particular bill, that is all right. If we are going to operate under that rule, I will conform to the rule.

Mr. MANSFIELD. I ask unanimous consent that at the conclusion of the vote on the pending bill, the Senator from Arkansas be recognized.

Mr. BYRD of West Virginia. Mr. President, reserving the right to object, I never want to oppose my leader, and I shall not, but if he proceeds to lay down other business at that time and the 3 hours have not expired, I would have to object.

Mr. MANSFIELD. I do not intend to lay down other business, and I commend the Senator from West Virginia for his diligence and his integrity.

EXTENSION OF SUPPLEMENTAL ANNUITIES AND THE MANDATORY RETIREMENT OF RAILROAD EMPLOYEES

The Senate continued with the consideration of the bill (H.R. 13300) to amend the Railroad Retirement Act of 1937 and the Railroad Retirement Tax Act to provide for the extension of supplemental annuities and the mandatory retirement of employees, and for other purposes.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. KENNEDY. I announce that the Senator from Nevada (Mr. CANNON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Louisiana (Mr. ELLENDER), the Senator from Alaska (Mr. GRAVEL), and the Senator from Oklahoma (Mr. HARRIS) are necessarily absent.

I further announce that the Senator from Montana (Mr. METCALF) is absent on official business.

I further announce that, if present and voting, the Senator from Nevada (Mr. CANNON), the Senator from Alaska (Mr. GRAVEL), the Senator from Oklahoma (Mr. HARRIS), and the Senator from Montana (Mr. METCALF) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. ALLOTT), the Senator from Massachusetts (Mr. BROOKE), the Senator from Arizona (Mr. GOLDWATER), and the Senator from Vermont (Mr. PROUTY) are necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from California (Mr. MURPHY) is absent on official business to attend the funeral of a colleague.

The Senator from Oregon (Mr. PACKWOOD) and the Senator from Ohio (Mr. SAXBE) are absent on official business.

If present and voting the Senator from Colorado (Mr. ALLOTT), the Senator from Massachusetts (Mr. BROOKE), the Senator from South Dakota (Mr. MUNDT), the Senator from California (Mr. MURPHY), the Senator from Vermont (Mr. PROUTY), and the Senator from Ohio (Mr. SAXBE) would each vote "yea."

The result was announced—yeas 85, nays 1, as follows:

[No. 35 Leg.]

YEAS—85

Aiken	Griffin	Muskie
Allen	Gurney	Nelson
Anderson	Hansen	Pastore
Baker	Hart	Pearson
Bayh	Hartke	Pell
Bellmon	Hatfield	Percy
Bennett	Holland	Proxmire
Bible	Hollings	Randolph
Boggs	Hruska	Ribicoff
Burdick	Hughes	Russell
Byrd, Va.	Inouye	Schweiker
Byrd, W. Va.	Jackson	Scott
Case	Javits	Smith, Maine
Church	Jordan, N.C.	Sparkman
Cook	Jordan, Idaho	Spong
Cooper	Kennedy	Stennis
Cotton	Long	Stevens
Cranston	Magnuson	Symington
Curtis	Mansfield	Talmadge
Dodd	Mathias	Thurmond
Dole	McCarthy	Tower
Dominick	McClellan	Tydings
Eagleton	McGee	Williams, N.J.
Ervin	McGovern	Williams, Del.
Fannin	McIntyre	Yarborough
Fong	Miller	Young, N. Dak.
Fulbright	Mondale	Young, Ohio
Goodell	Montoya	
Gore	Moss	

NAYS—1

Smith, Ill.

NOT VOTING—14

Allott	Goldwater	Murphy
Brooke	Gravel	Packwood
Cannon	Harris	Prouty
Eastland	Metcalf	Saxbe
Ellender	Mundt	

So the bill (H.R. 13300) was passed.

Mr. EAGLETON. Mr. President, I move to reconsider the vote by which the bill (H.R. 13300) was passed.

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

The motion to lay on the table was agreed to.

Mr. BYRD of West Virginia subsequently said: Mr. President, earlier in the day, when the vote occurred on Calendar No. 642, H.R. 13300, an act to amend the Railroad Retirement Act of 1937, the able junior Senator from Nevada (Mr. CANNON) was acting as chairman of the Subcommittee on Air Power of the Senate Armed Services Committee. The signals in the committee room were inoperative. He was, therefore, not advised of the rollcall, and was unaware that a rollcall was occurring in the Senate. Consequently, he missed voting on final passage of that bill, through no fault of his own.

If he had been present, he would have voted "yea," and had so indicated to other Senators. I make this statement in explanation of his having missed the vote on that bill.

HARM TO REPUTATIONS OF PERSONS BY PUBLIC DISSEMINATION OF GOVERNMENT FILES CONTAINING HEARSAY

Mr. McCLELLAN. Mr. President, I invite the attention of the Congress and the public to an article published in the New York Times on February 1, 1970—Sunday, page 56, column 3. This article adds to the existing evidence of the pressing need for enactment of title VII of S. 30, the Organized Crime Control Act of 1969, one aspect of which limits the power of judges to order disclosure of confidential transcripts of Government electronic surveillance.

From the title VII was introduced last spring—when it was numbered S. 2292—until the Senate passed the measure by a vote of 73 to 1 as part of S. 30 last month, I have stressed that one of its principal effects would be to prevent serious harm to the reputations and privacy of innocent persons caused by public dissemination of raw, unevaluated hearsay and gossip concerning them. The gravity of this danger was sadly confirmed recently when Federal district judges in New Jersey disclosed, first, the complete transcripts of lengthy surveillances of alleged Cosa Nostra leader Simone "Sam the Plumber" DeCavalcante, and then similar transcripts concerning Angelo "Gyp" De Carlo, named as his fellow New Jersey Mafia boss.

The manner in which such revelations can injure reputations was apparent as soon as the transcripts were published. They contained most unflattering references to highly placed political and community leaders, virtually none of whom were themselves overheard during the electronic surveillance. In an effort to mitigate the adverse effects of such publicity on the individuals named, prosecutors, investigative agents, and some of us in Congress repeatedly have cautioned the public that the conversations in the transcripts contained rank hearsay and must be assumed to include some completely unreliable boasting and name dropping.

However, it is obvious that such a warning does not eliminate the drastic effects of irresponsible slander upon the reputation of the slandered person. It is, therefore, of great interest that the New York Times, in the article to which I refer, has brought together two accounts of a single alleged murder, one given by Anthony "Tony Boy" Boiardo to Angelo DeCarlo and Simone DeCavalcante and overheard during the DeCavalcante surveillance and the other given to DeCarlo by Anthony "Little Pussy" Russo and overheard during the surveillance of DeCarlo himself. The two versions of the alleged killing are manifestly contradictory in such important respects as whether or not Tony Boy's father had been present and assisting in the murder.

I feel sure that this instance merely illustrates a characteristic of a great many conversations found among the transcripts. If no change is made in existing law, we are faced with the possibility of a continuing series of public revelations of unreliable but most harmful hearsay, furnished to the public either overtly by court order, as in New Jersey, or covertly through Cosa Nostra defendants who are all too often willing to ignore protective orders and to whom transcripts are furnished during litigation.

One of the key aspects of title VII of S. 30 is that it will largely prevent such an intolerable result, while preserving each defendant's opportunity to obtain confidential transcripts and other material for which he has legitimate need. For that reason, among others, title VII, like the other titles of S. 30, calls out for swift enactment and prompt and effective enforcement, if we are to reduce the existing threats to law enforcement as well as to individual reputations and privacy. I hope that the House of Representatives will move swiftly to approve S. 30, in order that the safety, property, and good name of every citizen can be more secure than they are today.

Mr. President, I ask unanimous consent that the newspaper article to which I have referred be printed in the RECORD at this point.

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

TAPES OF FBI SHOW TWO MAFIOSI GAVE CONFLICTING VERSIONS OF AN EXECUTION

(By Charles Grutzner)

When two self-described participants in a murder give sharply conflicting versions of how the deed was done, it is evident that at least one of them is lying.

This is what happened when two reputed members of the Mafia bragged to their associates, without knowing that the Federal Bureau of Investigation was eavesdropping, about the underworld execution of a victim who has been identified only as "the Little Jew."

The contradictory stories told to Angelo (Gyp) De Carlo by Anthony (Tony Boy) Boiardo and Anthony (Little Pussy) Russo on separate occasions appear in the transcripts of F.B.I. electronic buggings made public in connection with the trial of De Carlo, listed as a Mafia captain.

He was found guilty by a jury in Federal Court in Newark on Wednesday of loansharking-extortion. De Carlo and Daniel (Red) Cecere, convicted with him, face up to 20 years in prison on each of six counts.

MEMBERS BOAST FALSELY

The discrepancies give substance to the F.B.I.'s note of caution, inserted among the transcripts, that members of organized crime sometimes boast falsely to their associates to make themselves appear more powerful or influential than they really are.

It has been pointed out in legal circles that the same caution should apply to other eavesdropped talks in which Mafiosi have discussed alleged bribery of public officials and deals with political figures. The F.B.I. electronic eavesdroppings made from 1961 to 1965, cannot legally be used as evidence.

Several of the reputed Mafiosi whose talks were bugged have since been indicted or convicted of various crimes, but in each case it has been on evidence not connected with the F.B.I.'s eavesdropping.

FIRST VERSION OF MURDER

The first version of the murder was overheard on Feb. 23, 1963. With the thermometer outside at 20 degrees, De Carlo, Tony Boy Boiardo and Simone Rizzo (Sam the Plumber) DeCavalcante gathered in the warmth of The Barn, De Carlo's lodge at Mountainside, N.J., and regaled themselves with reminiscences of old Mafia murders.

"How about the time we hit the Little Jew . . ." recalled Boiardo.

"As little as they are, they struggle," was De Carlo's remark.

Boiardo, enthusing to his story, went on: "The Boot [Boiardo's father, Ruggiero] hit him with a hammer. The guy goes down and he comes up. So I get a crow bar this big, Ray [DeCarlo preferred the nickname Ray to that of Gyp.] Eight shots in the head! What do you think he finally did to me? He spit at me and said 'You (obscene)!'"

Just three days later, the F.B.I. agents heard Russo, also identified as a Mafia captain, insist to De Carlo that Tony Boy Boiardo's story was false.

Russo boasted that he had been the executioner, with the help of his brother John

(Big Pussy). He said that Tony Boy Boiardo had played a minor and bungling role and that The Boot had not even been on the scene.

In the eavesdropped conversation, which also took place at The Barn, the two capos referred contemptuously to Tony Boy as "a bad kid" and agreed that both Boiardos were connivers and "weasels." Russo described The Boot as "the most treacherous --------- in the world."

"Did you know he killed the Jew?" asked De Carlo.

"I was there," retorted Russo. "I did it."

"You did?" said De Carlo, his voice rising in surprise. "Wait a minute—he (Tony Boy) gave the full story the other day.

The transcript continued:

Russo: Why, that ---------! He's an authority?

De Carlo: ---------- hit him with a crow bar.

Russo: Who?

De Carlo: Then hit him with a hammer.

Russo: The Jew? The Boot ain't in the thing.

De Carlo: No kidding?

Russo then gave De Carlo a detailed account of the gory deed. His recorded words, with explanations in parentheses by the F.B.I., follow:

I COME IN—I GOT THE JEW

"I go to Johnny (John Russo, Pussy's brother) and the kid (Tony Boy)—walk in—say 'anytime, watch it' you walk in the front door that you open; it opens a certain way—Johnny and the kid are there. I come in—I got the Jew. I picked the Jew up in front of the Grotto (a former well known hoodlum restaurant in Newark no longer in existence) in the afternoon.

"I ride him up, real nice, talk with Harry (pause) 'cause I need an O.K. Ride him up, take him up there, real nice, go through the door, I got the pistol, I walk in then—we're supposed to talk over a deal.

"Now just Johnny comes from behind the door, hits him on the head with a butt, the guy goes down. As he goes down, the kid drops his pistol, the kid's got a pistol, the kid goes for the pistol. He says 'You (obscene)!' Gonna put a pistol at him. I grab for the pistol. I get it just in time and then when I hit him, the kid grabs the pistol from Johnny, then Johnny hits him with a crowbar in the head.

AS HE'S GETTIN' UP, I HIT HIM

"Now the guy is gettin' up again. As he's getting' up, I hit him. I hit him and I picked him up. I got a chain and put it around his throat, got the—didn't need too much—, picked him up. I lugged him and I put him in the garage. Threw him in the back of the car. I (brought) him up (hit) him over—with Johnny, put him in the tank—and then they were done with it.

The F.B.I. transcript continues:

De Carlo: What did you do? Start the fire right then?

Russo: Oh, everything was (set). Good hot fire—matches and everything, you know.

De Carlo: (He must have) burned like a bastard.

Russo: So now what happens is this. After the guy is going up (burning) I turn around. I get in the car. I bring it to Harrison. The kid follows me. Johny stays up there. I leave the car in Harrison. I get in the kid's car, picks me up and I go home . . . I think everything's all right. Change my clothes—come down. I'm at the Grotto eating a steak.

VITO WANTS TO SEE ME

Russo [continuing]: The following day I got a call. Vito wants to see me. I go all the way to New York. He says "I know what happened." He says "You dirty . . . I oughta choke you in this car. That (obscene) Catena been down to the people, come up in front of Albert and Frank and everything and tell a story that they just got rid of a Jew. and Pussy got rid of the car in Harrison and I make believe I know what it's all about . . . [that] I gave the O.K. and everything—And on that day you were near me." I said. "Wait a minute Vito, I don't know what you're talking about." I said, "Talk to Boot. If you don't want me to drive you no more, I'll get out and go home." I said, "If you want to know anything, you talk to the Boot."

De Carlo: Did you tell him you had an O.K.?

Russo: Why, you know it. That's why I told him to see the Boot. I say to the Boot "What's this about (you) usin' me? I hear Jerry made a remark about the hot car, the guy's body and everything about me droppin' the car off. What did you say to Vito? I told Vito to come and see you. I don't know what it's all about."

DON'T WORRY, LET ME HANDLE IT

The transcript has Russo quoting The Boot as having told him: "Don't worry, let me handle it. They embarrassed Vito, and Jerry's putting the heat on him in front of Albert and Frank."

The references to Vito, Jerry, Albert and Frank are to Vito Genovese, who was boss of the Mafia family to which Russo, De Carlo and the Boiards belong; to Gerardo (Jerry) Catena, former underboss who succeeded to the leadership after Genovese's death a year ago; Frank Costello, Genovese's predecessor who was forced out by Genovese and who survived an assassin's attempt on his life in 1957, and Albert Anastasia, former head of what is now the Carlo Gambino family and who was murdered in 1957 on orders from Genovese. The references in the bugged talks make it clear that the murder of "the Little Jew" took place before the Costello and Anastasia shootings.

NO RECORD AVAILABLE

New Jersey law enforcement officials say they have no record of that murder or the identity of the victim, but Russo's mention of burning the body in "the tank" at the scene of the killing, as well as references elsewhere in the tapes, indicate that the victim had been lured to the elder Boiardo's estate at Livingston, N.J., known in the underworld as "the Farm" and which had a furnace described as "the tank" and as "the grate" behind Boiardo's mansion.

In one such conversation, Russo told De Carlo that their victims had been summoned to the Boiardo estate and had never been seen again.

In the Feb. 26 conversation, the F.B.I. transcript has Russo saying:

"Do you know how many guys been hit up there? Three guys for Tommy Brown [the late Thomas (Three Finger Brown) Luchese, head of a Mafia family now reputedly headed by Carmine (Mr. Gribs) Tramunti], Neil Oreander (phonetic up at the farm; he hit the guy for Oliver up at the farm. Who'd he hit? He hit Billy (William Cardinale, alias Billy Jenks). There was Johnny, Billy and Al and his daughter, they hit his daughter there, all of them. He killed a doctor up there—witnessed (something)."

But Russo was insistent that the Boot, while ordering the murder of "the Little Jew" without an okay from Genovese, had not taken physical part or been present.

BOIARDO AWAITING TRIAL

Tony Boy Boiardo is awaiting trial in Federal Court with Newark Mayor Hugh J. Addonizio and 14 other defendants indicted Dec. 13 in a municipal contract kickback scandal. His 80-year-old father, the Boot, faces three years in prison on his conviction, which he is appealing, as boss of a gambling ring.

Russo was jailed in Trenton on Wednesday for contempt because he has refused to answer questions of the New Jersey State Commission of Investigation about racketeering and corruption of public officials in Monmouth County.

He also faces a possible six-year prison term for his conviction, which he is appealing, of having lied to a grand jury when he denied having boasted to a state trooper that he controlled the Long Branch City Council.

DeCavalcante was indicted last month with 55 other persons for conspiracy to operate an interstate numbers game. He is also awaiting trial in Federal Court on an earlier indictment for extortion.

The eavesdropped talk of Feb. 23, 1963, in which Tony Boy boasted of The Boot's alleged part in the murder was made public in Federal Court, Newark, last June, but the Feb. 26 conversation in which Russo insisted The Boot had not been present was not made public until Jan. 6 when Judge Robert Shaw ordered disclosure of all F.B.I. buggings involving De Carlo.

AMERICA'S FRONTLINE OF DEFENSE IN VIETNAM: EPILEPTICS AND HALF-DEAF BOYS?

Mr. MONTOYA. Mr. President, horror tales about the Armed Forces have always proliferated. This period in our history is no exception. Ordinarily, most citizens shrug them off as exaggeration of the rigors of military service which are a necessity in order to preserve our society.

Recently, however, I have come up with incontrovertible proof of the truth of two such situations. They are appalling in the extreme. The Senate and our Nation's press should have an opportunity to examine the facts of these cases. Rarely have I seen more heartless behavior on the part of a branch of our Armed Forces. Rarely has greater bureaucratic callousness and shortsightedness caused so much trouble for soldiers and their families, while posing tremendous potential danger to elements of our Armed Forces.

One is 20 years of age, suffers from epilepsy, and has a case history of polio. This young man announced to his family that it was his intention to enlist in the U.S. Army. Knowing of his disabilities, the family allowed him to make an attempt, secure in their personal knowledge that such disabilities would prevent him from being accepted for military service. To their ongoing amazement, the Army accepted, trained, and sent him on a full tour of duty in Germany.

Throughout his tour of duty in Europe, he exhibited ample evidence of his epileptic disability, making no attempt to utilize it as a channel through which to obtain a medical discharge. All personnel and military organizations involved knew of his disabilities.

He then took the step of reenlisting in the Army in Germany, with the specific aim of performing part of that enlistment in Vietnam. The Army accepted his reenlistment application, again knowing full well what his disabilities were.

The next scene in this macabre scenario is performed in the United States, as he is transferred to Fort Lewis, Wash., for his Vietnam training. As of today this young soldier is on his way to Vietnam. His military occupational specialty—MOS—has been changed to "communications," which the Army claims will prevent him from entering into peril-

ous combat situations. Yet in a fluid guerrilla warfare situation such as the Vietnam conflict often presents, there is no such valid guarantee. So much for any commonsense in that respect.

My office, acting in tandem with his parents, has sought to prevent such an assignment in the interests of the young man's well-being. He is obviously confused, speaking of his ill health to his parents. Yet when queried by his commanding officer, the youngster denies ill health, in spite of the fact that a panel of five Army physicians have examined him and officially certified his disabilities. It is obvious what is happening. The boy is being inhibited in his responses by a command structure which has neither the patience nor compassion to understand the uniqueness and justice of his case.

Mr. President, what type of standards are being used by various military examining stations across the Nation? By what medical reasoning do doctors allow young men with proven cases of epilepsy into the Armed Forces of the Republic? By what measure of commonsense and logic do such young men get sent abroad and why are they trained for Vietnam? This boy would have been in a combat zone already, had I not raised the issue. His MOS was changed only because of inquiries my office made. How many other young men like him are in combat situations right now? Why are they there? If they happen to have a seizure, which would certainly be no fault of theirs, would their lives not be in danger from enemy action? Could they detect an enemy force coming upon them if they were in the grip of such a seizure? What of numerous comrades whose lives depended upon their vigilance?

I am informed by my office that the Army still could send a young constituent of mine to Vietnam who is 100 percent deaf in one ear. In spite of his disability, he could be sent there, and is considered by the Army to be eligible for combat duty. Is this sense? Is this justice? Is this what we have come to in the name of fighting this war in Vietnam? The President has spoken often of returning troops home from that ongoing horror. Are we then to evacuate combat troops with one hand, and with the other send such youngsters to stand in their places on fighting lines and in combat zones?

President Nixon speaks much nowadays of fairness and equality. How incredible that such a travesty of fairness and evenhandedness should be allowed in the official name of the Nation. Is Vietnam our Russian front? I am calling upon Secretary of the Army Resor to disavow the decision already rendered in this case. I am calling upon him to rescind orders under which one boy is being sent to Vietnam.

I am also asking him to utilize his Executive authority to promulgate a change in Army regulations. This change would forbid the sending of a member of the Armed Forces into a combat situation or zone, when he has been medically examined and found to have a disability or condition in any way similar to what I have described. This includes a young man who cannot fully use his limbs, eyes, or other senses.

I believe it is degrading to our country to allow such an appalling situation to exist. Further, I feel disciplinary action is in order against those who have calmly watched this inexorable process bear this boy toward the Vietnam mincing machine, while not raising a finger to halt the process.

How can we pose before the world as defenders of any fair doctrine in the name of the dignity of man, when we degrade our own people in the process? This is a disgusting exhibition of callousness that has few parallels in my experience. The facts are out. Let us see what the Army does about them, and many other innocents who are now being mustered into the combat zone. How many innocents are now being processed at Fort Lewis who have disabilities and are not ready for combat duty?

Yes, if it has occurred in New Mexico, certainly many other cases have occurred with respect to these young innocents in the rest of the United States.

Mr. President, it is about time that we call this situation to the attention of the country, and demand that something be done about these situations.

I personally intervened in the case of these two boys. I went as far as the Secretary of the Army. They turned me down on this boy and now he is on his way to Vietnam.

With respect to the case of the deaf boy, after going through channels and spending many hours and days, they finally agreed with me and with the diagnosis of the local doctors with respect to this boy's deafness, and they took him to an Army hospital and put a plate in his ear because he was a very sick boy and he was deaf.

Mr. President, I think there is a story here which tells something very clearly to us, that if this happened to these two boys, it is also happening to many other boys across the land.

It is about time that the Army be put on notice, not only by us, but also by the American people, that it should protect these boys, these boys who do not have the ability to go into the combat zone.

It is only through our surveillance in the Senate and in Congress, and through the urgent requests of the American people, that we can force this practice to cease, that we can call upon the Army and those who assign our boys into combat zones, to be careful, to be selective, and to make sure that they allot these boys to the combat zones only when they are fit and when they are able to fight for their country.

That is all I am asking, Mr. President.

I hope that the Secretary of the Army will review this case which I have called to the attention of the Senate. He knows which case it is. I hope that he will review it so that he can turn this boy back to his parents or put him on duty in the United States.

Mr. President, this boy exemplified true patriotism when he enlisted and then reenlisted; but to send him, with his affliction, to Vietnam, is to do an injustice to his patriotism.

ORDER FOR RECOGNITION OF SENATOR STENNIS TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that tomorrow when the period for the transaction of morning business is completed—and the morning business should not extend beyond 1 p.m.—the distinguished Senator from Mississippi (Mr. STENNIS) be recognized for not to exceed 2 hours.

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

EVERETT McKINLEY DIRKSEN BUILDING EAST—EVERETT McKINLEY DIRKSEN BUILDING WEST

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar 643, S. 3253.

The PRESIDING OFFICER. The bill will be stated by title.

The ASSISTANT LEGISLATIVE CLERK. A bill (S. 3253) to provide that the Federal office building and U.S. courthouse in Chicago, Ill., shall be named the Everett McKinley Dirksen Building East and that the Federal office building to be constructed in Chicago, Ill., shall be named the Everett McKinley Dirksen Building West in memory of the late Everett McKinley Dirksen, a member of Congress of the United States from the State of Illinois from 1933 to 1969.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Public Works with amendments on page 2, line 6, after the word "at", strike out "218 South Clark Street" and insert "230 South Dearborn Street"; and in line 19, after the word "at", strike out "218 South Clark Street," and insert "230 South Dearborn Street,"; so as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Federal Office Building and United States Courthouse at 219 South Dearborn Street in Chicago, Illinois, shall be renamed the "Everett McKinley Dirksen Building East" and that the Federal office building to be constructed at 230 South Dearborn Street in Chicago, Illinois, shall be named the "Everett McKinley Dirksen Building West" in memory of the late Everett McKinley Dirksen, a distinguished Member of the United States House of Representatives from the State of Illinois from 1933 to 1949 and of the United States Senate from 1950 to 1969. Any reference to the Federal Office Building and United States Courthouse at 219 South Dearborn Street in Chicago, Illinois, in any law, regulation, document, record, map, or other paper of the United States shall be deemed a reference to such building as the "Everett McKinley Dirksen Building East." Any reference to the Federal office building to be constructed at 230 South Dearborn Street, Chicago, Illinois, in any law, regulation, document, record, map, or other paper of the United States shall be deemed a reference to such building as the "Everett McKinley Dirksen Building West."

Mr. PERCY. Mr. President, I was very honored, indeed, to introduce this bill

with the cosponsorship of 79 other Members of the Senate. The purpose of the bill is to pay tribute to the memory of the late Everett McKinley Dirksen. I cannot think of any better way to do it, inside the city of Chicago, where he had an office for many years, than to designate the Federal building as the Everett McKinley Dirksen Building East, and then, when the second building is constructed—for which $13 million plus has been appropriated by Congress—it be named the Everett McKinley Dirksen Building West.

Everett McKinley Dirksen contributed 36 years of his life to public service in the Congress of the United States. Part of that time was spent in the House of Representatives, and as we all know, he was a beloved Member and colleague of this body and served many years as the distinguished minority leader.

He was much loved from one end of my State of Illinois to the other. He was revered by all persons, regardless of party affiliation. He was a man who always and unhesitatingly took a position for the United States of America. Although he was highly partisan when it was right to be partisan, first and foremost he was essentially an American. It is for this reason the naming of this building by Congress would meet with such enthusiastic approval by the citizens of the State of Illinois. Also, though Chicago is a great convention city with many people from all over the country and all over the world coming there. To so many people throughout the world and certainly throughout the United States, he was one of the most beloved men in public life. It would be fitting and proper therefore that this bill be passed at this time.

The PRESIDING OFFICER. Without objection, the committee amendments are considered and agreed to en bloc.

Mr. BAKER. Mr. President, I wish to take this opportunity briefly to express my gratitude and appreciation to the senior Senator from Illinois for sponsoring and moving forward with this bill. Few things could be done by Congress that would be so appropriate as a designation of these Federal facilities in honor of the late Everett McKinley Dirksen.

Mr. President, I knew Everett McKinley Dirksen as few people were privileged to know him over a great number of years. I knew him in a very personal and private way, in his role as a great public figure and as a man who grew in stature to the very end; a man who never stopped in his quest for those things which are best for this country and those things which personify this country. I knew him as a man with strong and deep emotions who always stood ready to act in the best interest of this body and the country. I knew him as a man who had strength drawn from the taproots which were so deep in the native soil of his State, and as a man who had great respect for the diversity of the people of that great State. I knew him as an enormously talented, capable, and dedicated human being; I knew him as a great person, a great friend, and a great statesman.

I am happy to add my endorsement to that of more than 70 of my colleagues in this gesture to his greatness.

Mr. PERCY. Mr. President, at this time I yield to the junior Senator from Illinois, a man who knew Everett McKinley Dirksen extremely well, who was highly respected by him, and who has done an admirable job in filling those shoes which would be so obviously difficult to fill in serving the interests of the people of Illinois, and those of the United States.

I yield to the junior Senator from Illinois.

Mr. SMITH of Illinois. Mr. President, with thanks to my distinguished colleague, the senior Senator from Illinois, I wish to add just a few words in concurrence with respect to the act which is contemplated and which will be accomplished by the passage of this legislation.

Certainly there have been few people, if any, in the history of the great State of Illinois who stood and walked as tall as our late friend, Everett McKinley Dirksen. To perpetuate his memory and name by affixing it to the two Federal buildings in the city of Chicago which, of course, will for years and years stand tall and remind people of the stature of this great man, is an appropriate thing to do.

I am very pleased to have the opportunity to add to comments which have previously been made in this Chamber on the day that we spent a good deal of time relative to the passing of our friend. Certainly, I am heartily in favor of this very appropriate gesture to a great Illinoisan and a great American.

Mr. PERCY. Mr. President, I wish to add one concluding comment. I mentioned that the east building has long been constructed. Congress has approved funds for the west building, a building much needed because the Federal offices are sprawled out around the city in a very uneconomical and inconvenient arrangement. However, because of the rising expenses and the Vietnam war, the GSA decided to defer construction of that building.

The House of Representatives at the end of last year and in conference, approved the release of these funds, saying:

> It would be wasteful and uneconomic to defer completion of this building any longer.

I concur in that statement, and I would hope that, at the earliest possible time, funds that have been now appropriated by Congress could be freed so the construction could go forward. Once again, I could not imagine a finer tribute being paid in Chicago to the memory of Everett McKinley Dirksen than the naming and construction of the building.

The PRESIDING OFFICER. The bill is open to further amendment.

If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and to be read a third time.

The bill (S. 3253) was read the third time, and passed.

ELEMENTARY AND SECONDARY EDUCATION AMENDMENTS OF 1969

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar order No. 627, H.R. 514, and that it be made the pending business.

The PRESIDING OFFICER. The bill will be read by title.

The ASSISTANT LEGISLATIVE CLERK. A bill (H.R. 514) to extend programs of assistance for elementary and secondary education, and for other purposes.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Labor and Public Welfare with an amendment to strike out all after the enacting clause and insert:

> That this Act may be cited as the "Elementary and Secondary Education Amendments of 1969".
>
> TITLE I—AMENDMENTS TO THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965
>
> PART A—AMENDMENTS TO TITLE I OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965 (EDUCATION OF DISADVANTAGED CHILDREN)
>
> EXTENSION OF TITLE I OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965
>
> SEC. 101. (a) Section 102 of title I of the Elementary and Secondary Education Act of 1965 is amended by striking out "June 30, 1970" and inserting in lieu thereof "June 30, 1974".
>
> (b) The third sentence of section 103(a)(1)(A) of such title I is amended by striking out "the fiscal year ending June 30, 1969," and inserting in lieu thereof "each of the succeeding fiscal years ending prior to July 1, 1972,".
>
> (c) Section 121(d) of such title I is amended by striking out "each" where it appears after "$50,000,000" and by striking out "the succeeding fiscal year" and inserting in lieu thereof "for each of the succeeding fiscal years ending prior to July 1, 1974".
>
> STUDY OF ALLOCATION OF FUNDS
>
> SEC. 102. (a) The Commissioner of Education shall make a study of the allocation of sums appropriated for the purposes of title I of the Elementary and Secondary Education Act of 1965 and of the effectiveness of the various provisions of such title in making funds available to State and local educational agencies in order to meet the purposes of such title I. Such study shall make special reference to the distribution of funds to local educational agencies within counties, the means by which such funds may be concentrated in school attendance areas with the highest concentrations of children from low-income families, the appropriateness of the Federal percentage and the low-income factor provided for in subsection (c) of section 103 of such title I when considered in the light of the extra cost of providing compensatory education for educationally deprived children (including the means of providing services authorized by such title to such children residing in rural areas), and the use of special incentive grants to increase State and local effort for education.
>
> (b) Not later than March 31, 1972, the Commissioner shall submit to the Congress a report on the study required by subsection (a) together with such recommendations as he may deem appropriate with respect to modification of programs under title I of the Elementary and Secondary Education Act of 1965. Notwithstanding the first sentence of section 103(d) of such title I, the Commissioner shall not use data for the purposes of section 103 of such title I from the 1970 census of the United States prior to January 1, 1973.

DESIGNATION OF RESPONSIBILITY FOR PROVISION OF SPECIAL EDUCATIONAL SERVICES FOR INSTITUTIONALIZED NEGLECTED OR DELINQUENT CHILDREN

SEC. 103. Paragraph (2) of section 103(a) of title I of the Elementary and Secondary Education Act of 1965 is amended by adding at the end thereof the following sentence: "Notwithstanding the foregoing provisions of this paragraph, upon determination by the State educational agency that a local educational agency in the State is unable or unwilling to provide for the special educational needs of children, described in clause (C) of the first sentence of this paragraph, who are living in institutions for neglected or delinquent children, the State educational agency shall, if it assumes responsibility for the special educational needs of such children, be eligible to receive the portion of the allocation to such local educational agency which is attributable to such neglected or delinquent children, but of the State educational agency does not assume such responsibility, any other State or local public agency, as determined by regulations established by the Commissioner, which does assume such responsibility shall be eligible to receive such portion of the allocation."

INCLUSION OF PUERTO RICO AND OTHER OUTLYING AREAS WITH RESPECT TO NEGLECTED OR DELINQUENT CHILDREN

SEC. 104. (a) Paragraph (4) of section 103(a) of title I of the Elementary and Secondary Education Act of 1965 is amended by striking out "paragraph (5)" and inserting in lieu thereof "paragraphs (5) and (7)".

(b) The amendment made by this section shall be effective after June 30, 1970.

AMENDMENTS WITH RESPECT TO HANDICAPPED AND NEGLECTED OR DELINQUENT CHILDREN

SEC. 105. (a) Paragraph (5) of section 103(a) of title I of the Elementary and Secondary Education Act of 1965 is amended to read as follows:

"(5) In the case of a State agency which is directly responsible for providing free public education for handicapped children (including mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, crippled, or other health impaired children who by reason thereof require special education), the maximum grant which that agency shall be eligible to receive under this part for any fiscal year shall be an amount equal to the Federal percentage of the average per pupil expenditure in the State or, if greater, in the United States, multiplied by the number of such children in average daily attendance, as determined by the Commissioner, at schools for handicapped children operated or supported by the State agency, including schools providing special education for handicapped children under contract or other arrangement with such State agency, in the most recent fiscal year for which satisfactory data are available. Such State agency shall use payments under this part only for programs and projects (including the acquisition of equipment and where necessary the construction of school facilities) which are designed to meet the special educational needs of such children."

(b) Paragraph (7) of section 103(a) of such title I is amended by inserting after "supported by that State agency" the following: ", including schools providing education for such children under contract or other arrangement with such agency,".

(c) The amendments made by this section shall be effective after June 30, 1970.

REQUIRING GRANTS FOR MIGRATORY CHILDREN TO BE BASED ON THE NUMBER TO BE SERVED

SEC. 106. (a) The first sentence of paragraph (6) of section 103(a) of title I of the Elementary and Secondary Education Act of 1965 is, effective with the first allocation of funds pursuant to such title by the Commissioner after the date of enactment of this Act, amended to read as follows: "A State educational agency which has submitted and had approved an application under section 105(c) for any fiscal year shall be entitled to receive a grant for that year under this part, based on the number of migratory children of migratory agriculture workers to be served, for establishing or improving programs for such children."

(b) The second sentence thereof is amended by striking "shall be" the first time it appears and inserting in lieu thereof "may be made"; and by inserting immediately before the period in such second sentence the following: ", except that if, in the case of any State, such amount exceeds the amount required under the preceding sentence and under section 105(c)(2), the Commissioner shall allocate such excess, to the extent necessary, to other States whose maximum total of grants under this sentence would otherwise be insufficient for all such children to be served in such other States".

USE OF MOST RECENT DATA UNDER TITLE I

SEC. 107. (a) The third sentence of section 103(d) of title I of the Elementary and Secondary Education Act of 1965 is amended by inserting immediately before the period at the end thereof the following: "or, to the extent that such data are not available to him before April 1 of the calendar year in which the Secretary's determination is made, then on the basis of the most recent reliable data available to him at the time of such determination".

(b) Section 103(e) of such title is amended by inserting the following after "during the second fiscal year preceding the fiscal year for which the computation is made": "(or, if satisfactory data for that year are not available at the time of computation, then during the earliest preceding fiscal year for which satisfactory data are available)".

MINIMUM GRANT ALLOWANCE TO LOCAL EDUCATIONAL AGENCIES

SEC. 108. Paragraph (1) of section 105(a) of title I of the Elementary and Secondary Education Act of 1965 is amended by striking out "$2,500" wherever it appears and inserting in lieu thereof "$10,000".

PROHIBITION AGAINST SUPPLANTING STATE AND LOCAL FUNDS WITH FEDERAL FUNDS

SEC. 109. (a) Paragraph (3) of section 105(a) of title I of the Elementary and Secondary Education Act of 1965 is amended to read as follows:

"(3) that (A) the local educational agency has provided satisfactory assurance that the control of funds provided under this title, and title to property derived therefrom, shall be in a public agency for the uses and purposes provided in this title, and that a public agency will administer such funds and property, (B) Federal funds made available under this title will be so used (i) as to supplement and, to the extent practical, increase the level of funds that would, in the absence of such Federal funds, be made available from non-Federal sources for the education of pupils participating in programs and projects assisted under this title, and (ii) in no case, as to supplant such funds from non-Federal sources, and (C) State and local funds will be so used as to provide services in areas to be served by programs and projects under this title which are at least comparable to the services from such funds provided in areas which are not so served;".

(b) The amendment made by subsection (a) shall be effective with respect to all applications submitted to State educational agencies after thirty days after the date of enactment of this Act. Nothing in this section shall be construed to authorize the supplanting of State and local funds with Federal funds prior to the effective date of the amendment made by this section.

OPPORTUNITY TO BE HEARD BEFORE FINAL DISPOSITION OF APPLICATIONS

SEC. 110. (a) Section 105(b) of title I of the Elementary and Secondary Education Act of 1965 is amended to read as follows:

"(b) The State educational agency shall not take final action with respect to the approval or disapproval of an application for funds under this title without first (1) affording the local educational agency submitting the application reasonable notice and opportunity for hearing and (2) affording interested persons (as defined by regulation) an opportunity to present their views.".

(b) The amendment made by subsection (a) shall be effective with respect to all applications submitted to State educational agencies submitted after ninety days after the date of enactment of this Act.

AMENDMENTS WITH RESPECT TO STATE ASSURANCES

SEC. 111. (a) The parenthetical phrase in clause (A) of section 106(a)(3) of title I of the Elementary and Secondary Education Act of 1965 is amended by inserting "and of research and replication studies" immediately before the closing parenthesis.

(b) Section 105(a)(7) of such title is amended by inserting "(which in the case of reports relating to performance is in accordance with specific performance criteria related to program objectives)" after "such information".

(c) Section 106(b) of such title is amended by adding the following new sentence at the end thereof: "With respect to any application submitted by a State under subsection (a), the Commissioner shall give consideration to the views of interested persons in such State."

ADVISORY COUNCILS

SEC. 112. (a) Section 134 of title I of the Elementary and Secondary Education Act of 1965 is amended to read as follows:

"ADVISORY COUNCILS

"SEC. 134. (a)(1) There shall be a National Advisory Council on the Education of Disadvantaged Children (hereinafter in this section referred to as the 'National Council') consisting of fifteen members appointed by the President, without regard to the provisions of title 5, United States Code, governing appointment in the competitive service, for terms of three years, except that (A) in the case of initial members, five shall be appointed for terms of one year each and five shall be appointed for terms of two years each, and (B) appointments to fill vacancies shall be only for such terms as remain unexpired. The National Council shall meet at the call of the Chairman.

"(2) The National Council shall review and evaluate the administration and operation of this title, including its effectiveness in improving the educational attainment of educationally deprived children, including the effectiveness of programs to meet their occupational and career needs, and make recommendations for the improvement of this title and its administration and operation. These recommendations shall take into consideration experience gained under this and other Federal educational programs for disadvantaged children and, to the extent appropriate, experience gained under other public and private educational programs for disadvantaged children.

"(3) The National Council shall make such reports of its activities, findings, and recommendations (including recommendations for changes in the provisions of this title) as it may deem appropriate and shall make an annual report to the President and the Congress not later than March 31 of each calendar year. Such annual report shall include

a report specifically on which of the various compensatory education programs funded in whole or in part under the provisions of this title, and of other public and private educational programs for educationally deprived children, hold the highest promise for raising the educational attainment of these educationally deprived children. The President is requested to transmit to the Congress such comments and recommendations as he may have with respect to such report.

"(b)(1) Any State which desires to receive payments under this title for any fiscal year shall establish a State advisory council (hereinafter in this section referred to as 'State council') which meets the requirements and has the authority specified in this subsection. The State council shall be appointed by the Governor or, in the case of States in which the State educational agency is a State board of education the members of which are elected (including a State board elected by the State legislature), then by such board.

"(2) The State council established pursuant to subsection (a) shall be broadly representative of the educational resources of the State and of the public (including parents of children for whom assistance is available under this title). Representation on the State council shall include, but not be limited to, persons representative of—

"(A) public and nonprofit private elementary and secondary schools,

"(B) institutions of higher education, and

"(C) areas of competence in dealing with children for whom special educational assistance is available under this title.

"(3) The State advisory council shall—

"(A) advise the State educational agency on the preparation of, and policy matters arising in the administration of, State and local educational programs assisted under this title, including the development of criteria for approval of applications in such State;

"(B) review and make recommendations on the application of approval criteria to the State educational agency on the action taken with respect to applications for funds under this title by local educational agencies;

"(C) evaluate programs and projects assisted under this title; and

"(D) prepare and submit through the State educational agency a report of its activities, recommendations, and evaluations, together with such additional comments as the State educational agency deems appropriate, to the Commissioner and the National Council at such times, in such form, and in such detail, as the Commissioner may prescribe.

"(4) Not less than ninety days prior to the beginning of any fiscal year in which a State desires payments under this title, that State shall certify the establishment of, and membership of, its State council to the Commissioner.

"(5) Each State council shall meet within thirty days after its certification has been accepted by the Commissioner and select from among its membership a chairman. The time, place, and manner of meeting shall be as provided by the rules of the State council, except that such rules must provide for not less than one public meeting each year at which the public is given opportunity to express views concerning the operation of programs and projects assisted under this title.

"(6) Each State council shall be authorized to obtain the services of such professional, technical, and clerical personnel as may be necessary to enable it to carry out its functions under this title and to contract for such services as may be necessary to enable it to carry out its evaluation functions."

(b) Section 107(b) of such title I is amended by adding at the end thereof the following new sentence: "The Commissioner is further authorized to pay to each State advisory council (established pursuant to section 134(b)) such sums as he determines to be necessary to enable each State advisory council to carry out its functions under this title."

(c) The amendments made by this section shall be effective after June 30, 1970.

INCREASE IN LOW-INCOME FACTOR AND SPECIAL GRANTS FOR URBAN AND RURAL SCHOOLS SERVING ATTENDANCE AREAS WITH THE HIGHEST CONCENTRATIONS OF CHILDREN FROM LOW-INCOME FAMILIES

SEC. 113. (a) The second sentence of subsection (c) of section 103 of title I of the Elementary and Secondary Education Act of 1965 is amended by striking out all after "1968," and inserting in lieu thereof the following: "and for the four succeeding fiscal years they shall be 50 per centum and $3,000, respectively, and for the fiscal year ending June 30, 1973, and the succeeding fiscal year they shall be 50 per centum and $4,000, respectively.".

(b)(1) Title I of such Act is further amended by striking out "PART A—BASIC GRANTS" where it appears before section 101 and inserting "PART A—BASIC GRANTS" before section 103.

(2) Section 101 of such title I is amended by striking out "this part" and inserting in lieu thereof "the following parts of this title."

(3) Sections 102, 105, 106, 107, and 108 of such title I are each amended by striking out "this part" and inserting in lieu thereof "this title".

(4) Sections 105, 106, 107, 108, 131, 132, 133, 134, 135, and 136 of such title I, and all references thereto, are redesignated as sections 141, 142, 143, 144, 145, 146, 147, 148, 149, and 150, respectively.

(5) Such title I is further amended by striking out the heading of part C and by inserting before the caption heading of section 141 the following:

"PART D—GENERAL PROVISIONS".

(6) Such title I is further amended by striking out all of part B thereof and inserting after section 103 the following:

"PART B—SPECIAL INCENTIVE GRANTS

"MAXIMUM ENTITLEMENT

"SEC. 121. (a) In the case of any fiscal year ending after June 30, 1969, each State shall be entitled to a special incentive grant if such State has an effort index for the second preceding fiscal year that exceeds the national effort index for such year.

"(b) The maximum amount of a special incentive grant for which a State is eligible for any fiscal year shall be determined by multiplying the amount of $1 for each 0.01 per centum by which the effort index of that State for the second preceding fiscal year exceeds the national effort index for such year times the aggregate number of children counted for the purposes of entitled local educational agencies within such State to basic grants in accordance with clauses (2), (5), (6), and (7) of section 103(a), except that no State shall be eligible to receive a special incentive grant under this part in an amount in excess of 15 per centum of the total amount available for grants under this part.

"APPLICATION; USE OF FUNDS

"SEC. 122. Any State desiring the special incentive grant to which it is entitled under this part for any fiscal year shall make application therefor, in accordance with the requirements set forth in section 142, to the Commissioner. Such application shall be submitted at such time and contain such information as the Commissioner shall require by regulation and shall contain a statement of such policies and procedures as will insure that funds granted to the State under this part will be (1) made available to local educational agencies within that State which have the greatest need for assistance under this title, and (2) used, in accordance with the applicable provisions of this title, for programs and projects designed to meet the special educational needs of educationally deprived children.

"DEFINITIONS

"SEC. 123. For the purpose of this part the term 'effort index' when applied to States, means the per centum expressing the ratio of expenditures from all non-Federal sources in a State for public elementary and secondary education to the total personal income in such State, and the term 'national effort index' means the per centum expressing the ratio of such expenditures in all States to the total personal income in all States; and the term 'State' means the fifty States and the District of Columbia.

"PART C—SPECIAL GRANTS FOR URBAN AND RURAL SCHOOLS SERVING AREAS WITH THE HIGHEST CONCENTRATIONS OF CHILDREN FROM LOW-INCOME FAMILIES

"ELIGIBILITY AND MAXIMUM AMOUNT OF GRANT

"SEC. 131. (a)(1) Each local educational agency which is eligible for a grant under paragraph (2) of section 103(a) shall be entitled to an additional grant under this paragraph for any fiscal year if—

"(A) the total number of children described in clause (A), (B), or (C) of section 103(a)(2) in the school district of such agency for such year amounts to at least 20 per centum of the total number of children, aged five to seventeen inclusive, in the school district of such agency for such year; or

"(B) the total number of children described in clause (A), (B), or (C) of section 103(a)(2) in the school district is at least 5,000 and amounts to at least 5 per centum of the total number of children, aged five to seventeen inclusive, in such school district.

"(2) Each local educational agency which is eligible for a grant under paragraph (2) of section 103(a) and which (A) is not eligible for a grant under paragraph (1) of this subsection, but (B) would be eligible for a grant under such paragraph (1) if there were in the school district of such agency a relatively small increase in the number of children, aged five to seventeen inclusive, described in clause (A), (B), or (C) of section 103(a)(2) shall be entitled to a grant under this paragraph (2) if the State educational agency of the State in which such agency is located determines (in accordance with criteria established by regulation of the Commissioner) that such agency has an urgent need for financial assistance to meet the special educational needs of the educationally deprived children in the school district of such agency.

"(b)(1) The maximum amount of any grant to any local educational agency under paragraph (1) of subsection (a) shall be—

"(A) for the fiscal year ending June 30, 1970, 30 per centum of the amount that such agency is eligible to receive for such fiscal year under paragraph (2) of section 103(a); and

"(B) for any succeeding fiscal year, 40 per centum of the amount that such agency is eligible to receive for each such succeeding fiscal year.

The aggregate of the amounts for which all local educational agencies are eligible under this paragraph for any fiscal year shall not exceed the amount determined in the following manner:

"(i) compute the total amount for which all State and local educational agencies are eligible under this title for that fiscal year;

"(ii) subtract from such total, a sum equal to the figure set forth in paragraph (3) of section 144; and

"(iii) if that portion of such total which is attributable to amounts for which local

educational agencies are eligible under this paragraph constitutes more than 15 per centum of the remainder of such total, reduce such portion until it constitutes 15 per centum of such remainder, through ratable reductions of the maximum grants for which local educational agencies are eligible under this paragraph.

"(2) The maximum amount of any grant to any local educational agency under paragraph (2) of subsection (a) shall not exceed the maximum amount to which it would have been entitled if it had been eligible under paragraph (1) of such subsection. The maximum amount which shall be available to the Commissioner for grants under such paragraph (2) of subsection (a) shall be, for the fiscal year ending June 30, 1970, equal to 3 per centum of the total amount available, for grants for such fiscal year under paragraph (1) of subsection (a) and, for any succeeding fiscal year, such amount shall be equal to 5 per centum of the total amount available for grants for that year under such paragraph (1).

"(c) For the purposes of this section the term 'State' means the fifty States and the District of Columbia.

"(d)(1) In making determinations under this section the Commissioner is authorized, in accordance with regulations prescribed by him, to use the most recent satisfactory data made available to him by the appropriate State educational agency. If satisfactory data for determining the number of children described in clause (A), (B), or (C) of section 103(a)(2) in a school district for the purpose of subsection (a) are not otherwise available to the Commissioner, such determination may be made on the basis of data furnished to him by a State educational agency with respect to the amount of the maximum grant under part A of this title allocated by such State agency to the local educational agency for such district in the State for the purpose of the second sentence of section 103(a)(2), for the fiscal year preceding the fiscal year for which such determination is made.

"(2) Determinations under this section may be made on the basis of data furnished in accordance with section 103(d).

"USES OF FUNDS

"SEC. 132. (a) Funds available for grants under this part shall be used solely for programs and projects designed to meet the special educational needs of educationally deprived children in preschool programs and in elementary schools serving areas with the highest concentrations of children from low-income families, except that such funds may be used for programs and projects for such children in secondary schools serving areas with the highest concentrations of children from low-income families if the local educational agency and its State educational agency determine (in accordance with criteria established by regulation of the Commissioner) that—

"(A) there is an urgent need for such programs and projects for such children in secondary schools in the area to be served by the local educational agency; and

"(B) there is satisfactory assurance that such programs and projects will be at least as effective in achieving the purposes of this title as the use of such funds for programs and projects for such children in elementary schools in such area.

"(b) In addition to meeting the requirements and conditions set forth in part D, applications for grants under this part shall meet such other requirements and conditions, consistent with the purposes of this title, as the Commissioner shall establish by regulation.".

(7) Section 141(a) of such title is amended by striking out "and" at the end of paragraph (10), and by striking out the period at the end of paragraph (11) and inserting in lieu thereof "; and", and by adding at the end thereof the following new paragraph:

"(12) in the case of funds received under part C of this title, the local educational agency sets forth such procedures and policies and provides such assurances as the Commissioner may require by regulation for the uses of funds available under such part C to carry out the purposes of this title, and, for any fiscal year ending after June 30, 1970, sets forth a comprehensive plan for meeting the special educational needs of children to be served under such part C including provisions for effective use of all funds available under this title and provisions setting forth specific objectives of such plan and the criteria and procedures, including objective measurements of educational achievement, that will be used to evaluate at least annually the extent to which the objectives of the plan have been met.".

(8) Section 143 of such title I is amended—

(A) by inserting before the period at the end of paragraph (2) of subsection (a) thereof "or section 131", and

(B) by striking out "sections 103 and 144" where it appears in clause (1) of subsection (b) and inserting in lieu thereof "sections 103, 131, and 144"

(9) Section 146 of such title I is amended by striking out ", 106(b), or 121(b)" and inserting in lieu thereof "or 142(b)".

(10) Section 147 of such title I is amended by striking out ", 106(b) or 121(b)" and inserting in lieu thereof "or 142(b)".

(c) Section 144 of such title is amended (A) by striking out "paragraphs (1) and (2)" in paragraph (3) and inserting in lieu thereof "paragraphs (1), (2), and (3)", (B) by redesignating such paragraph (3) as paragraph (4), and (C) by inserting before such paragraph (4) the following new paragraph:

"(3) that part of such sums for any fiscal year which is in excess of $1,396,975,000 shall be allocated on the basis of computations in accordance with remaining entitlements under section 103(a)(2), and entitlements under sections 121 and 131, as ratably reduced, but in no case shall allocations on the basis of computations in accordance with section 131 exceed 15 per centum of such excess; and".

(d) Effective for fiscal years ending after June 30, 1972, such section 144 is further amended—

(1) by inserting after the first sentence the following new sentence: "For the purposes of parts B and C of this title, in determining entitlements under such parts, the number of children described in section 103 (a) shall be ascertained by using a low-income factor of (i) $2,000 when allocations are made under clause (A) of paragraph (2) in the first sentence of this section, (ii) $3,000 when allocations are made under clause (B) of such paragraph, and (iii) $4,000 when allocations are made under clause (C) of such paragraph."; and

(2) by striking out clause (B) of paragraph (2) and inserting in lieu thereof the following:

"(B) until appropriations are sufficient to satisfy all maximum grants as computed by using a low-income factor of $3,000, any amount remaining after allocations are computed pursuant to clause (A) shall be allocated by using a low-income factor of $3,000 with respect to children described in section 103(a)(2) who are not counted for purposes of clause (A); and

"(C) until appropriations are sufficient to satisfy all maximum grants as computed by using a low-income factor of $4,000, any amount remaining after allocations are computed pursuant to clauses (A) and (B) shall be allocated by using a low-income factor of $4,000 with respect to children described in section 103(a)(2) who are not counted for purposes of clause (A) or (B); and

"(D) the aggregate amount available for grants to local educational agencies within each State shall be not less than the aggregate amount allocated to local educational agencies within such State for the fiscal year ending June 30, 1967, until the total sums available from appropriations for that fiscal year exceed $1,500,000,000 for Part A of title I; and".

(e) Except as otherwise provided, the amendments made by this section shall be effective with respect to fiscal years ending after June 30, 1969.

PART B—AMENDMENTS TO TITLE II OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965 (LIBRARY RESOURCES, TEXTBOOKS, AND OTHER PRINTED AND PUBLISHED MATERIALS)

EXTENSION OF TITLE II OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

SEC. 121. (a) Section 201(b) of the Elementary and Secondary Education Act of 1965 is amended by striking out "and" where it appears after "1969," and by striking out "the fiscal year ending June 30, 1970" and inserting in lieu thereof "each of the fiscal years ending June 30, 1970, and June 30, 1971, $210,000,000 for the fiscal year ending June 30, 1972, $220,000,000 for the fiscal year ending June 30, 1973, and $230,000,000 for the fiscal year ending June 30, 1974".

(b)(1) The third sentence of section 202 (a)(1) of such Act is amended by striking out "the fiscal year ending June 30, 1969," and inserting in lieu thereof "each of the succeeding fiscal years ending prior to July 1, 1972,".

(2) The third sentence of such section 202 (a)(1) is further amended (A) by striking out "(A)" and (B) by striking out all that follows "Department of Interior" and inserting in lieu thereof a period.

(3) The fourth sentence of such section 202(a)(1) is amended by striking out "and the Secretary of Defense".

(c) Section 204(b) of such Act is amended by striking out "July 1, 1970" and inserting in lieu thereof "July 1, 1974".

PART C—AMENDMENTS TO TITLE III OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965 (SUPPLEMENTARY EDUCATIONAL SERVICES AND CENTERS)

EXTENSION OF TITLE III OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

SEC. 131. Title III of the Elementary and Secondary Education Act of 1965 is amended in the following respects:

(1) The first sentence of section 301(b) of such title is amended by striking out "and" where it appears after "1969;" and by striking out "the fiscal year ending June 30, 1970;" and inserting in lieu thereof "each of the fiscal years ending June 30, 1970, and June 30, 1971; $575,000,000 for the fiscal year ending June 30, 1972; $605,000,000 for the fiscal year ending June 30, 1973; and $635,000,000 for the fiscal year ending June 30, 1974".

(2) The second sentence of section 301(b) of such title is amended by striking out "two".

(3)(A) The third sentence of section 302 (a)(1) of such title is amended by striking out "July 1, 1969," and inserting in lieu thereof "July 1, 1972,".

(B) The third sentence of such section 302(a)(1) is further amended (i) by striking out "(A)" and (ii) by striking out all that follows "Department of Interior" and inserting in lieu thereof a period.

(C) The fourth sentence of such section 302(a)(1) is amended by striking out "and the Secretary of Defense".

(4) Section 305(c) of such title is amended by striking out "the fiscal year ending June 30, 1969" and inserting in lieu thereof "any fiscal year ending prior to July 1, 1974".

(5) Section 305(d) of such title is amended by striking out all that follows "section 302" and inserting in lieu thereof a period.

(6) Section 306(a) of such title is amended by striking out "From the portion described in subsection (c) of the amount allotted to any State pursuant to section 302" and inserting in lieu thereof "From the amount allotted to any State pursuant to section 302 which is not available to that State under a State plan approved pursuant to section 305".

(7) Section 306 of such title is amended by striking out subsection (c) thereof.

(8) Clause (2) of section 307(b) of such title is amended by striking out "during the fiscal year ending June 30, 1970" and inserting in lieu thereof "for any fiscal year ending after June 30, 1969".

PROVISIONS FOR GIFTED AND TALENTED CHILDREN

SEC. 132. (a) Section 303(a) of the Elementary and Secondary Education Act of 1965 (relating to the use of Federal funds for supplementary educational centers and services) is amended by—

(1) striking out "and" at the end of clause (H) thereof;

(2) redesignating clause (I) as clause (J); and

(3) inserting immediately after clause (H) the following new clause:

"(I) providing programs for gifted and talented children; and".

(b) The amendments made by this section shall be effective upon the enactment of this Act.

CONFORMING AMENDMENTS RELATING TO STATE ADVISORY COUNCILS AND APPROVAL OF STATE PLANS

SEC. 133. (a)(1) Section 305(a) of title III of the Elementary and Secondary Education Act of 1965 is amended by adding at the end thereof the following new paragraphs:

"(3) Not less than ninety days prior to the beginning of any fiscal year ending after June 30, 1970, in which a State desires to receive a grant under this title, such State shall certify the establishment of, and membership of, its State Advisory Council to the Commissioner.

"(4) Each State Advisory Council shall meet within thirty days after certification has been accepted by the Commissioner and select from its membership a chairman. The time, place, and manner of meeting shall be as provided by such Council, except that such Council shall have not less than one public meeting each year at which the public is given opportunity to express views concerning the administration and operation of this title.

"(5) State Advisory Councils shall be authorized to obtain the services of such professional, technical, and clerical personnel as may be necessary to enable them to carry out their functions under this title and to contract for such services as may be necessary to enable them to carry out their functions.

"(6) The Commissioner shall not approve a State plan submitted under this section unless it is accompanied by a certification of the Chairman of the State Advisory Council that such plan has been reviewed by the State Advisory Council. Such certification shall be accompanied by such comments as the State Advisory Council or individual members thereof deem appropriate, and shall indicate whether the plan meets with the approval of the State Advisory Council and, if not, the reasons for its disapproval. In the event of the disapproval of a State plan by the State Advisory Council, the Commissioner shall not approve such plan until he has afforded the State Advisory Council or its designated representative reasonable notice and an opportunity for a hearing."

(2) Such section 305(a) is further amended (1) in paragraph (1), by striking out "set forth in paragraph (2)" and inserting in lieu thereof "of this subsection", (2) by striking out "; and " where it appears at the end of subparagraph (E) of paragraph (2) and inserting in lieu thereof a period, (3) by inserting "and" after the semicolon at the end of subparagraph (D) of paragraph (2), and (4) by striking out subparagraph (F) of paragraph (2).

(b) Paragraph (1) of section 305(e) of such title III is amended to read as follows:

"(e)(1) The Commissioner shall not approve any State plan pursuant to this section for any fiscal year ending after June 30, 1970, unless the plan has, prior to its submission, been made public by the State agency and a reasonable opportunity has been given by that agency for comment thereon by interested persons (as defined by regulations of the Commissioner). The State educational agency shall make public the plan as finally approved. The Commissioner shall not finally disapprove any plan submitted under this title, or any modification thereof, without first affording the State educational agency submitting the plan reasonable notice and opportunity for a hearing."

PROVISIONS TO ASSURE PARTICIPATION BY ALL ELIGIBLE STUDENTS

SEC. 134. Section 307 of the Elementary and Secondary Education Act of 1965 is amended by adding at the end thereof the following new subsection:

"(f)(1) In any State which has a State plan approved under section 305(c) and in which no State agency is authorized by law to provide, or in which there is a substantial failure to provide, for effective participation on an equitable basis in programs authorized by this title by children enrolled in any one or more private elementary or secondary schools of such State in the area or areas served by such programs, the Commissioner shall arrange for the provision, on an equitable basis, of such programs and shall pay the costs thereof for any fiscal year out of that State's allotment. The Commissioner may arrange for such programs through contracts with institutions of higher education, or other competent nonprofit institutions or organizations.

"(2) In determining the amount to be withheld from any State's allotment for the provision of such programs, the Commissioner shall take into account the number of children and teachers in the area or areas served by such programs who are excluded from participation therein and who, except for such exclusion, might reasonably have been expected to participate."

PART D—AMENDMENTS TO TITLE V OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965 (STRENGTHENING STATE DEPARTMENTS OF EDUCATION)

EXTENSION OF TITLE V OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

SEC. 141. Section 501(b) of the Elementary and Secondary Education Act of 1965 is amended by striking out "and" where it appears after "1969," and by striking out all that follows "1968" and inserting in lieu thereof the following: "$80,000,000 each for the fiscal years ending June 30, 1969, June 30, 1970, and June 30, 1971, $85,000,000 for the fiscal year ending June 30, 1972, $90,000,000 for the fiscal year ending June 30, 1973, and $95,000,000 for the fiscal year ending June 30, 1974.".

PROVISION RELATING TO GIFTED AND TALENTED CHILDREN

SEC. 142. (a) Section 503(11) of the Elementary and Secondary Education Act of 1965 (relating to grants to strengthen State departments of education) is amended by inserting after "handicapped" a comma and the following: "and gifted and talented children".

(b) The amendment made by this section shall be effective upon enactment of this Act.

STRENGTHENING LEADERSHIP AND QUALITY IN EDUCATION; IMPROVING PLANNING AND EVALUATION OF EDUCATION PROGRAMS

SEC. 143. (a)(1) The heading of title V of the Elementary and Secondary Education Act of 1965 is amended to read as follows:

"TITLE V — STRENGTHENING STATE AND LOCAL EDUCATIONAL AGENCIES

(2) Such title V is amended by inserting before section 501 thereof the following heading:

"PART A—GRANTS TO STRENGTHENING STATE DEPARTMENTS OF EDUCATION"

(3) Section 507 of such title V, and all references thereto, is redesignated as section 553 of such title and is amended, in subsection (a), by striking out "but it does not include a local education agency" and inserting in lieu thereof "including local educational agencies".

(4) Such title V is amended—

(A) by striking out sections 506, 508, 509, and 510;

(B) in sections 501, 502, 503, 504, and 505, by striking out "this title" wherever it appears therein and inserting in lieu thereof "this part";

(C) in section 503, by inserting "and" at the end of clause (11), by striking out the semicolon at the end of clause (12) and inserting in lieu thereof a period, and by striking out clauses (13) and (14); and

(D) inserting after section 505 the following:

"PART B—LOCAL EDUCATIONAL AGENCIES

"APPROPRIATIONS AUTHORIZED

"SEC. 521. (a) The Commissioner shall carry out a program for making grants to stimulate and assist local educational agencies in strengthening the leadership resources of their districts, and to assist those agencies in the establishment and improvement of programs to identify and meet the educational needs of their districts.

"(b) For the purpose of making grants under this part, there is hereby authorized to be appropriated the sum of $10,000,000 for the fiscal year ending June 30, 1970, $20,000,000 for the fiscal year ending June 30, 1971, $30,000,000 for the fiscal year ending June 30, 1972, and $40,000,000 for each of the succeeding fiscal years ending prior to July 1, 1974.

"APPORTIONMENT AMONG STATES

"SEC. 522. (a)(1) From 85 per centum of the sums appropriated for carrying out this part for each fiscal year, the Commissioner shall reserve such amount, but not in excess of 2 per centum of such 85 per centum of such sums, as he may determine and shall apportion such amount among the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands according to their respective needs for assistance under this part. The remainder of such per centum of such sums shall be apportioned by the Commissioner as follows:

"(A) He shall apportion 40 per centum of such remainder among the States in equal amounts.

"(B) He shall apportion to each State an amount that bears the same ratio to 60 per centum of such remainder as the number of public school pupils in the State bears to the number of public school pupils in all the States, as determined by the Commissioner on the basis of the most recent satisfactory data available to him.

For purposes of this paragraph, the term 'State' does not include the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

"(2) Fifteen per centum of the sums appropriated pursuant to section 521 for each fiscal year shall be reserved by the Commissioner for grants for special projects pursuant to section 526.

"(b) The amount apportioned to any State under paragraph (1) of subsection (a) for any fiscal year which the Commissioner determines will not be required for that year shall be available for reapportionment from time to time, on such dates during that year as the Commissioner may fix, to other States in proportion to the amounts originally apportioned among those States under subsection (a)(1) for that year, but with the proportionate amount for any of the other States being reduced to the extent it exceeds the sum the Commissioner estimates the local educational agencies of such State need and will be able to use for that year; and the total of these reductions shall be similarly reapportioned among the States whose proportionate amounts were not so reduced. Any amount reapportioned to a State under this subsection from funds appropriated pursuant to section 521 for any fiscal year shall be deemed part of the amount apportioned to it under subsection (a)(1) for that year.

"GRANTS FROM APPORTIONED FUNDS

"SEC. 523. From the amount apportioned to any State for any fiscal year under section 522 the Commissioner may, upon approval of an application in accordance with section 524 submitted to him by a local educational agency of such State, after approval by the State educational agency in accordance with section 525, make a grant or grants to such local educational agency equal to the expenditures incurred by such agency for the planning of, and for programs for, the development, improvement, or expansion of activities promoting the purposes set forth in section 521 (a) and more particularly described in such application and for which such application is approved, such as—

"(1) educational planning on a district basis, including the identification of educational problems, issues, and needs in the district and the evaluation on a periodic or continuing basis of educational programs in the district;

"(2) providing support or services for the comprehensive and compatible recording, collecting, processing, analyzing, interpreting, storing, retrieving, and reporting of educational data including the use of automated data systems;

"(3) programs for conducting, sponsoring, or cooperating in educational research and demonstration programs and projects such as (A) establishing and maintaining curriculum research and innovation centers to assist in locating and evaluating curriculum research findings, (B) discovering and testing new educational ideas (including new uses of printed and audiovisual media) and more effective educational practices, and putting into use those which show promise of success, and (C) studying ways to improve the legal and organizational structure for education, and the management and administration of education in the district of such agency;

"(4) programs to improve the quality of teacher preparation, including student-teaching arrangements, in cooperation with institutions of higher education and State educational agencies;

"(5) programs and other activities specifically designed to encourage the full and adequate utilization and acceptance of auxiliary personnel (such as instructional assistants and teacher aides) in elementary and secondary schools on a permanent basis;

"(6) providing such agencies and the schools of such agencies with consultative and technical assistance and services relating to academic subjects and to particular aspects of education such as the education of the handicapped, the gifted and talented, and the disadvantaged, vocational education, school building design and utilization, school social work, the utilization of modern instructional materials and equipment, transportation, educational administrative procedures, and school health, physical education, and recreation;

"(7) training programs for the officials of such agencies; and

"(8) carrying out any such activities or programs, where appropriate, in cooperation with other local educational agencies.

"APPROVAL OF APPLICATIONS BY THE COMMISSIONER

"SEC. 524. (a) An application for a grant under this part for each fiscal year shall set forth a plan under which Federal funds received by the applicant under this part for that fiscal year will be used solely for a program of activities specifically designed to strengthen the leadership resources of the applicant and to establish and improve programs to identify and meet the educational needs of the persons served by the applicant.

"(b) The Commissioner may approve an application under this part only if the application for that year—

"(1) contains or is supported by adequate assurance that Federal funds made available under the approved application will be so used as to supplement, and to the extent practical, increase the amounts of State and local funds that would in the absence of such Federal funds be made available for projects and activities which meet the requirements of section 523;

"(2) sets forth such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid under this part; and

"(3) provides for making such reports, in such form and containing such information, as the Commissioner may require to carry out his functions under this part, and for keeping such records and for affording such access thereto as the Commissioner may find necessary to assure the correctness and verification of such reports.

"APPROVAL OF APPLICATIONS BY STATE EDUCATIONAL AGENCIES

"SEC. 525. In approving applications for the purposes of this part a State educational agency shall—

"(1) approve only such applications for proposed projects, programs, or activities as will—

"(A) make a significant contribution to strengthening the leadership resources of the applicant or its ability to participate effectively in meeting the educational needs of its district, and

"(B) involve an expenditure of at least $2,500 and

"(2) provide for an equitable distribution on the basis of need of funds provided pursuant to this part, and, to the extent possible within such a distribution, give priority to exemplary projects, programs, or activities.

"SPECIAL PROJECT GRANTS

"SEC. 526. Fifteen per centum of the sums appropriated pursuant to section 521 for each fiscal year shall be used by the Commissioner to make grants to local educational agencies to pay part of the cost of experimental projects for developing local leadership or for the establishment of special services which, in the judgment of the Commissioner, hold promise of making a substantial contribution to the solution of problems common to local educational agencies of all or several States, and for grants to regional or other appropriate groups of local educational agencies for educational planning and research.

"PART C—COMPREHENSIVE EDUCATIONAL PLANNING AND EVALUATION

"AUTHORIZATION

"SEC. 531. (a) The Commissioner is authorized to make comprehensive planning and evaluation grants to State and local educational agencies in order to assist and stimulate them to enhance their capability to make effective progress, through comprehensive and continuing planning and evaluation, toward the achievement of opportunities for high-quality education for all segments of the population.

"(b) For the purpose of carrying out the provisions of this part, there are hereby authorized to be appropriated $10,000,000 for the fiscal year ending June 30, 1971, $15,000,000 for the fiscal year ending June 30, 1972, and $20,000,000 for each of the succeeding fiscal years ending prior to July 1, 1974.

"(c)(1)(A) From 75 per centum of the sums appropriated for carrying out this part for each fiscal year, the Commissioner shall reserve such amount, but not in excess of 2 per centum of such per centum, as he may determine and shall apportion such amount among the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands according to their respective needs for assistance under this part. The remainder of such per centum shall be apportioned by the Commissioner as follows:

"(i) He shall apportion 40 per centum of such remainder among the States in equal amounts.

"(ii) He shall apportion to each State an amount that bears the same ratio to 60 per centum of such remainder as the population of the State bears to the population of all the States, as determined by the Commissioner on the basis of the most recent satisfactory data available to him.

"(B) The remaining 25 per centum of the sums appropriated for carrying out this part for each fiscal year shall be available to the Commissioner to make such grants pursuant to this part as he determines.

"(C) For purposes of this subparagraph (1), the term 'State' does not include the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

"(2) The amount apportioned to any State under paragraph (1) of this subsection for any fiscal year which the Commissioner determines will not be required for that year shall be available for reapportionment from time to time, on such dates during that year as the Commissioner may fix, to other States in proportion to the amounts originally apportioned among those States under such paragraph for that year, but with the proportionate amount for any of the other States being reduced to the extent it exceeds the sum the Commissioner estimates the State and local educational agencies of such State need and will be able to use for that year; and the total of these reductions shall be similarly reapportioned among the States whose proportionate amounts were not so reduced. Any amount reapportioned to a State under this paragraph from funds appropriated pursuant to this section for any fiscal year shall be deemed part of the amount apportioned to it under paragraph (1) for that year.

"(3) Grants for any fiscal year to a State agency and any local educational agency in such State pursuant to this part shall be made from such State's apportionment for such year pursuant to this subsection.

"COMPREHENSIVE PLANNING AND EVALUATION GRANTS: ELIGIBLE AGENCIES

"SEC. 532. (a) Any State desiring to receive a grant under this part for any fiscal year shall designate or establish within its State educational agency a single office or unit (hereafter in this part referred to as the State planning and evaluation agency) as the sole agency for administering a comprehensive program of systematic planning and evaluation of elementary and secondary education in the State. The State planning and evaluation agency shall have the primary responsibility for planning and evaluating the education programs of the State and for the administration of funds received by the State under this part.

"(b) Any local educational agency desiring

to receive a grant under this part must provide the Commissioner with satisfactory assurance that—

"(1) the local educational agency or agencies have a planning and evaluation office or unit has or will have, as the result of assistance under this part, the capability of carrying out a comprehensive program of systematic planning and evaluation meeting the purposes of this part;

"(2) the appropriate State educational agency or agencies have been consulted and have had the opportunity to comment on, and advice the local educational agencies and the Commissioner with regard, to the application; and

"(3) the planning and evaluation activities of the local educational agency or agencies will be closely coordinated with such activities of the appropriate State agencies;

and must further provide the Commissioner with satisfactory assurance that—

"(4) the local educational agency serves, or, if two or more local educational agencies are making joint application, those agencies serve, an area with a population sufficient to merit a comprehensive planning and evaluation program in addition to that of the State or of other local educational agencies in the area or region to be served by the applicant; or

"(5) the local educational agency or agencies will use the funds for demonstration projects to plan, develop, test, and improve planning and evalution systems and techniques consistent with, and to further the purposes of, this part.

"(c) In making grants pursuant to this section the Commissioner shall give special emphasis on developing coordinated and comprehensive plans for educational planning and evaluation between and among the Office of Education, State educational agencies, and local educational agencies, including projects on an interstate, regional, or metropolitan area basis.

"(d) No grant shall be made by the Commissioner to a local educational agency or agencies under this part unless the application for such grant has been submitted to the State educational agency or agencies in the State or States in which it is to be carried out. If, within sixty days of such submission or within such longer period of time as the Commissioner may determine pursuant to regulations, the State agency or agencies disapprove the proposed program or project, the Commissioner shall review the application with the appropriate State and local educational agencies before making a final decision.

"APPLICATION

"SEC. 533. (a) An application for a grant under this part shall be submitted to the Commissioner at such time or times, in such form, and containing such information as he may deem necessary. Such application shall include—

"(1) a statement of present and projected educational needs of persons residing in the area to be served;

"(2) a description of a program for meeting those needs which includes—

"(A) setting long-range areawide goals in meeting educational needs and establishing priorities among such goals,

"(B) developing long-range plans for achieving such goals, taking into consideration the resources available and the educational effectiveness of each of the alternatives,

"(C) planning new programs and improvements in existing programs based on the results of analyses of alternative means of achieving educational goals,

"(D) objectively evaluating at intermediate stages the progress and effectiveness of programs in achieving such goals, and, when appropriate, adjusting goals, plans, and programs to maximize educational effectiveness, and

"(E) utilizing available management information, planning and evaluation systems and techniques;

"(3) a plan for developing and strengthening the capabilities of the applicant to improve its planning capacity and to conduct, on a continuous basis, objective evaluations of the effectiveness of education programs and projects;

"(4) a plan for utilizing the resources of, and coordinating with, programs affecting education of other Federal, State, and local agencies, organizations, and persons; and

"(5) a statement of policies and procedures which have been, or will be, established and implemented for developing and maintaining a permanent system for obtaining and collecting significant information necessary for the assessment of education in the area to be served by the applicant, for consulting with and involving parents of children served by the applicant, and for making full and detailed information concerning the educational planning and evaluation activities and findings of the applicant and other agencies and persons receiving assistance under this part reasonably available to the public.

(b) Applications for grants under this section may be approved by the Commissioner only if he determines that the application—

"(1) has been submitted only after interested persons (as defined by regulation) have been given reasonable notice and an opportunity to express their views thereon;

"(2) sets forth, in such detail as the Commissioner may determine necessary, such policies and procedures as will provide satisfactory assurance that—

"(A) the assistance provided under this section, together with other available resources, will be so used for the purposes of this part as to result in the maximum possible effective progress toward the achievement of a high level of planning and evaluation competence, and

"(B) assistance under this part will be used primarily in strengthening the capabilities of the planning and evaluation staff of the agency, office, or unit responsible for the administration of the application plan; and

"(3) sets forth such policies and procedures as will insure that Federal funds made available under the application will be so used as to supplement, and to the extent practical, increase the amounts of State or local funds that would, in the absence of Federal funds, be made available for activities meeting the purposes of this title;

"(4) in the case of applications from States, makes adequate provision (consistent with such criteria as the Commissioner shall prescribe by regulation) for using funds granted under this section to make program planning and evaluation services available to local educational agencies in the State.

"(c) A grant made pursuant to an application under this section may be used to pay not to exceed 75 per centum of the cost of the activities covered by the application.

"REPORTS

"SEC. 534. Each recipient of a grant shall make an annual report on the activities carried out with the funds from such grant which includes such information as the Commissioner determines will permit an evaluation of the effectiveness of the program authorized by this part in achieving its purposes. Each such recipient shall also make such other reports, in such form and containing such information as the Commissioner may require to carry out his functions under this part.

"PART D—COUNCILS ON QUALITY IN EDUCATION

"NATIONAL AND STATE ADVISORY COUNCILS

"SEC. 541. (a) (1) There is hereby established a National Council on Quality in Education (hereafter referred to as the 'National Council') composed of fifteen members appointed by the President, by and with the advice and consent of the Senate. The membership of the National Council shall include persons who are familiar with the educational needs and goals of the Nation, persons with competence in assessing the progress of the education agencies, institutions, and organizations in meeting those needs and achieving those goals, persons familiar with the administration of State and local educational agencies and of institutions of higher education, and persons representative of the general public. Members shall be appointed for terms of three years, except that (1) in the case of initial members, one-third of the members shall be appointed for terms of one year each and one-third of the members shall be appointed for terms of two years each, and (2) appointments to fill the unexpired portion of any term shall be for such portion only.

"(2) The National Council shall—

"(A) review the administration of, general regulations for, and operation of the programs assisted under this title at the Federal, State, and local levels, and other Federal education programs;

"(B) advise the Commissioner and, when appropriate, the Secretary and other Federal officials with respect to the educational needs and goals of the Nation and assess the progress of the educational agencies, institutions, and organizations of the Nation toward meeting those needs and achieving those goals;

"(C) conduct objective evaluations of specific education programs and projects in order to ascertain the effectiveness of such programs and projects in achieving the purpose for which they are intended;

"(D) review, evaluate, and transmit to the Congress and the President the reports submitted pursuant to clause (E) of paragraph (3) of subsection (b) of this section;

"(E) make recommendations (including recommendations for changes in legislation) for the improvement of the administration and operation of education programs including the programs authorized by this title;

"(F) consult with Federal, State, local, and other educational agencies, institutions, and organizations with respect to assessing education in the Nation and the improvement of the quality of education, including—

"(i) areas of unmet needs in education and national goals and the means by which those areas of need may be met and those national goals may be achieved;

"(ii) determinations of priorities among unmet needs and national goals; and

"(iii) specific means of improving the quality and effectiveness of teaching, curricula, and educational media and of raising standards of scholarship and levels of achievement;

"(G) conduct national conferences on the assessment and improvement of education, in which national and regional education associations and organizations, State and local education officers and administrators, and other organizations, institutions, and persons (including parents of children participating in Federal education programs) may exchange and disseminate information on the improvement of education; and

"(H) conduct, and report on, comparative studies and evaluations of education systems in foreign countries.

"(3) The National Council shall make an annual report, and such other reports as it deems appropriate, on its findings, recommendations and activities to the Congress and the President. The President is requested to transmit to the Congress, at least annually, such comments and recommendations as he may have with respect to such reports and its activities.

"(4) In carrying out its responsibilities under this section, the National Council shall

consult with the National Advisory Council on the Education of Disadvantaged Children, the National Advisory Council on Supplementary Centers and Services, the National Advisory Council on Education Professions Development, and such other advisory councils and committees as may have information and competence to assist the National Council. All Federal agencies are directed to cooperate with the National Council in assisting it in carrying out its functions.

"(b)(1) Any State which desires to receive payments under this title for any fiscal year shall establish a State advisory council (hereinafter referred to as 'State council') which meets the requirements and has the authority specified in this subsection. The State council shall be appointed by the Governor or, in the case of States in which the members of the State educational agency are elected (including election by the State legislature), by such agency.

"(2) The State council established pursuant to this subsection shall be broadly representative of the educational resources of the State and of the public. Representation on the State council shall include, but not be limited to, persons representative of—

"(A) public and nonprofit private elemtary and secondary schools,

"(B) institutions of higher education,

"(C) areas of competence in planning and evaluating education programs, and the assessment of the effectiveness of, and the administration of, such programs at the State and local levels; and

"(D) areas of competence in dealing with children for whom special educational assistance is available under this Act.

"(3) The State advisory council shall—

"(A) prepare and submit through the State educational agency a report of its activities, recommendations, and evaluations, together with such additional comments as the State educational agency deems appropriate, to the Commissioner and the National Council at such times, in such form, and in such detail, as the Commissioner may prescribe;

"(B) advise the State educational agency on the preparation of, and policy matters arising in the administration of, State and local educational programs in the State, including the development of criteria for approval of applications for assistance under this title;

"(C) advise State and local officials who have a responsibility for education in the State with respect to the planning, evaluating, administration, and assessment of education in the State;

"(D) review and make recommendations to the State educational agency on the action to be taken with respect to applications for assistance under this title by local educational agencies; and

"(E) evaluate programs and projects assisted under this title.

"(4) Not less than ninety days prior to the beginning of any fiscal year ending after June 30, 1970, in which a State desires payments under this title, that State shall certify the establishment of, and membership of its State council to the Commissioner.

"(5) Each State council shall meet within thirty days after its certification has been accepted by the Commissioner and select from among its membership a chairman. The time, place, and manner of meeting shall be as provided by the rules of the State council, except that such rules must provide for not less than one public meeting each year at which the public is given opportunity to express views concerning the operation of programs and projects assisted under this title.

"(6) Each State council shall be authorized to obtain the services of such professional, technical, and clerical personnel as may be necessary to enable them to carry out their functions under this title and to contract for such services as may be necessary to enable them to carry out their evaluation functions.

"(7) There are hereby authorized to be appropriated for each fiscal year such sums, not in exces of 2½ per centum of the amount otherwise appropriated for such year for the purposes of this title, as may be necessary to carry out the provisions of this subsection.

"PART E—GENERAL PROVISIONS

"ADMINISTRATION OF PLANS

"SEC. 551. (a) The Commissioner shall not finally disapprove any application from a State or a local educational agency, submitted under part A or B of this title, or any modification thereof, without affording the applicant reasonable notice and an opportunity for a hearing.

"(b) Whenever the Commissioner, after reasonable notice and an opportunity for a hearing to a State or a local educational agency administering a program under an application approved under this title, finds that there has been a failure to comply substantially with the appropriate provisions of this title or with the provisions of an application approved under this title, he shall notify the State or the local educational agency, as the case may be, that further payments will not be made to that State or that local educational agency under that application until he is satisfied that there is no longer any such failure to comply. Until he is so satisfied, no further payments shall be made to that State or that local educational agency under the application. Whenever a local educational agency is given notice under the first sentence of this subsection, notice shall also be submitted to the appropriate State educational agency.

"JUDICIAL REVIEW

"SEC. 552. (a) If any State or any local educational agency is dissatisfied with the Commissioner's final action with respect to the approval of an application submitted under part A or B of this title or with his final action under section 551(b), such State or local educational agency may, within sixty days after notice of such action, file with the United States court of appeals for the circuit in which such State or local educational agency is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Commissioner. The Commissioner thereupon shall file in the court the record of the proceedings on which he based his action as provided in section 2112 of title 28, United States Code.

"(b) The findings of fact by the Commissioner, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Commissioner to take further evidence, and the Commissioner may thereupon make new or modified findings of fact and may modify his previous action, and shall certify to the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

"(c) The court shall have jurisdiction to affirm the action of the Commissioner or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code."

(b) The Act of July 26, 1954, entitled "An Act to establish a National Advisory Committee on Education" (Public Law 532, Eighty-third Congress) is hereby repealed.

(c) Subsection (a)(1) and (b)(1) of section 2 of the Cooperative Research Act are each amended by striking out "section 503(a)(4)" and inserting in lieu thereof "sections 503(4) and 523(a)(3)".

PART E—AMENDMENTS TO TITLE VII OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965 (BILINGUAL EDUCATION)

EXTENSION OF TITLE VII OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1955 (THE BILINGUAL EDUCATION ACT)

SEC. 151. Section 703(a) of the Elementary and Secondary Education Act of 1965 is amended by striking out "and" where it appears after "1969," and by inserting before the period at the end thereof a comma and the following: $80,000,000 for the fiscal year ending June 30, 1971, $100,000,000 for the fiscal year ending June 30, 1972, $135,000,000 for the fiscal year ending June 30, 1973, and $170,000,000 for the fiscal year ending June 30, 1974".

APPLICATION TO INDIANS ON RESERVATIONS

SEC. 152. (a) Title VII of the Elementary and Secondary Education Act of 1965 is amended by redesignating sections 706, 707, and 708 (and references thereto) as sections 707, 708, and 709 thereof and by inserting the following new section immediately after section 705:

"CHILDREN IN SCHOOLS ON RESERVATIONS

"SEC. 706. (a) For the purpose of carrying out programs pursuant to this title for individuals on reservations serviced by elementary and secondary schools operated on such reservations for Indian children, a nonprofit institution or organization of the Indian tribe concerned which operates any such school and which is approved by the Commissioner for the purposes of this section, may be considered to be a local educational agency as such term is used in this title.

"(b) From the sums appropriated pursuant to section 703, the Commissioner may also make payments to the Secretary of the Interior for elementary and secondary school programs to carry out the policy of section 702 with respect to individuals on reservations serviced by elementary and secondary schools for Indian children operated or funded by the Department of the Interior. The terms upon which payments for that purpose may be made to the Secretary of the Interior shall be determined pursuant to such criteria as the Commissioner determines will best carry out the policy of section 702."

(b) Section 707(a) of such Act (as redesignated by this Act) is amended by inserting the following before the period at the end thereof: "or, in the case of payments to the Secretary of the Interior, an amount determined pursuant to section 706(b)".

INCREASE IN MEMBERSHIP OF ADVISORY COMMITTEE OF THE EDUCATION OF BILINGUAL CHILDREN

SEC. 153. Section 708(a) of the Elementary and Secondary Education Act of 1965 as redesignated by this Act, is amended (1) by striking out "nine" and inserting in lieu thereof "fifteen", and (2) by striking out "four" and inserting in lieu thereof "seven".

PART F—AMENDMENTS TO TITLE VIII OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965 (GENERAL PROVISIONS)

EXTENSION OF SECTION 807 OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

SEC. 161. Section 807(c) of the Elementary and Secondary Education Act of 1965 is amended to read as follows:

"(c) For the purpose of carrying out the provisions of this section, there is hereby authorized to be appropriated $30,000,000 for each of the fiscal years ending June 30, 1970, and June 30, 1971, $31,500,000 for the fiscal year ending June 30, 1972, $33,000,000 for the fiscal year ending June 30, 1973, and $34,500,000 for the fiscal year ending June 30, 1974."

DEFINITION OF "GIFTED AND TALENTED CHILDREN"

SEC. 162. Section 801 of the Elementary and Secondary Education Act of 1965 (relat-

ing to definitions) is amended by adding at the end thereof the following:

"(1) The term 'gifted and talented children' means, in accordance with objective criteria prescribed by the Commissioner, children who have outstanding intellectual ability or creative talent the development of which requires special activities or services not ordinarily provided by local educational agencies."

SCHOOL NUTRITION AND HEALTH SERVICES

SEC. 163. Title VIII of the Elementary and Secondary Education Act of 1965 is amended by adding to the end thereof the following new section:

"GRANTS FOR DEMONSTRATION PROJECTS TO IMPROVE SCHOOL NUTRITION AND HEALTH SERVICES FOR CHILDREN FROM LOW-INCOME FAMILIES

"SEC. 808. (a) The Secretary shall carry out a program of making grants to local educational agencies, and where appropriate, nonprofit private educational organizations, to support demonstration projects designed to improve nutrition and health services in public and private schools serving areas with high concentrations of children from low-income families.

"(b) Funds appropriated pursuant to subsection (d) shall be available for grants pursuant to applications approved under this section to pay the cost of (1) coordinating nutrition and health service resources in the areas to be served by a demonstration project supported under this section, (2) providing supplemental health, nutritional, mental health, and food services to children from low-income families when the resources for such services available to the applicant from other sources are inadequate to meet the needs of such children, (3) nutrition and health education programs designed to train professional and other school personnel to provide nutrition and health services in a manner which meets the needs of children from low-income families for such services, and (4) the evaluation of projects assisted under this section with respect to their effectiveness in improving school nutrition and health services for such children.

"(c) Applications for a grant under this section shall be submitted at such time, contain such information, and be consistent with such criteria as the Secretary may require by regulation. Such applications shall provide for—

"(1) the use of funds available under this section and the coordination of health care facilities and resources and such nutrition resources as may be available to the applicant in order to insure that a comprehensive program of physical and mental health and nutrition services are available to children from low-income families in the area to be served;

"(2) the development of health and nutrition curriculum materials related to the specific needs of persons involved with the project and to new and improved approaches to health services and food technology;

"(3) the training of (A) school administrators, teachers, and school health and nutrition personnel in order to assist them in meeting the health and nutritional needs of children from low-income families, and (B) professional and subprofessional personnel for service in school nutrition and health programs; and

"(4) adequate provision for evaluation of the project.

"(d) For the purpose of making grants under this section there are hereby authorized to be appropriated $2,000,000 for the fiscal year ending June 30, 1970, $10,000,000 for the fiscal year ending June 30, 1971, $16,000,000 for the fiscal year ending June 30, 1972, and $26,000,000 for each of the succeeding fiscal years ending prior to July 1, 1974."

TITLE II—AMENDMENTS TO PUBLIC LAWS 815 AND 874 OF THE EIGHTY-FIRST CONGRESS (IMPACTED AREAS PROGRAMS)

EXTENSION OF THE IMPACTED AREAS PROGRAMS

SEC. 201. (a)(1) Section 3 of the Act of September 30, 1950 (Public Law 815, Eighty-first Congress), is amended by striking out "June 30, 1970" and inserting in lieu thereof "June 30, 1974".

(2) Section 15(15) of such Act is amended by striking out "1965–1966" and inserting in lieu thereof "1969–1970".

(b) Sections 2(a), 3(b), and 4(a) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), are each amended by striking out "1970" wherever it appears and inserting in lieu thereof "1974".

(c) Section 16(a)(1)(A) of the Act of September 23, 1950 (Public Law 815, Eighty-first Congress), and section 7(a)(1)(A) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), are each amended by striking out "July 1, 1970" and inserting in lieu thereof "July 1, 1974".

CERTAIN REFUGEE CHILDREN

SEC. 202. (a) Section 3(b) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) is amended by striking out the second sentence and inserting in lieu thereof the following: "In the case of fiscal years ending prior to July 1, 1974, the Commissioner shall also determine the number of children (other than children to whom subsection (a) or any other provision of this subsection applies) who were in average daily attendance at the schools of a local educational agency and for whom such agency provided free public education, during such fiscal year, and who, while in attendance at such schools resided with a parent who was, at any time during the three-year period immediately preceding the fiscal year for which the determination is made, a refugee who meets the requirements of section 2(b)(3)(A) and (B) of the Migration and Refugee Assistance Act of 1962.".

(b) Section 3(c)(2) of such Act is amended (1) by inserting before "subsection (b)" both times it appears the following: "the first sentence of", and (2) by inserting after "to whom such subsection" the following: "or such sentence".

(c) Section 3(c) of such Act is amended by inserting after paragraph (2) the following new paragraph:

"(3) No local educational agency shall be entitled to receive any payment for a fiscal year with respect to a number of children determined under the second sentence of subsection (b) unless the number of children who were in average daily attendance to whom such sentence applies amounts to 20 per centum or more of the number of children who were in average daily attendance during such year and for whom such agency provided free public education, but in determining the number of such children under such second sentence no child shall be counted with respect to whose education a payment was made under section 2(b)(4) of the Migration and Refugee Assistance Act of 1962."

INCLUSION OF CHILDREN RESIDING IN LOW-RENT PUBLIC HOUSING AS FEDERALLY CONNECTED CHILDREN

SEC. 203. (a)(1) The second sentence of section 15(1) of the Act of September 23, 1950 (Public Law 815, Eighty-first Congress), is amended by striking out "and (B)" and inserting in lieu thereof "(B) and low-rent housing (whether or not owned by the United States) which is part of a low-rent housing project assisted under the United States Housing Act of 1937, and (C)".

(2) The fourth sentence of such section 15(1) is amended (A) by striking out the comma before "(B)" and inserting in lieu thereof "and", and (B) by striking out all that follows "postal services" and inserting in lieu thereof a period.

(3) Section 5(c) of such Act is amended by striking out all that follows the word "agency" and inserting in lieu thereof a period and by inserting at the end thereof the following new sentence: "In determining the eligibility of a local educational agency under this subsection and in determining the number of federally connected children who are in the average daily membership of the schools of such agency during a base year and in estimating the increase since the base year in the number of such children under subsection (a), children residing on any housing property (whether or not owned by the United States), which is part of a low-rent housing project assisted under the United States Housing Act of 1937, shall not be considered as having been federally connected during the base year if such housing project was begun after the base year 1964–1965.".

(b)(1) The second sentence of section 303(1) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), is amended by striking out ", and (C)" and inserting in lieu thereof ", (C) any low-rent housing (whether or not owned by the United States) which is a part of a low-rent housing project assisted under the United States Housing Act of 1937, section 516 of the Housing Act of 1949, or part B of title III of the Economic Opportunity Act of 1964, and (D)".

(2) The fourth sentence of such section 303(1) is amended by striking out "(A) any real property used for a labor supply center, labor home or labor camp for migratory workers, (B)" and by striking out all that follows "postal services" and inserting in lieu thereof a period.

(c)(1) The amendments made by subsections (a) and (b) shall be effective after June 30, 1970.

(2) For the purposes of section 5 of such Act of September 23, 1950, the number of children in the membership of a local educational agency residing in a low-rent housing project assisted under the United States Housing Act of 1937 during the years of the base period preceding the effective date provided in paragraph (1) shall be determined by the Commissioner on the basis of estimates.

(3) Notwithstanding any other provision of law to the contrary, unless enacted after the enactment of this Act specifically in limitation of the provision of this paragraph, if the sums appropriated for any fiscal year ending after June 30, 1970, and prior to July 1, 1972, for payments to local educational agencies under sections 2, 3, and 4(a) of title I of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), are not sufficient to pay in full the total maximum amounts which the Commissioner estimates for which all local educational agencies are eligible to receive under such sections 2, 3, and 4(a) for that fiscal year, the Commissioner shall allocate such sums under subparagraphs (A) and (B) as follows:

(A) He shall first allocate such sums appropriated for any such fiscal year among such sections 2, 3, and 4(a) in the proportion that he estimates to be required under each such section bears to the total amount estimated to be required under all such sections, except that—

(i) for the purpose of estimating the amount to be required under such section 3, he shall not take into consideration any portion of the amount for which a local educational agency is eligible which is attributable to determinations of children residing in low-rent housing which is part of a low-rent housing project assisted under the United States Housing Act of 1937, section 516 of the Housing Act of 1949, or part B of title

IV of the Economic Opportunity Act of 1964; and

(ii) no local educational agency shall receive a payment under this subparagraph (A) which is in excess of the payment it received under such sections 2, 3, and 4(a) for sums appropriated for payments under such sections for the fiscal year ending June 30, 1970.

(B) He shall then allocate any remaining part of such sums appropriated for any such fiscal year among such sections 2, 3, and 4(a) for payments to local educational agencies which are eligible for payments in excess of the amounts they receive under the allocation provided in subparagraph (A), in the proportion that such remaining part of such sums bears to the amount he estimates to be sufficient to pay local educational agencies the total maximum amount for which they are eligible under all such sections.

MINIMUM ELIGIBILITY REQUIREMENT FOR PUBLIC LAW 815

SEC. 204. (a) (1) Section 5(c) of the Act of September 23, 1950 (Public Law 815, Eighty-first Congress), is amended by striking out the colon and "Provided, That" and inserting in lieu thereof a period and the following: "For the purpose of this subsection,".

(2) The first sentence of section 5(c) of such Act is amended to read as follows:

"(c) A local educational agency shall not be eligible to have any amount included in its maximum by reason of paragraph (1), (2), or (3) of subsection (a) unless the increase in children referred to in such paragraph, prior to the application of the limitation in subsection (d) is at least twenty and—

"(1) in the case of paragraph (1) or (2), is—

"(A) equal to at least 6 per centum of the number of all children who were in the average daily membership of the schools of such agency during the base year, or

"(B) at least one thousand five hundred, whichever is the lesser; and

"(2) in the case of paragraph (3), is—

"(A) equal to at least 10 per centum of the number of all children who were in the average daily membership of the schools of such agency during the base year, or

"(B) at least two thousand five hundred, whichever is the lesser: *Provided*, That no local educational agency shall be regarded as eligible under this paragraph (2) unless the Commissioner finds that the construction of additional minimum school facilities for the number of children in such increase will impose an undue financial burden on the taxing and borrowing authority of such agency."

(b) Section 5(d) of such Act is amended by inserting before the period at the end of the first sentence thereof the following: ", except that the number of children counted for the purposes of paragraph (1) or (2) of subsection (a) shall not be reduced by more than one thousand five hundred, and that the number of children counted for the purposes of paragraph (3) of subsection (a) shall not be reduced by more than two thousand five hundred".

SCHOOL CONSTRUCTION ASSISTANCE WHERE THE IMMUNITY OF CERTAIN FEDERAL PROPERTY FROM TAXATION CREATES A SUBSTANTIAL AND CONTINUING IMPAIRMENT OF THE ABILITY TO FINANCE NEEDED SCHOOL FACILITIES

SEC. 205. (a) Section 14 of the Act of September 23, 1950 (Public Law 815, Eighty-first Congress), is amended by redesignating subsections (c), (d), (e), and (f) of such subsection, and all references thereto, as subsections (d), (e), (f), and (g), respectively, and inserting after subsection (b) the following new subsection:

"(c) If the Commissioner determines with respect to any local educational agency—

"(1) that (A) such agency is providing or, upon completion of the school facilities for which provision is made herein, will provide, free public education for children who are inadequately housed by minimum school facilities and whose membership in the schools of such agency has not formed and will not form the basis for payments under other provisions of this Act, and (B) the total number of such children represents a substantial percentage of the total number of children for whom such agency provides free public education, and (C) Federal property constitutes a substantial part of the school district of such agency.

"(2) that the immunity of such Federal property from taxation by such agency has created a substantial and continuing impairment of such agency's ability to finance needed school facilities,

"(3) that such agency is making a reasonable tax effort and is exercising due diligence in availing itself of State and other financial assistance for the purpose, and

"(4) that such agency does not have sufficient funds available to it from other Federal, State, and local sources to provide the minimum school facilities required for free public education of a substantial percentage of the children in the membership of its schools,

he may provide the assistance necessary to enable such agency to provide minimum school facilities for children in the membership of the schools of such agency whom the Commissioner finds to be inadequately housed, upon such terms and conditions, and in such amounts (subject to the applicable provisions of this section) as the Commissioner may consider to be in the public interest. Such assistance may not exceed the portion of the cost of such facilities which the Commissioner estimates has not been, and is not to be, recovered by the local educational agency from other sources, including payments by the United States under any other provisions of this Act or any other law. Notwithstanding the provisions of this subsection, the Commissioner may waive the percentage requirement in paragraph (1) whenever, in his judgment, exceptional circumstances exist which make such action necessary to avoid inequity and avoid defeating the purposes of this subsection."

DECLARATION OF POLICY WITH RESPECT TO SCHOOL CONSTRUCTION ASSISTANCE FOR INDIAN CHILDREN

SEC. 206. Section 14 of the Act of September 23, 1950 (Public Law 815, Eighty-first Congress), relating to public schools with children residing on Indian lands, is further amended by inserting at the end thereof the following:

"(h) It is hereby declared to be the policy of the Congress that the provision of assistance pursuant to subsections (a) and (b) of this section shall be given a priority at least equal to that given to payments made pursuant to section 10 of this Act."

TITLE III—AMENDMENTS TO THE ADULT EDUCATION ACT OF 1966

EXTENSION AND REVISION OF THE ADULT EDUCATION ACT OF 1966

SEC. 301. Effective on and after July 1, 1969, title III of the Elementary and Secondary Education Amendments of 1966 (the Adult Education Act of 1966) is amended to read as follows:

"TITLE III—ADULT EDUCATION

"SHORT TITLE

"SEC. 301. This title may be cited as the 'Adult Education Act'.

"STATEMENT OF PURPOSE

"SEC. 302. It is the purpose of this title to expand educational opportunity and encourage the establishment of programs of adult public education that will enable all adults to continue their education to at least the level of completion of secondary school and make available the means to secure training that will enable them to become more employable, productive, and responsible citizens.

"DEFINITIONS

"SEC. 303. As used in this title—

"(a) The term 'adult' means any individual who has attained the age of sixteen.

"(b) The term 'adult education' means services or instruction below the college level (as determined by the Commissioner), for adults who—

"(1) do not have a certificate of graduation from a school providing secondary education and who have not achieved an equivalent level of education, and

"(2) are not currently required to be enrolled in schools.

"(c) The term 'adult basic education' means adult education for adults whose inability to speak, read, or write the English language constitutes a substantial impairment of their ability to get or retain employment commensurate with their real ability, which is designed to help eliminate such inability and raise the level of education of such individuals with a view to making them less likely to become dependent on others, to improving their ability to benefit from occupational training and otherwise increasing their opportunities for more productive and profitable employment, and to making them better able to meet their adult responsibilities.

"(d) The term 'Commissioner' means the Commissioner of Education.

"(e) The term 'local educational agency' means a public board of education or other public authority legally constituted within a State for either administrative control or direction of public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools, except that, if there is a separate board or other legally constituted local authority having administrative control and direction of adult education in public schools therein, such term means such other board or authority.

"(f) The term 'State' includes the District of Columbia, and (except for the purposes of section 305(a)) the Commonwealth of Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Virgin Islands.

"(g) The term 'State educational agency' means the State board of education or other agency or officer primarily responsible for the State supervision of public elementary and secondary schools, or if there is a separate State agency or officer primarily responsible for supervision of adult education in public schools then such agency or officer may be designated for the purpose of this title by the Governor or by State law. If no agency or officer qualifies under the preceding sentence, such term shall mean an appropriate agency or officer designated for the purposes of this title by the Governor.

"(h) The term 'academic education' means the theoretical, the liberal, the speculative, and classical subject matter found to compose the curriculum of the public secondary school.

"(i) The term 'institution of higher education' means any such institution as defined by section 801(e) of the Elementary and Secondary Education Act of 1965.

"GRANTS TO STATES FOR ADULT EDUCATION

"SEC. 304. (a) From the sums appropriated pursuant to section 314, not less than 10 per centum nor more than 20 per centum shall be reserved for the purposes of section 309.

"(b) From the remainder of such sums, the Commissioner is authorized to make grants to States, which have State plans approved by him under section 306 for the purposes of this section, to pay the Federal share of the cost of (1) the establishment

or expansion of adult basic education programs to be carried out by local educational agencies and private nonprofit agencies, and (2) the establishment or expansion of adult education programs to be carried out by local educational agencies and private nonprofit agencies.

"ALLOTMENT FOR ADULT EDUCATION

"SEC. 305. (a) From the sums available for purposes of section 304(b) for any fiscal year, the Commissioner shall allot (1) not more than 2 per centum thereof among Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Virgin Islands according to their respective needs for assistance under such section, and (2) $150,000 to each State. From the remainder of such sums he shall allot to each State an amount which bears the same ratio to such remainder as the number of adults who do not have a certificate of graduation from a school providing secondary education (or its equivalent) and who are not currently required to be enrolled in schools in such State bears to the number of such adults in all States.

"(b) The portion of any State's allotment under subsection (a) for a fiscal year which the Commissioner determines will not be required, for the period such allotment is available, for carrying out the State plan approved under this title shall be available for reallotment from time to time, on such dates during such period as the Commissioner shall fix, to other States in proportion to the original allotments to such States under subsection (a) for such year, but with such proportionate amount for any of such other States being reduced to the extent it exceeds the sum which the Commissioner estimates such State needs and will be able to use for such period for carrying out its State plan approved under this title, and the total of such reductions shall be similarly reallotted among the States whose proportionate amounts are not so reduced. Any amount reallotted to a State under this subsection during a year shall be deemed part of its allotment under subsection (a) for such year.

"STATE PLANS

"SEC. 306. (a) Any State desiring to receive its allotment of Federal funds for any grant under this title shall submit through its State educational agency a State plan. Such State plan shall be in such detail as the Commissioner deems necessary, and shall—

"(1) set forth a program for the use of grants, in accordance with section 304(b), which affords assurance of substantial progress, with respect to all segments of the adult population and all areas of the State, toward carrying out the purposes of such section;

"(2) provide for the administration of such plan by the State educational agency;

"(3) provide for cooperative arrangements between the State educational agency and the State health authority authorizing the use of such health information and services for adults as may be available from such agencies and as may reasonably be necessary to enable them to benefit from the instruction provided pursuant to this title;

"(4) provide for grants to public and private non-profit agencies for special projects, teacher-training and research;

"(5) provide for cooperation with Community Action programs, Work Experience programs, VISTA, Work Study, and other programs relating to the anti-poverty effort;

"(6) provide that such agency will make such reports to the Commissioner, in such form and containing such information, as may reasonably be necessary to enable the Commissioner to perform his duties under this title and will keep such records and afford such access thereto as the Commissioner finds necessary to assure the correctness and verification of such reports;

"(7) provide such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid the State under this title (including such funds paid by the State to local educational agencies and private nonprofit agencies);

"(8) provide that special emphasis be given to adult basic education programs except where such needs can be shown to have been met in the State; and

"(9) provide such further information and assurances as the Commissioner may by regulation require.

"(b) The Commissioner shall not finally disapprove any State plan submitted under this title, or any modification thereof, without first affording the State educational agency reasonable notice and opportunity for a hearing.

"PAYMENTS

"SEC. 307. (a) Except as provided in subsection (b), the Federal share of expenditures to carry out a State plan shall be paid from a State's allotment available for grants to such State. The Federal share for each State shall be 90 per centum, except that with respect to the Trust Territory of the Pacific Islands such Federal share shall be 100 per centum.

"(b) No payment shall be made to any State from its allotment for any fiscal year unless the Commissioner finds that the amount available for expenditure by such State for adult education from non-Federal sources for such year will be not less than the amount expended for such purposes from such sources during the preceding fiscal year, but no State shall be required to use its funds to supplant any portion of the Federal share.

"OPERATION OF STATE PLANS; HEARINGS AND JUDICIAL REVIEW

"SEC. 308. (a) Whenever the Commissioner after reasonable notice and opportunity for hearing to the State educational agency administering a State plan approved under this title, finds that—

"(1) the State plan has been so changed that it no longer complies with the provisions of section 306, or

"(2) in the administration of the plan there is a failure to comply substantially with any such provision, the Commissioner shall notify such State agency that no further payments will be made to the State under this title (or in his discretion, that further payments to the State will be limited to programs under or portions of the State plan not affected by such failure), until he is satisfied that there will no longer be any failure to comply. Until he is so satisfied, no further payments may be made to such State under this title (or payments shall be limited to programs under or portions of the State plan not affected by such failure).

"(b) A State educational agency dissatisfied with a final action of the Commissioner under section 306 or subsection (a) of this section may appeal to the United States court of appeals for the circuit in which the State is located, by filing a petition with such court within sixty days after such final action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Commissioner or any officer designated by him for that purpose. The Commissioner thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code. Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Commissioner or to set it aside, in whole or in part, temporarily or permanently, but until the filing of the record, the Commissioner may modify or set aside his order. The findings of the Commissioner as to the facts, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Commissioner to take further evidence, and the Commissioner may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence. The judgment of the court affirming or setting aside, in whole or in part, any action of the Commissioner shall be final, subject to the review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code. The commencement of proceedings under this subsection shall not unless so specifically ordered by the court operate as a stay of the Commissioner's action.

"SPECIAL EXPERIMENTAL DEMONSTRATION PROJECTS AND TEACHER TRAINING

"SEC. 309. (a) The sums reserved in section 304(a) for the purposes of this section shall be used for making special project grants or providing teacher-training grants in accordance with this section.

"(b) The Commissioner is authorized to make grants to local educational agencies or other public or private non-profit agencies, including educational television stations, for special projects which will be carried out in furtherance of the purposes of this title, and which—

"(1) involve the use of innovative methods, systems, materials, or programs which the Commissioner determines may have national significance or be of special value in promoting effective programs under this title, or

"(2) involve programs of adult education, carried out in cooperation with other Federal, federally assisted, State, or local programs which the Commissioner determines have unusual promise in promoting a comprehensive or coordinated approach to the problems of persons with educational deficiencies.

The Commissioner shall establish procedures for making grants under this subsection which shall require a non-Federal contribution of at least 10 per centum of the costs of such projects wherever feasible and not inconsistent with the purposes of this subsection.

"(c) The Commissioner is authorized to make provision for training persons engaged, or preparing to engage, as personnel in adult education programs designed to carry out the purposes of this title, including the payment of such stipends and allowances (including traveling and subsistence expenses, if any, for such persons and their dependents) as the Commissioner may determine by regulation. The Commissioner may provide such training directly or by contract or he may provide for such training by making grants to institutions of higher education, State or local educational agencies, or other appropriate public or private agencies or organizations.

"NATIONAL ADVISORY COUNCIL ON ADULT EDUCATION

"SEC. 310. (a) The President shall appoint a National Advisory Council on Adult Education (hereinafter in this section referred to as the 'Council').

"(b) The Council shall consist of fifteen members who shall, to the extent possible, include persons knowledgeable in the field of adult education, State and local public school officials, and other persons having special knowledge and experience, or qualifications with respect to adult education, and persons representative of the general public. The Council shall meet initially at the call of the Commissioner and elect from its number a chairman. The Council will thereafter meet at the call of the chairman, but not less often than twice a year.

"(c) The Council shall advise the Commissioner in the preparation of general regulations and with respect to policy matters arising in the administration of this title, including policies and procedures governing the

approval of State plans under section 306 and policies to eliminate duplication, and to effectuate the coordination of programs under this title and other programs offering adult education activities and services.

"(d) The Council shall review the administration and effectiveness of programs under this title, make recommendations with respect thereto, and make annual reports to the President of its findings and recommendations (including recommendations for changes in this title and other Federal laws relating to adult education activities and services). The President shall transmit each such report to the Congress together with his comments and recommendations. The Secretary of Health, Education, and Welfare shall coordinate the work of the Council with that of other related advisory councils.

"STATE ADVISORY COUNCILS ON ADULT EDUCATION

"SEC. 311. (a)(1) Any State which desires to receive a grant under this title for any fiscal year shall establish a State Advisory Council on Adult Education (hereinafter in this section referred to as a State Council), consisting of fifteen members, which shall be appointed by the Governor or, in the case of States in which the members of the State educational agency are elected (including election by the legislature), by such agency. A State Council shall be, through its services outlined in clauses (C), (D), and (E) of this subsection, directly responsible to the State educational agency. A State Council shall—

"(A) include as members a person or persons—

"(i) familiar with adult public education needs,

"(ii) representative of higher education or community and junior colleges,

"(iii) representative of elementary and secondary education, and

"(iv) familiar with programs of adult education and adult basic education, including programs in comprehensive secondary schools.

"(B) to the extent feasible, include representation from—

"(i) school systems with large concentrations of disadvantaged children,

"(ii) the Comprehensive Area Manpower Planning System of the State, and

"(iii) persons knowledgeable about the problems of the poor and disadvantaged.

"(C) advise the State educational agency on the development of policy matters arising in the administration of the State plan submitted pursuant to section 306;

"(D) provide for an evaluation of adult education programs, services, and activities in the State assisted under this title, and provide the results of such evaluation to the State education agency for publication and dissemination to the public;

"(E) prepare and submit through the State educational agency to the Commissioner and to the National Advisory Council on Adult Education an annual evaluation report, accompanied by such additional comments as the State Council deems appropriate, which (i) evaluate the effectiveness of adult education programs, services, and activities carried out in the year under review in meeting the program objectives set forth in section 302, and (ii) recommend such changes in such programs, services, and activities as may be warranted by the evaluations.

"(2) Not less than ninety days prior to the beginning of any fiscal year ending after June 30, 1970, in which a State desires to receive a grant under this title, such State shall certify the establishment of, and membership of, its State Council to the Commissioner.

"(3) Each State Council shall meet within thirty days after certification has been accepted by the Commissioner and select from its membership a chairman. The time, place, and manner of meeting shall be as provided by such Council, except that such rules shall provide for not less than one public meeting each year at which the public is given opportunity to express views concerning adult education.

"(b) From the sums appropirated pursuant to section 314 for any fiscal year, the Commissioner is authorized (in accordance with regulations to pay to each State on behalf of each State Council an amount equal to the total of the reasonable amounts expended by it in carrying out its functions under this title in such fiscal year, except that the amount available for such purpose shall be equal to 0.5 per centum of the State's allotment under section 305 for such year, but such amount shall not exceed $75,000 or less than $25,000.

"LOCAL ADVISORY COMMITTEES

"SEC. 312. The National and State Advisory Councils on Adult Education are authorized to encourage the establishment of, or appointment of existing groups as, local adult education advisory committees in order to improve reporting of State and local administration of programs under this title, and to assure that the local program is meeting the needs of the community.

"LIMITATION

"SEC. 313. No grant may be made under this title for any educational program, activity, or service related to sectarian instruction or religious worship, or provided by a school or department of divinity. For purposes of this section, the term 'school or department of divinity' means an institution or a department or branch of an institution whose program is specifically for the education of students to prepare them to become ministers of religion or to enter upon some other religious vocation, or to prepare them to teach theological subjects.

"APPROPRIATIONS AUTHORIZED

"SEC. 314. (a) There are authorized to be appropriated $160,000,000 for the fiscal year ending June 30, 1970, $200,000,000 for the fiscal year ending June 30, 1971, $225,000,000 for each of the fiscal years ending June 30, 1972, and June 30, 1973, and $250,000,000 for the fiscal year ending June 30, 1974, for the purposes of this title.

"(b) There are further authorized to be appropriated for each such fiscal year such sums, not to exceed 7½ per centum of the amount appropriated pursuant to subsection (a) for such year, as may be necessary to pay the cost of the administration and development of State plans, the activities of advisory councils created under this title, and other activities required pursuant to this title."

APPOINTMENT OF MEMBERS OF NATIONAL ADVISORY COUNCIL ON ADULT EDUCATION

SEC. 302. Members of the National Advisory Council on Adult Education shall be appointed within ninety days after the date of enactment of this Act.

TITLE IV—AMENDMENTS TO TITLE IV OF PUBLIC LAW 90-247

GENERAL PROVISIONS

SEC. 401. (a) Title IV of the Elementary and Secondary Education Amendments of 1967 is amended in the following respects:

(1) The heading of such title is amended to read as follows: "TITLE IV—GENERAL PROVISIONS CONCERNING EDUCATION";

(2) Section 401 of such title is amended—

(A) by adding at the end of the caption head "; DEFINITIONS; APPROPRIATIONS; SHORT TITLE", and

(B) by inserting "(a)" after "SEC. 401." and adding at the end thereof the following new subsections:

"(b) For the purposes of this title, the term—

"(1) 'Commissioner' means the Commissioner of Education;

"(2) 'Secretary' means the Secretary of Health, Education, and Welfare; and

"(3) 'applicable program' means a program to which this title is applicable.

"(c) There are hereby authorized to be appropriated for any fiscal year, as part of the appropriations for salaries and expenses for the Office of Education, such sums as the Congress may determine to be necessary to carry out the provisions of this title.

"(d) This title may be cited as the 'General Education Provisions Act'."

(3) Sections 402, 404, and 405 of such title are each amended by striking out "Secretary" wherever it appears and inserting in lieu thereof "Commissioner";

(4) Section 402 of such title is amended—

(A) by striking out "title or Act referred to in section 401" and inserting in lieu thereof "applicable program";

(B) by striking out "programs or projects authorized under such title or Act" and inserting in lieu thereof "for any such program";

(C) by striking out "programs or projects so authorized" and inserting in lieu thereof "any such program"; and

(D) by striking out "There are authorized to be appropriated" and inserting in lieu thereof "Sums appropriated pursuant to section 401(c) may include";

(5) Effective after June 30, 1970, section 402 of such title is further amended—

(A) by inserting "(a)" after "SEC. 402.";

(B) by striking out "(1)" before "planning", and striking out "and (2) evaluation of any such program"; and

(C) by inserting the following new subsection at the end of such section:

"(b) Such portion as the Commissioner may determine, but not more than 1 per centum, of any appropriation for grants, contracts, or other payments under any applicable program for any fiscal year shall be available to him for evaluation (directly or by grants or contracts) of any such program, and, in the case of allotments or entitlements from any such appropriation, the amount available for allotment shall be reduced accordingly. Such evaluations as are conducted by the Commissioner shall be conducted at the direction of and under a plan approved by the Secretary. To the extent that the Secretary determines that evaluations may appropriately be carried out (directly or by grants or contracts) by the Office of the Secretary, funds available pursuant to this subsection shall be transferred and be available to that Office for that purpose."

(6) Section 403 of such title is amended by striking out "Act referred to in section 401" and inserting in lieu thereof "applicable program" and by striking out "under any such Act" and inserting in lieu thereof "under such program";

(7) Sections 404 and 405 of such title are amended by striking out "Act referred to in section 401" and inserting in lieu thereof "applicable program";

(8) Section 404 of such title is amended—

(A) in the caption head thereof, by striking out "AND" and inserting in lieu thereof a semicolon and by inserting "; CONTINGENT EXTENSION OF EXPIRING APPROPRIATION AUTHORITY" at the end thereof; and

(B) by inserting at the end thereof the following new subsection:

"(c) Unless the Congress, in the regular session in which a comprehensive evaluation report required by subsection (b) is submitted to Congress, has passed or formally rejected legislation extending the authorization for appropriations then specified for any title, part, or section of law to which such evaluation relates, such authorization is hereby automatically extended, at the level specified for the terminal year of such authorization for one fiscal year beyond such terminal year, as specified in such legislation."

(9) Section 405 of such title is amended by inserting "loans," after "grants,".

(10) Section 406 of such title is amended

by inserting "and expenditure" after "obligation";

(11) Such title is further amended by inserting after section 401 the following heading: "PART A—APPROPRIATIONS AND EVALUATIONS" and by adding at the end thereof the following new parts:

"PART B—GENERAL REQUIREMENTS AND CONDITIONS CONCERNING THE OPERATION AND ADMINISTRATION OF EDUCATION PROGRAMS; GENERAL AUTHORITY OF THE COMMISSIONER OF EDUCATION

"SUBPART 1—GENERAL AUTHORITY

"DELEGATION OF AUTHORITY; UTILIZATION OF OTHER AGENCIES

"SEC. 411. (a) The Commissioner is authorized to delegate any of his functions under any applicable program except the making of regulations and the approval of State plans, to any officer or employee of the Office of Education.

"(b) In administering any applicable program, the Commissioner is authorized to utilize the services and facilities of any agency of the Federal Government and of any other public or nonprofit agency or institution in accordance with appropriate agreements, and to pay for such services either in advance or by way of reimbursement, as may be agreed upon.

"COLLECTION AND DISSEMINATION OF INFORMATION

"SEC. 412. (a) The Commissioner shall—

"(1) prepare and disseminate to State and local educational agencies and institutions information concerning applicable programs and cooperate with other Federal officials who administer programs affecting education in disseminating information concerning such programs;

"(2) inform the public on federally supported education programs;

"(3) collect data and information on applicable programs for the purpose of obtaining objective measurements of the effectiveness of such programs in achieving their purposes; and

"(4) prepare and publish an annual report to be referred to as 'the Commissioner's report' on (A) the condition of education in the nation, (B) developments in the administration, utilization, and impact of applicable programs, (C) results of investigations and activities by the Office of Education, and (D) such facts and recommendations as will serve the purpose for which the Office of Education is established (as set forth in section 516 of the Revised Statutes (20 U.S.C. 1)).

"(b) The Commissioner's annual report shall be submitted to the Congress not later than March 31 of each calendar year. The Commissioner's annual report shall be made available to State and local educational agencies and other appropriate agencies and institutions and to the general public.

"(c) The Commissioner is authorized to enter into contracts with public or private agencies, organizations, groups, or individuals to carry out the provisions of this section.

"CATALOG OF FEDERAL EDUCATION ASSISTANCE PROGRAMS

"SEC. 413. The Commissioner shall prepare and make available in such form as he deems appropriate a catalog of all Federal education assistance programs whether or not such programs are administered by him. The catalog shall—

"(1) identify each such program, and include the name of the program, the authorizing statute, the specific Federal administering officials, and a brief description of such program;

"(2) set forth the availability of benefits and eligibility restrictions in each such program;

"(3) set forth the budget requests for each such program, past appropriations, obligations incurred, and pertinent financial information indicating (A) the size of each such program for selected fiscal years, and (B) any funds remaining available;

"(4) set forth the prerequisites, including the cost to the recipient, of receiving assistance under each such program, and any duties required of the recipient after receiving benefits;

"(5) identify appropriate officials, in Washington, District of Columbia, as well as in each State and locality (if applicable), to whom application or reference for information for each such program may be made;

"(6) set forth the application procedures;

"(7) contain a detailed index designed to assist the potential beneficiary in identifying all education assistance programs related to a particular need or category of potential beneficiaries;

"(8) contain such other program information and data as the Commissioner deems necessary or desirable in order to assist the potential program beneficiary to understand and take advantage of each Federal education assistance program; and

"(9) be transmitted to Congress with the Commissioner's annual report.

"TECHNICAL ASSISTANCE

"SEC. 414. (a) For the purpose of carrying out more effectively Federal education programs, the Commissioner is authorized, upon request, to provide advice, counsel, and technical assistance to State educational agencies, institutions of higher education, and, with the approval of the appropriate State educational agency, elementary and secondary schools—

"(1) in determining benefits available to them under Federal law;

"(2) in preparing applications for, and meeting requirements of, applicable programs;

"(3) in order to enhance the quality, increase the depth, or broaden the scope of activities under applicable programs; and

"(4) in order to encourage simplification of, and, in the case of applications under section 415, to facilitate the consolidation of, applications, reports, evaluations, and other administrative procedures.

"(b) The Commissioner is further authorized, upon application, to permit State and local educational agencies to use organized and systematic approaches in determining cost allocation, collection, measurement and reporting under any applicable program. An application under this subsection shall not be approved by the Commissioner unless he determines (1) that the use of such approaches will not in any manner lessen the effectiveness and impact of such program in achieving purposes for which it is intended, (2) that, in the case of a State educational agency, the organization of such agency is designed to carry out effectively the program or programs for which application is made, (3) that the application includes such procedures as will insure adequate evaluation of each of the programs involved, and (4) that the application is consistent with criteria prescribed by the Comptroller General of the United States for the purposes of audit.

"(c) The Commissioner's annual report shall contain a statement of the Commissioner's activities under this section.

"CONSOLIDATION OF STATE ADMINISTRATION FUNDS

"SEC. 415. (a) Notwithstanding any other provision of law, the Commissioner may, for any fiscal year ending prior to July 1, 1974, upon application of a State educational agency administering, or supervising the administration of, any applicable program, except the programs authorized by title I of the Elementary and Secondary Education Act of 1965 and the Education of the Handicapped Act, make a consolidated grant of Federal funds available for administration, by such agency, of any two or more such programs. Nothing in this subsection shall be construed to authorize the inclusion of Federal funds available for State advisory council activities in any such consolidated grant.

"(b) Funds paid under such a consolidated grant may be expended by a State educational agency only for the proper and efficient administration of the programs to which such funds relate but such agency shall not be required to account for the expenditure of such funds separately with respect to each such program.

"(c) The Commissioner shall not approve an application pursuant to subsection (a), unless he finds that the State educational agency making the application is prepared properly and efficiently to administer all of the programs with respect to the administration of which such application relates. Such agency shall undertake to provide such reports, in such form, and containing such information as the Commissioner may reasonably require to carry out his functions under this section, and to keep such records and afford such access thereto as the Commissioner may find necessary to assure the correctness and verification of such reports and the proper expenditure of Federal funds.

"PARENTAL INVOLVEMENT AND DISSEMINATION

"SEC. 416. In the case of any applicable program in which the Commissioner determines that parental and community participation at the State or local level would increase the effectiveness of the program in achieving its purposes, he shall promulgate regulations with respect to such program setting forth criteria designed to encourage such participation. If the program for which such determination provides for payments to local educational agencies, applications for such payments shall—

"(1) set forth such policies and procedures as will ensure that programs and projects assisted under the application have been planned and developed, and will be operated, in consultation with, and with the involvement of, parents of the children, and representatives of the area, to be served by such programs and projects;

"(2) be submitted only after interested persons (as defined by regulation) have had an opportunity to present their views with respect to the application; and

"(3) set forth policies and procedures for adequate dissemination of program plans and evaluations to interested parties and the public.

"USE OF FUNDS WITHHELD FOR FAILURE TO COMPLY WITH OTHER PROVISIONS OF FEDERAL LAW

"SEC. 417. At any time that the Commissioner establishes an entitlement, or makes an allotment or reallotment to any State, under any applicable program, he shall reduce such entitlement, allotment or reallotment by such amount as he determines it would have been reduced, had the data on which the entitlement, allotment or reallotment is based excluded all data relating to local educational agencies of the State which on the date of the Commissioner's action are ineligible to receive the Federal financial assistance involved because of a failure to comply with title VI of the Civil Rights Act of 1964. Any appropriated funds which will not be paid to a State as a result of the preceding sentence may be used by the Commissioner for grants to local educational agencies of that State in accordance with section 405 of the Civil Rights Act of 1964.

"AUTHORITY TO FURNISH INFORMATION

"SEC. 418. (a) The Commissioner is authorized to furnish transcripts or copies of tables and other records of the Office of Education to, and to make special statistical compilations and surveys for, State or local officials, private organizations, or individuals upon the payment of the actual, or estimated, cost

of such work. In the case of nonprofit organizations or agencies the Commissioner may engage in joint statistical projects, the cost of which shall be shared equitably as determined by the Commissioner, provided that the purposes are otherwise authorized by law.

"(b) In no case shall information furnished under the authority of this section be used to the detriment of the persons or organizations to whom such information relates.

"(c) All moneys received in payment for work or sevices enumerated under this section shall be deposited in a separate account which may be used to pay directly the costs of such work or services, to repay appropriations which initially bore all or part of such costs, or to refund excess sums when necessary.

"SUBPART 2—ADMINISTRATION: REQUIREMENTS AND LIMITATIONS

"RULES: REQUIREMENTS AND ENFORCEMENT

"SEC. 421. (a) Rules, regulations, guidelines, or other published interpretations or orders issued by the Department of Health, Education, and Welfare or the Office of Education, or by any official of such agencies, in connection with, or affecting, the administration of any applicable program shall contain immediately following each substantive provision of such rules, regulations, guidelines, interpretations, or orders, citations to the particular section or sections of statutory law or other legal authority upon which such provision is based.

"(b) No standard, rule, regulation, or requirement of general applicability prescribed for the administration of any applicable program may take effect until thirty days after it is published in the Federal Register.

"(c) All such rules, regulations, guidelines, interpretations, or orders shall be uniformly applied and enforced throughout the fifty States.

"PROHIBITION AGAINST FEDERAL CONTROL OF EDUCATION

"SEC. 422. No provision of any law which authorizes appropriations for any applicable program (or respecting the administration of any such program), unless expressly provided for therein, shall be construed to authorize any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational institution, school, or school system, or over the selection of library resources, textbooks, or other printed or published instructional materials by any educational institution or school system, or to require the assignment or transportation of students or teachers in order to overcome racial imbalance.

"LABOR STANDARDS

"SEC. 423, Except for emergency relief under section 7 of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), all laborers and mechanics employed by contractors or subcontractors on all construction and minor remodeling projects assisted under any applicable program shall be paid wages at rates not less than those prevailing on similar construction and minor remodeling in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a—276a-5). The Secretary of Labor shall have, with respect to the labor standards specified in this section, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 and section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276c).

"RECORDS AND AUDIT

"SEC. 424. (a) Each recipient of funds from a grant or contract under any applicable program shall keep such records as the Commissioner shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such grant, the total cost of the project or undertaking in connection with which such grant or contract is given or used, and the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

"(b) The Secretary 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 the recipients that are pertinent to the grant or contract received under any applicable program.

"PAYMENTS

"SEC. 425. Payments pursuant to grants or contracts under any applicable program may be made in installments, and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments, as the Commissioner may determine.

"AUTHORITY TO VEST TITLE TO EQUIPMENT

"SEC. 426. The authority of the Commissioner of Education to make a grant to or contract with a local educational agency or State educational agency as such agencies are defined in sections 801(f) and 801(k) of the Elementary and Secondary Education Act of 1965, under any applicable program, shall include discretionary authority, whenever he determines that it would be in the public interest, to vest title to equipment purchased with grant or contract funds in such agency (or waive accountability to the United States for such equipment) without further obligation to the Government or on such terms or conditions as the Commissioner deems appropriate. The authority provided by this section shall be applicable to equipment purchased with funds provided by grants or contracts made on, before, or after the date of the enactment of this section.

"PART C—ADVISORY COUNCILS

"DEFINITIONS

"SEC. 431. As used in this part, the term—

"(1) 'advisory council' means any committee, board, commission, council, or other similar group (A) established or organized pursuant to any applicable statute, or (B) established under the authority of section 432; but such term does not include State advisory councils or commissions established pursuant to any such statute;

"(2) 'statutory advisory council' means an advisory council established by, or pursuant to, statute to advise and make recommendations with respect to the administration or improvement of an applicable program or other related matter;

"(3) 'nonstatutory advisory council, means an advisory council which is (A) established under the authority of section 432, or (B) established to advise and make recommendations with respect to the approval of applications for grants or contracts as required by statute;

"(4) 'Presidential advisory council' means a statutory advisory council, the members of which are appointed by the President;

"(5) 'Secretarial advisory council' means a statutory advisory council, the members of which are appointed by the Secretary;

"(6) 'Commissioner's advisory council' means a statutory advisory council, the members of which are appointed by the Commissioner;

"(7) 'applicable statute' means any statute (or title, part, or section thereof) which authorizes an applicable program or controls the administration of any such program.

"AUTHORIZATION FOR NECESSARY ADVISORY COUNCILS

"SEC. 432. (a) The Commissioner is authorized to create, and appoint the members of, such advisory councils as he determines in writing to be necessary to advise him with respect to—

"(1) the organization of the Office of Education and its conduct in the administration of applicable programs;

"(2) recommendations for legislation regarding education programs and the means by which the educational needs of the Nation may be met; and

"(3) special problems and areas of special interest in education.

"(b) Each advisory council created under the authority of subsection (a) shall terminate not later than one year from the date of its creation unless the Commissioner determines in writing not more than thirty days prior to the expiration of such one year that its existence for an additional period, not to exceed one year, is necessary in order to complete the recommendations or reports for which it was created.

"(c) The Commissioner shall include in his report submitted pursuant to section 438 a statement on all advisory councils created or extended under the authority of this section and their activities.

"MEMBERSHIP AND REPORTS OF STATUTORY ADVISORY COUNCILS

"SEC. 433. (a) Notwithstanding any other provision of law unless expressly in limitation of the provisions of this section, each statutory advisory council—

"(1) shall be composed of the number of members provided by statute who may be appointed, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall serve for terms of not to exceed three years, which in the case of initial members, shall be staggered; and

"(2) shall make an annual report of its activities, findings and recommendations to the Congress not later than March 31 of each calendar year, which shall be submitted with the Commissioner's annual report.

The Commissioner shall not serve as a member of any such advisory council.

"(b) If a vacancy exists in the membership of any statutory advisory council for more than thirty days the Commissioner shall submit notice of such vacancy to the Congress. If such vacancy continues longer than ninety days after such notice has been submitted to Congress, the Speaker of the House of Representatives and the President of the Senate shall, notwithstanding any other provision of law, have authority to appoint a member to fill such vacancy.

"COMPENSATION OF MEMBERS OF ADVISORY COUNCIL

"SEC. 434. Members of all advisory councils to which this part is applicable who are not in the regular full-time employ of the United States shall, while attending meetings or conferences of the advisory council or otherwise engaged in the business of the advisory council, be entitled to receive compensation at a rate fixed by the Commissioner, but not exceeding the rate specified at the time of such service for grade GS-18 in section 5332 of title 5, United States Code, including traveltime, and while so serving on the business of the advisory council away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons employed intermittently in the Government service.

"PROFESSIONAL, TECHNICAL, AND CLERICAL STAFF; TECHNICAL ASSISTANCE

"SEC. 435. (a) Presidential advisory councils are authorized to appoint, without regard to provisions of title 5, United States Code, governing appointments in the competitive service, or otherwise obtain the services of, such professional, technical, and clerical personnel as may be necessary to enable them to carry out their functions, as prescribed by law.

"(b) The Commissioner shall engage such personnel and technical assistance as may be

required to permit Secretarial and Commissioner's advisory councils to carry out their functions as prescribed by law.

"(c) Subject to regulations of the Commissioner, Presidential advisory councils are authorized to procure temporary and intermittent services of such personnel as are necessary to the extent authorized by section 3109 of title 5, United States Code, but at rates not to exceed the rate specified at the time of such service for grade GS-18 in section 5332 of such title.

"MEETINGS OF ADVISORY COUNCIL

"SEC. 436. (a) Each statutory advisory council shall meet at the call of the chairman thereof but not less than two times each year. Nonstatutory advisory councils shall meet in accordance with regulations promulgated by the Commissioner.

"(b) Minutes of each meeting of each advisory council shall be kept and shall contain a record of the persons present, a description of matters discussed and conclusions reached, and copies of all reports received, issued, or approved by the advisory council. The accuracy of all minutes shall be certified to by the chairman of the advisory council.

"AUDITING AND REVIEW OF ADVISORY COUNCIL ACTIVITIES

"SEC. 437. (a) Each statutory advisory council shall be subject to such general regulations as the Commissioner may promulgate respecting the governance of statutory advisory councils and shall keep such records of its activities as will fully disclose the disposition of any funds which may be at its disposal and the nature and extent of its activities in carrying out its functions.

"(b) The Comptroller General of the United States, or any of his duly authorized representatives, shall have access, for the purpose of audit and examination, to any books, documents, papers, and records of each statutory advisory council.

"REPORT BY THE COMMISSIONER OF EDUCATION

"SEC. 438. (a) Not later than March 31 of each calendar year after 1970, the Commissioner shall submit, as a part of the Commissioner's annual report, a report on the activities of the advisory councils which are subject to this part to the Committee on Labor and Public Welfare of the Senate and the Committee on Education and Labor of the House of Representatives. Such report shall contain, at least, a list of all such advisory councils, the names and affiliations of their members, a description of the function of each advisory council, and a statement of the dates of the meetings of each such advisory council.

"(b) If the Commissioner determines that a statutory advisory council is not needed or that the functions of two or more statutory advisory councils should be combined, he shall include in the report a recommendation that such advisory council be abolished or that such functions be combined. Unless there is an objection to such action by either the Senate or the House of Representatives within ninety days after the submission of such report, the Commissioner is authorized to abolish such advisory council or combine the functions of two or more advisory councils as recommended in such report."

(b) Sections 1207, 1208, 1209, and 1210 of the Higher Education Act of 1965 (as added by Public Law 90-575) are superseded by part A of title IV of Public Law 90-247 and are hereby repealed.

(c) The following provisions of law relating to the delegation of functions and utilization of the services of other agencies by the Office of Education are superseded by section 411 of Public Law 90-247 and are hereby repealed:

(1) The third sentence of subsection (a) of section 302 of the Act of September 30, 1950, Public Law 874, Eighty-first Congress (20 U.S.C. 243(a));

(2) Subsections (a) and (b) of section 803 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 883 (a) and (b));

(3) Subsection (a) of section 13 of the Act of September 23, 1950, Public Law 815, Eighty-first Congress (20 U.S.C. 643(a));

(4) Subsections (a) and (b) of section 1001 of the National Defense Education Act of 1958 (20 U.S.C. 581 (a), (b));

(5) Section 1203 of the Higher Education Act of 1965 (20 U.S.C. 1143);

(6) Subsections (a) and (b) of section 402 of the Higher Education Facilities Act of 1963 (20 U.S.C. 752 (a), (b));

(7) Subsection (b) of section 103 of the International Education Act of 1966 (20 U.S.C. 1174(b)); and

(d) The following provisions of law concerning dissemination of information and reports by the Commissioner of Education are superseded by sections 412, 413, and 414 of Public Law 90-247 and are hereby repealed:

(1) Section 518 of the Revised Statutes of the United States (20 U.S.C. 4);

(2) The sixth paragraph under the heading "Department of Education" in the material relating to the Department of the Interior in the Act of May 28, 1896, making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1897, and for other purposes, which authorizes the Commissioner of Education to prepare and publish a bulletin concerning the condition of education (20 U.S.C. 3);

(3) Section 303 of Public Law 90-576 (20 U.S.C. 6);

(4) Section 806 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 886); and

(5) Section 1206 of the Higher Education Act of 1965 (20 U.S.C. 1146).

(e) The following provisions of law concerning requirements for rules and regulations for education programs are superseded by section 421 of Public Law 90-247 and are hereby repealed:

(1) Section 2 of Public Law 90-247 (20 U.S.C. 888); and

(2) Section 505 of Public Law 90-575 (20 U.S.C. 1001, note).

(f) The following provisions of law concerning Federal control of education are superseded by section 422 of Public Law 90-247 and are hereby repealed:

(1) Subsection (g) of section 6 and subsection (a) of section 301 of the Act of September 30, 1950, Public Law 874, Eighty-first Congress (20 U.S.C. 241(g), 242(a));

(2) Section 102 of the National Defense Education Act of 1958 (20 U.S.C. 402);

(3) Subsection (a) of section 12 of the Act of September 23, 1950, Public Law 815, Eighty-first Congress (20 U.S.C. 642(a));

(4) Section 407 of the Higher Education Facilities Act of 1963 (20 U.S.C. 757);

(5) Section 804 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 884);

(6) Subsection (a) of section 1204 of the Higher Education Act of 1965 (20 U.S.C. 1144(a));

(7) Section 104 of the International Education Act of 1966 (20 U.S.C. 1175);

(8) Section 105 of the Vocational Education Act of 1963 (20 U.S.C. 1245).

(g) The following provisions of law concerning the payment of wages at prevailing rates on federally assisted construction projects are superseded by section 423 of Public Law 90-247 and are hereby repealed:

(1) Section 145 of title I of the Elementary and Secondary Education Act of 1965, as redesignated by this Act, (20 U.S.C. 2411);

(2) Subsection (c) of section 4 of the Act of July 26, 1954, Public Law 531, Eighty-third Congress (20 U.S.C. 332a(c));

(3) Subsection (a)(4) of section 203 of the Library Services and Construction Act (20 U.S.C. 355c(a) (4)), and subsection (a) (3) of such section is amended by striking out the semicolon and the word "and" and at the end thereof inserting in lieu thereof a period;

(4) Subsection (b)(1)(E) of section 6 and subsection (d) of section 12 of the Act of September 23, 1950, Public Law 815, Eighty-first Congress (20 U.S.C. 636(b)(1)(E), 642(d));

(5) Section 310 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 848);

(6) Section 709 (as redesignated by section 152 of this Act) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 880b-6); and

(7) Section 106 of the Vocational Education Act of 1963 (20 U.S.C. 1246).

(h) The following provisions of law concerning advisory councils and committees are superseded by part C of title IV of Public Law 90-247 and are hereby repealed:

(1) Subsection (d) of section 761 and sections 1002 and 1003 of the National Defense Education Act of 1958 (20 U.S.C. 561(d), 582, 583);

(2) Subsection (c) of section 402 of the Higher Education Facilities Act of 1963 (20 U.S.C. 752(c));

(3) Subsection (d) of section 309, subsections (c), (d), and (e) of section 510, subsection (c) of section 707, and section 802 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 847a(d), 870(c), (d) (e), 880b-5(c), 882);

(4) Subsections (d) and (e) of section 109, subsection (c) of section 205, subsection (c) of section 224, subsection (c) of section 303, subsections (c) and (d) of section 469, subsections (d) and (e) of section 502, and subsections (c) and (d) of section 1205 of the Higher Education Act of 1965 (20 U.S.C. 1009(d), (e), 1025(e), 1034(c), 1053(c), 1089(c), 1091a(d), (e), 1145(c), (d));

(5) Subsections (c) and (d) of section 106 of the International Education Act of 1966 (20 U.S.C. 1177(c), (d));

(6) Paragraph (3) of subsection (a) of section 104 of the Vocational Education Act of 1963 (20 U.S.C. 1244(a)(3)).

TITLE V—CANCELLATION AND REPAYMENT OF STUDENT LOANS FOR CERTAIN PUBLIC SERVICE

CANCELLATION OF LOANS FOR CERTAIN PUBLIC SERVICE

SEC. 501. Section 208 of the National Defense Education Act of 1958 is amended to read as follows:

"CANCELLATION OF LOANS FOR CERTAIN PUBLIC SERVICE

"SEC. 208. (a)(1) The per centum specified in paragraph (3) of the total amount of any loan made after June 30, 1970 from a student loan fund established under this title shall be canceled for each complete year of service after such date by the borrower under circumstances described in paragraph (2).

"(2) Loans shall be canceled under paragraph (1) for service—

"(A) as a full-time teacher in a public or other nonprofit elementary or secondary school in a State, in an institution of higher education, or in an elementary or secondary school overseas of the Armed Forces of the United States;

"(B) as a full-time teacher in a public or other nonprofit elementary or secondary school in the school district of a local educational agency receiving assistance under title I of the Elementary and Secondary Education Act of 1965 if such school is determined (according to criteria established by regulation which shall permit such determination with respect to not to exceed 50 per centum of such schools in any State) to be serving an attendance area in which there

is a high concentration of children from low-income families;

"(C) as a full-time teacher of handicapped children in a public or other nonprofit elementary or secondary school system;

"(D) as a full-time teacher in a program assisted under section 408 of the Higher Education Act of 1965, as defined in regulations by the Commissioner; or

"(E) as a member of the Armed Forces of the United States, and notwithstanding the provisions of paragraph (1) cancellation pursuant to this clause shall apply to loans made after the date of enactment of the Elementary and Secondary Education Amendments of 1969.

For the purposes of this paragraph, (i) the term 'handicapped children' means children who are mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, or other health-impaired children who by reason thereof require special education, and (ii) the term 'children from low-income families' means children from families with a family income which is not in excess of the low-income factor determined under section 103 of title I of the Elementary and Secondary Education Act of 1965.

"(3)(A) The per centum of a loan which shall be canceled under paragraph (1) is—

"(i) in the case of service described in paragraph (2)(A), not to exceed a total of 50 per centum of such loan at the rate of 10 per centum for each year of such service;

"(ii) in the case of service described in paragraph (2(B), (2)(C), or (2)(D), 15 per centum for the first or second year of such service, 20 per centum for the third or fourth year of such service, and 30 per centum for the fifth year of such service; and

"(iii) in the case of service described in paragraph (2)(E), not to exceed a total of 50 per centum of such loan at the rate of 12½ per centum for each year of consecutive service.

"(B) If a portion of a loan is canceled under this subsection for any year, the entire amount of interest on such loan which accrues for such year shall be canceled.

"(C) Nothing in this subsection shall be construed to authorize refunding any repayment of a loan.

"(4) For the purposes of this subsection, the term 'year' where applied to service as a teacher means academic year as defined by the Commissioner.

"(b) In addition to the payments otherwise authorized to be made pursuant to this title, the Commissioner shall pay to the appropriate institution, at such time or times as he determines, an amount which bears the same ratio to the interest which has been prevented from accruing and the portion of the principal which has been canceled on student loans pursuant to this title as the total amount of the institution's capital contributions to such fund under this title bears to the sum of such institution's capital contributions and the Federal capital contributions to such fund."

REPAYMENT OF LOANS OF BORROWERS FOR CERTAIN PUBLIC SERVICE

SEC. 502. Section 437 of the Higher Education Act of 1965 is amended to read as follows:

"REPAYMENT OF LOANS OF DECEASED OR DISABLED BORROWERS OR OF BORROWERS FOR CERTAIN PUBLIC SERVICE

"SEC. 437. (a)(1) The per centum determined under subsection (c) of the liability on a loan insured or made under this part or under a program covered by an agreement under section 428 (including such per centum of any interest accrued thereon) shall be discharged by the Commissioner under the circumstances described in subsection (b).

"(b)(1) All or part of a loan, as the case may be, shall be discharged under this section if the student borrower—

"(A) dies or becomes permanently and totally disabled (as determined in accordance with regulations of the Commissioner);

"(B) serves, after June 30, 1970, as a full-time teacher—

"(i) in a public or other nonprofit elementary or secondary school in the school district of a local educational agency receiving assistance under title I of the Elementary and Secondary Education Act of 1965, if such school is determined (according to criteria established by regulation which shall permit such determination with respect to not to exceed 50 per centum of such schools in any State) to be serving an attendance area in which there is a high concentration of children from low income families;

"(ii) of handicapped children in a public or other nonprofit elementary or secondary school system; or

"(iii) in a program assisted under section 408 of this Act, as defined in regulations by the Commissioner; or

"(C) serves as a member of the Armed Forces of the United States.

"(2) For the purposes of this subsection—

"(A) the term 'handicapped children' means children who are mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, or other health impaired children who by reason thereof require special education, and

"(B) the term 'children from low income families' means children described in clauses (A), (B), and (C) of section 103(a)(2) of title I of the Elementary and Secondary Education Act of 1965.

"(c)(1) The per centum of a loan which shall be discharged under subsection (b) is—

"(A) in the case of the situation described in paragraph (1)(A), 100 per centum of any debt outstanding on such loan;

"(B) in the case of service described in paragraph (1)(B), 15 per centum for the first or second year of such service, 20 per centum for the third or fourth year of such service, and 30 per centum for the fifth year of such service; and

"(C) in the case of service described in paragraph (1)(C), not to exceed a total of 50 per centum of such loan at the rate of 12½ per centum for each year of consecutive service.

"(2) In addition to the amount discharged pursuant to paragraph (1), the entire amount of interest on such loan which accrues for any such year of service shall be discharged."

(b) The amendments made by this section shall be effective with respect to loans made after the date of enactment of this Act.

TITLE VI—EDUCATION OF THE HANDICAPPED

PART A—GENERAL PROVISIONS

SHORT TITLE

SEC. 601. This title may be cited as the "Education of the Handicapped Act".

DEFINITION

SEC. 602. As used in this title—

(1) The term "handicapped children" means mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, crippled, or other health impaired children who by reason thereof require special education and related services.

(2) The term "Commissioner" means the Commissioner of Education.

(3) The term "Advisory Committee" means the National Advisory Committee on Handicapped Children.

(4) The term "construction", except where otherwise specified, means (A) erection of new or expansion of existing structures, and the acquisition and installation of equipment therefor; or (B) acquisition of existing structures not owned by any agency or institution making application for assistance under this title; or (C) remodeling or alteration (including the acquisition, installation, modernization, or replacement of equipment) of existing structures; or (D) acquisition of land in connection with the activities in clauses (A), (B), and (C); or (E) a combination of any two or more of the foregoing.

(5) The term "equipment" includes machinery, utilities, and built-in equipment and any necessary enclosures or structures to house them, and includes all other items necessary for the functioning of a particular facility as a facility for the provision educational services, including items such as instructional equipment and necessary furniture, printed, published, and audio-visual instructional materials, and books, periodicals, documents, and other related materials.

(6) The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands and the Trust Territory of the Pacific Islands.

(7) The term "State educational agency" means the State board of education or other agency or officer primarily responsible for the State supervision of public elementary and secondary schools, or, if there is no such officer or agency, an officer or agency designated by the Governor or by State law.

(8) The term "local educational agency" means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools. Such term also includes any other public institution or agency having administrative control and direction of a public elementary or secondary school.

(9) The term "elementary school" means a day or residential school which provides elementary education, as determined under State law.

(10) The term "secondary school" means a day or residential school which provides secondary education, as determined under State law, except that it does not include any education provided beyond grade 12.

(11) The term "institution of higher education" means an educational institution in any State which—

(A) admits as regular students only individuals having a certificate of graduation from a high school, or the recognized equivalent of such a certificate;

(B) is legally authorized within such State to provide a program of education beyond high school;

(C) provides an educational program for which it awards a bachelor's degree, or provides not less than a two-year program which is acceptable for full credit toward such a degree, or offers a two-year program in engineering, mathematics, or the physical or biological sciences which is designed to prepare the student to work as a technician and at a semiprofessional level in engineering, scientific, or other technological fields which require the understanding and application of basic engineering, scientific, or mathematical principles or knowledge;

(D) is a public or other nonprofit institution; and

(E) is accredited by a nationally recognized accrediting agency or association listed by the Commissioner pursuant to this para-

graph or, if not so accredited, is an institution whose credits are accepted, on transfer, by not less than three institutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited: *Provided, however,* That in the case of an institution offering a two-year program in engineering, mathematics, or the physical or biological sciences which is designed to prepare the student to work as a technician and at a semiprofessional level in engineering, scientific, or technological fields which require the understanding and application of basic engineering, scientific, or mathematical principles or knowledge, if the Commissioner determines that there is no nationally recognized accrediting agency or association qualified to accredit such institutions, he shall appoint an advisory committee, composed of persons specially qualified to evaluate training provided by such institutions, which shall prescribe the standards of content, scope, and quality which must be met in order to qualify such institutions to participate under this Act and shall also determine whether particular institutions meet such standards. For the purposes of this paragraph the Commissioner shall publish a list of nationally recognized accrediting agencies or associations which he determines to be reliable authority as to the quality of education or training offered.

(12) The term "nonprofit" as applied to a school, agency, organization, or institution means a school, agency, organization, or institution owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(13) The term "research and related purposes" means research, research training (including the payment of stipends and allowances), surveys, or demonstrations in the field of education of handicapped children, or the dissemination of information derived therefrom, including (but without limitation) experimental schools.

(14) The term "Secretary" means the Secretary of Health, Education, and Welfare.

(15) The term "children with specific learning disabilities" means those children who have a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, which disorder may manifest itself in imperfect ability to listen, think, speak, read, write, spell, or do mathematical calculations. Such disorders include such conditions as perceptual handicaps, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia. Such term does not include children who have learning problems which are primarily the result of visual, hearing, or motor handicaps, of mental retardation, of emotional disturbance, or of environmental disadvantage.

BUREAU FOR EDUCATION AND TRAINING OF THE HANDICAPPED

SEC. 603. There shall be, within the Office of Education, a bureau for the education and training of the handicapped which shall be the principal agency in the Office of Education for administering and carrying out programs and projects relating to the education and training of the handicapped, including programs and projects for the training of teachers of the handicapped and for research in such education and training.

NATIONAL ADVISORY COMMITTEE ON HANDICAPPED CHILDREN

SEC. 604. (a) The Commissioner shall establish in the Office of Education a National Advisory Committee on Handicapped Children, consisting of fifteen members, appointed by the Commissioner. At least eight of such members shall be persons affiliated with educational, training, or research programs for the handicapped.

(b) The Advisory Committee shall review the administration and operation of the programs authorized by this title and other provisions of law administered by the Commissioner with respect to handicapped children, including their effect in improving the educational attainment of such children, and make recommendations for the improvement of such administration and operation with respect to such children. Such recommendations shall take into consideration experience gained under this and other Federal programs for handicapped children and, to the extent appropriate, experience gained under other public and private programs for handicapped children. The Advisory Committee shall from time to time make such recommendations as it may deem appropriate to the Commissioner and shall make an annual report of its findings and recommendations to the Commissioner not later than March 31 of each year. The Commissioner shall transmit each such report to the Secretary together with his comments and recommendations, and the Secretary shall transmit such report, comments, and recommendations to the Congress together with any comments or recommendations he may have with respect thereto.

ACQUISITION OF EQUIPMENT AND CONSTRUCTION OF NECESSARY FACILITIES

SEC. 605. (a) In the case of any program authorized by this title, if the Commissioner determines that such program will be improved by permitting the funds authorized for such program to be used for the acquisition of equipment and the construction of necessary facilities, he may authorize the use of such funds for such purposes.

(b) If within twenty years after the completion of any construction (except minor remodeling or alteration) for which funds have been paid pursuant to a grant or contract under this title the facility constructed ceases to be used for the purposes for which it was constructed, the United States, unless the Secretary determines that there is good cause for releasing the recipient of the funds from its obligation, shall be entitled to recover from the applicant or other owner of the facility an amount which bears the same ratio to the then value of the facility as the amount of such Federal funds bore to the cost of the portion of the facility financed with such funds. Such value shall be determined by agreement of the parties or by action brought in the United States district court for the district in which the facility is situated.

PART B—ASSISTANCE TO STATES FOR EDUCATION OF HANDICAPPED CHILDREN

AUTHORIZATION

SEC. 611. (a) The Commissioner is authorized to make grants pursuant to the provisions of this part for the purpose of assisting the States in the initiation, expansion, and improvement of programs and projects for the education of handicapped children at the preschool, elementary and secondary school levels.

(b) For the purpose of making grants under this part there is authorized to be appropriated $200,000,000 for the fiscal year ending June 30, 1971, $210,000,000 for the fiscal year ending June 30, 1972, $220,000,000 for the fiscal year ending June 30, 1973, and $230,000,000 for the fiscal year ending June 30, 1974.

ALLOTMENT OF FUNDS

SEC. 612. (a)(1) There is hereby authorized to be appropriated for each fiscal year for the purposes of this paragraph an amount equal to not more than 3 per centum of the amount appropriated for such year for payments to States under section 611(b). The Commissioner shall allot the amount appropriated pursuant to this paragraph among—

(A) Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands, according to their respective needs, and

(B) for each fiscal year ending prior to July 1, 1972, the Secretary of the Interior, according to the need for such assistance for the education of handicapped children on reservations serviced by elementary and secondary schools operated for Indian children by the Department of the Interior and the terms upon which payments for such purposes shall be made to the Secretary of the Interior shall be determined pursuant to such criteria as the Commissioner determines will best carry out the purposes of this part.

(2) From the total amount appropriated pursuant to section 611(b) for any fiscal year the Commissioner shall allot to each State an amount which bears the same ratio to such amount as the number of children aged three to twenty-one, inclusive, in the State bears to the number of such children in all the States, except that no State shall be allotted less than $200,000 or three-tenths of 1 per centum of such amount available for allotment to the States, whichever is greater. For purposes of this paragraph and subsection (b), the term "State" shall not include the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, or the Trust Territory of the Pacific Islands.

(b) The number of children aged three to twenty-one, inclusive, in any State and in all the States shall be determined, for purposes of this section, by the Commissioner on the basis of the most recent satisfactory data available to him.

(c) The amount of any State's allotment under subsection (a) for any fiscal year which the Commissioner determines will not be required for that year shall be available for reallotment, from time to time and on such dates during such year as the Commissioner may fix, to other States in proportion to the original allotments to such States under subsection (a) for that year, but with such proportionate amount for any of such other States being reduced to the extent it exceeds the sum the Commissioner estimates such State needs and will be able to use for such year; and the total of such reductions shall be similarly reallotted among the States whose proportionate amounts were not so reduced. Any amount reallotted to a State under this subsection during a year shall be deemed part of its allotment under subsection (a) for that year.

STATE PLANS

SEC. 613. (a) Any State which desires to receive grants under this part shall submit to the Commissioner through its State educational agency a State plan (not part of any other plan) in such detail as the Commissioner deems necessary. Such State plan shall—

(1) set forth such policies and procedures as will provide satisfactory assurance that funds paid to the State under this part will be expended (A) either directly or through individual, or combinations of, local educational agencies, solely to initiate, expand, or improve programs and projects, including preschool programs and projects, (i) which are designed to meet the special educational and related needs of handicapped children throughout the State, and (ii) which are of sufficient size, scope, and quality (taking into consideration the special educational needs of such children) as to give reasonable promise of substantial progress toward meeting those needs, and (B) for the proper and efficient administration of the State plan (including State leadership activities and consultative services), and for planning on the State and local level: *Provided,* That the amount expended for such administration and planning shall not exceed 5 per centum of the amount allotted to the State for any fiscal year or $100,000 ($35,000 in the case of

the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific), whichever is greater;

(2) provide satisfactory assurance that, to the extent consistent with the number and location of handicapped children in the State who are enrolled in private elementary and secondary schools, provision will be made for participation of such children in programs assisted or carried out under this part;

(3) provide satisfactory assurance that the control of funds provided under this part, and title to property derived therefrom, shall be in a public agency for the uses and purposes provided in this part, and that a public agency will administer such funds and property;

(4) set forth policies and procedures which provide satisfactory assurance that Federal funds made available under this part will be so used as to supplement and, to the extent practical, increase the level of State, local, and private funds, expended for the education of handicapped children, and in no case supplant such State, local, and private funds;

(5) provide that effective procedures, including provision for appropriate objective measurements of educational achievement, will be adopted for evaluating at least annually the effectiveness of the programs in meeting the special educational needs of, and providing related services for, handicapped children;

(6) provide that the State educational agency will be the sole agency for administering or supervising the administration of the plan;

(7) provide for (A) making such reports, in such form and containing such information, as the Commissioner may require to carry out his functions under this part, including reports of the objective measurements required by clause (5) of this subsection, and (B) keeping such records and for affording such access thereto as the Commissioner may find necessary to assure the correctness and verification of such reports and proper disbursement of Federal funds under this part;

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

(9) provide satisfactory assurance that funds paid to the State under this part shall not be made available for handicapped children eligible for assistance under section 103 (a)(5) of title I of the Elementary and Secondary Education Act of 1965:

(10) provide satisfactory assurance that effective procedures will be adopted for acquiring and disseminating to teachers of, and administrators of programs for, handicapped children significant information derived from educational research, demonstration, and similar projects, and for adopting, where appropriate, promising educational practices developed through such projects; and

(11) contain a statement of policies and procedures which will be designed to insure that all education programs for the handicapped in the State will be properly coordinated by the persons in charge of special education programs for handicapped children in the State educational agency.

(b) The Commissioner shall approve any State plan which he determines meets the requirements and purposes of this part.

(c)(1) The Commissioner shall not approve any State plan pursuant to this section for any fiscal year unless the plan has, prior to its submission, been made public as a separate document by the State educational agency and a reasonable opportunity has been given by that agency for comment thereon by interested persons (as defined by regulation). The State educational agency shall make public the plan as finally approved. The Commissioner shall not finally disapprove any plan submitted under this section or any modification thereof, without first affording the State educational agency submitting the plan reasonable notice and opportunity for a hearing.

(2) Whenever the Commissioner, after reasonable notice and opportunity for hearing to such State agency, finds—

(A) that the State plan has been so changed that it no longer complies with the provisions of this part, or

(B) that in the administration of the plan there is a failure to comply substantially with any such provision or with any requirement set forth in the application of a local educational agency approved pursuant to such plan,

the Commissioner shall notify the agency that further payments will not be made to the State under this part (or in his discretion, that further payments to the State will be limited to programs or projects under the State plan, or portions thereof, not affected by the failure, or that the State educational agency shall not make further payments under this part to specified local agencies affected by the failure) until he is satisfied that there is no longer any such failure to comply. Until he is so satisfied, the Commissioner shall make no further payments to the State under this part (or shall limit payments to programs or projects under, or parts of, the State plan not affected by the failure, or payments by the State educational agency under this part shall be limited to local educational agencies not affected by the failure, as the case may be).

(d)(1) If any State is dissatisfied with the Commissioner's final action with respect to the approval of its State plan submitted under subsection (a) or with his final action under subsection (c), such State may, within sixty days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Commissioner. The Commissioner thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code.

(2) The findings of fact by the Commissioner, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Commissioner to take further evidence, and the Commissioner may thereupon make new or modified findings of fact and may modify his previous action, and shall certify to the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(3) The court shall have jurisdiction to affirm the action of the Commissioner or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

PAYMENTS

SEC. 614. From the amounts allotted to each State under this part, the Commissioner shall pay to that State an amount equal to the amount expended by the State in carrying out its State plan.

PART C—CENTERS AND SERVICES TO MEET SPECIAL NEEDS OF THE HANDICAPPED

REGIONAL RESOURCE CENTERS

SEC. 621. (a) The Commissioner is authorized to make grants to or contracts with institutions of higher education, State educational agencies, or combinations of such agencies or institutions, which combinations may include one or more local educational agencies, within particular regions of the United States, to pay all or part of the cost of the establishment and operation of regional centers which will develop and apply the best methods of appraising the special educational needs of handicapped children referred to them and will provide other services to assist in meeting such needs. Centers established or operated under this section shall (1) provide testing and educational evaluation to determine the special educational needs of handicapped children referred to such centers, (2) develop educational programs to meet those needs, and (3) assist schools and other appropriate agencies, organizations, and institutions in providing such educational programs through services such as consultation (including, in appropriate cases, consultation with parents or teachers of handicapped children at such regional centers), periodic reexamination and reevaluation of special educational programs, and other technical services.

(b) In determining whether to approve an application for a project under this section, the Commissioner shall consider the need for such a center in the region to be served by the applicant and the capability of the applicant to develop and apply, with the assistance of funds under this section, new methods, techniques, devices, or facilities relating to educational evaluation or education of handicapped children.

CENTERS AND SERVICES FOR DEAF-BLIND CHILDREN

SEC. 622. (a) It is the purpose of this section to provide, through a limited number of model centers for deaf-blind children, a program designed to develop and bring to bear upon such children, beginning as early as feasible in life, those specialized, intensive professional and allied services, methods, and aids that are found to be most effective to enable them to achieve their full potential for communication with, and adjustment to, the world around them, for useful and meaningful participation in society, and for self-fulfillment.

(b) The Commissioner is authorized, upon such terms and conditions (subject to the provisions of subsection (d)(1) of this section) as he deems appropriate to carry out the purposes of this section, to make grants to or contracts with public or nonprofit private agencies, organizations, or institutions to pay all or part of the cost of establishment, including construction, which for the purposes of this section shall include the construction of residential facilities, and operation of centers for deaf-blind children.

(c) In determining whether to make a grant or contract under subsection (b), the Commissioner shall take into consideration the need for a center for deaf-blind children in the light of the general availability and quality of existing services for such children in the part of the country involved.

(d)(1) A grant or contract pursuant to subsection (b) shall be made only if the Commissioner determines that there is satisfactory assurance that the center will provide such services as he has by regulation prescribed, including at least—

(A) comprehensive diagnostic and evaluative services for deaf-blind children;

(b) a program for the adjustment, orientation, and education of deaf-blind children which integrates all the professional and allied services necessary therefore; and

(C) effective consultative services for parents, teachers, and others who play a direct role in the lives of deaf-blind children to enable them to understand the special problems of such children and to assist in the process of their adjustment, orientation, and education.

(2) Any such services may be provided to deaf-blind children (and, where applicable, other persons) regardless of whether they reside in the center, may be provided at some

place other than the center, and may include the provision of transportation for any such children (including an attendant) and for parents.

EARLY EDUCATION FOR HANDICAPPED CHILDREN

SEC. 623. (a) The Commissioner is authorized to arrange by contract, grant, or otherwise with appropriate public agencies and private nonprofit organizations, for the development and carrying out by such agencies and organizations of experimental preschool and early education programs for handicapped children which the Commissioner determines show promise of promoting a comprehensive and strengthened approach to the special problems of such children. Such programs shall be distributed to the greatest extent possible throughout the Nation, and shall be carried out both in urban and in rural areas. Such programs shall include activities and services designed to (1) facilitate the intellectual, emotional, physical, mental, social, and language development of such children; (2) encourage the participation of the parents of such children in the development and operation of any such program; and (3) acquaint the community to be served by any such program with the problems and potentialities of such children.

(b) Each arrangement for developing or carrying out a program authorized by this section shall provide for the effective coordination of each such program with similar programs in the schools of the community to be served by such a program.

(c) No arrangement pursuant to this section shall provide for the payment of more than 90 per centum of the cost of developing, carrying out, or evaluating such a program. Non-Federal contributions may be in cash or in kind, fairly evaluated, including, but not limited to, plant, equipment, and services.

RESEARCH, INNOVATION, TRADING, AND DISSEMINATION ACTIVITIES IN CONNECTON WITH CENTERS AND SERVICES FOR THE HANDICAPPED

SEC. 624. (a) The Commissioner is authorized, either as part of any grant or contract under this part, or by separate grant to, or contract with, an agency, organization, or institution operating a center or providing a service which meets such requirements as the Commissioner determines to be appropriate, consistent with the purposes of this part, to pay all or part of the cost of such activities as—

(1) research to identify and meet the full range of special needs of handicapped children;

(2) development or demonstration of new, or improvements in existing, methods, approaches, or techniques, which would contribute to the adjustment and education of such children;

(3) training (either directly or otherwise) of professional and allied personnel engaged or preparing to engage in programs specifically designed for such children, including payment of stipends for trainees and allowances for travel and other expenses for them and their dependents; and

(4) dissemination of materials and information about practices found effective in working with such children.

(b) In making grants and contracts under this section, the Commissioner shall insure that the activities funded under such grants and contracts will be coordinated with similar activities funded from grants and contracts under other parts of this title.

EVALUATIONS

SEC. 625. The Commissioner shall conduct, either directly or by contract with independent organizations, a thorough and continuing evaluation of the effectiveness of each program assisted under this part.

AUTHORIZATION OF APPROPRIATIONS

SEC. 626. There are hereby authorized to be appropriated $36,500,000 for the fiscal year ending June 30, 1971, $51,500,000 for the fiscal year ending June 30, 1972, $66,500,000 for the fiscal year ending June 30, 1973, and $88,000,000 for the fiscal year ending June 30, 1974, for the purpose of carrying out the provisions of this part.

PART D—TRAINING PERSONNEL FOR THE EDUCATION OF THE HANDICAPPED

GRANTS TO INSTITUTIONS OF HIGHER EDUCATION AND OTHER APPROPRIATE INSTITUTIONS OR AGENCIES

SEC. 631. The Commissioner is authorized to make grants to institutions of higher education and other appropriate nonprofit institutions or agencies to assist them—

(1) in providing training of professional personnel to conduct training of teachers and other specialists in fields related to the education of handicapped children;

(2) in providing training for personnel engaged or preparing to engage in employment as teachers of handicapped children, as supervisors of such teachers, or as speech correctionists or other special personnel providing special services for the education of such children, or engaged or preparing to engage in research in fields related to the education of such children; and

(3) in establishing and maintaining scholarships, with such stipends and allowances as may be determined by the Commissioner, for training personnel engaged in or preparing to engage in employment as teachers of the handicapped or as related specialists.

Grants under this subsection may be used by such institutions to assist in covering the cost of courses of training or study for such personnel and for establishing and maintaining fellowships or traineeships with such stipends and allowances as may be determined by the Commissioner.

GRANTS TO STATE EDUCATIONAL AGENCIES

SEC. 632. The Commissioner is authorized to make grants to State educational agencies to assist them in establishing and maintaining, directly or through grants to institutions of higher education, programs for training personnel engaged or preparing to engage, in employment as teachers of handicapped children or as supervisors of such teachers. Such grants shall also be available to assist such institutions in meeting the cost of training such personnel.

GRANTS OR CONTRACTS TO IMPROVE RECRUITING OF EDUCATIONAL PERSONNEL, AND TO IMPROVE DISSEMINATION OF INFORMATION CONCERNING EDUCATIONAL OPPORTUNITIES FOR THE HANDICAPPED

SEC. 633. The Commissioner is authorized to make grants to public or nonprofit private agencies, organizations, or institutions, or to enter into contracts with public or private agencies, organizations, or institutions, for projects for—

(1) encouraging students and professional personnel to work in various fields of education of handicapped children and youth through, among other ways, developing and distributing imaginative or innovative materials to assist in recruiting personnel for such careers, or publicizing existing forms of financial aid which might enable students to pursue such careers, or

(2) disseminating information about the programs, services, and resources for the education of handicapped children, or providing referral services, to parents, teachers, and other persons especially interested in the handicapped.

TRAINING OF PHYSICAL EDUCATORS AND RECREATION PERSONNEL FOR HANDICAPPED CHILDREN

SEC. 634. The Commissioner is authorized to make grants to institutions of higher education to assist them in providing training for personnel engaged or preparing to engage in employment as physical educators or recreation personnel for handicapped children or as educators or supervisors of such personnel, or engaged or preparing to engage in research or teaching in fields related to the physical education or recreation of such children.

REPORTS

SEC. 635. Each recipient of a grant under this part during any fiscal year shall, after the end of such fiscal year, submit a report to the Commissioner. Such report shall be in such form and detail and contain such information as the Commissioner determines to be appropriate.

AUTHORIZATION OF APPROPRIATIONS

SEC. 636. There are authorized to be appropriated for carrying out this part, $69,500,000 for the fiscal year ending June 30, 1971, $87,000,000 for the fiscal year ending June 30, 1972, $103,500,000 for the fiscal year ending June 30, 1973, and $120,500,000 for the fiscal year ending June 30, 1973, and $120,500,000 for the fiscal year ending June 30, 1974.

PART E—RESEARCH IN THE EDUCATION OF THE HANDICAPPED

RESEARCH AND DEMONSTRATION PROJECTS IN EDUCATION OF HANDICAPPED CHILDREN

SEC. 641. The Commissioner is authorized to make grants to States, State or local educational agencies, institutions of higher education, and other public or nonprofit private educational or research agencies and organizations, and to make contracts with States, State or local educational agencies, institutions of higher education, and other public or private educational or research agencies and organizations, for research and related purposes and to conduct research, surveys, or demonstrations, relating to education of handicapped children.

RESEARCH AND DEMONSTRATION PROJECTS IN PHYSICAL EDUCATION AND RECREATION FOR HANDICAPPED CHILDREN

SEC. 642. The Commissioner is authorized to make grants to States, State or local educational agencies, institutions of higher education, and other public or nonprofit private educational or research agencies and organizations, and to make contracts with States, State or local educational agencies, institutions of higher education, and other public or private educational or research agencies and organizations, for research and related purposes relating to physical education or recreation for handicapped children, and to conduct research, surveys, or demonstrations relating to physical education or recreation for handicapped children.

PANELS OF EXPERTS

SEC. 643. The Commissioner shall from time to time appoint panels of experts who are competent to evaluate various types of research or demonstration projects under this part, and shall secure the advice and recommendations of one such panel before making any grant under this part.

AUTHORIZATION OF APPROPRIATIONS

SEC. 644. There are hereby authorized to be appropriated $27,000,000 for the fiscal year ending June 30, 1971, $35,500,000 for the fiscal year ending June 30, 1972, $45,000,000 for the fiscal year ending June 30, 1973, and $53,500,000 for the fiscal year ending June 30, 1974, for carrying out the provisions of this part.

PART F—INSTRUCTIONAL MEDIA FOR THE HANDICAPPED

PURPOSE

SEC. 651. (a) The purposes of this part are to promote—

(1) the general welfare of deaf persons by (A) bringing to such persons understanding and appreciation of those films which play such an important part in the general and cultural advancement of hearing persons, (B) providing through these films, enriched educational and cultural experiences through which deaf persons can be brought into better touch with the realities

of their environment, and (C) providing a wholesome and rewarding experience which deaf persons may share together; and

(2) the educational advancement of handicapped persons by (A) carrying on research in the use of educational media for the handicapped, (B) producing and distributing educational media for the use of handicapped persons, their parents, their actual or potential employers, and other persons directly involved in work for the advancement of the handicapped, and (C) training persons in the use of educational media for the instruction of the handicapped.

CAPTIONED FILMS AND EDUCATIONAL MEDIA FOR HANDICAPPED PERSONS

SEC. 652. (a) The Commissioner shall establish a loan service of captioned films and educational media for the purpose of making such materials available in the United States for nonprofit purposes to handicapped persons, parents of handicapped persons, and other persons directly involved in activities for the advancement of the handicapped in accordance with regulations.

(b) The Commissioner is authorized to—

(1) acquire films (or rights thereto) and other educational media by purchase, lease, or gift;

(2) acquire by lease or purchase equipment necessary to the administration of this part;

(3) provide for the captioning of films;

(4) provide for the distribution of captioned films and other educational media and equipment through State schools for the handicapped and such other agencies as the Commissioner may deem appropriate to serve as local or regional centers for such distribution;

(5) provide for the conduct of research in the use of educational and training films and other educational media for the handicapped, for the production and distribution of educational and training films and other educational media for the handicapped and the training of persons in the use of such films and media, including the payment to those persons of such stipends (including allowances for travel and other expenses of such persons and their dependents) as he may determine, which shall be consistent with prevailing practices under comparable federally supported programs;

(6) utilize the facilities and services of other governmental agencies; and

(7) accept gifts, contributions, and voluntary and uncompensated services of individuals and organizations.

NATIONAL CENTER ON EDUCATIONAL MEDIA AND MATERIALS FOR THE HANDICAPPED

SEC. 653. a) The Secretary is authorized to enter into an agreement with an institution of higher education for the establishment and operation of a National Center on Educational Media and Materials for the Handicapped, which will provide a comprehensive program of activities to facilitate the use of new educational technology in education programs for handicapped persons, including designing and developing, and adapting instructional materials, and such other activities consistent with the purposes of this part as the Secretary may prescribe in the agreement. Such agreement shall—

(1) provide that Federal funds paid to the Center will be used solely for such purposes as are set forth in the agreement;

(2) authorize the Center, subject to the Secretary's prior approval, to contract with public and private agencies and organizations for demonstration projects; and

(3) provide for an annual report on the activities of the Center which will be transmitted to the Congress.

(b) In considering proposals from institutions of higher education to enter into an agreement under this subsection, the Secretary shall give preference to institutions—

(1) which have demonstrated the capabilities necessary for the development and evaluation of educational media for the handicapped; and

(2) which can serve the educational technology needs of the Model High School for the Deaf (established under Public Law 89-694).

AUTHORIZATION OF APPROPRIATIONS

SEC. 654. For the purpose of carrying out this part, there are hereby authorized to be appropriated not to exceed $12,500,000 for the fiscal year ending June 30, 1971, $15,000,000 for the fiscal year ending June 30, 1972, $20,000,000 for the fiscal year ending June 30, 1973, and $30,000,000 for the fiscal year ending June 30, 1974, and each succeeding fiscal year thereafter.

PART G—SPECIAL PROGRAMS FOR CHILDREN WITH SPECIFIC LEARNING DISABILITIES

RESEARCH, TRAINING, AND MODEL CENTERS

SEC. 661. (a) The Commissioner is authorized to make grants to, and contracts with, institutions of higher education, State and local educational agencies, and other public and private educational and research agencies and organizations (except that no grant shall be made other than to a nonprofit agency or organization) in order to carry out a program of—

(1) research and related purposes relating to the education of children with specific learning disabilities;

(2) professional or advanced training for educational personnel who are teaching, or are preparing to be teachers of, children with specific learning disabilities, or such training for persons who are, or are preparing to be, supervisors and teachers of such personnel; and

(3) establishing and operating model centers for the improvement of education of children with specific learning disabilities, which centers shall (A) provide testing and educational evaluation to identify children with learning disabilities who have been referred to such centers, (B) develop and conduct model programs designed to meet the special education needs of such children, and (C) assist appropriate educational agencies, organizations, and institutions in making such model programs available to other children with learning disabilities.

In making grants and contracts under this section the Commissioner shall give special consideration to applications which propose innovative and creative approaches to meeting the educational needs of children with specific learning disabilities, and those which emphasize the prevention and early identification of learning disabilities.

(b) In making grants and contracts under this section, the Commissioner shall—

(1) for the purposes of clause (2) of subsection (a), seek to achieve an equitable geographical distribution of training programs and trained personnel throughout the Nation, and

(2) for the purposes of clause (3) of subsection (a), to the extent feasible taking into consideration the appropriations pursuant to this section, seek to encourage the establishment of a model center in each of the States.

(c) For the purpose of making grants and contracts under this section there are hereby authorized to be appropriated $12,000,000 for the fiscal year ending June 30, 1970, $20,000,000 for the fiscal year ending June 30, 1971, and $31,000,000 for each of the succeeding fiscal years ending prior to July 1, 1974.

REPEALER

SEC. 662. Effective July 1, 1971, the following provisions of law are repealed:

(1) That part of section 1 of the Act of September 2, 1958 (Public Law 85-905), which follows the enacting clause and sections 2, 3, and 4 of such Act;

(2) The Act of September 6, 1958 (Public Law 85-926);

(3) Title VI of the Elementary and Secondary Act of 1965 (Public Law 89-10);

(4) Titles III and V of the Act of October 31, 1963 (Public Law 88-164); and

(5) The Act of September 30, 1968 (Public Law 90-538).

TITLE VII—VOCATIONAL EDUCATION

EXTENSION OF PROGRAM OF GRANTS FOR SPECIAL PROGRAMS FOR DISADVANTAGED STUDENTS

SEC. 701. Section 102(b) of the Vocational Education Act of 1963 is amended by inserting after "1970," the following: "$50,000,000 for the fiscal year ending June 30, 1971, and $60,000,000 for the fiscal year ending June 30, 1972,".

TECHNICAL AMENDMENT

SEC. 702. Section 103(a)(2)(D) of the Vocational Education Act of 1963 as amended by striking out "5 per centum" and inserting in lieu thereof "15 per centum".

CLARIFYING AMENDMENT WITH RESPECT TO STATE ADVISORY COUNCILS

SEC. 703. Section 104(b)(1) of the Vocational Education Act of 1963 is amended by inserting after "State board are elected" the following: "(including election by the State legislature)".

EXTENSION OF AUTHORITY FOR RESIDENTIAL FACILITIES

SEC. 704. (a) Section 152(a)(1) of the Vocational Education Act of 1963 is amended by striking out "$15,000,000 for the fiscal year ending June 30, 1970" and inserting in lieu thereof "for each of the succeeding fiscal years ending prior to July 1, 1972".

(b) Section 153(d)(2) of such Act is amended by striking out "1969" and inserting in lieu thereof "1970, and on July 1, 1971".

PROMOTION OF KNOWLEDGE OF NUTRITUTION

SEC. 705. Section 161(b) of the Vocational Education Act of 1963 is amended by adding after "consumer education programs," the following: "including promotion of nutritional knowledge and food use and the understanding of the economic aspects of food use and purchase,".

EXTENSION OF WORK-STUDY PROGRAMS

SEC. 706. (a) Section 181(a) of the Vocational Education Act of 1963 is amended by inserting after "1970" a comma and the following: "$45,000,000 for the fiscal year ending June 30, 1971, and $55,000,000 for the fiscal year ending June 30, 1972,".

(b) Section 183(a) of such Act is amended by striking out "the fiscal year ending June 30, 1970" and inserting in lieu thereof "any succeeding fiscal year".

EXTENSION OF CURRICULUM DEVELOPMENT PROGRAM

SEC. 707. Section 191(b) of the Vocational Education Act of 1963 is amended by striking out "the fiscal year ending June 30, 1970" and inserting in lieu thereof "each of the succeeding fiscal years ending prior to July 1, 1972".

EXTENSION OF PART F OF THE EDUCATION PROFESSIONS DEVELOPMENT ACT

SEC. 708. Section 555 of the Education Professions Development Act (title V of the Higher Education Act of 1965) is amended by striking out "and" where it appears after "1969," and by inserting before the period at the end thereof a comma and the following: "the sum of $40,000,000 for the fiscal year ending June 30, 1971, and the sum of $45,000,000 for the fiscal year ending June 30, 1972".

TECHNICAL AMENDMENT

SEC. 709. Section 104 of the Vocational Education Amendments of 1968 is amended by striking out "this Act" and inserting in lieu thereof "the Vocational Education Act of 1963".

TITLE VIII—MISCELLANEOUS

WAIVER OF MATCHING REQUIREMENT IN THE UPWARD BOUND PROGRAM

SEC. 801. Section 408(c)(1) of the Higher Education Act of 1965 is amended by inserting after the third sentence thereof the following: "The Commissioner may, however, approve assistance in excess of such percentage if he determines, in accordance with regulations establishing objective criteria, that such action is required in furtherance of the purposes of this section. Non-Federal contributions may be in cash or in kind, fairly evaluated, including but not limited to plant, equipment, or services."

EXTENSION OF AUTHORIZATION FOR ADVISORY COUNCIL UNDER EDUCATION PROFESSIONS DEVELOPMENT ACT

SEC. 802. Section 502(f) of the Education Professions Development Act (title V of the Higher Education Act of 1965) is amended by striking out "two" and inserting in lieu thereof "three".

TEACHER CORPS ASSISTANCE FOR INDIAN CHILDREN

SEC. 803. The first sentence of section 513 (c)(2) of the Higher Education Act of 1965 is amended to read as follows: "Not to exceed 3 per centum of the number of members of the Teacher Corps who are available shall be allocated to Puerto Rico and the Virgin Islands and not to exceed 5 per centum of such members shall be allocated to the elementary and secondary schools operated for Indian children by the Department of Interior, according to their respective needs."

STUDENT TEACHER CORPS

SEC. 804. (a) It is the purpose of this section to encourage high school and college students, parents, and other community residents to volunteer for service on a part-time or full-time basis as tutors or instructional assistants for children in disadvantaged areas and to provide support by the Teacher Corps of volunteer programs to be carried out by State and local educational agencies and institutions of higher education.

(b)(1) Section 511(a) of such Act is amended by deleting the word "and" at the end of paragraph (1), by deleting the period at the end of paragraph (2) and inserting in lieu thereof a semicolon and the word "and", and by inserting after paragraph (2) the following new paragraph:

"(3) attracting volunteers to serve as part-time tutors or full-time instructional assistants in programs carried out by local educational agencies and institutions of higher education serving such areas."

(2) Section 511(b) of such Act is amended by striking out "$56,000,000 for each of the succeeding fiscal years ending prior to July 1, 1971" nad inserting in lieu thereof "$80,000,000 for the fiscal year ending June 30, 1970, and $100,000,000 for the fiscal year ending June 30, 1971".

(c) Paragraph (1) of section 513(a) of such Act is amended by inserting before the semicolon at the end thereof a comma and the following: "and, for such periods as the Commissioner may prescribe by regulation, persons who volunteer to serve as part-time tutors or full-time instructional assistants".

(d) Section 513(a) of such Act is further amended by redesignating paragraphs (5), (6), and (7) as paragraphs (6), (7), and (8), respectively, and by inserting after paragraph (4) the following new paragraph:

"(5) enter into contracts or other arrangements with local educational agencies or institutions of higher education, upon approval by the appropriate State educational agency, under which provisions (including payment of the cost of such arrangements) will be made (A) to carry out programs serving disadvantaged areas in which volunteers (including high school and college students) serve as part-time tutors or full-time instructional assistants in teams with other Teacher Corps members, under the guidance of experienced teachers, but not in excess of 90 per centum of the cost of compensation for such tutors and instructional assistants may be paid from Federal funds, and (B) to provide appropriate training to prepare tutors and instructional assistants for service in such programs;"

(e) Section 514(a) of such Act is amended—

(1) by inserting after "paragraph (3) of section 513(a)" a comma and the following: "or an arrangement with a local educational agency or institution of higher education pursuant to paragraph (5) of section 513 (a),";

(2) by striking out in paragraph (2) "is equal to" and inserting in lieu thereof "does not exceed", and by striking out "$75 per week" in such paragraph and inserting in lieu thereof "$90 per week"; and

(b) by deleting the word "and" at the end of paragraph (1), by deleting the period at the end of paragraph (2) and inserting in lieu thereof a semicolon and the word "and", and by inserting after paragraph (2) the following new paragraph:

"(3) tutors and instructional assistants shall be compensated at such rates as the Commissioner may determine to be consistent with prevailing practices under comparable federally supported work-study programs."

PROVISIONS RELATED TO GIFTED AND TALENTED CHILDREN

SEC. 805. (a) Section 521 of the Higher Education Act of 1965 (relating to fellowships for teachers) is amended by inserting in the last sentence thereof after the words "handicapped children" a comma and the following: "and for gifted and talented children."

(b) Section 1201 of such Act (relating to definitions) is amended by adding at the end thereof the following new paragraph:

"(k) The term 'gifted and talented children' means, in accordance with objective criteria prescribed by the Commissioner, children who have outstanding intellectual ability or creative talent the development of which requires special activities or services not ordinarily provided by local educational agencies."

(c)(1) The Commissioner of Education is authorized to make a study and investigation in order to evaluate the manner in which existing Federal educational assistance programs can be effectively utilized to meet the needs of gifted and talented children and the extent to which new programs are necessary to meet the needs of such children.

(2) The Commissioner shall report the results of such study, together with his recommendations, to the Congress not later than one year after the date of enactment of this Act.

CONSOLIDATION OF TITLE III OF THE NATIONAL DEFENSE EDUCATION ACT OF 1958 AND SECTION 12 OF THE NATIONAL FOUNDATION FOR THE ARTS AND THE HUMANITIES ACT OF 1965

SEC. 806. (a)(1) Section 303(a) of the National Defense Education Act of 1958 is amended by striking out "science, mathematics, history, civics, geography, economics, industrial arts, modern foreign language, English, or reading" and inserting in lieu thereof "academic subjects".

(2) Section 303(a)(5) of such Act is amended by striking out "the fields of science, mathematics, history, civics, geography, economics, industrial arts, modern foreign languages, English, and reading" and inserting in lieu thereof "academic subjects".

(3) The first sentence of section 301 of such Act is amended by striking out $120,000,000" and inserting in lieu thereof "$120,500,000" and by striking out "$130,000,000" and inserting in lieu thereof "$130,500,000".

(b) Section 12 of the National Foundation on the Arts and the Humanities Act of 1965 is hereby repealed.

ADVISORY COUNCIL ON RESEARCH AND DEVELOPMENT

SEC. 807. Section 2 of the Cooperative Research Act of 1954 is amended by adding the following new subsection at the end thereof:

"(e)(1) The Commissioner shall establish in the Office of Education an Advisory Council on Research and Development, consisting of fifteen members appointed, without regard to the civil service laws, by the Commissioner with the approval of the Secretary of Health, Education, and Welfare. The Commissioner shall appoint one such member as Chairman. Such members shall include persons recognized as authorities in the field of educational research and development or in related fields.

"(2) The Advisory Council shall advise the Commissioner with respect to matters of general policy arising in the administration of this Act."

RESEARCH ON PROBLEMS OF FINANCING ELEMENTARY AND SECONDARY EDUCATION

SEC. 808. (a) The Congress finds that—

(1) insufficient national concern has been focused upon the escalating operating expenses and construction costs faced by school districts, including serious inequities within and among States in financial support of elementary and secondary education;

(2) taxpayer resistance to the existing tax structure is growing and school bond issues and budget requests are being rejected;

(3) school districts are facing serious fiscal crises as they approach or exceed statutory limits on taxing and bonding authority; and

(4) there is a need for additional knowledge to solve these problems.

(b) It is the purpose of this section—

(1) to provide for research and reports on such problems under the Cooperative Research Act; and

(2) to provide for a National Commission on School Finance to study such problems and report to the Commissioner of Education and the Congress within two years.

(c) Section 2(a) of the Cooperative Research Act is amended by inserting at the end thereof the following:

"(3) The Commissioner shall, pursuant to his authority under this Act, provide for research regarding the problems of financing elementary and secondary education. Such research shall include, but not be limited to, recommendations concerning—

"(A) an appropriate division of responsibility among local, State and the Federal Government in financing elementary and secondary education;

"(B) an appropriate balance of categorical aid, general aid, and school construction aid in the total Federal responsibility for financing elementary and secondary education;

"(C) new approaches to relieve the fiscal crisis now facing the schools;

"(D) the use of Federal revenue sharing for supporting elementary and secondary education; and

"(E) methods to minimize variations within and among States in per pupil expenditures for elementary and secondary education.

The Commissioner shall make a preliminary report to the Congress not later than one hundred and twenty days after the date of enactment of the Elementary and Secondary Education Amendments of 1969 identifying all existing federally financed research in this area (whether authorized under this or any other Act) and the current status of such research. Thereafter, the Commissioner shall report the results of, and recommendations with respect to, research under this

paragraph as a separate and distinct part of his annual report pursuant to subsection (d)."

(d) The Commissioner of Education shall, not later than ninety days after the date of enactment of this Act, establish a National Commission on School Finance. Such Commission shall consist of fifteen members appointed from (1) members of State and local educational agencies, (2) State and local government officials, (3) education administrators, (4) teachers, (5) financial experts, (6) parents with one or more children in a public elementary or secondary school, (7) the Office of Education, (8) the Department of the Treasury, with the approval of the Secretary of the Treasury, and (9) other appropriate fields. The Commissioner shall appoint a chairman and vice chairman from among such members. Such Commission shall make a full and complete investigation and study of the financing of elementary and secondary education, including, but not limited to, the matters referred to in section 2(a)(3) of the Cooperative Research Act (as amended by subsection (c) of this section). The Commission shall report the results of such investigation and study and its recommendations to the Commissioner and the Congress not later than two years after the date of enactment of this Act. Funds available for the purposes of the Cooperative Research Act and for the purposes of section 402 of Public Law 90-247 shall be available for the purposes of this subsection.

PRIVILEGE OF THE FLOOR

Mr. PELL. Mr. President, before going into this bill, I ask unanimous consent that the staff of the Committee on Labor and Public Welfare may have access to the floor of the Senate throughout the length of this debate, without the normal limitation.

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

Mr. PELL. Mr. President, this bill, H.R. 514, is the product of nearly 1 year of intensive study and work. After the bill passed the House, hearings commenced before the Education Subcommittee in June and continued for 12 days. Thereafter, both the Subcommittee on Education and the full Committee on Labor and Public Welfare spent many days in discussion—often heated—on the various provisions contained in the bill. While all attitudes could not be satisfied, I think it a compliment to the majority and minority members of the full committee that the measure is brought to the floor with unanimous support.

The Elementary and Secondary Education Amendments of 1969 constitute the first major effort on the part of the committee to bring the multitude of provisions in present law together in order to create a comprehensive Federal approach to financial assistance to State and local educational agencies.

Our philosophy has been that the best and most economical investment a nation can make—and the one on which there is the greatest return—is education. I believe it was William James who once said:

> The world . . . is only beginning to see that the wealth of a nation consists more than in anything else the number of superior men that it harbors.

The major theme which runs throughout our bill is one which heavily emphasizes the improvement of quality in education. The amendments made by the bill are designed to improve quality in two ways: First, there are many amendments designed to improve the administration of present education programs; and second, there are several amendments authorizing appropriations to meet special needs where present law leaves those needs unmet. The bill also is designed to take the initial steps toward simplification and codification of Federal education laws. It is hoped that over the course of the next 2 years we can develop a code of Federal education laws which will be a single statute.

In its deliberations on the bill, the committee members built from the base of law pertaining to elementary and secondary education, and other matters. In theory we said, what has been enacted is good. A solid base for Federal support of our Nation's elementary and secondary education exists. Our role becomes one of refinement. In this vein the legislative oversight function was one which received a great emphasis.

The committee found, in general, that the provisions of present law are viable. However, we did find instances where it was clear that more vigorous executive action could have prevented some practices which have lessened the intended impact of the original ESEA legislation.

H.R. 514, as amended, contains eight titles.

Title I of H.R. 514 contains six parts which amend the Elementary and Secondary Education Act of 1965. Part A relates to title I of that act—programs and projects to meet the special educational needs of educationally deprived children; part B extends the authorization of appropriations of title II of that act—school library resources, textbooks, and other printed and published materials; part C extends and amends title III of that act—supplementary educational centers and services; part D extends and adds new authorizations to title V of that act—strengthening State departments of education; part E extends and amends title VII of that act—bilingual education programs; and part F amends the general provisions of the act—title VIII—extends authorizations of appropriations for school dropout prevention projects, and authorizes a program of demonstration projects to improve school nutrition and health services for children from low-income families.

In general, part A of title I of H.R. 514 extends the ESEA title I programs designed to meet the special educational needs of educationally deprived children for 4 years, or through fiscal year 1974.

A major change contained in the bill is an expansion of and increases in the entitlements under this program, by raising the low income factor to $4,000, starting with fiscal year 1973. The entitlements under title I are ascertained by counting the number of children from families with an annual income below a specified level—the low-income factor—and adding to that number the children from families receiving AFDC payments. The committee believes that the present low income factor of $3,000 is unrealistic in light of the rising cost of living with resultant increases in the cost of education. It was deemed that a more realistic method of ascertaining entitlements was needed; therefore, the low-income factor was raised.

In conjunction with this raise in the low-income factor, the committee considered the possibility that the results of the census of 1970 could markedly affect the distribution of title I funds; there is language in the bill which prevents an automatic shifting of title I funds due to census figures. There is also included in the bill provision for a study of the allocation of title I funds by the Commissioner of Education. This study will be focused upon the distribution of funds and the means by which the funds can be better budgeted to meet the needs of educationally deprived children. It is expected that upon receiving the report from the Commissioner and the results of the census, the Congress can then treat the question of aid for the education of disadvantaged children in detail.

The bill contains a further amendment to title I which provides for a program of special grants to school districts serving the highest concentrations of children from low-income families. The committee recognized that, while present title I programs help in providing a certain amount of compensatory education, there is a need for special effort in certain districts where there is a higher than average incidence of title I children. This is due to the fact that the cost of such education grows at an increasing rate in those areas. This new program of special grants was the subject of intensive discussion in the committee. There was concern about how a program such as this would affect the manner in which the present title I funds are allocated. To prevent this type of outcome, two limitations were written into the legislation: The first limits the amount of funds which may be used for this program to 15 percent of appropriated funds in excess of $1.396 billion; and two, the special grants will only be made to those school districts with 20 percent or more title I pupils or 5,000 title I pupils or more if that figure is at least 5 percent of the children in the district. By this formula, we attempted to cover both the larger urban areas and the areas in which there is great rural poverty.

Part B of title I of H.R. 514 amends title II of the Elementary and Secondary Education Act of 1965, library resources, textbooks, and other printed and published materials. The provision has been of great assistance to the children and teachers in both public and nonpublic elementary and secondary schools. Testimony developed nothing but support for the program, which was left substantially unamended.

Part C of title I of H.R. 514 amends title III of the Elementary and Secondary Education Act of 1965—supplementary educational centers and services. This title provides for the establishment of exemplary and innovative programs aimed at improving the quality of education. Funds allocated under this title have benefited over 21,000 public school districts and 2,000 nonprofit private schools. Its value in enriching the edu-

cational offering of the school is inestimable.

The committee, recognizing the value of the program, extended the authorization for 4 years. The bill also extends the set-aside of 25 percent of the funds for the direct use of the Commissioner of Education, thus continuing the direct State administration of 75 percent of the funds appropriated. This set-aside expired in June of last year. However, the value of having direct federally sponsored programs of innovative education was recognized and the balanced approach was retained.

To assure the participation of all children, the committee adopted a bypass provision to insure their participation where no State agency is authorized by law to do so. This procedure was deemed both necessary and equitable, for the intent of the legislation was to have all children participate.

In connection with the amendment to assure participation of nonpublic schoolchildren in title III, I would like to say that the committee also considered language which would have required consultation with nonpublic school officials in planning and operating elementary and secondary education programs, if those programs authorize the participation of nonpublic schoolchildren.

After reviewing the language the committee decided not to adopt it because it was thought that the kind of consultation considered was already implicit in the law. For this reason I am stating that for the purposes of legislative history the committee expects that nonpublic school officials will be consulted wherever appropriate in the planning, development, and operation of all elementary and secondary education programs for which the law makes provision for participation of nonpublic schoolchildren.

Part D of title I of H.R. 514, contains amendments to title V of the Elementary and Secondary Education Act of 1965—strengthening State departments of education. This provision in the original bill expressed the congressional concern that a viable program of aid to education requires strong imaginative State departments of education. The provisions of this title were extended for 4 years. A new part B of title V was adopted which would make grants to strengthen leadership capacity in local educational agencies by providing for technical assistance to individual schools in such areas as education of the handicapped and the disadvantaged, school social work, and school health. A program of research and demonstration projects is envisioned which would explore new educational ideas and techniques. The great timelag between discovery of a new education system and its adoption—some say 30 years—could be bypassed by this type of program.

Title V of ESEA is also amended to provide funds for State and local educational agencies to use in strengthening their capabilities for educational planning and evaluation. It was found that with greater emphasis in this area the content of the educational offering might be sharpened and the programs found wanting discontinued. As the cost of education rises there is a greater need for increased evaluation capability. The new program of grants to the States and local agencies should bring this about.

In our quest for a method to enhance the quality of education, the committee adopted, in addition to the two amendments to title V of which I have already spoken, a third which would establish National and State Councils on Quality in Education. The National Council is intended to be the primary agency at the Federal level to provide guidance and leadership for Federal agencies, and the Congress in evaluating, planning, and improving the Nation's schools. This new Council and its State counterparts are expected to be the capstone of the various councils, committees, and advisory boards presently studying limited fields in education, for they will have as their main function not the seeking of more aid to education, but the insuring that our present programs of aid are able to and do improve the education being received by the children.

Part E of title I of H.R. 514 extends the bilingual education program for 4 years. This program seeks to insure that those children in the United States who do not have English as a mother tongue will not receive a poorer education because of this. It provides funds to support education programs which use the child's mother tongue, while at the same time seeking to teach the student English so that he can participate in the larger school programs. The bill also makes provision for the inclusion of Indian schools in the bilingual program.

Part F of title I of H.R. 514 contains an extension for 4 years of the dropout prevention program. This program was first funded in fiscal year 1969, but initial reports indicate that the programs already funded have been successful in keeping young adults in school, and its continuation was supported.

The committee adopted an amendment which provides for demonstration projects in school health and nutrition services for children from low income families. It is clear that hungry or ill children cannot learn. The program proposed will make funds available for projects to demonstrate what coordination between the already available Federal programs can accomplish to improve the physical well-being of children. This program, which will be closely coordinated with title I of the Elementary and Secondary Education Act, will bring together the various food and health programs, with the schools as the focal delivery point.

Evidence before the committee indicated that while our present Federal education programs aid certain groups of students, there has been little attention given to developing the talents of gifted children. Amendments adopted by the committee encourage State departments of education to increase their assistance for local programs for the gifted under titles III and V of the Elementary and Secondary Education Act of 1965. There is also encouragement for the granting of fellowships to train teachers of the gifted under the Education Professions Development Act. By these amendments the committee wishes to urge the Federal Government and States to examine their efforts to aid the gifted children.

Title II of H.R. 514 extends for 4 years Public Law 874—81st Congress—impacted aid, construction. This program is the second largest program of Federal aid to education and constitutes a very real portion of the operating budgets of many school districts. While the concept of impacted aid is presently under attack, and I am aware of the substance and thrust of the Battelle Memorial Institute's report in this connection, the committee recognized the simple fact that a precipitous alteration of this program would seriously disrupt many local school systems; and an extension was supported.

Certain school districts have suffered, and are suffering, financial problems from the impact of Cuban refugees who have moved in their areas under the provisions of the Migration and Refugee Assistance Act of 1965. The committee accepted an amendment which would make aid available to school districts having this type of impact.

A major amendment to the impacted aid program, providing for the inclusion of children residing in low rent housing projects assisted under the U.S. Housing Act of 1937 was also adopted. Evidence demonstrated that such an impact was on a par with the present program. The "in lieu of taxes" payment to the local government is believed to be inadequate to make up for the loss in tax revenues due to the Federal activity. The average payment to the local educational agency from those funds is about $11 per child while the cost of education may range from $700 to $1,200 a year per child. Therefore, the bill before you expands the definition of Federal property to include the public housing projects.

To insure against a sudden shift of funds from the present recipient school districts, the legislation guarantees to each school district presently receiving funds under this Act the fiscal year 1970 funding level through fiscal year 1972. Local educational agencies will receive payments for public housing children only to the extent that the appropriation is in excess of the 1970 level.

Title III of H.R. 514 revises the Adult Education Act of 1966 to provide for secondary level education for adults who have not completed high school.

While adult basic education has been successful in that 1.26 million people have participated, it is clear that the simple teaching of basic literacy is not adequate in today's society. This revision would make a high school education available to all.

To implement the provisions of this expanded program, the bill requires the establishment of a State advisory council on adult education.

Title IV of H.R. 514 is in the form of new legislation known as the General Education Provisions Act. This title consolidates into a single body of law general provisions for the administration of education programs and authority of the Commission of Education.

In title IV, we have taken the administrative provisions found in the many education acts enacted over the last 19 years, brought them together, eliminated duplication of law, coalesced those that were at variance with each other, and codified it all.

This codification grows out of our desire for simple, efficient administration of education programs. The State and local education officials often found unclear, and at times contradictory, provisions of law pertaining to their programs. Adoption of the General Education Provisions Act will clarify ambiguities and we believe will improve the administration of the programs under the authority of the Commissioner of Education.

In connection with the review of the administration of education programs and the development of the General Education Provisions Act, the committee became concerned with steps being taken to regionalize the administrative functions of the Office of Education. The committee report expresses the concern of the committee on this matter; and I would like to say in this statement that the committee favors a strong central Office of Education in Washington to which the State and local educational authorities should have direct and continuous access. Regionalization of the administration of education programs can only screen and dilute the interflow with the State and weaken the programs authorized by law. In fact, regionalization will tend to insert between Washington and the States a third level of bureaucracy with its consequent delays and lack of uniformity in the enforcement and administration of Federal education laws.

Some new administrative provisions are found in title IV. A major addition to present law is a provision for the "set aside" of up to 1 percent of program funds for the evaluation of that program. This provision, requested by the administration, will ensure that we in Congress, as well as the program administrators, will be in a position to know whether the various programs are in truth successful. This is a major step, for one of the controversies around the Federal programs has been the lack of evaluation material. Indeed, with this set aside, we shall know whether we are receiving our money's worth.

Title V of H.R. 514 amends the National Defense Education Act of 1958 and the Higher Education Act of 1965 to extend and expand the concept of student loan forgiveness for public service.

The committee recognized that there is a need to insure that young teachers will opt not only for a career in teaching, but also for teaching where they are needed, in the most disadvantaged schools. To attain this end, the committee adopted provisions which provide for the forgiveness of both the national defense student loans and loans made under the guarantee provisions of the Higher Education Act of 1965. Varying schedules of forgiveness have been adopted which put a premium on teaching in disadvantaged schools and schools for the handicapped. These provisions continue the forgiveness portions of the present law of both types of loans for service in the Armed Forces by an individual entering the service after the loans were made.

Title VI of the bill consolidates all programs of education for the handicapped which are administered by the Commissioner of Education into a single statute.

In 1966, this committee recommended, and Congress enacted, title VI of the Elementary and Secondary Education Act of 1965, as a major step in making special educational services available to handicapped children in elementary and secondary schools. Since that time, Congress has expanded the Federal commitment in education of the handicapped by authorizing special programs for the deaf-blind, regional resource centers, special preschool programs, and a National Media Center for the Handicapped. In addition, funds authorized by title III of the Elementary and Secondary Education Act of 1965 and the Vocational Education Act of 1963 have been earmarked for special programs for handicapped children.

These many provisions have been codified into one body of law which will insure efficient administration of the many programs administered by the Bureau of Education for the Handicapped.

A new section has been incorporated into the codification which provides for special programs for children with specific learning disabilities. It is estimated that about 3 percent of the school population suffers from a handicap which prevents them from fully realizing their potential. While the child may read excellently, his mathematical ability is faulty. Research indicates that this type of learning disability is correctable. However, Federal legislation has not recognized such learning disabilities as a separate identifiable grouping. The proposed legislation not only recognizes this handicap but also provides for a program of research, teacher training and model centers for these children.

Title VII of H.R. 514 extends several vocational education programs to make them coterminous with the main body of vocational education legislation. The programs involved are: First. special programs for vocational education for disadvantaged students; second, State programs of residential vocational school facilities; third, the program of interest subsidy grants for residential schools; fourth, vocational education work-study programs; fifth, the curriculum development programs; and sixth, teacher-training programs for vocational education teachers—part F of the Education Professions Development Act. Title VII also contains technical and clarifying amendments to the Vocational Education Act of 1963 and related legislation.

The committee recommends the continuation of these six programs. They are essential if vocational education is to be updated and revitalized as envisioned by the amendment of 1968.

Title VIII of H.R. 514 contains miscellaneous provisions. A waiver of the matching requirement in the Upward Bound program was adopted. The Higher Education Amendments of 1968 transferred the Upward Bound program from the Office of Economic Opportunity to the Office of Education. The law contains a requirement that there be a non-Federal share of the cost of the program. The Economic Opportunity Act contains provisions which permit the waiving of the non-Federal share requirement and the use of contributions in kind to satisfy the non-Federal share requirement. These provisions were not included in the transfer. Section 801 amends section 408(c)(1) of the Higher Education Act of 1965 to provide for waiver of the non-Federal share requirement in the Upward Bound program and to permit the use of contributions in kind to satisfy that requirement.

In connection with the transfer of the Upward Bound program I understand that there has been some confusion about the authorities which were transferred in the Higher Education Amendments of 1968. The committee report seeks to clarify the scope of the authority which was transferred in the Upward Bound program to the Talent Search program with respect to grantees. The report makes clear that organizations such as the Fellowship of Concerned University Students which assist Upward Bound graduates in gaining admission to college are eligible grantees under the Talent Search program and that that type of project is intended to be funded.

The bill also amends title V-B-I of the Higher Education Act of 1965, which authorizes the Teacher Corps. The amendments authorize a new component, the Student Teacher Corps; adjust the salary rate for members of the Teacher Corps, and increase the authorization of appropriations for the program.

In recent years, college students have volunteered by the tens of thousands for tutorial programs. However, these programs have often lacked the careful training, selection, and integration into school programs and community life essential for success in teaching children from poverty homes.

A new movement has also begun that uses high school, junior high school, and in some cases even elementary school pupils from the higher grades in tutoring their younger school mates. Careful research shows that such tutorial programs are very successful, both for tutor and tutee.

These amendments are designed to provide an opportunity to expand these programs at the local level in conjunction with local Teacher Corps projects.

The committee considered recommendations for consolidation of various education programs. The programs considered were the programs authorized by titles II and III of the Elementary and Secondary Education Act, titles III-A and V-A of the National Defense Education Act of 1958, and section 12 of the National Foundation on the Arts and Humanities Act of 1965. The committee recommends that these programs be retained with their present separate authorizations at this time with one exception. Section 12 of the National Foundation on the Arts and Humanities Act of 1965 has a very small authorization of $500,000 and has not been funded. Since the program is very similar to that authorized by title III-A of the National Defense Education Act, there appears to

be no reason to maintain two separate instructional media programs. Section 804 of the bill consolidates these two programs by deleting the categories of subjects in title III of the National Defense Education Act and providing that equipment may be purchased in any academic subject.

Section 803 of the bill requires the Commissioner of Education to make a study of the educational needs of gifted and talented children. It is expected that this study will be conducted by persons having special expertise in the area of educating gifted and talented children. The study will assess the effectiveness of existing Federal programs in meeting the needs of those children and will be accompanied by recommendations for new legislation specifically designed to make financial assistance available for education programs for gifted and talented children.

The final provision of the bill provides for a National Commission on School Financing to study problems related to the financing of elementary and secondary education and amends the Cooperative Research Act to require the Commissioner to provide for research regarding such problems. Funds available for the purposes of the Cooperative Research Act and for the purposes of section 402 of the General Education Provisions Act shall be available to enable the Commissioner to carry out the functions of the National Commission.

Mr. President, this is a large, some would say, massive bill. I have touched on what I consider to be the high points of the bill, noting the major amendments and additions to present programs. The committee has supported a bill which is an attack on the problems of education in our country today. It is a distillation of advice and counsel from many sources, and in certain areas a compromise between conflicting opinions. However, Mr. President, we lay this before the Senate confident that its enactment will effectively benefit millions of schoolchildren—public and private—urban and rural—throughout our country.

Mr. TOWER. Mr. President, education is a foremost priority in our country. The success of our schools is essential to the success of our form of government. So many of the problems that face us within our Nation can only be solved by more and better education for our people. The bill which we are considering today, H.R. 514, amends and extends the authorizing legislation for the major Federal efforts in education. One of the largest and, in my estimation, one of the most effective of the programs included in this measure is that of aid to federally impacted areas under Public Law 874.

I have always been a firm supporter of the Public Law 874 program. I feel that it is the responsibility of the Government to make some provision for the alleviation of the burden imposed upon an area by the presence of substantial Federal activity. This program has proven effective in achieving this purpose and over its 20-year history has been amended and enlarged in scope several times. The present bill calls for an additional enlargement of the scope of the Public Law 874 and Public Law 815 programs to include impact funds for children residing in low-rent public housing. As far as school districts are concerned, these housing projects have the same effect as Federal installations in that the school system finds itself with a significant percentage of its students living on nontaxable property. The payments made in lieu of taxes come to about $11 per child for children living in public housing while the cost of education per child may be from $700 to $1,200. Because the need in such a case is clear and because the impacted aid program has greatly benefitted our schools, I am in favor of extending this concept to include students dwelling in federally instituted housing projects. Important as this is, however, it would be unfortunate if, in expanding the entitlements, we spread the funds too thin to have beneficial effect anywhere. The provision in the bill for insuring to local education agencies funding at the present level through fiscal year 1972 and for making payments for children residing in low-rent public housing only to the extent that appropriations are above the 1970 level guards against precipitous overextension of the program.

The single largest Federal effort in education is title I of the Elementary and Secondary Act. The purpose of this title is to provide funds for programs for the educationally disadvantaged. Because of the correlation between low-income levels and educational underachievement, the distribution formula for title I attempts to concentrate funds in areas where there are heavy populations of children from low income families.

To measure this concentration, the title I formula counts children on the basis of two factors: First, 1960 census estimates of the number of school-age children from low-income families; and second, the number of school-age children whose families receive more than $2,000 in payments for aid to families with dependent children—AFDC. Furthermore, the payments are figured on the basis of a Federal percentage, 50 percent, of the State's average annual per pupil expenditure or of the national average annual per pupil expenditure, whichever is greater. There are several problems caused by this formula. For one thing, at the inception of the program in 1965, the census figures were already 6 years old; today, they are 10 years out of date. In the past 10 years the number of school-age children in low-income families has undoubtedly increased, and the concentrations have shifted both within the several States and in the Nation as a whole.

The use of the AFDC count also causes problems. There are 12 States—Alabama, Arizona, Arkansas, Florida, Georgia, Maine, Mississippi, New Mexico, South Carolina, Tennessee, Texas, and Wyoming—that cannot count any AFDC children for payment under title I. In these States, there are many children ineligible to be counted for title I aid whose situations are no better and, in many cases, demonstrably worse than those of children whose families are receiving more than $2,000 in AFDC payments.

There is something of a problem, too, in basing the title I payment on 50 percent of the State's per pupil expenditure. Certainly the costs of quality education vary somewhat from State to State, but the State's ability to meet those costs varies also. Under the present scheme, the States best able to meet the costs of education receive the largest sums. Briefly, the rich get richer.

I do not have the solutions to all of these problems. The solutions will take much thought, considerable work, and statistics which are not presently available, such as the 1970 census figures. But we all should be aware of these problems and work to solve them if this program is to be made responsive to the need which it was conceived to meet.

Another section of this bill particularly concerns my own State. Texas has a large population of citizens of Mexican-American heritage. In many communities, Spanish is spoken in the home, and often a child is of school age before he ever hears the English language. This situation presents a special problem for the schools, a problem that title VII of the Elementary and Secondary Education Act aims to correct. Bilingual and bicultural education can, I believe, salvage many students of enormous potential who drop out simply because the language used for instruction in the schools is unfamiliar to them. Presentation of subject material in their mother tongue and in English will help these students over the initial hurdle, hold their interest, and improve their skill in both languages. In fiscal year 1969 there were 19 bilingual education projects in Texas serving over 12,000 participants. This program is still too young for us to assess its effects fully. However, I believe that it has great potential and heartily concur in its extension.

In H.R. 514 we will, no doubt, once again authorize advanced funding of education programs. This concept has been endorsed by the Congress repeatedly, but very rarely has anything come of it. Education programs are funded later and later every year, and educators and school administrators often cannot plan on this money and cannot budget it to the best advantage. For this reason, I believe that the amendment offered by the Senator from Virginia (Mr. SPONG) to form a commission to investigate the means of implementing the advanced funding concept would be a proper step toward remedying what has become a disorderly and awkward situation.

Educators who spend the federally dispensed dollar would be better employed otherwise than in worrying over whether the education appropriations will rise to the level of their planning or whether, worst of all, they will end up with more money than they had planned for. Certainly money for education, the usefulness of which no one doubts, would be more useful if adequate time were allowed to budget it to the best purpose. A clear understanding as much as a year in advance of the level of funding for education programs to which the Federal Government is committed would do more than soothe the ulcers of school superintendents; it would enhance the value of each dollar spent. I am not wildly

enamored with every Federal aid to education scheme on the books, but I am certain that funding which provides ample time for planning expenditures will improve the overall effectiveness of all these programs.

Since it has been repeatedly the announced intention of Congress to provide advanced funding, it is time that we either determine how to make the advanced funding concept work or abandon it altogether. The continued divergence between announced intent and ultimate action is insupportable. Advanced funding is a good idea, and I choose to find out how it can be brought into operation. If the commission proposed by Senator SPONG's amendment can advise successfully how that goal can be achieved, it will have accomplished a significant feat. I believe that it can, and I support the amendment.

This is a sweeping bill and an important bill. There are many other items in this legislation which are of great significance. I have touched on just a few of those issues which I believe are most pressing. In recent years, the Congress has made a broad Federal commitment to education. We must make the best of it by avoiding the temptation to run amok among proliferating and redundant programs. We must shape and direct our efforts in education to achieve the maximum benefit without interfering with the right of local authorities to operate their schools and control their curricula. To do this demands a delicate touch and much understanding. I pray that we may have both.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. JAVITS. Mr. President, I shall not detain the Senate very long. I announce at this time that the Senator from Colorado (Mr. DOMINICK), a member of the committee, will also address himself to this subject.

I think that the chairman of our subcommittee, who has done a magnificent job in the subcommittee hearings and in the consideration of the tremendous number of amendments of great complexity which were heard with respect to this bill, should receive our congratulations for bringing the bill to the floor in its present shape, which I think is very eligible for enactment by the Senate substantially as it comes before us. The bill is in a very real way the product of the members of the subcommittee, both majority and minority.

I should like to point out that 30 major provisions of the bill were moved by the minority. And it therefore represents, to a real extent, all our ideas.

While I understand there will be a major debate on some of the amendments which we will consider—and it is perfectly proper that there be—which deal essentially with civil rights questions. I am rather heartened by the understanding that on the substantive aspect of the bill, in terms of the educational coverage of the bill, there is rather general agreement.

There will be amendments, but on the whole the basic framework of the bill which we have submitted to the Senate seems to have received a good reception from Senators generally.

On the general proposition of aid to education, which was debated for so long in previous years, there seems to be the generally prevailing view that we should go forward, as we have, with all the added experience and resources which have been made available by virtue of this activity for such a long period of time.

There are certain very distinct aspects of this measure which I do think require rather special attention, because they do represent innovations of a very material kind.

First, I think it is very important to know that we have tried to take account of the expanding concepts of the low-income factor which affect the essential plan of title I of the Elementary and Secondary Education Act—that is, programs and projects to meet the special educational needs of educationally deprived children. And the low-income factor is increased to $4,000 from $3,000 after a period of years, the delay in the change having been forced upon us more by the realities of financing than by the realities of living standards and living costs.

So, we have deferred for a period of years, but nonetheless laid the foundation so that it can be pursued after that time in an effort to increase the low-income factor from $3,000 to $4,000 as the basis of eligibility for this kind of Federal aid to education.

Another area in which I think we do extremely well is to recognize that there are still added problems of density of impact. And so we acted as we did on the first amendment with respect to another amendment, which I am very pleased to say was submitted by the Senator from California (Mr. MURPHY), a Member of the minority, the first one having been submitted by the Senator from Minnesota (Mr. MONDALE), a Member of the majority, to make special provision for school districts which were very heavily impacted, unusually heavily impacted with disadvantaged children in adding a new part C to title I of the Elementary and Secondary Education Act.

I think that is a very signally fine amendment.

Other provisions which we have included, which I again consider to be extremely desirable, are provisions to free funds in respect of title III of ESEA, supplementary education centers and services, so that the Federal Commissioner of Education should have greater flexibility for their use in many areas where the national prospective is extremely valuable and important for the kind of vehicle which we have in mind.

Another amendment which deserves to have the attention of the Senate deals with the whole problem of areas impacted by Federal activity.

For a very long time we have overlooked the effect of Federal low-rent housing projects which has very materially impacted many school districts which find it very difficult to carry that load, just as much so as in the case of Federal installations of a military or similar character.

We realize the practical difficulties of the impacted area aid bill is very deeply embedded in the educational financing of many communities. So we have done our utmost to take cognizance for the first time of this long standing, and for the purposes of the pending bill, new concept of impacted areas. We have frozen it at the level of 1970 so that no presently impacted district will get any less, without regard to the provisions of this new provision, than it did in 1970.

There are other aspects of the bill which deserve special attention from us.

ADULT EDUCATION

In title III of H.R. 514, there is an effort to meet more modern concepts of adult education by including for the first time education for adults at the high school level in addition to basic education at the grade level. Also, within the same context, the effort is made to deal with school dropouts and to give them a chance for adult education by having the eligibility at 16, and in that way, hopefully, dealing with the educational needs of 1 million young people who drop out from school each year. High school education equivalency for adults is a matter of most critical importance to the general intellectual thrust of the country and the basic concept of literacy which today goes beyond elementary reading and writing. There must be the opportunity for people to continue education as they grow older without finding that the string has run out once they have concluded a primary education.

INNOVATION IN LOCAL AGENCIES

Another aspect of the bill which deserves attention is the effort to strengthen local education agencies, especially with an emphasis on innovation. This enormous problem faces us because of the shortages of money and major increases in the demands of education, both as to quality and the number of persons affected. We believe that greater selectivity, greater intelligence, organization, and choice of curriculum can be extremely helpful in coping with these problems. Section 143 of the bill adds a new part B of title V of ESEA to strengthen local education agencies, with the principal stress on innovation.

GIFTED AND TALENTED CHILDREN

Finally, one area in which I have a special interest is now incorporated in the bill. I refer to the provisions for gifted and talented children located in appropriate sections of the bill. This is a matter of great interest to many Members of the Senate. We have not adequately looked at the other end of the spectrum of human resources entrusted to our care. In the educational field we have done what we could for educationally deprived children, but the gifted and talented children represent a peculiar national resource which has not had the

direct and solicitous attention which they deserve. Their problems, at the other end of the spectrum, are just as real as the problems of educationally deprived children.

For the first time we have now incorporated not only comprehensive considerations of this question, but also very proper provisions to deal with it. While no additional congressional authorizations are directly related to these provisions for gifted and talented children, the organizational framework created will represent a very major contribution to the education of such children.

While some States have already dealt with programs along this line, only about one-third of them have dealt with it in any way. This is a national inadequacy and represents a deprivation of a very vital national resource. I believe it is very commendable and important that we should have dealt with the matter in this bill. It may be remembered that this was the subject of a separate bill, S. 718, which I had the honor to introduce with some very distinguished Senators: Senator PROUTY, Senator ALLOTT, Senator BELLMON, Senator COOK, Senator COOPER, Senator DOMINICK, Senator SCHWEIKER, and Senator STEVENS. It has now found fruition in this bill. I think it will be very helpful to the educational system of our country.

I understand we will be spending some time in respect to problems relating to segregation and desegregation in educational facilities and educational opportunities, and that is quite right.

As I said when I began, the basic agreement upon the broad phases of this bill, again allowing for amendments which undoubtedly will be proposed, is most gratifying to those of us who have worked to report the bill. I hope very much the debate we are now undertaking will maintain this highly and completely bipartisan level of common concern that our country should give the finest education which it is capable of providing, bearing in mind our budgetary problems and other problems, but also bearing in mind quality as well as coverage in respect of our educational system. I am satisfied, along with the Senator from Rhode Island (Mr. PELL), that we have put our very best foot forward from the committee in reporting the bill to the Senate.

Mr. DOMINICK and Mr. LONG addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Colorado.

Mr. DOMINICK. Mr. President, I wish to say to the Senator from Illinois that I shall not take more than 3 minutes and then I would be happy to yield the floor.

Mr. President, as the distinguished senior Senator from New York has said, this is not a partisan matter, and that fact is demonstrated quite clearly in the supplemental views filed with the report on the bill. As the Senator from New York so graphically pointed out, some 30 amendments offered by Members of the minority are included in the bill which has been reported to the Senate.

Our supplemental views, which I signed, do not indicate whether each Member of the minority fully supports all of the amendments.

Item No. 9 in the supplemental views refers to the inclusion in the impacted areas education aid program of children residing in low-rent public housing. I object strenuously to that particular provision and I have introduced an amendment to strike it. I did not want the record to indicate that I was in favor of this kind of reallocation of resources under the Public Law 874 program.

If we start including children in low-rent public housing we change the entire tenor of this law which we have been reviewing so long and so carefully, and which is now under independent review by the executive branch and, hopefully, by Members of the Senate following release just a few weeks ago of the Battelle Institute study commissioned by Congress.

I want to make the record clear that I am not in favor of that. I objected to it in committee. I even offered an amendment in committee to make public housing a separate line item so there would have to be a separate appropriation for it. My amendment was defeated in committee. However, a separate line authorization will be the subject of an amendment on the floor which I have been working on with Senator YARBOROUGH.

Mr. President, one other item I wish to mention at this time—and I shall speak more at length later on—is the inclusion in the extension legislation of my incentive grant program under title I, part B. I have been pushing for the funding of it for a number of years. The program provides a real incentive to State and local governments to focus larger portions of their revenues on education.

One other point. Once again the committee adopted the provision that no portion of the moneys in this bill shall be used for the purpose of busing in order to overcome racial inequality or racial imbalance. I am sure this is a subject which will have a rather heated debate in the next couple of days but the committee has gone that far in previous bills.

Mr. President, having made this preliminary statement, I shall speak more at length as the amendments are called up.

Mr. TOWER. Mr. President, I wish to take this opportunity to speak in support of the amendment submitted by the Senator from Mississippi (Mr. STENNIS) to the Elementary and Secondary Education Act. It is important that we here in the Senate reaffirm our belief that the schools in this Nation be run by the local authorities that are elected by the people to run them; not by the appointed bureaucrats here in Washington that have no knowledge of local situations.

When Congress first agreed to finance local education, those who opposed such Federal intrusion predicted that Federal controls would soon follow. The proponents of the program called such predictions foolish and scoffed at the idea that the Federal Government would concern itself with the administration of local schools. However, today, those predictions have been proven all too accurate. Acting under the guise of "civil rights" or at times other things, the Government daily concerns itself with every aspect of public school administration. For example, just last week the Acting Regional Director of the Department of Health, Education, and Welfare ordered a school district to produce in writing in a 4-day period the following information and analyses:

First. A list of each of the district's school faculty assignments by race, subject matter and grade level assignments for the school years 1965–66—1969–70 inclusive.

Second. The names of all dismissed professional staff members, by race, their subject matter and grade level assignments during the school years of 1965–66—1969–70.

Third. The names of the newly hired professional staff members, their grade level, subject matter and school assignments for each of the school years 1965–66—1969–70, inclusive.

Fourth. An analysis of all the district's Federal programs, nearly 10 in number, showing:

Programs and amounts allocated for each 1969–70.

Designated schools.

Grade levels.

Racial/ethnic breakdown of participants.

Racial/ethnic breakdown of staff.

All of this information was from a district that was certified by the Department as being in compliance with all civil rights statutes and which has been cooperating diligently with the Department. As previously mentioned, the district was ordered to present all of this in only 4 days. Such an order takes all of the manpower from such school systems and interrupts the vital activities of these education organizations. To say the least, such harassment should cease.

The amendment offered by Mr. STENNIS goes a long way toward returning administrative control to locally elected school boards. The amendment specifically prevents the ordering of school attendance and administrative programs without the express consent of the locally elected school boards. I support this idea of local control as the bulwark of the Nation's school systems. I am pleased to join with the Senator from Mississippi and commend him for his action in this matter.

PRINTING ADDITIONAL COPIES OF COMMITTEE PRINT ENTITLED "MEDICARE AND MEDICAID—PROBLEMS, ISSUES, AND ALTERNATIVES"

Mr. LONG. Mr. President, I submit a resolution, which I ask unanimous consent be immediately considered. It provides that there be printed for the use of the Committee on Finance 1,700 additional copies of its committee print entitled "Medicare and Medicaid—Problems, Issues, and Alternatives."

We shall be releasing this particular document at the end of this week, for the morning press on Monday. It is a long-awaited document and there is tremendous interest in it.

I ask unanimous consent that the resolution be immediately considered. In view of many demands for this document, I am confident there will be a need for additional copies.

Mr. GRIFFIN. Mr. President, as I understand, approval of the resolution was cleared with the ranking minority member of the committee. May I ask the distinguished chairman if I am correct?

Mr. LONG. As a matter of fact, the motion that this document be printed was made by the distinguished Senator from Delaware (Mr. WILLIAMS). I understand it has been cleared on both sides of the aisle. It is the culmination of several months of intensive work by the staff of the Committee on Finance. I am confident it will lead to the saving of billions of dollars in the medicare and medicaid programs.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the resolution (S. Res. 354) was considered and agreed to, as follows:

Resolved, that there be printed for the use of the Committee on Finance one thousand seven hundred additional copies of its committee print of the current Congress entitled "Medicare and Medicaid—Problems, Issues, and Alternatives".

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

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill 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.

ELEMENTARY AND SECONDARY EDUCATION AMENDMENTS OF 1969

The Senate continued with the consideration of the bill (H.R. 514) to extend programs of assistance for elementary and secondary education, and for other purposes.

Mr. EAGLETON. Mr. President, I join with my colleagues in expressing general support for H.R. 514. It represents an enormous amount of work by the entire committee and, most especially, by Senator PELL, the subcommittee chairman, and by his staff. It marks a continuation of the commitment to large-scale support of public education first made by Congress in 1965.

I want to comment in some detail on section 203 of the bill, which would include children living in federally assisted public housing as "federally connected children" under Public Law 874.

The U.S. Housing Act of 1937 was among the earliest and most enlightened strategies to assure adequate housing for all citizens. Since its passage, over 698,000 housing units for poor people have been constructed, and an additional 238,000 units are now planned or under construction. They are located in over 3,000 communities in all 50 States, the District of Columbia, Puerto Rico, and the Virgin Islands.

Mr. President, federally built public housing has been a boon to millions of poor families over the years, and an increasingly insupportable burden for the communities where it is located.

These units are not taxable by local government, and their residents pay little in taxes as well. Yet these are the people whose requirements for public services are greatest.

The initial imbalance between local needs and available resources is not static; it has tended to escalate. Federal public housing policy—like many other Federal welfare policies—lures the rural poor to cities large and small. At the same time, medium- and high-income taxpayers, along with more and more industry and businesses, are moving out of the central cities. And the result is that more and more cities have less and less resources to deal with the human problem of poverty, whichever more urgently demands solution.

It is the impact of this syndrome on education that concerns me today.

An excellent education is the one opportunity most likely to save this generation of public-housing children from becoming the parents of the next. They need it most, and they are not getting it in large part because school districts in which the Federal Government has chosen to locate its public housing projects cannot afford to provide it.

Testimony presented before the House General Subcommittee on Education indicated that enrollment in certain surveyed areas doubled because of in-migration with the construction of federally financed housing—but nobody offered to pick up the tab for doubling the number of classrooms.

Children from nonpublic housing in the district suffer as well as do their parents, the taxpayers. They attend the same crowded and financially overburdened schools. Their parents are forced to bear a heavier tax burden for education, receive less for their money, and look for ways to escape to the suburbs. The cycle of fiscal decline continues—presumably in an atmosphere of increasing frustration and bitterness between public housing residents, local citizens, and local government.

The estimated per pupil expenditure in the United States for the 1968–69 school year has risen to $895. With local governments contributing about half the cost of public elementary and secondary education, this places an average burden of about $450 on local tax sources.

Perhaps the real problem lies in the way we finance our schools. Local property taxes may very well be an antiquated method, conceived in another century for another purpose.

I do not believe that difficulty in passing bond issues is a passing phenomenon. It is deeply rooted in the way we finance our educational system. And the way we finance our schools should be changed.

But until it is, the Federal Government certainly must assist in alleviating the hardships which are caused by its decisions and exacerbated by the system.

Mr. President, because Federal housing is tax exempt and adds nothing to local school revenue, housing authorities usually make small payments in lieu of taxes. A recent U.S. Office of Education survey of our 35 largest cities found that the average payment for education under this arrangement was $11.61 per child.

One need only subtract the average payments in lieu of taxes from the local school districts dependent on local tax sources.

Mr. President, it is time for the Federal Government to meet its obligations—to step in and rescue these children and these school districts—unless we are prepared to pay the awful cost in idleness, welfare, and waste for generations to come.

Section 203 of this bill amends the definition of "Federal property" in Public Law 81–874 to include low-rent housing assisted under the Federal Housing Act of 1937, thus entitling children living therein to be considered "federally connected children," and to receive the benefits of educational asistance to federally impacted areas.

Section 203 as it is now in the committee bill would entitle children living in public housing to be considered "B" students under Public Law 874, meaning that local school districts would be reimbursed for approximately one-half of the local cost of education for each pupil in the school district living in public housing.

However, I am not wedded to the concept that these children must be considered "B" children in terms of funding.

I am concerned, however, that public housing children be included in the bill either as "B" children or as it is in the House bill by creating a separate line item for appropriation by making them "C" children.

Aid under this amendment would be given to the local school districts for use in their general operating budgets and would be administered by the U.S. Commissioner of Education under authority vested in him.

This would enable school districts to use the money as they saw fit and to provide much needed assistance without creating yet another new agency and without the further proliferation of bureaucratic red tape.

In fiscal year 1971, approximately $236,000,000 would be required, an average of $203 for each of the estimated 1,163,718 children living in Federal housing.

I ask unanimous consent that a table listing the number of Federal housing units by State, the estimated number of eligible students in each State, and the estimated entitlement, based on the estimated "B" rate for fiscal year 1970 be printed in the RECORD at this point, together with the figures described above listing in tabular form the 74 cities that would greatly benefit by the inclusion of public housing children under Public Law 874.

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

TABLE A

State	Housing units under management [1]	Estimated number of pupils [2]	Estimated entitlement under sec. 203 of H.R. 514 [3]	Estimated entitlement fiscal year 1970 under Public Law 874 [4]	Total	Projected number of low rent public housing units [5]	Projected number of pupils [6]	Projected entitlement under sec. 203 of H.R. 514 [7]
Alabama	29,380	48,183	$7,388,863	$12,129,000	$19,517,863	39,525	64,821	$9,917,613
Alaska	532	872	214,512	17,664,000	17,878,512	1,014	1,663	409,098
Arizona	3,408	5,589	989,253	12,014,000	13,003,253	5,300	8,692	1,538,484
Arkansas	7,904	12,962	1,983,186	3,444,000	5,427,186	11,205	18,376	2,811,528
California	37,538	61,562	11,635,218	100,922,000	112,557,218	51,400	84,296	15,931,944
Colorado	4,450	7,298	1,605,560	17,227,000	18,832,560	6,021	9,874	2,172,280
Connecticut	13,090	21,467	4,851,542	4,410,000	9,261,542	17,002	27,883	6,301,558
Delaware	1,886	3,093	578,391	2,303,000	2,881,391	2,440	4,001	748,187
Florida	21,935	35,973	5,503,869	22,231,000	27,734,869	36,527	59,904	9,165,312
Georgia	38,179	62,613	9,503,289	20,606,000	30,109,289	49,344	80,924	12,381,372
Hawaii	3,354	5,500	907,500	11,914,000	12,821,500	4,760	7,806	1,287,990
Idaho	299	490	79,870	3,579,000	3,658,870	639	1,047	170,661
District of Columbia	11,124	18,243	3,612,114	7,484,000	11,096,114	13,208	21,661	4,288,878
Illinois	54,412	89,235	20,880,990	16,537,000	37,417,990	70,019	114,831	26,870,454
Indiana	8,144	13,356	2,203,740	5,673,000	7,876,740	16,646	27,299	4,504,335
Iowa	554	908	189,772	3,366,000	3,555,772	1,197	1,963	401,367
Kansas	1,492	2,446	440,280	11,168,000	11,608,280	5,922	9,712	1,748,160
Kentucky	15,183	24,900	3,809,700	10,402,000	14,211,700	21,967	36,025	5,511,825
Louisiana	19,871	32,588	4,985,864	4,375,000	9,360,864	28,197	46,243	7,075,179
Maine	396	649	117,469	3,987,000	4,104,469	1,709	2,802	507,162
Maryland	13,118	21,513	4,496,217	32,584,000	37,080,217	19,293	31,640	6,612,760
Massachusetts	25,605	41,992	10,498,000	20,427,000	30,925,000	36,918	60,545	15,136,250
Michigan	15,104	24,770	4,359,520	5,948,000	10,307,520	25,035	41,057	7,226,032
Minnesota	8,596	14,097	2,396,490	3,737,000	6,132,490	18,019	29,551	5,023,670
Mississippi	6,217	10,195	1,559,835	3,397,000	4,956,835	7,732	12,680	1,940,040
Missouri	13,826	22,674	3,990,624	11,048,000	15,038,624	22,928	37,602	6,617,952
Montana	1,048	1,718	312,676	6,052,000	6,364,676	1,578	2,587	470,834
Nebraska	5,339	8,755	2,101,206	5,887,000	7,988,206	7,409	12,150	2,903,850
Nevada	2,132	3,496	555,864	4,583,000	5,138,864	2,976	4,880	775,920
New Hampshire	1,789	2,933	744,982	2,745,000	3,489,982	3,553	5,826	1,479,804
New Jersey	38,156	62,575	15,894,050	15,358,000	31,252,050	47,895	78,547	19,950,938
New Mexico	1,819	2,983	456,399	12,539,000	12,995,399	3,591	5,889	901,017
New York	88,061	144,420	43,614,840	22,777,000	66,391,840	112,508	184,513	55,722,926
North Carolina	17,317	28,399	4,345,047	13,414,000	17,759,047	30,943	50,746	7,764,138
North Dakota	712	1,167	191,388	3,203,000	3,394,388	1,052	1,725	282,900
Ohio	30,297	49,687	9,539,904	14,023,000	23,562,904	41,969	68,829	13,215,168
Oklahoma	2,303	3,776	672,128	15,666,000	16,338,128	12,881	21,124	3,760,072
Oregon	3,738	6,130	1,428,290	3,407,000	4,835,290	6,479	10,625	2,475,623
Pennsylvania	50,932	83,528	16,956,184	11,324,000	28,280,184	73,123	119,921	24,343,963
Rhode Island	6,723	11,025	2,623,950	4,533,000	7,156,950	9,775	16,031	3,815,378
South Carolina	7,124	11,683	1,789,499	10,801,000	12,590,499	9,763	16,011	2,449,683
South Dakota	910	1,492	301,384	4,741,000	5,042,384	1,208	1,981	400,162
Tennessee	25,267	41,437	6,339,861	8,549,000	14,888,861	36,487	59,838	9,155,214
Texas	38,849	63,712	9,747,936	38,467,000	48,214,936	52,612	86,283	13,201,299
Utah	30	49	7,497	8,953,000	8,960,497	53	86	13,158
Vermont	251	411	96,174	153,000	249,174	865	1,418	331,812
Virginia	14,253	23,374	4,511,182	43,624,000	48,135,182	19,058	31,255	6,032,215
Washington	8,643	14,174	2,296,188	16,755,000	19,051,188	14,567	23,889	3,870,018
West Virginia	2,726	4,470	683,910	544,000	1,227,910	5,208	8,541	1,306,773
Wisconsin	5,564	9,124	1,989,032	2,952,000	4,941,032	8,341	3,679	2,982,022
Wyoming	20	32	5,664	2,120,000	2,125,664	400	656	116,112

[1] From HAA table No. 10. Includes only those units under management as of Dec. 31, 1968.
[2] Estimated by multiplying 1.64 pupils per unit by the number of units under management as of Dec. 31, 1968. The factor of 1.64 children per public housing unit is based on a survey by HUD.
[3] Estimated by multiplying the number of pupils by the estimated 1970 average "b" rate in each State. The estimated average "b" rate was supplied on a State-by-State basis by the Office of Education in HEW.
[4] Based on current estimates by the Office of Education.
[5] Based on total number of low-rent public housing units under management, under construction, under ACC and under preservation as of Dec. 31, 1968. From HAA table No. 10.
[6] Estimated by multiplying 1.64 pupils per unit by the number of units as defined in Ft. No. 5.
[7] Determined by the total number of pupils multiplied by the estimated 1970 average "b" rate.

TABLE B

State and city	Housing units under management	Estimated number of pupils	Estimated entitlement under sec. 203 of H.R. 514	Projected number of low-rent public housing units	Projected number of pupils	Projected entitlement under sec. 203 of H.R. 514
Alabama:						
Birmingham	5,859	9,609	$1,470,177	8,325	13,653	$1,935,909
Huntsville	1,555	2,550	390,150	2,755	4,518	691,254
Mobile	2,199	3,606	551,718	4,247	6,965	1,065,645
Montgomery	2,326	3,814	583,542	4,125	6,675	1,035,045
Arkansas: Little Rock	1,164	1,909	292,077	2,964	4,861	473,733
California:						
Los Angeles	10,040	16,466	3,111,885	14,709	24,123	4,559,247
Oakland	2,775	4,551	860,139	7,092	11,631	2,198,259
Sacramento	1,260	2,394	452,466	3,060	5,018	948,402
San Francisco	6,427	10,540	1,992,060	9,665	15,851	2,995,839
Colorado: Denver	3,696	6,061	1,333,420	4,546	7,521	1,654,620
Connecticut:						
Bridgeport	2,910	4,772	1,078,472	2,910	4,772	1,078,472
Hartford	2,636	4,323	976,998	4,193	6,877	1,554,202
New Haven	2,251	3,692	834,392	3,386	6,045	1,366,170
Delaware: Wilmington	1,718	2,818	526,966	3,181	5,217	975,579
District of Columbia:						
Washington	10,702	17,551	3,475,098	14,169	23,237	4,600,926
Florida:						
Jacksonville	1,861	3,052	466,956	3,861	6,332	968,796
Miami	4,938	8,098	1,238,994	13,139	21,548	3,302,964
Tampa	3,731	6,119	936,207	4,885	8,011	1,225,683
Georgia:						
Atlanta	10,809	17,727	2,715,291	16,815	27,577	4,219,281
Augusta	1,957	3,209	490,977	2,957	4,849	748,017
Savannah	2,320	3,805	582,165	2,820	4,625	707,625
Illinois:						
Chicago	33,758	55,363	12,954,942	39,629	64,992	15,208,128
E. St. Louis	2,067	3,390	793,260	8,403	13,781	3,224,754
Indiana:						
Gary	1,427	2,340	386,100	2,754	4,517	745,305
Indianapolis	1,797	2,947	486,255	5,864	9,617	1,586,805
Kansas: Kansas City	962	1,578	284,040	2,867	4,702	846,360
Kentucky: Louisville	5,467	8,966	1,371,798	6,917	11,344	1,735,632
Louisiana:						
E. Baton Rouge	170	297	$42,687	2,620	4,297	$657,441
New Orleans	12,790	20,976	3,209,328	15,547	25,563	3,911,139
Maryland: Baltimore	10,480	17,843	3,729,187	14,631	23,995	5,014,955
Massachusetts:						
Boston	18,764	30,773	7,693,250	18,764	30,773	7,693,250
Cambridge	1,163	1,907	476,750	2,631	4,315	1,078,750
Fall River	1,362	2,234	558,500	2,620	4,297	1,074,250
New Bedford	1,128	1,883	470,750	2,810	4,608	1,152,000
Worcester	1,202	1,971	492,750	2,861	4,692	1,173,000
Michigan:						
Detroit	8,203	13,453	2,367,728	12,344	20,244	3,562,944
Minnesota						
Minneapolis	3,647	6,047	1,027,990	8,977	14,722	2,591,072
St. Paul	2,816	4,618	785,060	6,334	10,388	1,881,088
Missouri:						
Kansas City	2,066	3,388	596,288	4,098	6,721	1,182,896
St. Louis	8,416	13,805	2,429,680	12,332	20,224	3,559,424
Nebraska: Omaha	2,558	4,195	1,002,605	3,923	6,434	1,537,726
New Jersey:						
Jersey City	3,806	6,242	1,585,468	4,004	6,567	168,018
Newark	13,226	21,723	5,517,642	14,092	23,111	5,870,194
New York:						
Buffalo	4,463	7,319	2,210,338	5,087	8,343	2,519,586
New York City	76,354	125,220	43,856,440	96,921	158,950	48,002,900
Rochester	559	917	276,934	3,199	5,246	1,584,292
Syracuse	1,838	3,014	910,228	2,652	4,349	1,313,398
North Carolina:						
Asheville	592	971	148,563	3,193	5,237	801,261
Charlotte	2,092	3,431	524,943	7,316	11,998	1,835,694
Winston-Salem	1,718	2,817	431,001	4,549	7,526	1,151,478
Ohio:						
Akron	1,464	2,401	460,992	4,149	6,804	1,306,368
Cincinnati	6,214	10,191	1,956,672	7,381	12,105	2,324,160
Cleveland	7,994	13,110	2,517,120	10,514	17,243	3,310,656

State and city	Housing units under management	Estimated number of pupils	Estimated entitlement under sec. 203 of H.R. 514	Projected number of low-rent public housing units	Projected number of pupils	Projected entitlement under sec. 203 of H.R. 514
Columbus	3,562	5,842	$1,121,664	7,735	12,685	$2,435,520
Dayton	2,414	3,959	760,128	4,478	8,000	1,536,000
Toledo	2,442	4,005	768,960	6,093	9,993	1,918,656
Oklahoma:						
Oklahoma City	1,328	2,211	393,558	5,741	9,451	1,682,278
Tulsa	832	1,364	242,792	3,370	6,019	1,071,382
Oregon: Portland	2,341	3,839	901,477	2,939	4,820	1,123,060
Pennsylvania:						
Philadelphia	19,279	31,618	6,418,454	30,053	49,287	10,005,261
Pittsburgh	9,614	15,767	3,200,701	13,214	21,671	4,399,213
Rhode Island:						
Providence	2,972	4,874	1,160,012	2,972	4,874	1,160,012
Tennessee:						
Chattanooga	2,633	4,318	660,654	5,983	9,812	1,501,236
Knoxville	2,937	4,817	$737,001	3,715	6,093	$932,229
Memphis	5,039	8,313	1,271,889	7,164	11,749	1,797,597
Nashville	7,078	8,457	1,293,921	7,078	11,608	1,776,024
Texas:						
Dallas	6,372	10,942	1,674,126	8,372	14,222	2,175,966
El Paso	1,650	2,706	414,018	3,300	5,412	828,036
Houston	2,830	4,641	710,073	3,054	5,009	766,377
San Antonio	5,682	9,318	1,425,654	7,629	12,512	1,914,336
Virginia:						
Norfolk	3,720	6,101	1,177,493	4,920	8,069	1,557,317
Richmond	2,969	4,869	939,717	4,709	7,723	1,490,539
Washington: Seattle	3,978	6,524	1,056,888	6,407	10,507	1,702,134
Wisconsin: Milwaukee	3,037	4,981	1,085,858	6,161	10,104	2,202,672

Mr. EAGLETON. Mr. President, I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill 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.

What is the will of the Senate?

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

AMENDMENT NO. 458

Mr. SPONG. Mr. President, I call up my amendment No. 458 to the Elementary and Secondary Act Amendments.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk proceeded to read the amendment.

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

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

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

"COMMISSION ON ADVANCE FUNDING

"SEC. 809. (a) There is hereby established a Commission on Advance Funding (hereinafter referred to as the 'Commission') for the purpose of studying means of implementing the advance funding procedure of section 403 of the Elementary and Secondary Education Amendments of 1967 (20 U.S.C. 1223).

"(b)(1) The Commission shall be composed of eighteen members as follows:

"(A) Six Members of the Senate, to be appointed by the President of the Senate;

"(B) Six Members of the House of Representatives, to be appointed by the Speaker of the House of Representatives; and

"(C) Six members to be appointed by the President.

"(2) The Commission shall elect a Chairman from among its members.

"(3) The members of the Commission shall serve without compensation, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in carrying out the duties of the Commission.

"(4) The Commission shall submit a report of its findings and recommendations to the President and Congress within one year after the date of enactment of this Act. Thirty days after submitting such report, the Commission shall cease to exist.

"(c) In order to carry out the purposes of this section, the Commission is authorized—

"(1) to appoint and fix the compensation of such personnel as may be necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates; and

"(2) to obtain the services of experts and consultants, in accordance with the provisions of section 3109 of title 5, United States Code, at rates for individuals not to exceed $100 per day.

"(d) The Commission is authorized to request from any department, agency, or independent instrumentality of the Government any information and assistance it deems necessary to carry out its purpose under this section; and each such department, agency, and instrumentality is authorized to cooperate with the Commission and, to the extent permitted by law, to furnish such information and assistance to the Commission upon request made by the Chairman or any other member when acting as Chairman.

"(e) The General Services Administration shall provide administrative services for the Commission on a reimbursable basis.

"(f) There are hereby authorized to be appropriated such sums as may be necessary, not to exceed $150,000, to carry out the provisions of this section.

Mr. SPONG. Mr. President, I ask unanimous consent that the names of the following Senators be added as cosponsors of amendment 458 to H.R. 514: The Senator from Oregon (Mr. HATFIELD), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Michigan (Mr. HART), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Utah (Mr. MOSS), the Senator from Illinois (Mr. SMITH), and the Senator from Alaska (Mr. STEVENS).

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

Mr. SPONG. Mr. President, I wish to commend the Senator from Rhode Island (Mr. PELL) and his staff for the fine work they have done on this bill. I have an amendment, which concerns advanced funding. This amendment would provide for the creation of an 18-member Commission to study means of effectively implementing advanced funding for education programs.

I think we all know well the story of timing as far as education programs go. In recent years, the fiscal year has begun without passage of the education appropriations. Several months later, the school year has begun, still without the approval of education funds. School districts move into their operations, with either faith that the Federal Government will eventually come up with the anticipated funds or uncertain whether they will meet the budget that they planned months before.

There is no question that such a procedure precludes orderly and effective planning on the local level. Local school officials are left in a bind year after year. Either they plan for full use of anticipated funds and pray that the Federal Government will come through with those funds or they do not plan for full use and end up with funds which must be spent quickly in the spring of the year.

Clearly, it is time to adopt a more efficient and businesslike approach.

Three times in past years, Congress has approved the concept of advanced funding. We are about to approve it for the fourth time in the legislation which is before us. We must move to see that the procedure is not only authorized, but that it is implemented, that it is put into operation.

That is the purpose of this amendment—to see that advanced funding is put into effect.

Hopefully, the Commission to be established will make those responsible for education appropriations more aware of the need for early funding of education programs. Hopefully, it will be able to convince the Budget Bureau that school administrators must have more time to plan their annual budgets. Hopefully, it will make recommendations for solving the technicalities of utilizing the procedure.

It is, I think, little to ask that Congress and the Executive fight their battles over education appropriations before the school year begins.

It is, I think, only reasonable that local school administrators be given the time to plan wisely for the use of the tax money which the Federal Government decides to allot to education.

It is for these reasons that I offer the amendment to create this special Commission to study in detail and make specific recommendations for the implemen-

tation of the advanced funding procedure.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

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

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

Mr. PELL. Mr. President, I compliment the Senator from Virginia on his amendment. It would seem to me to fill a need, and he has explained it well. The amendment is self-explanatory.

I should like to ask what the views would be of the ranking minority member of the committee.

Mr. JAVITS. I yield to the Senator from Colorado.

Mr. DOMINICK. Mr. President, the idea of advance funding, of course, was originally promoted by the Senator from Vermont, the ranking Republican member of the Subcommittee on Education. It obviously is something which, as the Senator from Virginia has so aptly said, has been a source of continued problems for the local school districts; and something should be worked out by which they can get advanced funding.

Recognizing that, and recognizing that there were a number of other financing problems which affect the elementary and secondary schools, the Senator from Minnesota (Mr. MONDALE) and I got together—strange to say, because it does not happen very often—and we put together amendment 415 which was adopted by the committee and appears as section 808 of the bill, starting on page 214 and continuing to the end of the bill. This requires that research be conducted under the Cooperative Research Act on all the problems of financing elementary and secondary education. We also provide for a National Commission on School Finance. It does not specifically say that this also will include advance funding, and to that extent I think your amendment might be a worthwhile improvement.

But I would suggest to the Senator from Virginia it might be necessary, in the event that his amendment is adopted, that in the process of the conference it be reworded to be included within our school finance research language without establishing necessarily a separate commission with extra authorization.

I just bring that up as a possibility for conference, which, heaven knows, is going to be long and difficult enough as it is.

Mr. SPONG. I thank the Senator from Colorado.

Initially, I would like to say that I am delighted that he and the Senator from Minnesota have gotten together on something.

I was aware of this research section, and I am pleased that the section was included in the bill. I am, however, dealing with a specific phase of funding—a phase which I think has some urgency. I accept the suggestion of the Senator from Colorado in the spirit that it is given, but I hope that this amendment will be adopted because of the urgency. All of the Senate-House differences will, of course, be a matter for the conferees to discuss.

Mr. JAVITS. Mr. President, with that in mind—and I think we ought to accommodate ourselves to this view—it is a fact that the bill already provides for a National Commission on School Finance of 15 members. That commission, which is provided for in section 808 beginning at page 214 of the bill, does not specifically relate to the problem of advanced funding: but, as Senator DOMINICK properly points out, as he was one of the authors of the amendment in the bill, it could encompass that field. So we have a commission of 15, already appointed under the bill, that could deal with the matter.

We now have a suggestion before us in this amendment for a commission of 18 to deal in a pinpointed way with the question of advance funding. Undoubtedly, there will have to be a reconciliation in the conference of these two concepts, neither of which, I might point out, is contained in the House bill. It is very important to note that the House already passed the bill and we will be going to conference with the understanding that we may very well wash out this new commission in the conference, depending upon the exigencies which we meet there, and subject to some questions I should like to ask of the proponent of the amendment about the amounts to be provided for its operation. I am not committed to that yet but I will probably have no objection to putting it in as yet another alternative which we might employ.

I point out to the Senator that I am dubious that a commission, in the way he has it, will survive the conference, because that gives us, now, two commissions. I should like to ask the Senator upon what kind of budget he premises the $150,000 providing for a commission which will have such very narrow jurisdiction?

Mr. SPONG. Mr. President, in reply to the Senator from New York, that was done after some inquiry about what it would take to look into this matter and operate within a limited time. I might say further to the Senator from New York that one thing I do not want is an unnecessary commission, or another commission. What I do want is some action directed at this problem that I think Congress has, frankly, not come to grips with and one which I think it should come to grips with in transferring it to the executive branch of the Government.

I would say that any accommodations in the conference, where any commission had the proper authority to deal with the executive branch and to make recommendations whereby advanced funding would become a reality, rather than something that we talk about periodically, would be most acceptable to me.

Mr. JAVITS. I would suggest to the Senator that, momentarily, he omit subsection (f) from his amendment and that we check into the question with the Department and get an estimate of what they think the National Commission on School Finance should do, and how much it will cost, before we actually commit ourselves to a figure.

I am not quarreling about the amount of $150,000. It is not very much as things go here. But I think we are shooting an arrow in the air on this concept. I am willing to take the commission idea as an alternative, but when we have ascertained the question to which I am now addressing myself, we will notify the Senator from Virginia and he can propose another amendment—the subject will not have been dealt with at all—to keep the concept he now presents. If that is satisfactory to the Senator, I am willing to join——

Mr. SPONG. The Senator is suggesting that paragraph (f) be deleted?

Mr. JAVITS. Be omitted, that would have dealt with the recommended amendment to the bill.

Mr. SPONG. That is acceptable to me.

The PRESIDING OFFICER. Is it the intention of the Senator from Virginia to ask for the deletion of paragraph (f)?

Mr. SPONG. It is.

The PRESIDING OFFICER. The amendment will be so modified.

The question is on agreeing to the amendment of the Senator from Virginia, as modified.

The amendment, as modified, was agreed to.

AMENDMENT NO. 459

Mr. TYDINGS. Mr. President, on behalf of myself, and Senators BAYH, BENNETT, CANNON, CHURCH, COTTON, EAGLETON, GRAVEL, HARRIS, HART, HATFIELD, HOLLINGS, INOUYE, JACKSON, MATHIAS, MCGOVERN, MOSS, NELSON, and PACKWOOD, I call up amendment No. 459 to H.R. 514, and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 140, line 17, insert the following:

"(10) Section 405 of such title is further amended by inserting '(a)' after 'SEC. 405.' and by inserting at the end thereof the following new subsection:

"'(b) Notwithstanding any other provision of law, unless enacted in specific limitation of the provisions of this subsection, any funds from appropriations to carry out any programs to which this title is applicable during any fiscal year, ending prior to July 1, 1973, which are not obligated and expended prior to the beginning of the fiscal year succeeding the fiscal year for which such funds were appropriated shall remain available for obligation and expenditure during such succeeding fiscal year.'"

Renumber paragraphs (10) and (11) as paragraphs (11) and (12), respectively.

Mr. TYDINGS. Mr. President, this amendment would permit school districts for the next three fiscal years to carry over unexpended Federal funds received under the Elementary and Secondary Education Act into the succeeding fiscal year.

In order to operate effectively and dispense funds efficiently, school boards on all levels must begin formulating education plans and budgets at least a full year before the budgets are to go into effect. However, given the nature of the appro-

priations process in Congress, such advance planning is virtually impossible.

For example, the 1969–70 school year—even if the veto question had not arisen—would have been half completed before the Federal education appropriations for fiscal year 1970 were enacted into law. School systems across the country—whether in Wayne County, Mich., or Harford County, Md.—have been forced to operate education programs involving Federal funding at last year's levels since they have no way of knowing what this year's appropriation will be. If Congress significantly increases educational appropriations for fiscal year 1970 over last year's levels—which I believe it must do, and I fervently pray that it will—the additional funds will hardly come to school systems under conditions conducive to their efficient use.

To begin with, the schools will not have been able to provide specific plans for the use of these funds because they had no way of knowing 12 to 18 months prior exactly how much they would receive. More importantly, since the money will become available midway through the school year, it will be exceedingly difficult to integrate this money into existing programs and plans. For teachers, counselors, administrators, and new curriculums must be hired and initiated at the beginning of the school year for maximum effectiveness.

For example, this year school boards will only have 5 months or less to expend Federal funds before they automatically revert to the Treasury. This short time period in which funds must be spent often leads to two undesirable results: In an effort to meet the June 30 deadline, funds are often used less efficiently than if there had been time for adequate planning and preparation. If they do not use them, then they revert to the Government, so that there is a great temptation always to throw the money away, in a sense, in order not to have to return it to the Federal Government.

Mr. President, I ask unanimous consent to have printed in the RECORD a letter from Jerome Frampton, Jr., president of the Maryland State Board of Education, describing the quandary school systems across the Nation find themselves in as a result of current funding restrictions.

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

MARYLAND STATE DEPARTMENT OF EDUCATION,
Baltimore, Md., October 30, 1969.

Hon. JOSEPH D. TYDINGS,
U.S. Senate,
Senate Office Building,
Washington, D.C.

DEAR SENATOR TYDINGS: The Maryland State Board of Education has during recent years become increasingly concerned with the problems presented to our State Department of Education and our local school systems by the uncertainties surrounding Federal funding. We are now at the end of the fourth month of the current fiscal year and still do not know what the amount of Federal funds available to the State during the current year will be. Intelligent educational planning is under these circumstances well-nigh impossible. Even if Congress had acted a few months earlier it would have been difficult to gear in Federal appropriations with the plans evolved by the State and the local systems a year ago.

To do the job we simply must do, we must provide stability in educational planning. To reach a level of stability, we must have a reasonably accurate idea as to how much Federal money will be available at the time the State, City and county staffs enter into the process of budget preparation.

The most effective way of solving the foregoing problem, we believe, is to end the present requirement that certain Federal funds must be spent by the last day of the fiscal year for which they are appropriated. Instead, each school system should be given flexibility to spend Federal money either during the year of the appropriation or the year immediately following. We request that all legislation relating to Federal aid to education be amended to authorize such flexibility.

Cordially yours,
JEROME FRAMPTOM, Jr.,
President.

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

Mr. TYDINGS. I yield.

Mr. JAVITS. The Senator from Maryland has talked with me about this amendment, and I am in difficulty about it tonight because I have not got the final advisory opinion from the Department on the amendment and, indeed, a memorandum which I have would indicate its opposition to it.

Now, considering that situation, I was unable to advise the Senator, insofar as the minority is concerned, that we would take it.

I think that the Senator should consider seriously whether he wishes to leave the amendment pending overnight in view of the fact that we cannot take it tonight, for this reason—that tomorrow we will get into other amendments dealing with other subjects which could easily bedevil us further.

I do not want to give the Senator from Maryland my advice. I submit to him, because of my friendship and consideration for him, as well as the merits of the case, that I should like to have disposed of as much as we could tonight, dealing with the educational aspect of the bill. The Senator's amendment is one of those. I am embarrassed again about it, but I really cannot. Thus, I should like to have the judgment of the Senator on this matter, whether he would like to keep this amendment pending and dispose of it tomorrow after the Senator from Mississippi (Mr. STENNIS) is through, or shall we go over tonight with a record of any amendments pending.

Mr. BYRD of West Virginia. Mr. President, I should like to inquire as to whether the following plan would meet with the approval of other Senators now present. Of course, we would then have to ask for a unanimous-consent agreement. I suggest we leave the amendment by the Senator from Maryland (Mr. TYDINGS) as the pending business. On tomorrow, of course, we will come in at noon.

ORDER FOR ADJOURNMENT—PROGRAM

Mr. BYRD of West Virginia. 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 PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD of West Virginia. After the 1-hour period for the transaction of morning business, under the previous unanimous-consent agreement, and after the Senator from Mississippi (Mr. STENNIS) has completed his remarks, would all Senators be agreeable to allowing 30 minutes, equally divided, upon the amendment offered by the Senator from Maryland (Mr. TYDINGS), immediately following the 2 hours which would have been consumed by the Senator from Mississippi under the previous consent agreement.

Mr. JAVITS. I should like to agree, but I am afraid that I cannot, in view of the fact that I do not know, with the reach of this amendment, the extent to which Government departments may be opposed to it. I would not feel it appropriate to come to a commitment on this matter until I saw the outline of the problem.

Mr. PELL. Mr. President, if I may interject there, another point here is that I hoped to get through with one or two more noncontroversial amendments this evening; therefore, an agreement of this sort would prevent us from doing that.

Mr. BYRD of West Virginia. We could still do that.

Mr. TYDINGS. Mr. President, I would be glad to go along with any plan or procedure the leadership would work out. And I would be happy to defer to the ranking minority member. I know he is as concerned with the problem as I am.

Mr. JAVITS. Mr. President, I suggest the Senator from Maryland leave the amendment pending.

Mr. TYDINGS. Mr. President, I leave the amendment pending, and I yield the floor.

Mr. BYRD of West Virginia. Very well.

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

AMENDMENT NO. 483

Mr. YARBOROUGH. Mr. President, I send an amendment to the desk.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the pending Tydings amendment be temporarily laid aside, and that it again be laid before the Senate this afternoon following action on the Yarborough amendment.

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

The clerk will report the amendment.

The ASSISTANT LEGISLATIVE CLERK. On page 113, strike out all that appears on line 21 and all that follows down through line 15 on page 115 and insert in lieu thereof the following:

(3) Section 3 of such Act of September 23, 1950 is further amended by inserting at the end thereof the following new sentence: "Such order of priority shall provide that applications for payments based upon increases in the number of children residing on, or residing with a parent employed on, property which is part of a low rent housing project assisted under the United States Housing Act of 1937 shall not be approved for any fiscal year until all other applications under paragraph (2) and (3) of subsection (a) of section 5 have been approved for that fiscal year.".

(4) Subsection (c) of section 5 of such Act

of September 30, 1950 is amended to read as follows:

"ADJUSTMENTS WHERE NECESSITATED BY APPROPRIATIONS

"(c)(1) If the funds appropriated for any fiscal year for making payments under this title are not sufficient to pay in full the total amounts which the Commissioner estimates all local educational agencies will be entitled to receive under this title for such year, the Commissioner (A) shall determine the part of the entitlement of each such local educational agency which is attributable to determinations under subsections (a) and (b) of section 3 of the number of children who resided on, or resided with a parent employed on, property which is part of a low-rent housing project assisted under the United States Housing Act of 1937, section 516 of the Housing Act of 1949, or part B of Title III of the Economic Opportunity Act of 1964, and (B) except as otherwise provided in paragraph (3), shall allocate such funds, other than so much thereof as he estimates may be required for carrying out the provisions of section 6, among sections 2, 3, and 4(a) in the proportion that the amount he estimates to be required under each such section bears to the total estimated to be required under all such sections, except that he shall not take into consideration any part of any entitlement determined under clause (A). The amount so allocated to any such section shall be available for payment of a percentage of the amount to which each local educational agency is entitled under such section. Such percentage shall be equal to the percentage which the amount allocated to a section under the second sentence of this paragraph is of the amount to which all such agencies are entitled under such section. For the purposes of this paragraph, in determining the amount to which each local educational agency is entitled under section 3 he shall include any increases under paragraph (4) of subsection (c) thereof; but he shall exclude any part of any entitlement determined under clause (A) of this paragraph.

"(2) If the funds available for allocation under paragraph (1) for any fiscal year exceed the amount necessary to fully satisfy entitlements for which allocations will be made under such paragraph, that excess shall be available for payment of a percentage of that part of the entitlement of each local educational agency determined under clause (A) of paragraph (1). Such percentage shall be equal to the percentage which the amount of such excess is of the total amount to which all such agencies are so entitled.

"(3) All funds appropriated for making payments under this title for any fiscal year shall be allocated in the manner specified in paragraph (1) and (2), unless an Act making appropriations for making payments under this title for any fiscal year specifically makes funds available for payments on the basis of entitlements determined under clause (A) of paragraph (1), apart from other payments under this title, in which case, if the funds so appropriated are not sufficient to pay in full the total amount to which all local educational agencies are so entitled, such funds shall be available for making payments in the manner specified in paragraph (2) respecting allocations of any excess appropriations.

"(4) In case the amount allocated to a section under paragraph (1) for a fiscal year exceeds the total to which all local educational agencies are entitled under such section for such year or, in case additional funds become available for making payments under this title, the excess or such additional funds, as the case may be, shall be allocated among sections for which previous allocations are inadequate, on the same basis as is provided in paragraphs (1), (2) and (3) for the initial allocation."

Mr. YARBOROUGH. Mr. President, the amendment I offer will provide separate funding for the section of H.R. 514 that counts children in public housing units among children in federally impacted districts.

The committee amendment grows out of a reasonable concern. Every State has experienced local resistance to low-income public housing which stems from the increased cost to the community of educating those children. Testimony to the committee indicated that entire new schools often have to be built to accommodate these children. The parents are rarely on the tax rolls, certainly not as property owners. Nor does the property in which they reside pay taxes equivalent to those a private housing development would pay.

The "in lieu of taxes" payment from public housing covers only about $11 per child, while the cost of educating the children runs between $700 and $1,200 each.

I agree with the committee in its view that there should be a much larger payment for the education cost of children in public housing, because it is not fair for the Federal Government to remove the property from the tax rolls and at the same time bring large numbers of additional pupils into the school district.

My objection to the committee language goes to the lumping of this group with those now in the federally impacted program. Public housing children are a separate case from children whose parents work for the Federal Government. Compensation to the local school district for their education should not come out of the same appropriation that is made for the traditional federally impacted districts.

The amendment I am offering will set up two line items in appropriations acts making funds available for payment under Public Law 874.

One line item would be for payment of entitlements on the basis of A and B children as we understand them in the present law.

The other line item would be for payment of entitlements created by children living in low-rent public housing units.

The amendment further provides that if a single line appropriation is large enough to cover the full entitlements for A and B children with money left over, then the remainder may be used for low-rent housing children.

It is quite possible that in the future we will find it justified to make Federal payments for children whose presence in a district is dictated by many federally financed activities, other than direct Federal activities and installations. The committee bill makes this payment available for housing units financed under the Housing Act of 1937, the Housing Act of 1949, and the Economic Opportunity Act of 1964.

These units are not federally owned. They are only federally assisted in their financing.

As we move in the direction of examining the impact of federally assisted activities, we should do so on the basis of paying entitlements out of their own appropriations. Otherwise, both these children and the existing Public Law 874 children will be penalized.

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

Mr. YARBOROUGH. I yield.

Mr. DOMINICK. Mr. President, I had no idea the Senator from Texas was going to call up the amendment at this time. I am happy to be a cosponsor. His amendment is, in fact, a modification of the one I offered in committee. It is an improvement. I also submitted an amendment today to strike the entire section. I was contemplating offering it as an alternative, but would like to discuss it further with the Senator and others, including members of the administration.

I am not ready to proceed with my amendment at this time. It is, I might add, cosponsored by the Senator from Vermont (Mr. PROUTY).

Mr. YARBOROUGH. Mr. President, I joined as a cosponsor of the amendment of the distinguished Senator from Colorado before we worked out the compromise. However, in the light of the announcement that has just been made, I will not ask for action on the amendment that has just been offered at this time.

Mr. DOMINICK. Mr. President, I assure the Senator from Texas that it is my intention to support his amendment very strongly if the decision is made not to call up my own. In any event, this will be the subject of extended debate.

Mr. YARBOROUGH. Mr. President, I do not think the Senator from New York is a cosponsor of the compromise substitute, but he is very interested in it.

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

Mr. YARBOROUGH. I yield.

Mr. JAVITS. Mr. President, I ask the Senator from Colorado—and I do this in the form of a parliamentary inquiry—is it not a fact, with respect to perfecting amendments to amendments which are proposed to be stricken by an amendment, that perfecting amendments are acted upon before a motion to strike.

The PRESIDING OFFICER. The Senator is correct.

Mr. JAVITS. Mr. President, I would hope, not that I would expect the Senator to make any change in his thinking now, but I call to his attention that we do have the right to perfect the amendment. And his idea that he could move to strike would still not change the right that we would have to vote on the motion to perfect, and then a motion to strike would be in order.

Mr. DOMINICK. Mr. President, if I simply offer a motion to strike the section, that motion takes precedence. Then one could not have perfecting amendments to the substitute amendment. The pending amendment is the substitute, is it not?

The PRESIDING OFFICER. The Senator's amendment would be pending, but there could be perfecting amendments to the language proposed to be stricken, which would take precedence over a motion to strike.

Mr. JAVITS. Mr. President, I thank the Chair. I thought we had better have it straight, so that we do not get into a tangle tomorrow.

Mr. YARBOROUGH. Mr. President, I will ask that the amendment be printed. I will not ask that it be passed on at this time. Our staff had discussed the matter and we had an erroneous impression.

Mr. GRIFFIN. Mr. President, is the Senator asking that the amendment be printed, but withdrawn at the present time?

Mr. YARBOROUGH. I am not asking that it be withdrawn.

Mr. GRIFFIN. It would otherwise be the pending business.

The PRESIDING OFFICER. Is it the desire of the Senator from Texas that the amendment be withdrawn as the pending business?

Mr. YARBOROUGH. Mr. President, I ask that my amendment be withdrawn as the pending business.

Mr. JAVITS. Mr. President, we do have a commitment outstanding to the Senator from Maryland (Mr. TYDINGS). However, I hope we can agree, since the Senator from Texas (Mr. YARBOROUGH) is the chairman of the committee, that his amendment would follow the amendment of the Senator from Maryland so that he will have some feeling that he will not have to wait an inordinately long time.

Mr. BYRD of West Virginia. Mr. President, reserving the right to object, I have talked with both the majority leader and the Senator from Mississippi (Mr. STENNIS), and I am not sure I would be authorized to agree to that kind of unanimous-consent request at this time.

Mr. JAVITS. Mr. President, I wonder if we could have an understanding that, absent any overriding reason, the amendment of the chairman of the committee, the Senator from Texas, will follow action on the amendment of the Senator from Maryland.

Mr. BYRD of West Virginia. Mr. President, I think we can work together in that direction and will probably be able to assure the Senator that his amendment will be taken up immediately following action on the amendment offered by the Senator from Maryland with the qualifications offered by the Senator from New York. However, we could not agree to a unanimous-consent request which would make it binding. We will have to wait until tomorrow and see what the circumstances are at that time.

Mr. YARBOROUGH. Mr. President, I thank the Senator for his kindness.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the amendment which was temporarily laid aside, and which had been offered by the senior Senator from Maryland, be again laid before the Senate and made the pending business.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia? The Chair hears none, and it is so ordered. The pending amendment is the Tydings amendment.

What is the will of the Senate?

Mr. JAVITS. 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.

Mr. BYRD of West Virginia. Mr. President, before moving to adjourn, I wish, at the request of the majority leader, to remind Senators that following the prayer and the disposition of the reading of the Journal tomorrow, there will be not to exceed 1 hour for the transaction of routine morning business, after which the able junior Senator from Mississippi (Mr. STENNIS) will be recognized for not to exceed 2 hours.

ADJOURNMENT

Mr. BYRD of West Virginia. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 12 o'clock noon tomorrow.

The motion was agreed to; and (at 5 o'clock and 20 minutes p.m.) the Senate adjourned until tomorrow, Thursday, February 5, 1970, at 12 o'clock meridian.

NOMINATIONS

Executive nomination received by the Senate February 4, 1970:

AGENCY FOR INTERNATIONAL DEVELOPMENT

Robert Harry Nooter, of Missouri, to be an Assistant Administrator of the Agency for International Development, vice James P. Grant, resigned.

EXTENSIONS OF REMARKS

DEATH OF MAJ. GEN. REUBEN H. TUCKER

HON. STROM THURMOND

OF SOUTH CAROLINA

IN THE SENATE OF THE UNITED STATES

Wednesday, February 4, 1970

Mr. THURMOND. Mr. President, recently, my State was saddened by the death of one of its preeminent military leaders, Maj. Gen. Reuben H. Tucker III—U.S. Army retired. General Tucker died in Charleston on the grounds of the Citadel, one of his most beloved sites. General Tucker was twice commandant of cadets at the Citadel and inspired two generations of some of the finest military men in our services. He was paid tribute by Gen. Mark Clark of being one of the three bravest men in the Army during World War II. He fought in six major campaigns, and was one of the pioneers of the field of airborne operations. He commanded the 504th Parachute Infantry Regiment and led them bravely through from north Africa into the heartland of Europe. His men were heroes at Sicily, Salerno, Anzio, and the Battle of the Bulge.

General Tucker was a real leader. In every battle he made it a point to be one of the first paratroopers to jump in the combat action. He made three combat jumps during the war, something very few paratroopers had ever done. Yet he did not get wounded in any of the actions. His decorations include two Distinguished Service Crosses, the Nation's second highest award for heroism; the Silver Star; Legion of Merit with Oak Leaf Cluster; Bronze Star Medal; Purple Heart; and many others.

Indeed, General Tucker was a gallant soldier and a great patriot and America's loss is truly great because of his untimely death at the age of 58. He leaves behind his lovely wife, Helen McAllister Tucker, four sons, three brothers, and two sisters. I extend my deepest sympathy to this fine family, and I know they will be comforted by the knowledge of a father who was held in such high esteem by all who knew him.

Mr. President, I ask unanimous consent that the obituary of General Tucker entitled "Gen. R. H. Tucker, Former Commandant of Cadets, Dies" from the Charleston Evening Post of Wednesday, January 7, 1970, and the editorial "General R. H. Tucker III" from the same newspaper and the same date, be printed in the Extensions of Remarks.

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

GEN. R. H. TUCKER, FORMER COMMANDANT OF CADETS, DIES

Maj. Gen. Reuben H. Tucker III, USA (ret.) former commandant of cadets at The Citadel and wartime commander of the 504th Parachute Infantry Regiment, America's famed "Devils in Baggy Pants" of World War II, died yesterday at The Citadel.

Gen. Tucker collapsed while walking near the athletic track at The Citadel. He was pronounced dead on arrival at County Emergency Room.

Coroner Jennings Cauthen said death was due to natural causes.

Funeral services will be held at 11 a.m. Friday in the Citadel Chapel. Burial, directed by McAlister's, will be in the U.S. National Cemetery at Beaufort.

Flags at The Citadel will remain at half staff until after the funeral.

Gen. Tucker was born Jan. 29, 1911, at Ansonia, Conn., a son of Reuben Henry Tucker and Mrs. Clara Booth Tucker. He was a 1935 graduate of the U.S. Military Academy.

Prior to World War II Gen. Tucker served with the Second Infantry Division at Fort Sam Houston, Tex, the 33rd Infantry Regiment in Panama and attended the Infantry School at Fort Benning, Ga., graduating in 1940.

He was a charter member of the first tank destroyer battalion in the U.S. Army, but left this assignment in 1941 to become a parachutist.

One of Gen. Tucker's five sons, Capt. David Bruce Tucker, was killed Sept. 30, 1967, during combat in Vietnam.

Gen. Tucker was a member of the Hibernian Society.

Surviving are his wife, Mrs. Helen McAllister Tucker; four sons, Capt. Jeffery J. Tucker, USA, of Cornell University, Glenn P. Tucker, Scott P. Tucker and Christopher

M. Tucker, all of Charleston; three brothers, Lyman B. Tucker of Sao Paulo, Brazil, Walter B. Tucker of Ansonia and William E. Tucker of Old Saybrook, Conn.; two sisters, Mrs. Gordon B. French of Ansonia and Mrs. Thomas Anstey of Derby, Conn.; four grandchildren and several nieces and nephews.

He served as a regimental commander at West Point and came to The Citadel in 1955 as commandant of cadets.

In 1961 he was commanding general of the Infantry Training Center at Fort Dix, N.J., and later went to Laos in Southeast Asia as chief of the military advisory group there.

Before leaving the service in August, 1968, to again become commandant of cadets at The Citadel, he was operations officer of the U.S. Army Pacific in Hawaii. He was succeeded as commandant of Cadets in February, 1968, and was assigned to the office of Citadel President Hugh P. Harris. He retired from The Citadel at the end of 1968.

The 504th Parachute Infantry Regiment, one of the fightingest units of the 82nd Airborne Division, had an outstanding war record by actions at Sicily, Salerno, Anzio, the crossing of the Rhine at the Nijmegen Bridge in Holland, and the Battle of the Bulge at Cheneux, Belgium.

Gen. Tucker, then a colonel, commanded the 504th from December, 1942, to May, 1946, during which time the unit had a record of 371 days of actual combat. The general was an original member of the combat team and led the paratroopers overseas from Ft. Bragg through six campaigns which included combat jumps in Sicily, Italy and Holland. He saw occupation duty in Berlin and finally brought the 504th home to lead the unit in a victory parade down Fifth Avenue in New York in January, 1946.

The 504th made its first airborne combat assault on Sicily July 9, 1943. It almost ended in catastrophe when Allied ships and shore guns began firing on the C47 transports by mistake.

"It seemed that everyone was firing at us," Gen. Tucker recalled during an interview with the Charleston Evening Post in March, 1968.

"The explanation they gave us later was that German bombers got into our formation. Many of our planes disappeared in flames. Our losses were roughly 250 men that night."

In what has been described as one of the greatest tragedies of World War II, the 504th was scattered like chaff in the wind over the length and breadth of Sicily by Allied gun fire. Gen. Tucker's plane, after twice flying the length of the Sicilian coast and with more than 2,000 flak holes through the fuselage, reached the drop zone near Gela.

"We're flying in and I'm standing at the door ready to jump," the general related. "My own aircraft was the only one in that first formation that came in on target. Other planes were being shot down at sea and on the ground.

"When I jumped, exactly on target, and as I was coming down, I could hear these people, a tank commander with five tanks, using rifle fire to shoot at us." The general said after he landed he had a few choice words with the tank commander whose only explanation was: "Nobody told me you were coming in here."

"I had men who tried to swim in from planes shot down at sea and our own troops opened up from the beach," Gen. Tucker added.

The next jump was at Salerno, in support of Gen. Mark W. Clark's Fifth Army. "When we flew into Salerno the orders were that no guns could open up. Regardless of what happened they were not to shoot. It was quiet as a graveyard when we arrived and really a beautiful night."

Gen. Tucker said he "was one of the first to go in in almost every case." He made three combat jumps, during the war, something very few paratroopers have ever done. The 82nd Airborne Division totaled four combat jumps in World War II.

"It was my good luck not to get killed or wounded during the fighting of six major campaigns," the general said.

The 504th's third jump came on "a clear day in September, 1944, in Holland and was the first time any element had made a combat jump in daylight. It was highly successful," Gen. Tucker pointed out.

Following the Holland jump, the 504th was forced to make a daylight crossing of the Rhine at Nijmegen Bridge. "That's not something you try to do every day in the week," the general commented. "The crossing, under fire, was successful in every sense of the word. It took us two days to secure the bridge and we lost a lot of people doing it, but we also gained our objective."

The 504th became known as "Devils in Baggy Pants" when they captured the diary of a German officer on the Anzio beachhead. In the book he had written: "American parachutists—devils in baggy pants—are less than 100 meters from my outpost . . . It seems like the black-hearted devils are everywhere."

Also at Salerno, Gen. Tucker's unit was surrounded by Germans, but managed to fight their way out of the trap.

"We were strictly ground troops during the Battle of the Bulge near Cheneux, Belgium," he pointed out. The 504th fought in the snow and cold from December 1944 through the middle of February 1945.

As the war neared its end, the 504th had fought to within a few miles of Berlin where they were ordered to stop until the Russians came through.

After the war, the 82nd Airborne Division was selected to occupy Berlin. The division first moved in with a jump by 99 veterans. Maj. Gen. James M. Gavin and Gen. Tucker led the jumps from two planes.

Gen. Tucker saw duty in Korea as an assistant chief of staff of the Eighth Army in the closing days of the war.

Gen. Clark has called Gen. Tucker "one of the three bravest men in the Army" along with Col. William P. Yarborough and Col. William O. Darby of Darby's Rangers fame.

Gen. Tucker's decorations included two Distinguished Service Crosses, the nation's second highest award for heroism; the Silver Star, Legion of Merit with Oak Leaf Cluster, Bronze Star Medal and Purple Heart to name a few.

GEN. REUBEN H. TUCKER III

Maj. Gen. Reuben H. Tucker III was every inch a professional soldier. In the eyes of Gen. Mark W. Clark he was one of the three bravest men in the Army during World War II.

He was a paratrooper, one of that special breed of men who early in World War II helped blaze the trail of a new military frontier—airborne operations. He commanded the 504th Parachute Infantry Regiment, a unit of the 82nd Airborne Division, from 1942 until 1946. He led his troopers from the heat of North African desert to the snow and bitter cold of Belgium. Along the way the 504th fought and gained glory in Sicily, at Salerno, Anzio, the Nijmegen Bridge in Holland and in the Battle of the Bulge.

Always Gen. Tucker was in the lead. The 504th made three combat jumps and in each he was one of the first men out of the plane. He was a driving force bent on accomplishment of the unit mission. The greatest demands he made were those he made on himself. His trademark was raw courage. With him there was no bluff and swagger. It was not needed. His actions and his decorations spoke for themselves.

Charlestonians came to know Gen. Tucker 15 years ago when he began his first tour of duty as commandant of cadets at The Citadel. He retired from the Army in 1963 and returned to The Citadel post, establishing close ties which continued even after his retirement nearly two years ago.

Unexpectedly, Gen. Reuben Tucker is dead at 58. His death is a loss to the community in which he lived and to the country he served so gallantly.

NEIGHBORHOOD LEGAL SERVICES—TAXPAYERS SUBSIDIZE CRIME

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 3, 1970

Mr. RARICK. Mr. Speaker, any discussion of national priorities always involves our responsibility to make wise decisions in the expenditure of Federal funds, which are the hard-earned dollars of working Americans.

How many Members are prepared to justify to their own constituents the use of these dollars to actually subsidize crime? Or to fund the assaults on police, local government, and public decency by the dregs of our society?

Right here in the District of Columbia, where it is still a crime to commit adultery, young lawyers on the Federal OEO payroll have counseled and aided in the commission of that particular crime. Indeed, they have filed suit—in a court of equity, no less—to require that taxpayers furnish the guilty parties more comfortable quarters to break the law.

The attorney-client privilege stops somewhere decidedly short of protecting a lawyer from aiding and abetting his client in the commission of a crime, but I see no interest in this odd situation be either the bar, the bench, or the district attorney.

I include in my remarks, for the edification of all of our colleagues, detailed reports on the abuses by Neighborhood Legal Services in Baton Rouge, La., and in Pittsburgh, Pa.:

AMERICAN BAR ASSOCIATION,
Chicago, Ill., January 26, 1970.

JEROME J. SHESTACK, Esq.,
Packard Building,
Philadelphia, Pa.

DEAR JERRY: I am pleased that you gave me, as a member of the Council and from Baton Rouge, the opportunity of presenting to you what I believe to be the correct facts before the Section or any of its spokesmen proceeded to condemn the Baton Rouge Bar Association in connection with its actions with respect to the Baton Rouge Legal Aid Society, or to condemn the Baton Rouge Police or Sheriff Deparments.

I believe it will present a clearer picture if I go back to the organization of a Legal Aid Society in Baton Rouge and come forward.

1. The first Legal Aid Society in Baton Rouge (which was the first in Louisiana outside New Orleans) was organized in 1952. It may surprise members of the Council to learn that I organized it, as one of my projects as president then of the Baton Rouge Bar—as the ABA Award of Merit to our bar recited. From volunteers manning the office we quickly, with my support, went to a paid staff and United Givers support.

2. When the Board of Governors of the ABA, under Lewis Powell's leadership, agreed, with serious reservations on the part of many, to recommend to the House of Delegates of the ABA that the ABA urge state and local bars to bring their associations and their Legal Aid Societies into the program sponsored by the O.K.O., I supported and spoke for it in the Board and in the House—despite my own doubts and reservations.

3. When the proposed participation of the

Baton Rouge Bar itself came up for discussion at the September 1963 meeting of our local bar a heated discussion arose, particularly after its then president made his report on the Washington conference he had recently attended and spoke of his fears and doubts. A motion was made that our bar decline to participate in the program.

The following excerpts from a lengthy press account of the meeting, in the local press on September 14, 1965 may be of interest:

"Dale Powers (one of my law partners), president of the Legal Aid Society here, said the federal program will attempt to work through legal aid groups such as his. However, it also has the right to set the program up through other groups.

"Ben Miller, who is a member of the House of Delegates of the American Bar Association, warned the group that if the bar does not make itself a part of the program, 'We're heading for socialized law.' "

Instead of adopting the resolution not to participate, the association decided instead to direct its board to "present a recommendation on the entire matter to the general membership at its October meeting."

4. Action was deferred, however, until the December meeting on December 6, 1965, at which by but a four vote margin our association tabled the resolution not to participate in the program. Here again the discussion was heated and protracted as the lengthy local press account of December 7, 1965 shows. These are excerpts from that news account:

"Ben Miller, pointing out he is a Goldwater Republican, said he was in favor of tabling Cadwallader's resolution because it was premature. He urged bar members not to 'disavow and disassociate' themselves with the federal program until they saw what it offers.

"Miller, a member of the Board of Governors of the American Bar Association, said that after more information is available on the program he might offer a resolution even more stringent than Cadwallader's proposal, 'but this is not the time,' he said. * * *

"A number of members of the bar spoke on the resolution before the vote was taken. * * *

"Several more persons attempted to be heard but Miller moved to table the resolution, a non-debatable motion. At this point, Calvin Hardin, who was attempting to speak, 'thanked' Miller and stormed out of the meeting."

5. These activities of mine resulted in a personal letter to me from E. Clinton Bamberger, Jr., Director, Legal Services Program, Office of Economic Opportunity, dated December 28, 1965. These are some excerpts.

"I am informed that this resolution was tabled largely as a result of your efforts. I wish to express my appreciation for your valuable assistance in postponing action upon the matter by the Baton Rouge Bar Association until such time as the purposes of the Legal Services Program can be made clear to the members of the Bar.

"The Office of Economic Opportunity has not and will not propose or initiate any legal services program. Any proposal to provide legal services for the indigent must originate with the local community and be adapted to the needs of the poor in that community.

"*The Office of Economic Opportuity has neither the statutory authority nor the intention of itself providing legal services, initiating litigation, establishing educational programs or instituting legal actions intended to effect changes in existing laws, for or on behalf of any individual, group or community.*

"The sole function of this office is to provide advisory and financial assistance to local communities which are developing programs in accordance with the purpose and requirements of the Economic Opportunity Act of 1964, as amended, so as to aid those communities in their individual efforts to eliminate poverty and the causes of poverty. * * *

"*Legal services are to be rendered in accordance with the Canons of Professional Ethics.* * *

"The Baton Rouge Bar Association is to be commended for its concern with legal problems faced by the poor and methods of solving them." (Emphasis supplied.)

6. And John W. Cummiskey, the then chairman of the ABA Standing Committee on Legal Aid and Indigent Defendants wrote me on December 22, 1965, excerpts of which read in part:

"Our experience has been that OEO will not entertain legal service programs without first assuring itself that the local Bar Association has been involved and is either recommending the program or chooses not to participate. * * *

"*Of course, at all times at least ⅔ to ¾ of the members of your Board, however established, must be members of the Bar.*" (Emphasis supplied.)

The very significant departures from these assurances will be commented upon later. As to composition of the board, there are at present but 16 attorneys all told (white and black) on a board of 36.

7. I then sent copies of both letters to the more influential opponents in our bar and to others, and on the basis of these assurances and with this understanding, our bar later did agree to participate and the new program of "Legal Aid" began here in 1967.

8. The program, at least here, has drastically changed, however. There is now a staff of seven paid attorneys and nine paid nonlawyer personnel operating four offices, with $158,926.00 federal funds, $19,000.00 from United Givers and $22,577.56 in value of free legal services rendered by members of the Baton Rouge Bar Association, and there is an open solicitation of local business through various means including their "Legal Aid News" distributed widely and free, the back side of which reads in bold letters: "Maybe you need a lawyer! Legal Aid Society of Baton Rouge, Louisiana, Providing Free Legal Counsel To Those Who Cannot Afford It, 1703 North Acadian Thruway, West, 1704 East Boulevard (At Lettsworth), 8050 Scenic Highway (At Curtis), 301 Raymond Building (Florida at Third)."

Yet almost two-thirds of their "legal problems" are "family problems" such as divorce, separation and non-support between blacks.

For whatever the reason (to justify the large staff and large grant of funds, or because of pressures in or outside the Board of the organization) it had earlier begun, but in 1968 and 1969 increased, so-called Law Reform activities. It initiated an effort to organize a Domestic Workers Union. It printed and widely distributed a pamphlet, the first page of which read:

"Domestic Workers Unite! Now," and the conclusion of which read: "If you would like additional copies of this paper, they may be obtained from any of the Neighborhood Centers or Legal Aid offices listed above. Additional papers concerning the union will be coming to you as we progress. Remember—our progress depends on you! So—do your thing!"

The minutes of the regular quarterly meeting of July 21, 1969, read in part: "Mrs. Nelson asked about the Domestic Workers Union and the announcements promised her NSS-Center City. Fifty announcements were given her with the promise of more if needed."

9. On July 25, 1969, James Oliney, a black youth who although 17 years old was six feet seven inches tall, burglarized the home of William Gladney on East Lakeshore Drive in this city. His criminal record went back to at least 1964 and included 15 charges, 12 of which were for burglary. He had been previously committed to the State Industrial School (as a juvenile) for burglary on November 14, 1968, and was released six months later. Less than two months after release he was charged (on July 2, 1969) with burglary and theft. He pleaded guilty on July 15, 1969 and drew a five year suspended penitentiary sentence. Ten days later he burglarized the Gladney home. He was traced to the grounds of a school in a negro neighborhood. When this strong six foot seven inch young negro resisted arrest and attempted to stab the officer, he was fatally shot by the officer. Pressure was shortly asserted by certain negro leaders, joined in by certain whites, to compel the Mayor to dismiss or suspend the officer. This the Mayor refused to do although he stated that he would, and he did, see that this was turned over to the Grand Jury which on August 12, 1969 cleared the officer completely after several days of hearings.

Meanwhile, however, a written statement was issued by some group warning that "If there is another killing by police of a black man, even if justified, the lid will blow." The Mayor received "dozens of obscene phone calls" and had to be assigned "two body guards to escort him wherever he (went) because of the threats on his life." (There had been an earlier killing of another negro while resisting arrest, but there had also been three law enforcement officers killed here by negroes in recent years by negroes resisting arrest, to illustrate the danger facing our officers and their justifiable fears. These three were Deputy Sheriff Butt, and Lieutenant Bannister and Sergeant Sanchez of the City Police. There were not, by the way, protests or demonstrations from any negro leaders against this violence by these members of their race.)

On July 31, 1969, certain negro leaders organized what they publicly stated would be a march of over 5000 to the municipal building to "demonstrate." The march was not interfered with in any way but instead of 5000 "joining" there were at most 500. (I know as my office is just across the street from the grounds of the municipal building and I watched—and heard—from our window on the second floor of our building. We—and most business concerns—had let female employees go home an hour before the time the leaders had said "five thousand" would be gathering.)

Jerry Johnson, an admitted negro militant, was given the platform and over the loud speaker unmistakably urged violence. I heard it. Emmett J. Douglas, state president of NAACP, used words to this effect in his speech to the group, and over a loud speaker: "We want an eye for an eye, a life for a life. Go out and do your thing."

I heard this speech too. In my judgment there was no doubt that these and the other talks were responsible for the serious violence which immediately followed. The crowd proceeded to go in small groups down our main street (Third Street, which you will remember from your time here on the L.S.U. faculty). White men and women were attacked at various locations and at the corner of Third and Main a white driver was pulled from his vehicle and severely beaten, three major fires, by arson, occurred that night. During the period of violence which followed the shooting of this young burglar, a negro storekeeper was killed by a negro attempting a robbery, a clerk in a store operated by a white man but in the negro community, was wounded by another negro, and a negro picket was killed by another negro. Certain stores owned by whites in the negro community were picketed, by the way—to the obvious personal advantage of D'Orsay Bryant, head of the Baton Rouge Chapter of the NAACP, who owned a grocery store in this negro community.

10. I am attaching copies of certain news stories which outline the events I have described.[1] You will note that the city govern-

[1] Baton Rouge State Times, August 11, 12, 13, 14, 15, 18 and 27, 1969.

ment and its police department were also being criticized by whites, for the really grave increase in crimes of violence which this community—as well as the nation generally—has experienced over the last several years. There were 10 murders here in 1965, but 16 in 1968 and 23 in 1969. Rape increased from 57 in 1968 to 76 in 1969. Robbery from 98 in 1965 to 241 in 1969. Assault from 195 in 1965 to 866 in 1969. Burglary from 1824 in 1965 to 3880 in 1969. Need I say that an overwhelming percentage of these crimes of violence were by negroes—and in many instances against negroes. "The odds are 1 to 15" of being a victim here.

The activities and speeches here of Rap Brown (a Baton Rouge native and who attended Southern University here) particularly on the occasions of his visits here may or may not have been a factor in these problems.

In addition to the three local law enforcement officers killed by negroes resisting arrest, in recent years the records of the Baton Rouge Police Department show:

"According to our records the assaults on Baton Rouge Police Officers for the years 1968 and 1969 are as follows: 1968, 50; 1969, 35.

These statistics have not been categorized into months.

And records of our Sheriff's Department show:

"Please be advised that a check of the records on file in this department reveals that in the year 1969 sixty officers of this department were assaulted by offenders while the officers were in the performance of their official duties.

"Of these assaults, six were made by the use of firearms; four by the use of knives or other cutting instruments; five by other dangerous weapons; and forty-five by hands, fists, feet, biting, etc.

"There were no officers killed as a result of these assaults, and no extensive injuries were inflicted upon the officers."

In almost every instance these assaults were by negroes.

11. On August 5, 1969, I made a talk to the Downtown Lions Club which had been scheduled before this incident of July 25th and the demonstrations which followed and were still fermenting. The title of that talk was "A New Supreme Court?" but I injected into it an effort to urge all to await a determination of the facts of the July 25th shooting, through the use of legal procedures. I said in part—as the press acount of August 5, 1969, reported:

"Until the facts are determined, the police should not be pre-judged and condemned—as some would now seek to have us do—under the threat as has been expressed in writing—'That if there is another killing by police of a black man, even if justified, the lid will blow.'" * * *

"There are legal procedures for determining those facts and those should be used before persons of either race act on impulse, assumptions or rumors.

"A grand jury investigation is one obvious legal process for determining such facts. And if our Negro community lacks confidence in the impartiality of our grand jury, both state and federal courts are open for a trial to develop the facts."

12. The Legal Aid Society secured or attempted to secure the releases of those arrested following the violence and for violation of a curfew—at least such is the understanding here.

13. Then followed the filing on August 5, 1969, by the Legal Aid Society of the complaint to which your letter referred. You can form your own opinion as to whether or not this and particularly the allegations in Article VI, is a reckless, scurrilous, unlawyer-like and unethical action attacking an entire police and sheriff's department (a number of whom are themselves black) and an entire city and county (parish) government. By way of but one example to those receiving a copy of this letter but not of the complaint itself, in allegation VI (2), the complaint states that police officers "pursue black offenders for the sole purpose of *execution* pursuant to *order* of the Chief of Police and other administrative officials". (Emphasis supplied.) And in VI (7) that "starvation (is) imposed and heat applied as a means of torture" by "law enforcement officials" on "black offenders during incarceration"; and in VI (9) that "the racist acts of law enforcement officers are sanctioned, condoned and supported by the Mayor, Chief of Police, Sheriff of East Baton Rouge Parish and the City-Parish Governing body"—one of whom (Delpit) is a negro councilman, and another (Johnny Jones) is a negro assistant parish attorney.

The Director of Legal Aid instituted this suit without even submitting it to the executive committee of the agency—much less its board of directors.

14. This suit and the contemporaneous effort to *initiate* the organization of a union shocked and dismayed even all but the most fervent supporters of the organization. The officers of the Baton Rouge Bar Association began an investigation and conferences with representatives of Legal Aid; and a special meeting of the Board of the Legal Aid Society was held on September 15, 1969, and the following resolutions were adopted:

"In the future the Legal Aid will not publish any pamphlets showing that they are sponsoring anything in the form of a union or anything of that nature but that they will work through the community centers or organizations.

"Since the Board of Directors is responsible for the policy, when the staff wishes to engage in law reform, (law reform being defined so as to include class action), it shall clear with and secure the approval of the Executive Committee of the Board of Directors. If ⅓ of the Executive Committee or the Director shall object to the decision of the Executive Board, then the matter shall be brought before the Board as a whole within five (5) days. No prior clearance is required for filing an individual's law suit."

The Board of Directors of the Baton Rouge Bar Association then met on September 16, 1969, and adopted three resolutions. The first briefly read:

"1. That the Board of Directors goes on record as favoring the furnishing of legal aid to the indigent, and encouraging participation in programs designed to achieve this end, consistent with the ethics of the legal profession."

The second said the Board "strongly disapproves" of the Legal Aid's promotional union activities and the class action complaint referred to above; that:

"While this action (of the Legal Aid Board) does not satisfy completely the objections of the Board of the Baton Rouge Bar Association, it does indicate a willingness on the part of the Legal Aid Board to review its policies and to discuss with the Baton Rouge Bar Association the differences in question.

"The Board feels that every effort should be made to resolve the differences by negotiation in order to preserve the legal aid system in its present framework."

And the resolution concluded by recommending that the bar association defer action for a "reasonable period" on a resolution a member (Lawrence Durant) had pending to disassociate the bar's affiliation with the Society, until a pending investigation by the state bar of the scope and nature of legal aid organizations statewide was completed—until the local bar could "exhaust all reasonable efforts to arrive at a working arrangement with the Legal Aid Society consistent with the standards of ethics in the legal profession as defined by the Louisiana State Bar Association and the Supreme Court of Louisiana."

15. At the meeting of the local bar on September 22, 1969, the representatives of the Legal Aid Society refused to dismiss, amend or withdraw from, the class action suit and there was strong sentiment—which I shared—to disassociate unless this was done, but the Board's recommendation to defer carried—largely through the efforts of my law partner John Parker, the immediate past president of the local bar and who you may remember as a student editor on the LSU Law Review while you were its adviser. The state bar has not yet made its recommendation and our local bar has not yet disassociated itself.

16. Meanwhile, on September 23, 1969, the Board of Directors of "Capital Area United Givers" met and adopted its resolutions on the issues. Its first "resolve" read:

"Be it resolved by the Board of Directors of Capital Area United Givers that we strongly favor the furnishing of legal aid to the indigent."

It then "Further Resolved" to support the action of the local bar; and deferred any commitment for financial support in 1970, and made such support "contingent upon (Legal Aid's) acceptance of and compliance with" new guidelines and standards.

These actions of Legal Aid—so completely beyond the scope of its activity as had been assured the local bar by Mr. Bamberger initially, to which I have referred, caused such resentment among the citizens of this area that despite this position United Givers publicly took, its campaign was far short of its goal and the needs (so much of which related to needs of the negro community itself)—some $139,428.00 short, "the biggest failure in the fund drive's 18 year history."

CONCLUSION

Instead of criticism of the Baton Rouge Bar as your letter of January 9, 1970, states would be in order if the facts are as they have been represented to you by others to be, the Baton Rouge Bar should be commended and the Legal Aid Society of Baton Rouge severely criticized.

If you sent copies of your letter of January 19, 1970, to anyone other than Mr. Klaus, I ask that you send the same persons copies of this, my reply. I am sending copies of this letter to the Baton Rouge Bar Association and to the chairman of the State Bar committee presently investigating the matter of standards for Legal Aid Societies in Louisiana, and the others shown below.

Sincerely,

BEN R. MILLER.

[From Human Events, Feb. 7, 1970]

NEIGHBORHOOD LEGAL SERVICES SHOWN AS BAD AS FEAR

(By Jack W. Plowman in the Pittsburgh Legal Journal)

(NOTE.—Mr. Plowman is a member of the Allegheny County, Pennsylvania and American Bar Associations. He is a member of the Board of Directors of the Neighborhood Legal Services Association and has just completed a term as an administrative vice president of the Allegheny County Bar Association. The views expressed in this article, however, are his own and do not represent the views of any group of which he is a member.)

Pittsburgh and Allegheny County now have behind them three years of the federally financed legal services program. Known locally as the "Neighborhood Legal Services Association" (NLSA), the program has, in this brief span of time, confirmed some of the worst fears of those who opposed its creation.

The principal objections to the NLSA program were that:

(*a*) The interests of the government would be given priority over those of the client.

(*b*) The client would be deprived of his choice of counsel.

(*c*) The program would not be operated ethically.

(*d*) The program would gradually expand so as to socialize the practice of law.

(*e*) The program would be controlled by non-lawyers.

(*f*) The cost would be greater than if legal services were provided through the private bar.

At the time the NLSA program was urged upon the bar, it was represented that "the purpose for which it is formed is to make available legal services to all residents . . . who, because of their financial inability, are unable to procure such legal aid. . . ."

The petition seeking a charter for NLSA further stated that the puprose was "to undertake education programs in which indigent residents may be instructed in and advised of their fundamental private legal rights and obligations, to the end that their performance, motivation and productivity as citizens may be improved and their respect for the law increased."

No mention was made in the application for charter of any purpose to remake or refashion the law in accordance with any vision or plan of the program administrators, and yet that has become perhaps the most dominant and controversial feature of the NLSA, both locally and nationally.

One need not look far to discover this overriding purpose. The current application for funding of the local program states that one of the objectives of the NLSA is "to make the legal system and society responsive to the poor," and further to deal with the basic problem of "law reforms . . . designed to make our society and the laws responsive and cognizant of the needs of the poor."

Stripped of its bureaucratese, this means law reform in accordance with the views of appointed officials, who have never had their policies subjected to the heat of the election furnace, or even tested by legislative debate.

No doubt should exist that the main purpose of the NLSA program is law reform, rather than the traditional, pragmatic goal of legal counsel, which is to obtain the best result possible for his client within the framework of the law. In responding to criticism of the program, one government attorney stated that the critic had ". . . failed to take into account the pragmatic nature of most modern legal practice, which unfortunately is at cross purposes with and therefore incapable of accomplishing the objectives of providing a just society for the indigent."

The Allegheny County Bar is not alone in faulting the NLSA program and its ideas of social engineering. The General Practice Section of the American Bar Association, at its Conference on Current Problems Affecting the Practicing Lawyer, criticized the government-supplied legal services program for subordinating client welfare to advocacy of social reform.

The basic premise on which the NLSA must necessarily proceed in its efforts at law reform is that the existing law does not comport with the public good.

But, by what standards is the NLSA to be guided? Is not the determination as to the merits of a particular rule of law more properly a legislative function, rather than the result of policy decisions of those administering the legal services program?

And yet, by the skillful selection of cases for presentation to the appellate courts, chosen as to advance a particular social point of view, it is not difficult to see how the administrative policy of appointed officials soon becomes law.

The rejection of the policy of selective appeals to advance a particular social view is not to say that appeals should not be taken, since some of the decisions obtained were long overdue. But the point is that the *raison d'etre* of the NLSA program was, and still should be, the representation of *individual* clients with *individual* legal problems, not the use of the individual's case to attain a social goal that may or may not be consistent with the interests of a particular event.

The duty of an attorney is to represent the client. If the attorney is retained and paid by the government to obtain a result that should be collateral, such as law reform, a perversion of the legal process results that has long been denounced by all enlightened professionals. (See the Ethical Considerations under Canon 5 of the newly adopted Code of Professional Responsibility.)

If the purpose of the NLSA program is to protect the interests of the individual client (and this is, after all, the purpose stated in the charter), the decision as to taking an appeal should be made by the individual lawyer in the light of what is best for the client, unwarped by any added consideration as to the extent an appellate decision might advance or retard a particular social point of view currently enjoying governmental favor.

The authors of the new Code of Professional Responsibility very succinctly summarized the ethical conflict inherent in any legal services program that intrudes a third person into the lawyer-client relation when they stated in the Ethical Considerations under Canon 5: ". . . [an organization furnishing a lawyer] may be far more concerned with establishment or extension of legal principles than in the immediate protection of the rights of the lawyer's individual client."

The right of the individual to choose his own legal counsel is so basic that it seems incredible that the government policy in administrating its legal services program is to systematically deprive the indigent client of that right. Under the NLSA program the client has no choice whatever as to the selection of his attorney, but must instead accept the attorney hired for him by the government.

Certainly one of the most telling and unanswerable criticisms of the NLSA program is that, unlike other programs designed to help the poor, the NLSA program is the only one which denies freedom of choice.

In all other programs, the right of choice has been retained for the poor. Although receiving welfare benefits, a poor person may still choose where he spends his money. He is not, for example, sent to a particular clothing store, nor is he referred to a particular government-hired physician, dentist, druggist or hospital. Why then should a poor person be required to take his legal problems to an attorney hired for him by the government?

The recipients of legal services have themselves complained of the lack of choice as to counsel. Although Judicare[1] would obviously solve this fundamental flaw in the existing program, the policy of the Office of Economic Opportunity (OEO), under whose supervision the legal services program operates, is not to approve or fund Judicare programs.

Advocates of the NLSA program point to the approval by the American Bar Association of the government-furnished lawyer system. But, as anyone who reads the ABA resolution quickly notes, the resolution merely approves the concept of government-financed legal service programs, without specifying the particular form in which the services are made available.

Why, then, does OEO insist on the NLSA program to the exclusion of Judicare, when the Judicare system would give to the client the right to choose his own counsel?

The answer is that, under the Judicare program, the government would have no control whatever as to the manner in which the attorney handled the client's case, and would hence have no voice in the attorney's decisions. Cases would be handled with the purpose of solving the client's problem, and the government would be unable to select particular cases for appeal with the leitmotif of the administrator's view of social justice.

Only by the control inherent in an employer-employe context can the government establish its appeal policies. While with Judicare the only consideration would be the welfare of the client, under the NLSA program there is superadded the advancement of administrative policy.

In addition to placing law reform ahead of client welfare, which violates Canon 35, and newly adopted Canon 5, the NLSA program has not hesitated to transcend the bounds of legal ethics when it serves its purposes to do so. Even the most basic ethical proscription—again advertising and self-laudation—will soon fall by the wayside.

The 1969–70 NLSA program for Allegheny County plans an extensive public promotion of its legal services which, if pursued by a private practitioner, would lead to immediate censure, if not disbarment.

"The [NLSA] program will engage in legal education designed to acquaint the residents of the poor neighborhoods with the availability of legal services. Such a program will include, but not be limited to, the distribution of pamphlets, newsletters, radio and television appearances, literature describing the functions and locations of legal services officers. . . ."[2]

In view of the declaration of intent to advertise for and seek out clients, and in view of its avowed policy of law reform, the pious declaration set forth in the petition for charter, that "the program shall conform to the Canons of Professional Ethics and Rules of Professional Conduct of Lawyers," sounds rather hollow.

Since the incorporation of the NLSA, little publicity has been given to the numerous efforts to expand the program, both geographically and as to income eligibility.

The initial program provided for the NLSA to operate only in the city of Pittsburgh. By articles of amendment filed the following year the program was extended geographically to include eligible persons in all of Allegheny County.

In addition to the expected efforts to increase the eligibility group, by increasing the annual income that an individual may receive and still be entitled to free legal services,[3] new and unforeseen expansion of the free legal services program is being undertaken.

The Department of Health, Education and Welfare (HEW) is instituting a program to provide, on a statewide basis, free legal services to any person receiving welfare or, if denied welfare, free legal services to determine his eligibility.[4] Thus, what began as an essentially urban program is now being extended throughout Pennsylvania.

Although its petition for court approval of its non-profit corporation charter states that it is for the purpose of providing legal services to "residents," the clause has been interpreted by the NLSA so as to permit the

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[1] Judicare is a legal services program in which an eligible client chooses his own attorney, a private practitioner, whose bill is paid by the government, based upon an hourly fee schedule. Attorneys may choose not to participate in the program, but in the one state where it is operational, Wisconsin, virtually the entire bar has indicated its willingness to serve.

[2] Application for 1969–70 Community Action Program, NLSA, paragraph 11C.

[3] Under the OEO guidelines, eligibility is established on a local basis, subject to OEO approval. Presently, a family of four with a gross annual income of $3,200 is entitled to free legal services; a lay member of the NLSA suggested that "$5,200 would be more equitable."

[4] At the time of writing, the NLSA has before it a proposal that would expand the eligibility for free legal services to a father and mother, with three children age 14 or over, having an income up to $9,100. Some poverty!

furnishing of services to organizations, including non-profit corporations.[5] It is hard to imagine a group having any substantial following that would not be able to collectively pay counsel fees for legal representation.

The most recent effort, this time by the Department of Housing and Urban Development (HUD), will extend eligibility on a broad basis, so that even business corporations in the Model City program would be eligible for free legal service in such matters as incorporation of businesses and providing legal counsel to corporations. (During the first eight months of 1969, at least three non-profit corporations have been chartered through the efforts of the NLSA.)

It remains to be seen whether the HEW and HUD legal services programs will be furnished through a NLSA type of program, or on a Judicare system. The Board of Governors of the Allegheny Bar Association is attempting to have the program implemented through Judicare, rather than through the NLSA.

Whichever system is used, Judicare or NLSA, it appears clear that the government-furnished legal services program is destined for rapid expansion.

OEO has elevated the legal services program to the status of a separate division, which will be charged with the operation of more than 200 NLSA-type law offices. Budgeted at $42 million in the past fiscal year, the new budget request is for $58 million.

The local NLSA has requested $481,097 for the forthcoming year, an increase of $379,475 over the previous year.

There is no reason to believe that the expansion will end; experience with government programs would, on the contrary, indicate that more, rather than fewer, legal services will be provided in the future.

At the time the NLSA was proposed in Allegheny County, the Bar's fear of a legal service's program controlled by non-lawyers was repeatedly voiced. To quiet these fears, the proponents of the NLSA stated that a clear majority of the board of directors would be lawyers, and hence no valid reason existed for this concern.

As presently organized, 19 members are lawyers or otherwise represent the bar, and 13 are laymen, which would seem to guarantee control by the legal profession. Control has not, in fact, existed, however, because of the make-up of the board.

Of the 19 lawyer representatives, six are ex officio members,[6] many of whom are routinely absent at board meetings. Coupled with normal absences, the legal profession is frequently in the minority at board meetings, and is often at a loss to prevent enactment of undesirable policies.

The government-financed and supervised law office was presented to the public as being an efficient and less costly means of providing legal services. In fact, far more legal services could be provided through the private Bar for the same money.

The 1969–70 budget of the NLSA in Allegheny County seeks funds in the amount of $481,097, which should buy a lot of legal services. The personnel roster shows 16 professionals, but of these only 14 are available for legal counseling, the excutive director and an assistant performing solely administrative duties.

The American Bar Association bases its economic calculations on attorney's income on an average of 1,500 hours per annum. This means, of course, that NLSA is getting approximately 21,000 lawyer hours per year for $481,097, or a gross annual cost per lawyer of $34,500, or a gross cost per lawyer of approximately $23 per hour, a gross income figure that is not exceeded on an annual average by very many members of the bar.[7]

If efficiently operated, or if operated on a Judicare basis, it would not be unrealistic to say that the legal services now being furnished could be obtained at 20 per cent reduction in the present cost.

Or, put another way, by using the Judicare system, the government could purchase 25 per cent more hours of legal service through the private Bar as it now obtains with the NLSA. And, in the process, it would recognize the right of the poor to select their own legal counsel and preserve the independence of the bar.

Unfortunately, the fears of the opponents of the government-financed law offices are being recognized through the local NLSA program.

Where does the fault lie? It would be easy to point an accusing finger at the NLSA, but that would be unrealistic. Rather than fault the system, the organized Bar should carry our just criticisms to those who, by default, are responsible for its creation—the leadership of the American Bar Association.

The American Bar Association has been strangely silent since the inception of the legal services program. In particular, no adequate explanation has ever been offered by the ABA as to why it failed to support Judicare, but instead meekly accepted the proposal that the government offered to it.[8]

The ABA owes a duty to the public, as well as to its members, to assure that any government-financed program of legal services places the welfare of the client paramount to all extrinsic interests of the government. This it has failed to do.

The ABA cannot, and should not, attempt to fulfill its duty by blindly approving the OEO program, principally because of the OEO's obvious ulterior motives.

Only by aggressively advocating the adoption of the Judicare system can the ABA guarantee that the legal services made available to the poor are equal to the high quality of representations received by all other members of the public who are serviced by the independent, private Bar.

[5] One of the more visible groups represented by the NLSA is "Concerned Citizens," whose principal effort seems to be to turn the business meetings of the Pittsburgh School Board into town meetings. Their lack of success in the courtroom has not deterred them from continuing to disrupt the meetings.

[6] Allegheny County Solicitor, City of Pittsburgh Solicitor, Public Defender, the University of Pittsburgh School of Law, Duquesne University School of Law and the Legal Aid Society of Pittsburgh.

[7] The average per hour fee of lawyers in Allegheny County is between $20 to $30, from which, of course, the attorney pays all of his overhead, keeping the net as his spendable income.

[8] One discerning critic says that the medical profession opposed Medicare, but ended up having it make them rich, while the legal profession failed to oppose the legal services program, for which the government expressed its gratitude by taking their clients.

SECRETARY OF AGRICULTURE HARDIN, A PROFESSIONAL AGRICULTURALIST

HON. RALPH T. SMITH

OF ILLINOIS

IN THE SENATE OF THE UNITED STATES

Wednesday, February 4, 1970

Mr. SMITH of Illinois. Mr. President, when this administration assumed office, a comparatively unknown person was selected for the position of Secretary of Agriculture. I ask unanimous consent to have printed in the Extensions of Remarks an excellent article, entitled "Who is Clifford Hardin?" written by Keith L. Wilkey, of the Quincy Herald-Whig.

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

SECRETARY OF AGRICULTURE HARDIN IS A PROFESSIONAL AGRICULTURIST

(By Keith L. Wilkey)

Who is Clifford Hardin? Where did he come from and what is his background? What is his agricultural philosophy? What kind of a Secretary of Agriculture will he make?

These are some of the questions farmers and others involved in agriculture are asking. Clifford Hardin has been in office almost a year, yet to many he seems an enigma. Not the back-slapping, hale-fellow-well-met type that are so often prominent in high political circles. Hardin has been most often characterized as "cool."

President Richard Nixon chose his cabinet carefully. Because of the troubles of agriculture, the rapidly declining farm population, the disenchantment among urban members of Congress and the urban press with recent government subsidies, low commodity prices and other frustrations of the farming industry, many political wiseacres felt few qualified men really wanted the post.

The late President Kennedy chose a Minneapolis lawyer named Orville L. Freeman, who had served as governor of Minnesota but was defeated in the 1960 election. It seems an old political saw that defeated party candidates for state or federal office are handsomely rewarded by federal appointments. So Freeman was "taken care of" by a cabinet appointment, and though agriculture was not exactly Freeman's "bag," the doughty Minnesotan was versatile.

The late President Eisenhower, who won his party's nomination in a bitter contest with the late Senator Robert Taft, appointed a stern elder of the Mormon Church named Ezra Taft Benson, a relative of the defeated Ohio senator. Commenting on Ike's appointments, Taft cracked in his dry, flat voice. "Well, we did get cousin Ezra in."

Thus the two predecessors of Hardin were given the top spot in American agriculture because of political traditions, rather than because of background and experience with working agriculture.

No so with Clifford Hardin.

Hardin has been less involved in national politics than any agriculture secretary for many years. He is a professional agriculturist, first, last and always.

Because of the importance of a new "ag sec" to the farming industry, there is always much speculation among farm editors about who the new secretary of agriculture will be when a new administration comes to Washington. After Richard Nixon's election became official, there was the usual speculation about who would get the top spot in the U.S. Department of Agriculture.

"Dean Earl Butz, of Purdue University, has the inside track; after all, he was Undersecretary under Eisenhower," was a common prediction. Others said, "You have the right school, but it will be Professor Don Paarlberg." (Paarlberg was named to one of the Undersecretary posts). Still others were certain it would go to Clifford McIntyre, who heads the conservation and natural resources division of the American Farm Bureau Federation, and a former Congressman. Several other likely candidates were mentioned.

The word was unofficially passed around at the AFBF annual convention in Kansas City last December that the President-elect had tapped Chancellor Clifford Hardin of the University of Nebraska for this sensitive post. While some farm writers were familiar with Hardin, others asked, "Who in the heck is Clifford Hardin?"

Hardin is the prototype of an Indiana farm leader. Born near Knightstown, Henry County, a town of 2,490 located midway between Indianapolis and Richmond, on U.S. 40 in east central Indiana, the Secretary is a son of James Alvin and Mabel (Macy) Hardin. He was a 4-H member and attended school on a 4-H scholarship. He entered Purdue University at LaFayette, 150 miles northwest of the Hardin farm, during the bleak years of the Great Depression. In 1937 he graduated with a BS degree in agriculture; in 1939 he was awarded the MS degree and two years later completed his doctorate.

Hardin was a student at the University of Chicago in 1939–1940 and was awarded an honorary LL. B. degree from Creighton University in 1956. During the academic year 1940–1941, the future cabinet member was assistant professor of agricultural economics at the University of Wisconsin in Madison. The following year he moved to Michigan State College at East Lansing, where he advanced successively to associate professor of agricultural economics; professor and chairman of the department of agricultural economics; assistant director of the agricultural experiment station; director and finally he was made Dean of the College of Agriculture. In 1954 he became Chancellor of the University of Nebraska and moved his family from south central Michigan to the low rolling hills of Nebraska, where his permanent home now is at 41, The Knolls, Lincoln.

Not all of Hardin's experience has been in the classroom. He is a director of the Federal Reserve Bank of Kansas City (Omaha branch); a director of Behlen Manufacturing Company and Fairmont Foods Company; a trustee of Bankers Life Insurance Company; a member of the Educational Advisory Commission of the W. K. Kellogg Foundation; a trustee of the Rockefeller Foundation and a director of the Federal Farm Credit Administration of St. Paul. He was a member of the President's Commission to Strengthen Security in the Free World and a delegate to the International Conference of Agricultural Economists in London. Also a member of the National Science Board and the Association of Universities and Land-Grant Colleges, of which he has served as president and chairman of the executive committee.

It would be difficult to find anyone with more technical experience in agriculture than Cliff Hardin. On June 28, 1939, the Secretary married Miss Martha Love Wood. The couple are parents of five children; Clifford Wood and James Alvin and Susan Carol (Mrs. L. W. Wood), Cynthia W. and Nancy Ann. Hardin is a Phi Beta Kappa, belongs to several fraternities and is a Rotarian.

Secretary Hardin moves slowly and deliberately. He researches everything carefully and moves with caution. One of his first acts after being sworn in was to call in and interview the heads of the farm organizations and larger commodity groups. Next he held a series of "listening conferences," or agricultural forums held in various parts of the country, including Illinois, Nebraska, Georgia, Washington (state), Texas and California.

"Why have any more probes about what the farm problem is?" asked some midwestern agricultural publications. "Everyone knows what the farm problem is and have known for 35 years. Why take up the time of farmers who are busy in the fields, etc.?"

Some farm organizations viewed the "listen-ins" with mixed emotions. After all, farm leaders spend their time and money representing the views of their farmer constituents; this looked like the Secretary was going over their heads.

Melvin Sims, Liberty Route 2, president of the National Council of Farmer Cooperatives and FS Services, Inc., is the only local farm personality who is personally acquainted with Secretary Hardin and discusses farm problems with him face-to-face in a conversational manner. Sims was Hardin's luncheon guest during the recent AFBF convention in Washington.

"The 'listen-ins' may have appeared to be somewhat unorthodox," Sims said. "After all, the Secretary of Labor doesn't usually go out and get the views of the rank and file; he deals with the labor leaders. But Secretary Hardin felt it was important to go directly to the source of those who work in the farming industry. He is interested more in basics and is more concerned with the results than he is who is going to get any credit. I must say I admire him for this attitude."

The listen-ins typify Hardin's method. He is unconcerned with political self-promotion and does not appear to be too deeply concerned or disturbed by criticism or detractions. He is no flag-waver; no tub-thumper; no "we're gonna' do this and we're gonna' do that" leader. He is plain old Indiana Cliff Hardin.

There is an ancient legend about an old man and a boy walking down the road leading a donkey. "How stupid," chided some passerby, "why doesn't one of them ride?" The boy got on the donkey. "That lazy boy should be ashamed; making the poor old man walk." The two changed places. "Can you imagine that: that man making that poor little boy walk while he rides." The two were frustrated. By trying to please everyone, they had pleased no one.

Some farm leaders are trying to apply that legendary allegory to the present Secretary of Agriculture. "He is trying to please everyone and actually pleasing no one," say some of his detractors. But Hardin keeps on "plowing corn."

Though there have been no emotional outbursts against Hardin, such as were against Benson and Freeman, "some of the boys are mumbling in their beards." Such questions are being asked as, "When is he going to move?" Hardin is being accused of inactivity, but those who know him best merely say, "He's thinking all the time."

The writer has participated in several press conference with Secretary Hardin. He handles reporters well. While former Secretary Freeman has been accused of occasionally bluffing his way, Hardin doesn't bluff. When he doesn't know, he says so.

"Why have you been so long announcing wheat acreage allotments?" demanded a farm editor from the plains states last summer at a press conference. "Because I didn't know what to announce," was the Secretary's straightforward and unequivocal answer.

"When are you going to announce the Nixon farm program?" Hardin was asked during another press conference in Chicago. "There will be no 'Nixon farm program'," answered the head of the USDA. "We are working with the Congressional committee and others to develop programs to benefit all groups."

There has been some criticism of Hardin, but it has been quite mild. A few liberal farm leaders do not think the Secretary is supply-management-minded enough, while Farm Bureau is raising questions. "Hardin has not really made anyone mad, yet few are singing his praises to the skies," said a farm leader in Washington recently.

"Hardin wants to work it out 'together'," said the Kiplinger Agricultural Newsletter of Oct. 3, "not trying to dictate programs to Congress like others before him. Wants to cooperate with Congress . . . just the opposite from Brannan, Benson and Freeman. Even the toughest nut on the Agriculture Committee appeared to be disarmed by Hardin's cool . . . his willingness to cooperate . . . his sincerity."

Those who view Hardin's first year objectively agree that he is trying his best to be fair to all groups. He earnestly desires their cooperation.

After a year as head of the sprawling USDA, these attitudes of Agriculture Secretary Clifford Hardin have emerged:

He does not favor an immediate withdrawal of all commodity programs; he thinks Farm Bureau's massive land retirement program would be "too severe"; he is partial to a "set-aside" commodity program; he does not favor the $20,000 limitation as such, unless it meets the criteria of the program; he does not favor one farm organization over another and has endeavored to give something to all of them and he feels that the Congress—particularly the Agriculture Committee of the House of Representatives, should draft farm legislation—not the Secretary of Agriculture:

Hardin can look back on 1969, as a year of consolidation; of becoming acquainted; of feeling his way along; of gathering all the information possible. No one can say in fairness that he is a bad Secretary or a good one. Perhaps 1970 will reveal more of Cliff Hardin's methods. His first year has been a testing time.

A RESOLUTION FOR A FULL INVESTIGATION OF THE NCAA

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 4, 1970

Mr. MICHEL. Mr. Speaker, on January 19, I took the floor of the House to discuss the high-handed tactics of the NCAA in imposing some completely unreasonable, arbitrary, and outrageous sanctions upon Yale University's entire athletic program. Then on January 27, the gentleman from Connecticut (Mr. GIAIMO) and I introduced a resolution calling for the creation of a select committee to conduct a full and complete investigation and study of the National Collegiate Athletic Association.

We made the point at that time that we would solicit the membership for support and would reintroduce the resolution, which I am happy to do today in conjunction with 24 of our colleagues from both sides of the aisle and representing a wide spectrum of political philosophy.

Since my first comments we have received a good amount of correspondence from college officials from all parts of the country, as well as private citizens, encouraging us in our effort, and it is quite evident that the dissatisfaction and concern over the policies of the NCAA are rather widespread.

I insert at the conclusion of my remarks the following articles:

[From the Sports Illustrated, Jan. 25, 1970]

SCOREBOARD

IRRATIONAL

The NCAA is becoming ridiculous. Once the popular favorite in its duel with the stodgy old AAU, its persistent stance of self-defeating stupidity is eroding its support everywhere. The suspension of Oregon State basketball player Gary Freeman (Scorecard, Sept. 15) was a bureaucratic inanity that had to be reversed, and the failure to sanction basketball competition in the Maccabiah Games—because of the continuing squabble with the AAU—was petty, shortsighted and cruel. Its suspension of Yale for two years (for not forbidding a Yale player to go to the Maccabiah Games and then for letting him play varsity basketball this season) is a prime example of NCAA overkill.

Even more peculiar is the one-year sus-

pension of San Jose State's track team, the defending NCAA outdoor champions. San Jose was barred from competing in either the indoor or outdoor national championships this year because several of its athletes took part last season in two "uncertified" meets. Athletes from other colleges (the NCAA refuses to name them) appeared in at least one uncertified meet, but their schools were "chastised" rather than suspended. San Jose ostensibly received the sterner punishment because its athletes had competed in two such meets.

San Jose claims that it had assumed the meets its athletes entered were O.K., because both had been sanctioned by the U.S. Track and Field Federation, the group the NCAA helped organize in opposition to the AAU. It tried to appeal the ruling, but the NCAA refused the appeal. Last week San Jose's acting president, Hobert W. Burns, said, "At the very least, we believe we are entitled to know why San Jose State College . . . was singled out for punishment and why the punishment was so severe." Then he tossed a strong accusation. "This action against San Jose State," he said, "may have been in part a prejudicial reaction to John Carlos' raised-fist gesture at the Olympic Games."

Carlos is the controversial sprinter who, with his San Jose teammate Tommie Smith, appeared on the victory stand in Mexico and made the Black Power gesture that aroused so much animosity. To ascribe the NCAA action against San Jose to its personal feelings against Carlos would seem terribly far-fetched if it were not for a double-page spread that appeared on pages 2 and 3 of the December issue of *NCAA News*. An oversimplified and one-sided editorial on campus unrest among black athletes is accompanied by an abridged report of a speech by an FBI official that, in juxtaposition with the editorial, seems to lump all black student activists with the extreme left. If the NCAA wanted to support the argument of San Jose's acting president, it could not have done it more effectively.

[From the Orlando Sentinel, Jan. 18, 1970]

NCAA HAS BECOME DOWNWRIGHT LUDICROUS: COLLEGE SPORTS DESERVE BETTER

(By Bill Clark)

Face it, the NCAA has become downwright ludicrous.

The proper name of this body which once was steeped in respect is the National Collegiate Athletic Association. All the big schools in the country are members and, ostensibly, they rule themselves. But great powers have been vested in a half-dozen hired hands.

Walter Byers, an ex-sportswriter, is one of these. He is NCAA executive secretary and one of the major culprits in the whole mess since he is the strongest single individual in the administrative setup. Some people say the colleges should have known better when they hired a sportswriter.

At any rate, what is wrong with the NCAA these days is a topic so plural you can name them alphabetically. Here are a few:

A few years ago, the NCAA embarked on a struggle against the AAU (Amateur Athletic Union) for control of amateur sports in America. The fight soon grew utterly preposterous, both sides acting like small children. Two U.S. presidents, Ike and JFK, both tried to break up the quarrel without success. Small children quarrelling are okay, of course, but who wants them running the athletic department at Florida? Or UCLA? Or at your alma mater?

The NCAA slaps stiff penalties back-to-back on FSU for recruiting sins which, when compared to things going on at 99 per cent of the nation's schools, really are quite negligible. And this is no effort to whitewash Florida State. It is just a question whether Walter Byers and his investigative staff are this naive or if they see only the offenses they choose to see?

In recruiting players and in the area of administering academic tests and scholarships, cheating in some form is rampant in college athletics. There are schools here and there led by principled men who try to conduct honest programs. Unfortunately, they are often the coaches and athletic directors whose teams are losers. Unprincipled opponents consistently beat them. In effect, the nice fight with one hand tied behind their backs.

A common practice at even the best schools is to hand a fistful of tickets to each football player before home games. The schools and their coaches know full well that the athlete is going to sell those tickets for more than the market price. Often-times, school representatives bring the star player together with the ticket buyer . . . usually a rich alum who is glad to pay, say $50 for a pair.

At worst, this is pasteboard prostitution. At best, it is scalping, and scalping, in many cities and states, is against the law.

But practically it is one of the ways schools illegally pay their athletes. Never mind that the ethics of it is all wrong, in fact, stinks.

The NCAA knows about the ticket scandal, but what does it do to stop it? Nothing.

Athletes often drive big autos. Wilt Chamberlain did while he was at Kansas. Where does a room-and-board and laundry money type scholarship of the type the NCAA permits give a kid the means to buy a big auto? It does not. But the NCAA is less than 100 miles from Lawrence, Kan., where Chamberlain played and the NCAA somehow could never find a thing wrong with Wilt's ride.

Despite what you have heard, the NCAA is not anti-Semitic.

But you have to wonder after what the body recently did to Yale University. An Eli basketball player, Jack Langer, participated last summer in the Maccabiah Games in Israel. The games have been dubbed the Jewish Olympics. The NCAA had not "sanctioned" the basketball part of the Maccabiah Games because they were held under the auspices of the international AAU. Result? Yale was told Langer was ineligible to play this year. Yale used Langer anyway. The NCAA placed Yale on two years' probation for using an "ineligible player" even though other Ivy League schools admitted they did not mind Langer playing.

Now comes word that an Illinois representative has asked for a congressional investigation of the whole Langer incident. Republican Robert H. Michel says to him "this looks like another phase of the running battle between the NCAA and the AAU. There are other sportsminded members of Congress," he notes, "And I believe we should stir up some interest in finding out what makes the NCAA tick." Bully for Rep. Michel.

The recent San Jose State probation appears even more unjustifiable than the Yale case. San Jose State's alleged offense was competing in a track meet on which the NCAA did not bestow its blessings. Other schools competed also, but only San Jose was put on probation. The school claims the NCAA's real reason for taking the action was to punish the school for John Carlos' raised black-glove at the Olympics. Carlos attended San Jose.

One school official said when the NCAA was asked for explanation of the suspension, a spokesman explained that it does not have to justify what it does.

Autocratic and high-handed, the NCAA is also unbelievably petty. It has shown time and again that rather than miss a chance to get in a punch at the AAU, it is willing to sacrifice athletes and athletics. This is the real tragedy, young men like Jack Langer of Yale caught up in a battle which is not their own, as mere pawns.

[From the Women's Wear Daily, Jan. 15, 1970]

SPORTIF

(By Red Smith)

A delegate to the National Collegiate Athletic Association convention in Washington is expected to take the floor sometime today and demand that Yale be cast into outer darkness. If the NCAA Council complies, we may witness a phenomenon similar to that which occurred the other day on the beach at Ft. Pierce, Fla.

In Florida, several hundred pilot whales followed their leader out of the water and up on the sand to their death. Their leader was not identified and his reasons for prescribing mass suicide remain a mystery.

The leader of the NCAA is Walter Byers, the executive director, whose motives have been clear for years and years. He is a gauleiter of the rule-or-destroy school, inflexibly resolved to control all amateur sports that are marketable on television.

If he decides that Yale must be put down, he may lead the NCAA to destruction. In any event, if the council members follow him blindly, as they have in the past, they will, like the whales, raise an almighty stink.

THE LANGER CASE

Yale has sinned by permitting an undergraduate named Jack Langer to play on the varsity basketball team in spite of the fact that Langer had been declared ineligible by the Eastern Collegiate Athletic Conference, a branch office of the NCAA which is subservient to Byers and his Kansas City mob.

Langer has done nothing wrong, and there is no way grown men can be excused for declaring him ineligible. He and Yale are innocent bystanders caught between two warring camps—the NCAA and the Amateur Athletic Union.

As a tactic in its struggle to wrest control of amateur basketball from the AAU, the NCAA has for several years refused to sanction international competitions for college players. One event for which sanction has been withheld is the Maccabiah games in Israel. When Langer was invited to play in that tournament last summer, Yale's athletic director, DeLaney Kiphuth, told him to go right ahead if he felt like it. Kiphuth promised that, no matter what the NCAA said about it, Yale would welcome him back on its team.

Though Yale is a member of the NCAA, through the ECAC, the college is one of the few that have refused to knuckle down to the NCAA. Authorities at New Haven have repeatedly made it clear that they mean to conduct their own athletic program as they see fit and will not yield their autonomy to the Kansas City mob or anybody else. They have kept their word to Langer and will continue to play him in varsity games.

QUICK RETREAT

When Yale encouraged Langer to go to Israel, the university was aware of the probable consequences and perfectly willing to face them. In fact, when the ECAC's executive council took one timid little step toward disciplining Yale the other day, Kiphuth announced flatly that Yale would not accept the penalty because it wasn't severe enough.

The ECAC Council voted to put Yale on probation until June 30, 1971, but Kiphuth said the group had no such authority. He said the only penalty that could be assessed was expulsion, and that the executive council didn't have authority to expel anybody. This could be done, he said, only by a vote of the 113 ECAC members.

Furthermore, Kiphuth declared, the ECAC and NCAA had no jurisdiction as far as the Maccabiah games were concerned.

When he was finished talking, the ECAC membership voted for reconsideration of the executive council's decision, and the latter group backed off, withdrawing the probation order.

THE DREAMY PRESIDENTS

It remains to be seen whether the Kansas City mob has the guts to take on Yale. If Yale were expelled, the seven other schools of the Ivy League probably would pull out in sympathy.

Perhaps this wouldn't destroy the NCAA, but it would cause a lot of people to give the organization a hard, appraising look. All over the country there are college presidents who, distracted by campus riots and fund-raising campaigns, have let their athletic departments go along pulling chestnuts for the Kansas City mob.

If the Ivy League walked out, some of these dreamy educators might reexamine the company they're keeping.

DEATH OF W. O. OWENS, JR., ST. GEORGE, S.C.

HON. STROM THURMOND

OF SOUTH CAROLINA

IN THE SENATE OF THE UNITED STATES

Wednesday, February 4, 1970

Mr. THURMOND. Mr. President, recently, South Carolina lost one of its outstanding journalists, Mr. W. O. Owens, Jr., of the Dorchester Eagle-Record. W. O. was one of the leading citizens of his community of St. George, S.C. He was a courageous man and a man of fine character.

I would like to read just one paragraph from a tribute paid the late Mr. Owens by R. H. Lawson, Sr., and published in the Dorchester Eagle-Record. Mr. Lawson writes:

He was a man of high and noble purpose and had a great sense of dedication to the things he believed in. No human being has labored any harder for the enrichment of life and the betterment of the community. He was a man of vision whose horizons were not limited by selfish desires and endeavors. He was possessed of an inward strength that kept him going, even when his illness was gnawing away at his life.

In this paragraph, Mr. Lawson sums up the life of a man who worked hard for a family, his business enterprise and the community, athletics, and the political life. All of us who knew W. O. knew that he had no political ambitions for himself, but he had a great courage in attacking political corruption against all odds. In his community he was considered an authority on election rules and stood his ground against all comers. He spent hours of selfless work as chairman of the board of registration and won the admiration of all in the community.

W. O. left behind his wife, a proud and courageous lady, as well as two sons, William M. and Jerry B., and a daughter, Kathleen. They will all miss him, as will all of us.

Mr. President, I ask unanimous consent that the obituary of W. O. Owens, Jr., and a letter to the editor of the Dorchester Eagle-Record be printed in the Extensions of Remarks.

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

LETTERS TO THE EDITOR

EDITOR, EAGLE-RECORD,
St. George, S.C.:

During the time that I have been privileged to live in this area it was my joy to become acquainted with the late Mr. W. O. Owens, Jr. It was an honor for me to claim him for a friend.

He was a man of high and noble purpose and had a great sense of dedication to the things he believed in. No human being has ever labored any harder for the enrichment of life and the betterment of the community. He was a man of vision whose horizons were not limited by selfish desires and endeavors. He was possessed of an inward strength that kept him going even when his illness was gnawing away at his life.

In his death the community has suffered a great loss. His courageous zeal and self determination to stand up by what he believed to be right is an attribute of character worthy to be remembered.

Sincerely,

R. H. LAWSON, Sr.

OBITUARIES

W. O. OWENS, JR.

William O. Owens, Jr., 49, died Sunday at a Charleston hospital.

Funeral services were held Monday at the St. George United Methodist Church. Burial was in St. George Cemetery.

Funeral services were directed by Bryant Funeral Home.

Mr. Owens was born in St. George, a son of the late Mae Smoak Owens and William Oscar Owens. He was a lifelong resident of St. George, was a retired employee of the Giant Portland Cement Co. of Harleyville, and was associated with the Dorchester Eagle-Record.

He was a former chairman of the Dorchester County Board of Registration, a charter member of the St. George Jaycees and a member of the St. George United Methodist Church.

Surviving are: his widow, Mrs. Doris Magill Owens; two sons, William M. Owens of St. George and Jerry B. Owens of Charleston; one daughter, Miss Kathleen Owens of St. George; one brother, Dr. D. Jerome Owens of Washington, D.C.; and two grandchildren, Julie Owens and William M. Owens, Jr.

Pallbearers were the following nephews: James B. Way, Mike Walters, Don Walters, and T. R. Peden, Jr.; Also, Dan Berry, Roger Brownlee, Eddie Byrd, and W. B. Hills, Jr.

A SMALL BUT SIGNIFICANT ACTION

HON. SPEEDY O. LONG

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 4, 1970

Mr. LONG of Louisiana. Mr. Speaker, in our hurried world today, we seldom take time to recognize the seemingly insignificant actions—the little things that are important in our lives—that frequently go unnoticed. In this vein, a friend of mine recently brought to my attention a small matter—an action that would ordinarily have gone unnoticed. I am glad my friend came forward, for it gives me an opportunity to publicly recognize a small but very significant action.

The matter concerns a letter my friend received from his son's battalion commander at Fort Polk, La.—an Army lieutenant colonel by the name of Robert L. Freshley.

Briefly, the letter reveals that Colonel Freshley is deeply concerned for both the spiritual and physical well-being of the men in his charge. His letter shows an awareness of the anxieties of parents and a sympathetic desire to alleviate their very natural worries.

There was no attempt by Colonel Freshley to gloss over the hardships of Army training. But, he made it clear that he considered every man in his battalion to be his personal responsibility—and that this responsibility would not be shirked.

Mr. Speaker, it is truly heartening to read Colonel Freshley's letter and to feel the strong personal concern that he shows for his men. I am not surprised, for I have visited Fort Polk many times and have been deeply impressed by the high quality of its staff of officers and men. I know and respect the Fort Polk commanding general, Brig. Gen. Richard L. Irby, as well as his able deputy, Brig. Gen. Emil P. Eschenburg. Both are truly outstanding commanders, and their leadership qualities have obviously influenced the officers and men under their command.

Fort Polk is a training facility. There are few headlines generated by the 14-hour days, the 7-day weeks, and the frustrations attached to molding young men into seasoned soldiers. All in all, it is a thankless job. But, it is heartwarming to know that there are officers and men who are willing to meet the daily challenge of training—and to do so with unselfish dedication and a truly human concern.

Mr. Speaker, it seems fashionable today to take every opportunity to criticize the military. No matter what or who the source, we broadcast our displeasure with the so-called Military Establishment. The mistakes of a few are charged to all. We seldom take time to consider that a person in a uniform is still human—and "to err is human."

I cannot hope to refute the many misleading and often vicious rumors originated by careless and irresponsible sources and circulated by those eager to criticize the military. I can, however, bring this letter—a small matter—to my colleague's attention. Those Members who read this letter will gain a true insight into the caliber of men to whom we entrust our sons.

Mr. Speaker, I include Colonel Freshley's fine letter at this point in the RECORD:

DEPARTMENT OF THE ARMY, HEADQUARTERS, FOURTH BATTALION, FIFTH ADVANCED INFANTRY TRAINING BRIGADE, U.S. ARMY, TRAINING CENTER, INFANTRY,

Fort Polk, La., January 16, 1970.

Mr. WALLACE BASSFORD III,
Springfield, Va.:

Your son has just been assigned to my Battalion for his Advanced Individual Training. Although he will be here only nine weeks, his welfare is of vital concern to me. That is why I am writing this letter.

His training at Fort Polk will be difficult, and his hours will be long. It has to be this way, as we are charged with the responsibility to instill in your son the professional skills needed to be the best soldier in the world. I'm sure you would not wish us to fall short of that objective.

During his time here, he will be given the very best the Army has to offer. His officers and senior noncommissioned officers for the most part, are combat veterans; his food is good and plentiful; his training is outstand-

ing in one of the finest training areas in the world; and his medical facilities are superior.

If your son attended church prior to his coming into the Army, I invite you to write him and urge that he continue this practice, as we offer our soldiers every opportunity to satisfy their religious needs. Since you play an important role in maintaining his morale at the highest level, I ask that in your letters you also encourage him to learn everything he can and to persevere through his training.

But most of all, I want you to know that your son is a vital part of this organization. As one of his senior officers, I shall do my utmost to insure that he is cared for properly.

Should you have any questions regarding you son's training or welfare, please feel free to write, or call me at 318-578-5644.

Sincerely,

ROBERT L. FRESHLEY,
LTC, Field Artillery, Commanding.

MRS. FRANKIE FREEMAN—DISTINGUISHED AMERICAN OF NOTEWORTHY ACHIEVEMENT

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 4, 1970

Mr. CLAY. Mr. Speaker, I am privileged to have as one of my constituents, Mrs. Frankie M. Freeman, outstanding civil rights lawyer who now serves as the first woman ever appointed to the U.S. Commission on Civil Rights. Mrs. Freeman's history is one of excellence and as a longtime fighter for the rights of black Americans, she has made a contribution which will continue to yield rewards for many years.

Having served on the Civil Rights Commission since 1964, Mrs. Freeman also serves as counsel to the St. Louis Housing Authority. She is intimately familiar with the problems of the poor and of the black. She has been instrumental in the landmark civil rights legislation designed to meet the problems and her vision gives us insight into the paths which must be taken in the future to insure equal opportunity and equal protection under the law.

I deeply value her friendship, I respect her expertise, and I am thankful for the counsel she has offered me.

I commend to the attention of my colleagues the following address of Frankie M. Freeman, delivered November 23, 1969, at the NAACP Freedom Fund Dinner in Milwaukee, Wis. In her speech, Mrs. Freeman points up the alarming realities of the times and the reasons for all Americans to be concerned. Her speech follows:

ADDRESS OF FRANKIE M. FREEMAN

I have looked forward with a great deal of anticipation to addressing this Freedom Fund dinner of the Milwaukee Branch NAACP. It is a moment to be proud of, the opportunity to appear before a group whose deep involvement in the civil rights struggle has helped to write the name of this city—along with such places as Selma, Montgomery, Memphis and others—into the continuing unfolding story of a people determined to break every shackle that keeps them from functioning as completely free and completely equal citizens of this country.

It would be presumptuous for anyone to attempt to lecture the people in this room on the importance of securing equal rights for all Americans, or to suggest that they should make a commitment to work to secure these rights. The record of the Milwaukee NAACP clearly indicates that you are fully aware of civil rights problems and that you have taken action to find solutions to those problems.

If all those actions had been crowned with success, if all problems had been solved, then this Freedom Fund dinner could well be a time for rejoicing, for the pouring out of praise for tasks well performed. Instead, this Freedom Fund dinner should be a time for sober reflection, for a hard and unemotional look at the distance that still separates the goal from today's realities. The euphoria that attended the early 1960s, when breakthroughs were being made on many fronts, has long since vanished to be replaced with the realization that the tortuous climb to the top of the mountain becomes more difficult as the distance to the summit decreases.

This change in attitude, however, has not been all negative in effect. It has stripped away many illusions that actually stood in the way of bringing about meaningful changes in this society. As long as we believed, as many of us did, that the mere passage of laws would correct the basic racial injustices of this system, then we could not see that the injustices were so firmly imbedded that laws alone could not root them out. It was almost as if we were playing the shell game; while our attention was diverted in one direction, the main part of the game was going on in another direction.

The passage of the various civil rights laws were, of course, of monumental importance, but they were not the end of the struggle, only one more step along the road. Laws alone could not solve the matter of poverty, of people crippled by inferior education, of all the by-products of this nation's most deadly sin. The problems faced by Blacks and other minority groups were so complicated, so interwoven one with the other, that simple solutions were just not possible.

Once this was realized a disillusionment set in among a number of our allies who retreated from the struggle, unwilling to have their hands soiled with the real and unglamorous nitty-gritty problems of Black people. Some of our own people also went through a traumatic shock, becoming convinced that the problems were so deep-rooted that they could not be solved in the present social context, and the only answer was racial separation.

What all this has meant, is that the Civil Rights Movement, as it has been known, has been fractured, perhaps beyond repair. While it was in existence it did perform many useful acts in bringing this country to the point where segregation and discrimination are no longer legally supported, and where there is widespread concern for civil rights. Having done this, it is in the nature of historical progression, that the Movement would be replaced by some other type of structure more capable of dealing with a different set of problems. An analogy can be drawn by citing the cutting away of underbrush to get to a stand of timber. One does not use the same tools to clear the underbrush as he does to fell the timber, and we should not expect that the same type of Movement that was so effective in the 60s can possibly be effective in the 70s. The Movement's demise is therefore, to be regretted but not to be regarded as a signal that all is lost.

A new type of Movement is developing, that even more than the old, reaches out to involve all segments of the community. This type of constituency gives the new Movement more power than the old Civil Rights Movement which was basically middle-class orientated and middle class developed and so limited in concept and effectiveness.

One of the weaknesses of the old Civil Rights Movement was this middle-class mindness. It was never able to develop, except in a few instances, and these most notably in the South, a broad based community involvement. The usual pattern was for the Civil Rights Movement to depend upon white liberals and middle-class Blacks for both financial support and direction, while the great mass of Black people remained untouched.

While the majority of Blacks could share vicariously in the achievements of the Movement, its goals were so far removed from their basic concern, as to be to a large degree, irrelevant. The Movement, however, did achieve its greatest victories coincidental with a period in which the Black community, through the rapid improvement in communications, was becoming more aware that it was not sharing equitably in the good life.

Black fathers, struggling to keep a family together on sub-par wages, looked at television and saw White America relaxing in California, flying to Europe, driving the latest automobiles from Detroit, and asked themselves—why can't that be me. The golden apple of success was dangled just beyond the reach of Black people, and they wanted the fruit. The old excuse—time will take care of everything—was no longer acceptable and spurred on by what had been done on the legal level, the demand for fundamental changes in the White-constructed and White-dominated society began to be heard.

These demands have changed the character of the Civil Rights Movement, they have created a new ordering of priorities, and because they cannot be answered without basic changes in this society, they have produced resistance on the part of many Whites who aren't concerned with whether Blacks vote in Mississippi, but are concerned when Blacks seek homes in all-White sections of Milwaukee.

If the public opinion polls are correct, and if such studies as Newsweek Magazine recently made of the mood of White America are to be believed, the issue of civil rights has become a source of irritation to many Americans who feel that too many demands are being made by too many people who have already received too much.

The truth is that not enough demands have been met or made, for there to be any relaxation of efforts to bring the scales into balance.

Rather than to face up to the bitter truth that the system has not responded to the need for change, a large number of Whites believe that if only enough repressive pressure is applied, if only attention can be diverted from the racial problems, then this nation can return to the past and the headache she now experiences will go away. It is difficult to imagine a more dangerous game than this, for all it accomplishes is to underevaluate the seriousness of the problem and to over evaluate the ability of force and repression to stifle ideas.

On every hand we see a growing insensitivity to this most critical domestic problem. While Blacks fall further and further behind Whites in income, the anti-poverty program is being dismantled. While Black Panthers are being killed or thrown in jail as part of the law and order campaign, the Attorney General of the United States is not sure that he can enforce desegregation rulings. While cities sink deeper into their own filth, billions are poured into an unwinnable war, thousands of miles away from this country. While millions are available for the construction of supersonic transport to carry the well-off to far flung corners of the world, people are being thrown off farms and our Congress quibbles over food programs.

Something is wrong, something is very wrong.

A disturbing trend has recently emerged in this country that places dissent on the same level as treason. It is a coldly calculated device to excommunicate dissenters from the company of decent men, a trick to divide Americans on the basis of their beliefs. We are being told that unless we accept every act of the government as correct, we are being un-American. We are being told not to criticize, that everything is being handled by our elected officials, and if we question them, then we indicate a shocking lack of confidence in our country. So far, the device has been applied only against dissenters from the Viet Nam war, but if this "Operation Discredit" is successful, it will be turned against other dissenters, and particularly against those who dissent over the handling of racial problems.

The step from branding people who dissent on one issue as unpatriotic, to branding people who dissent on any issue as unpatriotic, is not a long one. Once the madness takes hold, and the fever begins, no one is safe except in total conformity. America has to be awakened to this danger, and we who are involved in civil rights activities have a particular responsibility in this matter, for as certain as it is that we sit here today, just as certain is it that we will be the next on the list to be smeared as un-American.

This possibility does have an ironic overtone, for the majority of those who dissent over the handling of America's racial problems, do it out of a desire to reform the country, not destroy it. The great civilizations of mankind have all crumbled, not because of outside force, but because of their own internal weaknesses. America is no different, she too can destroy herself and it is this that we try to avoid when we ask this nation to solve these problems while there is still time.

Whether the necessary actions will be taken, depends on whether White America can be convinced that she has permitted a racist society to develop and to continue to exist. She has supported institutions that have excluded Blacks, Mexican-Americans, Indians and other minority groups, and she has made a white skin the mark of excellence. The responsibility for changing this rests in her hands.

The responsibility, however, is only dimly perceived by the majority of Whites who find acceptance difficult because it calls into question their own conduct and challenges the sanctity of the institutions with which they feel most comfortable. If they admit to any degree of responsibility then they must have contributed to racism, and since this idea is abhorrent, they reject it. They cannot accept the possibility that their valued institutions, such as their schools, their churches, their all-White organizations, could have contributed to the present racial problems, and so they reject this idea as well.

Such an answer offers a comfortable answer to a difficult problem and shifts the burden of responsibility from those who should bear it, to those who suffer most from the problem, and can do least about it. The illogical nature of this type of reasoning has been pointed out time and time again, and most recently by the President's Commission on Income Maintenance, which said:

"It is often assumed that anyone who wishes to live well can achieve this objective by seeking and accepting work. And it is often argued that the poor are to blame for their own circumstances. These assertions are false. Our economic and social structure virtually guarantees poverty for millions of Americans. The simple fact is that most of the poor remain poor because access to income through work is currently beyond their reach."

While the Commission was speaking of all the poor, its conclusion can be extended without any difficulty to apply to Black Americans whose economic and social problems are further complicated by the factor of their race. White America must understand this if we are to find our way out of the thicket of racial injustice.

During the 12 years that it has been in existence, the Commission on Civil Rights has expended most of its energies in investigating the reporting on denials of equal rights under the law. In this it has been quite successful with most of its recommendations being enacted into law or administrative edict. This has been a monumental task and work along this line is continuing, but we have also come to the realization that studies and reports by themselves are not enough and that affirmative actions have to be taken in White communities to bring about changes in those institutions which perpetuate separate societies.

The Commission's Urban Project, which operates in a limited number of cities, seeks to do this by working with local groups primarily concerned with programs in the White community. The aim here is to find methods by which institutions can be changed so that they no longer contribute to the maintenance of racism. The goal is admittedly a difficult one to perceive, and even more difficult to achieve, but it is in this area where the greatest hope lies for a lasting resolution of racial conflict.

Institutionalized racism often operates subtly, with few people realizing what is actually taking place. When schools almost automatically assign Black children to general courses while Whites are assigned to academic courses, this is racism. When police departments enforce the law one way in Black communities and another way in White, this is racism. When the only supply of housing available to Blacks is generally inferior and in the inner city, this is racism. When labor unions set artifically high standards and then confine their apprenticeships to relatives of members, this is racism.

These are examples of how racism operates, and as I have indicated, the responsibility for bringing about change rests with those who contribute most to the maintenance of such structures, the White community.

This does not mean, not by any stretch of the imagination, that Blacks should sit still and wait for changes to occur. To do this would be to sacrifice the progress that has been made in the past, and to leave the door open for regression. To stop now and wait for others to catch up would mean losing the impetus that has been built up. And should this happen, it would be years before we could get the procession underway again.

We will, however, have to adopt new techniques and develop a blueprint for action capable of meeting the circumstances that face us today. There are several steps I believe can be taken and I would like to propose these to you.

1. New alliances have to be formed with the young, and with other White groups who have also been barred from sharing fully in the American dream, though they may not recognize what has happened to them.

The impatience of youth frightens many people because the young are not so bound up in materialistic concerns, that they place these above human concerns. In a society where property values take priority over human values, the young represent a threat to the status-quo, and so they are to be feared. More clearly than their elders, the youth of today can see through sham and fraud to the basic imperfections in this society. They ask why should they be taught that all men are equal, when they can see all around them that all men are not being treated equally.

They ask what is all the talk about morality, when their parents cheat on their income taxes, boast of the sharp deals they have consummated, and are more concerned about keeping their country club membership restricted than with whether people have enough to eat.

Black youths particularly are groping for answers. Sometimes they fumble in the dark, unsure of what it is that they really want, but it is plain that they do not want the same things their parents had. We would make a mistake if we refuse to listen to them, if we refuse to offer them decision-making roles in our organizations. Eventually, the young people of today are going to be in command, and the longer we delay listening to their voices, the more we widen the gulf between us, the more we encourage them to turn away from us and to go their own way alone.

I fully recognize the extreme importance of Black groups developing their own power bases, of determining on their own, what is best for them. It is imperative that they be strengthened, but at the same time, I believe that it would be a mistake if they worked in complete isolation without ties to groups outside their own communities. There are other ethnic groups, the Mexican-Americans, the Indians, the Puerto Ricans, who experience somewhat similar problems as Black people, and on certain issues it is possible to work together. There are many poor Whites, who have been so brainwashed that instead of seeing who the real enemy is, they focus their frustrations on Black people. Poor whites constitute the majority of the poor in this country. They have been brainwashed into acceptance of their condition by belief in the myth of their so-called white superiority. And so, even they remain poor and ignorant and are included among the millions who even tonight will go to bed hungry—in this most affluent nation in the world. Here, alliances are going to be more difficult to shape, but there are certain common interests that should make it possible for such coalitions to be formed.

The coalitions I propose would not be permanent, but would shift as priorities changed. This would prevent them from falling into a fixed mold, where the chances for adjusting internal differences would be much less, than under a more flexible arrangement.

2. Richard Hatcher, the Mayor of Gary, Indiana, suggested at the recent Institute of Black Elected Officials that we need a nationwide coalition of Black political leaders, who are bound together not by party ties, but by commonly shared goals. A body such as this could bring political pressure to bear at the national level where so much that bears on local issues is decided. It could further provide assistance to political figures at the local level by providing them with information and technical assistance.

3. We need to see the internal strengthening of our communities in terms of a totality and not in terms of plans that have little relationship to one another. If we concentrate on jobs, without also concentrating on making certain that there are people available with the skills to take the jobs, we aren't really being effective on behalf of the community. Fragmented programs may serve an ego-building need of their organizers, but they are of little lasting value to the community at large.

When plans are developed for our communities, they should not be developed in isolation, but should be tied into already existing or planned programs to insure maximum impact.

4. The Black community has to become more sophisticated in acceptance of government programs.

Many programs have been started in the Black community, but how many of them actually work, and how many of them are accepted just because they are offered. It seems to me that we have a moral obligation to monitor these government sponsored programs to determine whether they are any good for the people, and if not, then we

should insist that they be taken out and replaced with programs that mean something and would do more than serve as window-dressing.

5. Every citizen must respond to his duty to vote at every election. The person who stayed at home on election day cannot complain if he does not like the result. Those "so called" leaders who encourage citizens to boycott the polling places are indeed irresponsible. The people have a right to govern—the people have a duty to govern—They govern through their vote.

I am not suggesting that the strategies I have outlined offer the only methods of meeting the new challenges. There are many more avenues that can be explored, so whether you agree with me or not, it would be my hope that at least there is a realization that the Civil Rights Movement has to change to meet changing circumstances.

We can learn from past experiences but we should not be so tied to the past that we are condemned to do the same thing over and over again, well past the point of diminishing returns.

Very few positive actions have occurred on the civil rights front within the past few months, and I can understand why a general feeling of dismay has spread throughout minority communities. Even as bleak as the outlook seems, I urge you not to lose one iota of determination to see the job through to the end. We have survived adversity before, and we will survive again because what we are trying to accomplish is right.

I congratulate you on what you have accomplished. There are new challenges ahead that will test you to the utmost. I feel confident that you will meet the new challenges as you have met the old, with a firm determination to overcome.

"The woods are lovely, dark and deep,
But we have promises to keep,
And miles to go before we sleep—
And miles to go, before we sleep."

Thank you.

LETTER FROM HOME

HON. ROBERT L. F. SIKES

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 4, 1970

Mr. SIKES. Mr. Speaker, I have a poem from the pen of Mrs. Lila A. Crew, of Panama City, Fla., written as a salute to our fighting forces for their services in Vietnam. It is significant that the poem was granted an honor certificate by the American Freedoms Foundation and in April 1968 it was published in Leatherneck magazine. It carries a very poignant message and one which I believe my colleagues will want to read. It follows:

LETTER FROM HOME

(By Lila A. Crew)

When alien night brings brief, uneasy calm
To the horror and the hell of Vietnam,
When deepening shadows mask the combat zone,
The whereabouts of friend and foe unknown;
And ominous jungle sounds forbid you sleep,
Not alone is the vigil yours to keep.
Not alone lie the wounded in despair,
For swift as a falling star, we are there.

Through searing days, in rain, in mud,
We too know death, the stench of blood.
While the octopus, concealed by jungle grass,
So ruthlessly continues to amass
Unwilling innocents to make his kill;
While pacifists, and former brothers, still
Rationalize their failure to repair,
And caution, "peace at any price."—we are there.

Let history well note this breed of men
Sent by a mighty nation to defend
A struggling, oppressed and bludgeoned friend.
The enemy too late will comprehend
The scope of fury, the blazing valor
That motivate our freedom-loving men.

And when this war is done and heads of state
Evaluate, score, adjudicate,
How will they measure what we gave?
We sent a legion of the brave.
In grief and overwhelming pride
Our country weeps for those who died.

Whatever truths historians declare,
This will be written: We were there.

JUST PEACE IN THE MIDDLE EAST

HON. EARLE CABELL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 4, 1970

Mr. CABELL. Mr. Speaker at a recent conference held in Washington by the presidents of major Jewish organizations within the United States there was considerable discussion concerning the development of a lasting and just peace in the Middle East. At this conference a resolution was drawn and adopted to which I wholeheartedly subscribe.

In the event that all Members of this body have not had an opportunity to read the text of this resolution I am requesting permission to insert it in the RECORD at this point.

I am sure that a vast majority of the Members of this body will subscribe to this resolution as a vast majority of us cosponsored the Celler statement which was inserted in the RECORD a few days ago.

The resolution follows:

RESOLUTION ADOPTED BY THE NATIONAL EMERGENCY CONFERENCE ON PEACE IN THE MIDDLE EAST

This Conference of American Jewish leaders, concerned with achieving a just and lasting peace in the Middle East, joins general public opinion in this country in vigorously condemning the anti-Israel and pro-Arab policy of the Government of France.

France's massive outpouring of arms to Libya creates an arms imbalance that further fans the flames of conflict in the Middle East. We reject the cynical explanation offered by the French Foreign Minister that this is merely "good business" on the part of France. It is patently clear that Libya has neither the need for 100 jets nor the ability to employ them, and that the planes are in fact destined for Libya's ally, Egypt, whose ruler still dreams of revenge against Israel through an ordeal of fire and blood.

By its act, France joins Soviet Russia in surrendering any credibility as to her neutrality or objectivity as a participant in the Four Power talks on peace in the Middle East and dismays the many friends of the French people.

At the same time, we recall the genuine sympathy and friendship extended by the French people to Israel in the past. It is gratifying to know that even now the majority of the French people, as reflected by the French press, repudiate their government's present policy and share our apprehension over the course pursued by the Pompidou administration.

The rejection of lofty French ideals reveals a contempt for world opinion by the current French regime. Those who love France cannot and will not be silent. On the eve of President Pompidou's visit to this country, we protest the action of his government in arming Israel's enemies bent on its destruction while denying to Israel the 50 Mirage jets already bought and paid for.

We call on President Pompidou to reverse his Middle East policy, to lift the arms embargo against Israel and to reassert the traditional French commitment to the principles of liberty, equality and fraternity.

JAKE GAITHER: A LIVING LEGEND

HON. DON FUQUA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 4, 1970

Mr. FUQUA. Mr. Speaker, a living legend in the annals of sports is retiring.

But, Jake Gaither is more than a figure in sports. He is an inspiration to those with whom he has come in contact. Coach Gaither is that rare individual who inspires those who meet him—he is that rare combination of ability and drive that few men possess.

A great deal might be said of his phenominal football record at Florida A. & M. University in Tallahassee. He is the winningest coach in the country with a record of 203 wins, 36 losses, and four ties.

Like so many other Floridians, I am a great fan of Bob Hayes of the Dallas Cowboys. Here is a young man who came under the influence of Coach Gaither and he is just one of those who owe so much to this distinguished Floridian.

As Coach Gaither enters a well-deserved retirement, my thoughts are not so much about his phenomenal coaching record. My thoughts are with those hundreds of young men who came under his influence and because of Coach Gaither their lives were changed. No man could accurately measure his worth to his fellow man.

He has the respect of the high and the low in my State. He certainly has mine. In making this humble tribute to Alonzo S. "Jake" Gaither I cannot think of a more apt expression than that from the column of Florida Times-Union Sports Editor Bill Kastelz, "What a wonderful world it would be if there were more Jake Gaithers."

I insert the articles in the RECORD at this point:

GAITHER RETIRES AFTER 25 YEARS

TALLAHASSEE.—Coach Alonzo S. "Jake" Gaither, who overcame brain tumors, blindness and a "new breed" of socially aware black athletes to build a football dynasty at Florida A&M University, stepped aside Thursday after 25 years as the Rattlers' head football coach.

"The reason is simple—I just don't want to press my luck any longer," said Gaither. Still trim at an estimated 65—he won't give his exact age—Gaither walks with a slight limp but maintains the mental agility and physical toughness that led the Rattlers to a 203-36-4 record since 1945.

"I made up my mind last summer," he told newsmen. "My wife and I talked it over—she wants me to quit. I talked with my brothers—they want we to quit."

Gaither said his heart is sound, "although I don't know if I could stand many of those

games with Grambling or Southern where a field goal or one touchdown makes the difference." He said doctors removed two malignant brain tumors in 1942, leaving him temporarily blind, and he was maneuvered around the practice field in a golf cart since breaking a leg a few years ago.

Assistant Coach Robert "Pete" Griffin, a 1938 star center at Florida A&M who has tutored the offensive and defensive linemen since 1944, was named to succeed Gaither as head coach and head of the health and physical education department. Gaither will remain as Athletic Director and physical education professor.

"They talk about what I've done for football—no, it's what football has done for me," Gaither said after Dr. Benjamin Perry officially announced the resignation. "I can never repay to the game of football the wonderful things football has given to me—it's given me an opportunity to compete in an area where only merit counts. I've been able to help shape the lives of hundreds of boys."

Gaither estimates "about 25 or 30" of those boys have graduated to the pro football ranks, including the Dallas Cowboys Bob Hayes, a 1964 Olympic gold medalist dubbed "the world's fastest human."

Gaither, who joined the Rattlers as an assistant coach in 1937, said he has long wanted "to recruit some good white players," but can't compete with bigger-budgeted predominantly white universities.

The all-black Rattlers played their first white school Nov. 29, beating the University of Tampa 34–28 in what Gaither considers the turning point in his troubles with a "new breed" of black youth more concerned with social issues than athletics. The Rattlers beat Grambling 23–19 in the postseason Orange Blossom Classic the following week to end Gaither's sideline career.

"For four years I've been telling you we're working with a new breed of athlete and this year it paid off—we restored what we lost: pride, willingness to pay the price to win," Gaither said.

"I think it reached fruition after the Tampa game. We were going to give the boys Monday off, but I couldn't give them a day off. They said 'No, coach, we want to work,' and I knew then we no longer had the 'new breed' of athlete—we had the old Rattlers back."

The son of a Methodist minister, Gaither was born in Dayton, Tenn. and was an All-SIAC end for the Knoxville Bulldogs before taking his bachelor's degree in 1927. He joined the Rattlers after receiving his masters degree at Ohio State and today insists that every assistant coach have a masters.

The Helms Foundation Football Hall of Fame honored him in 1961 and he was elected small college Coach of the Year the next year by the American Football Coaches Association. The Tallahassee Quarterback Club presented him its service award in 1956 and 1960 and a city recreation center, park and golf course were named after him in 1954.

Griffin said he plans no major changes—just the usual "new wrinkles" every coach looks for each season—and told Gaither "Jake you're not going anywhere—you're going to be right down there beside me."

JAKE CALLS IT A CAREER

(By Bill Kastelz)

The man I consider the greatest Negro I've ever known in the world of sports hung up his cleats yesterday.

Alonzo S. "Jake" Gaither, the most successful college football coach in the country, called it a career—and what a career it was. Twenty-five years as the guiding spirit behind Florida A&M football produced 203 victories, 36 defeats and four ties.

In 25 years, his worst team had a 6–4 record. His two next worst teams went 7–3. The other 22 weren't anywhere near that bad. His teams won more championships than you could shake a stick at, and he sent at least two dozen players into the pro ranks.

But, if Jake Gaither's career record was 0–243, he still would be remembered by all of us in the sports writing ranks as one of the very finest Americans with whom we ever had the privilege of working.

Jake never carried a chip on his shoulder. He never figured the world owed him a living. He never complained of his lot—and it was a monstrous hurdle to overcome, much of it during an era when the nation was not quite as broad-minded about racial matters as it is now.

Typical was his statement accompanying his resignation:

"They talk about what I've done for football—no, it's what football has done for me. I can never repay to the game of football the wonderful things football has given to me. It's given me an opportunity to compete in an area where only merit counts. I've been able to help shape the lives of hundreds of boys."

True.

A REMARKABLE AMERICAN

One of these hundreds was Bob Hayes, a Gaither protege, a 1964 Olympic gold medalist called "the world's fastest human," and now with the Dallas Comboys. Hayes is from Jacksonville.

While he was at Florida A&M, he got into some minor difficulty and Gaither promptly moved in to vouch for him and Jake's word was good enough for all concerned. Hayes had no more trouble and made it big in the pro ranks.

A couple of years ago, Jake was on the sidelines at a football game and a play ran over him and broke his leg. That was a Saturday. The next day, Bob Hayes read about it and that evening, right after the Cowboys' game, he flew to Tallahassee to see how "Coach" was getting along.

Jake, of course, was doing fine. It wasn't a major battle for him.

The last time I talked with him was at the Governor's Cup Jamboree in Tallahassee, where they gave him a trophy about eight feet tall in recognition of his 200th win, and after a standing ovation, he responded:

"I must be gonna die. So many nice things have been happening to me lately."

Jake is and was a lot of things . . . exacting and understanding . . . stern and thoughful . . . methodical and successful . . . humble and great. All these things and more.

What a wonderful world it would be if there were more Jake Gaithers.

A MILESTONE FOR JAKE GAITHER

Although we deal infrequently on these pages with sports topics, we do comment on Florida traditions and institutions.

Retiring Florida A & M University football coach Jake Gaither does come under the category of sports but he also has built a tradition and in the process has become an institution.

Florida A & M, with 3,500 students, is not a large school in terms of enrollment but it is a proud school with an 82-year history and a passion for retaining its present autonomy.

Recently a cooperative agreement made between A & M and Florida State University prompted rumors that A & M was to be phased out and merged with FSU. The students sought and received assurances that the move was not designed to eliminate FAMU. Part of the reason for this school spirit is Jake Gaither.

When Gaither assumed the head coaching duties at FAMU in 1945 the school had less than 800 students. During his 25 years as football coach he compiled a record of 203 wins, 36 losses and four ties, making him the most victorious coach in the nation.

He has also been selected to the Helms Foundation Football Hall of Fame and one year was chosen as coach of the year by the American Football Coaches Association.

Among the football players he has developed who went on to professional careers are Bob Hayes, Al Denson, Hewritt Dixon, Carlton Oates and Ken Riley.

But his influence extended beyond the football field As one colleague said: "He has been a tremendous influence in the progress of the university in every possible way . . . it is impossible for any single individual to assess what he has meant to Florida A & M University."

As he leaves his head coaching job and gears his activities to "only" those of athletic director and professor of physical education, passing a big milestone along the way, it is an appropriate time for Floridians to take note of his past accomplishments and to wish him continued success.

GAITHER HELPED SHAPE LIVES OF MANY YOUTHS

Coach Jake Gaither frequently is described as a Living Legend. In stepping down as football coach at Florida A&M University, he clearly indicates he would like to keep it that way—with the emphasis on "Living".

His reason for ending his 25-year career as head football coach is simple, he says. "I just don't want to press my luck any longer." His reference is to the various physical infirmities he has suffered during the years he was building his reputation into a legend.

So a sympathetic public can understand his desire for a less rigorous routine. He certainly has earned the right to take it easy. And he has earned all the praise that is being given him on the occasion of his retirement.

His influence will continue to be felt at FAMU and in all Tallahassee because he isn't the type to bow out completely, at least not as long as he has the physical stamina to keep going. He'll take up the duties of athletic director and physical education professor.

He has earned a grand collection of awards and citations over the years. But those who know him are quite sure Jake won't be sitting around counting them. He's not that kind of man. It's a good bet that he will be doing whatever he can to influence good sportsmanship and invoke pride in young athletes.

Far more important to him than the medals and awards in his collection is the satisfaction in helping shape the lives of hundreds of young men. That is a good indication of the measure of the man.

FREEDOM'S CHALLENGE

HON. DONALD D. CLANCY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 4, 1970

Mr. CLANCY. Mr. Speaker, Carol Marie Stock, a senior at Mother of Mercy High School, Cincinnati, was judged District 4 winner in the 23d annual Voice of Democracy Contest sponsored by the Veterans of Foreign Wars and the Ladies' Auxiliary.

At this time I would like to present her winning broadcast script on the subject, "Freedom's Challenge." Miss Stock, won in competition with students from approximately 50 high schools in the eight-county district.

I am sure that all Members of the House of Representatives will be more interested in what this young lady has to say. Her words demonstrate the sincere interest some teenagers have in solving the problems of our day.

The broadcast script is as follows:

FREEDOM'S CHALLENGE

(By Carol Marie Stock)

The world was new and beautiful. The earth seemed to breathe sweet life into every living thing. I stepped into this world and began to walk.

I walked through fantasy books and Santa Claus, red rubber balls and yellow balloons.

I turned a corner and took a step through a world of shiny, scrubbed faces and polished red apples, reading, writing, arithmetic and history. History—a story of ships and adventures, a new country and words like freedom and independence.

I kept on walking and here I am, traveling through protests, riots, questions, issues, answers, elections, interest, involvement, responsibility? Responsibility, responsibility to what? To what I've walked through all my life—Freedom. The freedom I have here in America. America's freedom was won through years of tears and pain, war and suffering, love, involvement, and responsibilities. It's taken time but as I've grown up, I've developed an understanding of what that freedom is. Gradually, I've also come to know its responsibilities. Now I know I must accept some of these responsibilities for my freedom means my help.

Now as I take a different walk, I walk through my city. I see the dirty face of a slum child, protest marchers around a university, a listlessness in the faces of the people. These are my responsibilities. They are things which challenge my freedom and the freedom of others. What good is my freedom if others are held in submission. All men deserve to share in the beauty of freedom. And I mean all freedom; the freedom to run in a park, the freedom to go to any school, the freedom not only to try but to do your best, the freedom to pray or not to pray, the freedom to speak or remain silent.

I must speak and speak now. I must act and act now. Beginning now I must help preserve this freedom. We all must.

Born Free—I was born free, in the great, free United States, "the land of the free, and the home of the brave." If I want to keep these words alive, to keep America the land of the free, I must truly be brave. I must not shrink from my love of America because some may say it's not "in." It's always "in" to love freedom. And if I'm to follow a crowd, let it be those who stand to preserve freedom, with those who challenge freedom's challenge.

I have a long walk before me. The road's dim and fogged, but the past is vivid and the present clear. To pave the future for those who will follow me, I must learn from the present and freedom's past.

You see, I want my children to say as I do and as my ancestors did before me, "O say does that Star-Spangled Banner yet wave, o'er the land of the free and the home of the brave." And to always have their walks end in the light of freedom.

It's my choice, my decision, my freedom's challenge.

MAN'S INHUMANITY TO MAN—HOW LONG?

HON. WILLIAM J. SCHERLE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 4, 1970

Mr. SCHERLE. Mr. Speaker, a child asks: "Where is daddy?" A mother asks: "How is my son?" A wife asks: "Is my husband alive or dead?"

Communist North Vietnam is sadistically practicing spiritual and mental genocide on over 1,400 American prisoners of war and their families.

How long?

PRESIDENTIAL FAILURE TO MEET THREAT OF POLLUTION

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 4, 1970

Mr. EDWARDS of California. Mr. Speaker, President Nixon's budget makes a mockery of his promise in the state of the Union address to meet the threat of pollution. Once more less than 1 cent of the Federal dollar will be spent to fight pollution and to enhance the environment. Once more inadequate programs are being proposed with inadequate funding, resulting in aspirin being applied to a cancer eating at our world.

Yesterday the need for adequate programs with adequate financing was brought home to me by two separate developments in my congressional district in San Jose at the south end of San Francisco Bay.

First, Dr. H. Thomas Harvey of San Jose State College informed me that the people of the San Francisco Bay area face a risk almost double of those in Los Angeles of dying of lung cancer. Among nonsmokers the deaths per 100,000 man-years were 28 in Los Angeles but 44 in the Bay area and San Diego while in other California counties averaged 11. Dr. Harvey added that recent studies showed suspended particles show the most consistent association with mortality from cancer.

Mr. Nixon's budget shows an allocation of $104 million to combat air pollution, up $10 million. In another area the budget is open-ended in regard to the ABM system, which some of us believe is but another variety of air pollution. The President offered us a variety of expensive defense spending programs, but no defense against air pollution.

The second development was the refusal of the Federal Government to approve a $1.2 million grant to the San Jose-Santa Clara sewage treatment plant. My area has or will invest $70 million in that facility. It has consistently voted bonds for that plant. Yet, the Federal Government refuses to bear its share of the cost of this much needed facility.

And the marine life of the South Bay, the area which is served by this plant, remains on the condemned list because of the danger of contracting hepatitis from the sewage-contaminated shellfish.

An examination of the President's much heralded water pollution program shows that program to be a cruel hoax.

In the state of the Union message he called for a $10 billion 5-year program—an inadequate program as he described it. Instead from the budget message we learn it is to be but a $4 billion program, and in fact that in the first year of the program only $650 million is obligated. And the program is basically one that will cost the cities and counties—the over-taxed local taxpayers—far more money in years to come, while the Federal Government ducks its share of the cost. The program proposed by the President has been opposed by many of our mayors and Governors, Republican and Democrat alike, because it inflicts heavy, new interest costs on the cities and counties. The President has rejected a workable program already approved by the Congress which calls instead for expenditure of $1.25 billion in fiscal year 1971.

In conclusion, Mr. Nixon's budget calls for but $1.1 billion to be spent fighting pollution and protecting the environment, out of a total budget of $200.8 billion, roughly a half a cent per Federal dollar.

He has offered us rhetoric instead of action, words instead of dollars.

What is needed is workable programs, adequately financed. I hope the Congress will take the lead in the efforts to protect and enhance our environment, now that the President has so clearly dropped the ball.

SAMUEL R. LAROSA

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 4, 1970

Mr. GAYDOS. Mr. Speaker, on February 24, a resident in my 20th Congressional District in Pennsylvania will be honored by the community of McKeesport for his untiring dedication to the youth of the area and the Boys' Club of America. He will be cited for 25 years of work spent in molding boys, many of them from underprivileged areas, into men.

I join with the greatest pleasure in this community salute to Samuel R. LaRosa, known throughout the Mon-Yough Valley area as "Sam." He is not a big man in stature but he towers like a giant in his interest and work with the McKeesport Boys' Club. In the course of his career with the Boys' Club he has accumulated numerous, and well-deserved citations, and shining plaques. But these awards, as appreciated as they are, take a back seat to the many letters he receives from his former "boys" who take the time to thank him for his guidance and counseling during their formative years. Many of those letters come from young men now fighting for their country who credit Sam for instilling in them the pride of being an American.

Mr. LaRosa founded the McKeesport Boys' Club on February 23, 1945, and has been the driving force in its growth and achievements. He worked the first 14 years without pay or a permanent clubhouse. During the winter months he conducted programs in facilities offered by service and fraternal organizations; in the summer he staged baseball clinics on area athletic fields.

In the mid-1950's a prominent McKeesport philanthropist, the late Walter C. Shaw, Sr., took note of Sam and his work. Mr. Shaw donated $15,000 as a start toward a permanent building for the Boys' Club and eventually contributed $140,000 for the project. Mr. Shaw joined with a personal friend of mine, Judge Samuel A. Weiss, in spearheading the building fund campaign which was climaxed on April 29, 1957, when Sam and his "boys" literally found a home.

Since then, of course, the membership

in the Boys' Club has grown and its programs have expanded into many areas. Sam did, too. He began working closely with law enforcement agencies in combating juvenile delinquency and has been cited by J. Edgar Hoover, Director of the Federal Bureau of Investigation; the Western Pennsylvania Chiefs of Police Association; and many other groups for his accomplishments.

It is, therefore, Mr. Speaker, my pleasure to submit for publication in the RECORD this recognition of Mr. LaRosa, a man among men in youth work, and I invite the attention of my colleagues to it.

KEY DISTINCTIONS ON DRUG PROBLEM

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 4, 1970

Mr. UDALL. Mr. Speaker, several of my constituents have written to me recently to express their concern over the problem of drug abuse. I have given their letters a great deal of thought lately. Like many other people, I am appalled at the spread of dangerous drugs and greatly disturbed by the tragic effect they have had on so many individuals and their families.

I know many of my colleagues agree that action must be taken to stop the proliferation of illegal drugs. When we consider possible remedies to this situation, however, I think it is important that we make at least two distinctions.

First, I believe we must clearly distinguish between drug users and drug sellers and manufacturers.

In the case of users of addictive drugs, such as the hard narcotics heroin and cocaine, we are not dealing with criminals, but with people who are ill. To my mind, it makes absolutely no sense to keep imprisoning the victims of this compulsive habit. We must make a greater effort in the area of rehabilitation, recognizing that confinement alone will not prevent recidivism. Even those unmoved by the case for rehabilitation in human terms should be made to clearly understand that narcotics addicts often commit crimes to pay for their expensive needs; therefore, reducing the number of addicts should help reduce crime—and that is a goal everybody supports.

Even those drug users who experiment with nonaddictive—but dangerous—drugs should not be treated as hardened criminals. Reform is very unlikely when a youthful offender is given a long jail term and a huge fine for a single indiscretion; such treatment probably will do little more than persuade him that the "system" is unjust.

Drug sellers and manufacturers, on the other hand, should continue to be punished as severely as the law allows. Those who become wealthy by destroying the lives of others rank extremely low on my scale of values.

A second distinction which I believe must be made is a differentiation between the hard narcotics, the hallucinogens—such as LSD—and the various other drugs whose harmful effects have been reasonably well established scientifically, and substances such as marihuana, about which there is little concrete scientific evidence.

We know—or we think we know—that marihuana is not addictive, but we know little else about it. Some will argue that "pot" is less dangerous than cigarette smoking; others will contend, just as vehemently, that it probably is harmful in itself, but even if it is not, it often leads to experimentation with other very dangerous drugs.

I am not sure which theory is correct. For that matter, I am not completely clear on how widespread the use of marihuana actually is, exactly how it affects a user's behavior and a variety of other questions about it.

I think we have to know considerably more about marihuana before we can place it in the same category with heroin, for example. I have long advocated further study of marihuana and I am pleased by the progress that is being made in the area.

The National Institute of Mental Health is expected to issue a report soon on marihuana. In addition, the drug control bill which passed the Senate unanimously on January 28 authorizes a 2-year marihuana study commission. Here in the House, there now is a bill pending before the Judiciary Committee which would establish a commission on marihuana, similar to the one envisioned in the Senate measure.

The Senate bill also deals with the key area of penalties. Not everything in that legislation is ideal from my standpoint, but I am very enthusiastic about the concept of decreasing the severity of penalties for use or possession of drugs. Under the Senate bill, the first offense for simple possession of illegal drugs would be reduced to a misdemeanor, with the possibility of probation rather than imprisonment. However, those persons found to be engaged in a "continuing criminal enterprise," sellers and manufacturers, would still be dealt with harshly—5 years to life for the first offense.

Mr. Speaker, as we debate the drug control bill in the House of Representatives and consider other legislation that may become necessary, I hope we will keep in mind the limits of existing knowledge about certain types of drugs and remember that very often the drug user is more a victim of crime than a criminal himself.

PENNSYLVANIA CITIZEN QUESTIONS DIRECT ELECTION PROPOSAL FOR ELECTORAL REFORM

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 4, 1970

Mr. CLAY. Mr. Speaker, once again, I pose to the Congress and to the Nation my opposition to the proposal for direct election of the President and Vice President of the United States. It is not, in my view, the best nor is it the most logical means to allay the fears of imperfections in the present electoral system. If there is reason to fear, it is found in the potential of "direct election" to radically alter the checks and balances of the present political and governmental structure.

I am pleased to call the attention of my colleagues to a citizen who does care—and who does show her concern for the reform measure now pending before the Senate Judiciary Committee. After 2½ years of research on the Federal electoral process, Mrs. Judith Gelber of East Stroudsburg, Pa., found more than sufficient reason to question the proposal which has passed the House of Representatives and which now seems likely to receive the stamp of approval from the Senate committee.

I applaud the efforts of Mrs. Gelber and commend the manner in which she views the responsibilities of citizenship. She documented her concern in three research papers and has demonstrated her commitment to her conclusions by journeying to Washington to visit with the decisionmaking lawmakers.

In order to put the issues before the public, Mrs. Gelber condensed her research for a series of December 1969 articles which were carried as a special feature by the Pocono Record newspaper in Stroudsburg, Pa. At this time, I commend her presentation to the attention of my colleagues and suggest that it is worthy of their study and contemplation.

DRAWBACKS APPARENT IN DIRECT ELECTION

(By Judith Gelber)

STROUDSBURG.—The immense stress that multiparty politics exerts on our presidential electoral system became clearly evident in 1968 when George Wallace came uncomfortably close to deadlocking the election.

But, instead of removing those dangerous weaknesses that brought us to the brink of disaster in 1968, Congress concerns itself with such irrelevant electoral reforms as the district and proportional votes plans, and direct election of the president, a plan that is potentially destructive of our political institutions and stability.

Presidential politics have reached a crucial juncture. The 1968 campaigns of George Wallace and Eugene McCarthy uncovered not only a widespread dissatisfaction with conventional party politics but also a willingness to go beyond established channels to achieve political goals.

In the past, the electorate accepted the need of the major parties to move slowly in absorbing dissenting views. But the current mood is for change now whatever the cost to tradition and stability.

For weeks before the November, 1968 election the mass media hammered away at the theme that our archaic presidential electoral machinery might collapse under the additional weight of George Wallace who would have had the power to choose the next president of the United States if he had been able to deny an electoral vote majority to either Hubert Humphrey or Richard Nixon. And barely recognized at the time of the Chicago Democratic convention was the desire of fourth-party forces to field their own candidate.

These newly-spawned forces were discouraged not by any concern for the nation's political stability, but rather by their failure to find a viable candidate.

When George Wallace failed to disrupt the 1968 election, most Americans forgot about electoral college majorities and the need for electoral reform, but not before registering an overwhelming preference for direct election of the president.

A Gallup Poll taken during the week fol-

lowing the election showed that 81 per cent of the people approved of direct election; 12 per cent disapproved; and seven per cent had no opinion. These results were used by congressmen favoring direct election to gain further support in Congress where the first major battle to amend the Constitution must be fought.

The public's ready acceptance of direct election as the only solution to an incredibly involved problem is understandable in view of the complexity of the electoral college system and the belief of the average voter that he is voting directly for the president anyway.

Advocates of direct election have reinforced this attitude by limiting discussion of direct election to its benefits and neglecting its drawbacks. Other electoral reforms, such as the district and proportional vote plans, are also being proposed even though these plans were thoroughly defeated in the last Senate debate on electoral reform in 1956. Meanwhile, the reform proposal that offers possibly the best solution, the automatic vote system, has little chance of even being debated in Congress.

ELECTORAL COLLEGE SYSTEM

Public officials are responsible for their political behavior to the people who elect or appoint them. The greater the number of elected officials, therefore, the greater the extent of the people's control of their government, and the greater the democratic nature of the society. But the election measures in our Constitution clearly indicated that our Founding Fathers intended to put as much distance as possible between the people and the government.

Originally, only the members of the House of Representatives were to be elected directly by the people. The members of the Senate were to be chosen by their respective state legislatures (senators were not elected directly until the ratification of the Seventeenth Amendment in 1913), and the president was to be elected by state electors chosen by whatever method the state legislatures decided upon.

Our subsquent development, however, proceeded along far more Democratic lines than our Founding Fathers had anticipated. The idea that the president could be chosen in isolation from the turmoil of everyday politics by a group of electors possessing greater wisdom and judgment than the populace at large proved to be unrealistic and unworkable. Presidential politics during our early decades was marked by a mad scramble among the states to find a method of appointing the electors that would give the states maximum advantage in choosing the president.

FIRST CASUALTY

One of the first casualties in these political wars was the presidential elector. Although the elector was intended to cast an independent ballot, his "vote" for the president was appropriated by the people who appointed him. Thus, while the elector cast his ballot in the presidential elections, his function soon became that of an agent who votes according to "instructions." Since 1836 almost all states have allowed the people to choose the electors by direct vote.

There is an important distinction between the presidential elector and the electoral vote. Whereas the electors are merely agents of the electorate and serve no useful function, the electoral vote is decisive in the election of the president. The Constitution states that each state is entitled to a number of electoral votes (to be cast by the presidential electors) equal to its total representation in Congress, and the candidate who receives a majority of the total electoral vote "shall be the president."

The method of distributing a state's electoral vote among the candidates has also been the same in all states since 1836. The winner-take-all, or unit vote, system specifies that the candidate who wins a plurality, or the most votes, within the state takes all of that state's electoral votes.

ROLE ELIMINATED

Although the role of the presidential elector as defined by the Constitution has been eliminated by political tradition, the elector still has the constitutional right to cast a ballot as he pleases.

In 1968 Dr. Lloy W. Bailey, one of the Nixon electors from North Carolina, voted for George Wallace even though all of North Carolina's 13 electoral votes "belonged" to Richard Nixon who won a plurality in that state.

This ability of the electors to cast independent ballots rather than to act only as agents of the electorate constitutes one of the major hazards in our presidential electoral system. Not only are the electors free to vote for whomever they please (even for candidates who are not on the ballot, as they did in 1948), but also they do not cast their ballots until the first Monday after the second Wednesday in December, some six weeks after the November election.

George Wallace intended to use this interim period between the general election and the meeting of the Electoral College to gain concessions from the major party candidates.

Still another feature of our electoral system that could cause considerable trouble is the constitutional provision for a contingent election if a candidate fails to achieve an electoral vote majority.

The political calculus involved in the electoral college system is enough in itself to drive the American voter to embrace any reform measure that promises to simplify the process of choosing the president.

The least complicated, of course, is direct election which would eliminate the entire cumbersome electoral college system with all of its inherent abuses. But a political complex that has functioned for 180 years would also be eliminated, and no nation can undergo such radical change without experiencing serious difficulties and instability

Our presidential electoral system is not an isolated component that can be plucked out of context and be replaced with something completely new without causing changes in the overall structure.

Those who favor direct election have ruled out any other type of reform. And those who seek to break down the electoral advantages accruing to big states, to minority groups, to urban areas, or to a particular political party under the present system, cling to such electoral reforms as the district or proportional vote plans.

SAME MANNER

Under the district system presidential electors would be elected in the same manner as the members of the House of Representatives—by congressional district. Thus districts that are safely Republican or Democratic would presumably choose electors of the same party.

The proportional vote plan would apportion a state's electoral vote among the presidential candidates according to their popular vote within the state. The latter plan, formerly favored by President Richard M. Nixon, would effectively break the hold of the Democratic party in the South.

Neal R. Peirce, a leading advocate of direct election, wrote in his book, "The People's President," that the real choice today is between two alternatives. Either the country will continue with the existing electoral college system, or it will shift to a direct popular vote." This "either-or" approach, which can only lead to protracted Congressional debate and the possibility of no electoral reform at all, has been adopted by other proponents of direct election.

Committee chairmen have great influence over the legislation that their committees report to Congress. Unless a chairman aims at obtaining a number of viewpoints, the testimony in committee hearings will more often than not reflect the chairman's position. In the Senate, proposals for electoral college reform are presented to the Subcommittee on Constitutional Amendments; the chairman is Senator Birch Bayh of Indiana.

Senator Birch Bayh, Indiana, has been committed to direct popular election since 1966, and his Subcommittee's hearings have been largely devoted to a discussion of the merits of his proposed direct election amendment. On February 21, 1969, Bayh challenged Nixon's position in favor of the proportional plan:

MISSED OPPORTUNITY

"It is difficult to understand why he did not take this opportunity to lend the great prestige of his office and his leadership to state the case for direct election. In fact, the president's message, surprisingly, completely neglects to mention the generally accepted advantages inherent in direct popular election—advantages so clearly stated by most of the witnesses who have testified before my Subcommittee since we opened hearings in 1966."

Since the outcome of the hearings was established in advance (Bayh's Subcommittee reported out a direct election amendment to the Senate Judiciary Committee in the Spring of 1969), the hearings apparently were held to provide a platform for spokesmen who also favored direct election. One of these spokesmen was Theodore C. Sorensen, former special counsel to the late President John F. Kennedy. Sorensen's new position in favor of direct election was complicated by the fact that he had helped to prepare, in part, Senator John F. Kennedy's highly successful defense of our electoral college system in the Senate debate on electoral reform in 1956.

The proposal under debate at that time, the Daniel-Mundt amendment, would have allowed the individual states to choose either the district or proportional vote plan to determine the electoral vote. Alerted to the drawbacks of the proposed amendment by friends at Harvard, Senator Kennedy prepared to do battle. James MacGregor Burns wrote in his political biography of John F. Kennedy: "He mastered the subject thoroughly . . . With statistics, with a command of American history and constitutional precepts, with cold reasoning, even sometimes with little flashes of wit, Kennedy opened holes in his opponents' arguments."

OPENED HOLES

John F. Kennedy not only "opened holes in his opponents' arguments;" he also revealed a basic approach to the structure of our government that was consistent throughout the debate. He felt that the Daniel-Mundt amendment and direct election would destroy the "balance of power" that he considered essential to American federalism:

"So the point that I make is that when all these factors are considered, it is not only the unit vote for the presidency we are talking about, but a whole solar system of governmental power. If it is proposed to change the balance of power of one of the elements of the solar system, it is necessary to consider all the others."

Later in the debate Senator Kennedy made his opposition to direct election quite clear:

"I am sure the Langer amendment (direct election) while purporting to be more democratic, would increase the power of and encourage splinter parties, and I believe it would break down the federal system under which most states entered the union, which provides a system of checks and balances to insure that no area or group shall obtain too much power."

John F. Kennedy's defense of American federalism in 1956 not only thrust him into a leadership role in the Senate, but also helped to establish the reputation that aided his drive for the presidency in 1960. In addition, John F. Kennedy's words have since been frequently and effectively cited by opponents of direct election.

Theodore Sorensen's task, then, was either to discredit Kennedy's 1956 position, or to imply that Kennedy's opposition to direct election was calculated. Sorensen managed to do a little of both in testifying before Bayh's subcommittee on January 24, 1969 in favor of direct election:

"I should point out that Senator Kennedy, as a Senator from a populous state, was defending the big-state preference inherent in the present system; that he felt obligated to oppose all changes in order to maximize the opposition he was leading to the schemes which had a real prospect of passage that year whereas direct elections had none anyway . . . and, finally, that he spoke before the 1960 and 1968 elections provided us with not only examples of faithless and unpledged electors but electoral vote results so close as to bring us to the brink of constitutional crisis."

Sorensen not only distorted John F. Kennedy's 1956 position; he also neglected to mention John F. Kennedy's continuing opposition to direct election after he became president.

In the 1961 Senate hearings on electoral college reform Deputy Attorney General Nicholas Katzenbach, speaking for the Kennedy Administration, supported the automatic system that John F. Kennedy backed in the Senate in 1957.

The automatic system would abolish the role of the presidential elector and the Electoral College and award a state's entire electoral vote automatically to the candidate who wins a plurality within the state.

Direct popular election of the president would eliminate the abuses inherent in our presidential electoral system. But never in all of our history have we elected a president by direct popular vote. For good or for ill the electoral vote has been the decisive factor in every presidential election.

Direct election would be a radical departure from 180 years of experimentation, adaptation, and, finally, stability. We began with the electoral vote system and the presidency; our political institutions, customs, and traditions came later.

Those who advocate direct election do so with the expectation that our political system, except for those features that could cause havoc, will remain basically unchanged. However, the question that should be asked is: How will a completely different electoral system affect those political institutions that have grown up around the electoral vote system?

The restraints inherent in the unit electoral vote and the need for an electoral vote majority to gain the presidency substantially limit the number of candidates who can seriously compete in any presidential election. Only a candidate with great national appeal can capture several million votes within such states as New York, California, Pennsylvania, Illinois, Ohio, Texas, and Michigan—all with 21 or more electoral votes each—and also put together a national electoral vote majority, or at least 270 out of 538 electoral votes.

Of the 18 presidential elections held since 1900, only four have had third-party candidates who received any electoral votes as opposed to popular votes. And the only minor party candidate to receive more electoral votes than a major party candidate in the 42 presidential elections held since 1804 was Theodore Roosevelt who, as the Progressive party candidate in 1912, outpolled the Republican, William Taft.

The American Bar Assn., after conducting a study of our presidential electoral system in 1966, advocated a direct election system that provided the basis for Senator Birch Bayh's proposed direct election amendment which states that the candidate who receives 40 per cent of the popular vote will be president. If no candidate receives at least 40 per cent of the popular vote, a national runoff election between the two candidates who receive the most votes in the November election will determine the winner.

RULE CITED

The 40 per cent rule has been cited by the ABA as the factor that will discourage the formation of minor political parties on the assumption that only a major party candidate could command 40 per cent of the national popular vote. The ABA also assumed that no third-party candidate could capture at least 20 per cent of the popular vote to force a runoff in an election evenly divided between the two major party candidates. In addition the ABA felt that the difficulty in meeting ballot requirements in all 50 states, and the inability of minor party groups "to thrive in view of the certainty of defeat," would further discourage political splinter groups from competing in presidential elections.

It should be noted that the major advocates of direct election took their positions before the 1968 presidential election when the illusion that regional third parties could not influence presidential elections by becoming national parties was completely shattered.

George Wallace's American Independent party not only was listed on the ballots of all 50 states but also received a percentage of the popular vote in all 50 states. Wallace received at least 20 per cent of the popular vote in 11 states and at least 10 per cent of the popular vote in 24 states; his national total was 13.2 per cent of the popular vote.

The ABA's conclusion that "the certainty of defeat" will deter minor political parties from presidential competition probably stems from the fact that no minor political group of the Twentieth Century has maintained its third-party status after losing in a presidential election. However, the 1968 election indicated that this kind of political reasoning is dangerously outdated.

When asked about his 1968 "defeat" on the American Broadcasting Company's television program, "Issues and Answers," on July 13, 1969, George Wallace answered:

"I feel that our movement was highly successful in that we acquired ballot positions in 50 states, established a beachhead in each state, and both national parties took positions in that campaign that they ordinarily would not have taken had our movement not been involved. So, far from being a defeat, I think it had terrific impact upon the national political scene."

The element in American politics to be reckoned with now is the minor party candidate who seeks to influence the issues in a presidential election rather than to win the presidency. On that basis, therefore, George Wallace and many others rightly regard his 1968 campaign as a great success. And since "beachheads" are no more abandoned in political wars than in shooting wars, the Wallace "movement," which is still very much alive, will probably continue to thrive and be an important factor in the 1972 presidential election.

Wallace's claim that he will run for the presidency in 1972 if President Richard M. Nixon does not shape up to his specifications has received little acceptance. However, the greater President Nixon's effort to take over the Wallace constituency, the greater the likelihood that Wallace will run in 1972. A Wallace presidential candidacy figures prominently in the power struggle in the South between the Democratic conservatives and the Republican party.

The seniority rules in Congress will continue to work to the advantage of southern Democrats as long as they are assured of being returned to their seats in every election. If disgruntled southern voters defect to the Republican party on Election Day, as they did in 1964, because of the national Democratic party's stand on civil rights, then the Democrats will no longer be certain that southern voters will remain faithful to the Democratic party in local and state elections.

A Wallace candidacy therefore becomes an important means of siphoning off votes that would go to the Republicans. George Wallace is still a registered Democrat in Alabama.

With the rise of multiparty politics, the serious drawbacks of a direct election system become increasingly apparent.

George Wallace's aim in making the American Independent party a national rather than a regional party was to gain enough electoral votes to deadlock the election and barter votes for concessions to the South on civil rights. This strategy failed because of the checks inherent in the winner-take-all feature of the electoral vote.

Wallace was unable to muster the necessary plurality over the other candidates and the electoral votes other than the 45 electoral votes he gained in the five southern states. However, the results might have been different under a direct election system.

George Wallace's support, which hovered between 19 and 21 per cent throughout September, 1968, alarmed both major party candidates who then began an intensive drive to discourage votes for Wallace on the grounds that a vote for Wallace was a wasted vote—he could not gain enough electoral votes outside of the South to influence the results of the election.

However, without the need to pile up substantial votes in several states in order to capture enough electoral votes to deprive Nixon or Humphrey of an electoral vote majority, Wallace could have appealed to his supporters to stand fast because every vote, no matter where it came from, would have counted.

Since the popular vote for Humphrey and Nixon was so evenly divided, Wallace, by maintaining his support, would have achieved his aim of deadlocking the election and forcing a runoff between the major party candidates. Wallace and his supporters would then have been able to force concessions from Humphrey and Nixon because the margin of victory for either candidate in the second election would have been in the votes of the American Independent party.

In brief, a direct election system offers third-party candidates a greater opportunity of deadlocking an election than an electoral system that maintains the unit electoral vote and the need for an electoral vote majority as requirements for the presidency.

Senator Eugene McCarthy's 1968 presidential bid, while completely different from George Wallace's campaign in purpose and strategy, also raised the issue of multiparty politics immediately after the Chicago Democratic convention. And it is not entirely remote that a fourth-party candidate will enter the presidential race in 1972.

Eugene McCarthy was anything but enigmatic, a word frequently used by the press to describe the senator's behavior, when early in 1968 he gave his reasons for entering presidential politics:

"In the months prior to my November 30 announcement that I would enter the primaries, I traveled throughout the country . . . Not only on campuses but among many thoughtful adult Americans, it was apparent that alienation from politics was growing, reflected in a tendency to withdraw either in frustration or in cynicism, to talk of non-participation and to make threats of support for a third party or fourth party or some other irregular political movement . . . My hope is that my challenge may alleviate

the sense of helplessness and restore to many people a belief in the processes of American politics and of American government.

The senator's traditional approach to American politics led him, in his own words, "to test the established political processes of the Democratic party," rather than to emulate George Wallace and campaign outside the regular two-party system.

In all probability this concern for "the established political processes" also influenced McCarthy's decision not to create a four-way presidential race after being rejected by the Democratic party leaders at the convention in Chicago.

However, the effect on McCarthy's supporters of his repudiation at Chicago, as described by the three British authors of "An American Melodrama," was somewhat different:

"Defeated McCarthy organizations . . . determined to remain intact to spearhead petitions, independent-elector slates, or write-ins for McCarthy on the November ballot . . . Convinced that McCarthy had impressive electoral strength in the two largest states—New York and California—their argument was that the candidate (like Wallace) should work for a deadlocked election that would force the final decision into the House of Representatives. Write-ins or elector slates put forward in key states, creating a four-way Nixon - Humphrey - Wallace - McCarthy split, could conceivably result in McCarthy's capturing New York's 43 electoral votes and California's 40, and possibly others."

McCarthy himself briefly speculated that "we could win New York, California, Oregon, Minnesota, and maybe even Wisconsin."

But McCarthy was the only candidate with the stature and political strength to command a plurality and the electoral vote in the strategic states of California and New York. Without the Senator, therefore, the fourth-party forces were stymied. And when the Senator refused to run, the strategy to deadlock the election collapsed.

If the direct election system had been in force, the fourth-party forces could have turned to another candidate and capitalized on the emotional turmoil created by the Chicago Democratic convention. Since there would have been no need to capture hundreds of thousands of votes in key states in order to gain electoral votes as well as popular votes, the four presidential candidates would have directed their campaigns at the broad mass of American people to gain every conceivable vote.

Such a savage campaign, as the major party candidates fought to stay alive, and as George Wallace and the fourth-party candidate appealed to the vast resentment of the dissidents, could have torn the nation asunder.

* * * the nation would have had to endure a second destructive political battle.

Under direct election then, more candidates are encouraged to run because they do not need considerable political strength in the large populous states. And since chances for a deadlocked election increase as the number of candidates increases, Election Day can become essentially a national Primary Day.

ELECTORAL REFORMS ARE FUTURE NEEDS

(By Judith Gelber)

STROUDSBURG.—A four-way presidential race under our present electoral system could also be highly disruptive.

If Sen. Eugene McCarthy had chosen to run as a fourth-party candidate, his first major aim would have been to gain more electoral votes than George Wallace.

The Electoral College system permits only the three candidates who receive the most electoral votes to compete in the Electoral College or in the House of Representatives if no presidential condidate receives an electoral vote majority in the November election.

This scheme could actually lead to three elections with the electorate participtaing only in the first one. Since the presidential electors are constitutionally free to cast independent ballots, the election could have been decided when the electors met some six weeks after Election Day.

If the electors had failed to choose a president, then 26 states in the House would have made the choice when Congress convened the following January. The Constitution states that "in choosing the President (in the House), the votes shall be taken by states, the representation from each state having one vote . . . and a majority of all the states shall be necessary to a choice."

George Wallace intended to settle the election in the Electoral College on December 16, 1968 by swapping his electors' votes for political concessions from either of the other two candidates; he knew he had no bargaining power in the House.

Eugene McCarthy's prospects were also next to nil in a House election. Although he had considerable strength in the big populous states, the voting power of all the states, large or small, is the same. In addition few if any Democrats or Republicans would have been foolhardy enough to vote for a candidate from another political party.

Multiparty presidential politics can be so destructive of our political institutions and stability under both direct election and the electoral college system that the nation cannot afford to rush into drastic electoral reform, and it cannot ignore the potential for chaos that now exists.

The nation can, however, enact electoral reforms that will eliminate the dangerous loopholes without dismantling the overall electoral structure and at the same time provide for the orderly development of the new forces within the established political framework.

The Electoral College must be abolished. The presidential electors are not only redundant and therefore useless; their ability to act contrary to the "instructions" of the electorate constitutes a serious threat and acts as an inducement to manipulate the electoral process.

MEANS OF EXPRESSING

The American Independent party could have served as a legitimate means of expressing the views of a particular segment of the population if George Wallace had not been able to use the votes of his electors to threaten out political structure. If the menace in multiparty politics is eliminated, therefore, minor parties can function as responsible channels for political dissent.

The electoral vote, as distinct from the electoral college, system has become the target of electoral reformers largely because of a desire to eliminate the presidential electors. However, the electoral votes of the states not only help to preserve the federal structure of our government, but also act as vital restraints in the presidential electoral process as in 1968. Abolishing the entire system and instituting direct election would therefore create hazards greater than those that now exist.

Opportunities for abuse can be eliminated without radically changing our basic electoral structure by making the electoral vote automatic. Under this automatic system the people would vote directly for the presidential candidates, and the candidate who receives the most votes within a state would automatically receive all of that state's electoral votes.

As at present the candidate who receives an electoral vote majority would be elected president. Thus the role of the presidential elector would be eliminated and the electoral vote would be maintained as an automatic mathematical figure.

ADDITIONAL RISK

Another risk in the present system is the need to hold the presidential election in the House of Representatives if there is an electoral vote deadlock. The choosing of the President of the United States should not be restricted to the House of Representatives.

The base of this contingent election should be broadened so that the vote approximates the electoral votes of the states. The contingent election should therefore be held in a joint session of Congress with each senator and representative having one vote. And the number of presidential contenders in the contingent election should be reduced from three to the two candidates who receive the most electoral votes in the November election to reduce the incentive to enter a presidential election as a "spoiler" rather than as a legitimate candidate.

Sen. McCarthy's refusal to run as a fourth-party candidate in 1968 was completely in keeping with the goals he set for himself and the American people at the beginning of his campaign. McCarthy's challenge was not to our basic political system but to "the established political processes of the Democratic party." His "hope" was to "restore . . . a belief in . . . American politics and . . . government." Essentially then his campaign was directed at drawing Americans back into the established political system and keeping them from "a third party or fourth party or some other irregular political movement."

But what McCarthy felt was "irregular" in 1968 may well be the only means of preventing the young activists who were drawn to his campaign in 1968 from casting themselves adrift entirely from the ssytem in 1972. After testing the system and tasting their bloody defeat at the Chicago Democratic convention, the new forces may not willingly travel the same road again, particularly if they feel themselves once more locked out of the political process. McCarthy wrote on December 20, 1968.

"I have tried to make it as clear as I can to those who have supported me this past year after I asked them to test the established political processes of the Democratic party that I would not make that request again unless those processes have been clearly changed."

Whatever challenge McCarthy raises in 1972, however, will be consistent with the "hope" and "belief" that led him into presidential politics in the Fall of 1967. McCarthy's quarrel is not with our political system but with those who seek to manipulate it for their own ends. This is clearly demonstrated in the Senator's approach to electoral reform. In a conversation with the author in mid-June, 1969, McCarthy held that reform should be directed at preventing abuse of the electoral system by the presidential electors rather than at introducing direct election. He later wrote:

"The Electoral College does not serve the purpose for which it was devised, and some improvement in the system of electing the President is desirable. It is my view that any changes should preserve the identity and will of the people of the respective states and that each state should have electoral votes proportionate to its representation in Congress."

A recent headline in the New York Times declared: "Wallace: Alive, Well, Thinking Big in Alabama." The ensuing article dealt not only with Wallace's success in getting the Alabama legislature to back his proposal for slowing desegregation, but also with Wallace's presidential plans for 1972. Such speculation is not ill-founded. The American Independent party is an established national

political party, and it is extremely doubtful that those 50 "beachheads" will go to waste.

The forces on the other side of the political spectrum, young and old, are also not likely to accept any repetition of last year's presidential campaign, particularly if the cast of characters remains unchanged. The Democratic governors recently called Senator Fred Harris, national chairman, to task for devoting his time to reform rather than to the "nuts and bolts" of the moribund Democratic party's organization.

Presidential electoral reform does not seem important in view of the pressing problems currently confronting the nation. But the four-way presidential race now shaping up for 1972 will spell disaster if it is run under our current electoral system. Our presidential elections will become more precarious as the developing multiparty system increases the possibilities of deadlocked elections and vote-swapping in the Electoral College.

Electoral reform, however, should preserve those features that sustain our basic electoral structure while it eliminates dangerous loopholes. This is precisely what the automatic electoral vote system would accomplish.

CALENDAR OF THE SMITHSONIAN INSTITUTION, FEBRUARY 1970

HON. JAMES G. FULTON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 4, 1970

Mr. FULTON of Pennsylvania. Mr. Speaker, it is a pleasure to place in the CONGRESSIONAL RECORD the calendar of events for the Smithsonian Institution for the month of February 1970.

The Smithsonian Institution has once again scheduled outstanding events, and I urge those who can to visit the Smithsonian during the month of February 1970.

The calendar for February follows:

FEBRUARY AT THE SMITHSONIAN

MONDAY, FEBRUARY 2

Apollo art: An exhibition of 60 works at the National Air and Space Museum, by 25 well-known artists—including Robert Rauschenberg and Jamie Wyeth who were invited by NASA to record their impressions of the lunar program. The results range from realism to abstraction. Closing indefinite.

Argentine Chamber Orchestra, conducted by Pedro Ignacio Calderon. Johann Christian Bach, Symphony in B Flat Major; Mozart, Concerto No. 3 in E Flat Major, K. 447 for French Horn and Orchestra, soloist: Guelfo Nalli; Astor Piazzolla, Tangazo—Variations about Buenos Aires; Beethoven, Symphony No. 1 in C Major, Op. 21. National Museum of Natural History auditorium, 8:30 p.m. Tickets: $3.75, $2.75 and $1.75. Co-sponsored by the Smithsonian Division of Performing Arts and the Washington Performing Arts Society. For further information call: 393-4433.

WEDNESDAY, FEBRUARY 4

Smithsonian Film Theatre: *We Saw It Happen*. The film traces the adventure of manned flight, from the sands of Kitty Hawk to the jet-ports of the space age. Introduction by Louis S. Casey of the National Air and Space Museum. 2 p.m., auditorium, Museum of History and Technology; 8 p.m., auditorium, Museum of Natural History.

Informal concert featuring instruments from the Smithsonian collection 4:30 p.m., Hall of Musical Instruments, Museum of History and Technology.

Crafts of Montana, a sales exhibition of crafts in all media by 34 contemporary craftsmen. The first in a new series of exhibitions devoted to the practicing craftsmen of America, on display in the Museum Shop, Arts and Industries Building. Through March 1.

THURSDAY, FEBRUARY 5

The Creative Screen: *Treadle and Bobbin*—the camera of Wheaton Galentine captures the hypnotic movements of Grandma's sewing machine. *Currier & Ives*—memorable Americana by the printmakers of the quaint and sentimental melodramas of the 19th century. Free films are shown on the half hour from noon until 2:30 p.m. At the National Collection of Fine Arts.

Smithsonian Film Theatre: *We Saw It Happen*. Noon, auditorium, Museum of History and Technology.

SATURDAY, FEBRUARY 7

The Creative Screen: *Treadle and Bobbin; Currier & Ives*. See February 5 entry for details.

Music from Marlboro, with Richard Goode, piano; Paula Robinson, flute; Joseph Turner, oboe; Larry Combs, clarinet; William Winstead, bassoon, and John Barrows, horn, Nielsen, Quintet for Winds, Op. 43; Schubert, Introduction and Variations, Op. 160, for Flute and Piano; Mozart, Quintet in E-Flat, K. 452, for Piano and Winds. National Museum of Natural History auditorium, 3:00 p.m. Tickets: $3.75, $2.75 and $1.75. Co-sponsored by the Smithsonian Division of Performing Arts and the Washington Performing Arts Society. For further information call: 393-4433.

SUNDAY, FEBRUARY 8

Young People's stitchery workshop, sponsored by the Smithsonian Associates. By Subscription only. For information call 381-6158.

TUESDAY, FEBRUARY 10

Lecture: *The Decorative Arts of Ancient Egypt* by John D. Cooney of the Cleveland Museum of Art, 8:30 p.m., auditorium, Freer Gallery of Art.

Lecture: *Moonlighting Lasers* by Dr. Carroll O. Alley, Jr., for members and friends of the Smithsonian Associates. 8:30 p.m., auditorium, Museum of History and Technology.

WEDNESDAY, FEBRUARY 11

Smithsonian Film Theatre: *History of Balloons; The Blimps: Clearly Identified Flying Objects; Anatomy of a Triumph*. Three presentations tracing the history of lighter-than-air craft and the role the federal government has played in aviation and space programs. 2 p.m., auditorium, Museum of History and Technology; 8 p.m., auditorium, Museum of Natural History. Introduction by Paul E. Garber, historian emeritus, Natural Air and Space Museum.

THURSDAY, FEBRUARY 12

Lecture: *Audubon*. This illustrated lecture traces the journeys of John J. Audubon in quest of unusual birds from Florida swamps to the Bay of Fundy and through the European continent to the dry Tortugas. 5:15 p.m. and 8:30 p.m., auditorium, Museum of Natural History. Presented by the Audubon Naturalist Society.

Smithsonian Film Theatre: *History of Balloons; The Blimps: Clearly Identified Flying Objects; Anatomy of a Triumph*. Noon, auditorium, National Museum of History and Technology.

SATURDAY, FEBRUARY 14

Greek antiquities seminar, sponsored by the Smithsonian Associates. By subscription only. For information call 381-6158.

Lecture: *Historic Preservation Today*, by James Biddle, President, National Trust for Historic Preservation. At the National Collection of Fine Arts, 3 p.m., Lecture Hall.

SUNDAY, FEBRUARY 15

Greek antiquities seminar. Repeat.

WEDNESDAY, FEBRUARY 18

Informal concert, using instruments from the Smithsonian's collections. 4:30 p.m., Hall of Musical Instruments, Museum of History and Technology.

Smithsonian Film Theatre: *Recent Achievements in Unmanned Space Flight*. A selection of films depicting current developments in the unmanned phase of the national space program will be presented. 2 p.m., auditorium, Museum of History and Technology; 8 p.m., auditorium, Museum of History and Technology; 8 p.m., auditorium, Museum of Natural History. Introduction by Frederick C. Durant, Assistant Director, National Air and Space Museum.

THURSDAY, FEBRUARY 19

Encounter: *Our Shrinking World—The Disappearance of Species and Wild Areas*. Panel discussion with audience participation. Program chairman: Dr. Lee Talbot, Smithsonian Office of Ecology. Panel members: Dr. Raymond Dasmann, The Conservation Foundation; The Honorable William O. Douglas, U.S. Supreme Court; Dr. Joseph Fisher, Resources for the Future, Inc.; William Penn Mott, Jr., California Dept. of Parks and Recreation. 8:30 p.m., auditorium, Natural History Building. Sponsored by the Smithsonian Associates and directed by Dr. William Oron, Smithsonian Oceanography and Limnology Program.

Smithsonian Film Theatre: *Recent Achievements in Unmanned Space Flight*. Noon, auditorium, Museum of History and Technology.

Concert: United States Air Force Band. Auditorium, National Museum of History and Technology, 8:30 to 10:30 p.m.

The Creative Screen: *Highway*—award-winner Hilary Harris photographs this film from behind the wheel of an automobile giving an exciting visual expression of the exhilarated sense of speed. *Images from Debussy*—an abstract dance of light and water with the music of Claude Debussy—"Arabesque En Mi," "Reflets Dans l'Eau" and "Arabesque En Sol." Free films are shown on the half hour from noon until 2:30 p.m. At the National Collection of Fine Arts.

FRIDAY, FEBRUARY 20

Concert: United States Air Force Band. Auditorium, National Museum of History and Technology, 8:30 to 10:30 p.m.

SATURDAY, FEBRUARY 21

The Creative Screen: *Highway; Images from Debussy*. See February 19 entry for details.

MONDAY, FEBRUARY 23

Harpsichord concert, featuring James Weaver. Music of Bach, including 5th Brandenburg Concerto played on the Dulchin Harpsichord made in 1745. 8:30 p.m., Hall of Musical Instruments, National Museum of History and Technology.

WEDNESDAY, FEBRUARY 25

Smithsonian Film Theatre: *The Voice of the Desert*. Joseph Wood Krutch—author, naturalist, teacher, philosopher—presents a magnificently filmed essay on desert life in Arizona showing the beauty of the land and the fascinating variety of wildlife found there, and focusing as well on one man's love for the land. 2 p.m., auditorium, National Museum of History and Technology; 8 p.m., auditorium, National Museum of Natural History. Introduction by Dr. Helmut K. Buechner, Senior Ecologist, Office of Environmental Sciences, Smithsonian Institution.

THURSDAY, FEBRUARY 26

Concert: United States Air Force Band. Auditorium, National Museum of History and Technology, 8:30 to 10:30 p.m.

Smithsonian Film Theatre: *The Voice of the Desert*. Noon, auditorium, Museum of History and Technology.

FRIDAY, FEBRUARY 27

Surface stitchery workshop, sponsored by the Smithsonian Associates. By subscription only. For information call 381-6158.

SATURDAY, FEBRUARY 28

Eikoh Hosoe: Man and Woman. 32 prints by Japanese photographer Hosoe offer a humorous view of man-woman relationships. National Museum of History and Technology, third floor. Through April 14.

Last Saturday jazz; artist to be announced. National Museum of Natural History auditorium, 8:00 p.m. Tickets at $2.00, may be purchased at the door. Presented by the Smithsonian Division of Performing Arts in cooperation with the Left Bank Jazz Society. For further information call: JO 3-9862 or 581-3109.

Surface stitchery workshop. Repeat.

Washington: A new perspective. Area photographer James Johnson presents views of Washington that the tourist doesn't usually get. Two groups of photos show architectural details of vanishing D.C. and familiar tourist sites viewed through special photographic techniques. National Museum of History and Technology, third floor. Through April 14.

RADIO SMITHSONIAN

You can listen to the Smithsonian every Sunday night from 7:30 to 8:00 p.m., on radio station WGMS (570 AM & 103.5 FM). The weekly Radio Smithsonian program presents music and conversation growing out of the Institution's exhibits, research, and other activities and interests. Program schedule for February:

1. *Frankincense and Myrrh*. Dr. Gus W. Van Beek talks about the exciting and wealthy trade position of South Arabia in the first millenium BC, and how the two oils, frankincense and myrrh, gained outstanding economic importance. This discussion pictures the area as a vital trading organism, dependent on ship and land routes, monsoon winds, trade pacts, and a singularly noteworthy visit by the Queen of Sheba to King Solomon. Object: trade-cooperation. *Pieces de Clavecin en Concerts (III)*. The music of Jean-Philippe Rameau, in an informal performance in the Hall of Musical Instruments, by Jacqueline Anderson, violin, Lane Anderson, cello, and Helen Hollis, harpsichord.

8. *The First Ladies' Gowns*. A tour of the collection of gowns, and comment by Mrs. Margaret Klapthor. Remarks on the styles and stories connected with the famous White House hostesses, up to the present administration. *The Machine Left Behind*. Techniques to identify human remains, as applied and described by Dr. T. Dale Stewart, senior physical anthropologist. Where often necessary, but on the scantest of clues, Dr. Stewart has determined with great probability the human identity from only the bones, hair and fabric, for both civil and military authorities.

15. *Perceptions, II*. In the beginning was Music. Yet now, it is possible to express composition in the concert itself, arranging it as a "happening," with additional effects, lighting, electronic music, etc., or to write totally original music in the framework of an ironic and psychological "game." Morton Subotnik and Loran Carrier, the creators, are interviewed, along with musicians and participants.

22. *Freeze-Drying*. Rolland O. Hower, a specialist, in the field, discusses the technique which preserves any specimen almost perfectly, and how the technique is being refined and applied. *Flora North America*. The scientific index of all plants in North America will be computerized, and it will be possible to identify a plant precisely, by use of a remote computer terminal or simple telephone connection. (Drs.) Stanwyn G. Shetler and Mason E. Hale, from the National Museum of Natural History, talk about the history and progress of the project.

SMITHSONIAN RESIDENT PUPPET THEATRE

Hansel and Gretel, marionettes created by Bob Brown for the production of the play with music by the Smithsonian Division of Performing Arts. Performances are at 10:30 and 12:30, Wednesday, Thursday and Friday and at 10:30, 12:30 and 2:30 Saturday, Sunday and holidays. Third floor, National Museum of History and Technology. Admission: $1.00 for adults, 75 cents for children; special 50 cent rate in groups of 25 or more (for advance reservations for school groups on weekdays call 381-5241).

THE NO-TOUR TOURS

Air France excursion—(Boeing 707)—Dulles-Paris-Dulles: May 1-22, $257. Make your own arrangements for three weeks of travel in Europe.

BOAC excursion—Boeing 707—Dulles-London-Dulles: October 2-23, $247. Make your own arrangements for three weeks of travel in the British Isles or Europe.

Please note: These special quoted fares may be subject to airline changes or regulations beyond our control.

For reservations and details contact: Miss Kennedy, Smithsonian Institution, Washington, D.C. 20560, or call 202—381-5520.

SPECIAL FEATURE: SEARCH ON FOR FIRST LADIES' GOWNS

(By Mary M. Krug)

The gowns of the First Ladies are one of the most popular exhibits at the Smithsonian. If something were to happen to any of them . . .

It wouldn't make a bit of difference.

Actually, that is an extreme exaggeration. The gowns are precious and irreplaceable. But if some misfortune should occur, future generations will still be able to view authentic gowns of the official White House hostesses, thanks to the foresight of curator Margaret Klapthor.

Mrs. Klapthor has begun a long-range project to locate a second garment of each First Lady for the permanent collections, and she has taken steps to see that each dress already on hand is recorded in detail.

Not that she is expecting anything to happen. The Smithsonian dresses are kept in an environment in which temperature, humidity and light are tightly controlled and continuously monitored. "But textiles do have a limited life span, even though we don't know exactly what it is. It might be 400 years," Mrs. Klapthor explains.

Whatever or, if ever, anything should happen, Mrs. Klapthor feels it is important that Smithsonian visitors should still be able to see a genuine First Lady's garment, not only because of the popularity of the exhibit, and not only because the dresses reveal much about the personality and taste of the White House hostesses. The gowns also reflect the social history of the times and changing national taste.

Locating the back-up dresses will involve much the same detective work as was used when the collection was established in the early 1900's. Mrs. Klapthor has begun by contacting descendants of the First Families, asking for either dresses or leads. She hopes that through word-of-mouth and other publicity, she can turn up a garment for every official White House hostess.

The earlier First Ladies, of course, will offer the greatest challenge. Recent First Ladies have been asked to give a second dress along with the one they contribute for display, and there are now back-up dresses for 15 Firsth Ladies on hand. Mrs. Klapthor hopes to locate garments that were actually worn during White House tenure, and of course something worn for a State occasion is the ideal. But she is ready to consider any item that can be authenticated.

The second phase of Mrs. Klapthor's preservation program is the detailed recording of every dress already on hand. Mrs. Sara Taft, a New York designer and dressmaking instructor, has taken on the job of making patterns for each gown. Working at the Smithsonian—the dresses are never taken out of their protective environment—she examines construction details down to the last bead or tuck. For each dress she then creates a full-color illustration, a paper pattern, a muslin mock-up, and notes or drawing on fine points such as beading or embroidery.

Several months' work is required for each package, but "Mrs. Taft has really gotten wrapped up in the job, and she does exquisite work," Mrs. Klapthor notes. So fine, in fact, that in theory every dress could be reproduced exactly. But Mrs. Klapthor will never let that happen as long as she is curator.

"I don't want to take the slightest chance that a copy should be displayed along with the originals," she says. "People who visit the Smithsonian expect to see the real thing, and that is what they deserve to see. Even if a dress were labeled a copy, it might cast some doubt on the authenticity of other items on exhibit."

The packages will instead be used as reference items for study by historians and students of costume design. About a third of the project has been completed, with the oldest gowns being done first. If necessary, details on more recent dresses could be obtained from the designers.

The First Ladies collection was begun by two public-spirited Washingtonians, Mrs. Julian James and Mrs. Rose Gouvereur Hoes. The first dress they obtained was the inaugural gown of the presiding First Lady, Mrs. William Howard Taft. Every First Lady since then has added a dress to the collection.

The exhibit, which is located in the National Museum of History and Technology, is so popular that carpeting installed only four years ago, and supposedly indestructable, has already worn out.

That unforeseen problem was solved by a replacement. Thanks to Mrs. Klapthor, if any unforeseen problems should befall the dresses, there will be replacements on hand for them as well.

CONTINUING EXHIBITIONS

American printmaking: The First 150 Years. Exhibition at the National Collection of Fine Arts. One hundred and fifteen prints covering the time span 1670 to 1820 show the early history of printmaking and give a revealing picture of the early days of the nation. Although often limited in technical and stylistic sophistication, these prints have much charm and subtlety and offer significant insights into the national character and purpose.

Laser 10: *The First 10 Years of Laser Technology*. Special exhibition on laser history and applications, including the first laser made, actual working lasers, and examples of uses of lasers in communications, holography, medicine, industry, civil engineering, space exploration, and art. Iron and Steel Hall, National Museum of History and Technology. Through May.

Charles Fenderich: The Washington Years (Through August 31). Top figures in the political world of Washington in the years 1837-1848 are shown in incisive portrait lithographs by Charles Fenderich, a skilled artist who dropped entirely from sight after he joined the Gold Rush to California in 1849. Van Buren, Harrison, Tyler, and Polk are among the statesmen depicted. Scenes of Lafayette Park's Jackson Monument, the proposed Washington Monument, and the inauguration of William Henry Harrison sup-

plement the exhibition of Fenderich's achievement. National Portrait Gallery, through August 31.

Thomas Alva Edison: Sound and Light and Elisha Kent Kane, 1820 to 1857. Companion teaching exhibitions for fifth through twelfth graders show portraits and associative items of two of America's most famous men, the inventor Edison and Arctic explorer Kane, at the time of his death one of America's most revered men although he is now largely unknown. Among the Edison associative objects are a wax cylinder phonograph, light bulbs from his laboratory his kinetoscope which was one of the earliest motion picture projectors, and his film "The Great Train Robbery" of 1903 which was one of the first American movies to have a plot. National Portrait Gallery, through April 15.

MUSEUM TOURS

National Collection of Fine Arts

Daily tours at 11 a.m. and 1 p.m. Weekend tours 2 p.m., Saturday and Sunday. For advance reservations and full information, call 381-5188 or 381-6100; messages 381-5180.

National Zoo

Tours are available for groups on weekdays 10 a.m. to 12 noon. Arrangements may be made by calling—*two weeks in advance*—CO 5-1868 Extension 268.

Visitors may purchase animal artifacts and specially designed souvenirs and books at the Kiosk, which is operated by Friends of the Zoo volunteers as a public service and to raise funds for educational programs. Open daily 11 a.m. to 4 p.m.

Museum of History and Technology

Free public tours of the National Museum of History and Technology during weekends are sponsored by the Smithsonian and operated by the Junior League of Washington. They will be conducted on Saturdays and Sundays through May 1970.

The tours begin at the Pendulum on the first floor, and each tour lasts for approximately one hour. Saturday tours begin at 10:30 and at noon, and at 1:30 and 3:00 p.m. Sunday tours begin at 1:30 and 3:00 p.m.

Tours are available to anyone who wants to join the docent stationed at the Pendulum at the above-specified times. However, if you would like to plan a special group tour, call 381-5542 to make arrangements.

National Portrait Gallery

Tours are now available for adults and children at 10:00 a.m. and 11:00 a.m. For information on adult tours call 381-5380; for children's tours, 381-5680.

MUSEUM SHOPS AND BOOK SHOPS

Museum shops

1. National Museum of History and Technology—Rotunda.
2. Natural History Building—Constitution Avenue Entrance.
3. Arts and Industries Building—Mall Entrance.
4. Freer Gallery of Art—Mall Entrance.
5. National Museum of History and Technology—Mall Entrance.

Book shops

1. National Museum of History and Technology—Constitution Avenue Entrance.
2. Natural History Building—Mall Entrance.
3. National Collection of Fine Arts—Main Floor, 8th and G.
4. National Portrait Gallery—F Street Entrance.

Smithsonian Museums are open to the public 7 days a week. Hours: 10 a.m. to 5:30 p.m. daily.

Cafeteria: Open 10:30 a.m. to 5:00 p.m. (Located in the History and Technology Building, 12th Street and Constitution Ave. N.W.)

Hours at National Zoo: Gates open 6 a.m., close 5:30 p.m. Buildings open 9 a.m., close 4:30 p.m.

ACLU DEMANDS ARMED FORCES ABOLISH GOD

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 4, 1970

Mr. RARICK. Mr. Speaker, not only did the men who founded our country believe in God but most of them were devout Christians.

The great majority of Americans today believe in God and unashamedly profess themselves Christians.

Without God the entire philosophy of freedom becomes a meaningless sham—for unless men "are endowed by their Creator with certain unalienable rights" then they are indeed mere animal pawns of the socialist state. Marx, Lenin, Stalin, and all of their ilk understood this. It has been a cardinal point of their credo to eliminate Christianity—to outlaw God in public life.

It is not surprising that the disreputable American Civil Liberties Union which has been in the forefront of every attack on freedom and decency since its inception has now attacked God in the Military Academy, the Naval Academy, and the Air Force Academy. It is as unsurprising that the leftist Meyer-controlled Washington Post should approve of the assault.

I include in my remarks the following dishonest editorial of January 26, 1969, giving surface respectability to the long-standing party line:

COMPULSORY WORSHIP

It would be hard to imagine any practice more at odds with the idea of religious freedom than mandatory attendance at religious services. Compulsory chapel, which used to be common at independent and private institutions of learning, has now been almost completely discontinued except at avowedly religious schools; it was manifestly offensive to the concept of tolerance. At any public institution financed by public funds, it is manifestly offensive also to the United States Constitution. It is genuinely shocking, therefore, to learn that the practice persists at the three official service academies, West Point, Annapolis and the Air Force Academy at Colorado Springs.

After trying vainly to persuade the Defense Department that compulsory worship is as un-American as an established church, the American Civil Liberties Union went to court in behalf of eight midshipmen and cadets at the service academies charging that the requirement violates the First Amendment and also, since the cadets and midshipmen are candidates for commissions in the armed forces, violates the constitutional ban on a religious test "as a qualification for any officer or public trust under the United States."

The Constitution of the United States was written by men whose parents and grandparents had left England in large degree because they were unwilling to worship in accordance with the orthodoxies and requirements of an established church. They made a flat prohibition against such an establishment the very first item in the first article of their Bill of Rights because they had learned that secular and religious authority must be rigorously separated. The idea is as old as Christianity: "Render therefore unto Caesar the things which are Caesar's; and unto God the things that are God's."

"Neither a state nor the federal government," the Supreme Court of the United States has said, "can set up a church . . . Neither can force nor influence a person to go to or to remain away from church against his will or force him to profess a belief or disbelief in any religion." How strange and disquieting it is that the armed forces set up to safeguard the United States should forget, or resist, this fundamental principle. It happens that the suit to remind them of it was filed precisely on the 50th birthday of the American Civil Liberties Union. The ACLU could have found no more useful or fitting way to celebrate a major milestone in its long service to American freedom.

I CAN NO LONGER BUY TIMBER SUPPLY

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 4, 1970

Mr. CONYERS. Mr. Speaker, an amended version of the National Forest Timber Supply Act, H.R. 12025, now known as the National Forest Conservation and Management Act, comes before the House this Thursday, February 5. As one of the many who were originally interested in this bill, I must now inform my colleagues of the reasons why I can no longer support this legislation.

Since I represent an urban area which is beset by the same housing ills that plague most of our cities, I believe that every available means should be utilized to eliminate the factors which have produced a virtual halt in the building of new homes. To me, H.R. 12025 appeared to offer a solution to a major aspect in the problem of insufficient and inadequate housing. If the principal drawback to increased home construction was the lack of lumber, then H.R. 12025 would go a long way toward solving our housing problems.

However, since H.R. 12025 was introduced last year, several things have convinced me that the legislation should not be enacted at this time:

First, the present act does not provide adequate safeguards to preserve the fish, wildlife habitat, range forage, watershed protection, and recreational opportunities of our national forest lands. In these times of economic crisis, the fund created by this legislation would place the other missions of Multiple Use-Sustained Yield Act of 1960 at a distinct disadvantage;

Second, the need for increased harvesting at this time does not appear to be justified in light of the fact that we are now exporting more than four billion board feet of lumber annually;

Third, the Bureau of the Budget recommends deferment of the legislation until the President's Ad Hoc Task Force on Lumber releases its study on the supply-demand relationship in the lumber industry. The Forest Service also hesitates to support the bill before the results of the President's study are known; and,

Fourth, it now appears that much of the blame for the present low level in new housing starts can be attributed to the spiraling rates of financing and other costs rather than to a lack of lumber.

Therefore, in light of the uncertainty of the impact of H.R. 12025 on the Multiple Use Act of 1960, and the dubious need for increased harvesting at this time, I feel that it is necessary to oppose passage of the National Forest Conservation and Management Act.

MEDICAL CARE II: MEDICAL MANPOWER CRISIS

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 4, 1970

Mr. ROSENTHAL. Mr. Speaker, I indicated in yesterday's RECORD, that I will offer a series of articles on the massive crisis in our medical care system to which the President referred last year. In the first article, the general problem of the crisis in medical care was outlined.

The following article, from the Medical World News of January 23, 1970, considers a key aspect of the problem: How we can make better use of the medical manpower we have. It discusses the many attempts now underway to create new allied health professionals to serve on the medical care team.

Particularly impressive is the indication that medical corpsmen—whose talents and training has been largely wasted until recently—are now being recognized both as a source for the medical team itself and as a prototype of the kind of medical worker which civilian institutions could also produce.

The article follows:

CAN DOCTOR'S AIDES SOLVE THE MANPOWER CRISIS?

Thanks to the nation's acute and worsening shortage of health manpower, the ex-medical corpsman is now ending a 30-year sentence as physician's assistant in the federal prison system and is emerging as a new force to help doctors cope with their burgeoning load of patients.

The "sentence" wasn't a literal one, of course, but it has taken several decades for the country's medical schools and organizations to imitate U.S. penal authorities and appreciate the large pool of trained personnel available through service discharges of the men popularly known as medics. Though nobody underestimates the problems that will be encountered in licensing and supervising physicians' assistants, more than a dozen medical institutions now have training programs in operation or are about to inaugurate them.

The young man on the left in this week's cover photograph is Paul Snyder, an Air Force surgical technician from 1957 to 1969, who moonlighted at civilian hospitals near his bases. Given additional training after his discharge, he has adapted his military medical knowledge and skills to civilian health care. Now, as a Medex, he serves to extend the capabilities of general practitioner Kenneth Pershall in Othello, Washington.

Conceived and directed by Dr. Richard A. Smith, associate professor of preventive medicine at the University of Washington's medical school in Seattle, the Medex program is one of the solutions being developed across the country to help alleviate the health manpower shortage. Like several others, it is designed to make use of the pool of trained corpsmen who leave the Armed Forces each year, up to 30,000 by National Research Council estimate. Unlike the others it has a unique name for both the program and its trainees. Medex is both singular and plural, a title and a form of address. Dr. Smith coined it to express the physician's extension concept. It has the advantage of sounding familiar to the ex-medics.

The first class of 15 carefully selected Medex trainees completed the initial three-month period of university training in mid-September. Now they are in their preceptorship phase, each with a rural GP who is committed to hiring the Medex on successful completion of his training.

Dr. Richard Bunch, who shares Dr. Pershall's practice and also employs a Medex, tells MWN: "While still in their preceptorships these fellows are treating, under our general supervision, children's upper respiratory infections, lacerations and moderate traumas, and replacing one of us in surgery where normally two doctors are needed. When they've finished their break-in period with us, I estimate we'll each be able to take care of 20 additional patients per day." Medex Snyder and his cohort John Betz earn $5,400 plus $500 per year for each dependent child to a maximum of three. Drs. Bunch and Pershall plan to pay salaries substantially higher than that when training is complete.

"My concerns in starting this program were twofold," says Dr. Smith. "First, we are in a crisis in health manpower already—it's not coming, it's here, and it's going to get worse. Second, I was concerned that this huge pool of medically trained men was not being used. These guys have had perhaps $25,000 invested in their training, and it's usually lost. Some excorpsmen have, among other things, as many as 70 hours of preventive medicine, anywhere from 70 to 130 hours of anatomy and physiology, 70 to 180 hours of medicine and surgery, 92 to 190 hours of pharmacology, advanced on-the-job training in outpatient clinics, on-the-job training in general medicine, anywhere from 120 to 200 hours of trauma, minor surgery and field surgery, perhaps 40 hours of emergency-room on-the-job training, another 80 hours of on-the-job training in general surgery, 40 hours in orthopedics, 98 hours in surgical procedures, 30 to 55 hours in microbiology and laboratory medicine."

Last July, HEW Secretary Finch and his newly appointed assistant secretary for health and scientific affairs, Dr. Rogers Egeberg, warned of an "impeding breakdown in the delivery of health care." Among the steps they took to help alleviate the manpower shortage was the establishment of an Office of New Careers with the top priority of developing programs for returning Vietnam medical corpsmen. Recently, Dr. Egeberg noted in a HEW memorandum that some 60% of medics leaving the Armed Forces are interested in getting additional education to qualify for civilian jobs in health care, and that about 15% are already qualified to move right into civilian jobs in medicine.

Organized medicine, too, is stepping into the health manpower breach. On December 20, the Committee on Emerging Health Manpower of the AMA's Council on Health Manpower held a meeting of a dozen directors of training programs for various kinds of physicians' assistants, to discuss their programs in the light of a set of guidelines for development of new health occupations adopted on December 2 in Denver by the House of Delegates. The unusually smooth course of the meeting showed the participants want to press ahead with a cooperative program to clarify and classify the roles of the new kinds of physicians' assistants, the educational levels desired, and the need for certification, licensure, or changes in medical practice acts.

"In the morning session I thought that the whole thing could blow up in our faces," says the AMA committee's chairman, Dr. Thomas C. Points of the University of Oklahoma Medical Center, Oklahamo City. "But I felt that everyone agreed the guidelines were essential and they were all willing to work with them so that we can really get some coordinated programs going."

Dr. Paul J. Sanazaro, director of HEW's National Center for Health Services Research and Development, agrees. "Everyone seemed to agree essentially on what needs to be done, and on the importance of getting it done, and there was no defensiveness. The meeting reflected a spirit of initiative in the AMA, and responsiveness to many developments in the country initiated under different auspices and different assumptions. Incorporating the new professional assistants may turn out much smoother than we might have expected. The AMA staff is able and committed and has full support internally and externally."

When the program directors return their course descriptions to the AMA committee in mid-February, the concept approved by the committee will be passed on to the full Health Manpower Council. If approved there, it goes to the Council on Medical Education, which will lay down the essentials for an accreditation program. After that, it will go to the House of Delegates for acceptance—the staff hopes by next fall's clinical convention.

The new types of health professionals are being trained in some 20 programs at as many institutions. No one is certain just how many there are, because some are being carried on informally with only one or two trainees. Besides Medex and the Duke University physician's assistant program (MWN, Feb. 23, '68), which now has 29 graduates helping to relieve overburdened doctors, the major programs are:

Cleveland Clinic Hospital is training "clinical corpsmen" in a one-year program, accepting applicants with two years' military or civilian experience.

Alderson-Broaddus College, Philippi, W. Va., trains physicians' assistants in a four-year baccalaureate program offered to qualified high school graduates.

University of Colorado Medical Center is training "child health associates." The three-year program includes two years of academic training and a year's internship; applicants must have two years of college.

The university also trains pediatric nurse-practitioners in an intensive four-month program of theory and practice of pediatrics, offered to graduate nurses.

Bowman Gray School of Medicine also trains "child health assistants" in a two-year program. Applicants with two years of college, or ex-corpsmen with adequate training, are accepted.

Pacific Medical Center operates a two-year program training orthopedic assistants, involving City College of San Francisco and eight hospitals.

Grady Memorial Hospital in Atlanta trains "medical specialty assistants" to work in medical and coronary intensive care units. The two-year program accepts former corpsmen with two years' experience.

Baylor College of Medicine trains ophthalmic assistants in an eight-week course for trainees with two years of college preferred.

Emory University School of Medicine gives anesthesia assistants a 21-month master's degree program.

University of Pittsburgh trains emergency medical technicians in a one-year program.

Ohio State University educates emergency medical technicians.

Four more programs are in preparation:

University of Kentucky School of Allied Health Professions plans to train clinical associates.

Brooklyn-Cumberland Medical Center will train physicians' assistants.

Oklahoma State University is preparing to train medical care technicians.

University of Colorado plans to train physician associates in anesthesia.

Not all physicians are convinced that such training programs are the answer. One is Tulane University professor of medicine George Burch. He tells MWN: "If I get sick, I don't want any physician's assistant taking care of me. I want a fully trained doctor. The errors made by the legions of aides from RNs to electronics specialists are legion. Certainly we need these people, but we need doctors much more. The training programs now being put forward are simply no substitute for the additional medical schools we sorely need."

The nursing profession also shows less than eager enthusiasm for the new doctors' aide training courses. Says Eileen Jacobi, RN, Ed.D, associate executive director of the American Nurses' Association: "Baccalaureate and graduate education in nursing prepares nurses at a highly professional level, but one of the complaints the ANA often hears from its membership is that highly qualified nurses are often not allowed to function at the level for which they have been prepared. Why can't we utilize the existing nurse talent to meet patient health needs that are now unmet? Because the physician, although often in need of such assistance, is unwilling to allow the nurse to assume other than her traditional role."

The variety of titles for the new professionals sometimes accurately reflects the skill that is being taught, notably in the specialty assistants. The others reflect mostly the private preferences of program directors. Nearly all those involved agree that deciding on uniform titles for people with equivalent training is essential to getting the new health professions recognized and understood by the medical profession and the public. "I keep harping on Medical Care Technician," says committee chairman Tom Points. But others think that "technician" suggests a lower level of training than the type of professional they are developing, who is seen by a number of proponents as being on a level between a doctor and a nurse. One suggestion that appears to be gaining favor is the use of "clinical assistant" for those with training at the two-year, or junior college, level and "clinical associate" for those with baccalaureate degrees.

"I think this is one of our problems," says Dr. Points, "someone with two years of training being put in at a level between graduates of four-year and seven-year medical courses. What *do* you call them?"

The optimum levels of education for the physicians' assistants is one of the questions most in need of clarification. All those involved in the training programs agree that as much flexibility as possible should be built into them, to provide both vertical and horizontal mobility. Dr. T. F. "Bud" Zimmerman, director of the AMA's department of health manpower, feels that the new physician-support personnel should cover a spectrum from generalist to specialist, and from the on-the-job training level of education to the post-baccalaureate level.

Dr. D. Robert Howard, director of the Duke University program, sees a three-level range: on-the-job training, junior college, and senior college. "Above that," he points out, "your upward mobility would be into medical school." But he cautions that students with the capability to qualify for medical school might be poor choices for physician's assistant training. "They're not going to get enough job satisfaction or ego satisfaction in doing the type of work that a physician will delegate."

Delegation by a physician is the key to all the new concepts of physicians' assistants. Even though an excorpsman may have been what the military services call an independent duty operator who functioned as the only "doctor" for many miles, as do Special Forces medics or the Air Force's remote-station medical technicians, almost no one contemplates their serving independently in civilian health care. Nevertheless, the assistant can work apart from the physician so long as they are in contact by telephone or two-way radio.

The Medex program, for instance, provides two-way radio equipment for each physician-Medex team. The Medex, like the physician he works with, is on call 24 hours a day. This can be especially useful if two emergencies should happen simultaneously or nearly so. "I thought this was a rare thing in general practice," says Dr. Smith. "But I discussed it at the state medical association. I said, 'What happens in that rare instance when you have an acute traumatic injury in your office and another patient has a massive coronary on the other side of town and can't be moved? Your Medex can go over there and talk to you from the bedside.' One doctor raised his hand: 'That's not a rare occurrence,' he said. 'It happened to me three times last week.' "

But even under the supervision of a physician, this kind of service presents delicate legal problems, and most authorities believe that state medical practice acts will have to be modified to allow for the use of physicians' assistants. There are a few states like Oklahoma which happen to have a direct statement in their medical practice law referring to physicians' assistants. Dr. Points explains, "That presents the least difficulty. But to the extent that they aren't explicit, the feeling is that medical practice laws will need to be modified in time. It's difficult to talk about a model law now, because we don't yet have enough experience on a large scale."

"Four states have already enacted legislative changes, and most of the others are in the process of making changes," says Duke's Bob Howard. "We have a committee working on changes we feel would be desirable here in North Carolina. Our draft reads pretty much the same as the others; it makes an exception to the medical practice law for any act or acts performed at the direction and under the supervision of a licensed physician by a person currently approved by the Board of Medical Examiners as one qualified to function as a physician's assistant." However, he points out, "you can also change medical law by custom and usage. In this state we're almost to the point now where formal legislative changes aren't really necessary, because we can say that having physicians' assistants is already custom and usage here."

Whether former military corpsmen will continue to be the main pool from which physicians' assistants will be drawn is an open question. The AMA's Dr. Points doubts that 30,000 medics are, in fact, being discharged yearly. "When we analyzed this at Oklahoma State, we found that there are several levels of training in the military. That 30,000 figure includes the lowest level of aidman. The man we're talking about using is the independent duty operator, and I doubt there are more than 10,000 of them."

"I think they will constitute the main source of manpower," says Dr. Howard. "There's not much of a pool of males outside this one, which we're emphasizing, although we are not limiting our program to men. But it's hard to get women who are willing to work the hours these people work. If they're going to be effective as physicians' assistants, they've got to work the same hours the physician is working. The women we have in the program—and this is an advantage of taking only experienced people in this kind of project—have already demonstrated that they're willing to make that kind of career commitment."

"My impression is that a male labor force is more stable," says the AMA's Bud Zimmerman. "One of the problems in the allied health professions up to now is that they are quite female-oriented, and because women get married and have children, they tend to be sort of in and out of the work picture. So greater male involvement in these professions will eventually mean a labor force that's more stable."

But Dr. Points has reservations. "I think we've overworked the idea of the discharged medical corpsman as the answer to everything," he says. "The idea is to get the educational system to do the same thing the military has done. I can see these programs training corpsmen outside the military. In fact, I can see the military recruiting them into the service after they have a baccalaureate degree, when they wouldn't need much more training."

Recruiting former medics has been approached in a number of ways. The methods used by the Duke and Medex programs have probably been most successful. "The secret is using the servicemen's newspapers," says Dr. Howard. "We just send the Army, Navy, and Air Forces *Times* an announcement when we have openings. They run the information in their educational supplemental, and the inquiries come pouring in." For this year's class of 40 trainees, Duke received 3,500 inquiries, 500 applications.

Dr. Smith used a more personal approach. "We went to a number of military installations where there were corpsmen and got in touch with a few key people. We spelled out the requirements for selection. Basically, they were that a man be getting out of the service by last June, and that he and his family be willing to live and work in a rural area. We soon had an informal communications network stretching from Vietnam to West Germany, and applications poured in."

Altoona (Pa.) Hospital officials began at a nearby military hospital Project Transition office, the Defense Department's program to help place men leaving the service in civilian jobs. The hospital's representative obtained information on medical personnel about to leave the service. He visited two Army hospitals and one Navy installation, wrote to a number of others, and had posters distributed at a number of bases. The hospital received 60 inquiries in as many days from corpsmen who hoped to stay in medicine.

Joseph Donovan, executive director of the Santa Clara County (Calif.) Medical Society, has had most success by using press, radio, and TV advertising to inform corpsmen and their families of opportunities for training.

Placing the graduates is easier than recruiting them. Dr. Smith chose employers for his Medex trainees before he selected candidates. After both groups were selected and had met each other, physicians and Medex were carefully matched—even the compatibilities of their wives were considered. Each physician preceptor is training his Medex for his own practice. Salaries are to range between $8,000 and $12,000 a year depending on the practice.

The Duke graduates, too, are spoken for. "They all have jobs long before they get out," says Dr. Howard. "People start clamoring for them too early, as far as I'm concerned." Of the 29 graduates, 14 are working at the medical center (largely so that their training can be evaluated), and 15 are with physicians in private practice.

Results, so far, are encouraging. "At this point they've exceeded our expectations," says Seattle's Dr. Smith. "Some patients come in and ask to see the Medex, or call to make an appointment to see him. When they have a minor complaint, they don't want to bother the busy doctor. One thing that really got to me was a little notice put into a local paper in eastern Washington by a woman who had just gotten out of the hospital. She wanted to thank the staff of the hospital and most especially Dr. X and Medex Y. To those of us on the staff that was very significant. It meant the Medex is recognized as an integral part of that medical team."

FIGHT OVER THE NATIONAL FORESTS

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 4, 1970

Mr. DINGELL. Mr. Speaker, two of the Nation's great newspapers today have raised strong editorial objections to H.R. 12025, the proposed National Forest Timber Conservation and Management Act, which the House is scheduled to consider on Thursday, February 5.

The New York Times says the proposed act would allow the "great tracts of nationally owned timberland to be subjected to heavy cutting pressure in contravention of established Forest Service practices."

The Washington Post points out that vital information on timber supplies is not available at this time to the Members of the House and suggests that at the very least a vote should not come until this information is available. The information in question is the report and recommendations of the President's task force on housing and timber needs.

What is the issue facing the House?

The Washington Post:

Congress is facing an early test of its concern over protection of the environment.

The New York Times:

If Congress is as dedicated to the protection of the environment as its spokesmen daily say it is, it will defeat this bid for preferential treatment of a single commercial interest at the expense of the national interests.

I insert the texts of the two editorials at this point in the RECORD:

[From the Washington Post, Feb. 4, 1970]

FIGHT OVER THE NATIONAL FORESTS

Congress is facing an early test of its concern over protection of the environment. The House has before it a national timber supply bill which, many conservation groups believe, would raid the national forests in an effort to reduce lumber prices. The measure was approved by the House Agriculture Committee at the behest of the home builders and the timber industry as a stimulus to the growing and cutting of timber to sustain expanded home construction. But conservationists fear that it will intensify the pressure on the national forests with grave consequences to watersheds, wildlife, human recreation and the ultimate supply of timber itself.

The motive behind the bill is undoubtedly a worthy one. It recognizes that an enormous increase in the supply of timber will be needed in the years ahead to support a larger housing industry and other essential building and seeks to intensify use of the national forests for this purpose. The country is still growing timber a little faster than it is being cut, but experts expect the cutting rate to exceed the growing rate within a few years, and not much is being done about it. At least 5 million acres of national forest land ought to be replanted and 13 million additional acres need improvement of one kind or another. It is estimated that $200 million per year is needed to bring these forests into full production under the approved multiple-use, sustained-yield policy now followed by the Forest Service, but less than half that sum is available.

Almost everyone seems to be in agreement that rehabilitation of the national forests should no longer be delayed. But there the agreement ends. The conservationists fear that, even though larger outlays for planting, stand-improvement and so forth are contemplated in the bill before the House, it would lead to intensified cutting too soon. Sponsors of the bill insist that it would give no new authority to the Forest Service, that multiple use would be retained and land management improved, and that cutting would not be stepped up until justified by additional planting. But Section 7 of the bill seems to authorize new programs, heavier cutting and revision of the rotation rate in timber growing which many regard as incompatible with sound forest management.

The House should know what it is doing before it ventures into this quagmire. It is true that the Agriculture Committee substantially improved the bill, but ambiguity remains. The least that can be asked is that Congress wait for the recommendations of the President's task force on housing and timber needs. It is said that the report of the task force has been completed and is under scrutiny by department heads before being sent to Capitol Hill.

The issue is not merely one of providing new timber supplies, vital though that objective is. Since any change of policy in the national forests will have an impact upon recreation, grazing, water supply and the environment as a whole, it must be scrutinized from the viewpoint of the general welfare. If this requires a good deal of time, a proper start could be made by providing more funds for improvement of the forests, while leaving the controversial problem of cutting more timber until the new growth is under way.

[From the New York Times, Feb. 4, 1970]

WHOSE FOREST PRIMEVAL?

A projected raid on the national forests, up for vote in the House this week, is reminiscent in some ways of the "lumber baron" days of the nineteenth century—though much more subtle. The so-called National Timber Supply Act would allow these great tracts of nationally owned timberland to be subjected to heavy cutting pressure in contravention of established Forest Service practices and in disregard of long-range conservation aims.

By making maximum yield the prime consideration in logging, the national forests, the House measure would destroy the principle of balanced—or multiple—use. Besides providing timber, as they should within reason, these public preserves play a vital role in protecting watersheds, supporting fish and wildlife and providing vast recreational opportunities that would be seriously damaged by this dangerous proposal. Of the 97 million acres that would be opened up to high yield forestry, an estimated 6 to 8 million acres of potential addition to the national wilderness system would be lost forever.

If Congress is as dedicated to the protection of the environment as its spokesmen daily say it is, it will defeat this bid for preferential treatment of a single commercial interest at the expense of the national interests.

SILVER COINS

HON. JAMES A. McCLURE

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 4, 1970

Mr. McCLURE. Mr. Speaker, last year the Treasury Department recommended the removal of all silver from our coinage. Unfortunately, the House Committee on Banking and Currency, and later the House itself, endorsed this proposal.

One of the arguments advanced at that time was an allegation that coins of value are no longer being minted in other countries and that the use of silver, even for commemorative purposes, is a thing of the past.

I would like to point out, Mr. Speaker, that the Vatican City is issuing a 500-lire coin in silver commemorating Pope Paul VI. His image appears on the coin. Although the information we have does not say so specifically, I assume that this is similar to previous issues by the Vatican of 500-lire coins which have had a fineness of 835 silver and 165 copper with a gross weight of 11 grams. In 1967 a previous issue of this denomination was minted and 110,000 coins were struck.

Furthermore, the African Republic of Guinea has issued four silver coins in 1969 in honor of Martin Luther King, John F. and Robert F. Kennedy, the moon landing, and the 1972 Olympics. The denominations are 100, 200, 250, and 500 Guinea francs. These coins are being offered to the American public through coin dealers.

There are many other instances of silver coins being offered throughout the world and I intend to bring them to the attention of the House in the next few days.

JEFFERSON, LINCOLN, ROOSEVELT—ALL WHITE SUPREMACISTS

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 4, 1970

Mr. RARICK. Mr. Speaker, we have heard loud protests from the leftists over remarks attributed to the latest Supreme Court nominee.

Despite his current crawling recantation, it seems clear that at one time he recognized and publicly stated his views on racial separation—that is before the Warren court amended the Constitution in 1954.

Perhaps it is well to point out a little truth at this time. White supremacists are in good company.

Thomas Jefferson, author of the Declaration of Independence and father of the Democratic Party, wrote in his autobiography that "the two races equally free cannot live in the same government"—a thought which was censored when the first part of the same sentence was carved in the Jefferson Memorial here in Washington.

Abraham Lincoln, the great emancipator and father of the Republican Party, whose Emancipation Proclamation was a political appeasement of the radical Republicans and, by its own terms, freed no one, consistently held that inherent differences would "forever forbid the two races living together on terms of social and political equality."

We are indebted to David Lawrence for reminding us of the truth at this particular time, and for his query as to whether either Jefferson or Lincoln was so un-

American that he should not hold a position of high trust in his Government.

I include the Lawrence editorial in my remarks:

WHAT PRESIDENTS ONCE SAID ABOUT RACIAL EQUALITY

(By David Lawrence)

The controversy recently about Judge G. Harrold Carswell's speech which he made in 1948 in favor of segregation—six years before the Supreme Court ordered desegregation in the public schools—prompts a re-examination of just what was said in public speeches and in utterances of Presidents of the United States on the general subject of racial equality prior to the Court's ruling in 1954. Here are some extracts:

Thomas Jefferson, in a letter to Francois Jean de Chastelleux on June 7, 1785:

"I have supposed the black man, in his present state, might not be in body and mind equal to the white man; but it would be hazardous to affirm that, equally cultivated for a few generations, he would not become so."

Jefferson's Autobiography, published in 1821:

"Nothing is more certainly written in the book of fate than that these people are to be free; nor is it less certain that the two races equally free, cannot live in the same government. Nature, habit, opinion have drawn indelible lines of distinction between them."

Abraham Lincoln, in a speech at Ottawa, Ill., on Aug. 21, 1858:

"I have no purpose to introduce political and social equality between the white and the black races. There is a physical difference between the two, which in my judgment will probably forever forbid their living together upon the footing of perfect equality, and inasmuch as it becomes a necessity that there must be a difference, I, as well as Judge Douglas, am in favor of the race to which I belong having the superior position.

"I have never said anything to the contrary, but I hold that notwithstanding all this, there is no reason in the world why the Negro is not entitled to all the natural rights enumerated in the Declaration of Independence, the right to life, liberty and the pursuit of happiness. I hold that he is as much entitled to these as the white man. I agree with Judge Douglas, he is not my equal in many respects—certainly not in color, perhaps not in moral or intellectual endowment. But in the right to eat the bread, without leave of anybody else, which his own hand earns, he is my equal and the equal of Judge Douglas, and the equal of every living man."

Abraham Lincoln, in a speech at Charleston, Ill., on Sept. 18, 1858:

"I will say then that I am not, nor ever have been in favor of bringing about in any way the social and political equality of the white and black races—that I am not nor ever have been in favor of making voters or jurors of Negroes, nor of qualifying them to hold office, nor to intermarry with white people; and I will say in addition to this that there is a physical difference between the white and black races which I believe will forever forbid the two races living together on terms of social and political equality. And inasmuch as they cannot so live, while they do remain together there must be the position of superior and inferior, and I as much as any other man am in favor of having the superior position assigned to the white race. . . .

"I will add to this that I have never seen to my knowledge a man, woman or child who was in favor of producing a perfect equality, social and political, between Negroes and white men."

Theodore Roosevelt, in his Seventh Annual Message to Congress on Dec. 3, 1907:

"Our aim is to recognize what Lincoln pointed out: The fact that there are some respects in which men are obviously not equal: but also to insist that there should be an equality of self-respect and of mutual respect, an equality of rights before the law, and at least an approximate equality in the conditions under which each man obtains the chance to show the stuff that is in him when compared to his fellows:"

William Howard Taft, in his Inaugural Address on March 4, 1909:

"The colored men must base their hope on the results of their own industry, self-restraint, thrift and business success, as well as upon the aid, comfort and sympathy which they may receive from their white neighbors."

Franklin Delano Roosevelt, in a letter to Cleveland G. Allen on Dec. 26, 1935:

"It is truly remarkable, the things which the Negro people have accomplished within living memory—their progress in agriculture and industry, their achievements in the field of education, their contributions to the arts and sciences, and, in general, to good citizenship."

Harry S. Truman, to the Democratic National Convention in 1940:

"I wish to make it clear that I am not appealing for social equality of the Negro. The Negro himself knows better than that, and the highest type of Negro leaders say quite frankly they prefer the society of their own people. Negroes want justice, not social relations."

How many of the foregoing statesmen could be confirmed as Justices of the Supreme Court today if their statements of earlier years such as the above were cited against them by members of the Senate?

DR. CHARLES MAX COLE SPEAKS ON MEDICAL PROGRESS

HON. JAMES M. COLLINS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 4, 1970

Mr. COLLINS. Mr. Speaker, Dr. Charles Max Cole, president of the Texas Medical Association, made a compelling speech before the Texas Medical Association's 1970 Conference on Medical Service on January 17 in Austin. Dr. Cole's speech "The 1970's; New Vistas and Challenges for Texas Medicine" cites the role that doctors and medicine should play in the challenging 1970's.

We are all proud of the great contributions in medical research and development that have come to us in recent years through our great doctors. And, with strong private medicine, we can expect similar progress in the seventies. This is highlighted in these sections of the address by Dr. Charles Max Cole:

THE 1970'S; NEW VISTAS AND CHALLENGES FOR TEXAS MEDICINE

It has become popular at the beginning of each new decade for an organization such as ours to look back upon the previous ten years and assess the accomplishments and progress and then to look forward into the next decade and make predictions of great things to come. The decade immediately finished was widely heralded as the "soaring sixties" and indeed many things of tremendous import to mankind occurred in the fields of medicine and science. 1960 saw the introduction of the first oral contraceptive. The disease poliomyelitis has already been staggered by the Salk vaccine and in 1961 the finishing blows to eradicate this disease were delivered with the approval of the Sabin oral live virus vaccine. In 1963 two red measles vaccines were licensed and as the decade drew to an end there followed an effective vaccine against German measles, the disease that had been blamed for so many birth defects. Many chemotherapeutic agents directed at cancer were introduced in this decade, some of which show great promise to leading to ultimate control of at least some forms of cancer.

There were a number of other new drugs introduced but the flood of new drugs that characterized the previous decade ended abruptly with the thalidomide disaster which rocked the medical world in 1962 and led to the adoption by Congress of stringent legislation giving the Federal Drug Administration new powers over the control of new drugs.

The field of organ transplants reached its peak in 1968 and then declined as the moral, ethical, and legal implications and complications received greater attention. Some of the more far reaching changes in the medical world occurred in the political and socioeconomic areas and these changes and proposed new changes may well present our greatest challenge in the 70's. During this decade just past there has come an increasing awareness of environmental factors in health. We have begun to be aware of the population increase projections for the future and many feel that this population explosion may well be mankind's greatest problem in the very near future.

PEOPLE POLLUTION

We have heard much about water pollution, air pollution, food pollution, noise pollution, and radiation pollution of our environment. A new term, with intriguing implications, "people pollution" is coming into current usage and we shall hear more and more of it in the very near future. It refers to the ill effects of overpopulation. In spite of the dire predictions for the future we remain rather apathetic about the dangers of overpopulation. Currently population is increasing almost three times as fast as food production and over the world at the present time 3½ million people die each year of malnutrition. Next year the U.S. population will reach 210 million. Two years later it will be 10 million more. According to the United Nations estimates, the world's population, now about 3½ billion, will shoot up past 6 billion before the end of this century, only thirty years away. The U.S. population is expected to reach 300 million by that time, requiring the creation of the equivalent of a new city of 250 thousand people every month for the rest of the century. It is further predicted to increase another 100 million within the first 40 years of the next century!

Most of us have felt that the dangers of this population increase are for future generations to worry about and that the chief concern will be that of producing enough food. We also have faith in our technological skills and expect breakthroughs in food production somehow to feed these enormous masses. We also feel this problem is chiefly one for the underdeveloped nations, which do indeed increase their populations much faster than do we.

But there is no comfort in any such wishful thinking, for the "people pollution" of the crowded areas is already with us and will be a major problem for physicians in the coming decade. Animal studies show that crowding animals together in the laboratory produces measurable ills:

1. The sex act, generally surrounded with intricate courtship rituals by most animals, become a nervous quick brutal obsession.

2. Homosexuality among males, virtually

unknown in almost every mammalian species in the free state, makes its appearance.

3. Females begin to lose their capacity to build nests and to take care of their litters. Mothers kill and maim their young, and spontaneous abortion appears to be more frequent.

4. Instances of brutality and fighting among animals are far more frequent.

Some studies among humans present interesting findings. In one such study the mortality rate during the first year of life was 60 for each 1000 births in families with one or two children. But in families with three or four children the death rate rose to 90 per 1000 and in families with 10 or more children it rose to 300 per 1000 births. The "battered child syndrome" is a relatively new entity and appears primarily in the population centers. It seems clear that the sky rocketing crime rate and the appalling increase in drug abuse are evidences of "people pollution." Neuropsychiatric disorders seem almost certain to increase with our continued urbanization and there is already evidence that many contagious diseases, almost under control a few years ago, are again on the increase.

PUBLIC IMAGE

Over the years in my activities with the Texas Medical Association and my own county society I have repeatedly heard the cry from my fellow physicians that our profession needs better public relations. Invariably these individuals speak as if public relations is a purchasable commodity on the open market. A skilled public relations counsel can be helpful and we have had the benefit of some of the best at the national level. Our profession has traditionally been strong in its public relations. Polls indicate doctors rank first in public esteem among professional people. But the charges and attacks made upon us in recent years might well be considered a conspiracy designed to weaken our influence in every area and particularly the political area.

I, like most of you, become furious when unproved and irresponsibly made charges, such as those released last summer by the Senate Finance Committee in regard to Medicare and Medicaid, make front page news stories, and our rebuttals, if printed at all, are buried inconspicuously on the back pages. Newspapers give space to articles on the basis of reader appeal and interest. And no one can deny that the stories released by the Senate Finance Committee charging physicians with making hundreds of thousands of dollars from the Medicare and Medicaid programs had such interest. The fault here lies primarily with the Senate Finance Committee which brings us again to the importance of our activity in politics. A responsible and fair minded committee would not have released such stories or made such charges without first arriving at all the facts.

Our good public image cannot be maintained through artificial efforts just as it was not first achieved in this way. The high regard that the people of this nation have for their physicians is based upon the generations of dedicated service by physicians. In the modern day we are rendering the same effective and dedicated service but we are not doing it under the hardships that are known to have existed in past generations. Most physicians are well fed, well clothed, well housed, and well transported in this affluent age. We are vulnerable to the critic. Our professional skills are not challenged, so our rebuttal must come in the form of increased service outside the professional realm. Society today is beset by many very serious problems. Some of the more serious are the increasing crime rate, the appalling extent of drug abuse, and the weakening of our moral values. If these and many other of our community problems are to be solved, and solved they must be, it will be through the combined and concerted efforts of aroused and interested and dedicated citizens. Physicians must be among the leaders in such community activities. We are certainly concerned about these problems and we must not let ourselves be too busy to do our part. And, incidentally, no better way could be found for improving the public image of our profession than by its widespread community involvement in this way.

PLANNING FOR THE FUTURE

As we move into the 70's it seems clear to me that we will face challenges even more severe than those encountered in the late 60's. I have great faith that many important medical discoveries will result from the intensive research now being carried on and that we will see many dread diseases either controlled or palliated. I do not doubt the professional skill that we will offer to our patients in the coming years for I believe our medical schools and teaching hospitals will do an even better job in this area and that we will see increasing emphasis on continuing medical education, with the development of new techniques of teaching that will be available to the practicing physician in both large and small communities enabling him to remain current in his medical knowledge and skill. I am, however, fearful that we will see an overwhelming increase in demand for medical services in the next few years and that we may well find ourselves unable to meet this demand. What happens then is my greatest concern.

We need, in the most urgent way to engage in long range planning so that we may anticipate the demands that will be made upon us and devise our own methods of responding to them. The production of physicians and other trained health personnel is lagging behind demand even at present levels. The increase in our population will accentuate this shortage. Wider inclusion of population segments in either government health programs or private health insurance coverage, together with broader benefits in both types of coverage, will further add to the demand for health services and compound the shortage.

I am convinced that if we devote our full energies to this task and remain open minded and willing to face clear realities we can meet the demands of the 70's, still protecting the cherished freedom of our profession and maintaining the fee for service, private practice concept of medical care delivery that respects and cherishes the individual doctor-patient relationship. The challenges of the 70's are of such magnitude that we dare not turn away from them.

COLLEGE PRESIDENT SUPPORTS HEW APPROPRIATION VETO

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 4, 1970

Mr. FINDLEY. Mr. Speaker, the president of one of the great coeducational colleges of the Middle West wrote to me on January 30 with words of support for President Nixon's veto of the HEW appropriation bill. Here are his words:

I simply want to express my complete approval of your action in helping to sustain President Nixon's veto of the HEW appropriation. Inflation is doing much more danger to education than could ever be remedied by appropriations such as were envisioned in the larger amounts proposed by Congress for distribution to education. Unless we can choke off inflation, it will do little good to give us more and more cheaper and cheaper money. I am sorry many of my colleagues seem to have been on the other side of the fence, but I think they were short-sighted.

While I am not satisfied at all with the priorities of expenditures of the Federal Government, I am convinced that inflation unless checked will produce such havoc that it may even endanger the future of the nation.

HAZARDS OF NUCLEAR ENERGY

HON. RICHARD D. McCARTHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 4, 1970

Mr. McCARTHY. Mr. Speaker, one of the most important steps taken in controlling the hazards of nuclear energy was adoption of the limited Nuclear Test Ban Treaty. This treaty was adopted by most of the nations of the world so that present and future generations would not be harmed by radioactive fallout. This was a useful step in restoring nuclear sanity.

I am, therefore, deeply disturbed to learn that the United States refuses to determine whether our underground nuclear testing program has resulted in violation of the 1963 Nuclear Test Ban Treaty. The United States became a party to this treaty on October 10, 1963.

Article I, section B of this treaty explicitly prohibits signatories from conducting tests "if such explosion causes radioactive debris to be present outside the territorial limits of the state under whose jurisdiction or control such test is conducted."

On December 8, 1968, the Atomic Energy Commission conducted an underground test at a site in Nevada as part of its plowshare program. This nuclear explosion, called Project Schooner, was monitored by the U.S. Public Health Service to determine levels of radioactivity. As the debris flowed northward, the level rose sharply. Forewarned of the changes in atmospheric conditions, Canadian health officials also noted a sharp rise in radioactivity levels in Montreal and Ottawa; from one-tenth picocurie per cubic meter to 2 picocurie per cubic meter.

What this means is that the level of radioactive disintegration of atmospheric particles was 20 times the normal rate in Canada. While not at a point to be dangerous to public health, it constitutes a clear infraction of the treaty. It can also be noted that the levels at various points in the United States were several hundred times the normal rate.

Although it was determined that the rise was not dangerous, the fact remains that nuclear debris crossed an international frontier, as a result of the Schooner test conducted by the U.S. Atomic Energy Commission.

In view of the questions that have arisen surrounding this incident, it would seem logical that the responsible Federal agencies would have conducted a thorough investigation to determine if a violation had indeed taken place. I wrote to Secretary of State William P. Rogers asking whether the Test Ban

Treaty had been violated. In my letter of January 7, 1970, I asked what steps had been taken to investigate the results of the test. I assumed that his response would either substantiate the charges, or show proof that no violation had occurred.

Much to my surprise, I received a response on January 21, 1970, which in essence, fails to answer my questions. I was merely told that former Atomic Energy Commission Chairman Glenn Seaborg told the Foreign Relations Committee on February 18, 1969, that in his view, there had been no violation. There was no indication as to whether the State Department believed the treaty had been violated.

I had hoped to receive a more conclusive response; not one which contributes to the confusion. Either the executive branch should admit that a violation did occur, or proof should be given to refute the charges. I am deeply disturbed that a violation may have occurred in the past, but I am even more concerned that steps be taken to assure that the possibility does not arise in the future. I have received no assurances that this is being done.

This is not a matter to be taken lightly. It involves the integrity of the United States. It involves our commitment to protect future generations from the dangers of nuclear fallout and it involves our willingness to abide by our international obligations.

In addition, the possible treaty violation raises questions about the whole plowshare program. I am no longer confident that the Atomic Energy Commission can use nuclear explosions for peaceful purposes in a way which will not violate international obligations or otherwise harm the environment.

The refusal of the Atomic Energy Commission and the State Department to be candid about Public Health Service facts prompts me to suggest that a thorough examination of the whole plowshare program be undertaken.

President Nixon in his state of the Union message placed the highest importance on the protection of our environment. Central to that concern is the question of protection from radioactive fallout. There is no room for mistakes or complacency about accidental nuclear discharges. I have, therefore, again asked Secretary Rogers whether he considers the accidental discharge following the Schooner explosion a treaty violation or not.

I have also written to Senator WILLIAM FULBRIGHT, chairman of the Senate Foreign Relations Committee, asking that the committee hold hearings on the United States' obligations under the Test Ban Treaty. If the treaty lacks sufficient clarity then perhaps the United States may wish to initiate steps to modify the treaty, as provided by article II.

Ratification of the Nuclear Test Ban Treaty was one of the first steps in restoring sanity to our use of nuclear energy. Now today a number of scientists believe that we have sufficient skill to detect any significant violations of such a ban. I believe that we should move in this direction as rapidly as possible. Violations of the partial Test Ban Treaty pose a serious threat to future progress in this field.

Mr. Speaker, the recent budget message allocates $8 million to the Atomic Energy Commission for civilian applications of nuclear explosives. A large part of this is proposed for further field testing for natural gas production stimulation. This is a sharp drop from the $14.5 million spent in fiscal 1970, and reflects a suspension of cratering shots. Underground excavation test will continue.

To date, two underground explosions have been carried out in order to stimulate natural gas deposits.

"Gasbuggy" was conducted by the El Paso Natural Gas Co. in cooperation with the Department of Interior and the AEC on December 10, 1967. "Rulison" was carried out by the Austral Oil Co. in September 1969, in central Colorado.

The results of "Gasbuggy" indicate that it might be economically feasible to tap gas sources by nuclear explosion. However, almost nothing is known about the ecological effects this 26 kiloton detonation will have in the long term.

The "Rulison" cavity is capped, and will not be opened at least until a lawsuit regarding its legality is resolved.

The El Paso Gas Co. is now negotiating with the AEC for an underground test in the Pinedale field of Wyoming. Of higher magnitude than the previous two, this exploson to be called "Wagonwheel," is the kind which is causing concern among scientists who fear they will have adverse effects on our environment.

Dr. Kenneth Pitzer, former research director of the Atomic Energy Commission, has stated:

> Although the possibility that underground nuclear tests might initiate one or more earthquakes has been suggested in the past, new and significant evidence demonstrates that small earthquakes do actually occur both immediately after a large-yield test explosion and in the following weeks. The largest of the observed associated aftershocks have been between one and two magnitudes less than the explosion itself. However, there does not now appear to be a basis for eliminating the possibility that a large test explosion might induce, either immediately or after a period of time, a severe earthquake of sufficiently large magnitude to cause serious damage well beyond the limits of the test site.

The Joint Committee on Atomic Energy has been considering proposed legislation which would permit the Atomic Energy Commission to provide detonation services to private companies for commercial use. Those who have testified, including AEC officials, readily admit that technology is still in the research and development stage; commercial exploitation is simply not feasible at the present time. It seems clear that such authorization is premature.

I, therefore, urge that all further test explosions be suspended until the long-term results of the previous two are fully analyzed. The joint committee should likewise postpone acting on legislation authorizing commercial nuclear shots until ecological factors are resolved.

I insert the letters and table in the RECORD at this point:

JANUARY 7, 1970.

Hon. WILLIAM P. ROGERS,
Secretary, Department of State,
Washington, D.C.

DEAR MR. SECRETARY: On the NBC "First Tuesday" show of January 6, 1970, reference was made to a Project Schooner test by the Atomic Energy Commission in December 1968.

According to the television report, nuclear material from this test drifted northward from the Nevada site and fell into Canada, in violation of the 1963 Nuclear Test Ban Treaty.

I would be grateful if you would inform me whether this allegation is true. If so, what steps were taken by the governments of Canada and the United States to investigate the incident? Could you also tell me whether the Senate Committee on Foreign Relations was informed of the incident?

I appreciate your attention to this matter.

Sincerely,

RICHARD D. MCCARTHY,
Member of Congress.

JANUARY 21, 1970.

Hon. RICHARD D. MCCARTHY,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN MCCARTHY: The Secretary has asked me to reply to your letter of January 7, 1970 concerning the accuracy of the statement made on a recent television show that nuclear material from Project Schooner, a test by the Atomic Energy Commission in December 1968, drifted into Canada in violation of the Limited Test Ban Treaty.

The Executive Branch wishes, of course, to preserve the full integrity and effectiveness of the Limited Test Ban Treaty. As you are probably aware, the Treaty, as well as its history, is subject to some variance in interpretations. Concerning Project Schooner, Chairman Seaborg of the Atomic Energy Commission in a joint appearance with Secretary Rogers before the Senate Foreign Relations Committee on February 18, 1969, in response to a question from Senator Fulbright, stated his view that there was no violation of that treaty.

If we can be of assistance to you at any time, please do not hesitate to let me know.

Sincerely yours,

H. G. TORBERT, Jr.,
Acting Assistant Secretary for Congressional Relations.

JANUARY 28, 1970.

Hon. WILLIAM P. ROGERS,
Secretary, Department of State,
Washington, D.C.

DEAR MR. SECRETARY: Thank you for the response of January 21 from Acting Assistant Secretary Torbert regarding my inquiry about a possible violation of the 1963 Nuclear Test Ban Treaty.

I regret that his answer did not respond to my question. I am aware that former Atomic Energy Commission Chairman Glenn Seaborg was of the opinion that no violation occurred as a result of the December 8, 1968 Project Schooner shot.

However, information obtained by the Public Health Service between December 8 and 14, 1968 indicates that radioactive debris drifted into Canada from the United States following the Schooner shot. Since the Department of State has the responsibility to interpret U.S. treaty obligations, I would appreciate knowing whether you, as Secretary of State, are of the opinion that an infraction of article III(b) of the treaty occurred at this time.

Sincerely,

RICHARD D. MCCARTHY,
Member of Congress.

RADIATION LEVELS FROM U.S. PUBLIC HEALTH SERVICE SAMPLE RADIATION LEVELS FROM SCHOONER (1100 EST, DEC. 8, 1968)

Station	Sample date	pCi/m³ [1]	Normal background [2]
Salt Lake	Dec. 10 a.m.	166.2	0.6
Denver	Dec. 10 a.m.	159.1	1.7
	p.m.	172.2	
Boise	Dec. 10 a.m.	409.0	1.3
	p.m.	458.0	
	Dec. 11 a.m.	98.0	
Helena	Dec. 10 a.m.	180.0	.65
	p.m.	151.0	
	Dec. 11 a.m.	85.0	
Pierre	Dec. 10 a.m.	44.0	1.8
	Dec. 11	65.0	
Cheyenne	Dec. 10	171.0	1.4
	Dec. 11	14.0	
Phoenix	Dec. 12	41.0	[3] 8.7
	Dec. 13	27.0	
Spokane	Dec. 10	44.0	.9
Gastonia	Dec. 12	37.0	[4] 2.5
Montreal	Dec. 13–14	2.0	.1
Ottawa	Dec. 13–14	2.0	.1

[1] The unit by which radioactive disintegration is measured.
[2] January 1968 figure.
[3] Wide fluctuations, probably not reliable.
[4] With typically wide fluctuations.

YALE AND TREES

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 4, 1970

Mr. ROSENTHAL. Mr. Speaker, we all recall during the first 6 months of 1969, when the price of lumber went sky high. In many cases, the price paid for logs from our public forests by various lumber manufacturing firms was nearly twice what it had been before. There were many causes for this temporary "shortage," including such things as a long fire season, heavy winter snows which restricted normal cutting operations, a boxcar shortage, and a longshoremen's strike, which prevented the unloading of lumber when it was needed.

During this crisis, 1 year ago, we were told by representatives of the timber industry that the only way to ease the supply problem and to insure a steady supply of lumber for housing purposes would be to pass the so-called timber supply legislation, which was designed to vastly increase the amount of timber cut from our virgin forests on public lands. We were also told that one of the major reasons for the housing shortage was the high cost of lumber which was driving the cost of houses beyond reach.

Mr. Speaker, last summer and fall, lumber prices took a tremendous drop, and are now down to well below the levels of a year ago. The market has greatly normalized. And yet our housing crisis continues. To me it is plain that the housing crisis has nothing to do with the availability of a supply of lumber. This is only a small component of the overall price of a total house. The main factors which are causing the housing crisis right now are tight money, the rising price of land, and the rising cost of labor. The price of materials, and lumber is only one of these, while important, is a relatively small component of the price of a house.

Therefore, I would urge my colleagues to take a close look at the timber supply legislation, and the arguments that we need it in order to improve the housing situation.

I commend to my colleagues the following analysis of the bill by Yale University Legislative Service:

YALE LEGISLATIVE SERVICE REPORT

(Analysis of H.R. 12025—National Forest Timber Conservation and Management Act of 1969)

I. Summary:

The bill should be rejected because it is a serious threat to the management of the National Forest and the public interest. It threatens to sacrifice the public recreation, wildlife, watershed and range management in order to increase the cash sales of timber from the National Forest, contrary to the Multiple Use Sustained Yield Act of 1960. It is a piecemeal attack on lumber shortages which are not now pressing, and which should rather be met by a comprehensive program now under preparation.

II. What the bill is:

1. *The High Yield Fund*—the bill would require all receipts from the sale of timber, and the National Forest to be deposited in a special fund, the proceeds of which may be used for a single purpose only: to increase the timber sales from the National Forests.

2. *Intensive Forestry*. Several provisions of the bill, taken together, have the effect of requiring the Forest Service to emphasize maximum timber production in the management of the National Forest, similar to the practices employed in the management of the forest of private timber companies.

III. Reasons given for the bill:

The reason urged for passing this bill is that there is or will be a serious shortage of lumber in the nation, and that it is necessary to increase the supply of lumber by greatly increasing sales of timber from the National Forest. There were two principal facts used to support the existence of the shortage.

1. Lumber prices rose considerably in early 1969;

2. Long-term projections of new housing starts and of economic growth mean that the demand for lumber will increase.

IV. Why the bill should not pass in its present form:

1. *Multiple Uses*—the bill in its present form is destructive of the principle expressed in the Multiple Use Sustained Yield Act; namely, that the National Forest should be so managed as to promote equally five public uses: public recreation, protection of wildlife and watershed, range and timber sales. The bill does refer to the necessity of conformity with the act. Yet if it were to pass, it is estimated by supporters that it would earmark approximately $229 million in 1970 for the single purpose of increasing timber sales, out of a total budget for the National Forest of only $372 million. As the Secretary of Agriculture said in a letter to the Agriculture Committee, if the bill should pass "there could be a difficulty financing the other parts of the National Forest Development Program. This would effect the output of other multiple products and services . . . such as outdoor recreation opportunities, wildlife, forage, and water production."

Not only would the bill allocate an estimated 62% of the budget for the National Forest to the single purpose of timber sales, but it would give that purpose special favoritism in the financing method and a special claim to forest service attention.

Some supporters of the bill seem to think that earmarking these funds would not hurt the other program because additional funds would be found for them. If that were true, there would be no need to resort to this particular funding method because the appropriations process could provide the additional money necessary for the programs contemplated by this bill.

2. *Wilderness, Conservation, Ecology*—Several of the bill's provisions threaten principles of conservation which lately have received increasing support from the public. First, there are certain wilderness areas not under formal protection which the Secretary of Agriculture is commanded by this bill to "develop into optimum timber productivity as soon as possible." Second, the bill requires the adoption of intensive forestry practices, some of which were criticized by witnesses before the hearings. For example, the bill requires fertilization of trees, although fertilizer run-offs have been known to cause serious water pollution.

2. *The Budget*—The Bureau of the Budget has expressed reservations about the financial rigidities caused by earmarking funds in this manner.

V. Why possible lumber shortages do not require the passage of this bill:

The short term problem of high timber prices has abated, principally because its causes were certain temporary dislocations. Prices have fallen recently as fast and as far as they rose earlier, and supplies of lumber appear adequate for the time being. In the long term, the National Forest alone cannot supply the predicted increase in demands. The greatest possibilities for increased timber production are under the 60% of the nation's forest lands held by small farmers and other owners.

The Agriculture Department is making a study to develop ways to increase production on all lands, including these small tracts, and any action on this bill should await the presentation of a coherent plant to the Congress.

Therefore, only that part of the bill which requires such a study to be made should be approved. The effort to meet the nation's future timber need solely from the National Forest which have the most other competing claims upon them should be resisted.

NEGROES RIOT—OPPOSE FORCED INTEGRATION

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 4, 1970

Mr. RARICK. Mr. Speaker, current news stories from Washington, from Maryland, and from Florida continue to support the view that forced race-mixing just will not work in a democratic society.

Those who have hitched themselves politically to the integration wagon are having a rude and rather embarrassing awakening. The Negroes do not want to mix any more than do the whites.

The NAACP, which has never yet had a black president, is in the position of having to ask a U.S. district court in Florida to enforce against Negroes the mixing order which it gave the NAACP when it claimed to represent the Negroes as a class.

In Washington, Negroes boycott the only two public schools in the District which have a semblance of integration—40-percent white—because Bach and other great musicians did not write "soul" music.

And the Maryland Human Relations Commission finds it necessary to probe even the elementary schools because of "student unrest" and "lack of under-

standing of black students' problems" which are said to present real problems, even in primary schools.

I include the following pertinent newsclippings in my remarks:

[From the Washington Post, Feb. 1, 1970]

BIAS UNIT TO PROBE SCHOOLS

The Maryland Human Relations Commission is initiating the first official statewide study of student unrest in high schools, with particular emphasis on schools in Prince Georges County and elsewhere that have had racial incidents.

Commission Chairman William H. Adkins II said yesterday that the study could even extend to the primary school level in certain instances. Adkins said he hoped the study could be completed by the end of the current school year, so that recommendations could be implemented by the start of the school term next fall.

Adkins said that commission staff members will interview teachers, administrators, students and parents in the study. He said the study would give priority to such Prince George's County high schools as Bladensburg and DuVal, which had racial difficulties this school year.

"We do feel that student unrest at high schools and perhaps at the primary school level is a real problem."

Adkins said that student unrest "is not just an urban or suburban problem." He pointed to a recent incident in Aberdeen High School in Harford County as an example of a similar problem in rural areas.

In that case, the commission said in a report last week, three black girls were expelled. The commission recommended they be reinstated. The commission reported that, based on interviews with students, it found, "There is a lack of adequate counseling, guidance or even understanding of black students' problems in this school."

[From the Washington Post, Jan. 30, 1970]

BLACKS RIOT IN FLORIDA SCHOOL TRANSITION

GAINESVILLE, FLA.—Several hundred black students ran screaming into the street from Lincoln High School today, stoning cars and attacking passersby in apparent frustration over the closing of their school. Police quelled them with tear gas.

At least two persons were reported injured in the outburst of violence at the school due to be closed after Friday under the Supreme Court's desegregation orders.

Several cars were damaged and school windows were smashed. One man, identified as Charles Tanner, was injured by a brick that smashed his windshield. A woman was reported dragged from her car and beaten.

After the crowd dispersed, police roped off the area and authorities cancelled Friday's classes.

Lincoln is part of a school district ordered by the Supreme Court to begin operating totally desegregated schools by Feb. 1. Under school board plans, Lincoln will be closed and its students integrated with those at Gainesville High.

The black students of Lincoln and their parents have bitterly protested the closing. In December, many of them boycotted the school to protest the closing and returned only after a judge threatened to cite them for truancy.

[From the Evening Star, Jan. 31, 1970]

BLACK STUDENTS BOYCOTT AT TWO D.C. HIGH SCHOOLS

Black students at the District's only two substantially integrated high schools—Western and Wilson—boycotted some regular activities yesterday to protest various school policies.

At Western, 35th Street and Reservoir Road NW, about 200 students attended an "unauthorized assembly" shortly after 9 a.m. after breaking locks on auditorium doors, authorities reported. The assembly was followed by a sit-in in the cafeteria, which ended when large numbers of the students began leaving around noon.

Students said they planned the assembly Thursday after school officials refused to recognize a "Student Coalition Against Racism" as a chartered activity. During the meeting, black students also complained about the transfer of a teacher who has added the Black Student Union and about suspension policies.

Asst. Supt. George Rhodes said officials were reluctant to charter the group until they were certain it would not exclude white students.

The Western students later agreed at a meeting with Asst. Principal Harvey Broyn to present a list of grievances on Monday. About 60 percent of Western's 1,200 students are black.

At Wilson, about 60 black students walked out of a music assembly in the morning to protest what they termed the lack of black cultural programs at the school, at Nebraska Avenue and Chesapeake Street NW.

About 400 black students later returned to the auditorium to discuss grievances with school officials. Interim Principal Sherman Rees said the second assembly ended shortly before noon and students returned to classes.

Wilson, the only predominantly white high school in the District, has about 500 black students out of a school population of 1,500, Rees said.

Students said they walked out of the assembly because it featured only "European" composers and did not reflect the influence of black musicians.

At their meeting with school officials, students objected to programs at past cultural assemblies and demanded the inclusion of black studies in a wide range of courses. They also asked that black students be allowed to plan future assemblies, including one to mark the birthday of Malcolm X on May 19.

SENATE—*Thursday, February 5, 1970*

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

The PRESIDENT pro tempore. It is the pleasure of the Chair to present to the Senate as guest chaplain today the Reverend James P. Wesberry, D.D., pastor of the Morningside Baptist Church in Atlanta, Ga.

The Reverend James P. Wesberry, D.D., offered the following prayer:

Gladden our lives, O God, our Father, with the light of Thy redemptive purpose. Cleanse us, we pray, from all evil. Open our hearts to Thy love which satisfies our deepest need and to Thy strength which matches our heaviest burdens. Grant that we may move in the performance of our duties as the unhurried stars in the orbit of eternity, without haste or confusion, but always with shining steadfastness. When faced with obstacles bigger than we can handle, may we find within us a spiritual power that breaks through, and when worldwide responsibilities mount upon us, may we go forward with the sureness of the mighty river that runs its destined channel to the sea.

Through Jesus Christ our Lord. Amen.

MESSAGES FROM THE PRESIDENT

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

EXECUTIVE MESSAGES REFERRED

As in executive session, 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 Armed Services.

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

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Wednesday, February 4, 1970, be dispensed with.

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

LIMITATION ON STATEMENTS DURING TRANSACTION OF MORNING BUSINESS

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

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

TEXTILE IMPORT CURBS

Mr. PASTORE. Mr. President, I note in the Journal of Commerce of Thursday, February 5, 1970, in New York, that the Honorable Maurice Stans, Secretary of Commerce, made a speech before foreign newsmen. He is quoted as having said:

> It is not possible for the United States to make an adjustment necessary to absorb the flood of textile imports.

Mr. President, I find this statement both alarming and confirming the fears of the American textile industry, yet encouraging in the administration's awareness. We who come from textile States know what has been happening to the textile industry, specifically the tremendous decline in the industry at a time when we have experienced an astronomical boom in the gross national product. So we realize just what Secretary Stans' statement means.

My experience is this, Mr. President, that American production has been declining because of the tight-money policy and because there has been a general slowdown in the economy. Nevertheless, while our production in the textile industry was sliding downward, textile imports were moving upward.

My contention is that unless we do something rather quickly to slow down this influx of textile imports, we will