participation in solving the kinds of municipal problems which are common to the entire Twin Cities metropolitan area, and to other metropolitan areas as well.

I would commend to my fellow Members the excellent article in the January 21, 1972, issue of Life magazine on the Metropolitan Council:

METRO GOVERNMENT, TWIN CITIES-STYLE

Like millions of Americans, I like my Sunday drives in the country with the family. We push past the so-called "weed belt"—former croplands held by speculators—to authentic working farms with cornfields, cows and tractors. Enjoy it while you can, I tell myself. For as matters now stand, much of my favorite scenery—and yours—is doomed by piecemeal development that is spreading outward from American cities.

It does not take geniuses to figure out graceful ways for urban regions to expand into the countryside. Several European countries have managed to save large "green belt" areas near their cities, while guiding development into well-thought-out new communities unlike the haphazard housing tracts and commercially junked-up roadsides this country has been getting. Most of our big U.S. metropolitan areas aren't organized to insure orderly development; they are organized to promote chaos.

In most areas, local government is balkanized into myriad municipalities, school districts and special-purpose authorities, all going their separate ways. There's no region-wide authority telling Township A to keep developers away from its river palisades and informing Village B that it is the logical place for a new shopping center.

There is one bright exception: the Twin Cities of Minneapolis and St. Paul and their suburbs. For four years the 1.9 million inhabitants of this fast-growing area have been living under a limited form of regional government, representing an ingenious compromise between the two extremes of metropolitanism. At one extreme are the impotent "councils of government," or "COG"s, that sprang up in the 1960s with federal encouragement. At the other is the outright merger of cities and suburbs into a supergovernment, as has happened in recent years in Jacksonville and Indianapolis.

In big metropolitan areas, a supergovernment can be a monstrosity that stifles local democracy. And it may not be necessary. A regional authority limited to dealing with regional matters doesn't have to reach down and usurp local functions—police, fire, sanitation and zoning—best performed by units close to the people. Instead, it reaches up for bits and pieces of "metro" power, some of which have been around for years.

In the New York area, for example, the Port Authority, the Metropolitan Transportation Authority and the Tri-State Regional Planning Commission are potential building blocks of a regional government. Right now, there's no real coordination of these agencies, yet they make decisions that determine how the environment will look to our grandchildren. In the Twin Cities such agencies have been brought together under a new entity called the Metropolitan Council.

The impetus for forming the council came not from political theorists but from a down-to-earth pollution crisis. As the region's population spilled out into vast new suburbs built without sewers during the '50s, water supplies were contaminated. Frantic mayors were soon calling for a metropolitan sewer authority. By the time the state legislature acted in 1967, a coalition of civic groups had successfully promoted the concept of a much broader agency.

Composed of 15 members appointed by the governor, the Metropolitan Council oversees a whole string of "metro" activities—among them watershed development, the Sewer Board, the Transit Commission and the Airport Commission. It doesn't actually run them, but it holds real power. It can veto any major project that conflicts with its plan for the region's future and, modest as that sounds, it could mean the difference between chaos and orderly development during the rest of this century. For one thing, it gives the council control over the location of future trunk sewers and mass transit routes—and thus a powerful influence over the location of new industries, shopping centers and homes.

The Metropolitan Council's regional plan, called the Development Guide, is a broad-brush blueprint that lets local governments and builders work out the details of what gets built where. The guide is based on public-opinion surveys. The council's planners have learned, among other things, that people don't want a continuation of the present formless sprawl.

The council has already started to shape the region's future. It has barred a proposed airport next to a wildlife preserve, and a search for a better site is under way. Construction of a regional sewage system is in progress, and water quality is being rescued. In a low-keyed way, the council is in the process of winning modifications of state highway plans and is trying to influence the location and design of new suburban shopping centers. The council hopes for something better than the usual shopping malls; surveys indicate that the public wants real *places*, with apartments, offices and educational institutions as well as stores. In effect, this means a limited number of "major diversified centers"—the Development Guide calls for ten—rather than too many little centers.

Elsewhere, a plan of this sort would be sabotaged as each suburb scrambled to get for itself a center and the property tax revenues it would bring. To head off this kind of competition, the Minnesota legislature recently passed an ingenious "tax-pooling" law. In the future, 40% of the property taxes from new industrial and commercial buildings will be shared by the entire seven-county region. Thus, it won't greatly matter to Township A if a "major center" is built across the line in Village B, since it will have a fiscal "piece" of *all* the new centers built in the Twin Cities area.

Does all this mean that the Twin Cities have licked the problem of suburban sprawl? It's too early to give a strong affirmative answer. The council certainly has enough negative power to prevent major ecological atrocities, but the next few years will tell whether it has enough positive power and leadership to make *good* things happen. I doubt that the council can succeed in the long run unless it is converted to a true "government," with members directly elected by the people instead of being appointed. Al Hofstede, the 31-year-old former Minneapolis alderman who serves as council chairman, agrees. "We need accountability," he says. "That's the problem of government today."

The Twin Cities experiment has begun to stir things up elsewhere. Last year the Georgia legislature created an Atlanta Regional Council embracing a five-county metropolitan area, and a bill establishing a metropolitan agency for the San Francisco Bay area passed the California assembly but died on the senate floor. In most of the U.S. the suburban explosion is still raging wildly. But now there are at least three places with a chance of bringing the explosion under control.

SENATE—*Wednesday, February 24, 1971*

The Senate met at 9:15 a.m. and was called to order by Hon. DAVID H. GAMBRELL, a Senator from the State of Georgia.

PRAYER

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

O Lord, our Governor, whose glory is in all the world, we commend this Nation to Thy merciful care, that being guided by Thy providence, we may dwell secure in Thy peace. Grant to the President of the United States, and to all in authority, wisdom and strength to know and to do Thy will. Fill them with the love of truth and righteousness; and make them ever mindful of their calling to serve these people in Thy fear; through Him who is King of Kings and Lord of Lords. Amen.

DESIGNATION OF THE ACTING PRESIDENT PRO TEMPORE

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

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., February 24, 1972.

To the Senate:

Being temporarily absent from the Senate, I appoint Hon. DAVID H. GAMBRELL, a Senator from the State of Georgia, to perform the duties of the Chair during my absence.

ALLEN J. ELLENDER,
President pro tempore.

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

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Wednesday, February 23, 1972, be dispensed with.

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

COMMITTEE MEETINGS DURING SENATE SESSION

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

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

AMENDMENT OF THE FEDERAL AVIATION ACT OF 1958

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate turn to the consideration of Calendar No. 566, S. 2423, and that the Senate proceed to the immediate consideration of the bill.

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

The ACTING PRESIDENT pro tempore. The bill will be stated by title.

The legislative clerk read as follows:

Calendar No. 566, S. 2423, a bill to amend the Federal Aviation Act of 1958 to provide for the suspension and rejection of rates and practices of American carriers and foreign air carriers in foreign air transportation, and for other purposes.

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

The Senate proceeded to consider the bill which had been reported from the Committee on Commerce with an amendment to strike out all after the enacting clause and insert:

That section 404(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1374(a)) is amended by inserting "(1)" immediately after "(a)" and adding at the end thereof the following new paragraph:

"(2) It shall be the duty of every air carrier and foreign air carrier to establish, observe, and enforce just and reasonable individual and joint rates, fares, and charges, and just and reasonable classifications, rules, regulations, and practices relating to foreign air transportation; and, in case of such joint rates, fares, and charges, to establish just, reasonable, and equitable division thereof as between air carriers or foreign air carriers participating therein which shall not unduly prefer or prejudice any of such participating air carriers or foreign air carriers."

SEC. 2. Section 801 of such Act is amended by inserting "(a)" immediately following "801" and by adding at the end thereof the following new subsection:

"(b) Any order of the Board pursuant to section 1002(j) of this Act suspending, rejecting, or canceling a rate, fare, or charge for foreign air transportation, and any order rescinding the effectiveness of any such order shall be submitted to the President before publication thereof. The President may disapprove any such order when he finds that disapproval is required for reasons of the national defense or the foreign policy of the United States not later than ten days following submission by the Board of such order or orders to the President."

SEC. 3. Section 1002 of such Act is amended by adding at the end thereof the following new subsection:

"SUSPENSION AND REJECTION OF RATES IN FOREIGN AIR TRANSPORTATION

"(j) (1) Whenever any air carrier or foreign air carrier shall file with the Board a tariff stating a new individual or joint (between air carriers, between foreign air carriers, or between an air carrier or carriers and a foreign air carrier or carriers) rate, fare, or charge for foreign air transportation or any classification, rule, regulation, or practice affecting such rate, fare, or charge, or the value of the service thereunder, the Board is empowered, upon complaint or upon its own initiative, at once, and, if it so orders, without answer or other formal pleading by the air carrier or foreign air carrier, but upon reasonable notice, to enter upon a hearing concerning the lawfulness of such rate, fare, or charge, or such classification, rule, regulation, or practice; and pending such hearing and the decision thereon, the Board, by filing with tariff, and delivering to the air carrier or foreign air carrier affected thereby, a statement in writing of its reasons for such suspension, may suspend the operation of such tariff and defer the use of such rate, fare, or charge, or such classification, rule, regulation, or practice, for a period or periods not exceeding three hundred and sixty-five days in the aggregate beyond the time when such tariff would otherwise go into effect. If, after hearing, the Board shall be of the opinion that such rate, fare, or charge, or such classification, rule, regulation, or practice is or will be unjust or unreasonable, or unjustly discriminatory, or unduly preferential, or unduly prejudicial, the Board may take action to reject or cancel such tariff and prevent the use of such rate, fare, or charge, or such classification, rule, regulation, or practice. The Board may at any time rescind the suspension of such tariff and permit the use of such rate, fare, or charge, or such classifications, rules, regulation, or practice. If the proceeding has not been concluded and an order made within the period of suspension or suspensions, or if the Board shall otherwise so direct, the proposed rate, fare, charge, classification, rule, regulation, or practice go into effect subject, however, to being canceled when the proceeding is concluded: *Provided*, That this paragraph shall not apply to any initial tariff filed by an air carrier or foreign air carrier. During the period of any suspension or suspensions, or following rejection or cancellation of a tariff, including tariffs which have gone into effect provisionally, the affected air carrier or foreign air carrier shall maintain in effect and use the rate, fare, or charge, or such classification, rule, regulation, or practice affecting such rate, fare, or charge, or the value of service thereunder which was in effect immediately prior to the filing of the new tariff.

"(2) With respect to any existing tariff of an air carrier or foreign air carrier stating rates, fares, or charges for foreign air transportation or any classification, rule, regulation, or practice affecting such rate, fare, or charge, or the value of the service thereunder, the Board is empowered, upon complaint or upon its own initiative, at once and, if it so orders, without answer or other formal pleading by the air carrier or foreign air carrier, but upon reasonable notice, to enter into a hearing concerning the lawfulness of such rate, fare, or charge, or such classification, rule, regulation, or practice; and pending such hearing and the decision thereon, the Board, upon reasonable notice, and by filing with such tariff, and delivering to the air carrier or foreign air carrier affected thereby, a statement in writing of its reasons for such suspension, and the effective date thereof, may suspend the operation of such tariff and defer the use of such rate, fare, or charge, or such classification, rule, regulation, or practice, following the effective date of such suspension, for a period or periods not exceeding three hundred and sixty-five days in the aggregate from the effective date of such suspension. If after hearing the Board shall be of the opinion that such rate, fare, or charge, or such classification, rule, regulation, or practice is or will be unjust or unreasonable, or unjustly discriminatory, or unduly preferential, or unduly prejudicial, the Board may take action to cancel such tariff and prevent the use of such rate, fare, or charge, or such classification, rule, regulation, or practice. If the proceeding has not been concluded within the period of suspension or suspensions, the tariff shall again go into effect subject, however, to being cancelled when the proceeding is concluded. For the purposes of operation during the period of such suspension, or the period following cancellation of an existing tariff pending effectiveness of a new tariff, the air carrier or foreign air carrier may file a tariff, embodying any rate, fare, charge, or classification, rule, regulation, or practice affecting such rate, fare, or charge, or the value of service thereunder, that may be currently in effect (and not subject to a suspension order) for any air carrier engaged in the same foreign air transportation.

"(3) Whenever the Board finds that the government or aeronautical authorities of any foreign country have refused to permit the charging of rates, fares, or charges contained in a properly filed and published tariff of an air carrier filed under this Act for foreign air transportation to such foreign country, the Board may, without hearing, (a) suspend the operation of any existing tariff of any foreign air carrier providing services between the United States and such foreign country for a period or periods not exceeding three hundred and sixty-five days in the aggregate from the date of such suspension, and (b) during the period of such suspension or suspensions, order the foreign air carrier to charge rates, fares, or charges which are the same as those contained in a properly filed and published tariff (designated by the Board) of an air carrier filed under this Act for foreign air transportation to such foreign country, and the effective right of an air carrier to start or continue service at the designated rates, fares, or charges to such foreign country shall be a condition to the continuation of service by the foreign air carrier in foreign air transportation to such foreign country.

"(4) The provisions of this subsection and compliance with any order of the Board issued pursuant thereto shall be an express condition to the certificates or permits now held or hereafter issued to any air carrier or foreign air carrier, and the maintenance of rates, fares, or charges in conformity with the requirements of such provisions and such order of the Board shall be a condition to the continuation of the affected service by such air carrier or foreign air carrier.

"(5) In exercising and performing its powers and duties under this subsection with respect to the rejection or cancellation of rates for the carriage of persons or property, the Board shall take into consideration, among other factors—

"(A) the effect of such rates upon the movement of traffic;

"(B) the need in the public interest of adequate and efficient transportation of persons and property by air carriers and foreign air carriers at the lowest cost consistent with the furnishing of such service;

"(C) such standards respecting the character and quality of service to be rendered by air carriers and foreign air carriers as may be prescribed by or pursuant to law;

"(D) the inherent advantages of transportation by aircraft;

"(E) the need of such air carrier and foreign air carrier for revenue sufficient to enable such air carrier and foreign air carrier, under honest, economical, and efficient management, to provide adequate and efficient air carrier and foreign air carrier service; and

"(F) whether such rates will be predatory or tend to monopolize competition among air carriers and foreign air carriers in foreign air transportation."

SEC. 4. The amendments made by this Act shall not be deemed to authorize any actions inconsistent with the provisions of section 1102 of the Federal Aviation Act of 1958 (49 U.S.C. 1502).

SEC. 5. This Act shall take effect upon enactment.

Mr. CANNON. Mr. President, the bill I am calling up today gives the Civil Aeronautics Board discretionary authority, subject to disapproval by the President, to suspend or reject tariffs in international air transportation to and from the United States. It imposes on air carriers and foreign air carriers engaged in foreign air transportation a duty to establish just and reasonable rates and practices. The bill would further the objective of the air transport policy of the United States to provide a system of reasonable rates taking into account both the interests of the carriers and the needs of consumers. It would maintain the present mechanism for establishing international air transportation rates through the International Air Transport Association—

IATA—but would give the Board the statutory tools needed to perform its responsibility to protect the traveler, the shipper, and air carriers by suspending and rejecting rates which are too high and rates which are destructively low. In essence, the bill would give to the Board the same degree of control over rates and practices of foreign air carriers operating into U.S. territory as foreign countries now have over operations of their own carriers and over operations of carriers foreign to those nations.

The amendment in the nature of a substitute to S. 2423 differs in substantial respects from the original bill. The original bill would have provided for more extensive regulation of rates and practices in foreign air transportation and would have authorized the Civil Aeronautics Board both to fix and suspend such rates largely as it does with respect to rates of air carriers in interstate and overseas air transportation. The original bill would also have required that such orders of the Board be reported to the President before publication.

After extensive hearings on October 19, 20, and 21, 1971, the committee concluded that such extensive regulation would be self-defeating, in view of the nature of international air transportation as well as the provisions of most bilateral air transport agreements between the United States and other nations. The committee concluded that the Board would be armed with adequate powers to protect the traveler, the shipper, and air carriers if its authority were confined to the suspension and rejection of rates in foreign air transportation. The committee also concluded that such orders of the Board should be subject to disapproval of the President on the basis of foreign policy or national defense considerations, providing that such actions be taken within 10 days of submission to the President of such orders.

The purpose of the amendments made by the committee to S. 2423 is—

First, to provide that the Board may suspend and reject or cancel proposed and existing fares in foreign air transportation but not prescribe them;

Second, to extend the maximum period of suspension to 1 year—365 days—instead of 6 months—180 days;

Third, to provide the President with discretionary authority to disapprove Board actions suspending or rejecting rates or fares in foreign air transportation provided that such action is taken as a result of foreign policy or national defense considerations and provided further that such disapproval is exercised within 10 days of submission of an order from the Board to the President; and

Fourth, to make no other changes in Board's rate powers under the Federal Aviation Act.

As originally proposed, S. 2423 would have authorized the Board not only to suspend proposed fares in foreign air transportation but after an investigation to prescribe those rates. While the Board favored this approach on the ground it would better enable the Board to cause existing high fares to be lowered, there was little support for it elsewhere. The committee has decided that it is not necessary in the present situation and indeed if adopted would not have permitted the Board to suspend certain fares of foreign air carriers recently proposed, because of the wording of most of the bilateral air transport agreements which are applicable. Moreover, Board prescription of a fare, it was argued by some, might complicate international discussions aimed at resolving a fare dispute. However, should it appear at a later time that the power to prescribe fares is necessary, the committee would be willing to consider the matter again in the light of those future circumstances.

However, the committee is convinced that the Board needs more power than just a power to suspend fares for a limited period of time, since at the end of the suspension period a questionable rate might go into effect, which would defeat the purpose of the legislation. Accordingly, the committee's amendments would permit the Board, after investigating a questionable fare during a suspension period, to reject that fare and prevent it from coming into effect.

The authority to reject fares would have to be exercised consistently with the applicable bilateral air transport agreements between the United States and other countries. This is made clear by section 1102 of the Federal Aviation Act, which would not be affected by the proposed bill. Thus, in considering whether to reject a proposed or existing fare, the Board would take into account not only the traditional ratemaking factors, but also the criteria for fares in the relevant bilateral agreement. Generally speaking, these criteria include the establishment and maintenance of fares at reasonable levels, due regard being paid to all relevant factors such as costs of operation, reasonable profit, the characteristics of each service, and the rates charged by other air carriers and foreign air carriers.

Under terms of the bill, during the period prior to and following suspension of a rate, the United States would engage in discussions with the other government or governments involved as provided in the bilateral agreements. The discussions would seek resolution of the disrupted fare situation, and the Board would be expected to take the results of the discussions into account in reaching any decisions or whether to reject a fare.

The power to suspend and reject rates will arm the Board with sufficient authority to exercise broad influence on international ratemaking and will keep in effect subparagraph (f) of article II of the annex to the United States-Bermuda-type air agreements so that unreasonable rates may be held in abeyance by the U.S. Government pending investigation or negotiated agreement.

Following the hearings on the bill the committee became convinced that the President must have an opportunity to review and disapprove, if necessary, CAB actions which could have an adverse impact on the foreign policy of the United States or the U.S. national defense.

The committee amendment limits the Presidential role to that of disapproval and states the grounds on which the President may act. The amendment also specifies that the President must exercise his authority within 10 days of receiving an order from the CAB.

The Board's suspension and investigation of a questionable fare would proceed in the same fashion as cases of suspended fares in domestic air transportation. Thus there would be full opportunity for all proper parties, including members of the public, to participate in the case. The only difference would be that the Board would not prescribe the rate, it would merely decide whether to reject it.

The amendment would permit the Board to suspend, investigate, and ultimately reject or cancel existing as well as proposed fares. However, this authority with regard to existing fares would be available only in those cases in which it was not precluded by an applicable bilateral air transport agreement. During the period of suspension and following rejection of a fare, the carrier would be permitted to file a tariff embodying the fares used by a U.S. air carrier in the same foreign air transportation. In addition, it is implicit in the amendment that the foreign air carrier whose existing fares were suspended could request the Board to investigate the fares of the U.S. air carriers which the foreign air carrier was using during the period of suspension. Explicit provisions to this effect in the original S. 2423 were therefore not necessary and accordingly were deleted.

A special provision in the amendment would arm the Board to deal with the situation which arises if another government rejects the fares filed by U.S. air carriers. In such an event, the Board could suspend the existing fare of the air carrier of that foreign country—and any other foreign carrier providing the same service—and require it to change the fares filed by the U.S. air carriers, as a condition of being able to provide air service between the United States and that country. Such a retaliatory power is necessary to set the stage properly for consultations and negotiations between the United States and other governments concerned and to protect the position of the U.S. carriers.

Under present law air carriers providing interstate and overseas air transportation are required to establish just and reasonable rates. The Civil Aeronautics Board has the power, under certain circumstances, to prescribe the rates and practices for interstate air transportation, prescribe maximum or minimum or maximum and minimum rates for domestic overseas air transportation, and suspend the operation of new tariffs for interstate or domestic overseas air transportation pending determination of the lawfulness of such tariffs.

The Board has no such authority with respect to rates and practices in foreign air transportation, although such authority is possessed and exercised by foreign countries into which U.S.-flag carriers fly. The only power which the Board now has, except for its power to disapprove agreements among U.S. carriers and foreign air carriers fixing rates and practices in foreign air transportation, is to remove discrimination in foreign rate structures. It has no authority to pre-

vent a carrier, including a U.S. carrier, in foreign air transportation from placing into effect any rate, fare, or practice, even though such rate, fare, or practice may be unjust or unreasonable.

Rates, fares, and practices in foreign air transportation are currently established by IATA, which is an organization of international air carriers. The rates are recommended by the members of IATA and are approved or disapproved by IATA at periodic rate conferences. Approval must be unanimous; any member carrier may veto the proposed rate structure. The rates established through these conferences must be approved by the governments of the foreign countries represented by the carriers. The Board, under section 412 of the Federal Aviation Act of 1958, must approve or disapprove the rates established by IATA. Because of the lack of any direct authority over international rates, however, the Board's indirect power under this section has been ineffective and has resulted in the rubberstamping by the Board of IATA rate agreements.

Since the advent of international air travel, the United States and other nations have participated in conferences and negotiations seeking the orderly development of international air services. However, all countries assert complete sovereignty in respect to the airspace overlying their respective territories. In the Convention on International Civil Aviation drawn up at Chicago in December 1944, it was recognized that each country retains complete freedom of action with respect to the admission into its territory of foreign-flag scheduled airlines. Bilateral air agreements are entered into between countries which set forth the terms and conditions under which carriers of the respective countries may fly into and out of each other's territory. There is no corollary to the "freedom of the seas" policy applicable to ocean vessels engaged in international commerce. These agreements are the result of lengthy and numerous negotiations between the countries involved and the position of any country under such agreements is determined by bargaining.

In the past, efforts by the United States to improve its position in meeting foreign air transportation competition have been hampered and restricted by the limited authority of the Board over the rates and practices in foreign air transportation. In short, foreign countries have recognized this lack of authority and the bargaining power of the United States has been weakened. The consequence has been that the Board has been unable to protect U.S. carriers in rate negotiations from the almost complete domination and control of the foreign countries into which they fly. Nor has the Board been able to protect the U.S. traveling public from the unjust and unreasonably high rates which are prevalent in many markets in foreign air transportation. When a foreign carrier casts its vote at an IATA rate conference, it is in effect casting its government's vote and can depend upon the full assistance and authority of its government in seeing to it that its vote will prevail.

Mr. President, this legislation will tend to give the U.S. Government, U.S. carriers, and travelers and shippers equal footing with foreign governments and foreign air carriers. The bill will give the Board more authority to seek to implement U.S. international air transport policy and will hopefully result in more rational and equitable rates and fares in foreign air transportation. I urge my colleagues to approve S. 2423 as amended by the committee.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment in the nature of a substitute.

The amendment was agreed to.

The ACTING PRESIDENT pro tempore. The question is on the engrossment and third reading of the bill.

The bill (S. 2423) was ordered to be engrossed for a third reading, was read the third time, and passed.

The title was amended, so as to read: "A bill to amend the Federal Aviation Act of 1958 to provide for the suspension and rejection of rates and practices of air carriers and foreign air carriers in foreign air transportation, and for other purposes."

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 92-593), explaining the purposes of the measure.

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

PURPOSE OF THE BILL

The bill as reported by the Committee gives the Civil Aeronautics Board, hereinafter referred to as the Board, discretionary authority, subject to disapproval by the President, to suspend or reject tariffs in international air transportation to and from the United States. It imposes on air carriers and foreign air carriers engaged in foreign air transportation a duty to establish just and reasonable rates and practices. The bill would further the objective of the air transport policy of the United States to provide a system of reasonable rates taking into account both the interests of the carriers and the needs of consumers. It would maintain the present mechanism for establishing international air transportation rates through the International Air Transport Association, (IATA) but would give the Board the statutory tools needed to perform its responsibility to protect the traveler, the shipper and air carriers by suspending and rejecting rates, which are too high and rates which are destructively low. In essence, the bill would give to the Board the same degree of control over rates and practices of foreign air carriers operating into U.S. territory as foreign countries now have over operations of their own carriers and over operations of carriers foreign to those nations.

EXPLANATION OF COMMITTEE AMENDMENT

The amendment in the nature of a substitute to S. 2423 differs in substantial respects from the original bill. The original bill would have provided for more extensive regulation of rates and practices in foreign air transportation and would have authorized the Civil Aeronautics Board both to fix and suspend such rates largely as it does with respect to rates of air carriers in interstate and overseas air tranportation. The original bill would also have required that such orders of the Board be reported to the President before publication.

After extensive hearings on October 19, 20, and 21, 1971, the Committee concluded, for reasons set forth more fully below, that such extensive regulation would be self-defeating, in view of the nature of international air transportation as well as the provisions of most bilateral air transport agreements between the U.S. and other nations. The Committee concluded that the Board would be armed with adequate powers to protect the traveler, the shipper and air carriers if its authority were confined to the suspension and rejection of rates in foreign air transportation. The Committee also concluded that such orders of the Board should be subject to disapproval of the President on the basis of foreign policy or national defense considerations, providing that such actions be taken within ten days of submission to the President of such orders.

The purpose of the amendments made by the Committee to S. 2423 is—

(1) to provide that the Board may suspend and reject or cancel proposed and existing fares in foreign air transportation but not prescribe them;

(2) to extend the maximum period of suspension to one year (365 days) instead of 6 months (180 days);

(3) to provide the President with discretionary authority to disapprove Board actions suspending or rejecting rates or fares in foreign air transportation provided that such action is taken as a result of foreign policy or national defense considerations and provided further that such disapproval is exercised within ten days of submission of an order from the Board to the President; and

(4) to make no other changes in Board's rate powers under the Federal Aviation Act.

As originally proposed, S. 2423 would have authorized the Board not only to suspend proposed fares in foreign air transportation but after an investigation to prescribe those rates. While the Board favored this approach on the ground it would better enable the Board to cause existing high fares to be lowered, there was little support for it elsewhere. The Committee has decided that it is not necessary in the present situation and indeed if adopted would not have permitted the Board to suspend certain fares of foreign air carriers recently proposed, because of the wording of most of the bilateral air transport agreements which are applicable. Moreover, Board prescription of a fare, it was argued by some, might complicate international discussions aimed at resolving a fare dispute. However, should it appear at a later time that the power to prescribe fares is necessary, the Committee would be willing to consider the matter again in the light of those future circumstances.

However, the Committee is convinced that the Board needs more power than just a power to suspend fares for a limited period of time, since at the end of the suspension period a questionable rate might go into effect, which would defeat the purpose of the legislation. Accordingly, the Committee's amendments would permit the Board, after investigating a questionable fare during a suspension period, to reject that fare and prevent it from coming into effect.

The authority to reject fares would have to be exercised consistently with the applicable bilateral air transport agreements between the United States and other countries. This is made clear by section 1102 of the Federal Aviation Act, which would not be affected by the proposed bill. Thus, in considering whether to reject a proposed or existing fare, the Board would take into account not only the traditional rate-making factors, but also the criteria for fares in the relevant bilateral agreement. Generally speaking, these criteria include the establishment and maintenance of fares at reasonable levels, due regard being paid to all relevant factors such as costs of operation, reasonable profit, the characteristics of each service, and the rates charged by other air carriers and foreign air carriers.

However, the Committee has established one other criterion to be taken into consideration by the Board in exercising the pro-

posed authority. The CAB must consider "whether such rates will be predatory or tend to monopolize competition among air carriers or foreign air carriers in foreign air transportation."

The intent of the amendment to Section 1002(j)(5)(F) is to require the Board in suspending or rejecting rates to take into consideration arbitrary, capricious, discriminatory and unfair methods of competition, either by a domestic or foreign air carrier or as a result of agreements between such carriers and any government or aeronautical authority of any foreign country which results in imposing arbitrary, capricious, unreasonable restrictions upon the performance of air carriers, domestic or foreign, competing in air transportation between any foreign country and the United States. This amendment is specifically aimed at the willful, intentional setting of rates or other conditions relating to the services for which the rates are charged, which may be unreasonably low. For example, a single carrier serving multiple routes would be precluded from intentionally filing a rate which was, relative to costs, below the comparative rates for other routes, if the effect was to force abandonment of service by competing carriers on the lower rate route. Any pricing, which together with the non-price "fringe" benefits given the customer, is coercive or designed to force weaker rivals out of business on a particular route is to be judged predatory.

Price competition itself is not prohibited by this provision. On the contrary, the intent of the amendment is to encourage healthy price competition by requiring the Board to consider the effect of rates on the continued existence of alternative, competitive air transport suppliers.

During the period prior to and following suspension of a rate, the United States would engage in discussions with the other government or governments involved as provided in the bilateral agreements. The discussions would seek resolution of the disrupted fare situation, and the Board would be expected to take the results of the discussions into account in reaching any decisions or whether to reject a fare.

The bill must be considered in light of the bilateral air agreements existing between the United States and numerous foreign countries. In 1946 the Bermuda Air Agreement was entered into between the United States and the United Kingdom. This agreement has served as the pattern for a substantial number of air agreements subsequently entered into by the United States, as well as for air agreements entered into between other foreign nations. The agreement contains alternative provisions relating to rates and practices which are of prime importance to the bill reported by the Committee.

It must be remembered that in 1946 the Board had no power to control rates and practices in foreign air transportation, whereas the aeronautical authorities of foreign nations possessed such power. Consequently, the agreement contained the alternative provisions, together with an agreement by the President to obtain legislation which would empower the Board to control rates and practices.

The provision of the Bermuda agreement (see appendix) which has been operative since 1946 is subparagraph (f) of article II of the annex to the agreement, which provides that, in the event a dispute arises between the two countries over a rate matter and no agreement can be reached, either country "may take such steps as it may consider necessary to prevent the inauguration or continuation of the service in question at the rate complained of." This provision has been of little benefit to the Board in its attempts to fulfill its responsibilities, because the Congress has never vested it with statutory power over rates and practices or, in the Board's opinion, authorized it to impose severe sanctions against foreign carriers to enforce the rights of the United States under the provisions.

The alternative provision, subparagraph (e) of article II of the annex, will be activated and substituted for subparagraph (f), (see appendix) if the Board is provided the authority to *prescribe* rates. This provision states that, if the Board is given the power to fix and suspend rates for foreign air transportation, any dispute over a rate will be resolved pursuant to the terms of that paragraph. These terms differ substantially from the terms of subparagraph (f). Under subparagraph (e) any proposed rate which is in dispute "may, unless the aeronautical authorities of the country of the air carrier concerned see fit to suspend its operation, go into effect provisionally pending the settlement of any dispute in accordance with the procedure outlined in paragraph (g)," which paragraph basically outlines provisions for arbitration.

The effect of subparagraph (e) is to remove the right of the aeronautical authority of either country to prevent the rate of a foreign carrier from going into effect. This, the Committee was faced with the paradox that the very act of granting to the Board the power to prescribe foreign air transportation rates of both U.S. and foreign carriers deprived the Board of direct control over the rates of foreign carriers.

For this reason and for others the Committee believes that the Board should be limited to suspending and rejecting rates and fares it finds to be unreasonable. The Committee is also of the view that in a political and diplomatic sense it would be very difficult if not impossible for the U.S. to directly impose prescribed rates and fares on foreign nations and their carriers.

The power to suspend and reject rates will arm the Board with sufficient authority to exercise broad influence on international rate making and will keep in effect subparagraph (f) of article II of the annex to the U.S. Bermuda-type air agreements so that unreasonable rates may be held in abeyance by the U.S. Government pending investigation or negotiated agreement.

Following the hearings on the bill the Committee became convinced that the President must have an opportunity to review and disapprove, if necessary, CAB actions which could have an adverse impact on the foreign policy of the United States or the U.S. national defense.

The Committee amendment limits the Presidential role to that of disapproval and states the grounds on which the President may act. The amendment also specifies that the President must exercise his authority within ten days of receiving an order from the CAB.

The Board's suspension and investigation of a questionable fare would proceed in the same fashion as cases of suspended fares in domestic air transportation. Thus there would be full opportunity for all proper parties, including members of the public, to participate in the case. The only difference would be that the Board would not prescribe the rate, it would merely decide whether to reject it.

The amendment would permit the Board to suspend, investigate and ultimately reject or cancel existing as well as proposed fares. However, this authority with regard to existing fares would be available only in those cases in which it was not precluded by an applicable bilateral air transport agreement. During the period of suspension and following rejection of a fare, the carrier would be permitted to file a tariff embodying the fares used by a U.S. air carrier in the same foreign air transportation. In addition, it is implicit in the amendment that the foreign air carrier whose existing fares were suspended could request the Board to investigate the fares of the U.S. air carriers which the foreign air carrier was using during the period of suspension. Explicit provisions to this effect in the original S. 2423 were therefore not necessary and accordingly were deleted.

A special provision in the amendment would arm the Board to deal with the situation which arises if another government rejects the fares filed by U.S. air carriers. In such an event, the Board could suspend the existing fare of the air carrier of that foreign country (and any other foreign carrier providing the same sevice) and require it to change the fares filed by the U.S. air carriers, as a condition of being able to provide air service between the United States and that country. Such a retaliatory power is necessary to set the stage properly for consultations and negotiations between the United States and the other government concerned and to protect the position of the U.S. carriers.

PROVISIONS OF THE BILL AS AMENDED

Section 1 amends Sec. 404(a) of the Federal Aviation Act of 1958, (as amended), (49 USC 1301) so as to require carriers (foreign and domestic) engaged in foreign air transportation, to establish, observe and enforce just and reasonable individual and joint rates, fares, and charges, etc., which shall not unduly prefer or prejudice any participating carrier or foreign air carrier.

Section 2 requires that any order suspending or rejecting a rate, fare or charge, or any order rescinding the effectiveness of such an order, shall be submitted to the President before publication. The President may disapprove any such order when he finds that disapproval is required for reasons of the national defense or the foreign policy of the U.S. not later than 10 days following submission by the Board of such order or orders to the President.

Section 3 adds a new subsection (j) to section 1002 of the Act concerning Suspension and Rejection in Foreign Air Transportation as follows:

Paragraph (1) empowers the Board to order hearings, upon notice, concerning the lawfulness of newly filed rates, fares, etc., for foreign air transportation, and to suspend and defer use of same for a period up to 365 days from the effective date of the tariff in question.

If after hearing the Board found such rate, fare, etc., to be unjust, unreasonable, unjustly discriminatory, or unduly preferential or prejudicial, it could reject and prevent the use of such rate, fare, etc., provided that such was not contained in an initial tariff. During the period of suspension the air carrier or foreign air carrier would be required to operate under its tariff in effect immediately prior to the filing of the new tariff.

Paragraph (2) empowers the Board to order hearings, upon notice, concerning the lawfulness of *existing* rates, fares, etc., for foreign air transportation, and to suspend and defer use of such rates, fares, etc., for a period of up to 365 days from the effective date of the rates, fares, etc., contained in the tariff in question.

If, after hearing the Board finds such rate, fare, etc., to be unjust, unreasonable, unjustly discriminatory, or unduly preferential or prejudicial, it could reject and prevent the use of such rate, fare, etc. For the purposes of operation during the period of suspension or the period following cancellation the air carrier may operate under a tariff identical to the effetcive tariff of any air carrier in the same foreign air transportation.

Paragraph (3) would, in cases where a foreign country refused to permit an air carrier to charge rates, fares, etc., contained in a properly filed and published tariff, authorize the Board without hearing to suspend the tariff of that country's carrier for up to 365 days, and order that foreign air carrier to charge rates, fares, etc., which are the same as those contained in a properly filed

tariff of an air carrier for foreign air transportation to such country during the suspension period.

The paragraph also provides that the foreign air carrier's right to operate into the U.S. is conditional on the right of the air carrier of the U.S. to operate to such foreign country at the designated rates, fares, charges, etc.

Paragraph (4) makes compliance with these provisions and Board orders pursuant thereto an express condition to the continuation of a certificate or permit now held or hereafter issued to any air carrer or foreign air carrier.

Paragraph (5) lists the following criteria the Board must consider in exercising its authority with respect to rejection of rates in foreign air transportation:

(1) The effect of such rates upon the movement of traffic;

(2) The need in the public interest of adequate and efficient transportation of persons and property by air carriers and foreign air carriers at the lowest cost consistent with the furnishing of such service;

(3) Such standards respecting the character and quality of service to be rendered by air carriers and foreign air carriers as may be prescribed by or pursuant to law;

(4) The inherent advantages of transportation by aircraft;

(5) The need of such air carrier and foreign air carrier for revenue sufficient to enable such air carrier and foreign air carrier, under honest, economical, and efficient management, to provide adequate and efficient air carrier and foreign air carrier service; and

(6) Whether such rate will be predatory or tend to monopolize competition among air carriers and foreign air carriers in foreign air transportation.

Section 4 states that amendments made by this Act shall not be deemed to authorize any actions inconsistent with the provisions of section 1102 of the Federal Aviation Act.

Section 5 provides that the Act shall be effective upon enactment.

BACKGROUND OF THE BILL

Under present law air carriers providing interstate and overseas air transportation are required to establish just and reasonable rates. The Civil Aeronautics Board has the power, under certain circumstances, to prescribe the rates and practices for interstate air transportation, prescribe maximum or minimum or maximum and minimum rates for domestic overseas air transportation, and suspend the operation of new tariffs for interstate or domestic overseas air transportation pending determination of the lawfulness of such tariffs.

The Board has no such authority with respect to rates and practices in foreign air transportation, although such authority is possessed and exercised by foreign countries into which U.S.-flag carriers fly. The only power which the Board now has, except for its power to disapprove agreements among U.S. carriers and foreign air carriers fixing rates and practices in foreign air transportation, is to remove discrimination in foreign rate structures. It has no authority to prevent a carrier, including a U.S. carrier, in foreign air transportation from placing into effect any rate, fare, or practice, even though such rate, fare, or practice may be unjust or unreasonable.

Rates, fares, and practices in foreign air transportation are currently established by IATA, which is an organization of international air carriers. The rates are recommended by the members of IATA and are approved or disapproved by IATA at periodic rate conferences. Approval must be unanimous; any member carrier may veto the proposed rate structure. The rates established through these conferences must be approved by the governments of the foreign countries represented by the carriers. The Board, under section 412 of the Federal Aviation Act of 1958, must approve or disapprove the rates established by IATA. Because of the lack of any direct authority over international rates, however, the Board's indirect power under this section has been ineffective and has resulted in the rubberstamping by the Board of IATA rate agreements.

Since the advent of international air travel, the United States and other nations have participated in conferences and negotiations seeking the orderly development of international air services. However, all countries assert complete sovereignty in respect to the airspace overlying their respective territories. In the Convention on International Civil Aviation drawn up at Chicago in December 1944, it was recognized that each country retains complete freedom of action with respect to the admission into its territory of foreign-flag scheduled airlines. Bilateral air agreements are entered into between countries which set forth the terms and conditions under which carriers of the respective countries may fly into and out of each other's territory. There is no corollary to the "freedom of the seas" policy applicable to ocean vessels engaged in international commerce. These agreements are the result of lengthy and numerous negotiations between the countries involved and the position of any country under such agreements is determined by bargaining.

In the past, efforts by the United States to improve its position in meeting foreign air transportation competition have been hampered and restricted by the limited authority of the Board over the rates and practices in foreign air transportation. In short, foreign countries have recognized this lack of authority and the bargaining power of the United States has been weakened. The consequence has been that the Board has been unable to protect U.S. carriers in rate negotiations from the almost complete domination and control of the foreign countries into which they fly. Nor has the Board been able to protect the U.S. traveling public from the unjust and unreasonably high rates which are prevalent in many markets in foreign air transportation. When a foreign carrier casts its vote at an IATA rate conference, it is in effect casting its government's vote and can depend upon the full assistance and authority of its government in seeing to it that its vote will prevail.

AIR TRANSPORTATION IN THE NORTH ATLANTIC MARKET

While the historic high fare philosophy of foreign carriers and governments still exists in many markets of the world, notably in the Pacific, more recently a new phenomenon—cut rate fares—has developed in the highly competitive and heavily traveled North Atlantic.

In the last several years the North Atlantic carriers have devised and put into effect a variety of cut rate fares or "promotional fares" as they are called which are significantly lower than normal economy fares. On the other hand economy fares have continued to rise slowly over the last decade. The variety and complexity of promotional fares has given rise to a situation in which a traveler has more than 50 different fare possibilities from which to choose in planning a trip from the U.S. to Europe. For example, during 1971 while the peak period economy fare from New York to London was $552 round trip, the affinity group fare for those belonging to a club or organization was only $277. The group inclusive tour fare for those staying at least 14 days and not longer than 21 days and for those purchasing ground services was $302 while the excursion fare for travelers staying 29 days but no longer than 45 days was $332. Even further discounts were available during the nonpeak travel periods.

The confusing maze of discount fares which has sprung up in the Atlantic market is directly aimed at luring the vacation traveler. The fares are intended to stimulate and develop the price elastic market for pleasure travel.

Another major factor giving rise to this unusual pricing phenomenon in international air transport has been the quick and dramatic penetration of the North Atlantic market by the nonscheduled airlines or the supplementals.

Since the mid 1960's the supplementals have developed and largely captured a rapidly growing market for charter air transportation—principally the affinity group prorata charter in which members of a club or organization charter an aircraft and divide the cost among themselves equally. Such transportation is very economical and is an increasingly popular form of vacation travel particularly between the U.S. and Europe. In the last several years the charter traffic on the North Atlantic has grown to nearly one-fifth of the total trans-Atlantic traffic.

In response to this increasingly competitive situation the scheduled or IATA carriers have further reduced their promotional and group fares in an attempt to compete in the low cost, bulk transportation market. The result is a proliferation of low cost fares available to some but certainly not all international passengers. While first class and economy fares, those normally used by the captive market, i.e., businessmen, etc., have not been reduced—indeed they have been raised—many passengers using scheduled air transportation have availed themselves of the attractive promotional fares.

Still another factor contributing to the panoply of discount rates is the current overcapacity situation in which all of the 25 carriers operating over the North Atlantic find themselves with huge new airplanes but without passengers enough to fill them. The promotional fares have been seen by the IATA carriers as a device to lure new vacation travelers into the air and thereby fill the many seats which have been going empty.

Certainly the promotional fares have stimulated the market. In 1970, for example, the two U.S. flag carriers flying the North Atlantic experienced traffic increases of nearly 30% while domestic U.S. traffic was growing at a much slower rate.

The infatuation with discount fares and the drive for even further reductions led the scheduled carriers to a near crisis in 1971 when wide-spread disagreement about the nature and level of promotional fares led to the beginning of a fare war which was only settled in the face of mounting U.S. concern.

In mid 1971, Sabena, the Belgian Airline, began offering students a $200 round trip fare to Belgium from New York touching off the first phase of the fare war. Other North Atlantic carriers, including the U.S. flag lines, quickly matched the fare and the race was on.

In the summer of 1971 the IATA carriers met at one of their periodic fare setting conferences to discuss and to agree upon a new fare package for the North Atlantic in 1972. Following lengthy discussions and controversy, the conference ended in disagreement. Lufthansa, the West German airline, was the lone hold-out for a fare package concept that was somewhat revolutionary; the other IATA members had reached a series of compromises for the 1972 package.

Simply stated, Lufthansa held out for a vastly simplified fare structure with only about 6 alternatives rather than the more than 50 that the other carriers had agreed upon. In addition Lufthansa proposed an excursion fare of $210 between the U.S. and Germany for passengers staying at least 7 days. In contrast, the current excursion fare is $312 roundtrip and the traveler must remain abroad at least 29 days.

The IATA carriers, having failed to agree,

were then free to file individual tariffs with the U.S. CAB in what is known as an "open rate" situation. In the absence of an IATA fare agreement to consider, the Board was powerless, under U.S. law, to even consider the reasonableness of the tariffs which were being filed, carrier by carrier. Following the Lufthansa filing other European carriers soon filed tariffs embodying similar discounts—a situation which threatened to throw North Atlantic air transportation into chaos.

The Committee conducted its hearings on S. 2423 during the period following the break-up of the IATA fare conference. The U.S. carriers involved, Pan American and Trans World Airlines testified that if they were forced to match the Lufthansa promotional fare they would sustain losses in the North Atlantic market exceeding $30 million in 1972. Their testimony and that of the Board indicated that the Lufthansa fare might not be economical—that is it would not cover the cost of providing the transportation. Yet despite the suspicion that the fare was uneconomic, or worse, the Board had no authority to take any action whatsoever. With the Board powerless the Lufthansa fare represented a serious potential threat to the U.S. carriers and more importantly to the U.S. concept of a balanced air transportation system.

Some testimony before the Committee indicated that the Lufthansa fare package was clearly devised and intended to divert charter passengers from U.S. and foreign supplemental carriers. European governments, unlike the U.S., generally oppose large scale charter transportation on the North Atlantic. In many instances European governments have devised a series of procedural and bureaucratic restrictions aimed at discouraging U.S. charter traffic. In other instances governments have imposed outright bans on charter traffic from the U.S.

The U.S. has long favored a balanced air transport policy with scheduled rights and supplemental or charter rights given equal footing. The Germans, alarmed at the great growth in charter traffic between the U.S. and Frankfurt, particularly from the U.S. West Coast, may have been motivated by an interest in pricing their scheduled transportation at a level very nearly that of the cost per passenger of a pro rata charter trip. Of course such a fare, even if it proved temporarily uneconomic for Lufthansa, could have posed a serious economic threat to the future viability of the charter airlines.

The Committee, of course, cannot ascertain the motivation of the German carrier or of the German government. Lufthansa declined an invitation to testify but the committee believes that if the Lufthansa proposed fare was found to be uneconomic by Pan American and Trans World Airlines, it probably also would be uneconomic for Lufthansa.

While the threat of major losses to the U.S. carriers on the North Atlantic was certainly of concern to the Committee, particularly at a time when the airlines are facing serious economic problems, of even greater concern is the possibility that foreign airlines and their governments can, through economic means, exert a negative influence on U.S. transportation policy.

The recent policy of cut rate discount and promotional fares reflects a pattern of fare discrimination among various classes of travelers. For example, one exceedingly low fare applies only to students or young people. The group fares may be only used by those belonging to a club or organization or by those who are willing to purchase, in advance, ground services such as food, transportation and lodging. Other fares apply only to those who are able to remain in Europe for 17 days and still others apply only to those who remain more than 29 days. Thus, an anomalous but every day situation is created in which a passenger paying $552 for a round trip to London is seated next to a passenger enjoying the same transportation and services while only paying $302. In such a situation it appears that the regular fare paying passenger is subsidizing the transportation of those who, by group or length of stay, may avail themselves of cut rates.

There has been much discussion within industry and in government as to whether this pricing policy is fair and whether it is economic. There is some suspicion that the promotional fares are not economic—that they do not cover the full costs of the transportation and are simply a weapon to inhibit the growth and development of the supplemental carriers and the market for low-cost bulk transportation. The recent decline in yield facing the international carriers buttresses this argument. Indeed, the argument is more persuasive when looking at other international markets where the supplementals do not operate. In the Pacific, the Far East and in Latin America, fares, in terms of cost per mile of transportation, are markedly higher and there is nearly a complete absence of the discount and promotional fares discussed above. In these areas charter transportation has yet to become a factor.

The troubling aspect of the situation is that the U.S. Government, acting through the Board, does not possess the authority to assure the U.S. traveler of reasonable fees, and is therefore confined to a role of little more than an observer. While the Committee cannot absolutely ascertain whether the North Atlantic fare policy and situation is in the interest of the U.S. traveler and the U.S. air transport policy, it strongly believes that the U.S. Government must be vested with authority to make this determination and to exert greater influence in the international air transport arena.

The foreign governments and their carriers know full well that the Board has little authority over international transportation rates. If, as has happened in the past, the Board fails to approve an IATA rate setting agreement, then the carriers simply file individual tariffs possibly embodying the same fares not approved and the Board cannot take further action.

In late November 1971, the Committee was engaged in marking up this legislation. During that period, the IATA carriers met in a last ditch conference of airline chief executives in Honolulu to try again to iron out the differences between Lufthansa and the other North Atlantic carriers.

Press reports of the time indicate that Congressional action on legislation empowering the Board to regulate international fares was a strong incentive for the IATA carriers to drive for an agreement. For whatever reasons the carriers suddenly and quickly came to an agreement and ended the possibility of an open rate situation on the North Atlantic in 1972. It seems clear that had S. 2423 been the law, the dispute might not have arisen in the first place. If this bill is enacted, in the future, all carriers, U.S. and foreign, will be on notice that the U.S. Government will have the authority to take action aimed at insuring that international rates and fares are reasonable; that is, not too high and not destructively low.

Another dramatic illustration of the need for this legislation is the Chandler Dispute of 1963. Shortly after that major air transportation crisis this Committee held hearings and reported legislation similar to S. 2423. Unfortunately it was never enacted. The Chandler Dispute is more indicative of the historical international situation—that is high fares—than the one of cut rate or discount fares discussed above. It is informative to review the Chandler crisis and excerpts from the Committee's Report of 1963 are printed below. (Senate Report 88–473, p. 7).

COMMITTEE REPORT OF 1963

A brief summary of the dispute will illustrate the handicap under which the Board has been operating. During September and October of 1962 an IATA traffic conference was held in Chandler, Arizona, to discuss and determine whether changes should be made in the international air rate structure. Prior to the conference the Board notified participating U.S. carriers that it would not approve any rate increase.

On November 23, the Chandler resolutions were filed and on December 3 the IATA fare tables were filed. On December 10, members of the Civil Aeronautics Board staff met with U.S. carriers to request basis and support for fare increases. Statements were received by Pan American and Northwest, respectively, on January 14 and 25, 1963. On February 12, the Board issued a tentative order disapproving transatlantic and transpacific round-trip fare increases. The order allowed 30 days for the submission of additional comments. IATA submitted a brief statement but by no means submitted all the information request and refused to make available the minutes of the Chandler meeting. On March 18, the Board issued its final order approving certain Chandler proposals but disapproving the proposed 5.5-percent round-trip fare increase. Canada adopted a position similar to that of the United States while European governments approved the Chandler increase. Mexico, Japan, and Chile deferred action. Although the rates had been proposed for an April 1 effectiveness, they were postponed until April 29 pending further discussions. On April 8 through 10 informal discussions were conducted with the British aeronautical authorities in Washington. On April 24 through 26 further meetings with European and Canadian aeronautical authorities were held in London, but the fare dispute was not resolved. The April 29 date was once again postponed and set for a May 12 effectiveness.

Strong representations were made to the State Department by various foreign governments concerning the position taken by the Board. At the height of the dispute certain foreign governments threatened to withdraw landing rights and to seize the aircraft of U.S. flag carriers if they did not put into effect the increase in rates. The full force and power of these governments was utilized to support their carriers' demands for an unjustified and unreasonable rate increase. As previously mentioned, the United States succumbed and the increase went in effect. While a compromise was subsequently reached on the level of the fare increase, the result is that there has been an increase, most of which will be paid by U.S. citizens to foreign-flag carriers, and that our Government was unable to support the publicly declared desires of U.S. flag carriers for lower rates to protect U.S. citizens from an excessive increase in rates.

It is pertinent to note the situation in Canada today and the testimony in this regard of Alan S. Boyd, Chairman of the Civil Aeronautics Board, at page 7 of the hearings.

"If I could allude for just a moment to the rate legislation, I would point to the situation in Canada today. The air carriers operating between Canada and Europe are operating at the old fares, and they are doing so because Canada has rate legislation and because the Canadian bilateral has a somewhat different article than the one the United States is presently operating under with the European countries.

"When we obtain rate legislation we believe we will be in a situation similar to that of Canada. I point out also that the European countries have acknowledged, I am advised, that they have no right to take any action at the present time on the rates between Canada and the European countries."

It is clear that had the Board been armed with the legislation reported by this Committee, it would not have had to surrender to the threats made against U.S. carriers.

It is more than slightly ludicrous that this Nation, which is predominant in the field of aviation and international air travel, should be unable to resist the threats and dictates of foreign governments with respect to international air fares. With the additional powers which would be added by favorable action on S. 1540, the Board will be able to effectively utilize and wield this economic power in negotiations with foreign countries. * * *

If the Board is not empowered to take prompt and effective action with respect to international air rates, either the recent spectacle over transatlantic fares or the previous rubberstamp approvals of IATA rates can be expected to reoccur. There are no indications that foreign governments will not persist in supporting their carriers' demands for rate increases which will come largely out of the pockets of U.S. citizens. (Senate Rept. 88–473, p. 12.)

A fundamental difference exists in the rate philosophies of foreign carriers and U.S. carriers. Historically, and until recently foreign carriers have pressed for an obtained rate increases, while U.S. carriers have always sought to lower rates. There are two basic reasons for the variations in philosophy.

Traditionally, U.S. carriers have been the low-cost and most efficient air carriers. They are privately owned, operate without subsidy and compete effectively. Most foreign carriers are either owned or subsidized or both to a great degree by their governments. Many are not noted for efficient, profitmaking operations. Many fly uneconomic routes for reasons of national interest and prestige. They offset their losses on uneconomic routes from the profits made from transporting U.S. citizens. Many are airlines of new nations which have come into service largely for reasons of national prestige. All carriers engaged in foreign air transportation are presently faced with an overcapacity of seats, caused partly by the advent of airlines of newly formed nations and partly by the addition of jumbo jets, with their tremendous capacity, to the fleets.

If the actions of the foreign governments and foreign air carriers affected only the citizens and carriers of such countries, this Committee and the Board might not be as concerned. But the full impact of their action and their fare philosophy must ultimately be borne by the citizens of this Nation. This Committee would be derelict in its duty if it failed to take affirmative action to protect U.S. citizens, U.S. carriers and the U.S. air transportation policy.

In recommending this legislation to the Congress, the Committee fully intends that there be no drastic departure from the present method of arriving at international air fares and that the Board, if vested with this additional authority, shall use it to implement the policy of the Congress with respect to international air transportation, as set forth in the Federal Aviation Act of 1958, within the framework of existing agreements and procedures.

COST OF THE LEGISLATION

The enactment of S. 2423 as amended should not result in any new or further expenditures by the United States Government. The Committee believes that the Civil Aeronautics Board can exercise the additional authority conferred by the legislation without increased manpower or expenditures.

QUORUM CALL

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

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

ORDER OF BUSINESS

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the distinguished Senator from Mississippi (Mr. STENNIS) may be recognized at this point in the place of the distinguished Senator from California (Mr. TUNNEY).

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

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. The Chair recognizes the acting minority leader.

Mr. GRIFFIN. Mr. President, under the order entered yesterday, we are going to begin the consideration early today of the bill, S. 659, and various amendments related thereto that deal with busing.

I note that the substitute amendment offered by the distinguished majority leader and the distinguished minority leader is printed and is available on the desks of Senators. That is very fine, and it is the way we should have it. However, I also note that the revised amendment which I submitted at the same time last night is not printed and available and that other amendments, the numbers of which run from 916 to 923, are not printed and are not available.

I hope the Printing Office will get them here before we begin the consideration of the bill.

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

Mr. GRIFFIN. I yield.

Mr. MANSFIELD. I wish to assure the distinguished acting minority leader that on behalf of both of us I will immediately contact the Printing Office and make certain that the amendments are here this morning.

Mr. GRIFFIN. I thank the majority leader.

PRIVILEGE OF THE FLOOR

Mr. STENNIS. Mr. President, I ask unanimous consent that a member of my staff, Mr. John Hailman, whose name I have not had a chance to place on the eligibility list, be admitted to the Chamber.

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

THE NEED FOR A UNIFORM NATIONAL POLICY ON SCHOOL DESEGREGATION

Mr. STENNIS. Mr. President, once again I call to the attention of the Senate the double standard presently applied by the Federal Government in enforcement of school desegregation in this country. In the South, two, three, and sometimes four lawsuits are often brought against a single small and relatively poor school district, and with each new lawsuit a new court order transfers a major portion of the students of that district, often in the middle of a school term, to a different school building with different teachers, a different principal, different schedules, and different classmates. These oppressive transfers have occurred and are still occurring today, often after earlier court-ordered desegregation plans had been approved and were already in effect in all schools of the district. The only reason given for these cruel and disruptive midyear transfers is that certain schools in the district, often only one school out of a half dozen or more, have larger percentages of white or black students than the school district as a whole. The Federal courts have held, and continue to hold, that in the South a school which is statistically more black or more white than the district as a whole is racially identifiable. HEW and the Justice Department continue to pursue and harass school districts in the South, large and small, and require massive transfer of students until complete racial balance in every school is created, even if it requires busing small children many miles from their own homes and neighborhoods. The sole rationale for placing these excessive and onerous burdens on public schools in the South is that the State where the particular school is located had a law requiring school segregation by race in 1954 when the Brown decision was handed down. This requirement of racial balance in southern schools by HEW, the Justice Department, and the Federal courts is said to be fair and just and required by the 14th amendment to eradicate State-imposed school segregation.

I do not advocate today, and I have not in my arguments, the abrogation of Brown against Board of Education. I know the basic decision in that case is the beginning point. I only ask: Is such racial balance required in every school in the North? Certainly not.

Twice since 1970 the Senate has officially recognized the blatant hyprocrisy of the present dual standard and has approved amendments to education bills making it a policy of this Congress that there be nationwide uniformity in application of school desegregation guidelines and criteria, thus giving equal protection of the laws to all school children and their parents in all States and regions. When I first introduced such an amendment to an earlier education bill in 1970, a colleague from Connecticut; the distinguished Senator RIBICOFF, had the courage to step forward and cosponsor the amendment with me. In his statement, he called the situation in the North "monumental hypocrisy." That amendment stated:

It is the policy of the United States that guidelines and criteria established pursuant to title VI of the Civil Rights Act of 1964, Section 182 of the Elementary and Secondary Education Amendments of 1966, shall be applied uniformly in all regions of the United States in dealing with conditions of segregaton by race whether de jure or de facto in the schools of the local educational agencies of any State without regard to the origin or cause of such segregation.

On February 18, 1970, the Senate by the heavy margin of 56 to 36, passed the Stennis-Ribicoff amendment, thereby

announcing a congressional policy of equal treatment for all States and regions in school desegregation matters.

Unfortunately that action was later changed beyond recognition by the conference committee which rendered it totally ineffective, and in fact caused it to reinforce the old status quo requiring the South to integrate while leaving the schools of North and West overwhelmingly segregated. The conference committee so changed the uniform national policy amendment as to render it a travesty of what its cosponsors and supporters on a rollcall vote had intended.

After emasculation by the committee, the amendment stated that this country should have two uniform national policies, one for so-called de jure segregation, a code word for segregation only in the South, and another totally different policy for so-called de facto segregation, the code word for school segregation in all other regions of the country.

This provision was the handiwork of those who want one policy for the South, total, balanced integration, and another for their own areas; that is, the status quo with no disturbance of their schools.

The effective period of that law has now expired, so that first attempt to create a congressionally sponsored uniform policy in school desegregation matters is now history.

Last year, I once again introduced the Stennis-Ribicoff amendment in its identical, original form as first approved in the Senate by the 56 to 36 vote. Last year's amendment was offered as an amendment to the emergency school aid bill of 1971, which is now before the Senate for discussion today.

The original amendment now appears as title VII, section 702, of this same emergency school aid bill of 1971 and may be found printed in the CONGRESSIONAL RECORD for February 22, 1972. at page 5006.

When this bill was last before the Senate on April 22, 1971, the Stennis-Ribicoff amendment was again approved, with substantial bipartisan support from all regions of the country, by a vote of 44 to 34. As passed by the Senate, the amendment was made applicable to title VI of the Civil Rights Act of 1964, section 182, of the Elementary and Secondary Education Act Amendments of 1966 and the Emergency School Aid Act of 1971. The amendment then went, along with the rest of the emergency school aid bill, to the House, which attached to it as amendments other education acts approved by the Senate, and now the entire package is before us.

For reasons unknown and unexpressed, the House committee drastically curtailed the Stennis-Ribicoff amendment by deleting the portions applying it to the Civil Rights Act of 1964 and ESEA amendments of 1966. This left the amendment, which was a strong statement of congressional policy, applicable only to the provisions of this title; that is to say, the Emergency School Aid Act of 1971. This House committee action, which is unexplained in the RECORD or elsewhere, and was never discussed at all on the House floor, seems to me totally illogical and uncalled for. If Congress is to express a uniform policy as to school desegregation, it must necessarily apply broadly to all significant congressional legislation in the field. It defies logic to have a uniform policy which does not apply uniformly, and if the amendment applies only to one title of the present package of bills before us it cannot be a statement of national policy, but only a whisper, which HEW and the Justice Department may once again feel disposed to ignore and expend all their efforts and energy in further upsetting the already integrated schools of the South while totally ignoring the massive school segregation elsewhere in this country.

The House debate on other amendments to the package of education bills now before the Senate clearly shows how little consideration was given to the importance of a uniform national policy on school desegregation. It was remarked during House debate that a bill forbidding the implementation of court-ordered busing until all appeals were exhausted would have no effect anyway, since no court would order busing plans into effect until the school districts had a chance to have their cases reviewed by courts of appeal. Such a remark shows the lack of consideration and research which permitted the House to disregard the vital importance of the Stennis-Ribicoff amendment.

In the Southern States of Alabama, Florida, Georgia, Louisiana, Mississippi, and Texas, all of which are subject to the jurisdiction of the U.S. Fifth Circuit Court of Appeals, no stays are granted by the fifth circuit of any school desegregation orders. A majority of the judges of the fifth circuit has even gone so far as to order all U.S. district courts under its jurisdiction not to grant any stays of any orders entered in school desegregation cases, no matter what issues are raised therein. This court policy of refusing to allow stays pending appeal affects all school districts under the fifth circuit's jurisdiction. In some cases, notably the Jackson, Miss., school desegregation case, the refusal to grant a stay caused the local school board to retransfer actually hundreds of its students two different times in a single year as one desegregation plan after another was first approved by the district court and then reversed by the court of appeals and yet another plan substituted for it.

I personally know they took that position while they were under the prodding of the Supreme Court, and also by others in Government. I point out now, to illustrate the variety of opinions that are in effect in the South in the various circuit courts' jurisdictions, that none of them are uniform and that they vary not district by district, but vary and contradict each other from one circuit court of appeals to another. It is an illustration of the need for some action to be taken by Congress. I think also that additional guidelines should be laid down by the Supreme Court.

For example, in the recent and much publicized Richmond, Va., case, after the district judge refused a stay of his order, the fourth circuit court of appeals stayed the busing order until it could review the case thoroughly.

I think the court rendered the right decision without instance, but it shows the contradiction.

These are the kinds of inconsistencies and irrational inequality of treatment which the absence of a uniform school police has created.

Such unequal treatment of different States and regions must stop. The Senate has already so voted twice by enacting the Stennis-Ribicoff amendment, and I commend the Senators for their evenhanded and fairminded support of our amendment.

Senators who did not support it at that time gave it their utmost consideration, which I am sure they will do at this time if it comes up again.

It is no longer possible, as it was perhaps as recently as 2 or 3 years ago, prior to implementation throughout the South of the Supreme Court's so-called instant desegregation order, to point a finger at the lack of statistical school integration in Southern States. That day is past. Today school integration is much greater in the South than in the North, as even Secretary Richardson of HEW has admitted. Furthermore, the old terms "de facto" and "de jure" have now totally lost their meaning, if indeed they ever had any.

Mr. President, how much time have I remaining, please?

The ACTING PRESIDENT pro tempore. The Senator has 4 minutes remaining.

Mr. STENNIS. I thank the Chair.

In past years, the courts, the press, and Congress have discussed those two Latin terms as if they were really helpful or useful in dealing with the school segregation situation in this country. In the beginning, representatives of States outside the South insisted that those two Latin terms stood for and symbolized two totally different situations: "De jure" segregation of schools meant segregation affirmatively imposed by law in Southern States which had laws requiring school segregation at the time of the Brown decision in 1954. "De facto" school segregation, by contrast, was said to mean mere segregation in fact, based upon segregated housing patterns which blacks and whites in the North and West freely chose without any compulsion from State laws or State officials. As I have so often stated on this very floor, this distinction is not only artificial, it is hypocritical in the extreme.

In the infinitesimally small number of northern and western school districts where the Government or private parties have sought to enjoin school segregation, courts have nearly unanimously found that segregation there was not really fortuitous or accidental but was in reality the product of significant action on the part of the State, and sometimes Federal officials. Although extensive statistics and hard proof of de jure segregation are, of course, unavailable on most northern and western school districts at this time because of the failure of HEW to vigorously investigate and prosecute school desegregation cases outside the South, few would dispute the fact that State actions and policies have significantly influenced the conditions of near-total school segregation which now exist in most large cities of the North. In prior speeches before the Senate in

the past 2 years, I have placed upon the CONGRESSIONAL RECORD HEW's own undisputed statistics showing these extensive patterns of school segregation in northern cities.

Since the degree and magnitude of northern school segregation has been made known, a series of lawsuits in Federal courts to desegregate a few of those schools have been successful on the theory that they are segregated de jure, or by actions of State officials having the force and effect of State law. Senators from Northern and Western States having massive segregation in their schools have begun to understand the problem as it reaches their area.

Mr. President, that is the only way that this problem can be understood. The people have got to be out in the stream where this current is flowing. They must feel the impact on their children and on their peace of mind in order to know just how this matter works.

I commend Senators who have lent their further attention and their concern and their earnest consideration to this matter as the practical application of the rule has reached their constituents. That is the kind of Government we have. That is our system. That is the kind it should be.

Significantly, we now hear much less often the term "de jure" because it increasingly appears that most segregation in northern schools is, at it was formerly in southern schools, de jure, or created by State action, and not merely accidental, or de facto. For that reason, some of those who once breathed fire upon the South for its de jure school segregation while absolving segregated systems in the North as "de facto" have now changed their tune and have begun to talk of mere "racial isolation" in their States and cities. These subtle changes in wording do not camouflage the basic fact: school segregation was once widespread throughout this country. It is now present on a large scale only in the North and West. Intensive, in fact I might say obsessive, efforts by HEW and the Justice Department have produced far greater school integration in the South than in any other part of the country, as was shown by the HEW figures cited in Senator RIBICOFF's speech on February 22, 1972, on the floor of the Senate. Yet even now, HEW, the Justice Department, and the Federal courts strain themselves in near-frantic exertions to create absolute racial balance in every last classroom in the South. In our region racially neutral zone lines are struck down by Federal courts if they do not affirmatively produce racial ratios or "quotas." The sole reason for this enforced racial balance in every last school in the South is the outdated and discredited de jure-de facto distinction which is being increasingly abandoned, even in the North, where the issue is now being clouded by references to "racial isolation" or "racial imbalance."

In this regard I wish to express my gratitude to Senators for twice adopting the Stennis-Ribicoff amendment in an honest and fairminded attempt to end this hypocrisy. I also wish to call to the attention of the Senate one more serious attack on the progress toward equality of treatment of all regions which we have made: the final title of the emergency school aid bill now before the Senate; that is to say, title IX, section 901 of that act, is entitled "Assignment or Transportation To Overcome Racial Imbalance." Section 901, which was added to the House passed version of the bill after its recent further review by the Senate committee, reads as follows:

> No provision of this Act shall be construed to require the assignment or transportation of students or teachers in order to overcome racial imbalance.

This section reintroduces the old and unhappy dichotomy against which I have fought for so long, and once again implies a dual standard for the enforcement of school desegregation guidelines in the different areas of the country by using the code words "racial imbalance," the words now used to describe school segregation outside the South. This language invites invidious discrimination against all southern school districts while attempting to protect northern and western school districts from the same treatment. There is absolutely no excuse for confusing the issue further by the addition of such misleading language. The conglomeration of confusing bills and amendments already before us is only compounded by this further reference to racial imbalance, and that language should be stricken from the bill passed by the Senate.

I do not specifically propose any additions or amendments to section 901 at this point, but of course, I shall be at liberty to do so at any time I might choose.

ORDER OF BUSINESS

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

(The remarks Mr. TUNNEY made at this point on the introduction of S. 3227 are printed in the RECORD under Statements on Introduced Bills and Joint Resolutions.)

The PRESIDING OFFICER (Mr. BYRD of West Virginia). Under the previous order, the Senator from Georgia (Mr. GAMBRELL) is recognized for not to exceed 15 minutes.

A PLATFORM PLANK FOR EQUAL PROTECTION

Mr. GAMBRELL. Mr. President, on Tuesday, January 25, 1972, the Senate Democratic Conference unanimously adopted a resolution which reads as follows:

> Whereas, civil rights laws are intended to secure equal protection of the laws for all citizens, now therefore be it resolved, by the Senate Democratic Conference, that this body, through its leadership, shall make every effort to require that all laws securing equal protection of the laws are themselves applied equally and uniformly in every section of the country.

Mr. MANSFIELD. Mr. President, will the Senator yield at that point?

Mr. GAMBRELL. I yield.

Mr. MANSFIELD. I wish to corroborate what the distinguished Senator has just said. The so-called Gambrell resolution to which he refers was adopted unanimously by the Democratic Caucus.

Mr. GAMBRELL. I thank the Senator for that corroboration.

Mr. President, little notice was taken of the adoption of this resolution at that time, and to the best of my knowledge, no notice has been taken of it in official circles since that date.

It is my purpose here today to make a full report on the subject of this resolution, which in plain and concise terms can be described as a stand for equal treatment for the South in civil rights matters.

On November 24, 1971, I wrote Senator HUBERT H. HUMPHREY as chairman of the policy council of the Democratic National Committee, suggesting the inclusion of such a commitment as a plank in the platform of the National Democratic Party at its convention in the summer of 1972, and asking for his comments.

A copy of my letter and the enclosed platform plank will be offered for inclusion in the RECORD at the end of my remarks.

I am pleased to report that Senator HUMPHREY responded promptly at that time. He stated:

> I like your proposed platform plank. It is fair and just. It represents the position that our Party should take.

A copy of Senator HUMPHREY's reply will be offered for inclusion in the RECORD.

Copies of my letter were sent to the chairman of the Democratic National Committee, Mr. Larry O'Brien, and the so-called leading candidates for President of the United States at that time, with a request for their comments.

No comments were received from any of them.

On January 5, 1972, I wrote a letter to each of the announced candidates at that time except Senator HUMPHREY, who had already responded, again asking for their views on this important subject. These letters went to Senators MUSKIE, MCGOVERN, JACKSON, and HARTKE, and also to Mayor Lindsay and Mayor Yorty. Governor George Wallace and Mrs. SHIRLEY CHISHOLM were not included as they had not then announced their candidacy. I am now in the process of directing an inquiry to them, and will report on any reply received from them.

Subsequently, on February 21, 1972, a reply was received from Senator HENRY JACKSON advising of his support for a platform plank of the sort which I proposed. But no response has been received from any of the other candidates or from the chairman of the Democratic National Committee.

A copy of my followup letters of January 5, and of Senator JACKSON's reply of February 21 will be offered for inclusion in the RECORD.

Thereafter, upon being notified of the Senate Democratic conference scheduled for January 25, 1972, I wrote the majority leader, Senator MANSFIELD, suggesting a resolution in the form which was subsequently adopted at the conference meeting. Copies of this letter and resolution were mailed to members of the Senate Democratic Policy Committee, and a courtesy copy was sent to Senator HUM-

PHREY because of his previously expressed interest in this subject.

As I have said, the resolution was unanimously adopted, by voice vote of those present.

Of course, every member of the Senate Democratic conference was not present on that occasion, so I would not presume to say that each member of the conference voted in favor of the resolution. However, I was favored by a letter of February 4 from Senator HUMPHREY stating his support for the resolution. A copy of that letter will be offered for inclusion in the RECORD.

May I say at this time that I extend my thanks to Senators HUMPHREY and JACKSON for the positions they have taken on this subject.

Naturally, as sponsor of this resolution, and as one who is intensely interested in the subject matter of the resolution, I would like to see it implemented in a forceful way. And, bearing in mind the obligation which the resolution places upon the conference leadership, I hope that the Democratic leadership in the Senate will "make every effort" to secure the equal and uniform application of civil rights laws to every section of the country.

Mr. President, beginning on yesterday, the Senate addressed itself to one of the most controversial and divisive issues in the history of civil rights legislation. That is the subject of forced busing of schoolchildren for integration purposes.

In my view, the primary reason that this matter has reached its present level of aggravation and intensity, is the lack of uniformity in the application of this desegregation remedy throughout the country.

The implementation of desegregation in public schools through court orders, of necessity, can only be done on a locality-by-locality basis. As among the remedies applied in each case, there will be differences. Furthermore, in the now famous case of Swann against Mecklenburg County, in which school busing was authorized by the Supreme Court as a desegregation remedy, it was determined by the Court that busing and other desegregation remedies could be applied in some areas of the country, while they might not be applied in other areas based on the so-called "de facto—de jure" distinction.

Whatever legal justification that might be for such a distinction in the selection of remedies, pursuing such a course can only lead to the uneven application of the law with consequent controversy, irritation, and racial disharmony.

It is now well known that southern school systems are more fully desegregated than those in the North. Statistics establishing this fact have been placed in the RECORD on numerous occasions. A news article published in the Atlanta Constitution of January 13, 1972, reporting this fact is offered for inclusion in the RECORD. Recognizing this fact, and the fact that court and Department of Health, Education, and Welfare enforcement practices are widespread in the South, while having been applied only in a limited way in other sections of the country, it is obvious that southern school systems are being subjected to discriminatory desegregation enforcement practices. Here again are being sowed the seeds of discontent and divisiveness. One can hardly expect southerners to accept the disruptions of their education systems which are now taking place, when other areas are going scot-free in this regard.

I congratulate the Senator from Mississippi on the remarks he made earlier in this session on this subject.

In referring to the Swann decision at the time of its release, I stated that:

> This decision was a new license for discrimination against the South in dealing with a problem that is national in scope.

I stated further that:

> The decision permits the lower Federal Courts to create a crazy quilt of integration plans in the South while leaving Northern school systems segregated. The lack of a uniform national policy recognizing neighborhood schools can result in hypocrisy, litigation, discord and damage to our educational system.

My full release on that subject is offered herewith for inclusion in the RECORD.

Efforts have been made to bring about some equalization of enforcement practices. The Southern Governor's Conference, meeting in Atlanta on November 10, 1971, adopted the statement of policy with reference to forced school busing and also with reference to a uniformly applied school desegregation policy.

A copy of that statement is offered herewith for inclusion in the RECORD.

On three occasions, the Senate has adopted the so-called Stennis-Ribicoff amendment to school desegregation legislation providing that desegregation policies "shall be applied uniformly in all regions of the United States in dealing with conditions of segregation by race in the schools of the local educational agencies of any State without regard to origin or cause of such segregation."

It is hardly necessary to observe that little note has been taken of this expression of sentiment by the Departments of Justice and Health, Education, and Welfare in executing desegregation policies.

Mr. President, having laid out in front of ourselves the pursuit of equal civil rights enforcement in all regions of the country, how might this be applied in the case of forced school busing?

On yesterday, I offered, along with the junior Senator from Florida (Mr. CHILES), amendment No. 925, undertaking to deal directly with the problem.

Like the amendment passed by the House of Representatives last November 4, our amendment would deny jurisdiction to the U.S. courts to enforce school busing and other racially selective desegregation orders until appeals therefrom have been determined. However, our amendment goes a step further by suspending the effectiveness of such orders until school desegregation, without regard to the origin of segregation, is uniformly applied throughout the country. In this respect, we have adapted of the so-called Stennis-Ribicoff amendment and applied it to this form of solution of the school busing problem. The amendment defines uniformity as requiring the application of court-ordered desegregation, in effect, to 75 percent of the public school population or 75 percent of the major public school systems. The amendment goes further, to authorize the Attorney General of the United States to initiate and participate in court proceedings by which desegregation enforcement becomes uniform.

In other words, Mr. President, no busing or racially selective desegregation remedies will be permitted until the courts have settled their constitutional legitimacy, and until segregation of schools is a matter of uniform national policy.

May I say, Mr. President, that I do not think that forced school busing or racially selective desegregation remedies should be permitted under any circumstance, and I expect to vote for any legislation which so provides, including an amendment to the U.S. Constitution, should that become necessary. It is my hope that, given an opportunity after a legislative moratorium on such orders, the Supreme Court will determine that this remedy is not only unworkable, but improper in all respects.

However, as there seems to be some hesitancy in legislating a flat prohibition against racially selective desegregation plans, I wish to have my proposal for uniform enforcement of desegregation plans before the Senate for consideration.

In the event that no complete prohibition is adopted, I expect to call up my amendment to be voted on, or will add section 2 of my amendment to any reasonable plan offered by other Senators for a busing moratorium.

What I primarily am concerned with here is to commence the implementation of a uniform national policy with regard to desegregation of schools, and any subsequent efforts to enact programs for the racial integration of public schools, about which much has been said.

Mr. President, before closing, I wish to observe for the record that the amendment pending on behalf of the majority leader and the minority leader does not in any respect seek to achieve equal and uniform application of school desegregation in every section of the country. Therefore, it represents a failure to comply with the mandate of the uniformity resolution adopted by the Senate Democratic caucus on January 25. The voting on the Scott-Mansfield plan will reveal whether commitments of the Senate Democratic conference have any meaning, or whether they are merely instruments of political convenience upon which the leadership can "waffle."

Mr. President, my comments on this subject may seem rather abrupt, but we are talking about a matter which cannot be taken lightly. I have pursued the subject of equal treatment for my State and region of the country with singular intensity and purpose. I have felt that it was not only my duty, but my right, to do so, and I have felt that I was free to do so without being called a racist or considered to have any ulterior motives. Those who have spent the last 18 years here in Washington wrestling with the school desegregation problem may have thought that the conflict was tense and spirited. I can only assure them that, for

those of us in the field, it was even more so. And, I will be happy to compare my record of positive achievements in the field of race relations during the past 18 years with anyone who has lived face to face with the problem as I have.

In conclusion, Mr. President, I will repeat the remarks which I made on the Senate floor on September 13, 1971, when I first had occasion to address the busing problem.

I will state without any qualification that I and the people of my state accept desegregation decision of the Supreme Court as the law of the land.

The time for racial discrimination has passed in Georgia and throughout the South. Southern political leaders have openly taken stands for equality of the races before the law. Southern people, both black and white are working in harmony, through the enormous social and cultural adjustments made necessary by the overruling of previous federal court decisions dealing with race relationships. Now the question has become whether Southerners, both black and white will have to bear further burden, one not borne in other sections of this country. In the long run, I do not think that we will, because it is not right, and things that are not right will not work—this has already been proved in the case of busing.

Mr. President, I ask unanimous consent that the material I have referred to in my remarks be printed at this point in the RECORD.

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

U.S. SENATE,
Washington, D.C., December 2, 1971.

Hon. DAVID H. GAMBRELL,
U.S. Senate,
Washington, D.C.

DEAR DAVID: I have your letter of November 24 along with the text of a suggested plank for the Platform of the National Democratic Party. I welcome your proposal.

I am sure you know my feelings about the importance of the South to the Democratic Party. The most disappointing and sad experience of my political life was my failure to carry any one of the Southern states in the election of 1968. I like the South and its people. I have always felt comfortable and at home in the South. I of course understand some of the reasons for my poor showing in the Southern states in 1968. Nevertheless, I am determined to do my best to see that the South returns to the Democratic Party and that the Democratic Party treats the South as an equal partner.

It is wrong to single out the South for special Federal supervisory directives. Today there are new leaders in the South—men like yourself and Governor Carter. These new leaders deserve and need the wholehearted cooperation of the Democratic Party. Likewise, the Federal Government should look to these new leaders for direction and counsel—encouraging them and backing them.

I like your proposed platform plank. It is fair and just. It represents the position that our Party should take.

Sincerely,

HUBERT H. HUMPHREY.

NOVEMBER 16, 1971.

Hon. HUBERT H. HUMPHREY,
Chairman, Policy Council,
Washington, D.C.

DEAR SENATOR HUMPHREY: I am writing you as Chairman of the Policy Council of the Democratic National Committee which, I understand, is soliciting the suggestions and opinions of Democrats throughout the country as to how to improve our Party's policies and goals, and in particular to improve our opportunity to prevail in the election campaign next year.

For several years, it has been my feeling that the Democratic Party, in national election campaigns, has suffered because antagonisms within the Party have excluded many Democrats in the South from full participation in Party affairs.

Recent newspaper reports indicate that you, personally, have made a point of welcoming Southern Democratic input into next year's national election campaign. A similar recognition on the part of other national candidates, and in the Party Platform for 1972, would help to restore support for the National Party which the South has consistently given until the last two elections.

For your consideration, and that of the Policy Council, in this connection, I am including the text of a suggested plank for the platform of the National Democratic Party next year. It proposes that there be uniform enforcement of civil rights laws throughout the country. It can hardly be expected that the Southerners, even those who are Democrats, could support any candidate or any party which would not egress to give the South equal treatment in this regard.

I would like to have the benefit of your comments on this proposed platform plan. Copies of this letter are being directed to the other principal candidates for the Democratic nomination, as well as to the Chairman of the Democratic National Committee, for their comments.

It is my sincere hope that our Party, and our candidates will have the wisdom to support a platform of this type. Otherwise, the support of thousands of Southerners who might otherwise be expected to vote for Democratic candidates, may be lost.

Yours sincerely,

PLATFORM STATEMENT OF UNIFORM CIVIL RIGHTS ENFORCEMENT POLICY

Laws and law enforcement on the vital subject of civil rights, including voting rights and desegregation of schools, should be applied uniformly throughout the country. Equal protection of the law and due process of law would be hypocritical slogans if the statutes under which these principles are enforced, are not themselves equally applied. While vigorous steps will be taken against any State or local action, wherever found, depriving any persons of their constitutional rights, neither the South, nor any State or other section of the country shall be singled out for special enforcement efforts under these laws.

JANUARY 5, 1972.

Hon. VANCE HARTKE,
Hon. GEORGE MCGOVERN,
Hon. HENRY JACKSON,
Hon. EDMUND S. MUSKIE,
U.S. Senators,
U.S. Senate,
Washington, D.C.
Hon. SAM YORTY,
Mayor,
Los Angeles, Calif.
Hon. JOHN LINDSAY,
Mayor,
New York City, N.Y.

DEAR SIR: I have recently submitted to the Chairman of the Democratic National Committee a proposed plank for the National Democratic Party next year. The proposed plank, a copy of which is enclosed, calls for a uniform civil rights enforcement policy throughout the country.

The proposed platform plank would represent a commitment by the Democratic Party, and its candidate, that special laws and law enforcement in regard to civil rights would not be applied in limited sections of the country and particularly in the South.

I think such a commitment will be critical in returning the South to its traditional support of the Party's candidates in the general election, and I also think that such a commitment will be critical in the efforts of any candidates to obtain the Democratic nomination.

I am asking each of the principal candidates for the Democratic nomination to state their views on this important subject. An early reply from you would be greatly appreciated.

With best wishes for a happy and prosperous New Year, I am

Sincerely,

——— ———.

U.S. SENATE,
Washington, D.C., February 21, 1972.

Hon. DAVID H. GAMBRELL,
U.S. Senate,
Washington, D.C.

DEAR SENATOR GAMBRELL: Thank you very much for sending me a copy of your proposed plank for the Democratic Platform calling for a uniform civil rights enforcement policy throughout the country.

I believe a strong statement on this subject should be included in the 1972 Platform. The Democratic Party should be committed to the principle of equal enforcement, without regard to the geographic region involved.

I appreciate this opportunity to comment on your proposal.

With best wishes,

Sincerely yours,

HENRY M. JACKSON,
U.S. Senator.

JANUARY 20, 1972.

Hon. MIKE MANSFIELD,
Chairman, Senate Democratic Conference,
Washington, D.C.

DEAR MIKE: I have in mind offering the enclosed resolution for consideration by the Conference at its meeting on Tuesday. If this is not in order in accordance with conference procedure, please let me know. Several Senators have expressed an interest in this proposal.

Copies of this letter and the resolution are being handed to members of the Policy Council for their information.

With best personal regards, I am

Sincerely,

——— ———.

RESOLUTION

Whereas, civil rights laws are intended to secure equal protection of the laws for all citizens,

Now therefore be it resolved, by the Senate Democratic Conference,

That this body, through its leadership, shall make every effort to require that all laws securing equal protection of the laws are themselves applied equally and uniformly in every section of the country.

SOUTH PASSES NORTH IN INTEGRATION RATE

WASHINGTON.—The government reported Wednesday that 11 Southern states for the first time have fewer black pupils in totally segregated schools than does the North.

The South also has widened its gap over the North in the number of blacks attending mostly white schools, the U.S. Office for Civil Rights said in its first preliminary report on 1971–72 enrollments.

Only 9.2 per cent or 290,390 black Southern pupils attend all-black schools the report said, compared with 11.2 per cent or 325,874 in the 32 Northern and Western states.

The greatest segregation remains in the six border states and the District of Columbia where 24.2 percent or 162,578 pupils still attend segregated schools, the report said.

Excluding the large, mostly black D.C. school system, the government estimates 21 per cent of black pupils in Delaware, Kentucky, Maryland, Missouri, Oklahoma and West Virginia attend segregated schools. That is nearly double the estimated nationwide average of 11.6 per cent.

Almost 44 per cent of Southern black pupils now attend predominantly white schools,

the report said, for a 4.8 per cent gain since last year, and a 25.5 per cent gain over the last three years. "But little integration process had been made during the same period in the Northern, Western and border states," it added.

About 28 per cent of black pupils are attending mostly white schools in the North and West, and 30 per cent in the border states and D.C.

More than two-thirds of all Negroes in predominantly white Southern districts are attending mostly white schools, the report said, and nearly half of all whites in predominantly black districts are attending schools in which they form a minority.

"Only .3 per cent of the white pupils in predominantly minority districts attend all-white schools," the report said. More than one-third of the 3.1 million black Southern pupils live in predominantly black school districts.

The statistics show that nearly one-third of all black school children in the nation now are in majority white schools, for a 2.5 per cent gain in the last year.

The statistics were gathered from about 2,700 school districts representing about 20 million pupils, and then projected to cover all 43.3 million pupils included in the 1970 survey.

NEWS RELEASE FROM SENATOR DAVID H. GAMBRELL

WASHINGTON, D.C., April 21, 1971.—The decision handed down yesterday by the Supreme Court of the United States in regard to the busing of school children in integration cases is a new license for discrimination against the South in dealing with the problem that is national in scope. While it is encouraging that busing to meet racial quotas is not mandatory, the decision permits the lower Federal courts to create a crazy quilt of integration plans in the South while leaving Northern school systems segregated. The lack of a uniform national policy recognizing neighborhood schools can only result in hypocrisy, litigation, discord and damage to our educational system. Rather than being the object of harrassment, Southern school systems should be studied by systems throughout the country for the successes which have been achieved in meeting the problems of racial integration.

STATEMENT ON BUSING BY SOUTHERN GOVERNORS' CONFERENCE, NOVEMBER 10, 1971

The Southern Governors' Conference urges the Congress to enact a single national policy for the desegregation of public schools—that policy to be applied uniformly throughout the Nation by all branches of the Federal Government including the Departments of Justice and H.E.W., and the courts.

The Southern Governors' Conference opposes the busing of school children from one area to another for the purpose of attempting to achieve numerical racial balance.

The Southern Governors' Conference recognizes and commends the actions of the U.S. House of Representatives of Nov. 4th as providing a first step in achieving the above-stated policy but cautions the Congress that the prohibition of the expenditure of federal funds should not be enacted in the absence of such a uniform policy, uniformly applied by all branches of the Federal Government.

U.S. SENATE,
Washington, D.C., February 4, 1972.

HON. DAVID H. GAMBRELL,
U.S. Senate,
Washington, D.C.

DEAR DAVID: Indeed I am for your resolution. Thanks for your note. Sorry I wasn't at the Conference.

Sincerely,

HUBERT H. HUMPHREY.

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

Mr. GAMBRELL. I yield to the Senator from Florida.

Mr. CHILES. As I understand the amendment of the junior Senator from Georgia, one of its purposes is to see that we have some uniformity in what the decisions are going to be in regard to this subject and that the rest of the country will not have to go through what Florida and Georgia and other Southern States have had to go through when different Federal courts and different districts handed down different orders, when the HEW changed its mind within districts as to what kind of busing or pairing there should be, when the Justice Department had a different criterion and standard between one area and another, when school boards never could determine what they should do in regard to setting up the attendance of their classes and with respect to what kind of equipment they would need for transportation, when there has been generally 2 years of chaos throughout the South, where these orders have been enforced.

If the Senator's amendment is adopted, it would protect the rest of the country from having to go through the chaos that we have been going through and are still going through in the South.

Mr. GAMBRELL. The Senator is correct, and I appreciate his joining me in sponsoring this amendment.

I would say that we have had 18 years of chaos, only the last 3 or 4 of which have been brought about by the so-called busing controversy.

Mr. CHILES. If the amendment should be adopted, we would be carrying out the caucus intent that there be a uniform application, and at the same time what was fair in Florida would be fair in California, would be fair in Michigan, would be fair in Montana, and would be fair in every other State, and we would have a uniform application of the law and everyone could understand what the law would be.

Mr. GAMBRELL. The Senator is correct.

Under the amendment we are sponsoring, the Supreme Court and the courts would state what a uniform policy was or should be, and then would be applied simultaneously throughout the country rather than being applied on a piecemeal basis. Every fair-minded person can understand that the people in Florida, in Georgia, or someone in Flint, Mich., does not want to be an experimental guinea pig in trying to work out something so critical as the question of desegregation. I do not see why, instead of fighting what we are trying to do, why those interested in desegregation and integration of the school systems are not now here urging that there be more widespread enforcement of the program on a uniform basis rather than trying to hold us up as examples.

Mr. CHILES. The Senator shares my concern. Two years ago or even 1 year ago, there were few people in this country and in Congress concerned with this question outside of the South, because it was not happening anywhere else outside the South.

Suddenly we find that a great many Congressmen and Senators have great concern about this matter and there are many amendments on the subject. My concern, and I think the Senator from Georgia shares it with me, is that many of the amendments we see floating around now which will prevent HEW from enforcing any further orders are also going to prevent the Justice Department from moving further, and will keep the courts from executing any orders until the last appeal has been taken. That is very good for Michigan, California, and some other States, but we have busing in the South now. Our orders are final. We are under title VI or a court order. Many of the plans and many of the so-called busing amendments will not affect us one whit. What we are seeking is whatever would be fair. This amendment addresses itself to uniform application. We would be treated the same as any other area or State. If busing is necessary for quality education—although certainly the Senator and I differ on that, as to whether that is necessary—but if that is the law of the land, if it is necessary, then it should be necessary everywhere and should not be just necessary in the South.

Mr. GAMBRELL. Mr. President, I would simply say in reply to the Senator from Florida that I would assume any Member of the Senate who would vote to hold schoolchildren in Georgia or Florida or Michigan or California hostage pending the working out of the school desegregation and busing problem would urge those in his own State—the school officials, the courts, and the enforcement officers—immediately to set about desegregation of their schools under a plan similar to that which is being applied to Georgia, to Florida, to Michigan, or to California. In other words, I am assuming that Members of the Senate would not seek the application of laws to my State, or to the State of the Senator from Florida that they would not seek to apply to themselves. That as I understand, is the sense of the Democratic caucus resolution of January 25.

Mr. MANSFIELD. Mr. President, will the distinguished Senator from Georgia yield?

Mr. GAMBRELL. I yield.

Mr. MANSFIELD. I was not able to hear all of the Senator's speech except the latter portion, but I want to say that the action taken by the Democratic caucus was intended to apply on a uniform basis throughout all the States and all the sections of the Nation.

May I call the Senator's attention to the fact that I was one of those who voted for the Stennis-Ribicoff amendment twice, because I felt that an issue of this nature should be applied on a nationwide basis and we hope that anything which is done will be done on that basis.

Mr. GAMBRELL. I thank the Senator for that comment and I am sure his commitment on the subject is in good faith and bears his honest intentions.

What concerns me on this subject is that the people down on Pennsylvania Avenue in charge of the enforcement of these things seem to take no notice of

the fact that Congress has adopted this as a policy—at least the Senate has on three occasions—yet the enforcement practices and procedures continue to be discriminatory and irregular throughout the country. We would like to see it written into the law by both Houses of Congress and signed by the President.

ORDER OF BUSINESS

The PRESIDING OFFICER (Mr. TUNNEY). Under the previous order, there will now be a period for the transaction of routine morning business, not to extend beyond 10:30 a.m., with statements therein limited to 3 minutes.

PRIVILEGE OF THE FLOOR

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that during the time in which the very distinguished senior Senator from Connecticut (Mr. RIBICOFF) is engaged in the debate today, two of his aides, Messrs. John Koskinen and Theodore Leary, be given the privilege of the floor.

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

QUORUM CALL

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

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

REPORT ON OFFICER RESPONSIBILITY PAY

A letter from the Secretary of Defense, transmitting, pursuant to law, a report relating to Office Responsibility Pay, for the calendar year 1971 (with an accompanying report); to the Committee on Armed Services.

REPORT ON MILITARY PROCUREMENT ACTIONS FOR EXPERIMENTAL, DEVELOPMENTAL, TEST OR RESEARCH WORK

A letter from the Acting Assistant Secretary of Defense (Installations and Logistics), transmitting, pursuant to law, a report on military procurement actions for experimental, developmental, test or research work for the six-month period ended December 31, 1971 (with an accompanying report); to the Committee on Armed Services.

REPORT ON EXPENDITURES IN, FOR, AND ON BEHALF OF LAOS

A letter from the Assistant Secretary for Congressional Relations, Department of State, transmitting, pursuant to law, a report on expenditures in, for, and on behalf of Laos, for the six-month period ended December 31, 1971 (with an accompanying report); to the Committee on Armed Services.

REPORT OF COMPTROLLER GENERAL

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Budgetary and Fiscal Information Needs of the Congress", dated February 17, 1972 (with an accompanying report); to the Committee on Government Operations.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the ACTING PRESIDENT pro tempore (Mr. GAMBRELL):

A letter, in the nature of a petition, from the Chairman, City Council, District of Columbia, in support of proposed legislation to amend the law relating to the conduct of public hearings before the Zoning Commission of the District of Columbia; to the Committee on the District of Columbia.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BYRD of West Virginia (for Mr. JACKSON), from the Committee on Interior and Insular Affairs, without amendment:

H.R. 6291. An act to provide for the disposition of funds arising from judgments in Indian Claims Commission dockets numbered 178 and 179, in favor of the Confederated Tribes of the Colville Reservation, and for other purposes (Rept. No. 92-642).

By Mr. RANDOLPH, from the Committee on Public Works, with additional amendments:

S. 907. A bill to consent to the Interstate Environment Compact (Rept. No. 92-643).

EXECUTIVE REPORTS OF COMMITTEES

As in executive session, the following favorable reports of nominations were submitted:

By Mr. FULBRIGHT, from the Committee on Foreign Relations:

Kevin O'Donnell, of Maryland, to be an Associate Director of Action;

William Rinehart Pearce, of Minnesota, to be a Deputy Special Representative for Trade Negotiations, with the rank of Ambassador;

Robert Stephen Ingersoll, of Illinois, to be Ambassador Extraordinary and Plenipotentiary to Japan;

Dan W. Lufkin, of Connecticut, and J. D. Stetson Coleman, of Virginia, to be members of the Board of Directors of the Overseas Private Investment Corporation; and

William A. Stoltzfus, Jr., of New Jersey, a Foreign Service officer of class 2, now Ambassador Extraordinary and Plenipotentiary to the State of Kuwait, to the State of Bahrain, and to the State of Qatar, to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary to the Sultanate of Oman and to the United Arab Emirates.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. TUNNEY (for himself, Mr. BAKER, Mr. BURDICK, Mr. CASE, Mr. DOMINICK, Mr. EAGLETON, Mr. GAMBRELL, Mr. HARRIS, Mr. HART, Mr. HARTKE, Mr. HOLLINGS, Mr. HUMPHREY, Mr. JORDAN of North Carolina, Mr. KENNEDY, Mr. MCGOVERN, Mr. METCALF, Mr. MUSKIE, Mr. PELL, Mr. PERCY, and Mr. STEVENS):

S. 3227. A bill to amend the Internal Revenue Code of 1954 to allow a business deduction under section 162 for certain ordinary and necessary expenses incurred to enable an individual to be gainfully employed. Referred to the Committee on Finance.

By Mr. JAVITS (for himself, Mr. SCHWEIKER, Mr. PACKWOOD, Mr. TAFT, Mr. STAFFORD, Mr. CASE, Mr. BOGGS, Mr. BROOKE, Mr. SAXBE, Mr. MATHIAS, Mr. HATFIELD, Mr. PERCY, Mr. COOK, and Mr. STEVENS):

S. 3228. A bill to strengthen and expand the Headstart program, with priority to the economically disadvantaged, to amend the Economic Opportunity Act of 1964, and for other purposes. Referred to the Committee on Labor and Public Welfare.

By Mr. METCALF (for himself, Mr. MANSFIELD, Mr. BURDICK, Mr. HARRIS, Mr. HUGHES, Mr. HUMPHREY, and Mr. MCGOVERN):

S. 3229. A bill to protect the incomes of wheat and feed grain producers. Referred to the Committee on Agriculture and Forestry.

By Mr. METCALF (for himself and Mr. MANSFIELD):

S. 3230. A bill to provide for the disposition of funds appropriated to pay a judgment in favor of the Assiniboine Tribes of Indians in Indian Claims Commission docket No. 279-A, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. PACKWOOD (for himself, Mr. BELLMON, Mr. BENNETT, Mr. BROOKE, Mr. CHILES, Mr. CRANSTON, Mr. GRAVEL, Mr. HART, Mr. JAVITS, Mr. METCALF, Mr. PERCY, and Mr. RANDOLPH):

S. 3231. A bill relating to the reimbursement of actual travel expenses of Senators and employees of Senators. Referred to the Committee on Rules and Administration.

By Mr. PACKWOOD (for himself, Mr. DOMINICK, Mr. TAFT, Mr. BEALL, Mr. ALLOTT, Mr. BAKER, Mr. BELLMON, Mr. BENNETT, Mr. BROCK, Mr. COOPER, Mr. COTTON, Mr. CURTIS, Mr. DOLE, Mr. FANNIN, Mr. FONG, Mr. EASTLAND, Mr. GOLDWATER, Mr. GRIFFIN, Mr. HANSEN, Mr. HRUSKA, Mr. JORDAN of Idaho, Mr. MCCLELLAN, Mr. ROTH, Mr. SAXBE, Mr. SCOTT, Mr. THURMOND, Mr. TOWER, Mr. WEICKER, and Mr. YOUNG):

S. 3232. A bill to provide more effective means for protecting the public interest in emergency disputes involving the transportation industry and for other purposes. Referred to the Committee on Labor and Public Welfare.

By Mr. MAGNUSON (by request):

S. 3233. A bill to amend section 396 of the Communications Act of 1934 to increase and extend for 1 year the authorization for the Corporation for Public Broadcasting. Referred to the Committee on Commerce.

By Mr. HARRIS:

S. 3234. A bill providing for the distribution of judgment funds of the Osage Nation of Indians. Referred to the Committee on Interior and Insular Affairs.

By Mr. HARRIS (for himself and Mr. BELLMON):

S. 3235. A bill to declare that the United States holds certain lands in trust for the Citizen Band of Potawatomi Indians of Oklahoma. Referred to the Committee on Interior and Insular Affairs.

By Mr. BYRD of Virginia (for himself and Mr. SPONG):

S. 3236. A bill to provide for the establishment and operation of a research center at Blacksburg, Virginia. Referred to the Committee on Interior and Insular Affairs.

By Mr. STENNIS (for himself and Mrs. SMITH) (by request):

S. 3237. A bill to authorize an additional Deputy Secretary of Defense, and for other purposes. Referred to the Committee on Armed Services.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. TUNNEY (for himself, Mr. BAKER, Mr. BURDICK, Mr. CASE, Mr. DOMINICK, Mr. EAGLETON, Mr. GAMBRELL, Mr. HARRIS, Mr. HART, Mr. HARTKE, Mr. HOLLINGS, Mr. HUMPHREY, Mr. JORDAN of North Carolina, Mr. KENNEDY, Mr. MCGOVERN, Mr. METCALF, Mr. MUSKIE, Mr. PELL, Mr. PERCY, and Mr. STEVENS):

S. 3227. A bill to amend the Internal Revenue Code of 1954 to allow a business deduction under section 162 for certain ordinary and necessary expenses incurred to enable an individual to be gainfully employed. Referred to the Committee on Finance.

Mr. TUNNEY. Mr. President, I am introducing today a bill to amend the Internal Revenue Code to allow a business deduction for household and child-care expenses incurred by working mothers and certain other individuals to enable them to be gainfully employed.

The basic principle of this bill—allowing this deduction as a business rather than a personal expense—has already received overwhelming support in the Senate. On November 12, 1971, the Senate adopted my amendment to the Revenue Act of 1971 to create the business deduction by a vote of 74 to 1, but the amendment was eliminated in conference. This new bill would reaffirm the Senate's prior action in support of the business deduction.

It is my belief that the time has come to remove the inequity in our tax laws which enables businessmen to deduct "ordinary and necessary" business expenses, yet denies to working mothers a deduction for the most "ordinary and necessary" business expense they incur—the cost of maintaining their households and assuring safe and responsible care for their children while they work.

If a businessman can deduct the cost of hiring a secretary to improve his effectiveness in working, if he can treat his entertainment expenses as a tax deduction, how is it just that a working mother should not be allowed the same sort of deduction for expenses which are even more vitally related to her work? What can be more of a business expense than one which basically enables her to work, or enables her to work to the full extent of her capacities?

These are not personal expenses, like doctors' bills. They should not be classified, as they are now, with charitable contributions. They are ordinary and necessary expenses incurred to enable an individual to be gainfully employed.

In 1971, 42 percent of the Nation's mothers worked outside the home. Of the approximately 12.5 million mothers with children under 6, more than one in every three is working today. That means there were more than 4.3 million mothers with children under 6 who were in the labor force last year.

These are the people who simply cannot avoid paying for the care of their children and for other household expenses. Very often they have to lose a substantial proportion of their income to secure these services. Yet they are not allowed to take these considerable costs as a business deduction.

There are many reasons why mothers go out to work. At the lower income levels it is a matter of compelling financial necessity. Whether or not they prefer to be full-time mothers, devoting all their care and attention to the family and the home, they do not really have the choice. They must work, they must produce a second income to keep their family out of poverty and provide even the basic necessities.

Others want to go out and earn some money so their families can live a better life, so their children can have access to wider opportunities, so they can more easily withstand the impact of rising costs and rising prices.

Others again want to work as a matter of self-fulfillment, to use their capabilities to take an individual's place in the community in the way that a man can, and is expected to, without any special obstacle.

Whatever the motivation for working, their problem in this area is the same. To be able to take employment and receive an income they must step over a much higher threshold than other people who want to enter the labor market. Not only do they have to find a suitable job. They must also obtain and pay for the care of their children and of their houses while they are away earning that income. These expenses are clearly work related.

In 1971, of all mothers of children under six, 10 percent—1.3 million of them—were single parents bringing up children without a husband. Half of these mothers held down a job.

For these women, and for many widowers or divorced men with families to care for, the fundamental character of these outlays as a business expense is even more explicit. There may be doubts about many of the expenses which businessmen run up in the name of business, and consequently take as tax deductions. But the expenses with which this bill deals are not for entertainment or for country club subscriptions. They are payments which are necessary for those families to be viable, self-supporting economic units.

There are many other income earners, both men and women, whose earning capacity depends on their ability to provide suitable care of a spouse or other dependent who is incapable of caring for himself.

Their situation is particularly difficult and demanding, physically and emotionally as well as financially. They have enough to handle without the additional difficulty of tax laws which limit the availability of a legitimate deduction for expenses involved in bringing in their family income.

All these groups are taxpayers, producing taxable income, but at present the tax laws fail to recognize the reality of the direct link between the expenses they incur and the income which is generated.

The main burden of the failure to allow a business deduction for such expenses as child care has, of course, fallen mainly on women. It places an unnecessary and unjustifiable obstacle in the path of women who wish to enter the employment market, and once they are in the market, it constitutes a built-in economic disadvantage to their efforts. It is not the result of any positive attempt to discriminate against women. It is rather the relic of a time when it was not the normal or accepted thing for mothers to go out to work. But times have changed. The proportion of mothers now working outside the home is more than double that of 25 years ago. In 1948, 18 percent went out to work. Now 42 percent do. The trend is continuing. Tax provisions should reflect the realities of the society to which they apply.

In the name of equity for working mothers now and in the future, the current situation should be changed.

It is true that the law as it stands at present, including the amendments of last December, provides some relief in this area, by allowing these expenses as a personal income tax deduction.

However, apart from the objection of principle that genuine business deductions should be treated as business deductions and not as personal deductions, there is a much more practical objection to leaving the existing provisions as they are.

This arises from the fact that some 68 percent of the families with earnings of $10,000 or less use the standard deduction form and do not itemize their personal deductions. As a result they do not get the benefit of the child care deduction. Yet these are often the people who most need and most deserve assistance from tax relief. They are people with modest to moderate incomes. They are people who are doing their best to be self-reliant and to improve their lot. They are often people who need a second income in the family to ward off the effects of inflation which others can bear with greater ease. They are people who need help and support, not discrimination against their efforts in the tax structure.

The bill allows a deduction for expenses paid or incurred during the taxable year for household services and for the care of one or more dependents of the taxpayer, but only if such expenses are "ordinary and necessary to enable the taxpayer to be gainfully employed." The deduction will be available on the same basis as any other business expense deduction subject to such rules and regulations as the Internal Revenue Service may prescribe.

It does not create another loophole in the income tax code. It is not a soft subsidy for those who do not need it. It simply is a correction of a basic inequity whose burden often falls heavily on those who have small capacity to bear it.

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

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

S. 3227

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 162 of the Internal Revenue Code of 1954 (relating to trade or business expenses) is amended by redesignating subsection (h)

as (i), and by inserting after subsection (g) the following new subsection:

"(h) Certain Expenses Necessary for Gainful Employment.—

"(1) In general.—In the case of an individual who maintains a household which includes as a member one or more of the following qualified individuals.—

"(A) a dependent of the taxpayer who is under the age of 15 and with respect to whom the taxpayer is entitled to a deduction under section 151(e),

"(B) a dependent of the taxpayer who is physically or mentally incapable of caring for himself or herself, or

"(C) the spouse of the taxpayer, if he or she is physically or mentally incapable of caring for himself or herself, the deduction allowed by subsection (a) shall include the expenses paid or incurred during the taxable year for household services and for the care of one or more individuals described in subparagraph (A), (B), or (C), but only if such expenses are ordinary and necessary to enable the taxpayer to be gainfully employed.

"(2) Maintaining a household.—For purposes of paragraph (1), an individual shall be treated as maintaining a household for any taxable year only if over half of the cost of maintaining the household during such period is furnished by such individual (or if such individual is married during such period, is furnished by such individual and his or her spouse).

"(3) Payments to related individuals.—Paragraph (1) shall not apply to any amount paid by the taxpayer to an individual bearing a relationship to the taxpayer described in paragraphs (1) through (8) of section 152(a) (relating to definition of dependent) or to a dependent described in paragraph (9) of such section."

SEC. 2. Section 62(2) of the Internal Revenue Code of 1954 (relating to trade and business deductions of employees) is amended by adding at the end thereof the following new subparagraph:

"(E) Certain expenses necessary for gainful employment.—The deductions allowed under section 162 which consist of expenses allowable by reason of the application of subsection (h) thereof, paid or incurred by the taxpayer in connection with the performance by him or by her of services as an employee."

SEC. 3. Part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1954 (relating to additional itemized deductions for individuals) is amended—

(1) by striking out section 214 (relating to expenses for household and dependent care services necessary for gainful employment), and

(2) by striking out the item relating to section 214 in the table of sections for such part.

SEC. 4. The amendments made by this Act shall apply to taxable years beginning after the date of the enactment of this Act.

By Mr. JAVITS (for himself, Mr. SCHWEIKER, Mr. PACKWOOD, Mr. TAFT, Mr. STAFFORD, Mr. CASE, Mr. BOGGS, Mr. BROOKE, Mr. SAXBE, Mr. MATHIAS, Mr. HATFIELD, Mr. PERCY, Mr. COOK, and Mr. STEVENS):

S. 3228. A bill to strengthen and expand the Headstart program, with priority to the economically disadvantaged, to amend the Economic Opportunity Act of 1964, and for other purposes. Referred to the Committee on Labor and Public Welfare.

COMPREHENSIVE HEADSTART, CHILD DEVELOPMENT, AND FAMILY SERVICES ACT OF 1972

Mr. JAVITS. Mr. President, I introduce a bill designed to provide increased and more adequate Headstart, child development, and related family services. This is a joint proposal made by myself as ranking minority member of the Committee on Labor and Public Welfare and by a number of other Republican members of that committee: Senator ROBERT TAFT, Jr., Republican of Ohio, the ranking minority member of both the Subcommittee on Employment, Manpower and Poverty and the Subcommittee on Children and Youth, and Senators RICHARD S. SCHWEIKER, Republican of Pennsylvania, BOB PACKWOOD, Republican of Oregon, and ROBERT T. STAFFORD, Republican of Vermont. We are joined by the following cosponsors: Mr. CASE, Mr. BOGGS, Mr. BROOKE, Mr. SAXBE, Mr. MATHIAS, Mr. HATFIELD, Mr. PERCY, Mr. COOK, and Mr. STEVENS.

Mr. President, in vetoing S. 2007, the economic opportunity amendments of 1971, which included the child development title, President Nixon stated:

> We cannot and will not ignore the challenge to do more for America's children in their all-important early years. But our response to this challenge must be a measured, evolutionary, painstakingly considered one, consciously designed to cement the family in its rightful position as the keystone of our civilization.
>
> Further, in returning this legislation to the Congress, I do not for a moment overlook the fact that there are some needs to be served, and served now.

We share that commitment and agree that more needs to be done now. Accordingly, rather than let that matter drop, we have designed a new bill, which we hope will enjoy the support of the administration and our colleagues and become law at the earliest opportunity.

The bill authorizes $2.9 billion over a 3-year period for comprehensive child development and family service programs, compared with $2.1 billion over a 2-year period under the child development title of the vetoed bill. It also:

Emphasizes that acceptance of services provided under the act are to be entirely voluntary, as opposed to the more general child development emphasis under the vetoed bill;

Contains eligibility, fee and other provisions, extending coverage to children of all families, but with greater funds set aside for programs such as Headstart conducted for children from low-income families;

Provides for a variety of quality services, with an emphasis on free choice by parents;

Establishes a prime sponsorship "delivery system" with a more significant role for State governments; as a general matter, localities would be eligible if they have 50,000 population, compared with 5,000 under the vetoed bill; and

Places greater emphasis on child care centers as family centers, the provision of services to other family members and the involvement of parents in the programs.

There appears to be agreement between the administration and the Congress on, to use the President's words of February 19, 1969:

> . . . a national commitment to providing all American children an opportunity for a healthful and stimulating development during the first five years of life.

In his veto message of December 10, 1971, the Presdent cited this objective as "laudable," but stated that he considered that purpose "overshadowed" in the vetoed bill by:

> Fiscal irresponsibility, administrative unworkability and family weakening implications of the system it envisions.

Whatever the validity of that judgment—and a number of us have disagreed with it—we have sought to design a proposal to meet the President's major objections, while maintaining our basic commitment to the principles which prompted many of us to support the vetoed bill.

NEED FOR SERVICES FOR CHILDREN

Mr. President, our basic commitment is to provide each American child with the opportunity to reach his or her full potential and is not to provide all American children with child development services per se.

In those terms, by any measure, much needs to be done now:

There are more than 2.5 million children under age 6 in families with incomes below the poverty level—approximately $4,000 annually for a family of four—whose mothers do not work.

There are 1 million children under the age of 6 in the poverty category where mothers work.

There are approximately 2 million children between the ages of 6 and 14 in families below the poverty level where mothers work.

In the $4,000 to $7,000 income range—the "near poor"—there are more than 1 million preschool children and 1 million school-age children in families with mothers in the working force.

Mr. President, beyond this there are needs in other socioeconomic groups that must be recognzed. Overall, in 1971, 43 percent of the Nation's mothers worked outside the home. In 1948, the figure was only 18 percent. One in every three mothers with children under 6 is working today. In 1948, the figure was 1 in 8.

These mothers work to improve the economic well-being of their families, and many work out of absolute necessity; for example, in 1971, of all mothers of children under 6—in every income category—1.3 million were single parents bringing up children without a husband.

Most distressing is the continued existence of "latchkey" children—very young children left alone without any supervision at all. A 1965 study by the Department of Labor's Women's Bureau estimated that there were at least 18,000 such children in the Nation.

To meet these needs, we have at the present time approximately 378,000 positions funded under Headstart and 700,000 other licensed child care opportunities in the entire Nation.

The Family Assistance Act—H.R. 1—would add 875,000 positions in each year—for a total of 2 million opportunities, against the fact that there are 7.5 million children—almost four times as many in the poor and near-poor categories alone who need this opportunity.

FISCAL RESPONSIBILITY

Mr. President, quite clearly, billions of dollars in Federal resources could well be spent on our children for supplementary educational and child care opportunities.

But the question is not how much is needed as an optimum, but what may now be added for these purposes, in an effective and beneficial way.

Our bill authorizes $1.2 billion for fiscal year 1974 and $1.6 billion for fiscal year 1975, with an additional authorization of $100 million for fiscal year 1973, for planning, training and technical assistance to prepare for the startup year; the vetoed title authorized $2 billion for fiscal year 1973, with sums for startup in the previous year. This rate of growth is consistent with the best judgment of witnesses before the committee.

ELIGIBILITY, FEES AND PRIORITIES

Mr. President, the bill contains no upward limit on eligibility, but does provide for channeling of resources through the following provisions relating to fees and priorities:

First, as under the vetoed bill, no fee may be charged for any family having an income below $4,320, based upon a family of four—the family assistance cutoff point.

The Secretary is authorized to establish a fee schedule above that point, subject to the following limitations:

That in no event may the charge exceed 10 percent of family income between $4,320 and $5,900 and 15 percent of incremental income between $5,900 and $6,960, the "lower living standard" determined by the Bureau of Labor Statistics for a family of four;

That the schedule must be designed to permit enrollment or continued participation as family income increases in accordance with ability to pay;

That fees below those prescribed by the Secretary may be permitted, upon application by any prime sponsor, when the Secretary determines it necessary to reflect actual living expenses in the prime sponsorship area, to meet special needs of economically disadvantaged persons, or to insure to meet special needs of economically disadvantaged persons, or to insure consistency with existing fee schedules for similar services under law.

The first provision was contained in the vetoed bill, having been worked out at great length with the administration; the latter two provisions are new provisions to take into account the desirability of insuring mobility generally and meeting special circumstances that may pertain in various localities.

Second, with respect to the application of funds, the bill provides a reservation of $600 million for Headstart and other programs for children of low-income families, compared with the $500 million under the vetoed bill. As the President said in his veto message:

> Headstart continues to perform both valuable day care and early education services, and an important experimentation and demonstration function which identifies and paves the way for wider application of successful techniques.

The bill—like the vetoed bill—provides also, as a general requirement that at least 65 percent of the funds on the local level—after the Headstart reservation—would be used for children and families below the Bureau of Labor Statistics "lower living standard".

This group will not have any appreciable tax break from the Revenue Act of 1971. That act, which provides a tax deduction up to $200 a month for child care out of the home, will not provide significant benefits below the $6,900 bracket.

We have included also specific reservations—along the lines of the vetoed bill—for children of migrants, Indians, bilingual children, and for the handicapped.

A VARIETY OF QUALITY SERVICES

In his veto message President Nixon identified two existing needs: "day care to enable mothers, particularly at the lowest income levels, to take full-time jobs" and secondly, "the protection of children from actual suffering."

Mr. President, these are legitimate categories in a statistical sense, but I consider it important to comment on the President's characterization.

I believe that it is very dangerous to put an uneven reference—particularly in the low-income range—on employment needs of mothers over the developmental needs of children.

We must, if we are ever to break the syndrome of poverty, view child care as a means of providing services to children whose mothers have determined it necessary to work; not just as a means of permitting or requiring that mothers work. Seen in this way, as a general matter, the needs of a child of a working mother will be no less nor more than the needs of any child for developmental services.

It is up to the parents in each case to decide what kind of care will enable their child to achieve his or her full potential; the proper role of the Federal Government in that context then is to insure that quality care is available to protect children from inadequate or injurious services—not to single out this or that economic or social group for a particular kind of care.

The bill we introduce is based upon the concept of freedom of choice and provides for a wide range of opportunities—including family group services and round-the-clock services, as well as programs in centers, so that parents who wish services for their children may meet individual needs.

ADMINISTRATIVE WORKABILITY

Mr. President, in his veto message the President voiced particular concern over the so-called delivery system of the vetoed legislation, particularly in respect to the number of potential prime sponsors and what he termed an "insignificant" role for State governments. The vetoed bill extended eligibility to any unit or combination, having a population of 5,000 or more persons.

We have sought to meet those concerns in this legislation.

Under our bill, the following would be eligible for prime sponsorship: any State; any unit of general local government or combination thereof having population of 50,000 or more; any unit of general local government, regardless of population, if it can demonstrate a particular demand for services and availability of resources in the area; any Indian tribal organization and any public or nonprofit agency, under certain circumstances.

Each sponsor would be required to demonstrate administrative capability, establish a child development and family service council, and meet other requirements, essentially as contained in the vetoed bill.

If all units having a population of 50,000 or more were approved, then the Secretary would deal directly with approximately 1,047 governmental prime sponsors, compared with the estimated 7,000 under the vetoed bill; even adding the other eligible sponsors this is considerably below the 1,700 grantees under the Headstart program which has been a successful Federal program.

The bill makes it clear that in the event that a unit of general local government or combination of such units meets the requirements, then its application is to be approved over that of a State for the same area; where localities submit applications for the same area, the Secretary is directed to approve that which he determines may provide more effectively comprehensive child development and family services under the act.

Mr. President, with these changes, parents and children in areas which would not be eligible for direct prime sponsorship—particularly the economically disadvantaged—are entitled to the same degree of autonomy and protection in their relationships to the States as larger units of government will have in relation to the Federal Government.

Accordingly, the bill we introduce today:

Requires any State sponsor to establish "local family service areas" in appropriate areas under its administration and to establish a local child development and family services council, responsible for approval of the program statement—operational plan—with respect to programs conducted in the area.

Directs the Secretary to reserve an allocation for each such area from sums allocated to the States, based upon fixed criteria.

Provides a clear and direct recourse for any project applicant in such area to the Secretary, alleging that its project was denied by the State by reason of discrimination, on the basis of race, sex, or national origin.

The bill also contains the direct funding and bypass provisions of the vetoed bill, which we have strengthened by authorizing the Secretary to utilize up to 10 percent for model programs through nonprofit agencies, compared with the 5 percent under the vetoed bill.

Mr. President, administrative feasibility is enhanced also by requiring each State to submit a State annual child-service plan setting forth any agreements it has reached with local prime sponsors for coordination, mutual exchange programs, technical assistance, and other functions. The Secretary is authorized to utilize up to 5 percent of a State's apportionment for this purpose.

Moreover, the role of the responsibilities of the prime sponsors vis-a-vis the various councils, have been clarified, and the requirements for program statements and for project applications have been greatly simplified.

Finally, we have sought to link preschool programs with those conducted

in the schools under a special section for cooperative programs to be run by educational agencies; 5 percent of the funds under title I are set aside for that purpose.

FAMILY-STRENGTHENING ASPECTS

As I noted, the President viewed the vetoed bill as having family-weakening implications. I disagreed with that judgment; in fact, for the most part the history of existing programs evidences that these efforts strengthen the family by strengthening its members.

Nevertheless, I think it is important that we make clear the intent of this bill. We have done so in a number of ways:

The statement of purposes makes clear that parents—and not the Federal Government—are responsible for the development of children, and that the services provided are to strengthen family life and are only for children of parents who have either determined it necessary or desirable to engage in employment, training, or education or to seek assistance in providing educational and related developmental services.

Child development services are to be supplemented by services to other members of the family including maternal health services, which the President mentioned; referral services for prenatal, medical, and nutritional care, to reduce infant and maternal mortality and other handicapping conditions; as well as programs to prepare adolescents for family responsibilities, so that child development centers can be family centers.

A number of provisions require the full involvement of parents in directing, conducting, and participating in programs and an emphasis on the employment of parents as paraprofessionals and professionals.

The child development and family services councils, on the State, local, and area level are each structured to give parents—who would constitute one-half of the council—a principal voice in the conduct of programs.

The bill contains each of the provisions, inserted by my New York colleague, Senator BUCKLEY, in the vetoed bill, making it clear that participation in the program is in all respects—and without exception—up to the parent or guardian.

I ask unanimous consent that those provisions be printed at this point in the RECORD.

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

SPECIAL PROHIBITIONS

SEC. 217. (a) Nothing in this Act shall be construed or applied in such a manner as to infringe upon or usurp the moral and legal rights and responsibilities of parents or guardians with respect to the moral, mental, emotional, physical, or other development of their children. Nor shall any section of this Act be construed or applied in such a manner as to permit any invasion of privacy otherwise protected by law, or to abridge any legal remedies for any such invasion which are otherwise provided by law.

(b) The Secretary is directed to establish appropriate procedures to ensure that no child shall be the subject of any research or experimentation under this Act unless the parent or guardian of such child is informed of such research or experimentation and is given an opportunity as of right to except such child therefrom.

(c) A child participating in a program assisted under this Act shall not be required to undergo medical or psychological examination, immunization (except to the extent necessary to protect the public from epidemics of contagious diseases), or treatment if his parent or guardian objects thereto in writing on religious grounds. . . ."

Mr. JAVITS. Mr. President, we have introduced this legislation as a separate bill because it would provide child development opportunities to a range of socioeconomic groups and because we do not wish to delay further the vital extension of the Economic Opportunity Act, S. 3010, introduced by Senator NELSON and myself, now before the Committee on Labor and Public Welfare.

I am committed to meaningful legislation on child development and shall take every necessary step to have it considered concurrently, although separately with the extension.

It is hoped that an accommodation may be reached on legislation, for the vital interests of the poor and the many others who may benefit from this legislation, will not be well served if we have only another confrontation.

Mr. President, I ask unanimous consent that there be printed at this point in the RECORD a section-by-section analysis of the bill, together with the bill itself.

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

S. 3228

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Comprehensive Headstart, Child Development, and Family Services Act of 1972."

STATEMENT OF FINDINGS AND PURPOSE

SEC. 2. (a) The Congress finds that—

(1) millions of children in the Nation, by reason of poverty or other debilitating factors, lack a full opportunity, particularly during early childhood years, to receive adequate educational, nutritional, health and other services sufficient to enable them to reach their full potential;

(2) in exercising their moral and legal rights and responsibilities in respect to their children and families, many mothers, and single parents have determined it necessary or desirable to seek such services for their children in order to engage in employment, training, or education on a full- or part-time basis during hours when their children would ordinarily be in the home or to otherwise enhance the well being of their families by seeking supplemental educational and other services for their children and related services for other members of their families; and

(3) while there have been increased child care and developmental services for children of working mothers and single parents and while Headstart and similar programs have provided supplemental educational and other services for children, such services have not been made available to families to the extent that parents consider it necessary to contribute to the full development of their children and to improve the economic well being of their families and to otherwise strengthen family life.

(b) It is the purpose of this Act to provide a variety of quality family-centered child care and development service and other services to families, to assist parents in providing their children with an opportunity for a healthful and stimulating development regardless of economic, social and family backgrounds, with priority to those families and children with economic or other special needs, in a manner designed to strengthen family life and to ensure decisionmaking at the community level through a partnership of parents, State and local governments and the Federal Government, building upon the experience of Headstart and other existing programs.

AUTHORIZATION OF APPROPRIATIONS

SEC. 3. (a) For the purpose of carrying out this Act, there is authorized to be appropriated $1,200,000,000 for the fiscal year ending June 30, 1974, and $1,600,000,000 for the fiscal year ending June 30, 1975. Any amounts appropriated for each fiscal year which are not obligated at the end of such fiscal year may be obligated in the succeeding fiscal year.

(b) For the purpose of providing training, technical assistance, planning, and such other activities (including activities authorized under section 107) as the Secretary deems necessary and appropriate to prepare for the implementation of this Act, there is authorized to be appropriated $100,000,000 for the fiscal year ending June 30, 1973.

(c) Of the amounts appropriated pursuant to subsection (a) for any fiscal year, the Secretary shall allocate not less than 90 per centum only for the purposes of title I of this Act and the remainder shall be allocated only for the purposes of title II of this Act.

(d) (1) For the purpose of affording adequate notice of funding available under this Act such funding for grants, contracts, or other payments under this Act is authorized to be included in the appropriations Act for the fiscal year preceding the fiscal year for which they are available for obligation.

(2) In order to effect a transition to the advance funding method of timing appropriation action, paragraph (d) (1) shall apply notwithstanding that its initial application will result in the enactment in the same year (whether in the same appropriation Act or otherwise) of two separate appropriations, one for the then current fiscal year and one for the succeeding fiscal year.

DEFINITIONS

SEC. 4. As used in this Act, the term—

(1) "Secretary" means the Secretary of Health, Education, and Welfare;

(2) "State" means the several States and the District of Columbia, Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands;

(3) "child development and family service programs" means programs on a full-day or part-day basis which provide the educational, nutritional, health, and other services needed to provide the opportunity for children to attain their full potential, including services to other family members related to the full educational and other development of children;

(4) "children" means individuals who have not attained the age of fifteen;

(5) "economically disadvantaged children" means any children of a family having an annual income below the lower living standard budget (adjusted for regional and metropolitan, urban, and rural differences, and family size), as determined annually by the Bureau of Labor Statistics of the Department of Labor;

(6) "handicapped children" includes mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, crippled, or other health impaired children or children with specific learning or other disabilities who by reason thereof require special education and related services;

(7) "program" includes any program, service, or activity, which is conducted full or part time, day or night, in special facilities, in schools, in neighborhood centers, or in

homes, in group homes or in family group homes or which provides child development and family services for children whose parents are working or receiving education or training and related family services;

(8) "parent" means any person who has day-to-day parental responsibility for any child;

(9) "single parent" means any person who has sole day-to-day responsibility for any child;

(10) "working mother" means any mother who requires child development and family services under this Act in order to undertake or continue full- or part-time work, training, or education outside her home;

(11) "minority group" includes, but is not limited to, persons who are Negro, American Indian, Spanish-surnamed American, Portuguese, or Oriental, and, as determined by the Secretary, children who are from environments in which a dominant language is other than English and who, as a result of language barriers, may need special assistance, and, for the purpose of this paragraph, Spanish-surnamed Americans include persons of Mexican, Puerto Rican, Cuban, or Spanish origin or ancestry;

(12) "bilingual" means, but is not limited to, persons who are Spanish surnamed, American Indian, Oriental, Portuguese, or others who have learned during childhood to speak the language of the minority group of which they are members and who, as a result of language barriers, may need special assistance;

(13) "local educational agency" means any such agency as defined in section 801(f) of the Elementary and Secondary Education Act of 1965;

(14) "institution of higher education" means any such institution as defined in section 1201(a) of the Higher Education Act of 1965;

(15) "low-income family" means a family whose annual income is less than the "poverty level" as defined by the Director of the Office of Economic Opportunity;

(16) "unit of general local government" shall mean any public agency having general governmental powers substantially similar to those of a city.

TITLE I—HEADSTART, CHILD DEVELOPMENT AND FAMILY SERVICES PROGRAMS

FINANCIAL ASSISTANCE

SEC. 101. The Secretary of Health, Education, and Welfare shall provide financial assistance to prime sponsors and to other public and nonprofit agencies and organizations in accordance with the provisions of this title for carrying out child development and family service programs under this title.

USES OF FUNDS

SEC. 102. Funds available for this title may be used for planning, establishing, maintaining, and operating the following child development and family service programs and activities including but not limited to:

(1) Headstart and similar programs focused upon pre-school children in low-income and other families providing such comprehensive health, nutritional, educational, and other services as parents deem necessary to enable their child to achieve his or her full potential, including full day, part-day programs and programs for all or part of the week and for such months of the year as is deemed desirable by parents, and related programs for other children;

(2) child care for preschool and other children of a quality which insures that the health, nutritional, education, and other services which parents deem necessary to enable their child to achieve his or her full potential are provided during times when their mothers engage in employment, training or education on a full- or part-time basis;

(3) other programs designed to support and enhance family life and contribute to the full development of children and other family members. Such programs may include, but are not limited to, the following—

(A) referral services for family planning, and purchase of such services when not otherwise available;

(B) referral services for prenatal, medical, and nutritional care, and purchase of such services when not otherwise available, designed to reduce infant and maternal mortality and incidence of mental retardation and other handicapping conditions;

(C) programs to prepare adolescents and other family members for family responsibilities, including assistance to public secondary schools and nonprofit organizations to implement courses for adolescents and providing opportunities for the participation of adolescents in child development and family service programs authorized under this title;

(4) emergency child care programs for children of parents who are sick, incapacitated, or for other urgent reasons, temporarily unable to provide adequate care for their children;

(5) programs designed (i) to meet the special needs of minority group, Indian, and migrant children with particular emphasis on the needs of children from bilingual families for the development of skills in English and the other language spoken in the home, and (ii) to meet the needs of all children to understand the history and cultural backgrounds of minority groups which belong to their communities and the role of members of such minority groups in the history and cultural development of the Nation and of the region in which they reside;

(6) diagnosis, identification, and treatment of visual, hearing, speech, nutritional, and other physical, mental, and emotional barriers to full participation in programs, including programs for preschool and other children who are emotionally disturbed;

(7) special activities designed to identify and ameliorate identified physical, mental, and emotional handicaps and special learning disabilities as an incorporated part of programs conducted under this title and, where necessary because of the severity of such handicaps, establishing, maintaining, and operating separate child development and family services programs designed primarily to meet the needs of handicapped children, including emotionally disturbed children;

(8) preservice and inservice training for parents, professional and paraprofessional personnel and volunteers for child development and family service programs;

(9) allowances for transportation and other costs with respect to children where such costs are necessary to and directly related to such child's participation in programs under this title;

(10) rental, remodel, renovation, alteration, construction or acquisition of facilities, including mobile facilities, and the acquisition of necessary equipment and supplies;

(11) staff and other administrative expenses of child development and family service councils, and project advisory committees established and operated in accordance with the provisions of this title; and

(12) such other services and activities as the Secretary deems appropriate in furtherance of the purposes of this title.

STATE AND LOCAL PRIME SPONSORS

SEC. 103. (a) In accordance with the provisions of this section, the following may be designated by the Secretary as a prime sponsor for the purpose of entering into arrangements directly with the Secretary to carry out programs under this title within a State:

(1) any State;

(2) any unit of general local government or any combination of such units having a total population of fifty thousand or more persons on the basis of the most satisfactory current data;

(3) any unit of general local government or any combination of such units, without regard to population, subject to a demonstration by the applicant of capability to carry out adequately a comprehensive child development and family service program, and of a particular demand for services and availability of resources within the area to be served;

(4) any Indian tribal organization;

(5) any other public agency or private nonprofit agency meeting the requirements of subsection (d), (h), or (i) of this section.

(b) Such applicants under this subsection may be designated, upon the approval by the Secretary of a prime sponsorship plan which—

(1) describes the prime sponsorship area to be served;

(2) sets forth satisfactory provisions for establishing and maintaining a child development and family service council which meets the requirements of section 104;

(3) provides that the prime sponsor shall be responsible for developing and preparing for each fiscal year a prorgam statement in accordance with section 105 and any modification thereof and for selecting or establishing an agency or agencies to administer child development and programs in the prime sponsorship area;

(4) sets forth arrangements under which the child development and family services council will be responsible for approving program statements and the selection or establishment of an agency or agencies under paragraph (3) of this section and for evaluating child development and family service programs, conducted in the prime sponsorship area;

(5) set forth procedures to insure that all project applicants for financial assistance in the area to be served are given due consideration in accordance with regulations promulgated by the Secretary;

(6) provides assurances that the prime sponsor has the capability (through the administering agency or agencies established or selected pursuant to paragraphs (3) and (4) of this subsection) to provide directly or by contract or arrangement with State, local, or other public agencies or other nonprofit organizations in an effective and comprehensive manner—

(A) child-related family, social, and rehabilitative services;

(B) coordination with educational agencies and providers of educational services;

(C) health (including family planning) and mental health services;

(D) nutrition services;

(E) training of professional and paraprofessional personnel;

(F) full-time administrative personnel to conduct the program;

(G) such other services, including transportation, as are necessary to participation of children in the program; and

(7) in the case of an applicant for prime sponsorship which is a State, designates for the purpose of administering programs under this title, local family service areas within the prime sponsorship area, whose boundaries are political jurisdictions or other appropriate areas;

(8) sets forth procedures with respect to each such local family service area, pursuant to regulations promulgated by the Secertary, for—

(A) the appointment of a director for each such local family service area, to be responsible to the administering agency or agencies, established or selected under paragraphs (3) and (4) of this subsection for the administration of programs in such area;

(B) the establishment and maintenance of a local child development and family service council for each such area, to the fullest extent practicable, in the same manner and having the same composition as the child development and family service council re-

quired under section 104 of this Act, which council shall be responsible in cooperation with the director for the approval of that portion of the prime sponsor program statement to be submitted in accordance with section 105 relating to programs to be conducted in such local family service area;

(C) an appeal directly to the Secretary by any approved local child development and family service council whenever such council alleges that with respect to its portion of the program statement the State has failed to comply with the provisions of the program statement or the provisions of the Act.

(c) (1) The Secretary shall approve a prime sponsorship plan submitted by a State or other applicant under subsection (a) if he determines that the plan so submitted meets the requirements of this section where applicable, and includes adequate administrative and other provisions for carrying out effectively comprehensive child development and family service programs in the area to be served.

(2) In the event that the prime sponsorship plan of any applicant under paragraph (2), (3), or (4) of subsection (a) of this section includes any common geographical area with that covered by another such applicant, the Secretary shall designate to serve such area the applicant which he determines has the capability of more effectively carrying out the purposes of this Act with respect to such area and which has submitted a plan which meets the requirements of this section and includes adequate administrative and other provisions for carrying out effectively comprehensive child development and family service programs in such area.

(3) In the event a State has submitted a prime sponsorship plan under subsection (a) of this section to serve a geographical area covered by the plan of an applicant under paragraphs (2), (3), or (4) of subsection (a), the Secretary shall approve the latter plan after carrying out the procedures in subsection (e), if he determines that the plan so submitted meets the applicable requirements of this section and includes adequate administrative and other provisions for carrying out effectively comprehensive child development and family services programs in such area.

(d) The Secretary may approve a prime sponsorship plan submitted under paragraph (5) of subsection (a) by any public or private nonprofit agency, including but not limited to a community action agency, single-purpose Headstart agency, community development corporation, parent cooperative, organization or migrant agricultural workers, organization of Indians, employer organization, labor union, employee or labor-management organization, or public or private educational agency or institution, if he determines that the plan so submitted meets the applicable requirements of this section and includes—

(1) provisions setting forth arrangements for serving children in a neighborhood or other area possessing a commonality of interest in the area of any locality with respect to which there is no prime sponsorship designation in effect or with respect to any portion of an area where the prime sponsor is found not to be satisfactorily implementing child development and family service programs which adequately meet the purposes of this title, or for making available special services, in accordance with criteria established by the Secretary, designed to meet the needs of economically disadvantaged or preschool children or children of working mothers or single parents; or

(2) arrangements for providing comprehensive child development and family service programs on a year-round basis to children of migrant agricultural workers and their families; or

(3) arrangements for carrying out model programs especially designed to be responsive to the needs of economically disadvantaged, minority group, or bilingual preschool children or to demonstrate the feasibility of conducting child development and family services programs on the basis of a neighborhood or other area possessing a commonality of interest in the area of any locality.

(e) The Governor or other chief executive officer shall be given not less than thirty nor more than sixty days to review prime sponsorship plans filed by an applicant other than a State, to offer recommendations to the applicant, and to submit comments to the Secretary.

(f) A prime sponsorship plan submitted under this section may be disapproved or a prior designation of a prime sponsor may be withdrawn only if the Secretary, in accordance with regulations which he shall prescribe, has provided (1) written notice of intention to disapprove such plan, including a statement of the reasons, (2) a reasonable time in which to submit corrective amendments to such plan or undertake other necessary corrective action, and (3) an opportunity for a public hearing upon which basis an appeal to the Secretary may be taken as of right.

(g) (1) If any party is dissatisfied with the Secretary's final action under subsection (f) with respect to the disapproval of its plan submitted under this section or the withdrawal of its prime sponsorship designation, such party may, within sixty days after notice of such action, file with the United States court of appeals for the circuit in which such party 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 Secretary. The Secretary 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 Secretary, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Secretary to take further evidence. The Secretary may 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 be conclusive if supported by substantial evidence.

(3) The court shall have jurisdiction to affirm the action of the Secretary 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.

(h) When a unit (or combination of units) of general government is maintaining a pattern and practice of exclusion of minorities or of economically disadvantage children, the Secretary shall give preference in the approval of applications for prime sponsorship to an alternative unit of government or, notwithstanding the provisions of subsection (d) of this Act, to a public or private nonprofit agency or organization in the area representing the interests of minority and economically disadvantaged persons.

(i) In the event that an applicant eligible under subsection (a) has not submitted a program statement under section 105 or the Secretary has not approved a program statement so submitted, or where the Secretary has not designated or has withdrawn designation of prime sponsorship under this section, or where the needs of migrants, preschool-age children, or the children of working mothers or single parents, minority groups, or the economically disadvantaged are not being served, the Secretary may directly fund projects, including those in rural areas without regard to population, that he deems necessary in order to serve the children of the particular area.

CHILD DEVELOPMENT AND FAMILY SERVICE COUNCILS

SEC. 104. (a) Each prime sponsor designated under section 103 shall establish and maintain a Child Development and Family Services Council composed of not less than 10 members as follows—

(1) not less than half the members of such Council shall be parents of children served in programs under this Act chosen in accordance with the provisions of paragraph (1) of subsection (b) of this section.

(2) the remaining members shall be appointed by the chief executive officer or the governing body, whichever is appropriate, of the prime sponsor to represent the public, but (A) not less than half of such members shall be persons who are broadly representative of the general public, including government agencies, public and private agencies and organizations in such fields as education, economic opportunity, health, welfare, employment and training, business or financial organizations or institutions, labor unions, and employers, and (B) the remaining members, the number of which shall be either equal to or one less than the number of members appointed under clause (A), shall be persons who are particularly skilled by virtue of training or experience in child development, child health, child welfare, or other child and family services, except that the Secretary may waive the requirement of this clause (B) to the extent that he determines, in accordance with regulations which he shall prescribe, that such persons are not available to the area to be served; and

(3) in establishing a Child Development and Family Services Council under this section, the prime sponsor shall give due consideration to the membership of day care coordinating bodies then existing in the area to be served.

(b) In accordance with procedures which the Secretary shall establish pursuant to regulations, each prime sponsor designated under section 103 shall provide, with respect to the Child Development and Family Services Councils established and maintained by such prime sponsor, that—

(1) the parent members described in paragraph (1) of subsection (a) of this section shall be chosen as follows:

(A) in the case of Councils established by prime sponsors which are States, by the parent members of local child development and family service councils established under section 103; and

(B) in the case of Councils established by prime sponsors other than States (and by States with respect to local family service areas) initially by the membership of Headstart policy committees and of other organizations conducting child development, child care and day care programs in the prime sponsorship area and, at the earliest practicable time, in such a manner as to insure equitable representation of the various segments of children served under programs conducted in the prime sponsorship area under this title;

(2) the terms of office and any other policies and procedures of an organizational nature, including nomination and election procedures, are appropriate in accordance with the purposes of this title;

(3) such Council shall have responsibility for approving program statements and the establishment or selection of an administering agency or agencies, and for evaluating child development and family service programs.

PROGRAM STATEMENTS

SEC. 105. (a) Financial assistance under this title may be provided by the Secretary for any fiscal year to a prime sponsor designated under section 103 only pursuant to a program statement which is submitted by such prime sponsor directly to and approved by the Secretary in accordance with the provisions of this title. Any such program state-

ment shall set forth a comprehensive program for providing child development and family services in the prime sponsorship area which—

(1) identifies child development and family service needs and basic goals within the area and describes the purposes for which the financial assistance will be used and the basic policies and procedures to be followed in carrying out provisions under this title;

(2) meets the needs of children and families in the prime sponsorship area, to the extent that available funds can be reasonably expected to have an effective impact, including infant care and before and after school programs for children in school with priority to children who have not attained six years of age;

(3) (A) provides that funds received under section 112(a) will be used for programs and services focused upon young children from low-income families, giving priority to continued financial assistance for Headstart projects by reserving for such projects from such funds in any fiscal year an amount at least equal to the aggregate amount received by public or private agencies and organizations within the prime sponsorship area for programs during the fiscal year ending June 30, 1973, under section 222(a) (1) of the Economic Opportunity Act of 1964, and (B) provides that programs receiving funds under section 112(c) will give priority to providing services for economically disadvantaged children by reserving not less than 65 per centum of the cost of programs receiving such funds for the purpose of serving economically disadvantaged children as determined under paragraph (5) of section 4;

(4) gives priority thereafter to providing programs and services to children of single parents and working mothers not covered under paragraph (3);

(5) provides that the prohibition of section 218 shall be met with respect to each of the programs to be conducted in the prime sponsorship area;

(7) provides, in the case of a prime sponsor located within or adjacent to a metropolitan area, for coordination with other prime sponsors located within such metropolitan area, and arrangements for cooperative funding where appropriate, and particularly for such coordination where appropriate to meet the needs for services to children of parents working or participating in training or otherwise occupied during the day within a prime sponsorship area other than that in which they reside;

(8) provides for coordination of other programs providing child development, child care and family services, and manpower training services, including but not limited to educational, health, employment and other social services with program conducted under this Act;

(9) provides equitably for the special needs of minority group children, children of migrant agricultural workers and other significant segments of the economically disadvantaged including dissemination of information relating to programs in the functional language of the parents;

(10) provides for such fiscal control and funding accounting procedures as the Secretary may prescribe to assure proper disbursement of and accounting for Federal funds paid to the prime sponsor;

(b) No program statement or modification thereof submitted by a prime sponsor under this section shall be approved by the Secretary unless he determines, in accordance with regulations which the Secretary shall prescribe, that—

(1) each community action agency or single-purpose Headstart agency in the area to be served previously responsible for the administration of programs under this title or under section 222(a) (1) of the Economic Opportunity Act of 1964 has had an opportunity to submit comments to the prime sponsor and to the Secretary;

(2) the local educational agency for the area to be served and other appropriate educational and training agencies and institutions have had an opportunity to submit comments to the prime sponsor and to the Secretary; and

(3) the Governor or other chief executive officer of the State has had an opportunity to submit comments to the prime sponsor and to the Secretary.

(c) A program statement submitted under this section may be disapproved or a prior approval withdrawn only if the Secretary, in accordance with regulations which he shall prescribe, has provided (1) written notice of intention to disapprove such program statement, including a statement of the reasons, (2) a reasonable time to submit corrective amendments to such plan or undertake other necessary corrective action, and (3) an opportunity for a public hearing upon which basis an appeal to the Secretary may be taken as of right.

(d) In order to contribute to the effective use of child development services developed and operated under this title the Secretary shall require that, wherever feasible, agencies providing child development and child care under the Social Security Act shall purchase services from those facilities funded by the prime sponsor, and in any event programs providing child development and child care under the Social Security Act shall be coordinated with programs conducted by the prime sponsor. In order to encourage such coordination, the Secretary may accept those amounts of non-federal share contributions which exceed matching requirements under this Act as meeting the non-federal share contributions under the Social Security Act.

PROJECT APPLICATIONS

SEC. 106. (a) Financial assistance under this title may be provided to a project applicant for any fiscal year only pursuant to a project application which is submitted by a public or private agency and which provides—

(1) that funds will be provided for carrying out programs under this title only to a qualified public or private agency or organization, including but not limited to a community action agency, single-purpose Headstart agency, community development corporation, parent cooperative, organization of migrant agricultural workers, organization of Indians, private organization interested in program for such children, employer, or business organization, labor union, employee or labor-management organization, or public or private educational agency or institution;

(2) for establishing and maintaining project policy committees composed of not less than ten members as follows—

(A) not less than half of the members of each such committee shall be parents of children served by such project, and

(B) the remaining members of each such committee shall consist of (i) persons who are representative of the community, and (ii) at least one person who is particularly skilled by virtue of training or experience in child development, child health, child welfare, child care or other child services, except that the Secretary may waive the requirement of this clause (i) where he determines, in accordance with regulations which he shall prescribe, that such person is not available to the area to be served;

(3) for direct participation of such policy committees in the development and preparation of project applications under this title;

(4) that project policy committees shall have responsibility for approving basic goals, policies, actions, and procedures for the project applicant, including policies with respect to planning, overall conduct, budgeting, location of centers and facilities, and direction and evaluation of projects;

(5) that adequate provision will be made for training and other administrative expenses of such policy committees;

(6) that programs assisted will provide for such comprehensive health, nutritional, education, and other services, as are necessary for the full development of each participating child;

(7) that programs will provide for the full participation of parents and other family members in the conduct, overall direction and evaluation of programs;

(8) that programs will provide to the extent feasible for the employment of parents and other members of the family as professionals and paraprofessionals and includes to the extent feasible a career development plan for paraprofessional and professional training, education, and advancement on a career ladder;

(9) that adequate provision will be made for the regular and frequent dissemination of information in the functional language of those to be served, to assure that parents and interested persons are fully informed of project activities;

(10) that with respect to programs assisted under this title—

(A) no charge will be made with respect to any child who is a member of any family with an annual income equal to or less than $4,320 with appropriate adjustments in the case of families having more than two children, except to the extent that payment will be made by a third party (including a public agency); and

(B) such charges as the Secretary may provide will be made with respect to any child of any other family, in accordance with an appropriate fee schedule established by him, designed to permit enrollment or continued participation in the program as family income increases and based upon the ability of the family to pay, which payment may be made in whole or in part by a third party in behalf of such family, except that any such charges with respect to any family with an income of less than the lower living standard budget (as determined in accordance with paragraph (5) of section 4) shall not exceed the sum of (i) an amount equal to 10 per centum of any family income which exceeds the highest income level at which no charges would be made with respect to children of such family under subparagraph (A) but does not exceed 85 per centum of such lower living standard budget, and (ii) an amount equal to 15 per centum of any family income which exceeds 85 per centum of such lower living standard budget but does not exceed 100 per centum of such lower living standard budget and, if more than two children from the same family are participating, additional charges may be made not to exceed the sum of the amounts calculated in accordance with clauses (i) and (ii) with respect to each such additional child or, the actual cost of services, whichever is less: *Provided*, That charges less than those prescribed by the Secretary pursuant to this paragraph (B) may be made with respect to any programs, where the Secretary, upon application of any prime sponsor, determines that such lower charges are necessary in order to take into account actual living expenses within the prime sponsorship area, to meet the special needs of economically disadvantaged persons within such area, or to insure consistency with existing fee schedules for similar services under other laws;

(11) that children will in no case be excluded from the programs operated pursuant to this title because of their participation in nonpublic preschool or school programs or because of the intention of their parents to enroll them in nonpublic schools when they attain school age;

(12) that there are assurances satisfactory to the Secretary that the non-Federal share requirements will be met; and

(13) that provision will be made for such

fiscal control and fund accounting procedures as the Secretary shall prescribe to assure proper disbursement of and accounting for Federal funds.

(b) A project application may be approved by a prime sponsor upon its determniation that such application meets the requirements of this section and that the programs provided for therein will otherwise further the objectives and satisfy the appropriate provisions of the prime sponsor's program statement as approved pursuant to section 105.

(c) A project application submitted directly to the Secretary by a public or nonprofit private agency may be approved by the Secretary in special circumstances upon his determination that it meets the requirements of subsection (a) of this section and that direct funding is necessary to insure the purposes of this Act.

(d) Any project applicant alleging that a prime sponsor disapproved an application for funds under this title on the basis of discrimination because of race, color, creed, or national origin, may apply directly to the Secretary for funds under this title. Each such application shall contain or be accompanied by such information as the Secretary may reasonably require. Upon approval of an application, the Secretary is authorized to make grants to the extent practicable in accordance with the provisions of this title.

ANNUAL FAMILY SERVICE PLANS

SEC. 107. (a) Any State desiring to receive additonal financial assistance pursuant to subsection (d) of section 112, shall submit (in addition to a program statement in respect to fiscal years after that ending June 30, 1973), an annnal family service plan.

(b) Such plan shall be approved by the Secretary upon a determination that it sets forth adequate agreements between State and local prime sponsors for maximium coordination of programs conducted under this Act within the State and for full utilization of resources within the State, including, but not limited to agreements with respect to—

(1) the determination of general child development and family service goals and needs throughout the State;

(2) comprehensive planning of child development and family service programs to be conducted within the State;

(3) arrangements under which State agencies shall assist in the establishment of Child Development and Family Services Councils and in strengthening the capability of such Councils to participate effectively in programs under this Act where requested by local prime sponsors;

(4) arrangements under which State agencies shall assist in providing health, educational, family planning, education, nutrition, and other components of child development and family service programs and facilities and training related thereto where requested by local prime sponsors in the development and implementation of program statements submitted by local prime sponsors;

(5) arrangements for conducting programs for the exchange of personnel involved in child development and family service programs within the State;

(6) procedures for assessing State and local licensing codes and teaching standards as they relate to Headstart, child development and family service programs within the State; and

(7) procedures for disseminating model program information and the results of research on programs for children and families.

SPECIAL COOPERATIVE PROGRAMS WITH EDUCATIONAL INSTITUTIONS AND OTHER PROJECT SPONSORS

SEC. 108. (a) The Secretary shall provide assistance made available for the purposes of this section pursuant to paragraph (b)(6) of section 112 of this title to educational agencies and institutions to be used by such agencies and institutions in cooperation with other project applicants pursuant to program statements for the purpose of planning, carrying out and evaluating cooperative programs and activities designed to provide continuity between preschool programs, after school programs and educational and related programs conducted by such agencies and institutions, including those conducted under the Elementary and Secondary Education Act of 1965 such as joint design of programs, provision for interchange and progression of children between programs, cooperative use of professional, technical and administrative personnel and development of sequential programs to be conducted by several component agencies or organizations.

(b) Nothing in this section shall be construed to limit the opportunity of any agency or institution receiving assistance under this section from otherwise receiving assistance under this title.

ADDITIONAL CONDITIONS FOR PROGRAMS INCLUDING CONSTRUCTION

SEC. 109. (a) Applications for financial assistance for projects including construction may be approved only if the prime sponsor, pursuant to regulations promulgated by the Secretary determines that construction of such facilities is essential to the provision of adequate child development and family services, and that rental, renovation, remodeling, or leasing of adequate facilities is not practicable.

(b) If any facility assisted under this title shall cease to be used for the purposes for which it was constructed, the United States shall be entitled to recover from the applicant or other owner of the facility an amount which bears to the then value of the facility (or so much thereof as constituted an approved project) the same ratio as the amount of such Federal funds bore to the cost of the facility financed with the aid of such funds, unless the Secretary determines in accordance with regulations that there is good cause for releasing the applicant or other owner from the obligation to do so. 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.

(c) All laborers and mechanics employed by contractors or subcontractors on all construction, remodeling, renovation, or alteration projects assisted under this part shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a—276a-5). The Secretary of Labor shall have with respect to the labor standards specified in this section the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176) and section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276c).

(d) In the case of loans for construction, the Secretary shall prescribe the interest rate and the period within which such loan shall be repaid, but such interest rates shall not be less than 3 per centum per annum and the period within which such loan is to be repaid shall not be more than twenty-five years.

(e) The Federal assistance for construction may be in the form of grants or loans, provided that total Federal funds to be paid to other than public or private nonprofit agencies and organizations will not exceed 50 per centum of the construction cost, and will be in the form of loans. Repayment of loans shall, to the extent required by the Secretary, be returned to the prime sponsor from whose financial assistance the loan was made, or used for additional loans or grants under this title. Not more than 15 per centum of the total financial assistance provided to a prime sponsor under this part shall be used for construction of facilities, with no more than 7½ per centum of such assistance usable for grants for construction.

(f) In the case of a project for the construction of facilities and in the development of plans for such facilities due consideration shall be given to excellence of architecture and design and to the inclusion of works of art (not representing more than 1 per centum of the cost of the project).

USE OF PUBLIC FACILITIES FOR CHILD DEVELOPMENT AND FAMILY SERVCE PROGRAMS

SEC. 110. (a) The Secretary, after consultation with other appropriate officials of the Federal Government, shall within nine months after enactment of this Act report to the Congress with respect to the extent to which facilities owned or leased by Federal deparments, agencies, and independent authorities may be made available to public and private nonprofit agencies and organizations, through appropriate arrangements, for use as facilities for child development and family service programs under this title during times and periods when not utilized fully for their usual purposes, together, with his recommendations (including recommendations for changes in legislation) or proposed actions for such use.

(b) The Secretary may require, as a condition to the receipt of assistance under this title, that any prime sponsor under this title agree to conduct a review and provide the Secretary with a report as to the extent to which facilities owned or leased by such prime sponsor, or by other agencies or institutions in the prime sponsorship area, could be made available, through appropriate arrangements, for use as facilities for child development and family service programs under this title during times and periods when not utilized fully for their usual purposes, together with the prime sponsors, proposed actions for such use.

PAYMENTS

SEC. 111. (a) In accordance with this section, the Secretary shall pay from the applicable allocation or apportionment under section 112 the Federal share of the costs of programs, services, and activities, in accordance with plans or statements which have been approved as provided in this title. In making such payment to any prime sponsor, the Secretary shall include in such costs an amount for staff and other administrative expenses for the Child Development and Family Service Council not to exceed an amount which is reasonable when compared with such costs for other prime sponsors.

(b)(1) Except as provided in paragraphs (2) and (3) of this subsection, the Secretary shall pay an amount not in excess of 90 per centum of the cost of carrying out programs, services, and activities under this title. The Secretary may, in accordance with such regulations as he shall prescribe, approve assistance in excess of such percentage if he determines that such action is required to provide adequately for the child development and related family service needs of economically disadvantaged children.

(2) The Secretary shall pay an amount equal to the full cost of providing child development and family service programs for children of migrant agricultural workers and their families under this title.

(3) The Secretary shall pay to each prime sponsor approved under section 103 an amount equal to the full cost of providing child development and family service programs for children in Indian tribal organizations.

(c) The non-Federal share of the costs of programs assisted under this title may be provided through public or private funds and may be in the form of cash, goods, services, or facilities (or portions thereof that are used for program purposes) reasonably evaluated, or union or employer contribu-

tions. Fees collected for services provided pursuant to section 106(a)(10) may be used to make up the non-Federal share, and may also be used by the project applicant for the same purposes as payments under this section, except that, in case of projects assisted under a program statement, such fees shall be turned over to the appropriate prime sponsor for distribution in the same manner as the prime sponsor's allocation under section 112(c).

(d) If, with respect to any fiscal year, a prime sponsor or project applicant provides non-Federal contributions for any program, service, or activity exceeding its requirements, such excess may be applied toward meeting the requirements for such contributions for the subsequent fiscal year under this title.

(e) No State or locality shall reduce its expenditures for activities for children and their families by reason of assistance under this title.

APPORTIONMENT OF FUNDS

SEC. 112. (a) From the amounts available for carrying out programs under this title, $600,000,000 shall first be used for the purpose of providing assistance for programs under this title focused upon pre-school children and services for other family members from low-income families, giving priority to continued financial assistance for Headstart projects.

(b) Of the amounts available for this title (after making the reservation provided for in subsection (a)) the Secretary shall reserve for use under title I, the following:

(1) not less than that proportion of the total amount available as is equivalent to that proportion which the total number of children of migrant agricultural workers bears to the total number of economically disadvantaged children in the United States, which shall be apportioned among programs serving children of migrant agricultural workers on an equitable basis, and to the extent practicable in proportion to the relative numbers of children served in each such program;

(2) not less than that proportion of the total amount available as is equivalent to that proportion which the total number of children in Indian tribal organizations bears to the total number of economically disadvantaged children in the United States, which shall be apportioned among programs serving children in Indian tribal organizations on an equitable basis, and to the extent practicable in proportion to the relative numbers of children in each such program;

(3) not less than 10 per centum of the total amount available which shall be made available for the purposes of section 102(7) of this title (relating to special activities for handicapped children);

(4) not less than 10 per centum of the total amount available which shall be made available under section 103(d)(3) of this title (relating to model programs); and

(6) not to exceed 5 per centum of the total amount available, which shall be made available, under section 108 of this title (relating to special cooperative programs).

(c) The Secretary shall allocate the remainder of the amount available for this title (after making the reservations provided for in subsections (a) and (b)) among the States so as to provide the following geographical distribution:

(A) 50 per centum thereof so that the amount allotted for use within each State bears the same ratio to such 50 per centum as the number of economically disadvantaged children through age 14 in the State, excluding those children in the State who are eligible for services funded under paragraphs (1) and (2) of subsection (b), bears to the number of economically disadvantaged children in all the States, excluding those children in all the States who are eligible for services funded under paragraphs (1) and (2) of subsection (b) of this section;

(B) 25 per centum thereof so that the amount allotted for use within each State bears the same ratio to such 25 per centum as the number of children through age 5 in the State, excluding those children in the State who are eligible for services funded under paragraphs (1) and (2) of subsection (b) of this section, bears to the number of children through age 5 in all the States, excluding those children in all the States who are eligible for services funded under paragraphs (1) and (2) of subsection (b) of this section;

(C) 25 per centum thereof so that the amount allotted for use within each State bears the same ratio to such 25 per centum as the number of children of working mothers and single parents in the State, excluding those children in the State who are eligible for services funded under paragraphs (1) and (2) of subsection (b) of this section, bears to the total number of children of working mothers and single parents in all the States, excluding those children in all the States who are eligible for services funded under paragraphs (1) and (2) of subsection (b) of this section.

(d) Not to exceed 10 per centum of the total funds allotted for use within a State pursuant to subsection (b)(2) may be made available to carry out the provisions of section 107 of this title.

(e) The Secretary shall apportion the remainder of the amount allotted for use within each State (after making allocations under subsection (d) among local family service areas and areas to be served by prime sponsors in each such State so as to provide the following geographical distribution:

(1) 50 per centum thereof so that the amount apportioned to each such area bears the same ratio to such 50 per centum as the number of economically disadvantaged children through age 14 in the area served by prime sponsors bears to the number of economically disadvantaged children in the State;

(2) 25 per centum thereof so that the amount apportioned to each such area bears the same ratio to such 25 per centum as the number of children through age 5 in the area to be served by the prime sponsor bears to the number of children through age 5 in the State;

(3) 25 per centum thereof so that the amount apportioned to each such area bears the same ratio to such 25 per centum as the number of children of working mothers and single parents in the area bears to the number of children of working mothers and single parents in the State.

(f) The portion of any allotment or apportionment under subsection (c) or (e) for a fiscal year which the Secretary determines will not be required, for the period for which such allotment or apportionment is available, for carrying out programs under this title shall be available for reallotment or reapportionment from time to time, on such dates during such period as the Secretary shall fix, to other States in the case of allotments under subsection (c), or to other local family service areas and areas to be served by alternate prime sponsors in the case of apportionments under subsection (e), in proportion to the original allotments to such States under subsection (c), or the original apportionments to such local family service areas and areas to be served by alternate prime sponsors under subsection (e), for such year, but with such proportionate amount for any of such States or such areas being reduced to the extent it exceeds the needs of such State or such area for carrying out activities approved under this Act, and the total of such reductions shall be similarly reallotted among the States or reapportioned among such areas whose proportionate amounts are not so reduced. Any amount reallotted to a State or reapportioned to an area under this subsection during a year shall be deemed part of its allotment or apportionment under subsection (c) or subsection (e) for such year.

(g) The Secretary is directed to adjust any allotment or apportionment under subsection (c) or (e) for any fiscal year in order to insure priority to the continuation of Headstart programs pursuant to paragraph (a) of this section and paragraph (a)(3) of section 105.

(h) In determining the numbers of children for purposes of reserving, allotting, and apportioning funds this section, the Secretary shall use the most recent satisfactory data available to him.

(i) As soon as practicable after funds are appropriated to carry out this title for any fiscal year, the Secretary shall publish in the Federal Register the allotments and apportionments required by this section.

TITLE II—SUPPORTIVE SERVICES AND SPECIAL ACTIVITIES

SPECIAL RESPONSIBILITIES OF THE SECRETARY

SEC. 211. The Secretary is authorized to—

(a) make payments to provide financial assistance to enable individuals employed or preparing for employment in programs assisted under this Act, including volunteers, to participate in programs of preservice or inservice training for professional and nonprofessional personnel, to be conducted by any compentent public or private agency or organization carrying out such program or any institution of higher education, including a community college, or by any combination thereof. The Secretary may reserve for the purposes of this subsection not more than 50 percent of the amounts available under this title for any fiscal year;

(b) make technical assistance available to prime sponsors and to project applicants participating or seeking to participate in programs assisted under this Act on a continuing basis to assist them in planning, developing, and carrying out programs under this Act;

(c) make an evaluation of Federal involvement in activities and services for children and families by contract with any public or private agency, organization, or individual. Prime sponsors and project applicants assisted under this Act and departments and agencies of the Federal Government shall, upon request by the Secretary, make available, consistent with other provisions of law, such information as the Secretary determines is necessary for purposes of making the evaluation required under this subsection. The Secretary shall reserve for the purposes of this subsection not less than 1 per centum, and may reserve for such purposes not more than 2 per centum, of the amounts available under this title for any fiscal year;

(d) conduct research efforts directly or through grants, contracts, or other arrangements with prime sponsors or public or private agencies (including other governmental agencies, organizations, institutions, and individuals) relating to the purpose of the Act. The Secretary shall establish procedures to assure that the result of research are reflected in the conduct of programs under this Act;

(e) conduct special demonstration experimental and model programs, including programs for children of employees of the Federal, Government, which demonstration, experimental, and model programs shall be subject to the fullest extent practicable to each of the requirements with respect to project applications under section 106;

(f) establish procedures to assure that adequate nutrition services will be provided in programs conducted under this Act. Such services shall make use of the special food service program for children as defined under section 13 of the National School Lunch Act of 1946 and the Child Nutrition Act of 1966,

to the fullest extent appropriate and consistent with the provisions of such Acts; and

(g) report to Congress not later than September 1, 1975, summarizing his activities and accomplishments under this section during the preceding fiscal year and the grants, contracts, or other arrangements entered into and making such recommendations (including recommendations for legislation) as he may deem appropriate.

FEDERAL STANDARDS FOR CHILD DEVELOPMENT AND FAMILY SERVICES

SEC. 212. (a) Within six months after the enactment of this Act, the Secretary shall, after consultation with other Federal agencies and with the Committee established pursuant to subsection (c) of this section, promulgate a common set of program standards which shall be applicable to all programs providing child development and family services with Federal assistance under this Act, to be known as the Federal Standards for Child Development and Family Services. If the Secretary disapproves the Committee's recommendations, he shall state the reasons therefor.

(b) Such standards shall be no less comprehensive than the Federal Interagency Day Care Requirements as approved by the Department of Health, Education, and Welfare, the Office of Economic Opportunity, and the Department of Labor on September 23, 1968.

(c) The Secretary shall, within sixty days after enactment of this Act, appoint a Special Committee on Federal Standards for Child Development and Family Services, which shall include parents of children enrolled in Headstart, child care and family services programs, representatives of public and private agencies, and organizations administering such programs, specialists, and others interested in services for children. Not less than one-half of the membership of the Committee shall consist of parents of children participating in programs conducted under this title and section 222(a)(1) of the Economic Opportunity Act of 1964 and title IV of the Social Security Act. Such Committee shall participate in the development of Federal Standards for Child Development and Family Services and modifications thereof as provided in subsection (a).

DEVELOPMENT OF UNIFORM MINIMUM CODE FOR FACILITIES

SEC. 213. (a) The Secretary shall, within sixty days after enactment of this Act, appoint a special committee to develop a uniform minimum code for facilities, to be used in licensing child care facilities receiving assistance under this Act or in which programs receiving assistance under this Act are operated. Such standards shall deal principally with those matters essential to the health, safety, and physical comfort of the children, their suitability for projected uses, and the relationship of such matters to the Federal Standards for Child Development and Family Services under section 212.

(b) The special committee appointed under this section shall include parents of children participating in Headstart, child care and other programs and representatives of State and local licensing agencies, public health officials, fire prevention officials, the construction industry and unions, public and private agencies or organizations administering such programs, and national agencies or organizations interested in services to children and families. Not less than one-half of the membership of the committee shall consist of parents of children enrolled in programs conducted under title I and section 222(a)(1) of the Economic Opportunity Act of 1964 and title IV of the Social Security Act.

(c) Within one year after its appointment, the special committee shall complete a proposed uniform minimum code for facilities and shall hold public hearings on the proposed code prior to submitting its final recommendation to the Secretary for his approval.

(d) After considering the recommendations submitted by the special committee in accordance with subsection (c), the Secretary shall promulgate standards which shall be applicable to all facilities receiving Federal financial assistance under this Act or in which programs receiving Federal financial assistance under this Act are operated. If the Secretary disapproves the committee's recommendations he shall state the reasons therefor. The Secretary shall also distribute such standards and urge their adoption by States and local governments. The Secretary may from time to time modify the uniform code for facilities in accordance with procedures set forth in this section.

MORTGAGE INSURANCE FOR CHILD CARE FACILITIES

SEC. 214. (a) It is the purpose of this section to assist and encourage the provision of facilities for child development and related family services.

(b) For the purpose of this section—

(1) The term "child care facility" means a facility of a public or private profit or nonprofit agency or organization, licensed or regulated by the State (or, if there is no State law providing for such licensing and regulation by the State, by the municipality or other political subdivision in which the facility is located), for the provision of child development and related family service programs.

(2) The terms "mortgage", "mortgagor", "mortgagee", "maturity date", and "State" shall have the meanings respectively set forth in section 207 of the National Housing Act.

(c) The Secretary of Health, Education, and Welfare is authorized to insure any mortgage (including advances on such mortgage during construction) in accordance with the provisions of this section upon such terms and conditions as he may prescribe and make commitments for insurance of such mortgage prior to the date of its execution or disbursement thereon.

(d) In order to carry out the purpose of this section, the Secretary of Health, Education, and Welfare is authorized to insure any mortgage which covers a new child care facility, including equipment to be used in its operation, subject to the following conditions:

(1) The mortgage shall be executed by a mortgagor, approved by the Secretary of Health, Education, and Welfare, who demonstrate ability successfully to operate one or more child development and related family service programs. The Secretary of Health, Education, and Welfare may in his discretion require any such mortgagor to be regulated or restricted as to minimum charges and methods of financing, and, in addition thereto, if the mortgagor is a corporate entity, as to capital structure and rate of return. As an aid to the regulation or restriction of any mortgagor with respect to any of the foregoing matters, the Secretary of Health, Education, and Welfare may make such contracts with and acquire for not to exceed $100 such stock or interest in such mortgagor as he may deem necessary. Any stock or interest so purchased shall be paid for out of the Child Care Facility Insurance Fund, and shall be redeemed by the mortgagor at par upon the termination of all obligations of the Secretary of Health, Education, and Welfare under the insurance.

(2) The mortgage shall involve a principal obligation in an amount not to exceed $250,000 and not to exceed 90 per centum of the estimated replacement cost of the property or project, including equipment to be used in the operation of the child development facility, when the proposed improvements are completed and the equipment is installed.

(3) The mortgage shall—

(A) provide for complete amortization by periodic payments wtihin such term as the Secretary of Health, Education, and Welfare shall prescribe, and

(B) bear interest (exclusive of premium charges for insurance and service charges, if any) at not to exceed such per centum per annum on the principal obligation outstanding at any time as the Secretary of Health, Education, and Welfare finds necessary to meet the mortgage market.

(4) The Secretary of Health, Education, and Welfare shall not insure any mortgage under this section unless he has determined that the child care facility to be covered by the mortgage will be in compliance with the Uniform Minimum Code for Facilities approved by the Secretary pursuant to section 213.

(5) The Secretary of Health, Education, and Welfare shall not insure any mortgage under this section unless he has also received from the prime sponsor designated under title I of this Act a certificate that the facility is consistent with and will not hinder the execution of the prime sponsor's plan.

(6) In the plans for such child care facility, due consideration shall be given to excellence of architecture and design, and to the inclusion of works of art (not representing more than 1 per centum of the cost of the project).

(e) The Secretary of Health, Education, and Welfare shall fix and collect premium charges for the insurance of mortgages under this section which shall be payable annually in advance by the mortgagee, either in cash or in debentures of the Child Care Facility Insurance Fund (established by subsection (h)) issued at par plus accured interest. In the case of any mortgage such charge shall be not less than an amount equivalent to one-fourth of 1 per centum per annum nor more than an amount equivalent to 1 per centum per annum of the amount of the principal obligation of the mortgage outstanding at any one time, without taking into account delinquent payments or prepayments. In addition to the premium charge herein provided for, the Secretary of Health, Education, and Welfare is authorized to charge and collect such amounts as he may deem reasonable for the appraisal of a property or project during construction; but such charges for appraisal and inspection shall not aggregate more than 1 per centum of the original principal face amount of the mortgage.

(f) The Secretary of Health, Education, and Welfare may consent to the release of a part or parts of the mortgaged property or project from the lien of any mortgage insured under this section upon such terms and conditions as he may prescribe.

(g)(1) The Secretary of Health, Education, and Welfare shall have the same functions, powers, and duties (insofar as applicable) with respect to the insurance of mortgages under this section as the Secretary of Housing and Urban Development has with respect to the insurance of mortgages under title II of the National Housing Act.

(2) The provisions of subsections (e), (g), (h), (i), (j), (k), (l), and (n) of section 207 of the National Housing Act shall apply to mortgages insured under this section; except that, for the purposes of their application with respect to such mortgages, all references in such provisions to the General Insurance Fund shall be deemed to refer to the Child Care Facility Insurance Fund, and all references in such provisions to "Secretary" shall be deemed to refer to the Secretary of Health, Education, and Welfare.

(h)(1) There is hereby created a Child Care Facility Insurance Fund which shall be used by the Secretary of Health, Education, and Welfare as a revolving fund for carrying out all the insurance provisions of this section. All mortgages insured under this section shall be insured under and be

the obligation of the Child Development Facility Insurance Fund.

(2) The general expenses of the operations of the Department of Health, Education, and Welfare relating to mortgages insured under this section may be charged to the Child Care Facility Insurance Fund.

(3) Moneys in the Child Care Facility Insurance Fund not needed for the current operations of the Department of Health, Education, and Welfare with respect to mortgages insured under this section shall be deposited with the Treasurer of the United States to the credit of such fund, or invested in bonds or other obligations of, or in bonds or other obligations guaranteed as to principal and interest by, the United States. The Secretary of Health, Education, and Welfare may, with the approval of the Secretary of the Treasury, purchase in the open market debentures issued as obligations of the Child Care Facility Insurance Fund. Such purchases shall be made at a price which will provide an investment yield of not less than the yield obtainable from other investments authorized by this section. Debentures so purchased shall be cancelled and not reissued.

(4) Premium charges, adjusted premium charges, and appraisal and other fees received on account of the insurance of any mortgage under this section, the receipts derived from property covered by such mortgages and from any claims, debts, contracts, property, and security assigned to the Secretary of Health, Education, and Welfare in connection therewith, and all earnings on the assets of the fund, shall be credited to the Child Care Facility Insurance Fund. The principal of, and interest paid and to be paid on, debentures which are the obligation of such fund, cash insurance payments and adjustments, and expenses incurred in the handling, management, renovation, and disposal of properties acquired, in connection with mortgages insured under this section, shall be charged to such fund.

(5) There are authorized to be appropriated to provide initial capital for the Child Care Facility Insurance Fund, and to assure the soundness of such fund thereafter, such sums as may be necessary.

OFFICE OF CHILD DEVELOPMENT

SEC. 215. The Secretary hall take all necessary action to coordinate child development and family service programs under his jurisdiction. To this end, he shall establish within the Department of Health, Education, and Welfare an Office of Child Development, administered by a Director, which office shall be the principal agency of the Department for the administration of this title including research and evaluation and for the coordination of programs including all child development and family service research, training, and development efforts conducted by the Department of Health, Education, and Welfare, and, to the extent feasible by other agencies, organizations, or individuals.

SPECIAL COORDINATING COUNCIL

SEC. 216. A child Development Research Council, consisting of a representative of the Office of Child Development established under section 216 of this title (who shall serve as chairman), and representatives from the Federal agencies administering the Social Security Act and the Elementary and Secondary Education Act of 1965 and from the National Institute of Mental Health, the National Institute of Child Health and Human Development, the Office of Economic Opportunity, the Department of Labor, and other appropriate agencies, shall meet on a regular basis, as they may deem necessary, in order to assure coordination of child development and related family service activities under their respective jurisdictions so as to assure—

(1) maximum utilization of available resources through the prevention of duplication of activities;

(2) a division of labor, insofar as is compatible with the purposes of each of the agencies or authorities specified in this paragraph, to assure maximum progress toward the achievement of the purposes of this Act;

(3) the establishment and maintenance of an information bank to insure that each office or agency of the Federal Government conducting child development and family service, child care and related family service activities is aware of the administrative actions of other offices or agencies with respect to the provision of financial assistance to eligible applicants; and

(4) recommendation of priorities for federally funded research and development activities related to the purposes of this Act.

SPECIAL PROHIBITIONS

SEC. 217. (a) Nothing in this Act shall be construed or applied in such a manner as to infringe upon or usurp the moral and legal rights and responsibilities of parents or guardians with respect to the moral, mental, emotional, physical, or other development of their children. Nor shall any section of this Act be construed or applied in such a manner as to permit any invasion of privacy otherwise protected by law, or to abridge any legal remedies for any such invasion which are otherwise provided by law.

(b) The Secretary is directed to establish appropriate procedures to insure that no child shall be the subject of any research or experimentation under this Act unless the parent or guardian of such child is informed of such research or experimentation and is given an opportunity as of right to except such child therefrom.

(c) A child participating in a program assisted under this Act shall not be required to undergo medical or psychological examination, immunization (except to the extent necessary to protect the public from epidemics of contagious diseases), or treatment if his parent or guardian objects thereto in writing on religious grounds.

(d) The Secretary shall not provide financial assistance for any program under this Act unless the grant, contract, or agreement with respect to such program specifically provides that no person with responsibilities in the operation of such program will discriminate with respect to any program because of race, creed, color, national origin, sex, political affiliation, or beliefs.

(e) No person in the United States shall on the ground of sex be excluded from participation in, be denied the benefits of, be subjected to discrimination under, or be denied employment in connection with, any program or activity receiving assistance under this Act. The Secretary shall enforce the provisions of the preceding sentence in accordance with section 602 of the Civil Rights Act of 1964. Section 603 of such Act shall apply with respect to any action taken by the Secretary to enforce such sentence. This section shall not be construed as affecting any other legal remedy that a person may have if, on the grounds of sex, that person is excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in connection with, any program or activity receiving assistance under this Act.

SPECIAL PROVISIONS

SEC. 219. (a) The Secretary may make such grants, contracts, or agreements, establish such procedures, policies, rules, and regulations, and make such payments, in installments and in advance or by way of reimbursement, or otherwise allocate or expend funds made available under this Act, as he may deem necessary to carry out the provisions of this Act, including necessary adjustments in payments on account of overpayments or underpayments. Subject to the provisions of section 103, the Secretary may also withhold funds otherwise payable under this Act in order to recover any amounts expended in the current or immediately prior fiscal year in violation of any provision of this Act or any term or condition of assistance under this Act.

(b) The Secretary shall not provide financial assistance for any program service, or activity under this Act unless he determines that persons employed thereunder, other than persons who serve without compensation, shall be paid wages which shall not be lower than whichever is the highest of (A) the minimum wage which would be applicable to the employee under the Fair Labor Standards Act of 1938 (29 U.S.C. 206), if section 6(a)(1) of such Act applied to the participant and if he were not exempt under section 13 thereof, (B) the State or local minimum wage for the most nearly comparable covered employment, or (C) the prevailing rates of pay for persons employed in similar occupations by the same employer.

(c) The Secretary shall not provide financial assistance for any program under this Act which involves political activities; and neither the program, the funds provided therefor, nor personnel employed in the administration thereof, shall be, in any way or to any extent, engaged in the conduct of political activities in contravention of chapter 15 of title 5, United States Code.

(d) The Secretary shall not provide financial assistance for any program under this Act unless he determines that no funds will be used for and no person will be employed under the program on the construction, operation, or maintenance of so much of any facility as is for use for sectarian instruction or as a place for religious worship.

(e) Prime sponsorship plans, program statements, annual family service plans, project applications, and all written material pertaining thereto shall be made readily available without charge to the public, as appropriate, by the State, the prime sponsor, the applicant, and by the Secretary.

WITHHOLDING OF GRANTS

SEC. 219. Whenever the Secretary, after reasonable notice and opportunity for a hearing for any State prime sponsor, or project applicants, finds—

(1) that there has been failure to comply substantially with provisions of the State annual family service plan relating to coordination (in accordance with section 107; or

(2) that there has been a failure to comply substantially with any requirement set forth in the program statement of any such prime sponsor approved under section 105; or

(3) that there has been a failure to comply substantially with any requirement set forth in the application of any such project applicant approved pursuant to section 106; or

(4) that in the operation of any plan, program, or project carried out by any such State, prime sponsor, or project applicant under this Act there is a failure to comply substantially with any applicable provision of this Act or regulation promulgated thereunder;

the Secretary shall notify such state, prime sponsor or project applicant of his findings and that no further payments may be made to such State, sponsor or applicant under this Act (or in the Secretary's discretion that any such prime sponsor shall not make further payments under this Act to specified project applicants affecter by the failure) until he is satisfied that there is no longer any such failure to comply, or the noncompliance will be promptly corrected. The Secretary may authorize the continuation of payments with respect to any project assisted under this Act which is being carried out pursuant to such plan or application and which is not involved in any noncompliance.

FEDERAL CONTROL NOT AUTHORIZED

SEC. 220. No department, agency, officer, or employee of the United States shall, under authority of this Act, exercise any direction, supervision, or control over, or impose any requirements or conditions with respect to, the personnel, curriculum, methods of instruction, or administration of any educational institution.

REPEAL OR AMENDMENT OF EXISTING AUTHORITY AND COORDINATION

SEC. 221. (a) In order to achieve, to the greatest degree feasible, the consolidation and coordination of programs providing services for children, while assuring continuity of existing programs during transition to the programs authorized under this Act, the Economic Opportunity Act of 1964 is amended, effective July 1, 1975, as follows:

(1) Section 222(a)(1) of such Act is repealed.

(2) Section 162(b) of such Act is amended by striking out "day care for children" and inserting in lieu thereof "assistance in securing child development and family services but not operation of such programs for children".

(3) Section 123(a)(6) of such Act is amended by striking out "day care for children" and inserting in lieu thereof "assistance in securing child development and family services", and adding after the word "employment" the phrase "but not including the direct operation of such programs for children".

(4) Section 312(b)(1) of such Act is amended by striking out "day care for children".

(b) The Secretary of Health, Education, and Welfare shall promulgate regulations to assure that other federally funded child development and family services, child care, and related family service programs, including title I of the Elementary and Secondary Education Act of 1965 and section 222(a)(2) of the Economic Opportunity Act of 1964 and the Social Security Act, will be coordinated with the programs designed under this Act. The Secretary shall insure that joint technical assistance efforts will result in the development of coordinated efforts between the Office of Education and the Office of Child Development.

(c)(1) Section 203(j)(1) of the Federal Property and Administrative Services Act of 1949 is amended by striking out "or civil defense" and inserting in lieu thereof "civil defense, or the operation of child care facilities".

(2) Section 203(j)(3) of such Act is amended—

(A) by striking out, in the first sentence, "or public health" and inserting in lieu thereof "public health, or the operation of child care facilities",

(B) by inserting after "handicapped," in clause (A) and clause (B) of the first sentence the following: "child care facilities", and

(C) by inserting after "public health purposes" in the second sentence the following: ", or for the operation of child care facilities,".

(3) Section 203(j) of such Act is amended by adding at the end thereof the following new paragraph:

"(8) The term 'child care facility' means any such facility as defined in section 214 (b) of the Comprehensive Headstart, Child Development and Family Services Act."

SECTION-BY SECTION ANALYSIS OF COMPREHENSIVE HEADSTART, CHILD DEVELOPMENT AND FAMILY SERVICES ACT OF 1972

Section 2. *Statement of Findings and Purpose:* This section states the findings that: (1) millions of children lack a full opportunity, particularly during early childhood years, to receive adequate educational, nutritional, health and other services; (2) that in exercising their moral and legal rights and responsibilities in respect to their children and families, many mothers and single parents have found it necessary or desirable to seek such services while they engage in employment or education or to otherwise seek supplemental services for their children and (3) despite increased child care opportunities and programs such as Headstart, there is still an inadequate number of quality opportunities available to parents for the full development of their children.

The purpose of the Act is to provide a variety of quality family-centered child care and development services and other services to families to assist parents in providing for their children, with priority to those families and children with economic or other special needs, in a manner designed to strengthen family life, and to ensure decision-making at the community level through a partnership of parents, State and local governments and the Federal Government.

Section 2. *Authorization of Appropriations:* This section authorizes appropriations under the Act of $1.2 billion for FY '74 and $1.6 billion for FY '75, as well as $100,000,000 for FY '73 for initial planning, training and technical assistance.

Of the amounts appropriated, the Secretary is directed to allocate ninety percent for State and local programs under Title I and ten percent for special federal supportive services and special activities under Title II; advance funding is authorized.

Section 4. *Definitions:* This section defines "State", "child development and family services programs", "economically-disadvantaged children" and other terms.

TITLE I—HEADSTART, CHILD DEVELOPMENT AND FAMILY SERVICES PROGRAMS

Section 101. *Financial Assistance:* The Secretary of Health, Education and Welfare is authorized to provide financial assistance to prime sponsors and other public and non-profit private agencies and organizations in accordance with the provisions of the title.

Section 102. *Uses of Funds:* Funds may be used for planning, establishing, maintaining and operating child development and family service programs and activities, including Headstart and similar programs for preschool and other children; other programs to support and enhance family life including family planning and other services for family members; emergency programs, programs especially designed for Indians, migrant, bi-lingual and minority group children; special activities for the handicapped; training; transportation allowances, rental remodeling, renovation, alteration, construction or acquisition of facilities; staff and other administrative expenses and other activities.

Section 103. *State and Local Prime Sponsors:* The Secretary is authorized to designate as prime sponsor, any State, any unit of general local government or combination thereof having a population of 50,000 or more; any other unit or combination (irrespective of population), which can demonstrate a particular demand for services and availability of resources; any Indian tribal organization; any public or private non-profit agency or organization under limited circumstances.

An eligible prime sponsor must submit a prime sponsorship plan for approval by the Secretary describing the area to be served, setting forth procedures for the establishment of a Child Development and Family Services Council, and for the establishment or selection of agency or agencies to administer programs and providing assurances that it can provide effectively a number of educational, health and related services necessary for comprehensive programs.

An applicant for prime sponsorship which is a State is required additionally to establish local family service areas for the administration of programs and to provide procedures for the appointment of a director and the establishment of a local child development and family service council to serve each area, as well as for appeal by such council to the Secretary.

The Secretary is directed to approve a prime sponsorship plan if it meets the requirements of the Act and includes adequate administrative and other provisions for carrying out effectively child development programs in the area.

In the event of competing plans from units of general local government or combination thereof, he is directed to approve the plan which he determines has the capability to more effectively carry out the Act. A plan submitted by a local unit (or combination) is to be approved over a State plan for the same area if it meets the requirements of the Act, and includes adequate administrative and other provisions for carrying out effectively programs in the area.

Other provisions provide for withdrawal of assistance, and for direct funding in the case of withdrawal and in the event a prime sponsor is maintaining a pattern or practice of exclusion.

Section 104. *Child Development and Family Services Council:* This section requires each prime sponsor to establish a Child Development and Family Services Council composed of not less than 10 members, half of which shall be parents, the remaining members are appointed by the chief executive officer to represent the public from certain groups.

The parent members are to be chosen, in the case of prime sponsors which are States, by the parent members of local child development and family services councils (established for local family service areas within the State) and in the case of other prime sponsors (and local family service areas within a State) so as to be representative of children served in the area.

Section 105: *Program Statements:* In order to receive financial assistance a prime sponsor must submit a program statement setting forth a program identifying needs and goals within the area to be served, meeting local needs to the extent possible, with priority to pre-school children; ensuring that Headstart projects are continued and that not less than 65 percent of the remaining funds are used for programs for economically-disadvantaged children; (giving priority thereafter to children of single parents and working mothers); and meets certain other requirements as to coordination and coverage.

The program statement must be reviewed for comment to the Secretary of community action agencies, single-purpose Headstart agencies, local educational agencies and the Governor.

Section 106. *Project Applications:* Each project application must provide programs that will be carried out by a qualified or private agency, for establishment and maintenance of a project policy committee or organization, training; and certain assurances that programs are developmental in nature and provide for the full participation of parents.

This section provides that no charge may be made with respect to any child who is a member of a family with annual income equal to or less than $4320, and for establishment by the Secretary of a fee schedule above that level, subject to (a) certain limitations with respect to families with income between $4320 and the Bureau of Labor Statistics lower living standard budget (currently at $6960 for a family of four); (b) reductions upon application to the Secretary to take into account actual living expenses with a prime sponsorship area, meet the special needs of economically-disadvantaged persons, or ensure consistency with similar programs conducted in the prime sponsorship area under other law.

Any project applicant alleging that its application was denied by reason of discrimination on the basis of race, color, sex, creed or national origin may apply directly to the Secretary.

Section. 107. *Annual Family Service Plans:* This section authorizes additional financial assistance to States for the preparation of of an annual family service plan, setting forth agreements between State and local prime sponsors for maximum coordination of programs and full utilization of resources, including agreements with respect to the determination of goals, comprehensive planning, technical assistance, exchange of personnel and procedures for assessing licensing codes, and teacher standards and for disseminating model program information. The Secretary may use up to 5 percent of a State's apportionment for the purpose of this section.

Section. 108. *Special Cooperative Programs with Education Institutions:* This section authorizes the provision of special assistance to educational agencies and institutions to carry out cooperative programs with other project applicants to provide continuity between pre-school programs and after school programs and related programs.

Section 109. *Additional Conditions for Programs Including Construction:* This section authorizes approval of construction only if it is determined that such construction is essential and that rental, renovation or leasing of existing facilities is not adequate, and sets forth other conditions relating to construction under the Act.

Section 110. *Use of Public Facilities:* This section requires the Secretary to report to the Congress within nine months of enactment on the extent to which federal facilities might be made available to public and private non-profit agencies for use as child care facilities during times when they are not utilized by the government for other purposes.

Section 111. *Payment:* This section authorizes the federal payment of 90 percent of the cost of approved programs and permits the Secretary to increase such amount as necessary to meet the child care needs of economically-disadvantaged children. In addition, the Secretary is also required to pay 100 percent of the cost of services to children of migrant agricultural workers and for children in Indian tribal organizations.

This section also contains a maintenance of effort provision.

Section 112. *Apportionment of Funds:* This section requires that of appropriated funds allocated to Title I, $600 million shall be made available for services to pre-school children from low-income families with priority to continued assistance under Headstart projects.

Of the remainder, reservations are made for: children in migrant agricultural families and for Indian children in each case in proportion to the number of economically-disadvantaged children in the Nation; special activities for handicapped children (10%); for special model programs (10%) and for special cooperative programs (5%). In each case programs would be conducted under Title I.

The remainder is allocated to the states (and among areas within each State) on the basis of the number of economically-disadvantaged children through age 14, the number of pre-school children, and the number of children of working mothers and single parents.

TITLE II—SUPPORTIVE SERVICES AND SPECIAL ACTIVITIES

Section 211. *Special Responsibilities of the Secretary:* This section authorizes the Secretary to provide financial assistance, for training, technical assistance; research and evaluations.

Section 212. *Federal Standards For Child Development and Related Family Services:* The Secretary is required, with nine months of the date of enactment, to promulgate, after consultation with a Special Committee on Federal Standards for Child Development and Family Services, Federal Standards for Child Development and Family Services which shall be no less comprehensive than current applicable Federal Interagency Day Care Requirements.

Section 213. *Uniform Minimum Code for Facilities:* The Secretary, within sixty days after enactment must appoint a special committee to develop within one year a proposed uniform minimum code for facilities to be used in licensing child care facilities.

Section 214. *Mortgage Insurance for Child Care Facilities:* This section authorizes the Secretary of Health, Education and Welfare to insure mortgages covering a new child care facility and equipment upon specified terms to protect the interest of the government for this purpose.

This section also establishes a Child Care Facility Insurance Fund to carry out the provisions of the section.

Section 215. *Office of Child Development:* This section requires the Secretary to establish within the Department of Health, Education and Welfare an Office of Child Development to administer the Act and to coordinate all child development and related programs.

Section 216. *Special Coordinating Council:* This section establishes a Special Coordinating Council composed of representatives of various federal agencies to coordinate child development services and to recommend priorities for federally-funded research.

Section 217. *Special Prohibition:* This section provides that nothing shall interfere with the moral and legal rights of parents with respect to their children; that no child is to be subjected to research or experimentation and that no discrimination be practiced with respect to programs under the Act.

Section 218. *Special Provisions:* This section authorizes the Secretary to make grants and contracts; and to prescribe regulations; the Secretary is prohibited from providing funds to programs involving political or religious activity.

Section 219. *Withholding of Grants:* This section authorizes the Secretary, after notice and a hearing, to withhold grants for failure to comply with the provisions of the Act.

Section 220. *Federal Control Not Authorized:* This section states that no federal control with respect to any operation of any educational institution is permitted.

Section 221. *Repeal or Amendment of Existing Authority:* This section repeals and amends various sections of the Economic Opportunity Act, including a repeal (effective July 1, 1974) of the current authority for Headstart.

This section also requires the Secretary to promulgate regulations assuring coordination of child care and related family services programs under this Act and the Elementary and Secondary Education Act.

Mr. TAFT. Mr. President, I am honored to be a prime sponsor of the Comprehensive Headstart, Child Development, and Family Services Act of 1972, which the distinguished Senator from New York (Mr. JAVITS) has today introduced. This legislation is the product of a concerted effort to improve the child development title of S. 2007, which was vetoed in December. We hove attempted to meet the objections which the President expressed in his veto message.

The bill would make it possible for thousands of parents to work or educate themselves to improve the well-being of their families with the confidence that their children are not only being cared for but that they are involved in quality educational day-care programs. I believe that the bill would be a desirable complement to the welfare reform legislation which we will soon be considering. Though there are guidelines to insure that the various programs are of a high quality, flexibility is provided so that these programs can be designed to meet the needs of the families involved.

The proposed legislation gives priority to economically disadvantaged families and to families of working mothers and single parents. The fee schedule allows free services for families whose annual income is less than $4,320 and a graduated fee requirement above that.

It is my hope that many of the mistakes in the consideration of the vetoed bill will not be repeated with respect to this new legislation. Because of the high priority that we place on the care and education of our Nation's most precious asset—our children, I urge that the committee take the necessary time to continue hearings and carefully look at all facets of this unprecedented national program. The inclusion of child care legislation in legislation to extend OEO, as was the case in the vetoed bill, would be a mistake which again might jeopardize both issues. The veto of S. 2007 was not the result of any opposition by the President to the poverty program. It was caused instead by the controversial provisions of the child development title. We must act quickly to extend the authority of OEO and to create a Legal Services Corporation. On the other hand, we must take the time to hear testimony on child development from many groups who did not participate in last year's hearings. We must then reserve adequate time in the committee to perfect this legislation, which will have such a critical impact on our children and their parents.

Mr. STAFFORD. Mr. President, today I am privileged to introduce with the distinguished senior Senator from New York (Mr. JAVITS) the Comprehensive Headstart, Child Development, and Family Services Act of 1972.

It is the purpose of the bill to provide a variety of quality family centered child care and developmental services. The bill will assist parents in providing their children with an opportunity for a healthy and stimulating development regardless of the economic and sociological background. The emphasis is placed on those families and children who need the services and who voluntarily want to use them.

Mr. President, many children in this country lack a full opportunity, particularly during the early childhood years, to receive adequate educational, nutritional, health, and other social benefits. The bill will provide the essential elements that will enable them to reach their potential so that they may participate fully in our society.

The critical impact of the first 5 years of a child's life has been well documented. These years are the most important for the growth of his intellectual capacity and for his emotional, physical, and social being. These early years lay the groundwork for the motivational development, initiative, and the many other

factors which will determine the child life style in the later years.

We have learned that a child's intelligence and mental stability are significantly environmentally determined. These, combined with the child's exceptional eagerness and ability to learn at this early age, point up the desperate need in our society for the type of child development. How many Einsteins, Rousseaus, Hesses have gone undeveloped in this country because we have failed to do anything?

It is the responsibility of this Government to provide these development programs to those parents who in exercising their consciences in respect to their children and families, have found it necessary or desirable to engage in employment, training, or education on a full- or part-time basis during the time when their children would ordinarily be at home. It is incumbent upon the Government as a part of its responsibility to its citizens to provide this commodity, not merely to promise it. The bill is the means to that end.

Mr. President, the bill introduced today will not in any way infringe upon or usurp the moral and legal rights and responsibilities of parents or guardians with respect to the moral, mental, emotional and physical development of their children. This is a voluntary program that will provide for the full participation of parents and other family members in the conduct, overall direction and evaluation of programs. The programs instituted under this bill will provide to the extent feasible for the employment of the parents and other members of the family as professionals and paraprofessionals to work in the child development center. This will create an even deeper parental involvement in the programs which are provided for their children.

The need for developmental child care programs is a pressing one which demand our action. President Nixon in his economic opportunity message to Congress in February 1969 concisely stated this need.

> So crucial is the matter of early growth that we must make a national commitment to providing all American children an opportunity for healthful and stimulating development during the first five years of life.

I am glad I have had the opportunity to work with Senator JAVITS and the other Republican Senators in creating this piece of proposed legislation.

Mr. HATFIELD. Mr. President, I am delighted to join as a cosponsor with Senator JACOB JAVITS on the revised child development bill he is reintroducing today.

I share Senator JAVITS' belief that the Senate must adopt a new version of the legislation which was vetoed last year, for we need to begin the necessary planning for these vitally needed child care centers.

It is my hope that during the legislative process on this legislation—and other legislation which I noted that Senators MONDALE and NELSON introduced last week—that a compromise version would emerge from committee which would contain not only adequate provisions for strong and meaningful parental involvement in these programs, but also strong protection for initiatives by localities in those areas where the State is the prime sponsor. Oregon is a State of small cities and I want to assure that these areas are fully protected under the law and will be guaranteed participation in the program.

By Mr. METCALF (for himself, Mr. MANSFIELD, Mr. BURDICK, Mr. HARRIS, Mr. HUGHES, Mr. HUMPHREY, and Mr. MCGOVERN):

S. 3229. A bill to protect the incomes of wheat and feed grain producers. Referred to the Committee on Agriculture and Forestry.

Mr. METCALF. Mr. President, Members of Congress from grain States are swamped with protests against the additional diversion proposals involved in the sign-up which require a plow-down of winter wheat or reduction of last year's feed grain acreage.

The regulations make it impossible for Montana farmers to participate in the wheat diversion program because they were unable to plant winter wheat, due to drought or other weather conditions, or because they chose to wait and plant spring wheat, as can be done in much of Montana. The requirement that feed grain acreage must be reduced below last year's plantings similarly penalizes farmers who reduced acreage last year and rewards those who created our present surpluses by planting from fence to fence in 1971 under the freedom of the new set-aside program.

Indications are that sign-up this year will be considerably under participation in previous years and that production of additional surpluses is likely. Secretary Butz has not at any time indicated an interest in strengthening wheat prices. He has given some vocal support to the idea of raising feed grain prices a little, but he has just suspended his corn purchase program and offered farmers a bonus in the form of payments for unused storage to release resealed barely to the Commodity Credit Corporation for resale.

These two actions indicate that feed grain prices are now as high or higher than Secretary Butz wants them to go. While his corn buying did not amount to an eye dropper full—13 million bushels out of a 5.6 billion bushel crop—the discontinuance is notice to the grain trade that he does not intend to support feed grains above the loan level and then when farmers are forced to clear storage space for another crop, they will have no market for it except at the loan level, plus possibly a few pennies for storage.

It is clear that the Secretary is much more interested in keeping farm prices down to peddle farm products abroad, even at a loss to producers, to close the dollar gap.

What the administration has been doing has become clear. It is not going to raise prices.

It is now time for Congress to increase the loan level up to where grain farmers can survive. Senator Mansfield and I have therefore today introduced a new wheat and feed grain price support bill providing for a 25-percent increase in price supports on the 1972 and 1973 wheat and feed grain crops. Except for crop years covered, the measure is identical to the amendment offered by Congressman MELCHER that was approved in the House of Representatives.

We have been joined in our effort by colleagues, Senators BURDICK, HUMPHREY, MCGOVERN, HARRIS, and HUGHES.

Mr. President, there has been objection to this bill on the ground that it will stimulate production and must be accompanied by production management provisions. The production management provision is already in the Agricultural Act of 1970. The act gives the Secretary of Agriculture authority to return to the use of acreage allotments, or positive controls instead of the lax provisions of the set aside program which got us into this trouble. That needs to be done and the necessary authority is already there.

By Mr. PACKWOOD (for himself, Mr. DOMINICK, Mr. TAFT, Mr. BEALL, Mr. ALLOTT, Mr. BAKER, Mr. BELLMON, Mr. BENNETT, Mr. BROCK, Mr. COOPER, Mr. COTTON, Mr. CURTIS, Mr. DOLE, Mr. FANNIN, Mr. FONG, Mr. EASTLAND, Mr. GOLDWATER, Mr. GRIFFIN, Mr. HANSEN, Mr. HRUSKA, Mr. JORDAN of Idaho, Mr. MCCLELLAN, Mr. ROTH, Mr. SAXBE, Mr. SCOTT, Mr. THURMOND, Mr. TOWER, Mr. WEICKER, and Mr. YOUNG):

S. 3232. A bill to provide more effective means for protecting the public interest in emergency disputes involving the transportation industry and for other purposes. Referred to the Committee on Labor and Public Welfare.

TRANSPORTATION CRISIS PREVENTION ACT

Mr. PACKWOOD. Mr. President, on behalf of myself and Senators DOMINICK, TAFT, BEALL, ALLOTT, BAKER, BELLMON, BENNETT, BROCK, COOPER, COTTON, CURTIS, DOLE, FANNIN, FONG, EASTLAND, GOLDWATER, GRIFFIN, HANSEN, HRUSKA, JORDAN of Idaho, MCCLELLAN, ROTH, SAXBE, SCOTT, THURMOND, TOWER, WEICKER, and YOUNG, I am today sending to the desk for appropriate reference the Transportation Crisis Prevention Act.

Mr. President, this legislation is identical to the amendment I offered on the floor on February 8, during debate on Senate Joint Resolution 197, dealing with the west coast dock strike. Because of the unusual circumstances surrounding consideration of the dock strike legislation, my transportation crisis prevention amendment was tabled, 42 to 39, but I am optimistic that the cosponsorship of over one quarter of the Senate, including colleagues on both sides of the aisle, and with the continued action promised by the distinguished chairman of the Senate Labor Committee, the Senator from New Jersey (Mr. WILLIAMS) this vital legislation will be before the Senate again in the very near future for the careful consideration it needs and deserves.

Mr. President, the Transportation Crisis Prevention Act has much in common with the administration's bill, S. 560, with some important differences. Some of the changes I have made are de-

signed to correct deficiencies in the administration bill, some are to tighten up the procedures and make them more effective, and other changes will protect the public more effectively from the impact of crippling transportation tieups. The two most important differences between S. 560 and my bill are, first, that my bill will permit the use of emergency procedures in the event of regional as well as national transportation emergencies whereas S. 560 applies only to national emergencies. Second, S. 560 permits the President to use only one of the additional three options authorized; whereas my bill will permit use of each or every option, in any order, with the limitation that should final offer selection be invoked, no procedure may be used after that, since it is a final procedure.

There are additional differences which I feel are significant and which will, I am convinced, improve the workability and equitability of this legislation. Among these differences are for example, shortening of the additional cooling-off period from 30 days to 15 days, and a new provision to permit the bargaining parties to submit two final offers each, rather than just one.

Additionally, with the inclusion of rails and airlines under the Taft-Hartley emergency procedures, and elimination of the ineffective emergency procedures of the Railway Labor Act, the National Mediation Board loses one of its primary functions, that related to administration of the RLA. My bill therefore would abolish the National Mediation Board and shift its remaining functions to the National Labor Relations Board and the Federal Mediation and Conciliation Service.

Mr. President, the administration has accepted the new provisions and changes in my bill, and I am pleased and gratified that they have agreed to support my bill over S. 560.

I will not take my colleagues' time here today to explain the details of my bill, but I will refer instead to my remark on February 8, starting on page 3153 of the CONGRESSIONAL RECORD, for a full explanation of the bill's provisions. I ask unanimous consent only that a copy of the Transportation Crisis Prevention Act and a section-by-section analysis of the bill be printed at this point in the RECORD.

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

S. 3232

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Transportation Crisis Prevention Act of 1972."

CONGRESSIONAL FINDINGS AND PURPOSE

SEC. 2. (a) The Congress find:

(1) That present procedures for dealing with national emergency disputes under the Railway Labor Act tend to encourage resort to governmental intervention in such disputes rather than utilization of the collective bargaining processes to solve labor-management disputes;

(2) That present procedures for dealing with disputes in the transportation industry, in general, have proved insufficient to prevent serious disruptions of transportation services.

(b) The Congress declares it to be the purpose and policy, through the exercise by Congress of its powers to regulate commerce among the several States and with foreign nations and to provide for the general welfare, to assure so far as possible that no strike or lockout in the transportation industry or a substantial part thereof will imperil the national health or safety or the health or safety of a substantial sector of the Nation—

(1) by providing a single set of procedures for dealing with emergency disputes in the transportation industries;

(2) by establishing procedures which will encourage the parties to make effective use of various private collective bargaining techniques to resolve disputes;

(3) by establishing procedures which will both protect the public interest and recognize the interests of the parties involved in the dispute;

(4) by providing the President with appropriate means for dealing with transportation emergency disputes;

(5) by amending the Railway Labor Act to lessen reliance upon Governmental machinery or intervention for adjusting grievances and for collective bargaining in the railroad and airline industries; and

(6) by establishing a National Special Industries Commission to study and make recommendations concerning those industries which are or may be particularly vulnerable to national emergency disputes.

TITLE I—AMENDMENTS TO THE LABOR-MANAGEMENT RELATIONS ACT, 1947, RELATING TO EMERGENCY DISPUTES IN THE TRANSPORTATION INDUSTRY

SEC. 101(a) Title II of the Labor-Management Relations Act, 1947, is redesignated as Title II, Part A.

(b)(1) Section 206 is amended to read as follows:

"SEC. 206. Whenever in the opinion of the President of the United States, a threatened or actual strike or lockout affecting an entire industry or a substantial part thereof engaged in trade, commerce, transportation, transmission, or communication among the several States or with foreign nations, or engaged in the production of goods for commerce, will, if permitted to occur or to continue, imperil the national health or safety or, when the strike or lockout is in an industry subject to Part B of this title, imperil the health or safety of a substantial sector of the Nation, he may appoint a board of inquiry to inquire into the issues involved in the dispute and to make a written report to him within such time as he shall prescribe. Such report shall include a statement of the facts with respect to the dispute, including each party's statement of its position but shall not contain any recommendation. The President shall file a copy of such report with the Service and shall make its contents available to the public."

(2) Section 208(a) is amended to read as follows:

"SEC. 208(a) Upon receiving a report from a board of inquiry, the President may direct the Attorney General to petition any district court of the United States having jurisdiction of the parties to enjoin such strike or lockout or the continuing thereof and if the court finds that such threatened or actual strike or lockout—

(1) affects an entire industry or a substantial part thereof engaged in trade, commerce, transportation, transmission or communication among the several States or with foreign nations or engaged in the production of goods for commerce; and

(2) if permitted to occur or to continue, will (i) imperil the national health or safety or (ii), when the strike or lockout is in an industry subject to Part B of this title, imperil the health or safety of a substantial sector of the Nation.

it shall have jurisdiction to enjoin any such strike or lockout, or the continuing thereof, and to make such other orders as may be appropriate: *Provided,* that when such petition is sought to enjoin a strike or lockout in an industry subject to Part B of this title it shall be heard and determined by a three-judge district court in accordance with section 2284 of title 28, United States Code."

(3) Section 208(c) is amended by substituting a semicolon for the period at the end thereof and adding the following: "except that where the proviso in section 208(a) is applicable, appeal shall be to the United States Supreme Court in accordance with section 1253 of title 28, United States Code."

(4) Section 209(a) is amended to read as follows:

"SEC. 209(a) Whenever a district court has issued an order under section 208 enjoining acts or practices which imperil or threaten to imperil the national health or safety, or imperil the health or safety of a substantial sector of the Nation, it shall be the duty of the parties to the labor dispute giving rise to such order to make every effort to adjust and settle their differences, with the assistance of the Service created by this Act. Neither party shall be under any duty to accept, in whole or in part, any proposal of settlement made by the Service."

(c) Section 212 is hereby repealed.

SEC. 102. Title II of the Labor-Management Relations Act, 1947, is hereby further amended by adding a new Part II B at the end of Part II A to read as follows:

"PART B—ALTERNATIVE PROCEDURES FOLLOWING INITIAL 80-DAY COOLING-OFF

"APPLICABILITY OF THIS PART

"SEC. 213 This Part shall apply only to the following transportation industries: (1) railroads, (2) airlines, (3) maritime, (4) longshore, and (5) trucking.

"SEC. 214(a) If no settlement is reached before the injunction obtained pursuant to section 208 of this Act is discharged, the President may, within ten days, invoke any of the procedures set forth in sections 217, 218, or 219. The President may proceed under these sections in such sequence as he may deem appropriate until it is certified by the Secretary of Labor that the dispute is settled; *Provided,* however, that the President may only invoke the procedures of a new section immediately upon the termination of the procedures of the previously invoked section and that the procedures of a section may be invoked only once during a dispute.

(b) The President may, if he deems it consistent with the purposes of this Act, terminate any procedures invoked under sections 217 or 218. He may thereafter proceed under another of sections 217, 218, or 219.

(c) If the procedure set forth in section 219 is invoked, the President may not, in the same dispute, invoke subsequently the procedures of section 217 or 218."

"SEC. 215. The President shall immediately notify the Congress of each choice of procedure, unless the Congress has adjourned or is in a recess in which case such notice shall be transmitted as soon as Congress reconvenes.

"SEC. 216. If the President does not choose to invoke any of the procedures set forth in section 217, 218, and 219 of this Act, the President shall submit to the Congress a supplemental report including such recommendations as he may see fit to make.

"ADDITIONAL COOLING-OFF PERIOD

"SEC. 217. The President may direct the parties to the controversy to refrain from making any changes, except by agreement, in the terms and conditions of employment for a specified period of not more than 15 days from the date of his direction. During such period, the parties shall continue to bargain collectively and shall engage in no strike, lockout, or similar activity. The board of inquiry may continue to mediate the dispute with the assistance of, and in close coordina-

tion with, the director of the Federal Mediation and Conciliation Service.

"PARTIAL OPERATION

"SEC. 218. (a) The President may appoint a special board of three impartial members for the purpose of having the board make the following determinations:

"(1) Whether and under what conditions a partial strike or lockout in lieu of a full strike or lockout in an entire industry or substantial part thereof could take place without imperiling the national health or safety, or the health or safety of a substantial portion of the territory or population of the Nation; and

"(2) Whether, under such conditions, the extent of such partial strike or lockout would, in the judgment of the board, appear to be sufficient in economic impact to encourage each of the parties to make continuing efforts to resolve the dispute.

"(b)(1) If the board makes a determination that there are conditions under which a partial strike or lockout can take place in accordance with the criteria specified in subsection (a), it shall issue an order specifying the extent and conditions of partial operation that must be maintained. The board shall make reasonable efforts to assure that no greater economic burden is placed on any party than that which would be caused by a total cessation of operations.

"(2) If the board makes a determination that a partial strike or lockout cannot take place in accordance with such criteria, it shall submit a report to the President.

"(c) The parties shall not interfere by resort to strike or lockout with the partial operation ordered by the board. The board's order shall be effective for a period determined by the board, but not to exceed 180 days.

"(d) The board's order or any modification thereof shall be conclusive unless found arbitrary or capricious by the district court which granted the injunction pursuant to section 208 of this Act.

"(e)(1) The board shall issue its order no later than 30 days from the date of its appointment by the President, unless the parties, including the Government, agree to an extension of time, but such extension shall reduce pro tanto the maximum effective period of the board's order.

"(2) On notice to the parties, the board may at any time during the period of partial operation modify its order as it deems necessary to effectuate the purposes of this section.

"(f) Until the board makes its determination and during any period of partial operation ordered by the board no change, except by agreement, shall be made in the terms and conditions of employment, and no strike, lockout, or similar activity shall take place except as may be provided by order of the board. If the board determines that the implementation of any particular term of the existing terms and conditions of employment is inconsistent with the conditions of partial operation, it may order the suspension or modification of that term but only to the extent necessary to make it consistent with the conditions of partial operation.

"(g) The following rules of procedures shall be applicable to the board's functions under this subsection:

"(1) *Notice of Hearing.* Upon appointment by the President the board shall promptly notify and inform all parties, including the Government, of the time, place, and nature of the hearings, and the matters to be covered therein.

"(2) *Hearing to be Public.* The board shall hold public hearings, unless it determines private hearings are necessary in the interest of national security or the parties, including the Government, agree to present their positions in writing. The record made at such hearing shall include all documents, statements, exhibits, and briefs, which may be submitted, together with the stenographic record. The board shall have authority to make whatever reasonable rules are necessary for the conduct of an orderly public hearing. The board may exclude persons other than the parties at any time when in its judgment the expeditious inquiry into the dispute so requires.

"(3) *Participation by board in the Hearing.* The board, or any member thereof, may, on its own initiative, at such hearing, call witnesses and introduce documentary or other evidence, including a plan for partial operation, and may participate in the examination of witnesses for the purpose of expediting the hearing or eliciting material facts.

"(4) *Participation by Parties in Hearing.* The parties, the Government, or their representatives shall be given reasonable opportunity; (A) to be present in person at every stage of the hearing; (B) to be represented adequately; (C) to present orally or otherwise any material evidence relevant to the issues including a plan for partial operation; (D) to ask questions of the opposing party or a witness relating to evidence offered or statements made by the party or witness at the hearing, unless it is clear that the questions have no material bearing on the credibility of that party or witness or on the issues in the case; (E) to present to the board oral or written argument on the issues.

"(5) *Stenographic Records.* An official stenographic record of the proceedings shall be made. A copy of the record shall be available for inspection by the parties.

"(6) *Rule of Evidence.* The hearing may be conducted informally. The receipt of evidence at the hearing need not be governed by the common law rules of evidence.

"(7) *Requests for the Production of Evidence.* The board shall have the power of subpoena. It shall request the parties to produce any evidence it deems relevant to the issues. Such evidence should be obtained through the voluntary compliance of the parties, if possible. In case of refusal to obey a subpoena, the board may request the Attorney General to invoke the aid of any district court of the United States or the United States courts of any territory or possession within the jurisdiction of which such person is found or resides or transacts business and such court shall have jurisdiction to issue to such person an order requiring such person to appear or to produce evidence, if, as, and when so ordered, and to give testimony relating to the matter under investigation or in question, and any failure to obey such order of the court may be punished by said court as a contempt thereof.

"(h) If a settlement certified by the Secretary is reached at any time during the hearing, the board shall adjourn the hearing and report to the President within 10 days the fact that a settlement has been reached and the terms of such settlement.

"(i)(1) Members of the board shall receive compensation at the per diem equivalent of the rate for GS–18 when engaged in the work of the board as prescribed by this Act, including travel time, and shall be allowed travel expenses and per diem in lieu of subsistence as authorized by law (5 U.S.C. 5703) for persons in the Government service employed intermittently and receiving compensation on a per diem, when actually employed, basis.

"(2) For the purposes of carrying out its functions under this Act, the Board is authorized to employ experts and consultants or organizations thereof as authorized by section 3109 of title 5, United States Code, and allow them while away from their homes or regular places of business, travel expenses (including per diem in lieu of subsistence) as authorized by section 5703(b) of title 5, United States Code, for persons in the Government service employed intermittently, while so employed.

"FINAL OFFER SELECTION

"SEC. 219. (a)(1) The President may direct each party to submit a final offer to the Secretary of Labor within 3 days. Each party may at the same time submit one alternative final offer. The Secretary of Labor shall transmit the offers to the other parties simultaneously.

"(2) If a party or parties refuse to submit a final offer, the last offer made by such party or parties during previous bargaining shall be deemed that party's or parties' final offer.

"(3) Any offer submitted by a party pursuant to this section must constitute a complete collective bargaining agreement and resolve all the issues involved in the dispute.

"(b) The parties shall continue to bargain collectively for a period of 5 days after they receive the other parties' offers. The Secretary of Labor may act as mediator during the period of the final offer selection proceedings.

"(c) If no settlement has been reached before the end of the period prescribed in subsection (b) of this section, the parties may within two days select a three-member panel to act as the final offer selector. If the parties are unable to agree on the composition of the panel, the President shall appoint the panel.

"(d) No person who has a pecuniary or other interest in any organization of employees or employers or employers' organizations which are involved in the dispute shall be appointed to such panel.

"(e) The provisions of section 218(h) and 218(i)(1) and (2) of this Act shall apply to the panel.

"(f) The panel shall conduct an informal hearing in accordance with section 218(g) of this Act insofar as practicable, except that

"(1) the Government shall have no right to participate; and

"(2) the 30-day period in which the panel shall complete its hearings and reach its determination shall run from the time that the President directed the parties to submit final offers, but in no case shall the panel close the hearing until 5 days from the date of its appointment as provided in subsection (c) herein.

"(g) The panel shall at no time engage in an effort to mediate or otherwise settle the dispute in any manner other than that prescribed by this section.

"(h) From the time of appointment by the President until such time as the panel makes its selection, there shall be no communication by the members of the panel with third parties concerning recommendations for settlement of the dispute.

"(i) The panel shall entertain applications for intervention from any persons asserting an interest because of a conflicting claim to all or any portion of the work involved in the dispute subject to these proceedings. Such application must be filed within 5 days from the time of appointment of the panel as provided in subsection (c) herein. The panel, thereafter, may, in its discretion allow such applicant to participate in the hearings, under rules established by the panel, solely for the purpose of presenting views in support of either of the final offers previously submitted.

"(j) Beginning with the direction of the President to submit final offers and until the panel makes its selection, there shall be no change, except by agreement of the parties, in the terms and conditions of employment, and no strike, lockout, or similar activity shall take place. In no instance shall such period exceed 30 days.

"(k) The panel shall not compromise or alter the final offer that it selects. Selection of a final offer shall be based on the content of the final offer and no consideration shall

be given to, nor shall any evidence be received concerning, the collective bargaining in the dispute, including offers of settlement not contained in the final offers.

"(l) The panel shall select the most reasonable, in its judgement, of the final offers submitted by the parties and shall state, in writing, the reasons for its selection. The panel may take into account the following factors:

"(1) past collective bargaining contracts between the parties, including the bargaining that led up to such contracts;

"(2) comparison of wages, hours and conditions of employment of the employees involved, with wages, hours and conditions of employment of other employees doing comparable work, giving consideration to factors peculiar to the industry involved;

"(3) comparison of wages, hours and conditions of employment as reflected in industries in general, and in the same or similar industry;

"(4) security and tenure of employment with due regard for the effect of technological changes on manning practices or on the utilization of particular occupations;

"(5) The views in support of either final offer of any additional persons permitted to intervene in the proceedings as provided by subsection (i) herein; and

"(6) the public interest, and any other factors normally considered in the determination of wages, hours and conditions of employment.

"(m) The final offer selected by the panel shall be deemed to represent the contract between the parties, except to the extent that any provision is determined, under appropriate procedures, not to be in accordance with applicable law.

"(n) The determination of the panel shall be conclusive, unless modified pursuant to subsection (m), or found arbitrary or capricious by the district court which granted the injunction pursuant to section 208 of this Act.

"SEC. 220. (a) Any board or panel established under Part B of title II of this Act may act by majority vote.

"(b) A vacancy on any such board or panel shall not impair the right of the remaining members to exercise all of the powers of such board or panel. In the case of a vacancy due to death, or resignation, the President may appoint a successor to fill such vacancy.

"SEC. 221. Whenever the term Government is used in title II of this Act, it shall be deemed to mean the United States Government acting through the Attorney General or his designee."

TITLE II—AMENDMENTS TO THE RAILWAY LABOR ACT

SEC. 201. Subject to the provisions of section 202(b) of this Title, the National Mediation Board is abolished, and its functions shall be assumed and carried out by the Federal Mediation and Conciliation Service and the National Labor Relations Board, as specified in subsections (f) and (g) of section 202 of this Title.

SEC. 202. The Railway Labor Act is further amended as follows:

(a) Section 2 Seventh of Title I is amended to read as follows:

"Seventh. No carrier, its officers or agents, or representatives shall change or seek to change the rates of pay, rules, or working conditions as embodied in agreements or arrangements except in the manner prescribed in such agreements and in Title 1, section 6 of this Act, as amended."

(b) Section 3 First (i) of Title I is amended by striking the period following the words "upon the disputes" and inserting thereafter:

": *Provided, however,* That all such disputes shall no longer be referred to the Adjustment Board commencing 60 days after the effective date of this Amendment to the Act.

"All such disputes which are not so referred within such period and all such disputes arising thereafter shall be submitted to arbitration in accordance with the following procedure. Upon failing to reach a satisfactory adjustment at the level of discussion hereinbefore mentioned, the parties shall within 5 days seek to reach mutual agreement on the selection of an arbitrator. If the parties fail to reach agreement within such period, the Federal Mediation and Conciliation Service shall submit to the parties a list of five qualified arbitrators. Each party shall alternately reject a different arbitrator named on the list until one arbitrator remains who shall thereupon arbitrate the dispute. To the extent that the parties are unable to agree to the rules for arbitration, including the distribution of costs, the arbitrator shall make all necessary rules therefor.

"All disputes which have been referred to the Adjustment Board may be removed by the grievant to the arbitration process herein if the dispute is not then being heard by the Adjustment Board.

"The aforementioned method of arbitration shall prevail with respect to such disputes until such time as the collective bargaining agreements between the parties contain no-strike, no-lockout clauses and provisions for grievance machinery terminating in final, binding arbitration.

"The Adjustment Board shall be dissolved after it has processed to completion all of the disputes before it or upon two years from the effective date of this Amendment to the Act, whichever first occurs. If all the disputes before the Adjustment Board have not been processed to completion by the time of the Board's dissolution date, all such disputes shall be removed by the grievant to the arbitration process hereinabove described.

"The National Mediation Board shall continue to carry out such of its functions and duties as are required by the existence of the Adjustment Board until the Adjustment Board has been dissolved as provided in this section. At such time the National Mediation Board shall be dissolved."

(c) Section 3 Second of Title I is amended by adding the following language at the end of the first paragraph following the words "jurisdiction of the Adjustment Board.":

"The provisions of paragraph (i) of this section, as amended, shall apply in the same manner and to the same extent with respect to system, group or regional boards of adjustment."

(d) Section 3 Second of Title I is amended by adding the following language at the end of section 3 Second following the words "awards of the Adjustment Board.":

"No dispute which has not been referred to a special board of adjustment by the effective date of this Amendment to the Act may be referred to such special board thereafter."

(e) Section 4 Second of Title I is amended by striking the word "mediation" in the third sentence of paragraph Second and inserting the word "representation."

(f) Section 4 Fifth of Title I is amended to read as follows:

"Fifth. The National Labor Relations Board shall assume and carry out all functions of the National Mediation Board relating to the determination of bargaining representatives, including duties particularized in Title I, section 2 Eighth and Ninth of this Act, as amended."

(g) Section 4 of Title I is further amended by adding the following paragraphs after paragraph Fifth:

"Sixth. All functions of the National Mediation Board which in the judgment of the President are primarily related to mediation shall be transferred to the Federal Mediation and Conciliation Service.

"Seventh. All cases which are being mediated by the National Mediation Board on the effective date of this Amendment to the Act shall be transferred to the Federal Mediation and Conciliation Service no later than 30 days after the effective date of this amendment to the Act. All cases arising thereafter under this Act, as amended, requiring mediation, shall be subject to the jurisdiction of the Federal Mediation and Conciliation Service.

"Eighth. All unexpended appropriations for the operation of the National Mediation Board that are available at the time of the dissolution of the Board shall be apportioned between the National Labor Relations Board and the Federal Mediation and Conciliation Service by the President according to the relative needs of each based on the division of functions prescribed herein."

(h) Section 6 of Title I is amended to read as follows:

"SEC. 6. Carriers and representatives shall give the other at least 60 days written notice of an intended modification of termination in agreements or arrangements affecting rates of pay, rules or working conditions. The party desiring such change or termination shall simultaneously notify the Federal Mediation and Conciliation Service of the existence of the dispute. Upon notification, the Federal Mediation and Conciliation Service shall commence appropriate mediation efforts. The parties shall continue in full force and effect, without resorting to strike or lockout or other economic coercion, all the terms and conditions of the existing agreement or arrangement for a period of sixty days after such notice is given or until the expiration date of the agreement containing the rates of pay, rules, or working conditions sought to be changed, provided such agreement exists, whichever occurs later.

"With respect to rates of pay, rules or working conditions for which there exists no fixed expiration date, the time for serving the 60-day notice in the first instance, and the first instance only, shall be established by agreement of the parties to the arrangement; if they cannot agree, the party seeking to serve the 60-day notice may invoke the arbitration procedure prescribed in section 3 First (i), as amended, in order to fix the date on which such notice may be served. In making his decision, the arbitrator shall take into account the probable intention of the patries as revealed by custom and practice with respect to past adjustment of rates of pay, rules or working conditions. In no case, however, shall the arbitrator decide that the time for serving the first 60-day notice shall be more than 2 years after the enactment of this amendment to the Act.

"The parties shall bargain collectively with respect to such intended modification or termination which means that the parties shall have the mutual obligation to meet at reasonable times and confer in good faith with respect to rates of pay, rules and working conditions or the negotiation of an agreement and the execution of a written contract incorporating any agreement reached if requested by either party, but such ligation does not compel either party to agree to a proposal or require the making of a concession."

(i) Section 201 of Title II is amended by striking the words "except the provisions of section 3 thereof,".

(j) Section 202 of Title II is amended (1) by striking the words ", except section 3 thereof,", and (2) by adding the following language after the end of the first sentence therein:

"The functions and duties of the National Labor Relations Board, as prescribed in Title I, section 4, shall apply as well to carriers by air and their employees or representatives."

(k) Section 204 of Title II is amended by striking the period following the words "upon the disputes" at the end of the first sentence and inserting thereafter—

": *Provided, however,* that if the parties, by mutual agreement elect to discontinue re-

ferrals to such adjustment boards and such election has been certified by the Secretary of Labor, no such disputes shall be referred to an adjustment board but shall thereafter be handled through arbitration in the manner specified in Title I, section 3 First (1) as amended. Notwithstanding any other provisions of this Act, the costs of adjustment board procedures and the compensation of all board members shall be borne entirely by the carriers and labor organizations involved and upon dissolution of the National Mediation Board, its responsibilities and functions in relation to the selection of members of adjustment boards shall be transferred to the Federal Mediation and Conciliation Service. Upon election of the parties to discontinue referrals to adjustment boards and certification of the Secretary of Labor as provided in this section, existing adjustment boards shall be dissolved after they have processed to completion all of the disputes before them.

TITLE III—SPECIAL INDUSTRIES COMMISSION

SEC. 301. The National Special Industries Commission is hereby established. The Commission shall be composed of 7 members all of whom shall have a background by reason of education or experience in labor relations.

(a) The Commission members shall be appointed by the President for a term not to exceed 2 years.

(b) The Commission members shall receive compensation at a rate of up to the per diem equivalent of the rate for GS-18 when engaged in the work of the Commission, together with any necessary travel and subsistence expenses.

(c) The Commission shall be authorized to study and investigate industries (determined by the Secretary of Labor to be particularly vulnerable to national emergency disputes) combinations or groups thereof, and problems relating thereto, including but not limited to—

(1) the ways and means by which the collective-bargaining process might be improved, altered, revised, or supplemented so as to avoid or minimize strikes and lockouts which affect an entire industry, or region, or a substantial part thereof;

(2) the effectiveness and usefulness of various forms of mediation, conciliation, arbitration, and other possible procedures and methods for aiding or supplementing the collective-bargaining process;

(3) the administration, operation, and possible need for revision of this Act and its effect on collective bargaining, strikes, or lockouts affecting an entire industry or region or substantial portion thereof;

(4) the adequacy of current legislation in encouraging work-rule arrangements that maximize productivity;

(5) such other problems and subjects which relate in any way to collective bargaining, strikes, or lockouts as the Commission deems appropriate.

(d) A vacancy in the membership of the Commission shall not affect the powers of the remaining members to execute the functions of the Commission, and shall be filled in the same manner as the original appointment was made. The President shall designate a chairman and a vice chairman among its members.

(e) In carrying out its duties, the Commission or any duly authorized subcommittee thereof, is authorized to hold such hearings or investigations, to sit and act at such places and times, to require by subpoena or otherwise the attendance of such witnesses and production of such books, papers, and documents, to administer such oaths, to take such testimony, to procure such printing and binding, to make such expenditures as it deems advisable. The Commission may make such rules respecting its organization and procedures as it deems necessary: *Provided, however,* That no recommendation shall be reported from the Commission unless a majority of the Commission assent. Subpoenas may be issued over the signature of the chairman of the Commission or by any member designated by him or by the Commission, and may be served by such person or persons as may be designated by such chairman or member. The chairman of the Commission or any member thereof may administer oaths to witnesses. The cost of stenographic services shall be fixed at an equitable rate by the Commission. Members of the Commission, and its employees and consultants, while traveling on official business for the Commission may receive either a $50 per diem allowance or their actual and necessary expenses provided an itemized statement of such expenses is attached to the voucher.

(f) The Commission is empowered to appoint and fix the compensation of such experts, consultants, technicians, and staff employees as it deems necessary and advisable. The Commission is authorized to utilize the services, information, facilities, and personnel of the departments and establishments of the Government.

SEC. 302. The Commission shall, within a period of 2 years from the date of the appointment of its members, report to the President concerning its findings. Such report shall also contain any recommendations for dealing with problems caused by any weaknesses in the collective bargaining process, including any recommendations for legislation which the Commission deems necessary to the solution of such problems. The Commission may also recommend, if it deems it advisable, legislation to bring other industries within the coverage of Part B of title II of the Labor-Management Relations Act, as amended.

TITLE IV—MISCELLANEOUS PROVISIONS

SUITS BY AND AGAINST REPRESENTATIVES

SEC. 401. (a) Suits for violation of agreements or arrangements between carriers or common carriers by air and their employees or the representatives thereof, as those terms are defined in the Railway Labor Act, or between any such representatives, may be brought in any district court of the United States having jurisdiction of the parties, without respect to the amount in controversy or without regard to the citizenship of the parties.

(b) Any representative of employees, as defined in the Railway Labor Act, and any carrier or common carrier by air, as defined in the Railway Labor Act, shall be bound by the acts of its agents. Any such representative may sue or be sued as an entity and in behalf of the employees whom it represents in the courts of the United States. Any money judgment against such representative in a district court of the United States shall be enforceable only against the organization as an entity and against its assets, and shall not be enforceable against any individual member or his assets.

(c) For the purpose of actions and proceedings by or against representatives in the district courts of the United States, district courts shall be deemed to have jurisdiction of a representative (1) in the district in which such organization maintains its principal office or (2) in any district in which its duly authorized officers or agents are engaged in representing or acting for employee members.

(d) The service of summons, subpoena, or other legal process of any court of the United States upon an officer or agent of a representative, in his capacity of such, shall constitute service upon the representative.

(e) For the purposes of this section in determining whether any person is acting as an "agent" of another person so as to make such other person responsible for his acts, the question of whether the specific acts performed were actually authorized or subsequently ratified shall not be controlling.

REPEAL

SEC. 402. Sections 5, 7, 8 (both), 9 and 10 of title I, and sections 203 and 205 of title II of the Railway Labor Act, as amended, are hereby repealed.

INAPPLICABILITY OF THE NORRIS-LAGUARDIA ACT

SEC. 403. The provisions of the Act of March 23, 1932, entitled "An Act to amend the Judicial Code and to define and limit the jurisdiction of courts sitting in equity, and for other purposes", shall not be applicable to any judicial proceeding brought under or to enforce the provisions of this Act.

RIGHTS OF EMPLOYEES

SEC. 404. Nothing in this Act shall be construed to require an individual employee to render labor or service without his consent, nor shall anything in this Act be construed to make the quitting of his labor by an individual employee an illegal act; nor shall any court issue any process to compel the performance by an individual employee of such labor or service, without his consent; nor shall the quitting of labor by an employee or employees in good faith because of abnormally dangerous conditions for work at the place of employment of such employee or employees be deemed a strike under this Act.

RAILROAD UNEMPLOYMENT INSURANCE

SEC. 405. Section 4(a)(v) of the "Railroad Unemployment Insurance Act of 1938," 52 Stat. 1098, is hereby amended by inserting a semi-colon following the words "at which he was last employed" and striking the remaining language in the paragraph.

APPROPRIATIONS

SEC. 406. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

SEPARABILITY

SEC. 407. If any provisions of this Act, or the application of such provision to any person or circumstance, shall be held invalid, the remainder of this Act, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

TRANSPORTATION CRISIS PREVENTION ACT OF 1972—SECTION-BY-SECTION ANALYSIS

Section 1. Contains the short, or official title of the Act, "Transportation Crisis Prevention Act of 1972."

Section 2. Contains a declaration of Congressional findings, purpose and policy. The purpose and policy is to assure so far as possible that no strike or lockout in the transportation industry or a substantial part thereof will imperil the national health or safety or the health or safety of a substantial sector of the Nation.

TITLE I—AMENDMENTS TO THE LABOR-MANAGEMENT RELATIONS ACT RELATING TO EMERGENCY DISPUTES IN THE TRANSPORTATION INDUSTRY

Section 101(a). Redesignates Title II of the Labor-Management Relations Act as Title II, Part A.

Section 101(b)(1). Amends section 206 of the Labor-Management Relations Act so as to provide that the national emergency provisions of section 206 apply to a strike or lockout in the railroad, airline, maritime, longshore or trucking industries if such strike or lockout imperils the health or safety of a substantial sector of the Nation.

Section 101(b)(2). Amends section 208(a) of the Labor-Management Relations Act so as to permit the issuance of an injunction when a strike or lockout in the railroad, airline, maritime, longshore or trucking industry

would imperil the health or safety of a substantial sector of the Nation.

A proviso recognizes the special nature of the transportation industries by requiring that a petition to enjoin a strike or lockout in the railroad, airline, maritime, longshore or trucking industry must be heard by a three-judge district court rather than by a single district court judge.

Section 101(b)(3). Amends section 208(c) of the Labor-Management Relations Act so as to provide for direct appeal to the United States Supreme Court for review of an order or orders of a three judge district court in a case involving the transportation industries.

Section 101(b)(4). Amends section 209(a) of the Labor-Management Relations Act so as to provide that, when an injunction is issued in a case involving a transportation industry labor dispute which imperils the health or safety of a substantial sector of the Nation, the parties to such a labor dispute must make every effort to adjust and settle their differences with the assistance of the Federal Mediation and Conciliation Service.

Section 101(c). Repeals section 212 of the Labor-Management Relations Act thus making the national emergency provisions of the LMRA applicable to all transportation industries.

Section 102. Amends Title II of the Labor-Management Relations Act by adding a new Part II B (sections 213–221) as follows:

Section 213. The new Part II B applies only to the railroad, airline, maritime, longshore and trucking industries.

Section 214. This section empowers the President to invoke new procedures providing for an additional cooling-off period, partial operation and/or final offer selection within 10 days after an injunction obtained pursuant to section 208 of the LMRA is discharged if no settlement has been reached by the parties. The new optional procedures may be exercised in such sequence as the President deems appropriate until it is certified by the Secretary of Labor that the dispute is settled. However, only one of the optional procedures may be exercised at any one time and each may be invoked only once during a dispute.

Subsection (b) provides that if either the additional cooling-off period or the partial operations option is exercised, it may be terminated before the procedure is completed and the President may then exercise another of the three optional procedures.

Subsection (c) makes it clear that if the final offer selection option is exercised, the President may not thereafter invoke either the additional cooling-off period or the partial operation option.

Section 215. This section requires the President to notify Congress of each optional procedure which he invokes.

Section 216. This section requires that if the President does not choose to invoke any of the three optional procedures, he must submit a supplemental report to Congress which includes such recommendations as he may see fit to make.

Section 217. This section provides the President with the option of an additional cooling-off period of 15 days during which period there would be continued bargaining between the parties. No changes could be made, except by agreement, in the terms and conditions of employment during the 15-day period and the parties would be precluded from engaging in a strike, lockout or similar activity. The board of inquiry appointed pursuant to section 206 could continue to mediate the dispute along with the director of the Federal Mediation and Conciliation Service.

Section 218. This section provides the President with the option of partial operation of a transportation industry. The President is empowered to appoint a special board to determine whether and under what conditions a *partial* strike or lockout could take place without imperiling the national health or safety, or the health or safety of a substantial portion of the territory or population of the Nation and whether under such conditions, the partial strike would be of sufficient economic impact to encourage resolution of the dispute.

Subsection (b) provides that if the special board determines that a partial strike or lockout is feasible, it shall issue an order specifying the extent and conditions of partial operation. If a partial strike or lockout is not feasible, the board shall submit a report to the President.

Subsection (c) precludes the parties from interfering by resort to strike or lockout with a partial operation ordered by the special board. The board's order may be effective for up to 180 days.

Subsection (d) provides that the board's order is conclusive unless found to be arbitrary or capricious.

Subsection (e) requires the special board to issue its order within 30 days from the date of its appointment unless all parties, including the Government, agree to an extension of time. Any extension would reduce *pro tanto* the maximum effective period of the board's order. The board may modify its order, on notice to the parties, at any time during the period of partial operation.

Subsection (f) requires the status quo to be maintained while the board is making its determination and during any period of partial operation ordered by the board, unless otherwise provided by order of the board. The board may suspend or modify any existing term or condition of employment to the extent necessary to make it consistent with the condition of partial operation.

Subsection (g) prescribes rules of procedure applicable to the special board's functions. Any party or any member of the board can present to the board a plan defining the strike or lockout action that would be consistent with the public interest. The board, after appropriate hearings in which the Government would be a party to protect the public interest, could adopt or modify the plan.

Subsection (h) provides that if a settlement is reached during the course of the board's hearing, the board shall adjourn and report to the President.

Subsection (i) prescribes the compensation of members of the special board and authorizes them to employ experts and consultants to assist them in performing their functions.

Section 219. This section provides the President with the option of final offer selection. Each party would be directed to submit a final offer to the Secretary of Labor within 3 days. Parties may also submit one alternative final offer. If any party failed to submit an offer, the last offer made during bargaining would be deemed its final offer. Each final offer submitted must constitute a full resolution of the controversy.

Subsection (b) requires the parties to meet and bargain, with or without mediation by the Secretary of Labor, for a period of 5 days after they have received each other's final offers.

Subsection (c) provides that if a settlement has not been reached within the 5-day period, the parties have 2 days within which to select a three-member panel to act as the final offer selector. If the parties cannot agree to a panel, the President shall appoint the panel.

Subsection (d) makes it clear that no "interested" person shall be appointed to a final offer selection panel.

Subsection (e) provides that if a settlement is reached while the panel is conducting its informed hearing, the hearing shall be adjourned and the panel shall report to the President. This action also prescribes the compensation of members of the panel and authorizes them to employ experts and consultants to assist them in carrying out their functions.

Subsection (f) provides for the conduct of an informal hearing to determine which of the final offers constituted the final and binding resolution of the issues. The Government does not have a right to participate in this hearing. The hearing must be completed and the panel must reach its determination within 30 days from the time that the President directed the parties to submit final offers.

Subsection (g) and (h) make it clear that the panel's function is limited to choosing the more reasonable of the final offers. It may not mediate or otherwise settle the dispute otherwise than as provided for and it may not communicate with third parties concerning recommendations for settlement.

Subsection (i) provides for permissive intervention in the panel hearing by any person asserting an interest because of a conflicting claim to all or any portion of the work involved in the dispute. An application for intervention must be filed within 5 days from the time the panel is appointed. Intervention is permitted solely for the purpose of presenting views in support of any of the final offers previously submitted.

Subsection (j) provides that the status quo is to be maintained until the panel makes its selection of the final offer.

Subsections (k) and (l) make it clear that the panel may not compromise or alter the final offer that it selects and that it must select the most reasonable of the offers. Subsection (l) also specifies certain factors which may be taken into account by the panel in reaching its decision.

Subsection (m) provides that the final offer which the panel selects shall be deemed to represent the contract between the parties except to the extent that any provision is determined not to be in accordance with applicable law.

Subsection (n) makes the determination of the panel conclusive unless it is found to be arbitrary or capricious or a particular provision is modified because it is not in accordance with applicable law.

Section 220. This section authorizes special boards and final offer selection panels to act by majority vote.

Subsection (b) makes it clear that a vacancy on a board or panel does not prevent the remaining members from exercising all of the powers of the board or panel. The President may appoint a successor in the case of a vacancy due to the death or resignation of a board or panel member.

Section 221. The term "Government" as it is used in Title II of the Labor-Management Relations Act is deemed to mean the United States Government acting through the Attorney General or his designee.

TITLE II—AMENDMENTS TO THE RAILWAY LABOR ACT

Section 201. This section transfers the functions of the National Mediation Board to the Federal Mediation and Conciliation Service and the National Labor Relations Board. The Mediation Board is then abolished after it has carried out such of its functions and duties as are required by the existence of the National Railroad Adjustment Board.

Section 202(a). Amends section 2 Seventh of the Railway Labor Act to provide that the rates of pay, rules or working conditions as embodied in agreements or arrangements may not be changed or sought to be changed by a carrier, its officers or agents or representatives except in the manner set forth in such agreements and in Title I, Section 6 of the Railway Labor Act.

Section 202(b). Amends section 3 First (i) of Title I of the Railway Labor Act to provide for the discontinuance of the referral of disputes described in that subsection to

the Adjustment Board and for their submission to Arbitration in accordance with a prescribed procedure. The parties have 5 days to select an arbitrator. If they cannot agree, the Federal Mediation and Conciliation Service submits to the parties a list of five qualified arbitrators. One is selected through a process of alternate rejection and he arbitrates the dispute. If the parties cannot agree to the rules for arbitration, the arbitrator makes the necessary rules.

Disputes which have been previously referred to the Adjustment Board but are not presently being heard by the Board may be removed by the grievant and submitted to the arbitration process.

The statutory arbitration process set up herein shall prevail until such time as the collective bargaining agreements between the parties contain no-strike, no-lockout clauses and provisions for grievance machinery terminating in final, binding arbitration.

The Adjustment Board may continue to function until it has processed to completion all of the disputes before it or until two years from the effective date of this amendment, whichever first occurs. If disputes are still pending before the Board at the time of its dissolution, they must be removed to the arbitration process.

Section 202(c). Amends section 3 Second of Title I to make it clear that the arbitration process also applies with respect to system, group or regional boards of adjustment.

Section 202(d). Disputes which have not been referred to a special board of adjustment by the effective date of this amendment may not be referred thereafter.

Section 202(e). Amends section 4 Second to provide that the Mediation Board may designate one or more of its members to exercise the functions of the Board in representation proceedings.

Section 202(f). Amends section 4 Fifth to provide that the National Labor Relations Board shall assume and carry out all functions of the National Mediation Board relating to the determination of bargaining representatives, including duties particularized in Title I, section 2 Eighth and Ninth of the Railway Labor Act.

Section 202(g). This subsection adds paragraphs Sixth, Seventh and Eighth to section 4 of Title I. These new paragraphs transfer the mediation functions of the National Mediation Board to the Federal Mediation and Conciliation Service, provide for the transfer of cases from the Board to the Service and provide for the apportionment of the unexpended appropriations for the operation of the National Mediation Board between the National Labor Relations Board and the Federal Mediation and Conciliation Service.

Section 202 (h). Amends Section 6 of Title I to change the notice-of-contract modification or termination provisions to direct the railroad and airline industries to the form of contract reopening presently existing in industries subject to the Taft-Hartley Act. The parties would be obligated to serve written notice of proposed contract changes on each other at least 60 days prior to the contract expiration date. Special provision is made for the transition to the new method of contract reopening. At the expiration of the contract or of 60 days, whichever is later, the parties would be free to resort to self-help.

Section 202 (i). Amends section 201 of Title II to extend the provisions of section 3 of Title I to the airline industry.

Section 202 (j). Amends section 202 of Title II to provide that any duties, requirements, penalties, benefits and privileges prescribed and established by the provisions of section 3 of Title I shall be extended to the airline industry. The subsection further provides that the functions and duties of the National Labor Relations Board with respect to representation proceedings shall apply to the airline industry.

Section 202 (k). Amends section 204 of Title II to provide that parties may, by mutual agreement, elect to discontinue referrals of disputes to adjustment boards and thereafter handle them through arbitration.

TITLE III—SPECIAL INDUSTRIES COMMISSION

Section 301. This section establishes a National Special Industries Commission to study labor relations in those industries which the Secretary of Labor has determined to be particularly vulnerable to national emergency disputes. The commission is empowered to study all the factors affecting labor relations in those industries and to make recommendations to the President as to the best way of remedying the weaknesses of collective bargaining in the industries studied.

Section 302. This section prescribes that the Commission shall report to the President concerning its findings within a period of 2 years from the date of the appointment of its members. The report shall contain recommendations for legislation if appropriate. The commission's recommendations may also include a proposal that additional industries be brought within the coverage of the new Part B of Title II of the Labor-Management Relations Act.

TITLE IV—MISCELLANEOUS PROVISIONS

Section 401. This section permits suits for violations of collective bargaining agreements or arrangements in the air and rail industries to be brought in any Federal district court having jurisdiction of the parties without regard to the amount in controversy or without regard to the citizenship of the parties. This section also makes representatives suable in their capacity as such. Money judgments against representatives are enforceable only against the organizations they represent.

Section 402. Repeals sections 5, 7, 8 (both), 9 and 10 of Title I, and sections 203 and 205 of Title II of the Railway Labor Act.

Section 403. The Norris-LaGuardia Act is made inapplicable to any judicial proceeding brought under or to enforce the provisions of the Crippling Strikes Prevention Act of 1972.

Section 404. Makes it clear that no employee may be forced to work without his consent; or shall the quitting of labor by an employee in good faith because of abnormally dangerous conditions for work at the place of employment of such employee be deemed a strike under this Act.

Section 405. This section repeals the provisions of the Railroad Unemployment Insurance Act that makes strikers eligible for benefits if the strike is not in violation of the Railway Labor Act or of the rules of the labor organization of which they are members. Thus, strikers in the railroad industry will be disqualified from unemployment insurance benefits in accordance with the usual criteria in State unemployment insurance laws applicable to other industries.

Section 406. This section authorizes such sums to be appropriated as are necessary to carry out the provisions of the Transportation Crisis Prevention Act of 1972.

Section 407. This section contains the usual separability provisions.

Mr. ROTH. Mr. President, I am pleased to cosponsor a bill introduced today by the distinguished Senator from Oregon (Mr. PACKWOOD) S. 3232, entitled the Transportation Crisis Prevention Act of 1972. The major purpose of this legislation is to improve and strengthen settlement procedures for transportation labor disputes which threaten to imperil the health or safety of the Nation or of a substantial sector of the Nation. The legislation is similar to, but in important respects a revision of, President Nixon's recommendations for amending Federal law with respect to emergency labor disputes.

The President's proposal was first transmitted in March 1970, to the 91st Congress. No hearings were held in that Congress on his recommendations, or on any other dispute-settlement proposals. Mr. Nixon resubmitted his proposal to the 92d Congress, in February 1971. The Senate Labor Subcommittee began hearings in June 1971 on the administration bill and related measures, but has not yet concluded its hearings.

Since the President first submitted his proposal in early 1970, the Congress has been forced to intervene on five separate occasions with ad hoc measures to prevent emergency-creating strikes or lockouts. Four of these five special-purpose statutes dealt with rail disputes, while the fifth—still vividly scarred in our memories—covered the recently ended 134-day west coast dock strike, the longest dock strike in U.S. history. We deliberate in these halls today with the knowledge that dock strikes may erupt soon in the east and gulf ports. All Taft-Hartley procedures for the east coast port disputes have been exhausted. The east coast stevedores have agreed to remain at their jobs until mid-March; failing settlement by then, they may go on strike, as they did last October and November, and the American economy will again begin to wither.

The recent west coast dock strike worked many hardships upon our economy. Let me cite only a few of these, as they apply to agriculture—an industry of great importance in my State of Delaware and, of course, in many other States of the Nation. According to Agriculture Secretary Earl L. Butz, the west coast dock strike reduced farm exports by almost $6 million every work day that it remained in effect. It damaged our reputation as a dependable supplier of farm products. It backed up commodities into barges, rail cars, trucks, and warehouses all the way to the farm. It caused reduced farm prices, increased marketing costs, and spoiled crops.

The time is due, and long past due, for strengthened Federal legislation to prevent crippling strikes in the transportation industries. I strongly urge my colleagues on the Senate Labor Committee to proceed rapidly with hearings on the bill I cosponsor today, and related proposals, and to report out a bill. Give the full body of the Senate an opportunity to vote it up or down; I feel confident that the large majority of my colleagues in the Senate, as well as those in the House, recognize the imperative need for strike-settlement legislation in this Congress.

By Mr. MAGNUSON (by request):

S. 3233. A bill to amend section 396 of the Communications Act of 1934 to increase and extend for 1 year the authorization for the Corporation for Public Broadcasting. Referred to the Committee on Commerce.

Mr. MAGNUSON. Mr. President, today I am introducing at the request of the administration an amendment to section 396 of the Communications Act of 1934 to increase and extend for 1 year the au-

thorization for the Corporation for Public Broadcasting.

I ask unanimous consent that the letter requesting the legislation be printed in full at this point.

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

OFFICE OF TELECOMMUNICATIONS POLICY, EXECUTIVE OFFICE OF THE PRESIDENT,

Washington, D.C.

HON. SPIRO T. AGNEW,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: I am submitting herewith for the consideration of the Congress a proposed revision of section 396 of the Communications Act of 1934, which pertains to public broadcasting.

In the Congressional deliberations preceding enactment of the Public Broadcasting Act of 1967, considerable attention was given to the desirable manner of funding public broadcasting. That important question was ultimately left for later resolution, and funds have since then been authorized on an annual or biennial basis that is generally acknowledged to be less than ideal. During the past year, the Administration has undertaken fundamental consideration of this important question and had hoped to present its recommendations during the past session. It developed, however, that basic questions were involved beyond those pertaining to the level, means and duration of funding. In particular, it became apparent that any program for increased funding without annual Congressional review would have to contain carefully drawn provisions to insure disposition of the funds in accordance with the intent of the Public Broadcasting Act.

We have found no consensus within the public broadcasting community on these matters, and hence have been unable to develop our recommendation as early as we had hoped. There is no controversy, however, concerning the continuing desirability of public broadcasting as envisioned by the 1967 Act, nor is there much doubt of its need for increased funds to continue its healthy development. While, therefore, consideration of an ultimate funding procedure continues, we recommend that the Congress adopt the proposals contained within this legislation for another one-year extension of the Corporation for Public Broadcasting's current funding, at a significantly increased level—$10 million above that for the present fiscal year. Federal funding will thereby be established at $45 million, $5 million of which must be matched by funds derived elsewhere. Despite severe pressures on the Federal budget, we feel this increase is desirable to continue the progress of an enterprise which is still in its developing stages.

This legislation also reflects an effort to direct assistance specifically to the individual public broadcasting stations, which currently face severe financial burdens. At present the Corporation devotes between $5 and $6 of its $35 million to general operating support of local radio and television stations. The Administration bill seeks to add to this an additional $10 million for Fiscal 1973. It establishes a mechanism for distribution of a total of $15 million to the local stations in a manner which assures that they will be effective partners with the Corporation in the development of public broadcasting service for their communities.

This mechanism provides for $2 million to be distributed to public radio stations—almost doubling the general support funds which the Corporation now provides them. Because of the large number and enormously diverse nature of public radio operations, the manner of distribution of these radio funds is left to the discretion of the Corporation, to be exercised in consultation with station representatives. The proportion of the $15 million devoted to radio represents the approximate share of total non-Federal public broadcasting support which goes to radio.

The statutory mechanism would also make available $13 million to approximately 140 licensees of public television stations. Two types of grants would be used for this purpose: a minimum support grant of $50,000 and a supplemental grant based on the proportion which the licensee's operating budget, exclusive of Federal and Corporation grants, bore to all licensees' operating budgets during Fiscal 1971. The minimum grant would be reduced in those instances where necessary to prevent it from exceeding 25 per cent of the licensee's Fiscal 1971 operating budget (exclusive of Federal and Corporation grants). There would also be an upper limit on the amount of the supplemental grant, since no licensee's operating budget would be considered to exceed $2 million for grant purposes.

The Public Broadcasting Act needs substantial refinement—not only to establish its final basis of financing, but also to take account of technical change and operational experience during the first five years of its existence. While the needed revisions are being considered by the Administration and the Congress, this proposed bill will enable the sound growth of the system to continue.

The Office of Management and Budget advises that the proposed legislation is in accord with the program of the President.

A similar letter is being sent to the Speaker of the House.

Sincerely,

CLAY T. WHITEHEAD.

By Mr. HARRIS:

S. 3234. A bill providing for the distribution of judgment funds of the Osage Nation of Indians. Referred to the Committee on Interior and Insular Affairs.

Mr. HARRIS. Mr. President, on April 1, 1971, I introduced for myself and the junior Senator from Oklahoma (Mr. BELLMON) S. 1456, a bill to provide for the disposition of judgment funds of the Osage Tribe of Indians of Oklahoma. There is some question among the Osage about the way in which that bill provides for the distribution of the claims settlement.

Therefore, Mr. President, I am sending to the desk for appropriate reference another bill to provide for the distribution of this claims settlement. It directs the Secretary of the Interior to "prepare a roll of persons who possess Osage Indian blood of the degree of one-fourth or more and were living on the day that judgment against the United States became final" in this settlement. These persons must have been enrolled on the allotment roll prepared pursuant to the Osage Allotment Act of 1906 (34 Stat. 539) or must be descendents of such persons. This bill would distribute 85 percent of the judgment funds on a per capita basis to the persons on the above roll. The balance of these funds would be used for any purpose agreed to by the Osage governing body and the Secretary of Interior and approved by a majority vote of those on the distribution roll.

Mr. President, I am introducing this second distribution bill in order to insure that consideration of this issue in committee is balanced and takes into account all points of view. And it is certainly my hope that the Senate Committee on Interior and Insular Affairs will give this matter its attention as soon as possible.

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

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

S. 3234

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is authorized and directed to prepare a roll of persons who possess Osage Indian blood of the degree of one-fourth or more and were living on the day that judgment against the United States became final in the Indian Claims Commission in docket numbered 105, 106, 107, and 108.

Such persons must have been enrolled on the allotment roll prepared pursuant to the Osage Allotment Act of 1906 (34 Stat. 539) or must be a descendant of a person enrolled on the allotment roll prepared pursuant to the Osage Allotment Act.

Applications for enrollment must be filed with the Superintendent of the Osage Agency, Pawhuska, Oklahoma, within six months of the date of this Act or be forever barred. For a period of three months thereafter, the Secretary shall permit the examination of the applications by the Osage governing body and any interested persons for the purpose of lodging protests against any application. The burden of providing eligibility for enrollment under this Act shall be upon the applicant and the determination of the Secretary regarding the eligibility of any applicant shall be final.

SEC. 2. (a) Eighty-five percent of the funds on deposit in the Treasury of the United States (with accrued interest thereon, less deductions for attorney's fees and litigation expense) which have been appropriated to pay a judgment against the United States obtained in the Indian Claims Commission in docket numbered 105, 106, 107, and 108, shall be distributed by the Secretary in equal amounts per capita to all persons whose names appear on the distribution roll provided for in section 1 of this Act.

(b) The balance of such funds, after making payment of or provision for such per capita payment, shall be advanced or expanded for any purpose that is agreed to by the Osage governing body and the Secretary and approved by a majority vote of the enrollees, which may more properly serve the long-term interest of the enrollees than would a per capita payment.

(c) A share payable to a person under twenty-one years of age or under a legal disability shall be paid in accordance with such procedures as the Secretary determines will adequately protect the best interests of such persons.

(d) A share payable to a deceased enrollee shall be paid to his heirs or legatees upon proof of death and inheritance satisfactory to the Secretary, whose findings upon such proof shall be final and conclusive.

SEC. 3. No part of any of the funds distributed in accordance with this Act shall be subject to any State or Federal tax.

SEC. 4. No part of any of the funds distributed in accordance with this Act shall be subject to any debt or debts created prior to the date of this Act.

SEC. 5. Any other law or laws relating to funds paid or accruing to the Osage Nation or Tribe of Indians shall not apply to the funds distributed, expended or advanced under this Act.

SEC. 6. The Secretary is authorized to prescribe regulations necessary to carry out the provisions of the Act.

By Mr. HARRIS (for himself and Mr. BELLMON):

S. 3235. A bill to declare that the United States holds certain lands in trust for the Citizen Band of Potawatomi Indians of Oklahoma. Referred to the Committee on Interior and Insular Affairs.

Mr. HARRIS. Mr. President, for myself and the junior Senator from Oklahoma (Mr. BELLMON), I send to the desk for appropriate reference a bill to redesignate certain lands conveyed to the Citizen Band of Potawatomi Indians of Oklahoma as trust lands maintained by the Department of Interior.

The Citizen Potawatomi Business Committee passed a resolution requesting the Oklahoma congressional delegation to introduce this legislation, and I ask unanimous consent that the resolution be printed in the RECORD at this point.

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

RESOLUTION OF CITIZEN BAND OF POTAWATOMI INDIANS OF OKLAHOMA

A resolution requesting that lands conveyed to the Citizen Band of Potawatomi Indians of Oklahoma pursuant to the Act of August 11, 1964 (78 Stat. 393) and the Act of September 13, 1960 (74 Stat. 903) by quitclaim and subject to no restrictions because of Indian ownership be redesignated restricted lands and maintained in trust by the Departemnt of Interior for the aforementioned Indian tribe

Whereas, the Citizen Band of Potawatomi Indians of Oklahoma is desirous of having the above mentioned lands redesignated Trust lands, and

Whereas, the Citizen Potawatomi Business Committee voted during a Special Business Committee Meeting on September 16, 1971, to authorize the Business Committee Chairman to prepare a proposed Bill on the aforementioned subject and submit same to the appropriate members of the United States Congress.

Now therefore be it resolved that the Citizen Potawatomi Business Committee Chairman prepare this Bill and contact the Oklahoma Congressional Delegation in order to get said proposal introduced and maintain contact with these gentlemen to insure a prompt hearing and expeditious enactment.

By Mr. BYRD of Virginia (for himself and Mr. SPONG):

S. 3236. A bill to provide for the establishment and operation of a research center at Blacksburg, Va. Referred to the Committee on Interior and Insular Affairs.

Mr. BYRD of Virginia. Mr. President, I am sending to the desk legislation to provide for the establishment of a research center for the Bureau of Mines, of the Department of the Interior, at Virginia Polytechnic Institute and State University at Blacksburg, Va.

A similar research center is now at the University of Maryland, but on October 1, 1965, the Congress authorized reconveyance to the State of Maryland that land on which the center is now situated, along with the buildings thereon. This was done because of the need of the space by the University of Maryland. The research center thereupon leased the premises until a suitable relocation site could be found.

That lease eexpires on June 10, 1978, and the University of Maryland has informed the Bureau of Mines that it will not renew the lease. Because of the dire need for additional space, the University of Maryland desires that the buildings housing the research center be vacated at the earliest possible moment.

Virginia Polytechnic Institute and State University has offered, without cost, to the Bureau of Mines, a tract of approximately 20 acres on or adjacent to its campus upon which a research center can be built. The proposed legislation would authorize the expenditure of $6.1 million to erect and equip such a facility and would also provide for funds necessary for the annual maintenance and operation of such facility.

The location of this center at VPI and SU would be most beneficial to the Bureau of Mines. The university is a large and well respected institution of higher learning, which has especially fine schools in the areas of technology and science.

It has a large library well oriented in technical and scientific fields. The university atmosphere and the locale are such that will be most attractive to prospective employees of the center.

Blacksburg, Va., is located adjacent to Virginia's vast coal mining regions. Therefore, the center would be located close to active workshops of all description.

As the research center must be relocated prior to June 1978, there is a one-time expense of relocation, which the Government must bear. Relocation to the southwest Virginia area would, in the estimation of the Bureau of Mines, result in substantial savings in annual maintenance and operation costs.

Thus, over the years the Federal Treasury will benefit.

My distinguished colleague from Virginia (Mr. SPONG) is cosponsoring this legislation with me. Also, there is companion legislation being introduced today in the House which is cosponsored by the entire 10-man Virginia delegation.

By Mr. STENNIS (for himself and Mrs. SMITH) (by request):

S. 3237. A bill to authorize an additional Deputy Secretary of Defense, and for other purposes. Referred to the Committee on Armed Services.

Mr. STENNIS. Mr. President, by request, for myself and the senior Senator from Maine (Mrs. SMITH), I introduce, for appropriate reference, a bill to authorize an additional Deputy Secretary of Defense, and for other purposes.

I ask unanimous consent that a letter of transmittal requesting consideration of the legislation and explaining its purpose be printed in the RECORD.

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

THE SECRETARY OF DEFENSE,
Washington, D.C., February 9, 1972.

Hon. JOHN C. STENNIS,
Chairman, Senate Armed Services Committee, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: The need for Congressional authorization of a second Deputy Secretary of Defense has not diminished and I urge favorable consideration by your Committee of the necessary legislation to authorize a second Deputy Secretary as a matter of urgent priority. It is my understanding that when the proposal to create a second Deputy Secretary of Defense was considered by your Committee in the closing days of the last session of Congress, concern was expressed that the authorization would create a potential for conflict between the two Deputy Secretaries of Defense due to the jurisdictional overlap. The basis for such a concern I believe, may be alleviated by a reemphasis on the reasons for this request and a review of the roles contemplated for the two Deputy Secretaries.

I have requested authorization for an additional Deputy Secretary because I believe that the most efficient management of Department of Defense resources desired by the President, the Congress, and myself, cannot be achieved with the two senior managers now authorized in this Department. Deficiencies that we have all observed in the past have in large measure been due to insufficient senior management attention to the affairs of the Department of Defense. I am convinced that the authorization for an additional Deputy Secretary will provide the capability for this necessary level of attention. At the same time, I think it is particularly important that we do not increase the layers of management within the Department. The management attention that is required is the attention of those who have the authority to issue instructions and make decisions in their own right without further reference to other more senior managers. The position of Deputy Secretary of Defense provides this level of authority and responsibility.

As you know, the position of Deputy Secretary of Defense was created in 1949. Since that time, it has been customary for the Secretary of Defense to make a full delegation of authority to the Deputy Secretary. Consequently, there has always been a full overlap in or coincidence of the scope of authority between the Secretary and the Deputy Secretary. This has enabled the Deputy Secretary, in the absence of the Secretary, to act and make decisions on any matters within the authority of the Secretary.

The authority for a full delegation of the Secretary's authority to the Deputy Secretary is the significant factor which distinguishes the position of Deputy Secretary of Defense from that of the Under Secretaries in other departments. The necessity for a Deputy Secretary who can act for the Secretary of Defense in all matters, rather than a functionally limited Under Secretary, is necessary because of the peculiar duties delegated to the Secretary of Defense by the President in his role of Commander-in-Chief of the Armed Forces.

This "alter ego" relationship between the Secretary and the Deputy Secretary of Defense obviously requires a very close and highly coordinated relationship between the Secretary and the Deputy Secretary. Despite the coincidence in scope of authority between the Secretary and the Deputy Secretary, however, it has also been the unbroken custom to allocate by agreement between the Secretary and the Deputy Secretary primary responsibilities and tasks in the day-to-day business of the Department. This allocation has varied from time to time depending largely on the experience and areas of primary interest of the particular Secretary and his Deputy.

In requesting the authorization of a second Deputy Secretary of Defense, I have recommended that the functional responsibilities of the two Deputy Secretaries not be specified by statute for several reasons.

The first reason is related to the responsibilities of the Secretary of Defense as a link in the chain of military command between the President as Commander-in-Chief and the Commanders of Combatant Forces.

To insure the faithful execution of orders of the Commander-in-Chief to the Armed Forces, the Secretary of Defense must have a comprehensive scope of authority over all elements and activities of the Department of Defense. The Deputy Secretary of Defense requires an equivalent scope of authority to act when the Secretary is absent or disabled. It is contemplated that if a second Deputy Secretary of Defense is authorized and appointed, the President would formally designate which of the two Deputy Secretaries would take precedence, when both are present, to act in the absence of the Secretary of Defense in the chain of military command. On occasions, the business of the Department of Defense can be expedited by both the Secretary and the Deputy Secretary of Defense attending meetings together or concurrently outside the Capitol area. In the absence of the Deputy Secretary designated as precedent and when the Secretary of Defense is also absent, the second Deputy Secretary would act in the chain of military command and in accordance with the comprehensive delegation of authority from the Secretary of Defense made routinely to a Deputy Secretary.

Despite the fact that it is contemplated that both Deputy Secretaries of Defense would receive a full delegation of authority from the Secretary of Defense, an allocation of primary responsibilities and tasks among the Secretary and the two Deputy Secretaries is also contemplated. This functional allocation of responsibilities should not, in my opinion, be made by statute because, first, it would be impracticable, if not impossible, meaningfully to reduce the allocation to written form and, second, the allocation of responsibilities should always remain quite flexible in order to respond to changing management approaches and to the capabilities and personalities of the men who fill the positions from time to time.

The tasks performed by the Secretary and the Deputy Secretary of Defense are numerous, varied, complex, and inextricably interrelated. For example, decisions on the weapons acquisition process are influenced by, and in turn impact upon almost all other facets of departmental activities, such as force planning and composition, manpower and training and budget, to name but a few. Similarly, with respect to any particular functional area such as weapons acquisition, there are a variety of types of tasks to be performed, including the provision of internal policy guidance, monitoring, planning, resource allocation, and justification within the Executive Branch and before Congress. It is not always possible for the individual who has primary responsibility in the area of weapon systems acquisition to personally perform all of the tasks related to the function, nor from the standpoint of good management is it necessarily desirable that the same individual perform all of the related tasks in a given functional area. As a consequence, the allocation of primary responsibilities between the Secretary and his Deputy Secretary must remain somewhat generalized and be permitted to vary somewhat as circumstances and events require. The same considerations would apply equally to the allocations of responsibility among the Secretary of Defense and two Deputy Secretaries of Defense. Accordingly, it would not be practicable in my judgment to codify such allocations of responsibility.

Flexibility in the allocation of responsibilities among the Secretary and two Deputy Secretaries of Defense must also be maintained in order to accommodate personnel changes in the three positions. Individual experiences and areas of highest competence of individuals vary widely. Ideally, those of the Secretary of Defense and his Deputy Secretary or Deputy Secretaries should complement each other. The allocation of primary responsibilities and tasks should be adjustable in order to realize the fullest potential of the varying talents of the individuals who will from time to time fill these positions.

I believe it should be clear from this explanation that the responsibilities and duties of the Secretary of Defense and the Deputy Secretary of Defense should be viewed as an entity and that the request for a second Deputy expresses the need for additional assistance in performing the responsibilities of that entity. The request for a second Deputy is not premised upon any concept of two Deputy Secretaries who would perform the total responsibilities between themselves at a level subordinate to a Secretary of Defense who plays the role of referee. On the contrary, our concept is that the duties and responsibilities now centralized and focused in the office of the Secretary of Defense must continue to be concentrated in one place for effective management, but three individuals, rather than two, have proved to be necessary for the accomplishment of the responsibilities and tasks so concentrated.

Since 1949 there have been 17 combinations of Secretaries and Deputy Secretaries of Defense. These pairings have included a very large variety of personality and experience combinations. In each case, the Secretary and the Deputy Secretary found it possible, and, indeed, essential, to function not as superior and subordinate, but as a unified team to fulfill one composite set of responsibilities. The flexibility of this "alter ego" concept has been tested and performed over more than two decades of often very difficult circumstances. By adding an additional Deputy Secretary, we propose not to alter this concept but to maintain it intact and to strengthen its performance.

I would again urge favorable consideration of legislation to create the second Deputy Secretary of Defense on an expedited basis.

Sincerely,

MELVIN R. LAIRD.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 1322

At the request of Mr. TOWER, the Senator from Rhode Island (Mr. PASTORE) was added as a cosponsor of S. 1322, a bill to provide excess storm loss reinsurance for commercial fishing fleets.

S. 2574

At the request of Mr. MCGEE, the Senator from West Virginia (Mr. RANDOLPH), the Senator from Washington (Mr. MAGNUSON), and the Senator from Michigan (Mr. HART) were added as cosponsors of S. 2574, the voter registration bill.

S. 2860

At the request of Mr. PERCY, the Senator from Pennsylvania (Mr. SCOTT), the Senator from Ohio (Mr. TAFT), and the Senator from Kansas (Mr. PEARSON) were added as cosponsors of S. 2860, a bill to amend the Internal Revenue Code of 1954 to allow a deferment of income taxes to individuals for certain higher education expenses.

S. 2994

At the request of Mr. MCCLELLAN, the Senator from Maryland (Mr. BEALL) was added as a cosponsor of S. 2994, a bill to provide for the compensation of innocent victims of violent crime in need; to make grants to States for the payment of such compensation; to authorize an insurance program and death and disability benefits for public safety officers; to provide civil remedies for victims of racketeering activity; and for other purposes.

S. 3067

At the request of Mr. JAVITS, the Senator from Connecticut (Mr. RIBICOFF), the Senator from Washington (Mr. MAGNUSON), the Senator from Utah (Mr. MOSS), the Senator from Illinois (Mr. PERCY) and the Senator from Iowa (Mr. HUGHES) were added as cosponsors of S. 3067, a bill to eliminate racketeering in the sale and distribution of cigarettes and for other purposes.

S. 3138

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent, at the request of the distinguished Senator from South Dakota (Mr. MCGOVERN), that the name of the distinguished Senator from Wisconsin (Mr. NELSON) be added as a cosponsor of S. 3138, to provide price support for milk at not less than 90 percent of the parity price therefor.

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

S. 3152

At the request of Mr. CHILES, the Senator from Hawaii (Mr. INOUYE), the Senator from Michigan (Mr. HART), the Senator from Iowa (Mr. HUGHES), and the Senator from Oklahoma (Mr. BELLMON) were added as cosponsors of S. 3152, a bill to provide that no interest shall be payable by a person to whom an erroneous refund is made if the erroneous refund is made due to error by an officer or employee of the United States.

S. 3158

At the request of Mr. WILLIAMS, the Senator from South Carolina (Mr. HOLLINGS) was added as a cosponsor of S. 3158, a bill to establish within the Department of Health, Education, and Welfare an Office for the Handicapped to coordinate programs for the handicapped.

S. 3187

At the request of Mr. JAVITS, the Senator from Georgia (Mr. GAMBRELL), the Senator from New Mexico (Mr. MONTOYA), the Senator from Rhode Island (Mr. PELL), and the Senator from Hawaii (Mr. INOUYE) were added as cosponsors of S. 3187, the Venereal Disease Prevention and Control Act.

S. 3191

At the request of Mr. ALLEN, the Senator from Alabama (Mr. SPARKMAN) was added as a cosponsor of S. 3191, a bill to authorize the Secretary of the Interior to conduct a study with respect to the feasibility of establishing the Bartram Trails, Ala., as a national scenic trail.

SENATE RESOLUTION 263—SUBMISSION OF A RESOLUTION RELATING TO A PORTRAIT OF THE LATE SENATOR VANDENBERG

(Referred to the Commttee on Rules and Administration.)

ARTHUR HENDRICK VANDENBERG

Mr. GRIFFIN. Mr. President, in the spring of 1967, the Senate adopted a resolution which officially designated room S–139 of the Capitol as the Vandenberg Room in honor of the late Senator Arthur Hendrick Vandenberg of Michigan.

While that action on the part of the Senate was most appropriate, provision was not made at the time to have a portrait of Senator Vandenberg displayed in the room. Accordingly, in cooperation with the senior Senator from Michigan (Mr. HART) I am today introducing a resolution authorizing the procurement of a portrait of the late Senator Vandenberg to be placed in the Vandenberg Room.

Arthur Vandenberg was appointed to the U.S. Senate on March 31, 1928, and served with distinction until his death on April 18, 1951, a period of more than 23 years. He was President pro tempore of the Senate during the 80th Congress, 1947 and 1948.

Mr. President, Arthur Vandenberg was one of Michigan's finest statesmen, a highly respected public servant who consistently placed country above party and principle above politics.

I am proud and grateful that 11 Members of this body who served with Senator Vandenberg have agreed to add their names as cosponsors of this resolution. They are: the Senator from Louisiana (Mr. ELLENDER), the Senator from Mississippi (Mr. EASTLAND), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Washington (Mr. MAGNUSON), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from North Dakota (Mr. YOUNG), the Senator from Alabama (Mr. SPARKMAN), the Senator from Louisiana (Mr. LONG), the Senator from New Mexico (Mr. ANDERSON), the Senator from Rhode Island (Mr. PASTORE), and the Senator from Utah (Mr. BENNETT).

Mr. President, so far as I have been able to determine, only one portrait was ever made of Senator Vandenberg. That painting is in Grand Rapids, Mich. An artist could be commissioned, at a relatively nominal cost, to duplicate that portrait for display in the Vandenberg Room.

I hope that prompt action will be taken on this resolution by the committee and by the Senate.

The resolution reads as follows:

S. RES. 263

Resolved, That in order to honor appropriately the late Senator Arthur Hendrick Vandenberg of Michigan as an outstanding American and Senator, the Committee on Rules and Administration shall have placed in the Vandenberg Room of the Capitol, a suitable portrait of the said Senator Arthur Hendrick Vandenberg. Procurement of the portrait may be by gift or purchase.

SEC. 2. Expenses of carrying out the provision of this Resolution shall be paid out of the contingent fund of the Senate upon vouchers signed by the Chairman of the Committee on Rules and Administration.

SENATE RESOLUTION 264—SUBMISSION OF A RESOLUTION RELATING TO MEMBERSHIP ON COMMITTEE ON APPROPRIATIONS WITH RESPECT TO FOREIGN ASSISTANCE AND RELATED PROGRAMS

(Referred to the Committee on Rules and Administration.)

Mr. FULBRIGHT (for himself and Mr. AIKEN) submitted the following resolution:

S. RES. 264

Resolved, That the second column of the table contained in paragraph 6(a) of Rule XVI of the Standing Rules of the Senate is amended by inserting immediately below—

"For the Diplomatic and Consular Service."

the following:

"For Foreign Assistance and Related Programs (other than the Export-Import Bank of the United States)."

SENATE CONCURRENT RESOLUTION 63—SUBMISSION OF A CONCURRENT RESOLUTION ESTABLISHING A JOINT COMMITTEE FOR 1973 INAUGURATION ARRANGEMENTS

(Referred to the Committee on Rules and Administration.)

Mr. JORDAN of North Carolina submitted the following concurrent resolution:

S. CON. RES. 63

Resolved by the Senate (the House of Representatives concurring), That a point committee consisting of three Senators and three Representatives, to be appointed by the President of the Senate and the Speaker of the House of Representatives, respectively, is authorized to make the necessary arrangements for the inauguration of the President-elect and Vice President-elect of the United States on the 20th day of January, 1973.

EDUCATION AMENDMENTS OF 1972—AMENDMENTS

AMENDMENTS NOS. 928 THROUGH 932

(Ordered to be printed and to lie on the table).

Mr. ERVIN (for himself, Mr. ALLEN, Mr. BAKER, Mr. BENNETT, Mr. BROCK, Mr. BYRD of Virginia, Mr. EASTLAND, Mr. ELLENDER, Mr. GAMBRELL, Mr. GURNEY, Mr. HOLLINGS, Mr. JORDAN of North Carolina, Mr. LONG, Mr. MCCLELLAN, Mr. SPARKMAN, Mr. STENNIS, Mr. TALMADGE, Mr. THURMOND, and Mr. TOWER) submitted five amendments intended to be proposed to the committee amendment offered as a substitute for the House amendment to the bill (S. 659) to amend the Higher Education Act of 1965, the Vocational Education Act of 1963, and related acts, and for other purposes.

AMENDMENT NO. 933

(Ordered to be printed and to lie on the table.)

Mr. FONG submitted an amendment intended to be proposed by him to the committee amendment offered in the nature of a substitute to the House amendment to the bill (S. 659), supra.

AMENDMENT NO. 937

(Ordered to be printed and to lie on the table).

Mr. HARRIS. Mr. President, for myself and the distinguished Senator from South Dakota (Mr. MCGOVERN) I send to the desk an amendment intended to be offered to the committee substitute for S. 659 (the Higher Education Act). I ask that the amendment be printed and lie at the desk, and that it be printed in the RECORD, together with statements which I and others made today along with other related documents and materials.

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

AMENDMENT NO. 937

At the end thereof, add the following new title:

TITLE 19—STUDENTS ON BOARDS OF TRUSTEES

SEC. 1901. It is the sense of the Congress: (a) that student participation should be encouraged on the governing boards of institutions of higher education; (b) that to this end there should be at least one student member on the governing board of every institution of Higher Education in America; (c) that she or he should have the rights and privileges of full members of said board; and (d) that the method of appointing the student member should permit the students of said institution to participate, either directly or through directly chosen student representatives, in the selection and approval of the appointment of the student member.

SEC. 1902. The Secretary of Health, Education, and Welfare shall issue a report to the Congress concerning the representation of students on the governing boards of institutions of higher education; said report shall indicate the number and percentage of institutions with students on their governing boards, and shall report on the results of such student representation. Said report shall be due 12 months from the date of enactment of this title.

STATEMENT OF SENATOR FRED R. HARRIS

Today students are coming from increasingly different backgrounds. They are facing problems which earlier generations of students have not had to deal with. Yet the major policy-making boards of most colleges and universities still reflect the image of the wealthy white male, student of 40 years ago and successful alumnus.

In a recent issue of The Association of Governing Boards of Universities and Colleges Report, Morton Rauh analyzed the composition of boards of trustees. He found that: 86 percent of all trustees are male, and 75 percent are over 50 years of age. A mere 5 percent are under 40, while only 1.3 percent are Black.

Most are rich. The average trustee has an income between $30,000 and $50,000 a year. He is most likely to be an executive of a manufacturing corporation (17 percent) or an executive of a banking or investment firm (11.2 percent).

In spite of the growing interest in the humanities as a field of graduate and undergraduate study, only 0.4 percent of trustees consider the creative arts their principal occupation. On an average, trustee have been away from the university about forty years, and Rauh's study indicated that only about 85 hours a year was spent on college business, including transportation to and from the campus. Yet these men are required to pass judgment on such issues as faculty appointments, student life regulations, university expenditures and changes in the curriculum.

Even the most conscientious trustee has little time for university affairs.

His position in the community together with the age gap between him and the average student makes it impossible for him to have any real contact with students and other groups involved in the day to day business of the university. Moreover, the business orientation of most trustees makes them equate running a university with managing a commercial enterprise. For example, last year the trustees of the University of Pennsylvania voted to sell the school's stock in General Motors—but not because of the company's monopolistic pricing, pollution policy or record on auto safety. Rather the trustees announced they were selling the GM stock because they were afraid tough new federal anti-pollution standards would lower the value of the stock.

Young people are convinced this system of selecting trustees does not serve the interests

of education. And they are right. If the idea of the university as a community of scholars is going to have any credence at all, if universities are going to be something more than mills turning out people for big business, students have got to have more voting representation on boards of trustees.

The governors of several states have appointed students and young people to the boards of trustees of state universities. Governor Curtis of Maine appointed a senior at the University of Maine to that board of trustees two years ago. He stated that the student, Stephen Hughes, has been a valuable addition to the board and has given the other trustees insight into student problems that they would otherwise lack.

Mayor Lindsay's appointment of two young people to the Board of Higher Education for the City University of New York was termed extremely effective by officials at CCNY. Both young trustees have urged further openings of opportunities for minority students and have been active in promoting the open admissions policy.

Governor Sargent of Massachusetts has enacted legislation to allow students at the University of Massachusetts to elect one student as a voting trustee of the school. Each community college in the University of Massachusetts system also elects one of its members to an advisory committee to the trustees of the community colleges.

Governor Wallace of Alabama has stated that it is in the best interests of public education that a closer relationship exist between the governing boards of the various state colleges and the students of those colleges. He recently appointed students elected by their student body associations to represent the various campuses on the boards of trustees of the state colleges.

I think that more colleges and universities should be encouraged to put students on their boards of trustees. A great majority of college administrators have found student input extremely helpful in formulating new policies. Students at these universities consider the boards to be more receptive to their concerns and more in line with the American ideal of participatory democracy.

It is for this reason that I am introducing an amendment to S. 659, the Higher Education Act, which states that it is the sense of the Congress that student representation on the governing boards of institutions of higher learning ought to be encouraged.

The amendment states that to this end all institutions of higher learning ought to have at least one student member on their governing board. It also calls upon the Secretary of Health, Education and Welfare to issue a report on the success of institutions of higher education which now allow students to serve on the governing board.

This amendment is not mandatory. But it would be a clear signal to students and their universities that the Congress shares the view that students have a right to participate in decisions which most affect their lives. By authorizing a public report on this matter, the amendment also would help university leaders around the country to see what some of the more progressive schools have already done and the success they have enjoyed.

Since I first declared a few days ago that I intended to offer this amendment, the response from the student world has been literally unanimous. I have received calls of support from all over the country. Participation in the institutions that affect them is clearly an issue that brings all students—conservative or liberal—together.

PARTICIPANTS AT HARRIS PRESS CONFERENCE

Marjorie Tabankin, President, National Student Association.

Layton Olson, Executive Director, National Student Lobby.

Roger Cochetti, President, Georgetown University Student Government Association.

Joseph Hurley, President, Catholic University Student Government Association.

Carroll Green and John Henderson, Federal City College Student Government Association.

James Corrigan, President, George Mason College Student Government Association.

Ann Welsh, President, Mary Washington College Student Government Association.

PRESS RELEASE

NATIONAL STUDENT LOBBY,
Washington, D.C., February 24, 1972.

The National Student Lobby today announced support for Sen. Fred Harris' "sense of the Congress" resolution urging at least one student be a member of all public college governing boards.

"The Senate in the next few days has the opportunity to either vote for the 8.6 million college and junior college students to join the system in this country," said Layton Olson, Executive Director of the National Student Lobby, "or continued to exclude them from decisions which directly affect them.

"Students and young alumni have long sought representation on college boards of trustees, and so far they have succeeded at about 50 public and private colleges.

"Included are such schools as University of North Carolina, Temple University, Ohio State University, Princeton University, Vanderbilt University, University of Massachusetts, and Boston College.

"Experience with student trustees has been excellent, as reported by college presidents and students alike. Student trustees have begun a dialogue and have worked to make the system more responsive.

"Student body presidents and student representatives here today indicate that student interest runs high in favor of student trustees.

"The National Student Lobby has had as much of a reaction from students on this issue as any other this year.

"Sen. Harris' resolution avoids questions of Federal control and dictation to colleges who is to be on their boards. The resolution relies solely on the weight of Congressionally-expressed public opinion, rather than using any enforcement power. The final decision is up to each local college.

"The National Student Lobby will follow the results of the vote on the Harris Resolution closely and report them back to the 800,000 students in the 97 college and junior college student bodies which we represent in Congress.

"Based on the Lobby's National Referendum of students, our No. 1 priority in domestic issues is a much higher level of funding for the Higher Education Act, particularly the often-forgotton student financial assistance programs (Scholarships, Work-Study, and Student Loans), which for millions of Americans makes the difference between going to college and not.

"The Harris Resolution to be added to the Higher Education Act follows in the steps of the 18-year old vote by placing both adult rights and responsibilities on the shoulders of students and youth."

The National Student Association has been conducting continuous research for several years into models of university governance as viewed from a student standpoint. We believe that students have the right and the responsibility to participate fully in the decision-making processes which not only affect their academic pursuits, but their total life situation as members of a college or university community as well. One of the ways that such involvement can be most effectively facilitated is through student participation in Boards of Trustees.

We perceive several sound arguments of advocating student participation in Boards of Trustees. At a time when so many colleges find themselves at a critical juncture in defining their institutional futures, we think that students have considerable creative input which could be profitably utilized by their respective Boards. We further believe that student involvement in the workings of their Boards encourages a sense of communication and openness in a college community: students know what the Board is doing, what decisions it feels compelled to make in the institution's interests, and how they can best influence those decision-making processes. The Trustees in turn know what the students are doing, what changes they perceive as being in their best interests as students, and how they can arrive at decisions which genuinely reflect their concerns and needs.

But we believe that student participation on Boards of Trustees should be more than a friendly gesture or a token of good will. Student participation in institutional decision-making is not a privilege, to be accorded or not at whim, but a basic student right. We think that any institution which perceives its purpose to be educational should recognize the valuable learning experience provided by student involvement in university governance. Consequently, we think that every college and university should afford its students the opportunity to learn about all aspects of university decision-making and gain experience in dealing with governmental structures.

Furthermore, since increasing numbers of students are "paying their way" through college, we feel that they are entitled to some form of "consumer advocacy." Students should have both the opportunity and the channels, not only to speak, but to be heard and heeded, on those matters which affect them—academically, financially, socially, and politically: in short, a viable method of protecting and representing their own best interests to the highest decision-making board, whatever its form.

Finally, because we realize that the right to speak is not necessarily the same as being heard, we caution students not to be coopted by tokenism. We encourage them to seize the opportunity for representation on Boards of Trustees, but to remember that exerting an influence on policy-making does not end with securing a seat or two on the governing board, and to continually investigate alternatives by which all students can have free and equal access to the processes of decision-making which govern their lives and the resources which determine the quality of their education.

THE CATHOLIC UNIVERSITY OF AMERICA,
Washington, D.C., February 23, 1972.

Hon. FRED R. HARRIS,
Old Senate Office Building,
Washington, D.C.:

The youth in this nation are asking for the right to have a voice in what affects them, and that their voice be heard. For too many years now, countless student leaders throughout the nation have spent hours working within the system; proving to the Administration that they are responsible. Consequently, at most colleges today, students are seen on just about every lower policy body. However only too often, their presence means nothing for it is the governing bodies of each institution that makes the major decisions.

Unfortunately, few institutions have students on their governing bodies. Thus, a frustration is felt by most student leaders for they realize that they are involved in little more than busy work. The only way seen by most students to remedy this situation is to have students on their own governing bodies.

Thus, the Undergraduate Student Government at the Catholic University in Washington, D.C., wholeheartedly supports the Harris Amendment. Just as the eighteen year old vote was a large step forward in giv-

ing first class citizenship to the youth of this nation, so too would the Harris Amendment be another large step forward for responsible student determinism.

Sincerely,

JOSEPH HURLEY,
President of the Undergraduate Student Government at Catholic University.

RESULTS OF INFORMAL POLL CONDUCTED BY THE OFFICE OF SENATOR HARRIS ON STUDENT TRUSTEES

Administrators from six universities were asked for comment about the participation of students and younger people on their boards of trustees. Without exception they stated that the young people brought fresh insights to the trustees, and were instrumental in making students feel they had a sympathetic representative on the board. Statements from Howard University, the City University of New York, Vassar College, Princeton University, the University of Maine and American University were completely favorable and found young trustees extremely valuable and innovative. Mr. Owen Nichols, Vice President for Administration of Howard University, termed the two students on Howard's board "a major step . . . a roaring success". The students at Howard are able to present their own viewpoints to the board and are also better able to understand the workings and limitations of the university.

Ms. Lois McFarland, Assistant Director of University Relations for the City University of New York, said that Mayor Lindsay's appointment of two young people to the Board of Higher Education was extremely effective. Mr. Jean-Louis d'Heilly, one of the young trustees has been instrumental in drawing up university-wide governance procedures for all the City University campuses.

At Vassar College, the President's Office stated that Ms. Alison Bernstein, a 25-year-old graduate student, gave "a very positive, useful perspective" to Vassar's Board of Trustees. In one instance she helped to mediate between a group of minority students and the administration, thus preventing possible violence.

Princeton University has inaugurated a policy of appointing a student from each year's graduating class who is elected by the junior and senior classes and two classes of most recently graduated alumni. The students bring their considerations forward to the board and act as a mediating force between the trustees and the students.

Mr. Allan Keys, Governor Kenneth Curtiss' assistant, said that Mr. Stephen Hughes has been a valuable addition to the Board of Trustees of the University of Maine. Mr. Hughes gives the board insight into student problems which it would not usually have.

Mr. Anthony Morella, Vice President and General Counsel for American University, found that student participation on the Board of Trustees has been valuable and that the student trustee made a conscious effort to stay in touch with matters of concern to the student body.

[From the Chronicle of Higher Education, June 8, 1970]

STUDENT INVOLVEMENT FOUND NOT AFFECTING BASIC POLICY

PHILADELPHIA.—Students have gained membership on at least one policy-making body at most colleges and universities, but still have little influence on the bodies that form basic educational policy, according to Earl J. McGrath, director of the higher education center at Temple University.

Mr. McGrath conducted a study of student participation in academic government for the American Assembly on University Goals and Governance.

He found that 88.3 per cent of the 875 colleges and universities he surveyed had added students to at least one policy-making body.

However, he noted, only 22.7 per cent had given students membership on the faculty executive committee or a group with similar campus-wide responsibilities, and only 4.7 per cent had put students on the committee handling faculty selection, promotion, and tenure.

MANY ON CURRICULUM PANELS

Students have been most successful in gaining representation on curriculum committees with over half of the 875 institutions reporting either voting or non-voting representation, Mr. McGrath found.

However, he said, "It would be a mistake to conclude that because students do increasingly participate in the deliberations and actions of some institutional committees, they have now gained a position of decisive or even strong influence in the bodies concerned with basic educational issues."

The majority of institutions, Mr. McGrath said, "have added only a few students, often only one or two, to some committees and frequently have given them merely the status of disputants, pleaders, or observers."

Only 175 institutions (20 per cent) admitted students to meetings of their boards of trustees, he found, and only 2.7 per cent gave the students voting privileges on the boards.

In most cases, the students who have been admitted to the board's meetings sit with one or another of the committees, Mr. McGrath said. "The committees to which students have most commonly gained access are, in order of frequency: the committee on student affairs, life, or welfare; on educational policy; on the selection of the president; on buildings and grounds and the design of the campus and its structures; and on development or public relations."

SUPPORTS STUDENT ROLE

In his report on the study, Mr. McGrath strongly supports the addition of students to all policy-making bodies of the institution.

Students, he warned, have learned the techniques of resistance and confrontation and recognize that they are effective.

"Those who wish to restore to the campus the conditions indispensable to the achievement of the proper goals of an academic society, and who wish at the same time to realize the reforms necessary to correct the present shortcomings of American higher education, will earnestly consider ways to involve students in academic government. Means must be found to formalize the students' participation in the making of academic policy, to regularize their contribution, and to involve them as initiators of, rather than as the protesters against, policy," he said.

Many people believe, he added, "that until students have a direct and officially recognized means of expressing their views on those matters [that affect their education] the academic society will be subject to recurrent disorders which will handicap the students' own education and reduce the social benefits which should flow from it."

Mr. McGrath does not propose formulas for the addition of students to policy-making bodies, but he says of each that "membership should include students and non-students, with the numbers of each varying with the types of issues which come before a particular committee, and with the special knowledge and expertise required for their solution."

He warns against tokenism, however, and supports voting privileges for students on all bodies as well as election by students of their own representatives.

[From Newsweek, Dec. 1, 1969]

THE LONG-HAIRED TRUSTEES

For generations, the boards of trustees of most U.S. colleges and universities have seemed interchangeable with boards of directors of large corporations. Most college trustes are businessmen and lawyers in their 50s and 60s, members of the Republican Party, the Protestant church and the best clubs in town. Now, however, the stereotype is changing. From Stanford to Vassar, boards of trustees are being expanded and changed. Increasingly, students and recent graduates are being given a voice in running their schools—and often the new trustees are peace-marching political and social activists clearly out to get their schools to come around to their way of thinking.

Princeton's youngest trustee, for example, is a 22-year-old black flutist who helped seize a building last year to protest the university's investments in South Africa. Vassar's is a pretty, blond history major who strums folk songs on her guitar. At the University of Maine, the youngest trustee is a 26-year-old political science major who was so busy with peace activities last year that he now is making up a math credit he missed in the process. Everywhere the youth movement is gaining ground rapidly, and many of the young trustees have been chosen in part because of their activism.

PROTEST

Two new appointments to New York's Board of Higher Education, which acts as the board of trustees for the City University of New York, are also products of activism. Pean-Louis d'Heilly, a 28-year-old graduate student in political science, met Mayor Lindsay before leading a demonstration at City Hall to protest cuts in the school's budget. Lindsay was so impressed that he appointed d'Heilly to the board. He also appointed Maria Josefa Canino, a 26-year-old graduate of City who is a community organizer in East Harlem. Lindsay said he hoped the appointments would make the 175,000 student university "more responsive and relevant to the needs of youth."

Miss Canino, whose father ran a Harlem bodega, or small grocery store, is quite specific about how she wants to change CUNY. Puerto Ricans, she says, make up about 11 per cent of the city's population, but only 3.5 per cent of CUNY's enrollment. "I want to project my concerns and the views of many Puerto Rican parents to the board," she says, "and relate back to them what the City University is all about."

MARCHES

Steven Hughes, a senior in political science, was president of the student senate when he was appointed to the University of Maine board of trustees last spring. But Hughes was so busy as an activist—he organized two marches to protest against ROTC on the Orono campus—that he failed to graduate. He now is working as assistant to the president of Bates College in Lewiston and making up the math credit he needs for his degree from Maine. Like many other young trustees, Hughes fears that his views may change once he is out of school. "After six months," he says, "I am beginning to lose real touch with the campus. And after two years I will like as not be just another trustee."

Occasionally the young trustees are pressed into service to act as interpreters between the board and the students. In October the Vassar trustees appointed Alison Bernstein, a tall, 21-year-old blonde who was graduated summa cum laude last June, to fill an unexpired term on the board. Ten days later, a friend awakened her at International House near Columbia University—where she is studying for a doctorate in history—to tell her that a group of black students had seized the administration building in Poughkeepsie. "Get up," ordered the friend, "you're going to have to mediate between hairy youth and hoary age." A member of the administration later said Miss Bernstein was extremely "use-

ful" in straightening out "misunderstandings" between the blacks and the trustees.

Both of Princeton's young trustees already are married—but they have little else in common with their fellow board members. Indeed, Brent Henry, the 22-year-old black flute player, and Richard Cass, a 23-year-old white from Chevy Chase, Md., introduced a resolution at their first trustees' meeting last month asking Princeton as an institution to condemn the war in Vietnam. The proposal was roundly defeated.

JUDICIOUS

Henry and Cass were elected to the trustees by their classmates. Henry, who sports a mustache and a mild Afro, was graduated last June, Cass a year before. Both now are at Yale Law School—and both are judicious about the other board members. "They are enlightened men," Henry says, "but they are too concerned with protecting Princeton's image and protecting the campus from protesting students with minority viewpoints." Cass adds that "the trustees can't understand everything that is going on, but at least they are willing to admit they don't understand."

Perhaps not surprisingly, one young trustee who does not want to change his campus happens to be 21-year-old Ezra Cornell, a great-great-great grandson of Cornell's founder. He owes his trustee's position not to the swing to youth but to the fact that his illustrious grandsire decreed in his will that each of his eldest adult male descendants must be given the post. An agricultural-economics major, the new trustee admitted last week after his first board meeting, "I like Cornell very much the way it is."

HOWARD UNIVERSITY,
Washington, D.C., February 15, 1972.

Hon. FRED R. HARRIS,
The U.S. Senate,
Washington, D.C.

DEAR SENATOR HARRIS: This will acknowledge receipt of your letter of February 10, relative to students serving as members on the Board of Trustees of Howard University.

The Board approved the seating of two student members in April, 1970. Full membership was granted with no attendant restrictions, except for terms of office. Student Trustees are elected for a term of one year with eligibility for re-election for an additional year. Other Trustees are elected for a term of three years, with eligibility for re-election.

It has been the experience of the University that inclusion of students on the Board of Trustees has greatly embellished the character of the Board. The insight, input, and perspectives of these members have contributed to a more meaningful and representative body. Student members have themselves gained invaluable experience by participating in University governance at the highest level.

I am pleased to have the opportunity to present you with this information.

Sincerely yours,

OWEN D. NICHOLS,
Vice President for Administration.

THE MYTH OF EDUCATIONAL DEMOCRACY

(By Steven Deutsch and Joel Fashing)

Now that it is fashionable for students to serve on certain university committees, many administrators and faculty are operating on the assumption that they have, at long last, provided the students with the necessary "input" into the decision making process. This assumption, however, is not shared by many students who feel that what is needed is not "student input" but the democratization of the university.

Some administrators, faculty and governing board members have opined that they cannot understand why a voice in running the institution is not sufficient, why the student finds it necessary to demand equal participation.[1] It seems that the answer to this question is relatively simple. Students want to win. They are not interested in being heard and then having their petitions discarded or rejected as they have been in many cases in the institutions studied. Until they can achieve their major objectives, in whole or in part, they are likely to interpret their participation as hollow ritualism or a form of co-optation. Most students are becoming relatively sophisticated in the organizational mechanisms for siphoning off their energies or enthusiasm for change and have become wary of being given a voice in the decision-making process where they do not have power equal to achieving their substantive objectives. To the extent that such power continues to be denied, and to the extent that fundamental conflicts of interest persist, it is likely that students will continue to fail in the achievement of important reform objectives.

One final point in this area needs to be addressed. Many student leaders seem to feel that the incorporation of students into the decision-making process as equals will essentially solve major problems. The position, however, ignores the fact that even the elements of democratic procedure involving faculty in all of the institutions studied are, in fact, spurious. In the last analysis, decisions rendered via the democratic process, even in areas supposedly reserved to faculty, can be overruled by administrative or trustee action. That this has not been a frequent occurrence reflects not so much the power of the faculty as it does a general faculty willingness to operate within the confines dictated by boards and administrators. In this sense, educational institutions take on the characteristics of what has been described as "guided democracies," where the "sense of electoral potency is high but mistaken."[2] Institutional democracy is not fully developed even now among those who "share" the decision-making power. The result is that any decision arrived at collectively is tentative inasmuch as it is subject to the approval of an executive head or board of trustees.

Introducing students into the deliberative process will not alter the basic structure insofar as alternative actions will be circumscribed by those in whom legal authority is vested. To the extent that this is true, the introduction of students as equals, if it leads to a change in the general thrust of decisions, might well expose the lack of substance in current institutional democracy. If this happens, the roles of constituents would almost certainly revert to their previous adversary character. Under such circumstances, students are more likely than ever to resort to tactics such as strikes, boycotts or disruption—which are defined as illegitimate by institutional and extra-institutional authorities and which harden cleavages and escalate mutual hostility. What threatens then is a cyclical process of escalation. Student pressures are followed by moves to co-opt the student. Once the student recognizes that he has been co-opted, there is an escalation of the original pressures and tactics. Interestingly, as this process develops, the long-range developments may lead to a displacement of procedural goals by substantive goals once again. While the procedural issues have taken on a "life of their own" in that power becomes an important goal, even more important substantive goals within the institution and the larger society are more likely than ever to occupy the center of students' attention.

By now the issue of student participation in college and university decision-making has been universally recognized and considered. In a study of 875 institutions in the fall of 1969, Earl McGrath found that 88 per cent have some students on at least one policy-making body.[3] Although most institutions have not experimented with community government in the tradition of Antioch[4] or similar avant-garde institutions, the overwhelming majority of colleges and universities have recently reappraised the nature of their institutional self-government.

A number of institutions have developed self-study commissions on the matter of governance, occasionally because of some initiatives for creative exploration, but more often in response to crises.[5] Our evidence, as well as that of others, suggests that pressure politics are necessary for change. In most cases, innovation follows from an expressed commitment to change in the face of pressure rather than as a consequence of self-study. In short, self-studies rarely generate change unless great outside pressure is brought to bear or a majority of faculty genuinely desire change.[6]

The experiences of colleges and universities with reference to the issue of governance are varied, but one reform gaining widespread attention is a push for the reconsideration of trustee membership—that is, including students or other young persons on boards.[7] College and university trustees are typically male, over 50 (with more than a third over 60), white, Protestant, well educated, wealthy (over half report incomes over $30,000) and Republican.[8] The concern with trustee membership is indicative of the extent of the demands for change in governance ranging all the way to the most important and powerful governing elements. While there are often formidable legal barriers in the case of public institutions, the trustee concern is especially important in private institutions—even those prestigious as Harvard and Stanford.[9]

The issue of governance is clearly complex especially when addressing the thousands of institutions of higher learning. Among the prime issues have been the *in loco parentis* conception of the university as a surrogate parent where there is substantial evidence that the traditional concept has been eroded and altered, and the curriculum, an area in which surveys suggest a considerable amount of student participation in decision-making. In other crucial areas, however, the amount of student involvement is miniscule. In particular, the proportion of schools in which students participate in faculty and personnel matters is substantially less than the number in which students participate in faculty and personnel matters is substantially less than the number in which students participate in curricular matters. While some would play down importance of the participation of students in institutional governance, the issue is fundamentally linked to the more basic question of whom the university serves and in what way. The latter is a crucial issue, not only for the institutions in question, but for the society which they ostensibly serve.

The question of governance has been addressed by scores of individuals, including prominent educators from prestigious universities. By and large, their analyses indicate a lack of sensivity to actual power contests, conflicts of interest, and the organizational structure that are a part of the contemporary universities. One renowned observer comments, for instance, that:

"The claim that students should have a major role in actual governance is based upon a false premise: that students can plan, with reasonable awareness of the outcomes, the essentially professional service they receive from the college and university."

With such views as a frequent point of departure for the consideration of student involvement, it is no mystery why efforts to develop institutional governments based on a concept of the creative participation of all members of an intellectual community have failed. There is an explicit assumption that faculty are more committed to institutional

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Footnotes at end of article.

welfare and more sensitive than students, and that they possess a monopoly on wisdom and truth. In the long run, the essence of the contest is one of who knows what is better for the student—the student himself, or the faculty and administration. While no serious advocate of radical change denies that faculty generally possess more of certain kinds of knowledge—and have had more of certain kinds of experiences—than students, there is a feeling that traditional views of faculty-student relations fail to give serious consideration to the positive potential of alternative learning communities with experimental approaches to decision-making in academic and administrative matters.

The barrage of material on the matter of governance is understandable. The issue is one of fundamental prerogatives, power and the sharing of privilege. The debate goes to the heart of traditional versus alternative conceptions of education. After the Berkeley Select Committee on Governance issued their report, a counter report was advanced. As an addendum to the Cornell governance report, one professor made the case for academic education and against participatory education. He saw the latter as political involvement and a threat to free inquiry and expression. The diversity of viewpoints aside from the conventional liberal-conservative distinction is illustrated by the debate between a liberal college professor and a radical professor, in which the latter's model is one based on the slogan "power to the people" rather than "student power" or "faculty power"—a people's university using the Chinese model. No single piece is definitive nor can any argument speak for all constituencies in higher education; however, our observation is that efforts in the area of educational innovation inevitably open up the larger questions of governance. Furthermore, every indication is that the modes of participation will continue to develop and expand.

Although it is argued by some that student participation is unwarranted because of their short tenure and lack of commitment and wisdom, there are effective counter-arguments. For instance, Wallerstein contends, "Wisdom is maximized by the fullest participation of those who desire to participate," and "Commitment is increased by involvement in decision-making." At the schools intensively examined in this study, we have noted the degree to which participation in the curricular experiments have served an educational function. Students were involved in significant experiences such as designing curricula in the Experimental College at San Francisco State, participating in a Task Force at UCLA and planning the ethnic studies programs at Berkeley. At the University of Oregon, the participation of students in university and departmental functions during the past couple of years has heightened student awareness, commitment and the degree to which they could relate their own educational experiences and needs to those of others within the university.

As suggested earlier, the impetus for change has usually been external pressure and dramatic events or crises. The Berkeley Free Speech Movement created a mood for change, though temporary in character. The Cambodian invasion in May, 1970, created a climate of concern across the country, leading many faculties to pass legislation concerning ROTC or governance on the campus. Often such decisions were rescinded shortly thereafter. The pattern of immediate response in the face of a crisis followed by later retrenchment is not an infrequent one. Typically, the major concessions and changes made are altered shortly afterwards, or agreements are ignored or abrogated by higher authorities. The strike at San Francisco State College perhaps best illustrates this dynamic. While schools around the country were exploring new cooperative faculty-administration relationships, San Francisco State became increasingly polarized. The 1968 efforts for a constitutional convention to revise governance gave way to the strike, the appointment of S. I. Hayakawa as President, and the entrenchment of a no-nonsense autocratic administration.

One of the recurrent questions in educational reform has to do with the method of approach. Typically, the perspective is to ameliorate tensions, improve conditions, grant changes as pressures increase, and gradually reform or modify existing structures and procedures. In part this is due to the institutionalized conservatism of higher education. As we have observed, change is most frequently a response to pressures or events. Innovation is often a defensive phenomenon. Changes usually come only grudgingly.

The alternative approach to the problem of change—developing conceptions of new educational environments and then devising the best way to achieve the new ideal—is one that is rarely found. Although the strategy is rare, there are some provocative arguments for adopting such perspectives. In an extremely provocative book, Robert Paul Wolff argues that appeals to the principle of participatory democracy, on the grounds that students should participate in decisions which affect them, should be abandoned. He insists, instead, that students should participate because they are part of the academic community and community governance is the only logical form of government for a real community. In advocating the implementation of Paul Goodman's idea of the community of learning, Wolff is arguing that we should bring university decision-making into the open for full scrutiny, criticism and review and that decision-making procedures should be developed which maximize the natural growth of a university community.

Although one might take issue with some of the details in Wolff's proposal, his argument articulates in many ways, our position that some affirmative model or concept of the university is required to successfully meet the challenges now facing the university. The matter of governance cries out for systematic effort to alter the existing structures of colleges and universities to fit a more ideal model.

Experiences of the past few years lead us to the conclusion that most efforts to change are reactive in character. Faculty-administration response to demands for student power has largely been to assume a defensive posture. Radical innovations in curriculum have challenged the total governance of the academy. Response has been piecemeal and predicated on the position of minimal change to ward off the assaults. To the extent that there is real crisis in the university, we see the cries for student power as misdirected. The question is increasingly seen by students, faculty and administrators as one of the nature of decisions made, not merely who makes them. To be sure, the argument might be made that power should lie in the hands of faculty and students rather than regents or trustees and administrators. But, power is not shared by those who have it, and what is ultimately critical is what changes might be created in the colleges and universities. A changed conceptualization of what the institution ought to be will naturally enough lead to an expression of how decisions should be made. In this climate it would be well to address the matter of governance. In the meantime, demands for change in student participation will likely circle about the controversial issues on the campus—such as student initiated curricula and ethnic studies programs, student admissions and the wider issue of college and university functions, particularly in regard to corporate and military training.

FOOTNOTES

[1] Michael Miles, "Whose University?" *The New Republic*, 160 (April 12, 1969), pp. 17–19.

[2] Robert E. Agger, Daniel Goldrich, and Bert E. Swanson, *The Rulers and the Ruled* (New York: Wiley, 1964), pp. 82–90.

[3] Earl J. McGrath, *Should Students Share The Power?* (Philadelphia: Temple University Press, 1970).

[4] *Ibid.*, for a discussion of the history of experimentation with governance at Antioch and other institutions. For a discussion of Antioch, also see Burton R. Clark, *The Distinctive College* (Chicago: Aldine Publishing Co., 1970), Morris Keeton and Conrad Hilberry, *Struggle and Promise: A Future for Colleges* (New York: McGraw-Hill, 1969).

[5] Dwight R. Ladd, *Change in Educational Policy* (New York: McGraw-Hill, 1970) *reviews* some of the self study commissions.

[6] *Ibid.* This is a major conclusion from the survey of self studies.

[7] "Reforms in Governance," *Time* (September 26, 1969), p. 47.

[8] "What the Trustees Think," *Saturday Review* (January 10, 1970), p. 62.

[9] See Rodney.

SOCIAL SECURITY AMENDMENTS OF 1971—AMENDMENT

AMENDMENT NO. 938

(Ordered to be printed and referred to the Committee on Finance.)

Mr. HARRIS. Mr. President, today I am offering an amendment to H.R. 1 which would, if enacted, amend title II of the Social Security Act to reduce from 20 to 10 years the length of time a divorced woman's marriage to an insured individual must have lasted in order for her to qualify for wife's or widow's benefits on his wage record

We have recognized in the Social Security Act that a housewife should be covered by the retirement benefits her husband has accumulated and built up during his working years. In caring for the home and any children she carries responsibilities and duties equal to those of her husband and is entitled to a share of the benefits of this partnership. Rightfully it is intended that her choice of full-time homemaker is protected equally with the choice of an outside occupation.

However, the act has not always fulfilled this intention completely. Until 1965, a divorced woman was not entitled to any benefits from her former husband's social security, no matter how long the marriage had lasted. In 1965, the act was amended to provide that a woman who had been married 20 years was eligible for benefits as wife or widow on her former husband's wage record. This is an improvement, but still not liberal enough to be fair.

The 1966 report of the President's Commission on the Status of Women contained the following comment:

> A divorced wife, if she is not remarried and if her marriage continued for a substantial period, such as 10 years, or a divorced widow, should become eligible at age 62 to a wife's benefit based on her former husband's wage record.

We have been too long in enacting this recommendation. It would be very helpful to those women who married later in life and at the time of the divorce were

too old to be able to work long enough to qualify for adequate benefits based on their own earnings. A 10-year period would eliminate any opportunistic marriages and while being a fairer measure of entitlement to benefits than 20 years.

Past estimates reveal that the cost of this amendment would be insignificant. This should eliminate the negative argument that this forward step should not be taken because of the cost of the measure. But although the number of women affected would be small, the positive argument for its passage is that the measure is fair and worthy.

I ask unanimous consent that the amendment be printed in the RECORD at this point.

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

AMENDMENT NO. 938

On page 134, after line 15, insert the following:

"REDUCTION IN LENGTH OF TIME A DIVORCED WOMAN'S MARRIAGE MUST HAVE LASTED FOR HER TO QUALIFY FOR WIFE'S OR WIDOW'S BENEFITS

"SEC. 144. (a) That section 216 (d) of the Social Security Act is amended by striking out '20 years' in paragraphs (1) and (2) and inserting in lieu thereof in each instance '10 years'.

"(b) Section 202 (b) (1) (H) of the Social Security Act is amended by striking out '20 years' and inserting in lieu thereof '10 years'.

"(c) The amendments made by this section shall apply only with respect to monthly insurance benefits under title II of the Social Security Act or months after the month in which this section is enacted."

AMENDMENTS NOS. 939 THROUGH 944

(Ordered to be printed and referred to the Commitee on Finance.)

SOCIAL SECURITY AND MEDICARE INTERNAL PROGRAM

Mr. HATFIELD. Mr. President, I send to the desk amendments to H.R. 1 which deal with specific internal reforms within the social security system.

Mr. President, both the Senate and the House of Representatives have taken significant action in H.R. 1 with respect to changing various aspects of the Social Security Act, making it more comprehensive, internally consistent, and just. Among those actions taken by either or both bodies include:

Automatic adjustments with the cost of living.

Enlarging the maximum amount of annual earnings that is taxable and creditable toward benefits.

Allowing a person eligible for actuarily reduced benefits both as a retired worker and as a spouse to be able to choose only one of the two benefits and claim the other one later.

Equal treatment for men and women.

Increasing the benefits for widows and dependent widowers to 100 percent of the benefit that the insured widow or widower was receiving at the time of death.

Elimination of the support requirement for divorced wives and widows.

One month reduction of the waiting period for disability insurance benefits.

Increase in the amount of social security trust fund money authorized for reimbursement of State vocational rehabilitation agencies for the costs of rehabilitating social security disability beneficiaries.

Offset of workmen's compensation for disability insurance beneficiaries.

Raising the age limitation for childhood disability eligibility.

Coverage of Federal civilian employees under social security.

Coverage of social security disability beneficiaries under medicare.

Coverage of additional days if in-hospital care is required and extended care under medicare.

In spite of these and other measures advocated by the administration and the congressional committees handling this issue, there remains a great deal to be done with respect to internal reforms. Today, I am introducing legislation which I believe will move us still further in the right direction in the area of social security. Briefly, the amendments include the following:

Removing the $255 limit per month on the lump sum death payment so that lump sum death payments would vary with the past earnings of the worker.

Allowing child's insurance benefits on the basis of wages and self-employment income of certain relatives with whom a child is living and from whom he receives support.

Eliminating recent work tests as a condition of insured status for disability insurance benefits, a test that does not have to be met to qualify for other social security benefits.

Qualifying a worker aged 55 or over as disabled for purposes of social security if he meets the test of disability now applicable to older blind workers.

Allowing disabled widows and widowers to unreduced widow's and widower's insurance benefits without regard to age.

Allowing disabled wives and husbands to unreduced wife's and husband's insurance benefits without regard to age.

Providing coverage for out-of-hospital prescription drugs with a copayment of $2.

All of these recommendations have the support of the 1971 Advisory Council on Social Security, appointed by former Secretary of Health, Education, and Welfare, Robert Finch, in May 1969. I would like to examine each of them in brief.

Lump sum death payments. Elimination of the $255 limitation set by the 1952 social security amendments would put death payments back on a level comparable to earning levels. According to the Report of the 1971 Advisory Council on Social Security in January 1971, about 75 percent of lump sum death payments made on account of the death of retired workers were limited by the $255 maximum. One of the amendments I am introducing today would raise the maximum to the highest family benefit, $517 under the present law.

Child's insurance benefits. According to the Advisory Council:

> Social security benefits are payable to a child on the basis of a parent's earnings record on the presumption that the child lost a source of support when his parent retired, became disabled, or died. Situations where a child is living with and being supported by a relative who is not his parent—say, a grandfather—are not uncommon; yet the child cannot get benefits when that relative retires, becomes disabled, or dies, even though the child loses a source of support.

An amendment I am introducing today would allow a child to receive the benefits of such a relative if the relative had been a source of at least one-half the support for the child for at least 6 weeks prior to the relative's death or the date he became entitled to receive benefits.

Elimination of recent work tests for disability benefits. Under present law, there are different criteria for retirement benefit protection and disability protection which are not comparable. For the former, a worker is eligible for benefits if he is fully insured: having earned "at least as many quarters of coverage as the number of calendar years that elapsed after 1950—or the year he reached 21, if later—and up to the year in which he became disabled, died, or reached retirement age"—with one execption. To be eligible for the latter, a worker must pass a recent work test. As the Council points out:

> Disability determinations are now made regularly under the program in cases of widows and widowers and adults who became disabled in childhood, without regard to whether they have done recent work or whether they have ever worked.

The same should be the case for the disabled worker.

Definition of disability for older workers. Under the present law, the test to determine the disability of blind workers aged 55 and older is less strict than for a worker to qualify for disabilities of other types. Today a blind worker qualifies if he or she cannot engage in substantial gainful activity because of the blindness. As the Advisory Council points out:

> Under the definition of disability in present law, a worker cannot be considered disabled unless his impairments are so severe as to render him unable to engage in any substantial gainful activity. . . . While the present general definition of disability appears to be appropriate for younger workers, it is unrealistic when applied to older workers. A severe, but not totally disabling impairment has a much greater impact on an older worker than on a younger worker.

Consequently, the present criteria should be changed to eliminate this injustice by allowing a worker to qualify for disability payments under the criteria of having attained the age of 55 and who is unable, for medical reasons, to engage in substantial gainful activity requiring skills or abilities comparable to those of any gainful activity in which he has previously engaged with some regularity and over a substantial period of time.

Entitlement of disabled widows and widowers to insurance benefits. Disabled widows and widowers above the age of 62 are eligible for benefits at a higher rate than those who are younger. Furthermore, benefits to disabled widows or widowers cannot begin before the age of 50. However, there possibly is even more of a need for benefits to be paid to those under age 50 than above because, for instance, they have not had the time to accummulate savings as older persons. Yet, I am proposing that disabled widows and widowers of all ages

should be entitled to the same benefits. In January 1971, the 50-year old disabled widow or widower on the social security rolls averaged roughly $110. If my proposal had been law in January 1971, not only would the 50-year-old disabled widow or widower receive $110 per month, but also those under the age of 50 who qualified.

Benefits to disabled wives and husbands. Very similar to the plight of disabled widows and widowers under the age of 50 is that of beneficiaries' disabled wives under the age of 62 who are not caring for a child and beneficially disabled husbands under 62 who were dependent upon their wives for at least one-half of their support. Under present law, it is presumed that people under 62 who are not disabled should be able to provide for themselves and should not be eligible for social security benefits. However, this is not the case for those who are totally disabled. The same type of argument in these situations as for disabled widows and widowers is relevant, and the legislation I am proposing would rectify this inequity.

Prescription drugs coverage under medicare. The problem of out-patient health care has been the focus of many studies.

One of the central features has been outpatient drug costs for the elderly. According to the 1971 Advisory Commission on Social Security:

> About 20 percent of all private health care expenditures for the aged are for prescription drugs, and most of this drug expenditure is paid directly out-of-the-pocket by the Aged. Annual per capita expenditures for drugs on the part of the elderly are more than three times those of people under age 65. Annual per capita expenditures for drugs on the part of the severely disabled are six times those of the population as a whole.

Clearly there is a need for coverage in out-of-hospital prescription coverage under medicare. A proposal I am introducing would provide for $2 coverage for each new prescription and $1 for each refill. This was recommended by the Advisory Commission on Social Security and I am in full agreement. Current laws affecting social security demean many older Americans and funds provided do not meet many of life's essentials. In that adequate administrative procedures would need to be set up, the amendments I am introducing today to effect this change would not become effective until July 1, 1976, allowing 4 years to set up appropriate structures and to provide for adequate funding.

To have an equitable and just social security and medicare program the changes I have advocated today as well as many encompassed in H.R. 1 and in the respective Senate and House committees should be implemented at the earliest possible time. Adequate medical and health care must be provided our retired workers and their relatives as well as providing financial security in one's later years. The amendments I am introducing today would move in this direction and I anticipate will receive judicious hearings in the Congress and by the administration.

There is one word of caution which I would like to make in concluding. As we all know, inflation has been an ever-plaguing problem, spurred essentially by inappropriate Government spending. While the proposals I am introducing today, as well as others, would move us toward the elimination of many inequities in our society and within our social security system particularly, they should be contingent on fiscal responsibility exhibited by the Federal Government. Consequently, I have introduced legislation to change the financing structure of social security which would better enable us to more effectively deal with the inequities and inadequacies within the system and not contribute to increasing inflation.

ADDITIONAL COSPONSOR OF AN AMENDMENT

AMENDMENT NO. 804

At the request of Mr. TOWER, the Senator from Rhode Island (Mr. PASTORE) was added as a cosponsor of amendment No. 804 intended to be proposed to the bill (H.R. 7117), a bill to amend the Fishermen's Protection Act of 1967.

NOTICE OF HEARINGS: SMALL BUSINESS

Mr. McINTYRE. Mr. President, I wish to announce that the Subcommittee on Small Business of the Committee on Banking, Housing and Urban Affairs will hold a hearing on the bill, S. 3166, to amend the Small Business Act.

The hearing will be held on Thursday, March 9, 1972, and will commence at 10 a.m., in room 5302, New Senate Office Building.

Persons wishing to testify or to submit written statements in connection with this legislation are requested to contact Mr. T. J. Oden, Senate Committee on Banking, Housing and Urban Affairs, room 5300, New Senate Office Building, Washington, D.C. 20510; telephone 225-7391.

ADDITIONAL STATEMENTS

RECONCILIATION AND PEACE IN IRELAND

Mr. PELL. Mr. President, the general assembly of the State of Rhode Island recently adopted a resolution memorializing Congress and the President of the United States to take whatever steps are in their power to bring about reconciliation and peace in Ireland.

I believe, Mr. President, that the resolution of the general assembly is a faithful reflection of the deep concern with which residents of my State have viewed recent events in Northern Ireland, and I ask unanimous consent that the text of the resolution be printed in the RECORD.

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

STATE OF RHODE ISLAND
AND PROVIDENCE PLANTATIONS,
February 15, 1972.

Hon. CLAIRBORNE PELL,
Old Senate Office Building,
Washington, D.C.

DEAR SENATOR PELL: I am directed by the General Assembly to transmit to you the enclosed certified copy of resolution (S. 3136), introduced by Senators Wilson, Campbell, McBurney, Grimes, Rodgers, Flynn, Corr, Taylor, Pastore, Hanaway, Chaves, Goodwin, Horan, Mulligan, Hawkins, Callaghan, Walsh, Hayes, McCaffrey, Arcaro and Picano, entitled Resolution Memorializing Congress and the President of the United States to Take Whatever Steps in Their Power to Bring About Reconciliation and Peace in Ireland, passed by the General Assembly at the January Session, A.D. 1972 and approved by the Governor on the fourteenth day of February, 1972.

Very truly yours,

PRIMO IACOBUCCI,
First Deputy, Secretary of State.

RESOLUTION MEMORIALIZING CONGRESS AND THE PRESIDENT OF THE UNITED STATES TO TAKE WHATEVER STEPS IN THEIR POWER TO BRING ABOUT RECONCILIATION AND PEACE IN IRELAND

Whereas, In recent months and especially in the last few days, the world has witnessed the consummate tragedy born of hatred and violent despair in Northern Ireland; and

Whereas, All of Ireland is moving swiftly and almost irrevocably toward massive civil war and carnage while British troops purportedly guard the peace in Ulster; and

Where, as Catholics of Northern Ireland are being interned in camps because they continue to wage their struggle for the freedom and equality inherent in the right of self-determination; and

Whereas, The issue in Northern Ireland is human dignity—the basic human right due to all men and one that men throughout history have been willing to relinquish their lives to possess; and

Whereas, Until the minority enjoys equal rights with the majority, since equality and justice are the only true instruments men possess to eradicate fear and mistrust, the handmaidens of violence and terror, peace will be alien to Ireland; and

Whereas, The true answer may lie in a unified Ireland in which Catholics and Protestants work together to create a new Ireland—a country in which all men by having full and mutual respect for each other come together and tenaciously guard their hard fought peace, now therefore be it

Resolved, That the Congress and the President of the United States be and hereby are respectfully requested to take whatever steps in their power to bring about reconciliation and peace in Ireland; and be it further

Resolved, That the secretary of state be and he hereby is authorized and directed to transmit a duly certified copy of this resolution to the Congress, the President, and the delegation from Rhode Island in Congress.

COMING MEETING OF NATIONAL ASSOCIATION OF INDUSTRIAL PARKS

Mr. BEALL. Mr. President, it is with a great deal of pleasure that I bring to the attention of the Senate the upcoming meeting of the National Association of Industrial Parks, to be held March 22, 1972, at the Mayflower Hotel, in Washington, D.C. The association, which represents more than 200 owners of industrial and office parks in the United States, is planning this 2-day conference to exchange information with Members of the Congress and the executive branch on matters of national policy which affect the industry. Although this is a small group, the assets of these developers exceed the billion-dollar mark and hundreds of office buildings, manufacturing plants, and distribution facilities covering many thousands of acres of developed land in nearly every State in the Union.

I commend the association for its spirit of constructive inquiry, as it seeks to better inform its members on the problems confronting the organization today. I am sure that the members of NAIP will find the conference most instructive, and I am confident that the dividends and economic growth as a result of this meeting will accrue both to the members of the association and to the Nation as a whole.

DEATH OF JOHN TATSEY, INDIAN SERVICE POLICEMAN AND NEWS COLUMNIST AT HEART BUTTE, MONT.

Mr. MANSFIELD. Mr. President, it is with great sorrow that I report the death of a good friend and one of the Nation's most colorful journalists, John Tatsey.

John was not an educated or a nationally known reporter, in the everyday sense of the word, but he brought to the people of Montana some colorful writing and insight into the habits and work of his people, the Blackfeet Indians.

John for many years was the Indian Service Policeman at Heart Butte, on the Blackfeet Indian Reservation, and for a time he wrote a news column for the Glacier Reporter. The column was also printed in the Hungry Horse News. On a number of occasions I have placed in the RECORD excerpts from John's column so that Senators might share the humor of this man. John Tatsey reported many seemingly unimportant events, but in their context they were most readable and entertaining. John kept all of us up to date on the activities of his Blackfeet brothers, such as Stoles Head Carrier.

I know that I came to know the Blackfeet Indian community better because of John Tatsey's insight, and I am certain that this observation would apply to many of his readers.

John Tatsey has passed on to his reward, but he lived a long and good life.

JOHN CAMPBELL SPEAKS ON OUR RESPONSIBILITY TO FREEDOM

Mr. DOLE. Mr. President, on January 29, 1972, I had the pleasure of attending the Kansas Day Republican Veterans Club Luncheon held in Topeka, Kans., where the guest speaker was a young man named John Campbell, a student at Topeka West High School. John delivered a speech which was prepared for the national oratorical contest of the Veterans of Foreign Wars.

It is true, as is often said, that the future of America is in the youth of America, and it is reassuring to me, as I know it will be to my colleagues, that the future lies in the capable hands of fine young men and women of the caliber of John Campbell.

Mr. President, I commend the words and thoughts of John Campbell to my colleagues, and request unanimous consent that the text of his speech be printed in the RECORD.

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

MY RESPONSIBILITY TO FREEDOM

When many people think of the United States of America they consider a land mass, or a large group of people. But when I think of our country, one fact overshadows all of the other many assets that this country has to offer; that asset is freedom.

In no other country in the world are the individual rights of free speech, religious tolerance or free political thought more respected than in America. These rights have not been obtained cheaply, or by apathetic or cynical people. They have been obtained by a hardworking people, who in many cases were willing to give their lives in the never-ending task of maintaining a free society. I also have a responsibility to help maintain freedom, and I can fulfill this responsibility in many ways.

First, I believe that I must be willing to fight for my country. While there are many great leaders of freedom such as President Nixon, Prime Minister Heath and Chancellor Brandt, other men are equally dedicated to destroying the ideals upon which the foundations of freedom are based . . . men who are willing to die for their beliefs. We who believe in democracy and love freedom can be no less dedicated.

It would be pointless in fighting for freedom abroad if we were not equally prepared to defend the ideal of freedom at home. I believe every American citizen should cherish the right to vote. I feel that by joining political action groups and helping with voter registration, I can directly help maintain my country's freedom.

Ignorance is the worst enemy of freedom. I must take it upon myself to become educated to the facts and to help spread these facts. But simply having knowledge isn't enough. I must be willing to put my words into actions. As a citizen of the United States, I have the right to contact any member of the government and inform him of what I believe to be the violation of an individual's or group of individuals constitutional rights. I can help the local, state and national law enforcement officers by supporting the city police and county sheriffs, by supporting the State police and by supporting the F.B.I. The judicial branch of our government is only as good as the people it serves. Our local, state and national leaders also need every citizen's support in the fight against pollution.

It is unlikely that one person would be able to destroy or maintain freedom but at the same time every person should feel that his vote will decide the election or that unless he becomes involved in his community, someone shall suffer. Thomas Jefferson once said that "the price of liberty is eternal vigilance." I can help maintain freedom in the United States and I believe that every American citizen is equally able to do likewise.

SENATOR ROTH SPEAKS TO FEDERAL ASSISTANCE REVIEW WORKSHOP AT AIRLIE HOUSE

Mr. BOGGS. Mr. President, on January 18, 1972, my distinguished colleague from Delaware (Mr. ROTH) spoke to a workshop of the Federal Assistance Review at Airlie House in Warrenton, Va. The Federal Assistance Review, more commonly referred to as FAR, is an effort on the part of the Office of Management and Budget to improve the administration of Federal domestic assistance. It is most appropriate that Senator ROTH participate in such a meeting, given his efforts in both Houses of Congress to rationalize the Federal grant system.

Mr. President, I ask unanimous consent that the text of Senator ROTH's remarks be printed in the RECORD.

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

ADDRESS BY U.S. SENATOR WILLIAM V. ROTH, JR.

As some of you may know, I have long been interested and concerned about the way in which we administer our aid to States. I would like first to commend the President for instigating the Federal Assistance Review in March 1969. I believe several significant improvements have already been achieved by this effort, and I am sure that you will continue in your efforts to improve our grant delivery system in this last year of the FAR study.

What has disturbed me in the evaluation of our system of domestic assistance is that we seemed to continue to proliferate programs without concerning ourselves with really making these programs usable to their intended recipients. After all, the grant system was created to assist the States, localities, and other non-Federal bodies in carrying out their proper functions without burdening them with complex, expensive, and inflexible requirements. Further, I feel that we failed to give proper attention to their impact on the balance within our Federal system, and to evaluating the degree to which these grants programs were achieving the national objectives for which they were created.

A realistic picture of the true dimensions of the difficulties faced by applicants for Federal grants arises from a realization of the number of programs operating in any particular functional area. This picture is complicated when the multiple uses to which programs can be put are taken into account. By "multiple uses" I refer to the fact that, for example, there are housing, research, and manpower training programs which can be of benefit to educators and educational institutions. Sorting out the multiple uses of programs is an activity requiring the most sophisticated grantsmanship.

When these multiple uses are accounted for, there are something like 172 grants identified as housing programs handled by 16 agencies and 32 subagencies, bureaus or offices within larger units. As regards education programs, a potential applicant for aid could be confronted by approximately 440 programs under the direction of 31 major agencies and 53 bureaus. I have been able to obtain statistical information on the multiple uses of programs through use of the computer programs of Applied Urbanetics, Inc., a Washington firm whose business is providing services to State and local governments and others in their attempts to solve social problems. While these data result from a study several months ago, I am confident that it still represents the basic reality.

This proliferation of programs, besides creating mammoth informational problems for grant applicants, has led to needless duplication and overlapping of Federal assistance programs. Duplication of programs has resulted in duplicating guidelines, duplicating regulations, and duplicating application forms. As a result, State and local officials find themselves mired in expensive and inflexible red tape and bureaucracy. It is important to realize that a grant applicant may have to contend with guidelines, regulations, and application forms generated by a number of departments and bureaus, each having their own ways of doing things.

I am happy to say that President Nixon and his administration have sought to deal with the deficiencies of our system of domestic categorical grants-in-aid. I support the broad intentions of the administration's four executive reorganization bills, its special revenue sharing proposals, and the efforts of the OMB's Federal Assistance Review and those of agency task forces. Constructive directions in which OMB has been moving include: the decentralization of grant administration; the establishment of common regional boundaries for agencies offering grants; the development of Regional Councils for the coordination of application proce-

dures; improvement of program information; pilot projects in joint funding; and the pending Integrated Grant Administration program.

While I heartily approve of the reforms noted above as steps in the right direction, I do not believe they will treat all the ills of the domestic assistance system. Even if both the executive reorganization program and the six special revenue sharing bills became law, State and local officials and Federal administrators would still face a most complex array of categorical grants. Putting to use the same data referred to above, it is possible to take a "before and after" look at the number of programs and agencies which citizens, private institutions, and State and local governments must sort through when seeking aid in a number of program categories.

By rearranging programs and agencies to account for what seems to be the likely effects of the proposed reorganizations and special revenue sharing plans, we can to some extent measure the impact of these on reorganization and special revenue sharing. This process led to the conclusion that, even if all of this legislation were enacted, we would still need to look to other means to further rationalize the grant system. Referring to our statistics, we have found that in the category of housing aid the number of programs involved would be reduced from about 172 to 155, while 13 major agencies, 9 newly created administrators, and 20 bureaus would carry the load formerly borne by 16 major agencies and 32 bureaus. The approximately 440 education programs now existing would shrink to 380 with 25 major agencies, 15 administrators, and 34 bureaus acting where 31 major units and 53 bureaus had participated. The special revenue sharing bills would phase out only 130 of the many hundreds of categorical programs.

I do not suggest that all 440 education programs, for example, should be or indeed could be consolidated. I do think, however, that some beneficial groupings could be made that would simplify the administration of Federal grants. I would urge the Executive branch to press even harder to consolidate grants through administrative action when possible and to continue to pursue the other grant reforms. I, myself will continue to support, as I have in the past, legislation to expand the President's authority to consolidate and jointly fund grant programs.

Even if we were to perfect the most efficient and rational formal apparatus for distributing Federal money to the non-Federal level of our Federal system, successful grant administration would still depend heavily on reasonable implementation by the civil servants in charge. It is most important that these program managers see their grants as a means of helping State and local governments play an effective role in certain areas of public activity appropriate for their participation.

Requirements placed on these State-local applicants should be only such as are required to guarantee the proper accounting of Federal funds, foster major national goals, and help non-Federal bodies improve their governmental capabilities. Administrators should anticipate the problems of grant users and seek to remedy them of their own accord. If this were the case, OMB, political-level Federal officials, and Members of Congress would less frequently have to become involved in the distribution of aid.

During the past year, as a Senator from Delaware, I have had some difficulty in obtaining flexibility in the application of planning requirements associated with several HUD sewer, water, open space, and land use grant programs. Similar difficulties have been faced in obtaining HUD approval of money to fund a study of Wilmington's mass transit needs. A number of these grants-in-aid require applicants to present plans which are comprehensive for an entire Standard Metropolitan Statistical Area (SMSA). There appear to be many valid reasons for utilizing this statistical unit as a device for certain kinds of grant planning and implementation, and it may be relatively practical for the representatives of local units encompassed by most SMSA's to cooperate in the creation of area-wide plans.

However, in the case of Wilmington and New Castle County, Delaware, the requirement of SMSA planning means that their officials must engage in joint planning with officials from two other counties, one lying in Maryland and the other in New Jersey. There are only four of the 231 Standard Metropolitan areas which include territory from as many as three States. The two relatively rural counties outside of Delaware, with economic and geographical needs and interests often different from New Castle County, are a part of the Wilmington SMSA and therefore must be included in SMSA-wide planning. As a result of the inflexible application of such requirements, it has been much more difficult for some Delaware communities to provide the planning prerequisites to grants—especially within the time limitations imposed by HUD deadlines. Further, State and local officeholders within the Wilmington SMSA have taken meaningful steps to achieve coordinated planning for the three counties involved, including the creation of an area-wide planning unit—the Wilmington Metropolitan Area Planning Coordinating Council ("WILMAPCO").

It has taken considerable expenditure of time and effort by OMB, State and local officials, the National Association of County Officials, Federal agency personnel, and myself to obtain some hope of increased flexibility in the application of HUD planning requirements. We have not asked for a redefinition of the Wilmington SMSA, but have sought a relaxation of the requirement for three-county planning. Of course, it is important to make sure that the SMSA is sued as a planning unit only when it is appropriate in terms of the functional activity involved and that its definition and the census data it relates to be continuously updated. While considerable progress has been made, one gets the impression that if the same or a qualitively similar situation arose elsewhere or with other programs, the same arduous process would have to be repeated to obtain flexibility.

Somehow, the OMB and Federal agencies in charge of intergovernmental aid must impress upon program personnel the need for reasonable flexibility which contributes to the general objectives of programs. Certainly most important among these objectives is to help State and local governments better perform their appropriate tasks. Unfortunately, the public officials in the Wilmington Metropolitan Area who are seeking money from the Department of Housing and Urban Development have at times been presented with complicated requirements and left to meet these on their own as best they can. I think that it is fair to say that these officials have on most occasions been honestly attempting to meet the spirit of HUD's rules.

Another key to the efficient flow of Federal funds to State and local government lies in the success of the planning capabilities of those units Only through planning can the myriad of Federal programs be made to dovetail together to assist our cities and States to grow in a manner most beneficial to its citizens.

Unfortunately, the planning programs themselves have administrative difficulties and often involve an unacceptable degree of inertia, misunderstanding, and animosity; rather they should do the opposite, promoting understanding, confidence, and capability at the interface between the local, State and Federal partnership.

To place the planning programs in perspective, let me note that of 1,069 [1] categorical grant programs providing more than $38 [2] billion annually, there are 27 [3] planning assistance grants amounting to $231 [3] million and 81 [4] functional programs, funded at approximately $17 billion, requiring planning as a prerequisite. Only 0.6 percent of our grant funds go for planning. I believe there is a need for a review of this distribution which may provide inadequate funds for planning.

As part of a continuing interest and effort to improve our grant structure, recognizing the leverage which planning has on the utilization of funds, I asked my staff to begin a study of the structure of Federal planning programs. We hope to identify some of the major problem areas and make recommendations for legislative or administrative actions which might bring about an improvement in the administration of these programs. That study is still in progress, but I believe I can cite some case studies, which State and local governments have been kind enough to supply, to illustrate a few of the salient points which have already come through.

One theme brought out over and again was the need for program administrators and decision makers who understand the planning process. One member of a State water control board stated, after describing some application problems:

"The program is in our opinion a good one and should receive continued support. Our biggest concern is that persons administering it should be much more conversant in the guidelines, policies and allocable costs than they have previously demonstrated themselves to be."

Another intergovernmental agency wrote:

". . . maybe each field office should be required to prepare and update an Overall Program Design of its own activities. There is nothing like actually preparing an OPD to bring a little practical perspective to bear on this new management theory."

Another major problem is excessive delay in processing applications. This creates difficult situations for the State or local planner. As a State director of planning wrote:

"The magnitude of the effort needed to make application suggests that the requirements are excessive and wasteful, costing a great deal of time and money without proportionately improving the quality of the application."

A third major complaint, which was continually voiced, is the number of steps required to review and approve an application. This problem is at the heart of delivery of Federal programs. One planner complained:

"The varied length of time required for approval, from two weeks to five months indicates the unworkability of the large volume of application documents required. Furthermore, we feel that the time spent by the field staff in such a review could be far better spent in becoming familiar with the actual planning activity and with providing technical assistance to the planning units."

In a similar fashion, a health planner said:

"Multiple review of applications by Federal agencies generally has the effect of unduly delaying the grant approval process."

One last problem I'll mention, which came through repeatedly, was that personal animosities arise between State and Federal officials as a result of lack of knowledge about the programs, delays, changes of requirements, personnel changes, and all the problems which infest our grant programs. To quote an irate local planner writing to his Federal contact:

". . . *we've had it*. Is this what you want from your agencies—all bureaucratic persiflage and no substantive work?"

Certainly it is a two-way street with both sides—Federal and State—contributing to the problems as well as the solutions. But it concerns me deeply when I learn that Federal employees are making things more

Footnotes at end of article.

difficult for State and local government officials than they need be. Indeed I believe it is the duty of the Federal employee to go out of his way to initiate and assist the local planner, elected official, or officer to qualify and to expedite to the people the assistance which the Congress and the administration have provided for them.

There are many problems in the realm of the delivery of Federal grants, some of which I have touched on, others of which you and I are aware, some of which we are not. Some of the problems can be eliminated or improved upon by structural changes such as might be brought about by special revenue sharing, block grants, and program consolidation. But, in my view, if we do not improve the flexibility of our system to account for the many time consuming and expensive *little* problems, and strive for a different approach, one which aggressively assists rather than impedes, any real improvements will be difficult to come by.

In closing I would like to share with you a quote of a young city manager which, though indicative of yet another problem, I thought amusing. Obviously somewhat concerned of what might become of his comments in replying, he closed with:

"These are just a few suggestions, but I would be the last to want to put my city's name on a complaint to the Federal government."

FOOTNOTES

[1] OMB Catalog for 1971.

[2] Special Budget Analysis for 1972.

[3] OMB letter from W. Brussat to E. Barber, December 1971.

[4] PARCC Study 1969.

CARL HAYDEN

Mr. HRUSKA. Mr. President, the passing of Carl Hayden removes from our midst one of the more remarkable statesmen in the history of our Nation. While he is now gone, the lessons which he taught so many of us, the inspiration of his dedication and hard work, and the warm memory of his kindness and courtesy, will remain for years to come as an ideal for us to emulate.

When this Senator was elected to this great body in 1954, nearly 18 years ago, the distinguished Senator from Arizona had already been a Member for 27 years. It would be impossible to recount the education and enlightenment which I gained from observing and working with Carl Hayden.

I dare say those of us who were privileged to work with him prior to his retirement could fill the pages of this RECORD with stories of how he helped make them better legislators.

One of the most striking lessons which he taught us, in my estimation, was the value of hard work as the major factor in legislative effectiveness. It would be difficult to find a Senator who spoke up publicly with the reluctance of Carl Hayden, but it is unlikely there will ever be another Member of this body who so thoroughly illustrated his own advice: namely, when you have the votes, you do not need to talk. His actions spoke louder than words, eloquently and with great effect.

Carl Hayden was the last Member to serve this body who was capable of bridging the various eras of our country's history. He was the last who could personally relate our ultramodern civilization to the early pioneering days in which our civilization as we know it now was not yet conceived.

When one considers his early career in Maricopa County before Arizona even became a State, one can then have some appreciation and understanding of the wisdom, knowledge, and love of country which he imparted to the Nation through his service here.

His record of service to his Nation, including 57 years in Congress, in all likelihood will never be equaled. His contributions to the Nation will have to await the judgment of history before they can be measured in the proper perspective, but we may be sure they will be considerable and significant.

While his death is cause for sorrow among his friends and loved ones, we can rejoice that he lived a long and fruitful life, serving his State and Nation diligently and happily. We can be grateful that it was our good fortune to have had the very special privilege of serving with this distinguished American and calling him our friend.

FEDERAL FUNDS FOR STATE AND LOCAL LAW ENFORCEMENT

Mr. PELL. Mr. President, one of the keystones of the national effort to curb increasing rates of crime, and to provide our citizens with a greater sense of personal safety and security, is the Law Enforcement Assistance Act.

That program is providing to State and local law enforcement, criminal justice, and corrections programs funds that are desperately needed for modernization and improvement.

Many States, including my own State of Rhode Island, now find their continued effective participation in this program threatened by an untimely requirement for cash matching of Federal Government allocations.

Because of the timing of notification to the States of this change, it will be exceedingly difficult for Rhode Island and other States to provide the cash matching funds.

The General Assembly of the State of Rhode Island recently adopted a resolution urging the Congress to eliminate this cash contribution requirement. I ask unanimous consent that the resolution, expressing the concern of the State legislature, be printed in the RECORD.

Mr. President, I believe that Congress should act promptly and affirmatively to help our State and local governments continue their fight against crime. The junior Senator from Virginia (Mr. SPONG) has introduced a bill, S. 3137, to defer the new cash matching contributions until the LEAA authorizing legislation is reviewed by the Congress next year. I am a cosponsor of that bill, and I hope very much that prompt action can be taken on this legislation.

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

RESOLUTION MEMORIALIZING CONGRESS TO DELETE SOME AMENDMENTS TO THE "OMNIBUS CRIME CONTROL ACT OF 1970" WHICH WAS AMENDED BY PUBLIC LAW 91-644 IN 1971

Whereas, The "Omnibus Crime Control and Safe Streets Act" was adopted to permit local law enforcement agencies participate in a federal program to help curb the rise of crime; and

Whereas, The amendments which were adopted in 1971 would tend to jeopardize further state participation in this most worthwhile program; and

Whereas, Present economic conditions are such that to ask the citizens to carry an additional unexpected burden of supporting an anti-crime program will become oppressive; and

Whereas, Crime in the streets has been rising on a national scale for the last thirty years and without a continuation of the "Safe Streets Act"; and

Whereas, Other than a municipal property tax, Rhode Island does not have either a county form of government or an extensive local taxing base and therefore additional tax requests are not feasible; and

Whereas, Unless the following amendments in Public Law 91-644 are deleted many states will be unable to continue participation with this program:

line 11 of subsection (6) of section 4; "and that with respect to such programs or projects the state will provide in the aggregate not less than one-fourth of the non-Federal funding". and

line 29 of subsection (8) of section 4; "Effective July 1, 1972, at least 40 per centum of the non-Federal funding of the cost of any program or project to be funded by a grant under such paragraph shall be of money appropriated in the aggregate, by state or individual unit of government, for the purpose of the shared funding of such programs or projects."; now therefore be it

Resolved, That the general assembly hereby memorializes congress to aid the states in this time of need by deleting those portions enumerated herein so that this most worthwhile program may be continued; and be it further

Resolved, That the secretary of state be and he hereby is authorized and directed to transmit duly certified copies of this resolution to the senators and congressmen serving from Rhode Island.

PRIMO IACOBUCCI,
First Deputy Secretary of State.

AID FOR COSTS OF CHILDREN'S COLLEGE EDUCATION

Mr. PEARSON. Mr. President, middle-income Americans bear more than their fair share of taxes and receive a small proportion of public assistance and benefits from their tax dollars.

Of all forms of assistance, one of the most needed and least available to middle-income people is aid for costs of their children's college education. With the 50-percent increase in college costs in the last decade, it may well cost an average family with three children more than $30,000 for higher education. Many families are hard pressed to meet these expenses without some form of assistance.

Students from middle-income families rarely qualify for Federal, State, or private funds designed to meet the legitimate needs of low-income students. While we do not now have the resources to provide grant assistance to middle-income students, we can find other ways to help meet high college costs.

The bill which is cosponsored today, S. 2860, is an innovative approach to this urgent problem. It provides for a deferment of Federal income taxes up to a limit of $1,500 per year per student for higher educational expenditures. Each

family may defer up to $7,500 per student and an additional $2,500 for graduate study.

This money is only deferred. It is to be repaid in annual installments with an interest rate of 7 percent. We can, in this way, assist middle-income families to meet tuition, room and board costs for college and technical education without large Federal outlays. This bill would cost the Government very little money, if any.

The passage of the bill, introduced by the Senator from Illinois (Mr. PERCY), will provide direct assistance to those Americans who rarely receive aid from the Government. They will not get a handout, nor do they ask for one, but we shall all be making a sound investment in the future of our Nation by insuring that children of middle-income Americans receive the higher education they need to prepare them for the complex world of tomorrow.

AMERICAN HUNGARIAN FEDERATION STATEMENT ON EUROPEAN SECURITY CONFERENCE

Mr. DOLE. Mr. President, the American Hungarian Federation has represented American citizens of Hungarian descent in this country for the past 65 years. The Federation is highly concerned with certain aspects of the forthcoming European Security Conference, particularly those pertaining to Hungary and East Central Europe.

Mr. President, I ask unanimous consent that the following statement by the American Hungarian Federation, expressing its concern on this issue, be ordered printed in the RECORD.

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

MEMORANDUM

The convocation of a European Security Conference seems to be inevitable within the next eighteen months. This estimate is based upon the various statements made by leading statesmen of our NATO allies and the communique of the last NATO meeting of Foreign and Defense Ministers in Brussels of December 10, 1971.

The American Hungarian Federation looks toward the convocation of such a European Security Conference both with hope and anxiety. We are aware of the policy of our Government to end a policy of confrontation and to proceed to an era of negotiations with the Soviet Union and the People's Republic of China. We are aware that the creation of stable conditions of peace in Europe must occupy a high priority in United States foreign policies. We also believe that the forthcoming visit of our President to Moscow in May 1972 will provide a historical opportunity to demonstrate the paramount interest of the United States in creating conditions, or reenforcing already existing trends, leading toward true peace and international cooperation in Europe.

A European Security Conference conceals the seed of both hope and risk. Hope springs eternal in our hearts that given good will on our sides, a resolute Western diplomatic stand could help to erase, or at least diminish the existing cultural, economic, and political barriers between the nations of Europe. These barriers still divide the homeland of our fathers, Hungary, from Western European and the United States in the physical and political sense.

A European Security Conference could help to remove Soviet troops from Hungary. It could restore the opportunity for Hungary as well as the other nations of East Central Europe to reintegrate themselves gradually into the European and Western community of nations—a culture to which they have belonged for over a millennium and from which they were torn by the events following World War II. We hope that these peoples will be able to escape the hegemonial position of the Soviet Union and recover their right to self-determination. We hope for intra-regional solutions of their outstanding domestic, international and nationality problems.

Yet, we cannot deny our anxiety about the announced goals of the Soviet Union and her Warsaw Pact allies in seeking the convocation of a European Security Conference. Their most obvious purpose remains the recognition of all existing frontiers and the political status quo in Europe in form of a conference of all European and North American powers, a recognition which would be binding in international law both bilaterally and multilaterally. Such a declaration would effectively freeze the legal status of the present status quo, including Soviet Russian domination over East Central Europe and the partition of Germany. Unfortunately, the yet unratified Bonn-Moscow Treaty provides a precedent in this regard as far as the Federal Republic of Germany is concerned.

We are heartened by the final communique of the NATO Ministers of December 10, 1971 stating that a European Security Conference cannot serve the purpose to render permanent the postwar partition of Europe. We earnestly hope and expect that this position, with positive elaborations, will also be the position of the United States Government at any forthcoming European Security Conference. We refer in this regard to the Charter of the United Nations, article 2, which maintains that its members base—or should base—their policies on the "sovereign equality of all its Members" and "refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state." We know that the U.S. Government not only observes this precept in its relations with other nations, but will use its full diplomatic power and influence to sustain these principles for Europe at any European Security Conference.

We feel some anxiety about the use of a coming European Security Conference by the Soviet Union and its allies as a vehicle for the reduction of American political, economic and military presence in Europe and for effectively loosening the ties between the European NATO allies and the United States. Any further deterioration within NATO would have grave consequences for Western security and we call upon you to do everything in your power to prevent such trends from developing into actuality. In this regard, we must praise highly the continuous efforts of the United States Government to resist premature plans for unilateral withdrawals, which would create Soviet military superiority in Europe.

Yet, we also feel that in the long run, a condition for peace in Europe must include the creation of confederate or even federal institutions of the states of Western Europe, a development which all American administrations since 1948 have actively encouraged. Furthermore, we believe that if a European Security Conference takes place, the United States should propose positive plans for inclusion of the nations of East Central Europe, taking into consideration the security interests and political-military realities of the situation. In our Memorandum of 1969 we called attention to the possibility of proposing an expansion of the existing neutral area between the NATO and the Warsaw Pact nations which extends from Austria and Yugoslavia. We would have this zone include: Hungary, Czechoslovakia and Rumania. Removal of foreign military forces from these countries and an international guarantee of their nonalignment, if so desired by their governments, could be made the subject of serious discussions, even if the chances of immediate implementation might be small.

One method of approaching the topic could be their inclusion in the preparatory talks on convoking a European Security Conference, or even at the preliminary talks on Neutral, Unilateral Force Reductions (MBFR).

It seems likely that both sides will concentrate upon reducing the forces of their adversaries in the respective parts of Germany, since this region poses the most delicate and involved questions both to NATO and the Warsaw Pact.

However, in the case of the Danubian region, where there exists no concentration of NATO units, and only relatively weak Soviet contingents there may be a fruitful subject for making a start with MBFR. Any MBFR agreement in this region would also promote indirectly the emergence of a quasi-neutral bloc including the states between Austria and Rumania thereby creating the opportunity for freer national and economic development for the peoples of the region. If MBFR and a European Security Conference are going to be more than a slogan, the reweaving of the two parts of Europe without impairing basic security needs of the superpowers must form the priority item. The chances of creating a zone of states without the presence of foreign military forces appears to be nowhere better in Europe than in the Danubian region where two "neutral" states already exist.

In addition, historic, economic and social ties between the states of the Danubian region are still in existence and remain extensive even across alliance borders. The expansion of a neutral zone—free of foreign military units—would promote closer cooperation among these states which would not be directed against the superpowers.

Thus, we reiterate our 1969 proposals for the expansion of a zone of neutral states on both sides of the alliances, including at least Austria, Hungary, Yugoslavia, and Czechoslovakia, and perhaps also Rumania and other states in the region as well. If full neutralization cannot be achieved, we would regard the inclusion of the problem of removing foreign troops from the Danubian and Balkan regions into the MBFR talks as a first step toward positive evolution.

Reduction would have to be balanced and phased, involving a substantial removal of Soviet forces in return for NATO concessions of strength in Southern Europe. While it is correct that such negotiations introduce a new element: the territorial expansion of the talks to Southern Europe, this would be outweighed by the advantages in the military and political stability once Soviet power were effectively removed from the Danubian and Balkan regions, especially with regard to the relative instability of the Yugoslav situation.

We expect that these proposals would be seriously considered by our Government and employed at the right time and place in order to promote both the interests of the United States and the peoples of Hungary and other states of the Danubian region. For the people of Hungary and of the other states feel constrained and unhappy under foreign occupation. They long to rejoin the Western community in Europe, to which they have historically belonged.

We trust that the President, who has displayed his special regard for the peoples of Hungary and East Central Europe many times in the past, will employ the diplomatic and economic talents of the United States to bring peace, self-determination and free

development opportunities to them through his sustained diplomatic offensive, including his forthcoming talks in Moscow.

Finally we and most American citizens of Hungarian descent cannot accept Soviet proposals to freeze the ideological political and military partition of Europe by a multilateral declaration on frontiers and the political status such has been done in the yet unratified Bonn-Moscow Treaty. A European Security Conference must be a first step toward the creation of stable and peaceful conditions in Europe based on the principles of sovereign equality and self-determination, or the causes of tension in Europe will never be removed.

AUTOMATED VISUAL SENSITIVITY TESTER

Mr. ANDERSON. Mr. President, although there are many applications of the space program to the field of medicine, few ever come to the attention of the layman. There is no easy means of communicating such ideas to him; and those of us who are close to the space program sort of take them for granted. However, every once in a while an application comes along which catches your eye and deserves special mention. Recently NASA announced such an application. It is an instrument which maps the vision patterns of the eye and is expected to be particularly valuable in the diagnosis and treatment in a number of disorders such as brain damage caused by tumors or injuries, glaucoma, and detached retina. The instrument is called the Automated Visual Sensitivity Tester and maps the position and extent of the blind spots in the eye. Originally this tester was designed for use in long-term confinement situations where periodic checks of visual function are required as in space flight. The application to everyday medicine is clear.

Mr. President, I ask unanimous consent that the NASA Release No. 72–21 be printed in the RECORD.

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

VISION TESTER

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION,
February 1, 1972.

A simple, accurate, and easy-to-use device to map individual vision patterns of the eye has been developed at the National Aeronautics and Space Administration's Ames Research Center, Mountain View, Calif.

The device is expected to be particularly valuable in the diagnosis and treatment of a number of disorders, including brain damage caused by tumors or injuries, optic track degeneration, glaucoma, and detached retina.

The machine, called the Automated Visual Sensitivity Tester, maps the position and extent of the normal blind spot of each eye. Characteristics of this blind spot, which is the area of the eyeball where there are no nerve endings to sense light, are a strong indication of the state of a patient's visual health.

The tester can also plot the presence of abnormal blind spots, called scotoma, which may be caused by looking at the sun, welder's arc and other intense light sources; or by retinal detachment or variable metabolic diseases.

The Automated Visual Sensitivity Tester was originally designed for use in long-term confinement situations where a periodic check of visual function is indicated, as in space flight. It was used in a manned 90-day closed environment chamber test conducted for NASA by the McDonnell Douglas Corp.

The machine resembles a large slide viewer. The patient looks into the front of the instrument with one eye and then the other. Inside, he sees a stationary red cross and a moving white dot. He fixes his gaze on the red cross and pushes a button whenever the white dot disappears from his vision. Output of the machine is a graphic plot of the patient's vision pattern for each eye. Data could be presented in many other ways including transmission directly to a computer for automatic processing.

The machine is versatile since it uses film loop cassettes on which audio instructions can be recorded. Changing from one test to another merely requires plugging the appropriate film cassette into the machine.

Tests for visual acuity and color blindness are now being developed. Other tests for which the device could be used include measuring the ability of the eye to smoothly follow a moving object (dynamic ocular tracking), measuring the ability to correctly discriminate different simple and complex forms (indication of possible brain damage), measurement of the Optokinetic Nystagums Reflex which is the tendency for the eye to follow repeated apparent motion as a barber pole, and measurement of sensitivity to various colors in different parts of the visual field.

The tester may be useful as a mass vision screener in schools and might be helpful in the diagnosis of brain damage in children. It is scheduled for clinical evaluation at ophthalmological clinics and for the possible inclusion in remote mobile health care service being planned by the Space Sciences Research Center, University of Missouri.

The Automated Visual Sensitivity Tester was conceived, designed and built by a three-man research team at Ames: Dr. Richmond F. Haines, Salvador A. Rositano, and James W. Fitzgerald.

ERIKSON INSTITUTE FOR EARLY EDUCATION

Mr. PERCY. Mr. President, I have had a long and continuing interest in the problem of child care. I feel strongly that we must provide preschool children throughout the Nation with the opportunity for healthy and stimulating development during their early years. There is no doubt that effective child care, on a voluntary basis, addresses itself to our national interest by investing in the Nation's children at the most critical point in their lives.

We can no longer ignore the growing needs of many low- and middle-income families for adequate child care services. Mothers are joining the Nation's work force in increasing numbers. Working women with children under 18 now number more than 12 million. Approximately one-third of the mothers with children under age 6 account for 4.5 million of our work force, and this number is expected to increase by an additional 1.5 million by 1980. Most of the mothers work because of necessity. Some mothers are the sole supporters of their families and others have families who need the additional income.

While the number of day care facilities have increased, the services they provide do not even begin to meet the demand. Licensed day care centers now have room for only 640,000 children. In Chicago, 282,000 children are eligible to receive day care services, but only 12,500 are actually in day care programs. It is all too evident that many youngsters are left improperly supervised or entirely unattended.

The need for qualified child care personnel is equally critical. The White House Conference on Children called for the training of at least 50,000 more child care workers every year for the next 10 years. Our Federal training programs in this field have fallen far short of this goal.

I think my colleagues will be interested in the valuable contribution made by one institute in my State to early childhood education. I am referring to Chicago's Erikson Institute for Early Education which is affiliated with Loyola University. Erikson Institute offers a comprehensive training program leading to a masters degree in education, consisting of an intensive academic curriculum combined with a tutorial program and an internship in affiliated schools, Headstart centers and day care centers in Chicago. In addition, the Institute serves as consultants to many day care centers in the area, public and private.

Erikson Institute's capable dean, Dr. Maria W. Piers, is a reknowned child psychologist, educator, and author. At a time of much controversy over the day care issue, I think Dr. Piers' expert views on child care will be of interest to my colleagues.

I ask unanimous consent that articles describing Erikson Institute's activities and Dr. Maria W. Piers' speech before the Governors' Conference on Day Care be printed in the RECORD.

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

[From the Chicago Tribune, June 13, 1971]

INDIANS WITH DEGREES SOUGHT FOR CHILD DEVELOPMENT UNIT

The Department of Health, Education and Welfare has designated the Erikson Institute of Loyola Universtiy as a center to prepare American Indians for work in child development programs.

Main problem of the program is finding qualified applicants who hold bachelor's degrees, said Mrs. Dorothy Anker, supervisor of field work for Erikson.

"Indians have the highest dropout rate of any minority group, probably because relevant education does not take place in early schooling," she said "Children have constantly been pulled out of their environment, brought to [boarding] schools and not allowed to speak their native tongue. They are expected to act like middle class white children, which is diametrically opposed to their cultural pattern."

MANY FEAR BIG CITY

She said the institute has "bombarded" colleges to find students who would qualify for the federally financed stipends for study, but many have no desire to come to large urban areas because of "culture shock" or the educational deficiencies from their own schools. At the Black Hills State College in South Dakota, Mrs. Anker said, there are 150 Indian students but only 5 or 6 graduate annually.

An auxiliary training course for those who do not want master's degrees in child development or lack the educational requirements is also under development. In many Indian population centers, no one is adequately trained for Head Start or parent-child centers, she said.

In preparation for the new Indian training phase, Mrs. Anker visited the Pine Ridge Reservation for the 10,000 Ogalala Sioux near Rapid City, S. D., at the request of Mrs. George McGovern, wife of Sen. McGovern and supporter of early childhood education. At the reservation are 10 Head Start centers for a total of 250 children and three parent-child centers in need of more staff.

Traditional educational tools are not valid to Indian needs nor are the typical ways of teaching which are simply transferred from urban public schools, Mrs. Anker said. "We need to learn as much as we can about their culture, customs and environment so we can work with any minority group," she said. "There's no 'recipe approach.' We want to train teachers to become incessant problem solvers, to bring their knowledge to Indian tribes with a variety of processes they can use to help the community solve its own problems."

She said Indian background largely has been ignored in the "Americanizing" process pushed by schools near reservations. Some are forced to speak English while Indian strengths in ecological concern for the land or interest in arts and crafts were bypassed.

SAYS BACKGROUND IGNORED

"Boys and girls, brothers and sisters, are not supposed to look at each other when they talk [under Indian custom]," she said. "Some teachers take this as apathy and indifference. With reading, stoplights and firetrucks may have no meaning. The purpose is to teach language discussion, but they are given foreign objects that have no meaning.

"There's no reason children have to discriminate between circles and squares. I have a feeling that Indian children have better depth perception than most, and putting blocks in organized rows may have no purpose. We have to find out even what kind of toys we should use in these centers."

According to the Bureau of Indian Affairs, there are approximately 15,000 Indians living in Chicago with over 90 different tribes represented, Mrs. Anker said. In the Chicago public schools there are 1,042 Indian students on the elementary and high school levels.

[From the Chicago Tribune, Chicago, Ill., November 11, 1970]

PROGRESS IN DAY CARE PROGRAMS

(By Carol Kleiman)

There are some bright spots in the day care picture—let them shine!

Back in May, I wrote that Illinois Bell Telephone had gotten the message and was setting up a new program to assist employees in finding day care for their children, in searching out new facilities and in helping to get private homes licensed for day care.

The company has taken the program one necessary step forward: The Erikson Institute for Early Childhood Education at Loyola University, 1525 E. 53d St., has been asked to help Bell to train a staff to help provide decent day care for employes' children.

Dr. Maria W. Piers, dean of the school, which provides a master's degree program for child care experts, explained the connection with the telephone company.

"We are not helping set up costly day care centers, but day care in more home-like surroundings," she says. "We're training three Illinois Bell women to find suitable homes and suitable mothers to care for employes' children during the day. We will help these homes to get licensed.

"Through weekly seminars, we are training women to ferret out good private homes, to understand what children need. We are also working with some of the women whose homes are already licensed and being used by Bell employes."

The neat part about this is while day care mothers attend Erikson, students at Erikson take care of the children!

Director of the program and of the Institute is Lorraine Wallace. The program's aim: To get as many of the children as possible to enjoy a measure of achievement, a measure of pleasure. It's a model program in the business community.

More and more people care about day care—especially as more and more mothers go to work. A recently organized group is the Day Care Alliance of Lincoln Park, incorporated to foster, encourage, and develop facilities for pre-school and school age children of local families who have no other means of caring for their children during working hours. This group also does not intend to operate the programs. It wants to coordinate them. President is Mrs. Jurdis Dierauer. You can reach her at 348–6378 or 766–5800.

A new day care center has opened in Bensenville. The Professional Child Care clinic, 324 E. Green St., was brought about to service the needs of working parents. It's owned and directed by Thomas Murray of Park Ridge. Catherine Murray, his wife, is assistant director. The school's capacity is 103 youngsters. The center has an exciting abundance of recreational and play equipment for the kiddies. Hours are realistic: 6:30 a.m. to 6 p.m.

"Love," says reader Evlyn Eck, "is one of the most important aspects of day care. When you write about tender, loving, care, I always think of the Uptown Lutheran day care center, 5030 N. Marine Dr. It's operated by the Lutheran Welfare Services of Illinois and is staffed by a wonderful group of women who shower the children with T.L.C. And there is a constant, steady, dependable flow of love and deep concern for each child."

Now, that's what we need more of!

[From Focus Today, Dec. 12, 1971]

EXPERT'S PLEA: LET'S CARE ABOUT DAY CARE

The swirling debate over day care intensified last week when President Nixon vetoed a bill which would provide far-reaching care for children of working mothers. Critics cite its $2 billion a year pricetag. Proponents cite the human need. To put the issue in perspective, Chicago Today is printing excerpts from a speech delivered by Dr. Maria Piers, dean of Chicago's Erikson Institute for Early Education. She made the address recently before the Governor's Conference on Day Care.

One morning 7 years ago I had a phone call from a young friend who had just enrolled her only daughter in nursery school. My friend was in tears. She had been told by several well meaning neighbors as well as by her mother-in-law that a 3½-year-old belongs home with her mother, not in nursery school, and that she should stop doing her secretarial work and stay home with her child, etc. She felt terribly guilty, as if she were public enemy No. 1. That was back in 1964.

Now the tide has turned. Now loving friends and relatives and civic-minded people make you feel guilty when you don't send your child to a nursery school, or indeed to an all-day care center. It is the mother who wants to stay home and take care of her children who is made to feel like public enemy No. 1.

In view of such a puzzling about face we better take a long questioning look at the whole issue of preschool education in general and day care in particular. At the moment, everybody is in favor of day care. Industry and labor, government and private groups, and the womens liberation movement. [Correction: almost everybody is in favor; children have not been consulted]. Seriously, there is a lot to be said for preschool education. When people ask me what specifically is good about it, I have the answer at my finger tips:

Weaning children from mother [for short stretches of time away from home];

Under safe conditions;

In the company of other young children [very important from 3 on];

With large equipment [jungle gym] impossible to provide for most families;

Lots of space for running and screaming [sans neighbors complaining];

Best of all, under the aegis of a teacher trained to satisfy a child's intellectual curiosity.

While teaching us the fundamentals of coexistence. [If you kick Tommy in the shins he is not likely to let you play with his fire engine—or a kneenex is for blowing your nose; Jennifer's sweater is not.]

That is what is good about a day care center. If it provides that mixture of care and education. What if it does not?

Before answering that question, let me tell you about a strange thought that occurs to me. Why is that people always ask me what is so good about preschool education and nobody ever asked me what's so good about home? Why are we professionals never called upon to justify the existence of family life? Just in case someone should ask. I have an answer ready:

Home is a place where you are safe;

Where you can flop when tired;

Where you are liked for what you are, even on your off days;

Where you are thoroughly familiar with every nook and cranny and person and thing;

Where you get a peanut butter sandwich when you are hungry, and an answer to a question, and a whack when you are mean and a hug when needed;

A home is good if it provides all of these: food, shelter, information, whacks and hugs.

What if it does not? The point here is that not every home is a good home. I am thinking at the moment not even of a poverty child, but of a 7-year-old boy with a hard-working father in a high income tax bracket, and a mother in a mental institution, and a suburban house full of toys and a constantly changing stream of housekeepers and baby sitters—and nobody to trust and nobody to talk to.

Such tragedy can happen everywhere. But it does happen much more frequently to children in urban slums.

Dale Meers from the Washington Children's Hospital has in treatment two school-age children from a black slum area, and in cooperation with the police tried to assess the environment of those two children.

Here is what they found: In an area of three square blocks, over a period of 12 months, there were 3,520 major crimes. This number reflects by no means a sum total, but only those crimes that were reported by the police—crimes like murder, and robberies.

To set an alternate way of growing up is, in such cases, imperative. Day care, whether in an institution or a licensed home seems an answer. One could even say that any kind of care is a better answer than a home life that renders children inaccessible to a teacher, or for that matter any responsible adult. Here we must remind ourselves that the children who live in such abysmal conditions are relatively few, that day care is currently the advocated solution for many, many more children with a basically good sound home who are alert, sometimes affectionate, sometimes annoying . . . like all kids.

The idea of day care for the average child makes us immediately and acutely aware that something which is a little better than the worst, simply isn't good enough.

The point is that second-rate day care also has its dangers. They are different from a crime-infested slum, but just as pernicious. The understaffed center, or the center with a high staff turnover must by definition remain a merely custodial place, must rely on an overdose of behavior modification, without motivating the individual, and must therefore turn out children who are easy to manage, stupid, often sickly, well-behaved

in order to avoid trouble, without developing inner controls.

The custodial day care center manufactures future dropouts, unemployables, burdens to the taxpayer, and in doing so, it sharply increases class differences. For it's only the children who have no choice who land in such centers (not your children or mine), and no public school teacher can make them study, no matter how dedicated or talented he may be.

There is yet another danger inherent in the understaffed center: We virtually force children to seek support, company, stimulation from their peer groups. Too much of this too early in life prepares them for joining streetgangs.

I think the message is loud and clear: If we are setting up day care on a large scale, and if we don't want to produce a generation of quasi-deaf and dumb unresponsive children who in due time spawn another generation of quasi-deaf and dumb children, then we must provide quality day care.

That, if I may now remind you of some earlier statement, means that we sink our money in people. Not into a curriculum, or into a beautiful building, or into marvelous equipment—though we are certainly not opposed to any of these. But if we must cut corners (and it seems that we must) then let's not cut it on personnel.

There remains one issue that is currently much talked about It is parent involvement. What do we mean by that? Participation? Government? Perhaps. And perhaps not. Many mothers and fathers are too burdened as it is. Some ethnic groups abhor the idea of parents [especially mothers] running things. But everywhere under all circumstances for people of all races, colors, creeds, income groups, here is one of the essentials of development: Young children learn, unfold, thrive, in constant interchange with a parent. Lethargic, deprived, angry, sick people make bad parents. Parent involvement, then, whether or not it means participation, means under all circumstances that the needs of human beings must be met up to that point where they foster the growth of their own children.

Now for some utopian picture on the horizon. What could day care become ideally? Occasionally an idea springs up that was meant to benefit the poor, but turned out such an excellent idea that everybody wanted it. Health insurance was such an idea. The Montessori system and indeed before that, Froebel Kindergarten. If I may share with you some subjective impressions, Head Start had a similar effect.

It is true that the Westinghouse Study proved convincingly that Head Start failed to perform miracles. It failed to kill off rats in tenements, it failed to improve the economy, the awesome complexities of big cities, crime and graft, and it didn't do away with the war in Southeast Asia, cancer or the common cold.

And so, kids continued to have problems in grade school.

On the other hand, Head Start convinced mothers—poor illiterate mothers—that they could learn and indeed become their children's teachers, that they could have their teeth fixed, take up dressmaking and look attractive, serve balanced menus, generate a measure of beauty in their schools and homes, and above all believe in self-determination based on self-respect.

I will also stick my neck out and say that I am quite sure that Head Start helped people in all walks of life to take the first 5 years seriously and to discover the values of preschool education.

What was good about Head Start was people. People who set it up, people who were direct beneficiaries and people who learned from it. As we set up day care on a grand scale, let's please not forget people.

WHAT VETO MEANS TO CHICAGO

Some 100,000 Chicago children were affected last week by President Nixon's veto of a $2 billion dollar child-care program. Day care advocates say Thursday's action virtually killed any possibility for providing drastically needed services in the city and county.

In his statement to the press, the President showed a bias against what he called "communal approaches to child rearing" and said he felt day care centers were a threat to family stability.

"Good public policy requires that we enhance rather than diminish both parental authority and parental involvement with children, particularly in those decisive early years when social attitudes and a conscience are formed, and religious and moral principles are first inculcated."

The child-care provisions had been submitted as a rider on a bill authorizing continued operation of the U.S. Office of Economic Opportunity for two more years. Nixon urged Congress to send him another version before adjourning for the holidays, but without the child-development section.

Opposition to the veto by child-care experts in Chicago was nearly unanimous. It was expressed by Mrs. Murrell Syler, day care administrator in the mayor's office; Mrs. Sylvia Cotten, president of the Crisis Committee on Day Care; Miss Olive Greensfelder, vice president of the League of Women Voters, and Mrs. Heather Booth, chairman of the Action Committee for Decent Childcare.

Ald. Christopher B. Cohen, whose 44th ward includes the low-income Uptown and Lakeview communities, said: "The veto by President Nixon shows his cynical disregard for the poor, the children and the working mothers of this country."

SUFFER LITTLE CHILDREN

Mr. WILLIAMS. Mr. President, while the intensive bombing and emphasis on an American-directed military victory in Vietnam continues, the devastating social problems of that country receive low priority consideration.

The United States clearly has a responsibility to help the Vietnamese people resolve their war-related problems, among which probably the most acute involves the children.

For many months now, I have given particular attention to the problems facing the children of Vietnam and I have been dismayed by my findings. Although children under 15 comprise nearly 45 percent of the population, they receive negligible attention and concern from the Vietnamese or the American Governments until they reach the draft age. Literally thousands of children can be found living and struggling for their survival on the streets of the larger cities which generally are severely overcrowded and underdeveloped. The infrequent government support or involvement in this situation is meager at best, and deadly at the worst. Even the government-supported orphanages receive poor treatment.

Because of the dire need for positive action focusing on the problems of Vietnamese children, I have introduced, along with Senators HUGHES and HATFIELD, S. 2497, which will establish the Vietnam Child Care Agency. The agency will work specifically on improving, in Vietnam, the conditions and lives of children who have been orphaned or disadvantaged by the war. The agency would coordinate day-care, health, hostel, orphanage, and training programs with the Vietnamese Government and international voluntary service organizations. Furthermore, the agency, supplementing the development of programs in Vietnam, would negotiate with the Vietnamese and American Governments to ease the regulations concerning intercountry adoptions.

I am pleased to say that we have been joined by 14 of our colleagues from both sides of the aisle as cosponsors and that a nearly identical bill has been introduced in the House by Congressmen WHALEN, KYROS, KASTENMEIER, and DWYER.

On February 15, the New York Times printed an editorial, "Suffer Little Children," which discusses this worsening situation. I ask unanimous consent that the editorial be included in the RECORD.

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

[From the New York Times, Tuesday, Feb. 15, 1972]

SUFFER LITTLE CHILDREN

President Thieu's repressive national police have written another ugly chapter in the annals of Vietnamization with their recent assault on and subsequent dismemberment of an alleged hotbed of antiwar and anti-Government activity—South Vietnam's largest orphanage at Longthanh Village, near Saigon.

Even if the orphanage harbored draft-dodgers and was misused for political purposes by its Buddhist sponsors, as the Government contends, there can be no excuse for the heavy-handed police tactics employed. These included a midnight attack by policemen armed with clubs and water hoses and firing tear-gas grenades, and the ultimate evacuation of nearly 3,000 terrorized children to parts unknown. Nuns say that three boys died from tear-gas poisoning and that others were seriously injured in the raid.

Equally shocking is the cold indifference displayed by an American advisor to the Vietnamese national police who dismissed the incident as "strictly a Vietnamese affair." Such brutal repression is wholly unacceptable on the part of a Government dependent on massive American economic, military and diplomatic support. These orphans are an American concern, especially since some of them are the abandoned offspring of American servicemen and many more are victims of a war in which the United States continues to be deeply involved.

The Longthanh incident is a singularly grotesque symbol of a much larger problem of child abuse and neglect in South Vietnam. It should spur Congress to act favorably on a bill, sponsored by Senators Hatfield, Williams and Hughes, which would create a new Child Care Agency to seek a long-term solution of the problem of the abandoned children of South Vietnam, many of them, we repeat, half-American.

THE FUTURE OF AMERICAN TECHNOLOGY

Mr. GOLDWATER. Mr. President, ever since the defeat of the SST program last year, I have been greatly concerned over the future of American technology and what that means to the United States and the rest of the world.

We are witnessing today what amounts to a senseless war on science and technology which is threatening to reduce America to a second-class military power and a second- or third-class

economic power. In following the lead of Senate liberals in their largely successful attack on scientific progress we have managed to create a crisis situation which experts tell us is bordering on a national calamity.

A stark outline of this problem was sketched for the National Security Industrial Association, meeting in Washington on February 8, by Edgar M. Cortright, Director of the NASA Langley Research Center at Hampton, Va. He said the attack on science has become so serious that it has put tens of thousands of scientists out of work, created serious setbacks in our aerospace industry, caused a sharp decline of student interest in science and engineering and weakened our technical colleges and universities.

Because of the great importance of this subject, I ask unanimous consent that Mr. Cortright's address be printed in the RECORD.

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

TECHNOLOGY AND OUR FUTURE

(By Edgar M. Cortright)

Gentlemen: I'm glad to be here today. It's good to see some old friends from my stint on the Washington scene. And it's a welcome opportunity to speak out on one of my favorite topics—the importance of continuing to advance our national technology.

I do have some misgivings about speaking on this subject to this particular group. As representatives of the Nation's high technology industries, you may enjoy a little pep talk—but you surely don't need any convincing. This talk is really designed for the average man on the street who is trying to make up his mind as to where to place his bets.

During the past year I've tried out most of these thoughts on lay groups with good response. I will continue to do so on every chance I get. So should you. If we don't carry the fight for technology—who will? And if we lose it, and watch our country begin its decline toward a second class military and economic power, there will be little consolation in knowing that we were right.

For most of our lifetimes, science and technology have worn a "white hat." They have represented our attempts to understand the physical laws which govern us and our universe; and our efforts to apply those laws to improve man's condition on Earth.

Because we've worked hard at it, we have generated an explosion of ideas, discoveries, inventions, and new technologies during the past century. By tapping the energy of the sun stored in fossil fuels, and more recently the energy of the atomic nucleus, man has energized the world. We are illuminated, heated, and cooled at the flick of a switch. Many chores are now handled by electric appliances. We speak to our friends and business associates half a world away—sometimes by satellite. We have seen the automobile, airplane, and spaceship open up undreamed of opportunities for travel. Should we elect to stay at home, the activities of the entire earth—and sometimes the moon—are but an arm's reach to our television sets.

Similarly, we have made great strides in medicine and biology—without which perhaps as many as half of this audience would not be here today. With the remarkable advances in molecular biology, such as the unravelling of the genetic code, the potential for understanding ourselves and treating our ills seems unlimited.

But I've only touched on the positive aspects of science and technology. There is another side to the story which relates to unwanted side effects. During the past decade we have become acutely aware that we are polluting our own environment—fouling our own nest. The same fossile fuels that launched the industrial revolution are choking people and plants to death in some parts of the world. The refrain "Welcome sulphur dioxide, welcome carbon monoxide—the air, the air is everywhere" has a disturbing jolt to it.

Many of the same agricultural chemicals that enable about 5 percent of our population to feed the rest of us are beginning to show up in strange places, with strange effects. Modern plumbing, which is credited by some with saving more lives than modern medicine, has merely delivered the waste of the city dwellers into the streams and onto the beaches of his country neighbors—or perhaps to his weekend retreat. Out of sight—out of mind.

We have come only recently to realize that the vastness of the oceans, and the skies above them, are but limited repositories for man's waste products, from which nothing escapes. Our earth is truly a spaceship with four or five billion passengers—passengers with little understanding or control of their delicate ecological balance, and apparently intent on reproducing themselves at a fantastic rate.

Another aspect of science and technology that concerns most people is its destructive potential in the form of weapons. Man seems powerless to restrain himself from killing his fellow man for one reason or another. "Man is a hunter, and his prey is—us," someone once said. So, today we find ourselves in the ludicrous position of sitting with our trigger fingers on enough nuclear rockets to destroy the world, while the other guy does the same. What a grotesque application of our intellect!

What frightens many people is the mind-boggling rapidity with which these developments are taking place. If the four billion years of our earth were to be compressed into just one year, then Christ walked the streets of Jerusalem just 15 seconds ago, and the industrial revolution began only a second ago. Man and his works have evolved in the twinkling of an eye! If so—what might the next twinkling hold in store for us—bad as well as good? Should we slow it all down? Can we?

These are but a few examples of the philosophical arguments which are raging over technology in many circles today. Lawrence Lessing in the March issue of Fortune calls it "The Senseless War on Science." As Lessing puts it, "The immense prestige of U.S. science is being undermined by assaults from several different directions. If this wildly irrational campaign doesn't end soon, the U. S. can become a second-rate power and a third-rate place to live." Dr. Philip Handler, President of the National Academy of Sciences says, "if we foreswear more science and technology, there can be no cleaning up of our cities, no progress in mass transportation, no salvage of our once beautiful landscape, and no control of overpopulation. Those who scoff at technological solutions to those problems have no alternative solutions." The anti-technologists are just as vehement on the other side.

The immediate effect of all this debate is to slow down the advance of technology in the United States. Even in a favorable environment it is often difficult to launch effective new programs in this country. Look how hard it is to get the domestic programs going which are so urgently needed! In an unfavorable environment it can be nearly impossible. And the environment today is distinctly unfavorable for science and technology. Some of the indicators are:

1. Technological timidity on the part of an increasing number of our leaders.

2. Increasing attacks on areas of technical activity which are in good shape—but soon won't be!

3. Tens of thousands of unemployed scientists and engineers.

4. Serious setbacks in our aerospace industry.

5. Loss of student interest in science and engineering.

6. Weakening of our technical colleges and universities.

In my view, it is a crisis situation bordering on a national calamity. It could take years to recover. Let me elaborate on this point, and express a few thoughts on what to do about it.

One thing we've got to do more effectively is to get people to listen to the case for technology. Then we must make the case well.

How does one get the attention and due consideration of the public and congress these days? I'd like to suggest that we must *earn* it. We must earn it not merely by doing our aerospace jobs well, but by special acts of public service—acts which recognize some of the "superproblems" which face this Country today.

I define a superproblem as one in which many separate problems interact in one gigantic integrated problem. Environmental control is one such superproblem—involving pollution, power, transportation, and the economy.

Superproblems are relatively new. In the past we each could work our separate fields somewhat independent of the other guy. Today, we are beginning to see the interactions and the need for a much more sophisticated approach. This is where we come in.

As the most technically sophisticated industries in the world, we must play a strong role in attacking the superproblems of today—and in avoiding the superproblems of tomorrow. We must take the initiative in developing solutions. We must volunteer help to our local, state, and federal governments—help in the form of ideas, technical analyses and support, and just plain, hard work. We must do this without compensation, if necessary, and sometimes without even encouragement.

Many companies *are* doing just this. Some have gotten discouraged. My message to you is this: Don't lose heart—the name of the game is perseverance! The stakes are unimaginably high. And, in addition to serving mankind, there will be the additional benefit of gaining the attention to our own special problems that we need—then we must make our case for technology. My case is this.

This Country must decide what it wants to be. Today we have the highest standard of living, the most advanced technology, and the greatest capacity to do good works of any nation in the world. Most Americans would like to keep it that way! Sure, we have plenty of problem areas which need attention. But, like Phil Handler, I feel that we will need our technology both to attack these problems directly, and to stay economically strong enough to do so.

Whether all of us like it or not, we *are* a technological nation. Our entire business and commerce structure is built on technology. With our high pay scales, advanced technology is the only thing that lets us compete favorably with the lower priced labor markets of the world. Even so, we have lost major portions of the manufacturing market to foreign competition in recent years.

The February 7 issue of "U.S. News" helps us understand the seriousness of this situation. Our big trade surpluses are as follows: aircraft—$3.6 B, computers—$1.1B, fabricating machinery—$1 B, chemicals—$800 M, construction machinery—$700 M, power-generating machinery—$600 M, and synthetic materials $500 M. Our big trade deficits are motor vehicles—$3.3 B, clothing textiles—$1.9 B, iron and steel—$1.9 B, nonferrous metals—

$800 M, footwear—$800 M, and telecommunications equipment—$600 M.

The trend is unfavorable. Last year five nations—Japan, Italy, Canada, West Germany, and France increased their exports of manufactured goods far more than we. Four of them lead us in spending on plants and equipment. Deeper and deeper inroads are being made into technological product lines in which we once felt secure. I personally feel that our dominance of the commercial aircraft field—our greatest asset in the balance of payments—will soon come to an end unless the United States decides to fight to maintain its present favorable position. Our cancellation of the development of a supersonic transport heralded to the world our withdrawal from this competition. Frankly my foreign counterparts in Britain and France were incredulous—but happy—that this Country would do such a thing in the face of a potential market of over $20 billion for supersonic transports in the next 15 years.

I am not an economist. I do not fully understand all of the ramifications of our balance of payments. But I do understand this. We export or we don't import. If we don't import we do without foreign goods that will then have to be made here at greater cost. Our standard of living then declines—and the economic health of the entire world suffers. We must continue to develop high technology export leaders, such as supersonic transports, because we have little to fall back on. I will come back to this point.

One of the prime counter arguments one hears these days against advanced technology is that it depends too much on government research and development funds. The cry has gone up that tax revenue should be fed back to the public in the form of public services. Is there really any doubt that this has happened on a gigantic scale? Over half of our tax dollar comes back to us through such domestic programs. The percentage is climbing. Since 1969 the following changes have taken place in our Federal Budget. The total has increased from $191 B to $246 B. While this increase of $55 B was taking place, our defense budget dropped from $81.2 B to $78.3 B, and our space budget from $4.2 B to $3.2. So called civil sector programs and services consume over half the budget. The big increases have been social security, welfare, and other benefits +$32 B; health +$8.5 B; veterans' benefits +$4.1 B; transportation and commerce +$3.7 B; environment and national resources +$3.1 B; housing +$2.8 B; and education +$2.2 B.

Certainly the government has attempted to respond to the civil needs. But in so doing there is a danger of killing the goose that laid the golden egg. The two areas that have declined, defense and space, are those that have paced the technological development of this Country for the past thirty years. This impact is even more serious when one realizes that the costs of supplying the war have further cut into new military technological developments.

Last year only about 7 percent of our tax dollar was spent on R&D. This is too low for a technological nation such as the United States. I believe the Administration is trying to build this up but the competition for dollars is tough. Just like any successful business, the United States must plow back some of its gross national product into developing new opportunities for us all. Contrary to some views, private industry cannot do it all—and never could. There are some industrial and economic ventures that are simply beyond the capacity of any company or group of companies to finance on their own. In many cases the risk is too high to attract investors. If these new opportunities are sufficiently important to the Nation's future, then it is the responsibility of the Federal government to act on behalf of all Americans to reach for these opportunities. This is our system. If this Country wants to continue to market aircraft, for example, some form of government support will be required. This is an economic fact of life. Sensing the importance of this particular market, foreign governments *are* sponsoring new aircraft developments. This is the nature of our competition.

With foreign competition as tough as it is, how then are we to maintain our preeminence in science and technology? The answer is relatively simple. We must continue to work on the most challenging and difficult scientific and technological problems of our day. There simply is no other way—none.

The best scientists and engineers thrive on tough problems. Tough problems demand new approaches and advanced techniques. It doesn't matter too much what the field is so long as the problems are challenging and difficult. In solving them, the frontiers of science and technology are pushed back on all fronts. From this process invariably come practical applications which benefit everyone. Frequently they are unexpected offshoots of the prime objective. Such is the way of science.

Like it or not, military weapons requirements have sparked many of the technological developments in this Country in the past. From them have come modern air transportation, nuclear power, solid state electronics, and a host of other technological advances. Today, in addition, we have some good nonmilitary alternatives to set the pace for our science and technology. They are in such scientific fields as biophysics and the life sciences, ultra-high energy physics, and plasma physics and controlled fusion. And they are in such applied fields as transportation, space, power, oceanography, and the environment.

Each of these fields could be used to illustrate the point. But because I'm most familiar with aerospace, I will close this talk by emphasizing several outstanding opportunities for technological developments in aeronautics which I think the United States should seize upon at the earliest opportunity.

These are in the area of civil air transportation. The growth of air transportation is one of the most remarkable technological developments of the twentieth century. It has provided almost unlimited mobility to hundreds of millions of people all over the world. In so doing, it has opened up new vistas of economic development and has offered the promise that one day nearly everyone will have his chance to see the world.

An average of eight forecasts indicates that by 1990 the western world air traffic will grow from the current 300 billion passenger miles per year to a staggering rate of 1.5 trillion passenger miles. A corresponding market potential for new aircraft of over $100 billion by 1985 is indicated. About 60 percent of this market will be for aircraft not yet certificated.

But there are several impediments to the United States realizing its share of this new aircraft market. First, with the Concorde and the European airbus nearing certification, and with foreign STOL developments underway, we can expect to lose a large portion of it to overseas competition. That is unless we do something about it. Second, to do something about it will require Federal assistance of some form to our hard pressed aircraft industry due to the difficulty of locating sufficient private risk capital to underwrite new transport developments. As I said before, foreign governments are doing this in order to capture a greater share of the market. Third, the projected market might not actually materialize unless we solve some of the technological problems which constrain its development—namely noise and congestion.

If we want our share of this market, and I see no viable alternatives in the balance of trade, What then must we do? We must get back into the competition by undertaking to develop competitive aircraft for the future. The most promising aircraft types appear to be STOL transports, advanced technology—high subsonic transports, and second generation supersonic transports. The sales potential through 1985 for these aircraft has been estimated at about $10 billion each even with a successful Concorde.

NASA's ongoing experimental QUESTOL project to provide the necessary technology for quiet STOL aircraft is already underway. Such aircraft could be in widespread service by about 1980, providing all weather operation from 2000-foot runways.

The advanced technology for the next generation of long range wide-body subsonic or transonic jet transports is also being actively pursued by both government and industry. The potential for 10 percent reduction in both noise and operating costs is foreseen, along with speed increases of 10 percent.

It is in the area of the supersonic transport that we must really face the handwriting on the wall. This is hard to do because we are still smarting from the bare knuckle give and take that preceded the demise of our first SST. However, I believe that the following points are becoming increasingly clear:

1. The day will come when virtually all intercontinental and some transcontinental air traffic will be supersonic—or faster.

2. The United States must develop a supersonic transport or abdicate its enviable position as master builder of the world's commercial aircraft.

3. We do not have too much time to make up our minds. Are we in, or are we out?

If we decide to get back in this competition there are certain facts we must face up to:

1. The next United States SST must be better than the one we cancelled. It must be quieter, have a greater payload fraction, and have longer range—trans-Pacific if possible.

2. The United States SST must be better than the competition. Because of the time we have lost, the competition will not be the Concorde, but a follow-on super-Concorde of unknown characteristics.

These facts dictate that we proceed with a sense of urgency in the development of the necessary technology to produce a superior aircraft. I believe that there is a remarkable unanimity in the aircraft and air transport industries that a good SST would be a winner for the United States—creating jobs and National income.

This brings me to the last point I would like to impress upon you. Remember that I said that we need more than new aircraft to realize our share of the potential market. We also need to solve the problems of noise and congestion. Here I would like to cite the joint DOT/NASA CARD policy study as providing a national roadmap to a solution of these ills. Aircraft noise can and must be reduced to an acceptable level. I am confident that R&D now underway will lead to acceptable noise levels for all future transport aircraft. The congestion problem too can be solved by the vigorous application of advanced technology. Integrated digital avionics providing improved en-route and terminal navigation and traffic control and automatic all-weather landings, when coupled with improved ground ATC, should bring this problem under control. The United States has a clear advantage here having developed much of the necessary technology through space electronic developments. We should move out to capitalize on this advantage—while it lasts!

I wish there were more time to go on. The fact is that there are many such technological opportunites for the United States if we have the courage and energy to grasp them: The space shuttle, experimental military aircraft, a hypersonic research aircraft, and numerous new applications of earth satellites to name a few in the aerospace field. If I sound a little aggressive its because I am. I'm tired of hearing why we can't do some of these things that need doing. I think its time we pulled ourselves together and did them.

RULES OF COMMITTEE ON AERONAUTICAL AND SPACE SCIENCES

Mr. ANDERSON. Mr. President, section 133B of the Legislative Reorganization Act of 1946, as amended, requires that each committee have its rules printed in the CONGRESSIONAL RECORD not later than March 1 of each year. In accordance with that rule, I ask unanimous consent that the rules of the Committee on Aeronautical and Space Sciences be printed in the RECORD.

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

AERONAUTICAL AND SPACE SCIENCES COMMITTEE RULES

(Ninety-second Congress, second session, 1972)

Rules governing the Procedure of the Senate Committee on Aeronautical and Space Sciences, adopted pursuant to Sec. 133(b) of the Legislative Reorganization Act of 1946, as amended:

1. MEETINGS

The meetings of the committee shall be on Tuesday of each week at 10:30 a.m. or upon call of the chairman.

2. NOMINATIONS

Unless otherwise ordered by the committee, nominations referred to the committee shall be held for at least seven (7) days before presentation in a meeting for action. Upon reference of nominations to the committee, copies of the nomination references shall be furnished each member of the committee.

3. HEARINGS

(a) No hearing on an investigation shall be initiated unless the committee or subcommittee has specifically authorized such hearings.

(b) No hearing of the committee or any subcommittee thereof shall be scheduled outside of the District of Columbia except by the majority vote of the committee or subcommittee.

(c) No confidential testimony taken or confidential material presented in an executive hearing of the committee or subcommittee thereof or any report of the proceedings of such an executive hearing shall be made public, either in whole or in part or by way of summary, unless authorized by a majority of the members of the committee or subcommittee.

(d) Any witness summoned to a public or executive hearing may be accompanied by counsel of his own choosing who shall be permitted while the witness is testifying to advise him of his legal rights.

4. QUORUM

Three Senators, one of whom shall be a member of the minority party, shall constitute a quorum of the Senate Committee on Aeronautical and Space Sciences for the purpose of taking sworn testimony, unless otherwise ordered by the full committee. Each duly appointed subcommittee of the Committee on Aeronautical and Space Sciences is instructed (1) to fix, in appropriate cases, the number of its entire membership who shall constitute a quorum of such subcommittee for the purpose of taking sworn testimony, and (2) to determine the circumstances under which subpenas may be issued and the member or members over whose signatures subpenas shall be issued.

ANNIVERSARY OF ESTONIAN INDEPENDENCE

Mr. CURTIS. Mr. President, 54 years ago, on February 24, 1918, the people of Estonia formally proclaimed their independence.

They were renouncing the ancient oppression of the Russia of the czars and challenging the new tyranny of the Russia of the Communists.

Thus, did Estonia, along with Lithuania and Latvia, choose to form a bastion of freedom along the Baltic flank of the most powerful, the largest, and one of the cruelest tyrannies in modern history.

Perhaps it would have been safer, and certainly easier to have sought union with the larger nations surrounding her. Instead, the Estonians chose the most precarious and dangerous course of all, because they had learned that freedom is worth all dangers, all risks.

For centuries, this small nation with no geographic barriers had suffered under German, Polish, Danish, Swedish, and Russian occupation.

They held firm. They never lost their precious identity of language, custom, culture, and faith.

Only when we keep these facts in mind, do we really understand why they leaped at the chance for freedom in 1918, even if it meant living on the edge of the knife, always in danger of attack from the great powers to the west and to the east.

This explains as well why these proud, tough Baltic peoples are among the most passionately patriotic of all the immigrants who have enriched our land. They have carried that fierce desire for freedom in their minds, in their hearts, in their very bones for century upon century.

And when they find freedom, it is second in their scale of values only to their deeply held religious beliefs.

For 22 years Estonia was a recognized entity among the family of nations.

In the history of nations, some fall through inner corruption or some gross mistake in foreign policy.

Estonia can be charged with neither. She, along with Lithuania and Latvia, was overwhelmed by the massive arrogance, greed, and power of the two most devastating forces in 20th century Europe, Nazi Germany, and Communist Russia.

Buffeted and brutalized by alternate conquest and occupation, Estonia finally was dragged back into the grasp of the worst practitioner of imperialism in our time, Soviet Russia.

To our own Nation's credit, we have never recognized this Communist conquest of the Baltic Republics. It is a policy that we must continue, and once more I pledge my total support to that end.

Finally, to my fellow Americans, I urge us to learn the lesson of Estonia well, lest we put too cheap a price on our own magnificently free society.

FINANCING OF SCHOOL DISTRICTS

Mr. PEARSON. Mr. President, the fact that the reliance on property taxes to finance public schools creates inequitable burdens on taxpayers and unequal educational opportunity for children is now widely recognized in this country. I have received numerous letters which express clearly and concisely this complex problem.

The letters, written by officials responsible for the financing and administration of a school district in Kansas, demonstrate clearly why we must increase Federal aid to education and improve the methods by which it is distributed.

I ask unanimous consent to have printed in the RECORD letters from Mr. John F. Schnieders, president, board of education of Unified District 499, and Mr. F. K. Pontious, superintendent, so that Senators may understand, in the words of the people who must face educational finance problems daily, why we must act promptly.

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

UNIFIED SCHOOL DISTRICT NO. 499,
Galena, Kans., February 11, 1972.

Hon. JAMES B. PEARSON,
U.S. Senator,
Washington, D.C.

DEAR SENATOR PEARSON: Our school district is one of the distressed schools in Kansas and the foundation formula does not provide equalization for schools of our type. Direct federal aid to the boards of education is desperately needed to reduce property taxes and bring about equalization in property tax levies and equalization in educational opportunities. We are imploring you to support and approve such legislation.

In the present situation many schools are able to get money for extensive programs, while other schools are financially unable to provide necessary and minimal programs. We would certainly appreciate anything you might be able to do to help this situation.

We again appeal to you to provide and support legislation for direct federal aid to go directly to Boards of Education. Thanking you for your support, I remain

Yours sincerely,

F. K. PONTIOUS,
Superintendent.

UNIFIED SCHOOL DISTRICT NO. 499,
Galena, Kans., February 8, 1972.

Hon. JAMES B. PEARSON,
U.S. Senator,
Washington, D.C.

DEAR SENATOR PEARSON: The dilemma relative to the school funding is that categorically many schools are able to get money for extensive programs, while other schools are financially unable to provide necessary and minimal programs. Therefore, we appeal to you to provide and support legislation for direct federal aid to go directly to Boards of Education.

Our school district is one of the distressed schools in Kansas and the foundation formula does not provide equalization for schools of our type. Consequently, we are asking that direct aid be given public schools wherein exorbitant high property taxes can be lowered. The categorical aid given for the many federal aid school programs does not alleviate the tax situation.

Thanking you for your support, I remain

Yours sincerely,

JOHN F. SCHNIEDERS,
President, Board of Education.

SENATOR CARL HAYDEN

Mr. BENNETT. Mr. President, it was with a deep sense of personal loss that I learned of the passing of Senator Carl Hayden of Arizona.

His service to the people of Arizona in the Congress of the United States spanned the time from the day Arizona entered the Union until his retirement in 1968. During that time he left his imprint on much of the important legislation that was enacted during that time.

His concern for the conservation of our natural resources was well known. His efforts to obtain the maximum benefits from the resources were culminated by the passage of numerous projects that have aided in the growth and development of our country particularly in the West.

All of these achievements have been duly noted by historians and they will undoubtedly become more significant as the people of the West continue to enjoy the advantages of having an adequate water supply and an ample supply of power. But perhaps the one single thing that causes those of us in the Senate who had the pleasure of serving with Carl Hayden is that we will no longer have his counsel to learn from and his friendship to enjoy.

Carl Hayden's personal life, as I knew him, was characterized by fairness and honesty. He was never one who required columns and columns of newsprint lauding his praises to motivate him in his work. He worked and worked hard for those things that he believed in, not being particularly concerned with who got the credit for them. He was not known for his lengthy speeches or showy committee hearings, rather he was a man who kept his word once it was given and got the job done without a lot of fuss. His fine character earned him the respect of not only those who served with him in the Congress but of all those who knew him.

Above all else, the real monument that Carl Hayden will leave to the rest of us will be the memory of a dedicated man who served the people of his State and the people of this great Nation to the best of his ability.

THE SPACE SHUTTLE

Mr. ANDERSON. Mr. President, on January 5, 1972, the President announced his decision to proceed with the development of the space shuttle. The space shuttle is just what its name implies, it is a transportation system to carry payloads from the surface of the earth to near-earth orbit. Its payloads will be materials, automated satellites, and men.

The space shuttle will replace practically all existing space launch vehicles. It will carry just about everything that needs to be transported from the surface of the earth into space. Even small payloads could simply "piggyback" into space on board a shuttle flight. Larger payloads will be modularized to fit into the shuttle payload bay and assembled in orbit to make up whatever size payload is required.

The space shuttle is envisioned as a two-stage vehicle, an orbital vehicle and a booster vehicle. The orbiter vehicle will be piloted and after finishing its mission in space will be deorbited and will land on the surface of the earth much like present day aircraft. The orbiter is manned because that is the best and cheapest solution to its operation. The booster vehicle will be unmanned but will be returned to the surface of the earth intact and reused. While most aspects of the orbiter are now pretty well defined, the specific booster concept will not be selected until current studies are completed.

Mr. President, it is my intention, during its hearings this session on the NASA fiscal year 1973 authorization bill, S. 3094, that the committee delve deeply into space shuttle plans and management. The Committee on Aeronautical and Space Sciences has been following the evolution of the space shuttle closely since its inception and we will continue to do so. I have directed the professional staff to follow the shuttle program on a continuing basis and to review the principal shuttle studies. This has been the top priority assignment for the staff for more than a year and will continue to be.

I have been in close touch with the Administrator of NASA on the space shuttle and on January 14, he wrote me to inform the committee in some detail of their recent shuttle studies and planning. Mr. President, I ask unanimous consent that the Administrator's letter of January 14 be printed at this point in the RECORD.

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

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION,
Washington, D.C., January 14, 1972.

HON. CLINTON P. ANDERSON,
Chairman, Committee on Aeronautical and Space Sciences, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: I am writing to inform you and the Committee in some detail of the developments in our studies and planning for the space shuttle which were the basis for the President's decision that we should proceed with the development of the space shuttle, and of the steps we now plan to take to get that work underway.

As you know, the FY 1972 budget for the space shuttle submitted to and approved by the Congress last year provided, in addition to engine development, for continuing studies or starting development of the shuttle itself depending on the progress made in the studies. Our shuttle studies have now progressed to the point that we have been able to make a definite decision on the configuration concept and can now proceed to make the final trade-off decisions required for preparation and issuance of requests for proposals from prospective development contractors.

As reported in my letter of June 16, 1971, the results of our contractor Phase B studies then becoming available confirmed the technical feasibility of a reusable space shuttle. Since that time, as indicated in my subsequent letters on our space shuttle planning, the aim of our studies has been to identify alternative configuration concepts and program approaches which would substantially reduce development costs without sacrificing the principal objective sought in the program, i.e., a reusable system which, in addition to providing for future manned space flight missions, would provide a low cost flexible capability for launching and retrieving unmanned payloads from orbit.

The configuration concept we have now selected meets this objective. Its development cost will be half of what the fully reusable system originally conceived would have cost. We can develop this space shuttle within the framework of a total NASA program with annual budgets at approximately the present level.

It may be helpful if I review briefly how our thinking on the shuttle configuration concept has evolved during the past several months as the technical studies and evaluations have progressed. The lengthy process of study and successive iteration of alternatives we have followed is a necessary feature—and I believe a classic example—of the use of the systems engineering approach to balance complex technical and cost considerations to reach the proper decisions on a major new program.

1. The design concept to which the Phase B studies initiated in 1970 were originally addressed was a two-stage fully reusable system consisting of winged flyback booster and orbiter stages, with all fuel carried internally. We estimate that the development cost (excluding facilities) of such a system would have been about $10 billion.

2. The Phase B study work indicated, however, that the size of the system and its development cost would be reduced through the use of an external expendable liquid-hydrogen tank for the orbiter, with a small increase in operating costs per launch. The resulting "baseline" configuration was the subject of detailed cost analyses which indicated that its development cost (excluding facilities) would have been about $8.1 billion over about six years.

3. Further study showed that additional cost savings and technical advantages in the development program were feasible if *both* the liquid-oxygen and liquid-hydrogen for the orbiter were carried in an external tank that would be jettisoned in orbit. This change permitted the orbiter vehicle to be significantly smaller, thereby easing some development problems and reducing substantially orbiter development and procurement costs, with some additional increase in the recurring cost per flight. The orbiter and external hydrogen-oxygen tank configuration established at this point has remained essentially the same in all the configurations subsequently studied.

4. In parallel with other studies, we also investigated alternatives which might reduce the peak annual funding required for developing the space shuttle by "phasing" the development over a longer period of years. We examined in some detail the approach discussed in my letter of June 16, 1971, in which the orbiter would first be tested on an interim unmanned expendable booster, with development of the manned reusable booster to be undertaken later. We found, however, that the advantages to be gained did not justify the high development cost of the interim booster and the increased total cost and longer development time for the entire program.

5. We then examined various other ways in which the introduction of advanced technology might be phased to reduce costs. Out of these studies came the Mark I/Mark II concept referred to in my letter of October 6, 1971. Under this concept a Mark I shuttle with reduced capability would first be developed using less advanced technology and subsystems. As new technology and subsystems were developed, they would be introduced some years later in a Mark II shuttle which would have the full planned capabilities. Estimated development costs (excluding facilities) for the Mark I/Mark II approach, with a flyback booster using F-1 engines, were $6-7 billion.

6. Our studies of the Mark I/Mark II approach made it clear that any further substantial reduction in space shuttle development costs depended *on the use of an unmanned ballistic booster*. Accordingly, we focussed *intensive* study efforts on a variety of possible types. In December these studies established the following points:

a. The recoverable/reusable pressure-fed liquid (PFL) and expandable solid rocket motor (SRM) are the best candidate unmanned ballistic booster concepts.

b. A space shuttle configuration concept consisting of the previously defined orbiter and an unmanned ballistic booster of either the PFL or SRM type is technically feasible.

c. Development costs (excluding facilities)

would be about $5.5 billion with a PFL booster and less with a SRM booster.

d. Operating costs per flight would be about $7 to $10 million with a PFL booster and somewhat higher for a SRM booster.

7. Based on all the information available, we concluded that sufficient studies were now in hand to show that:

The configuration concept described above, with either a PFL or SRM booster, has lower development costs than any other configuration concept meeting the technical performance requirements and the basic objective of the space shuttle program.

The expected operating costs per flight are in a range that is *acceptable* in view of the very large reduction in development costs. The large cost savings inherent in the capability to recover and repair a wide variety of payloads will be the same as for the fully reusable system originally envisager.

The remaining open technical and cost questions on the PFL and SRM booster options can be resolved in about two months, permitting issuance of a request for proposals this spring and entering into the contract this summer.

These conclusions were the basis for NASA's recommendations and the President's approval for proceeding with development of the space shuttle.

We are now moving ahead with final studies and actions on the remaining open questions that must be resolved before the request for proposals can be issued. These include detailed studies to clarify certain technical aspects of both the SRM and PFL booster configurations and to provide a more precise forecast of the operating cost per launch that can be expected from these systems. In addition, we are making a study to revalidate earlier studies which indicated that the cost of the shuttle system would not be substantially less by reducing somewhat, but within acceptable limits, the precise payload size and weight requirements on which our planning is now based.

The results of all these studies are scheduled to be in hand in a few weeks and should put us in a position to make the final cost and technical trade-offs and the decisions required for issuing the request for proposals.

The decisions now reached on the configuration concept, and, as they become available, the results of the further studies described above, are being considered by the special board to evaluate launch sites for the space shuttle. As I have previously indicated, the final selection of sites for developmental and operational flights will be made after all pertinent technical operational, cost, and environmental factors have been analyzed and evaluated. Pending a report from the site evaluation board on the impact of the configuration concept decision, giving their assessment of the additional study and analyses required, I cannot at this time forecast when the site selection will be made.

I hope that this letter will give you and the Committee a useful summary of the basis for the decision on the space shuttle configuration concept and of the actions we now have underway. I am convinced that this decision will give the United States a space shuttle that

1. Is technically sound,

2. Meets the real future needs of the nation and the space program, and

3. Can be developed at the lowest possible cost consistent with meeting these objectives and within the framework of a balanced total NASA program with annual budgets at approximately the current level.

We look forward to discussing the program in further detail with you and the Committee during our hearings on the Fiscal Year 1973 budget request.

Sincerely,

JAMES C. FLETCHER,
Administrator.

Mr. ANDERSON. Mr. President, there has been criticism of the space shuttle by some that the shuttle is principally an effort to keep the so-called manned space program going. Mr. President, the space shuttle is not a "manned space program"; it is a transportation system that will put virtually all payloads including automated payloads—frequently called unmanned spacecraft—into low earth orbit around the earth at a substantially lower cost than payloads can be put there today. It is an effort to reduce the cost of space operations.

Mr. President, it is interesting that the editorial opinion of most of the country's leading newspapers has been in support of the President's decision to proceed with the space shuttle. No less a paper than the New York Times has supported this decision. In an editorial of January 8, the New York Times says:

President Nixon made a wise decision in authorizing the National Aeronautics and Space Administration to proceed with the development of the Space Shuttle.

For the full editorial, I refer Senators to volume 118, part 1, pages 273–274 of the CONGRESSIONAL RECORD, where it was inserted by the ranking minority member of the Space Committee, the Senator from Nebraska (Mr. CURTIS).

The Washington Evening Star, in an editorial in the CONGRESSIONAL RECORD, volume 118, part 2, page 1645—had this to say:

The space shuttle will cost $5 or $6 billion over a six-year period, and that is not an exorbitant outlay, it seems to us, for the continued gleaning of knowledge from space . . . Congress should go along with this proposed investment, knowing that if the country's highly efficient space organization is killed, it will not easily be revived. There's still much work to be done on those peaceful cosmic frontiers that can spread many benefits and much inspiration on this troubled earth.

The Washington Daily News of January 11 said:

Having started to climb a "stairway to the stars" it would be stupid to stop at midstair.

So the President's announcement that he has approved a $5.5 billion six-year project to develop two test space shuttles is welcome news.

Altho the cost seems huge, shuttle craft would be a long-range economy . . .

The Daily News editorial notes that:

Dollar for dollar, efforts to solve social problems probably have been less productive than the space effort.

The editorial ends by saying:

Another virtue of the program is spiritual. Man needs a challenge.

He lives not by bread alone. He nourishes himself also on seemingly "impossible" dreams. He needs, according to folk wisdom, to "shoot for the stars."

Now, at last, the target may well be within reach. And it would be a sorry people who at this point turned away from the target.

The Cleveland Plain Dealer, on January 6, 1972, supported the shuttle and said:

President Nixon's green light for development of the space shuttle was essential if the American space program is to progress and operate economically.

The Times-Picayune of New Orleans on January 7 said:

The presidential "go" for a six-year, $5.5 billion program to develop the reusable space shuttle may get a lot of flak as it takes off, but it represents the logical and necessary next leap toward the equally logical and necessary use of space by man.

The Atlanta Constitution of January 7 said:

. . . we're inclined at this stage to support President Nixon's go-ahead for several reasons. For one thing, it's bad policy to ignore the future entirely and concentrate on the pressing problems of the present. We are already heavily committed to dealing with the problems of the present, constant criticism notwithstanding. Perhaps we ought to be even more heavily committed. But if we are to do anything at all about the future, we ought to be prepared to pay for it, to invest in it. Otherwise, we can't expect much from it.

The St. Louis Globe-Democrat of January 7 says:

There are so many potentialities for the shuttle that it is hard to envision all of them.

Chicago Today, on January 7, said:

We believe the space shuttle program is advisable if only to realize the investments in space we've made so far.

The Kansas City Star of January 7 said:

The next great step in space for the United States seems assured . . . In view of the record of space accomplishments, there is not much doubt that the planned space shuttle program will be fruitful both from the standpoint of technological success and long-range scientific benefits.

About the prospects of the shuttle, the Star had this to say:

Certainly they promise enough to justify the effort even though it must, perforce, be measured against other national priorities, many of them urgent. Some will ask whether the U.S. should spend $5.5 billion over the next six years on a space project when so much is needed for education, medical aid, including research in the cure and prevention of diseases, public transportation and the problems of urban decay.

The answer should be that the United States has the resources to provide for all these requirements and continue to move ahead in space science as well. Certainly the amount indicated for the space shuttle program is not prohibitive. It would represent only a small fraction of the sums being spent on defense and the operations of government bureaucracy.

The New Haven Register of January 7 said:

The shuttle concept proposed is exciting enough to revive national interest in space, with all the benefits that go with it. Uncertainty over our direction in space has been eliminated. A big decision has been made, a decision that should end the delays that have severely handicapped the U.S. space endeavor.

The Detroit News of January 8 puts it simply:

If we don't press on, others will.

The Milwaukee Journal in its editorial of January 7 sums it up succinctly:

It is a worthwhile program.

The Christian Science Monitor of January 7 says:

We would argue that a space shuttle program, because it is so practically linked to fulfilling man's age-old vision of mastering the heavens, will unleash more constructive

human energy than it will consume. And this excess will make meeting earthside demands the easier.

Mr. President, not many of the programs announced by the President have received such widespread support. I congratulate him on taking the step.

In an effort to reduce development costs, the shuttle that is now being requested by NASA is substantially different from the one presented to the Congress last year. The committee, of course, will explore these differences during the authorization hearings on the fiscal year 1973 budget. We will continue our oversight of the space shuttle program and will ask many penetrating questions. We will insist that before NASA proceeds with the next phase of the space shuttle program that the program is properly defined and under control with respect to cost and schedules. When we bring the authorization bill to the floor, I am confident that we will be able to present sufficient information upon which to make a sound judgment on this program.

Mr. President, I ask unanimous consent that the newspaper articles from which I quoted and which have not previously been printed in the RECORD, be printed at the conclusion of my remarks.

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

[From the Washington Daily News, Jan. 11, 1972]

STAYING UP THERE

Having started to climb a "stairway to the stars" it would be stupid to stop at mid-stair.

So the President's announcement that he has approved a $5.5 billion six-year project to develop two test space shuttles is welcome news.

Altho the cost seems huge, shuttle craft would be a long-range economy in that they represent only about one-fourth the cost of the Apollo moon program and the ships would be reuseable in trips into and back from space. The shuttle program's cost in fact, represents about the minimum possible to keep the country in the manned space business.

Congressional outcry has been heard and more can be expected: Why continue the voyage into space when earthly needs are so urgent?

The answers are as obvious as the question:

Ignoring the challenge of space would not of itself solve earth's ills.

Dollar for dollar, efforts to solve social problems probably have been less productive than the space effort.

In New York City, for instance, a grand jury has found that $1 billion (repeat billion) in Medicaid payments "went down the drain" because of malpractice, cheating and poor administration of a compassionate program to aid the medically indigent.

More positively, the spinoff from the space program has indisputably created jobs and the marketing of new products useful to earthlings—including everything from new TV transistors to medical devices. The space shuttle itself is expected to create 50,000 jobs.

Another virtue of the program is spiritual. Man needs a challenge.

He lives not by bread alone. He nourishes himself also on seemingly "impossible" dreams. He needs, according to folk wisdom, to "shoot for the stars."

Now, at last, the target may well be within reach. And it would be a sorry people who at this point turned away from the target.

[From the Cleveland (Ohio) Plain Dealer Jan. 6, 1972]

SHUTTLE ADDS TO SPACE FUTURE

President Nixon's green light for development of the space shuttle was essential if the American space program is to progress and operate economically.

The proposal is for $5.5 billion for a six-year span of development. The shuttle would reduce substantially the cost per pound for delivering personnel and/or materials in space ferrying passengers to and from the projected orbiting space stations. It also could boost the sagging aerospace industry.

Skylab, the first orbiting space laboratory, is expected to be ready late next year for testing and the Apollo moon missions are scheduled to end this year with manned flights number 16 and 17, slated for March and for late in the autumn.

Development of the space shuttle could enable man better to survey the earth's resources, improve communications, monitor and predict weather, perhaps harness the sun's energy as a pollution-free source of power.

Because the shuttle could be used many times (possibly there could be 100 launches), it could be an economic factor in future space progress. The airplane section of the shuttle, after completing an orbital mission, is being designed to make a conventional airport landing.

The proposal now must go through the regular budget route and pass congressional scrutiny for allocation, but the President's OK for the shuttle is a big boost at a time when the space program needed support for its continuity.

[From the New Orleans (La.) Times-Picayune, Jan 7, 1972]

SPACE SHUTTLE "GO" RIGHT DECISION

The presidential "go" for a six-year, $5.5 billion program to develop the reusable space shuttle may get a lot of flak as it takes off, but it represents the logical and necessary next leap toward the equally logical and necessary use of space by man.

The flak will come from those who, either sincerely or through obligatory political opposition, claim that the space budget is an expendable frill that drains money away from urgent earthly programs. Their argument can be disposed of primarily by comparing figures—the space budget is minuscule in relation to either the total national budget or the human-problems budget.

In addition, the National Aeronautics and Space Administration has pared the shuttle program down to a cut-rate half-a-loaf project in which only the orbiting section, rather than both orbiting and launch sections, is reusable. The reusable launcher can come later, when money may perhaps be easier to come by—after the space program is fully elaborated, routine and to some degree profit-making and the shuttle has proved its value.

The lead time in such complex pioneering being what it is, today's shuttle project looks to the space program of the late '70s and the '80s, when permanent manned stations will be orbiting the earth, on-the-spot moon activity will have been resumed, and near-earth space will be dotted with unmanned "applications" satellites needing servicing.

The shuttle orbiter—good for 100 missions with a crew of two and room for 14 passengers or a hefty freight load—is to be for the maturing space industry what the DC-6 was for the maturing aviation industry—the rugged, economical, all-purpose vehicle that made it all work.

The beneficial impact on the nation's shaken community of space scientists and technologists is important to the national interest, such minds and skills bring a national resource in danger of being lost as the Apollo moon program phases down.

And the energizing impact on the troubled aerospace industry is of particular note—not only in New Orleans, where the Michoud facility stands to be fully reactivated—because it is being harnessed not to a real frill like the SST, as was proposed and properly denied, but to a program that promises to return full measure on the investment.

[From the Atlanta (Ga.) Constitution, Jan. 7, 1972]

UP AND AWAY

Fasten your seat belts.

The United States is about to take off on a $5 billion program to build a combination spaceship-super airliner designed, in President Nixon's words, "to help transform the space frontier of the 1970s into familiar territory, easily accessible for human endeavor in the 1980s and '90s."

That's good news for the aerospace industry which has been hard up for good news recently (see above).

We anticipate strenuous objections to this project based primarily on the view that $5 billion would be better spent elsewhere.

But we're inclined at this stage to support President Nixon's go-ahead for several reasons. For one thing, it's bad policy to ignore the future entirely and concentrate on the pressing problems of the present. We are already heavily committed to dealing with the problems of the present, constant criticism notwithstanding. Perhaps we ought to be even more heavily committed. But if we are to do anything at all about the future, we ought to be prepared to pay for it, to invest in it. Otherwise, we can't expect much from it. The space bus idea can do what the President believes it will do—revolutionize transportation and put the knowledge gained in the space program to practical use in our daily lives. The program also has the almost immediate benefit of employing some 50,000 highly trained aerospace workers who have faced a dismal job picture as the Apollo program has phased out. And, again, the proposal demonstrates that imagination and vision and a willingness to dare are still part of the American way of doing things.

[From the St. Louis (Mo.) Globe-Democrat, Jan. 7, 1972]

SHUTTLING INTO SPACE

The space shuttle given the green light by President Nixon could revolutionize space travel and one day might make commercial space flights a reality.

As designed by the National Aeronautics and Space Administration the shuttle will be about the size of a DC9, look like a modern, delta-wing airplane but will "take off like a rocket, fly in orbit like a spaceship and land like an airplane."

One of its biggest achievements will be the reduction of the cost of a space launching to $10 million a flight and cut the cost of putting a payload into space from the current $700 to $800 a pound to about $100 a pound.

The space shuttle also will be reusable, drastically reducing the cost of space vehicles required. A happy by-product of the shuttle's development will be a $5.5 billion shot in the arm for the sagging space industry. It is estimated it will mean about 50,000 new jobs in the industry in the six year development program.

But there is no doubt that if it is completed space travel for the average citizen may become a distinct psosibility in the 1980s.

[From Chicago "Today", Jan. 7, 1972]

SPACE TRAVEL, ECONOMY CLASS

In describing the "Space Shuttle" program for which he gave the go-ahead Wednesday, President Nixon used a striking word. He said the $5.5 billion reusable space craft, when it

is ready in six years or so, would revolutionize space travel by "routinizing" it—making space so readily and cheaply accessible that it can be used for everyday needs on earth.

The program marks something new in space technology: A shift from the exploratory phase, with its glamor and adventure, to the practical phase of putting to use what has been explored. Many uses are possible for the space shuttle, among them weather mapping, crop and mineral surveys, and charting of air and water pollution.

The key to all this is that one space shuttle will be able to fly dozens of missions. That means it may cost perhaps one-tenth what it costs now to put a payload into orbit; space flight will be practical, not just a hobby of superpower governments.

The huge investment is bound to be criticized, but we believe the space shuttle program is advisable if only to realize the investments in space we've made so far.

[From the Kansas City (Mo.) Star, Jan. 7, 1972]

SPACE SHUTTLE CAN BE A SCIENTIFIC BRIDGE TO THE FUTURE

The next great step in space for the United States seems assured. President Nixon has pressed the go-ahead button and apparently it will be largely a matter of adequate funding by Congress. In view of the record of space accomplishments, there is not much doubt that the planned space shuttle program will be fruitful both from the standpoint of technological success and long-range scientific benefits.

Thus it has been decided that the country first on the moon should, in the President's words, "proceed at once with the development of an entirely new type of transportation designed to help transform the space frontier of the 1970s into familiar territory, easily accessible for human endeavor in the 1980s and '90s."

What good can come of this? A White House statement asserts: "One of the primary reasons for development of the shuttle is to open the use of space for the practical benefit of mankind. It will better enable man to survey the earth's resources, monitor and predict weather, improve worldwide communications . . . and perhaps even harness the sun's energy as a source of pollution-free energy."

Grand prospects, these. Certainly they promise enough to justify the effort even though it must perforce, be measured against other national priorities, many of them urgent. Some will ask whether the U.S. should spend $5.5 billion over the next six years on a space project when so much is needed for education, medical aid, including research in the cure and prevention of diseases, public transportation and the problems of urban decay.

The answer should be that the United States has the resources to provide for all these requirements and continue to move ahead in space science as well. Certainly the amount indicated for the space shuttle program is not prohibitive. It would represent only a small fraction of the sums being spent on defense and the operations of government bureaucracy. Yet it will be asked in Congress and elsewhere whether this particular expenditure is really necessary.

It may not be absolutely essential but it is desirable. It can even be said that further space progress will be stymied without it. There is much appeal in the concept of creating rocket ships able to make repeated trips into space, unload men and supplies at large orbiting work stations and return to land at more or less conventional airdromes.

Not stressed in the President's announcement on the shuttle was the fact that it can be a godsend to the flagging aerospace industry. Building the hardware for the shuttle projects will assure thousands of jobs for aerospace workers. Their pay will come indirectly from tax dollars, however, and the negotiated 12 per cent wage increase (when the general guidelines under controls call for 5.5 per cent) would have made the shuttle less palatable to taxpayers. The Pay Board has rejected the 12 per cent without recommending a specific guideline.

If Congress is willing, then, the track is clear for establishing by the end of this decade an orbital base station in which, eventually, up to 100 persons might work and live. That would be a scientific triumph of the highest order.

[From the New Haven (Conn.) Register, Jan. 7, 1972]

THE BIG SPACE SHUTTLE DECISION

If there is congressional opposition to the space shuttle program approved by President Nixon, let's hope it's of the constructive type and not based on the old emotionally-oriented, oversimplified contention that the money is needed for social welfare programs. The returns to be yielded by space progress, in terms of pure knowledge, practical material benefits on earth, employment, military advances, are real. The country's problems will not be solved by failure to carry out creative, necessary programs in favor of expensive make-work.

Criticism of the $5.5 billion, six-year space shuttle venture might do some good if it showed economic or scientific weaknesses. The shuttle approach was agreed upon by the White House and the National Aeronautics and Space Administration as the leastly costly way of moving into the next stage of space exploration at a price the nation can manage.

The President's decision involves hard choices and some compromises. Money problems figured in the use of the shuttle method rather than massive manned space stations to orbit the earth. It's figured that it will be less expensive to send a reusable craft with men and supplies between ground and earth orbit. The orbiter craft could remain in space up to 30 days, during which time it could deploy unmanned satellites, military and scientific, that would remain in orbit much longer.

Malfunctioning satellites could be retrieved by the orbiter and then repaired. It should be possible to pilot the orbiter back to earth for a landing like a modern jet airplane. There is space maneuverability and flexibility for a wide variety of missions that NASA cites as economic justification for the approved program.

Nevertheless, NASA has had to settle for less than it wanted to attain urgently-needed momentum for space effort. The shuttle system will be only half reusable, instead of fully refiyable, as NASA originally had anticipated. Fearful that the $10 billion cost of developing a fully reusable shuttle would stir legislative resistance to the entire program, NASA and the President settled for a less ambitious enterprise.

But the shuttle concept proposed is exciting enough to revive national interest in space, with all the benefits that go with it. Uncertainty over our direction in space has been eliminated. A big decision has been made, a decision that should end the delays that have severely handicapped the U.S. space endeavor.

[From the Detroit (Mich.) News, Jan. 8, 1972]

UNITED STATES IN THE SPACE RACE

It is good that the $24 billion outlay on the Apollo moon program is not to be wasted by the United States dropping out of the space program. Mission Impossible became mission accomplished because there was a national commitment to beat the Russians to the moon. The fact that race has been won, however, should not blind Americans that it was only the first, tentative step in unlocking the mysteries of space. If we don't press on, others will.

Mr. Nixon has now authorized a plan to spend $5½ billion—one quarter of Apollo's cost—to design and build two test flight vehicles over the next six years to launch the space shuttle program. In a word, there could be rapid transit in space before such a system might operate in Detroit.

The main difference from the Apollo program is that these shuttle craft would be reuseable, unlike the one-shot operation of booster and spacecraft for moon trips. They would take off like a rocket, orbit like an Apollo craft, then land like a plane, awaiting the next assignment. The booster shooting the delta-winged orbiter into space after a piggy-back ride could even be recovered down range and used again.

The spacecraft would stay aloft a month, deploying satellites in the exact position required, return to repair them if needed, even return them to earth if they proved too balky for a quick fix—delivery man, plumber and rescue party. Satellites are vital for military espionage, for world-wide communication, weather forecasting, environment studies.

The way Mr. Nixon sees the shuttle is to move from our present beachhead in the sky into a working space presence. We will switch from the Apollo spectaculars into routine access to space. We can delete the word astronomical from space costs. Both boosters and orbiters will be designed to fly about 100 missions.

The key word is reusable. It has dismayed many laymen that hundreds of millions of dollars have been spent on one vehicle for just one flight, much like building a luxury car solely to drive to Lansing and then leaving it in the parking lot there to rot. With the shuttle, it will be like parking a car in the garage overnight until next day's chores have to be done.

[From the Milwaukee (Wis.) Journal, Jan. 7, 1972]

SPACE SHUTTLE NEXT

President Nixon has given the go-ahead for development of the space shuttle, the necessary next step if space exploration is to become economical and full benefits are to be derived at a reasonable cost.

With the Apollo moon program ending, the US space effort is at a crossroads. The kind of costly space race that stimulated Apollo is no longer politically acceptable. Nor should it be. There are too many earthbound problems that have greater priority for the kind of concentration of human and material resources that went into our moon effort. But space should not be abandoned. This would be a terrible waste of the enormous investment made so far. The program is on the verge of payoffs that can help improve life on earth. Space is a frontier that man is bound to explore.

If man is to continue to invade space physically with any amount of frequency, some way must be found to cut the large costs of getting there. The reusable shuttle will do this. As Fortune Magazine has stated: "Ultimately, perhaps the economic justification of the shuttle rests upon the plain proposition that if the US is to have a progressive space program at all, it cannot continue to throw away multi-million-dollar vehicles on every trip."

The shuttle, designed for up to 100 trips, will pare expenses dramatically. We now throw away almost $300 million in equipment on an Apollo flight. Unmanned launches cost from $20 million to $35 million. Fortune points out that a shuttle launch would cost about $5 million. The shuttle probably would return in savings its development costs by 1990.

The shuttle offers the opportunity to make space flight fairly routine, of taking large numbers of people and supplies in and out

of space, of manning earth resource space stations continuously, of monitoring and repairing communications and resource satellites. It is a worthwhile program.

[From the Christian Science Monitor, Jan. 7, 1972]

. . . AND FOR THE SPACE PROGRAM

Taken with a longer view, President Nixon's decision to go ahead with America's space shuttle program will mean a lot more to man than the creation of 50,000 aerospace jobs over the next six years.

It is another step toward true space voyage, toward the true spaceship that can take off and land on earth after lengthy space travel.

Granted the project at the moment is being sold on more pragmatic terms. The restoring of work to one fourth of the 200,000 laid-off electronics and aerospace workers and professionals may make up for tough wage action by the Pay Board. Scientifically useful will be the surveys of earth resources, the weather study, global communications progress, and sun energy exploitation.

Also appealing on practical grounds is the reusability aspect of the space shuttle. The launch container can be recovered for reuse, while the passenger capsule of course will be preserved after it returns to earth much like any of today's high altitude aircraft. This reusability introduces an element of economy into an effort that has necessarily consumed enormous sums of dollars and energy for the purpose of discovery. In a way, much of the space program to date has been like the work of an expedition seeking a new route through uncharted wilderness. With the space shuttle, the work of developing the new region by scientists and other earthlings takes hold.

No doubt there will be criticism of the space shuttle program along the lines of that which led to a stringing out of America's moonshot program—energy and money and resources need to be used against poverty and pollution and other earthside needs.

Yet, the space discovery versus human needs argument should not be seen as an either/or issue. This is so even leaving aside the jobs creation or economic return arguments. In the past couple of years alone, America reduced its output deliberately to stem inflation by enough to pay for the shuttle program. The country does not really know what its full productivity is, or could be, if the spunk and drive to master challenges are there. Nothing hurts the availability of resources more than a depression of mental energy.

We would argue that a space shuttle program, because it is so practically linked to fulfilling man's age-old vision of mastering the heavens, will unleash more constructive human energy than it will consume. And this excess will make meeting earthside demands the easier.

THE ECONOMY AND THE BUDGET

Mr. FULBRIGHT. Mr. President, the distinguished chairman of the Committee on Appropriations (Mr. ELLENDER) and the committee members are to be commended on the recent series of hearings on the Federal budget for fiscal year 1973. At the hearings a variety of witnesses presented their views on the budget as it relates to national goals and priorities. I think it is imperative that we continually reexamine the goals and priorities reflected in our budget, rather than simply operating on the same assumptions year after year.

It is quite clear that the economy and the budget are in dismal shape. The administration proposes a budget of $246.3 billion, and predicts a deficit of $25.5 billion. Last year President Nixon told us there would be a 1972 deficit of $11.6 billion, but now he admits the deficit will be $38.8 billion or more. In view of the President's previous record, this year's estimates must be scrutinized even more carefully than ever. It is also important to note that the administration is asking for $271 billion budget authority.

This administration came into office pledging a balanced budget. Instead we have a deficit totaling $124 billion under the administrative budget over the 4-year period, or $88 billion under the unified budgeting method. As the chairman of the Committee on Appropriations has frequently pointed out, only a change in accounting procedures keeps the estimated 1973 deficit at $25.5 billion—unified budget—instead of $36.2 billion—administrative budget. However the books are kept, the deficits add up to the largest in history, with the exception of World War II.

In addition to my opposition to so much red ink in the Nixon budget, I strongly object to the way he would allocate funds. Military spending still dominates the "controllable" portion of the budget, although the President claims that "only" 32 cents of every budget dollar would go for military purposes. In fact, the figure is closer to 62 cents. Subtracting the $72.5 billion for trust fund expenses, the "controllable" budget is $173.8 billion, and the President is asking $83.4 billion budget authority for the military. The military budget keeps increasing despite a force reduction of 1 million men and the "winding down" in Vietnam. Direct military expenditures are nearly half of the "controllable" budget and the addition of war-related costs, including veterans' benefits and interest on the national debt, brings the total to about $115 billion. Another way of looking at it is to consider that about 69 percent of Government expenditures are, in effect, already committed. Besides the social insurance programs, this would include veterans' benefits, debt interest, medicaid, farm supports, military retirement pay, postal service, public assistance and food stamps. Of the remaining 31 percent, more than two-thirds—20.3 percent—is earmarked for the military.

I recently sent a newsletter on the subject of the 1973 budget to my constituents in Arkansas. Judging from the response I have received, the citizens of Arkansas are greatly disturbed about the mounting budget deficits, and opposed to the continuing imbalance in the allocation of our resources.

In this regard, Mr. President, I would like to call particular attention to a statement made before the Committee on Appropriations during the recent hearings by Mr. Harold Willens, national chairman of the Businessmen's Educational Fund. Mr. Willens made an excellent statement in which he dealt in some detail with the question of military spending and shifting priorities. He also stressed the importance of Congress and the public—businessmen in particular—engaging in a more serious study of the budget. Mr. Willens said:

For too long the Congress has behaved like a wholly-owned subsidiary of Presidents from both parties. For too long the Congress has defaulted its role in the balanced system of checks and balances our country's founders established to limit Presidential power. For too long the Congress has obediently approved Administration requests for staggering sums which have not been used in the nation's best interest.

Mr. President, this is an excellent statement which deserves widespread attention. I ask unanimous consent that it be printed in the RECORD.

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

STATEMENT BY HAROLD WILLENS

The Businessmen's Educational Fund appreciates your invitation and commends you for imaginative innovation: by opening its doors and its minds to public testimony, this influential committee has broken ground which can lead to consequences of historic magnitude.

For too long the Congress has behaved like a wholly-owned subsidiary of Presidents from both parties. For too long the Congress has defaulted its role in the balanced system of checks and balances our country's founders established to limit presidential power. For too long the Congress has obediently approved administration requests for staggering sums which have not been used in the Nation's best interest.

Fundamental reassessment of resource allocation is urgently needed. These hearings are the right place for such reassessment. Verbal commitment to better policies and priorities are as meaningless for a country as for a corporation. Financial commitment is the name of the game: putting our money where our mouth is.

The Businessmen's Educational Fund, a national nonpartisan organization, believes our national resources have not been wisely invested. We look to you in the hope that a better distribution of our Federal tax dollars can be initiated. And because many of us wrestle with complex corporate budget problems, we understand that rational allocation is easier to talk about than to achieve, especially for a country faced by the multiple demands which go along with a leadership role in world affairs.

But that, we feel, is exactly where we have gone astray—and where you can uniquely serve our people by carrying through to its logical conclusion the concern about fundamental priorities which is evidenced by the unprecedented format of these very hearings. The CONGRESSIONAL RECORD of last December 15 included a statement by this committee's distinguished chairman. Referring to public witnesses concerned with national issues, Senator Ellender said: ". . . we would invite them to testify on general goals and priorities, rather than on specific appropriation line items . . . too often we are exposed to only the administration thinking on overall priorities and national goals . . . It is time we expand our scope to take an overall look at spending practices." It is in the spirit of these remarks that we come before you, convinced of the urgent need to reassess the fundamental values which should underlie American public policy and resource allocation.

The crux of the problem is defining the kind of world leader the United States ought to be. We have the military capability to destroy any country on earth. We possess a substantial share of the world's wealth and consume a substantial share of the world's resources.

Because we are so richly endowed our national actions have international impact. Yet we shall always need commercial and cultural interaction with others. There is no

way so rich and powerful a nation can ignore or be ignored by other nations. Those who speak of isolation or neo-isolation speak empty words.

It is not a question of leadership but leadership for what ends: what kind of international role should the United States play during the 1970's?

We suggest for your consideration two interrelated guiding principles in response to this question. The first is that America can best lead by setting an example. There is no better way of gaining respect from other nations and stimulating them to good acts than by establishing a truly free, just, and prosperous society for all American citizens. Only by demonstrating the ability to solve the problems of poverty and discrimination and to create a vital society can we earn the basis for giving advice which other nations are likely to find persuasive.

The second principle is to employ our influence and power through partnership rather than force: to be a world partner rather than a world policeman. Military power should not be used as an aggressive instrument for mandating our vision of how other societies ought to be shaped and governed. Businessmen should no longer expect the American Government to make their foreign investments safe and profitable at the cost of American lives.

As we approach our 200th anniversary we need to reflect upon the most basic precepts embodied in our constitution and declaration of independence. Our ideal is a world community in which every society has an opportunity to determine for itself the kind of existence and political organization it chooses. We submit that leadership through example and partnership—rather than force—is the national role most consistent with our basic principles, and therefore the proper course for the United States.

Measured against such standards, our performance during the past two decades has been inadequate. If a balance sheet were to be drawn comparing America's assets—international goodwill among them—20 years ago and now, we would not be proud of the bottom line.

In some ways we have made substantial progress: an increased gross national product, a rise in educational attainment, a decline in illiteracy, virtual elimination of polio and smallpox, landmark court decisions which have riddled the fabric of discrimination.

But much remains undone. Vietnam veterans return to widespread unemployment and racial tension. They find cities being devoured by poverty, crime, pollution, heroin and rats. These veterans bear personal witness, along with the 55,000 who died, to the ultimate obscenity of perverted priorities.

By pouring lives, brains, technology and money into profitless ventures based on imaginary dangers, the country served by these veterans has jeopardized the best system ever devised by man: free enterprise democracy. While trying to force our will upon others we have neglected and damaged our own precious way of life.

By far the major reason for our failure to stem domestic disrepair—and despair—has been the disproportionate share of our public wealth allocated to military purposes. Excessive military spending has preempted our opportunity to build an exemplary model society at home and has lured us into actions bringing loss of respect abroad. Apart from the long-range inflationary damage caused by Vietnam, the military billions spent there alone could have made a visible difference in controlling urban blight, environmental crisis and social disintegration. The Indochina blunder is not an aberration. It is an inevitable outgrowth of policies reflecting excessive military influence—and spending.

You and your elected fellow officials, along with my greed-governed peers in the business community, have created a military-industrial machine which now dominates our foreign policy and domestic economy. President Eisenhower's prophetic warning has been ignored because Presidents, isolated from reality, demanded monumental military sums which have been rubber-stamped rather than realistically evaluated. At one point Congress, at least symbolically, was ready to surround our cities with missiles while no one denies that we have needed and continue to need convincing deterrent forces to prevent an attack on the United States or close allies for whom we provide a nuclear shield. National security remains a paramount goal. But we have all acted irresponsibly—as lawmakers and citizens—by allowing one department of the Government to call all the shots. Simplistic foreign policy preachments and a massive military bureaucracy have hoodwinked us into a one-dimensional definition of national security. It is against our self-interest to equate national security with multiple military overkill while ignoring economic vitality, confidence in Government and faith in the system.

In three critical areas we have made massive errors which have caused massively wasteful military spending. First, the fundamental assumptions underlying our military posture have been full of holes. Time and again we have mistaken legitimate nationalistic aspirations akin to our own American revolution and misread world events because of a faulty perception of a monolithic aggressive Communist movement. We have been blinded by an archaic view of Soviet and Chinese intentions. By refusing to reassess erroneous assumptions we have missed opportunities to make significant advances toward lasting world stability and peace. It is time to accept the fact that China and Russia (who certainly have their share of military hardliners, as we do) are led by people, not monsters: That survival is their mission, not trying to destroy us—an attempt they know would result in their own destruction.

Only then can we achieve more open, flexible policies and mutual step-by-step arms reduction reflecting current realities rather than the angel/devil world view underlying our foreign policy. I have seen businessmen march lemming-like toward corporate oblivion blaming the evil of others every step of the way, never thinking to look inward for possible partial fault. Let us avoid even the remote task of having that happen to our country.

Secondly, specific actions taken to implement those foreign policy assumptions have been ill-advised. Intervention in the civil affairs of other countries where the military result could have no impact on American security has cost us dearly in lives lost, dollars spent, and world opinion soured. In Saigon last year a woman described to me how prison guards, paid with our money, had forced bottles and live eels into her sexual organ: a form of torture from which equally innocent women died before her eyes. At Con Son prison, where this had happened, an American construction firm was meanwhile building 288 additional "isolation wards" (Vietnamese call them "tiger cages") under a $400,000 U.S. Navy contract. For such use our tax money has been appropriated by your committee in the holy name of "national defense."

Finally, the arming and operation of military forces to implement our mistaken foreign policy have been carried out in flagrantly wasteful fashion. The staggering cost overruns in procurement of major weapons systems have been amply documented. Even more wasteful have been decisions leading to retention of weapons systems which have long since outlived their usefulness. Most costly of all has been a general attitude of unquestioning acquiescence to military requests for new and more weapons. The blame cannot be levied on the military professionals who are after all only doing their job. To say that a military man wants expensive—and perhaps unneeded—weapons systems is simply to recognize what he is paid to do. So it rests upon our elected representatives to give military spending requests the same tough-minded scrutiny other programs receive. The following few words from a Fortune magazine editorial indicate the businessmen's educational fund is not alone in these views: "U.S. ground troops have been deployed around the world for a generation like the twentieth century equivalent of the Roman legions. The United States is in the grip of a costly escalating pattern of military expenditure (which) has come to live a life of its own."

And to remind you that our military planners share the responsibility for an endless arms race which grows increasingly dangerous and costly, here are a few words from a Wall Street Journal editorial at the time multiple independently-targeted re-entry vehicles (MIRV) were in the news. "The Pentagon is deploying this weapon at least four years in advance of the Soviet deployment it reportedly is a reaction to.

If that sounds as fishy to Soviet diplomats as it does to us . . . their generals would inevitably want to press harder with their own multiple warhead testing" the Wall Street Journal said. Those words proved prophetic as well as descriptive of how unbusinesslike it is to let military men determine military spending levels.

Several years ago we distributed an article written by former Marine Corps Commandant General David M. Shoup, entitled "The New American Militarism." With 20,000 copies we included a survey asking business leaders if they disagreed or agreed with General Shoup's statement that "America has become a militaristic and aggressive nation." Because these are strong words and businessmen are not known for courageous public positions, we were astonished to receive 2000 replies agreeing with General Shoup's accusation. There may be surprising support—even in the business community—for discarding imperialistic military policies which have caused Congress to shortchange many of our people and misdirect resources required to create the inspirational model which would prompt others to want American partnership.

In that context consider again the cogent words of Senator Ellender: "It is time we expand our scope to take an overall look at spending priorities." Right now this committee can perform a unique national service by rising above political pressures and special interests: by applying an objective overview which can prevent repeating past mistakes.

You represent the best current hope for actualizing the "new priorities" for which most Americans are calling. No government body is better positioned to step out of—and above—the roaring stream of events in whose context hasty, irresponsible budget decisions have been made.

It would be irresponsible, for example, to appropriate extra military money just to provide jobs. Nothing would more clearly illustrate the power of the one-two military punch which has bullied Congress into abdicating the role intended by the Republic's founders: men who wanted to prevent Presidents from becoming de facto kings, and who knew the dangers of an overly-powerful military establishment. The first punch consists of exaggerated threats which cow Congress into underwriting annual military wish lists. After absurd spending levels create a military grip on the economy, the second punch is delivered, as indicated by Secretary Laird's recent response to former Deputy Defense Secretary David Packard's remarks that the Pentagon could save $1,000,000,000 a year spent on unneeded military bases. Said Mr. Laird: "I'd hate to be called the Secretary who has caused more unemployment than any other."

Military spending is not the way to solve unemployment problems. Of all the myths which die hard, one of the most tenacious is the belief that American economic prosperity requires heavy military spending.

We agree with the opinions expressed at one of our meetings by Louis B. Lundborg, who was then Bank of America's board chairman about the great need for and benefits which would come from economic conversion to quality of life expenditures. Advancing that kind of economic conversion is the best way to solve unemployment problems. In this context it should be stated that the Marshall Plan—not NATO—made possible the economic rebirth and democratic survival of our European friends. So also equitable economic assistance—partnership—can keep desperate people from embracing the economic lure of socialist systems.

To meet the challenge and the opportunity now before you will require something vastly different from the congressional subservience which has emasculated the potency of checks and balances. To meet that historic challenge this committee must assume again the constitutional responsibilities which Congress has abandoned.

For you are now being asked to authorize an increase of 6.3 billion military dollars. That request is a gross insult to your intelligence because it ignores the plain lessons of two decades: it ignores the reduced costs of the Indochina conflict: it ignores the fact that heavy military spending fueled the inflation which has gutted our economy: it ignores the trillion dollar misunderstanding that arms escalation increases national security: it ignores the so-called 2½ war strategy-fantasy responsible for the quantum leap from a sensible military spending level of $12,000,000,000 in 1948, when the cold war was really frigid.

Asking you to increase military spending at this point in time is like dealing with Ford Motor Company's greatest mistake by stepping up production of the Edsel. If an imperious Ford Co. chief executive had urged such action: if a weak staff and board had gone along, a costly mistake might have been compounded into the demise of a great corporation. We respectfully submit that elements in this analogy are worthy of your consideration as you review a military budget which asks you to continue—and expand—counterproductive spending policies.

In its crisis Ford Motor Company showed true leadership quality by recognizing and correcting its mistake, thus serving well the long-term interests of its shareholders. Our executive leadership is not doing as well for the shareholders of the American enterprise.

But the constitutional power of the purse still resides in Congress. We appeal to you to use better budgetary discretion than is revealed in the request before you. It is time for Congress to express its own views on basic policy directions and spending rather than obediently accepting administration assumptions and dictates.

Administration advisors are not blessed with ultimate wisdom, as we have learned from the costly advice of Walt Rostow, Dean Rusk and others. As businessmen we can of course appreciate your need for expanded analytical staff capabilities.

We would regard as a prudent national investment money spent for that, as well as for a congressional think-tank institute to provide a more equal analytical balance between Congress and the administration in place of the grossly imbalanced present relationship.

But that is for the future. The immediate need is for meaningful response to an historic challenge.

While calling for strong fiscal discipline and asking Congress to forestall "raids on the Treasury" the President placed before you a budget which raids the Treasury by failing to reduce military spending levels based on the faculty perceptions and assumptions of the 1950's and 1960's.

The question before you is this: since the President has failed to lead us into new directions, will this committee exercise the leadership we so desperately need? Will this committee inspire the Congress to an independent action which forsakes old ways proven wrong?

By exercising the courage of true leadership you can start a process which will gainfully affect our own people and reestablish the international respect we have lost.

Imagine the worldwide reaction if Congress, inspired by this committee, reallocates to quality of life programs $20,000,000,000 now budgeted for military spending! Would China and Russia be able to resist international pressure to follow such leadership? Beset by their own domestic needs, might they not welcome that first military de-escalatory step which requires the courage of true leadership?

In business we seek but rarely find low-risk, high-yield ventures. This is such a venture. With our overkill capacity, with the President's forthcoming visits to China and Russia, with evidence that inefficiency and duplication keep us from getting maximum military return for minimum costs—the calculated risk of a $20,000,000,000 reduction is well worth the probable gains. As to where the cuts should be made, copious documentation exists to provide intelligent guidelines.

In closing, we express the fervent hope that by facing past mistakes with clarity and dignity: by defining national security more broadly and opting for a world leadership partnership role; by shifting fiscal policies to give "new priorities" real meaning—and by reasserting the constitutional role of Congress through a specific budgetary action—this committee will exercise the leadership for which our people yearn: leadership which will benefit our Nation as well as all the world.

FRANK B. TOALSON, PRESENTED DISTINGUISHED SERVICE AWARD

Mr. DOLE. Mr. President, perhaps the greatest tribute one can receive in whatever area of endeavor he is engaged, is to be singled out for recognition and commendation by his peers. Frank B. Toalson, a recently retired Kansas educator, is one such man. On February 13, 1972, in Atlantic City, N.J., Frank accepted a distinguished service award, one of the highest awards given by the American Association of School Administrators. Frank is the first Kansan so honored with this award.

He commented, in typical modesty:

It is a nice award, but I am sure dozens of people in Kansas are just as entitled.

But in all deference to Frank, I could not find myself in greater agreement with the opinion of the American Association of School Administrators on their selection of him for this prestigious award.

Mr. President, I request unanimous consent to have printed in the RECORD, an article which appeared in the Dodge City Globe on February 12, 1972, about Frank B. Toalson and the award which he received.

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

NATIONAL SOCIETY HONORS FRANK TOALSON

(By Evelyn Steimel)

On the day before he was to leave for Atlantic City, N.J., to accept a Distinguished Service Award . . . the first Kansan to be so honored with one of the top awards given by the American Association of School Administrators . . . Frank Toalson was substituting for an instructor in the Vocational-Technical School.

Tall, direct, enjoying himself there among the sparks from the welders and the carpenter's shavings, the educator who retired as USD 443 superintendent in Aug., 1971, just before his 68th birthday, was doing what he enjoys most, being with the students.

"One thing about retirement," said the veteran of the classroom who has served as substitute for a dozen teachers this term, "it gives me a chance to be with the kids, something I really missed as an administrator."

Despite his attachment to the teaching side of his profession, or because of it, he is being honored for his work as an administrator.

There among the 25,000 administrators of schools around the country, including some 200 Kansans, the Chief, as he has long been known in local circles, will receive the citation. According to the Kansas Association of School Administration newsletter, it is being awarded to Toalson because he has "exerted leadership in Kansas education among the superintendents, and many state wide organizations.

"He is forthright, knowledgeable, and persuasive," noted the journal of the organization which Toalson headed as president in 1962.

LEADERSHIP

In his years in education, the Dodge Citian has also served seven years on the Board of Control for the Kansas State High School Activities Association. He was vice-president of the Dodge City section of the Kansas State Teachers Association and chairman of its negotiations committee from 1962 to 1967. He has served on a number of legislative committees and is considered a leader in vocational education.

On the national level he was consultant for Kansas in preparation of school superintendents and served on the prestigious resolutions committee of the AASA in 1969 and 1970.

Frank Toalson came to Dodge City in 1929 as a coach and science teacher from Herrington where he had also coached for three years. More important, while in Herrington, he also met and married Helen Kesler of Overbrook, a math teacher there.

Before receiving his bachelor of arts degree from William Jewell College in Liberty, Mo., in 1926, he had taught elementary school in his native town, Clark, Mo.

DODGE CITY EDUCATOR 41 YEARS

In Dodge City for the next four decades, Toalson earned his title from hundreds of young people and parents whose lives he touched as a coach, instructor, principal, superintendent. Not the least of these was Dr. Jack A. Kinder, now superintendent of schools in Rochester, Minn., and currently vice-president of the AASA.

Dr. Kinder, in an address last April honoring his old mentor, summarized the accomplishments of Chief Toalson on the local level.

"In talking about tenure," remarked Dr. Kinder to a gathering of school administrators and local residents, "most of us are satisfied if we can stay around a place for four or five years . . . here is a man who has served since 1929 . . . as a teacher of chemistry, physics and physical education. He coached football and baseball. He served as an assistant high school principal. He served as senior high school principal, and begin-

ning in 1954, he became superintendent of schools.

"This, my friends," Kinder declared, "is a tremendous accomplishment for any man!"

CHANGES IN SCHOOLS

Chief Toalson commented before he left Wednesday, enroute to the convention where he will be honored on Sunday evening, that "it is a nice award, but I am sure dozens of people in Kansas are just as entitled."

He was more interested in talking of education and its current directions.

"Education has changed considerably since I came into it, and it still has a long way to go. All the while I have been in public education, I have tried to make it as practical and as pertinent as possible.

"I believe in upgrading vocation and technical training, and it seems as if the government realizes this now. I believe we have recognized it in Dodge City as much as anywhere.

"I am in perfect accord with the upgrading of the teacher's role," said the man who guided the Kansas teachers in the first moves for negotiation.

"That is for salary purposes as well as for a role in determining where education is to go.

"But there is a danger in this, like there is in having students have all the say about what they are to study.

"I've enjoyed substituting this year . . . visiting with the pupils. One girl argued with me that the student should decide what to take, when to attend. It is hard to say when one reaches an age when he is ready to make such decisions.

"I am beginning to believe, though, that there is a time in a young person's life when if he doesn't want to go to school, then he should have the right to quit, after counseling with parents and teachers, of course.

"At what age? Well, that is hard to say . . . 16, 18. Who can tell about maturity? It differs with people.

There are problems today that we didn't used to have. Maybe I am getting old, but I think that is true and maybe the pendulum is swinging back. College students and even high school youngsters are seeing things can be accomplished with hard work, good behavior. At least I think so.

"It is easier for me to see, now that I am retired, the problems on all sides. When I was principal in the high school, the laws were strict and students couldn't even walk in the hallways. Maybe that is changed for the better.

EXPECT TOO MUCH?

"But people expect too much out of the schools. And you get so many opinions from the parents, from the students."

He pointed out a book he was reading, Walter Hickel's "Who Owns America?"

"If kids had to work a little . . . Hickel was milking cows at five, driving a tractor at 9 . . . . Maybe it is the times, but it seems parents give their children too much, they don't learn to work. You can't expect the school to do everything . . . heredity and upbringing mean the most.

"Generally speaking," he said with a little smile. "We have a good staff here. Naturally, I would say that."

"We have our faults of course. I've always believed in taking a stand as often as I can, maybe too quick at times," he remarked of his years as administrator.

"You know I was chairman when Kansas teachers initiated negotiations. I was concerned awhile that maybe teachers were going too far, school boards were too close minded.

"But it seems now to be wholesome."

RETIREMENT

During his first half-year of retirement, Chief Toalson has enjoyed golf, visiting friends he has made in his many years as a keyman in the community. He has time to read and to "take a trip or two." Recently he was named a trustee of the First Presbyterion Church.

Mrs. Toalson, who has taught off and on in the Dodge City schools, including the Junior College, up until her husband became superintendent, will accompany him to Atlanta. Enroute they will visit with sons, Bill, a physician in Prairie Village, and Bob, director of parks and recreation in Champaign, Ill., and their families that include five grandchildren.

And that may be as important to Frank Toalson as the award he will receive before the world's largest convention of educators.

ENVIRONMENTAL IMPROVEMENT AND WORLD TRADE

Mr. WILLIAMS. Mr. President, on December 10, 1971, I submitted Senate Concurrent Resolution 53, the need for international standards to protect the environment. I stressed then that one of the most important reasons for this approach was to prevent the disruption of international trade balance while environmental protection measures are being taken.

I was pleased to see that the Washington Post of February 16, 1972, contains an article entitled "Environmental Improvement and World Trade," written by Claire Sterling. The article points out the great need to obtain international accords to avoid trade imbalances and the serious problems we are facing today because we have not yet taken a multilateral approach. I believe the article reinforces the position of the more than 30 cosponsors of Senate Concurrent Resolution 53, and it certainly expresses the reasons that I am so concerned about this issue.

Mr. President, I ask unanimous consent that the article be printed in the RECORD for the benefit of those who are deeply interested in this problem.

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

ENVIRONMENTAL IMPROVEMENT AND WORLD TRADE

(By Claire Sterling)

GENEVA.—Among the papers one hopes will not get lost in the shuffle at next June's Stockholm environmental conference—and with 7,600 other documents around, it might—is a report from the U.N. Committee for Trade and Development (UNCTAD) having to do with the effects of planetary good housekeeping on world trade. It reminds us not only that this is inescapably a planetary job we're taking on, but that the trade involved could easily run to hundreds of billions of dollars.

Some pale idea of the size of the business may be had from the sales figures for anti-pollution equipment alone. The United States is already spending more than a billion dollars a year on such hardware and software (for maintenance), and $5 billion altogether on anti-pollution programs. The rate is going up by about a fifth every year and the U.S. Council on Environmental Quality says $105 billion will have to be spent by 1975 for just a partial cleanup of American air, earth and water. Europe, too, is spending around a billion dollars yearly for this sort of equipment and maintenance, at a rate going up just as fast, and competitors on both sides of the Atlantic are racing for this world market.

Meanwhile, a discernible dent is already being made on world trade patterns by a hodge-podge of national environmental regulations affecting imports. Several European countries are turning back food shipments tainted with DDT residues; new American and West German lead-emission laws threaten to close these enormous markets to Fiat and Renault, whose smaller cars need high-octane (leaded) gasoline; and noise regulations at U.S. airports are bound to affect the commercial future of the Anglo-French supersonic Concorde.

From now on, UNCTAD says, environmental ground rules are clearly going to be such that any manufacturer who cares to stay in or invade the big markets will have to pay handsomely for the privilege. The most polluting industries, such as metal, energy, chemicals, paper and pulp, will of course be hit hardest. On average for all industry, though, compliance with adopted and pending standards will probably mean a 5 to 10 per cent increase in capital investment and as much again in production costs. (In the United States, according to the Council for Environmental Quality, private industry will have to put up 42 of those 105 billion dollars.)

Assuming the ground rules are not harmonized worldwide, they will certainly constitute steep barriers to trade. Even assuming they are harmonized, they would certainly look like steep barrier to that half of the world's population with less than $500 a year—often very much less—to live on. UNCTAD thinks that the rise in investment and production costs should mean an average 6 to 9 per cent rise in export prices. Richer nations might not mind paying that for the luxury of an impeccable environment. Poorer ones might, though, and that is only the beginning of their troubles.

Whenever a rich industrial country tries to take something bad out of its air, earth or water, it almost invariably takes money out of some poor country's pocket. Most of the former import huge quantities of raw materials, and most of the latter have little or nothing else to sell. Restricting the use of lead in gasoline means reducing the amount bought from lead-producing countries. Banning the sale of canned tuna-fish, tainted with mercury, raises the cry for a ban on mercury-dumping into rivers and seas, the search for substitutes, and thus a cut in imports from mercury-producing countries.

So far, recycling of used raw materials has not gone very far because of technical difficulties. But the difficulties are sure to be overcome because research investment cannot help growing under the strain as raw materials reserves go down, extraction costs go up, and wastes keep coming along that nobody knows what to do with. The world price of lead has risen 300 per cent in the last 30 years, for instance, and of mercury 500 per cent in the last 20 years. Under these circumstances, thrift in the use of such materials is not just a matter of environmental virtue but of elementary bookkeeping.

It is true that some of those minerals may be running out before long anyway: the latest studies indicate that world zinc reserves may not last more than another 18 years, tin 15 and mercury 13. But knowing that can hardly be a comfort to Africans or South Americans or Asians whose countries' "terms of trade," as UNCTAD puts it, can only get worse and worse in the meanwhile, as their customers' air, earth and water get better and better.

This isn't by any means the worst problem in the multi-billion dollar environment game: getting up all the billions, and inducing all the world's manufacturers to pay up without ratting, should by rights be worse still. Nevertheless, this particular kind might give pause to earnest environmental crusaders. UNCTAD itself will be holding an international conference on the subject in South America this spring, a couple of

months before the Stockholm conference opens, and organizers for the Stockholm gathering have been trying for over a year now to find some way of talking around it. They have ended by asking—in fact, imploring—the world's wealthier states to chip in financially so as to redress trade imbalances, and to recognize that environmental quality must not be achieved primarily at the cost of the third world's economic development. In this case, though, saving is as saving does.

THE STATE PROPERTY TAX

Mr. MATHIAS. Mr. President, I would like to call the attention of my colleagues to an editorial which appeared in today's Baltimore Sun entitled "Cutting the State Property Tax."

In this editorial, the Sun states that the time may well have come when the State of Maryland should reduce or eliminate its statewide property tax. The editorial points out that—

> While the state property tax falls directly on but one segment of the population—one already taxed heavily by the local government—the revenue from that tax is used to finance public improvements beneficial to all.

For some time I have been concerned about the inequities of the system of State and local property taxes that exists in this country. At hearings on this subject which I chaired during January in Maryland, I discovered that my concerns about these inequities were shared by persons of all walks of life throughout Maryland. I have been encouraged by the President's announcement in his state of the Union address that he has requested the advice of the Advisory Commission on Intergovernmental Relations on this issue. What the President terms "intolerable pressures" on the property tax also led him to establish a Commission on School Finance in March of 1970.

I would like to call to the attention of the Congress the position expressed by the Baltimore Sun. I, therefore, ask unanimous consent that this editorial be printed in the RECORD at this point.

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

CUTTING THE STATE PROPERTY TAX

The property tax has always been a basic revenue for Maryland's local governments, both county and municipal. But that has caused no hesitation on the part of the state government which for years has been taxing property to finance the full cost of its general debt. For the current fiscal year the state property tax rate is 18 cents on each $100 of assessment. At first blush that may seem like a small imposition, but it must be remembered that the 18 cents is on top, for example, of Baltimore City's rate of $5.65.

In recent years there have been increasing suggestions, if not pressures, for the state to give up its property tax rate and leave that source of revenue to the political subdivisions. The suggestions may not have made much sense years ago but they do now, since the state has turned in major ways to the gasoline tax, the income tax and the sales tax.

Further, while the state property tax falls directly on but one segment of the population—one already taxed heavily by the local governments—the revenue from that tax is used to finance public improvements beneficial to all.

This situation may be coming to an end. The Legislative Council sponsored a bill at the current session of the General Assembly which would permit the state to use general funds to finance state borrowing. The goal is the eventual elimination of the state property tax. The measure has been passed by the Senate. It should be given prompt attention in the House of Delegates. The bill would not bring immediate relief to property owners but it would bring help in the future.

PAY BOARD IMPLEMENTS PERCY PRODUCTIVITY AMENDMENT

Mr. PERCY. Mr. President, increased U.S. productivity growth rates are a major economic policy objective of this administration, and a major concern of my own. Thus I am very pleased that the Pay Board agreed yesterday, February 23, on guidelines to implement the Percy amendment to the Economic Stabilization Amendments Act that was passed by this body on December 14 and signed into law on December 22, 1971. This amendment, section 203(f)(3) of the act, exempts increased pay for increased productivity from the Pay Board's wage guidelines.

The Pay Board guidelines as I understand them are consistent with the intent of my amendment.

By implementing the amendment the Pay Board is permitting companies to continue, or to modify, existing, or to install new, incentive pay plans that directly reward workers for increased productivity.

Increased productivity is urgently necessary to improve the lagging vitality and competitiveness of the U.S. economy both during phase II and in the longer term. I urge labor and management to take advantage of the exemption my amendment provides. The result will be increased productivity, higher real take-home pay, reduced inflation, and thus a quicker end to wage-price controls.

I ask unanimous consent that a Pay Board press release announcing agreement on guidelines for this provision of the Economic Stabilization Act, and the text of the guidelines be printed in the RECORD at the conclusion of my remarks.

Mr. President, I have received during the weeks since the Senate adopted my amendment, a large number of highly encouraging responses from business, labor, the academic community, and the press, indicating support for my amendment and reassuring me of its usefulness in increasing productivity.

Such communications have convinced me that the subject of productivity is considered by many people a topic of primary importance, worthy of continued special effort by the Federal Government.

I have learned that a large number of people from many areas of our society have done a great deal of work on aspects of productivity and are eager to share their knowledge and ideas and to participate in efforts to improve America's productivity growth rates.

I intend to make a more extensive report to the Senate in the near future on more concrete ways in which productivity can be increased. I want now to compliment the distinguished chairman of the Joint Economic Committee, Senator PROXMIRE, for his concurrence in agreeing to hold hearings on productivity in the committee's Subcommittee on Priorities and Economy in Government. We will put stress on the human, motivational aspects of the problem, as well as on government policy to improve productivity. In my view these hearings are badly needed in order to help bring to light the urgency of efforts to increase productivity growth rates.

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

PAY BOARD NEWS RELEASE

The Pay Board today adopted by unanimous vote a resolution exempting from its wage guidelines wage increases paid in conjunction with employee incentive programs related to employee productivity.

The action was taken to implement the so-called Percy Amendment to the Economic Stabilization Act. The Amendment was designed to insure that Pay Board regulations would not charge the payment of such incentive increases against the wage guidelines.

The resolution applies to plant-wide productivity sharing programs, as well as those which are not plant-wide. It does, however, exclude other forms of variable compensation plans.

In addition to such incentive-related increases, employees may also receive general wage and salary increases as are allowed under Pay Board guidelines.

Incentive plans or practices in existence or announced to employees prior to November 14, 1971 will be allowed to operate according to their terms. New plant-wide plans or programs, or substantial modifications in existing ones, must be reported to the Pay Board within 30 days of installation. Others must be certified prior to installation.

(A copy of the Board's resolution is attached. It will not take effect until published in regulation form in the Federal Register.)

RESOLUTION: INCENTIVE PROGRAMS

Whereas: subsection 203(f)(3) of the Economic Stabilization Act of 1970, as amended, provides that the authority to issue regulations to stabilize wages and salaries shall not be exercised to preclude the payment of any increase in wages paid in conjunction with existing or newly established employee incentive programs which are designed to reflect directly increases in employee productivity; and

Whereas: the Pay Board intends to implement the provisions of subsection 203(f)(3) and to provide guidance with respect to such incentive programs; therefore

Be It Resolved: that the Pay Board adopts the following policy decision:

1. Increases which result from the operation of a commonly-recognized plant-wide productivity sharing program (which compensates employees on the basis of an overall standard rather than individual employee productivity) are not charged against the wage and salary standards of the Board.

2. Plant-wide productivity sharing programs in existence or proposed for installation and communicated to employees prior to November 14, 1971, will be allowed to operate according to their terms.

A description of any new program installed or existing program, the terms of which are substantially revised after such date, will be reported by the employer to the Board or its designee within 30 days of installation or modification.

3. Similarly, increases in pay due to an increase in productivity under incentive plans and practices other than plant-wide productivity sharing programs operating according to their terms (but specifically excluding other forms of variable compensation plans) are not charged against the wage and salary standards of the Board.

4. Incentive plans or practices in existence or prepared for installation and communicated to employees prior to November 14, 1971, will be allowed to operate according to their terms.

The employer shall certify to the Board or its designee prior to (1) the installation of a new incentive plan or practice, or (2) the installation of changes to an existing program where the terms of such program are substantially revised; and which in either case will result in an annual aggregate increase in excess of the wage and salary standards to an appropriate employee unit (which may be larger than the unit covered by such plan or practice) will be offset by increased productivity and will substantially meet certain criteria, i.e., that the plan or practice:

(a) provides the expectation of a level of earnings above base rates which vary in relationship to changes in productivity, but which will not result in increased unit labor costs;

(b) is designed to provide earnings opportunity sufficient to motivate the participants;

(c) defines the employees included and their relationship to increased productivity;

(d) contains standards of performance and provisions for revising such standards to reflect changes in equipment, methods, quality requirements and other factors related to the basis for standards development; and

(e) contains guarantees of wages or earnings for such contingencies as down-time for reasons beyond the control of participants and for non-standard work.

5. If an incentive plan or practice (including plant-wide productivity sharing plans) is discontinued under conditions which result in an increase in wages and salaries to affected employees, the employer will certify to the Board or its designee within 30 days of discontinuance that the action was taken in good faith and not for the purpose of circumventing the intent of the wage and salary stabilization program.

6. In addition to wage and salary increases, which are not charged against the wage and salary standard as herein set forth, employees in an appropriate employee unit may additionally receive such increases permissible under and subject to the wage and salary standards of the Board. Such increases may be applied separately to base hourly rates and/or incentive earnings or, in the alternative, to total average earnings determined over a representative payroll period or periods.

THE ENERGY CRISIS

Mr. ALLOTT. Mr. President, on February 10 the distinguished Secretary of the Interior, Mr. Rogers C. B. Morton, addressed the National Petroleum Council. His remarks concern one of the hidden—but less and less hidden—coming crises which this Nation soon must face—the energy crisis.

It is my urgent hope that every Senator will examine the remarks of the Secretary, whose responsibility it is to alert us to the true nature and dimensions of the coming crisis.

I ask unanimous consent that his address be printed in the RECORD.

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

REMARKS OF THE SECRETARY OF THE INTERIOR ROGERS C. B. MORTON BEFORE THE NATIONAL PETROLEUM COUNCIL, WASHINGTON, D.C.

Again it is a pleasure to welcome you to Washington, and to have the privilege of sharing with you some thoughts that have been much on my mind in recent weeks.

First, I would like to begin by expressing my deepest appreciation to Del Brockett who has done splendid work for the Council during his many years as a member, and as its chairman. Del, I hope you will permit me to join in the good wishes of your friends as you leave the Council you have served so well and so long.

Since last July's meeting, the Council Task Force has completed Volume II of its interim report on the U.S. Energy Outlook. This work contains a wealth of pertinent, up-to-date information on each of the major energy sources.

Of all the studies the Council has undertaken in its 25 years, I think this is one of the best.

I also want to acknowledge the fine work of the Committee and its Subcommittee on Environmental Conservation. They have produced the final report on this assignment.

My personal thanks to Chairmen Keeler and McReynolds and Vice Chairmen Swearingen and Marshall for their valuable contribution to public understanding.

It is most apparent that our world continues to grow and develop. As a result, we use more energy and we will need more energy.

The environmentalists tell us that we cannot go on using our natural resources as we are . . . they are right.

Those responsible for meeting our Nation's needs for goods and services tell us we cannot go back where we came from . . . and they are right, too.

And I say, we cannot stay where we presently are, either, and I think I'm right!

Specifically, I see no indication that the material needs of the United States will ever be less than they are today.

We can reduce waste, and we should.

We can develop more efficient production and distribution processes, and we will.

We can salvage, reclaim and reuse millions of tons of materials now difficult to dispose of and too often found cluttering our landscape. We will do that too!

We will recycle, reuse and clean up literally billions of gallons of fresh water that we are now simply draining off to the sea.

However, after we have taken all these measures to conserve our resources, we still face the enormous backlog of unsatisfied needs that can only be met by increasing higher levels of energy and of productivity.

I refer to:

Rebuilding our cities.

Reviving our lakes and streams.

Restoring the purity of our air.

And most emphatically and specifically, building a 2nd America in which everyone of the over 200 million of us will have a better life.

One thing the extremists in environmental groups do not understand is that these necessary jobs to enhance the quality of life can be accomplished through the use of energy and more energy directed by an ever escalating plateau of technology.

As you know, our current energy demand is great. It closely parallels the growth of our gross national product.

The problem of supplying this demand has been further complicated by the recent court decisions which caused the cancellation of the lease sale scheduled for December 21, 1971. This has added greatly to our difficulties. The need for oil and gas *are obvious*.

I am deeply—bitterly—disappointed at the outcome of these decisions.

I am concerned that the legislative and management responsibilities of the Congress of the executive branch of our government are being transferred to the judiciary, where the criteria and understanding prerequisite for fundamental resource decisions do not exist.

We are in the testing phase of the National Environmental Policy Act.

The intent of the law is being established over specific issues.

It was the contention of the Department of the Interior in the Louisiana case that the term "alternatives to the proposed action" as used in Section 102c of the NEPA meant only those actions which:

1. Lay within the authority of the Secretary of the Interior to take, and

2. Would produce results within the same time frame as the action proposed.

This assumption has now gone by the boards.

In light of these recent decisions, and in spite of the fact that there is a strong case to be made for excluding all alternatives, we are in the process of modifying our procedures for writing environmental impact statements. We are making every effort to comply with the interpretation of the National Environmental Policy Act as it has been set forth by recent court actions.

This will be difficult to do:

It will delay every action we have programmed for developing our natural resources.

It will delay a decision on the Trans-Alaska Pipeline by at least two months.

It will delay our program on geothermal leasing by about the same length of time.

It will necessitate a complete rescheduling of our plans for leasing tracts in the gulf offshore of Louisiana. Here, is the most prolific producing province we have yet found on the Outer Continental Shelf.

In short, we have lost the time but fortunately, *we have not lost the resources*.

The set backs we have sustained have made us more determined to find a way to comply with and work with the Environmental Policy Act and yet insure an orderly flow of essential fuels to meet the growing needs of the American economy.

All of this would be greatly enhanced when the President's program for reorganization has been achieved.

I believe a Department of Natural Resources is an absolute must in our time if we are to remain fully competitive in this rapidly changing world.

It is our policy and our intention that the Nation should rely, in a large measure, on domestic resources for minerals and energy.

It is only through the strength of our own resource base that our trading position will be firm and have the leverage to deal with the complications and vagaries of world oil politics.

There is great economic power in world oil politics. And, though I love all people across the world, I must say that I would rather have my destiny shaped by friends and neighbors of main street America.

I am asking my staff to utilize your report and all other data available to put together a National Energy Policy.

The time is now—we cannot wait!

Your own report on the U.S. Energy Outlook spells out clearly that our requirements for liquid fuels will rise much faster than our ability to supply them from domestic sources.

This is a fact and a national concern.

Present trends indicate a large share of our refined products must come from foreign supplies by 1980.

We are already confronted by urgent requests for licenses to import petroleum feedstocks for the manufacture of gas.

Applications to date have been made for 17 proposed plants that will manufacture synthetic gas from imports. These plants will consume over one million barrels a day of foreign feedstock.

These and other pressures will undoubtedly bring forth new policy and implement new mechanisms. These policies and the mechanisms will deal with cost, with national security, with the quality of the environment and with basic human needs.

This does not mean that we should fail to achieve a reasonable mix of energy fuels from domestic sources with those foreign suppliers.

This does not mean that the oil import program should forever be frozen into its present ratios.

But it does mean that we must maintain a balance weighted in favor of domestic producers. For herein lies the true source of our economic strength.

This in turn, more than anything else, gives us the power to reach our goal—*a generation of peace on this earth for mankind.*

At this time, in this world, do not be mislead into thinking that peace will be achieved through rhetoric . . . . through philosophy . . . . or even through the kindness in our hearts.

It will be achieved because we are strong and because we do not covet the land or the riches of any other nations.

In short, peace will come from a wise and humane use of strength derived from an efficient use of our God-given natural resources.

Let us then pursue a realistic course for the perfection of our civilization.

Let us begin to work on solutions to the problems which confront us, as in the past—they lie before us in men's minds. There is nothing that we have yet to do, considering all the knowledge and tools at our disposal, that is more difficult or insurmountable than that which we have already done.

Let us not assume that the sun will burn out in the year 2000 and all will be over.

Conversely, let us assume that the brains of men are only at the beginning in the discovery of new opportunities—not only for man, but also, for the rest of nature, which is so much a part of our life.

Let me say here, that out of all the stridency and contention of the past years I believe we have learned an essential fact. We recognize at last that there is an interlocking bond between the quality of the environment and energy demands in sustaining large numbers of people at decent levels of comfort and well-being.

Share with me the optimism of a great and strong America . . . . of a dedicated and understanding President.

We shall fulfill our energy needs in an expanding future.

We shall enhance all that is beautiful around us.

We shall hold this good earth in trust.

We shall . . . . and together we can . . . . prove ourselves worthy of that trust.

Worthy of the leadership that God has set for us as a Nation, in this time, on this planet.

PLIGHT OF RELIGIOUS MINORITIES IN SOVIET UNION

Mr. PEARSON. Mr. President, perhaps the most basic of human rights is the right to freely exercise and sustain one's religious faith and identity. It was toward this end that government was instituted among the people of this country.

But the recognition of one's heritage and convictions is a matter which transcends national and international boundaries. It is a matter which deserves the highest regard of the civilized people throughout the world.

The Senate and House of Representatives of the State of Kansas have urged attention to the plight of the Jewish people and other religious minorities in the Soviet Union. They have memorialized their concern to the President of the United States, the Congress, and the Soviet Government. This is not, I wish to make clear, a decision accomplished without broad conviction and deep recognition of principle. It reflects the feelings, the anxieties and sense of urgency, I believe, which the people of Kansas have expressed about the treatment of fellow human beings in the Soviet Union.

I ask unanimous consent that a copy of the Senate Concurrent Resolution No. 82, originated in the Senate of the State of Kansas, be printed in the RECORD. I invite the attention of the Senate to this eloquent statement of concern for human rights.

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

SENATE CONCURRENT RESOLUTION No. 82

A concurrent resolution memorializing the President of the United States to call upon the government of the Soviet Union regarding persecution of religious minorities in that country.

Whereas, In the Soviet Union men and women are denied freedom recognized as basic by all civilized countries of the world and indeed by the Soviet Constitution; and

Whereas, Jews and other religious minorities in the Soviet Union are being denied the means to exercise their religion and sustain their identity; and

Whereas, The Government of the Soviet Union is persecuting Jewish citizens by denying them the same rights and privileges accorded other recognized religions in the Soviet Union and by discriminating against Jews in cultural activities and access to higher education; and

Whereas, The right freely to emigrate, which is denied Soviet Jews who seek to maintain their identity by moving elsewhere, is a right affirmed by the United Nations Declaration of Human Rights, adopted unanimously by the General Assembly of the United Nations; and

Whereas, These infringements of human rights are an obstacle to the development of better understanding and better relations between the people of the United States and the people of the Soviet Union: Now, therefore,

Be it resolved by the Senate of the State of Kansas, the House of Representatives concurring therein: That the President of the United States of America be memorialized to call upon the Soviet government: To permit the free exercise of religion by all Soviet citizens in accordance with the Soviet Constitution; to end discrimination against religious minorities; and to permit its citizens to emigrate from the Soviet Union to the countries of their choice as affirmed by the United Nations Declaration of Human Rights.

Be it further resolved: That the secretary of state is hereby directed to transmit an enrolled copy of this resolution to each member of the Kansas congressional delegation and to the President of the United States.

CARL HAYDEN TRIBUTE

Mr. JAVITS. Mr. President, the late Carl Hayden, a Member of Congress whose service in Washington began when hs native State of Arizona was admitted to the Union in 1912 and continued in the House and Senate until his retirement almost six decades later is one of the most legendary figures ever to have served in the Congress.

Our paths crossed in a way that uniquely typifies the diversity and unity of the Nation. When Carl Hayden was sheriff of Maricopa County in the open expanse of the Territory of Arizona from 1907 to 1912, I was a kid living in the crowded tenement district of New York City's Lower East Side, largely populated by first-generation immigrants. Our environments could not have been more difference. Yet, some half century later, we met when I entered this body as a freshman Senator in 1957 and Carl Hayden was president pro tem of the Senate.

I always felt at one with Carl Hayden; that our common devotion to the Nation's weal was stronger than our sharply contrasting origins. Such is the strength of the Nation.

Carl Hayden saw the Nation grow from an agriculturally oriented society to an industrial one, from an age where man was confined to the power of steam and horse in his travels to an age of man in outer space, reaching toward the moon itself. His memories assuredly encompassed an early America; his vision, however, extended to his Nation's future—for this he is especially revered by those who knew him and were privileged to have served with him. Legendary as was his career so was his patriotism and the highness of his vision for America.

RADIO LIBERTY AND RADIO FREE EUROPE

Mr. BYRD of West Virginia. Mr. President, at the request of the distinguished junior Senator from Washington (Mr. JACKSON), I ask unanimous consent to have printed in the RECORD a statement by him.

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

STATEMENT BY SENATOR JACKSON

I urge my colleagues in the Congress to save Radio Liberty and Radio Free Europe which have been doing a first-rate and nonprovocative job in keeping the peoples of East Europe and the USSR informed.

The House and Senate have approved an open government contribution to the funding of Radio Liberty and Radio Free Europe. We must not be blind to the realities of Eastern Europe and the USSR. We should not permit this vital link between the peoples of West and East to be severed. Unfortunately, there is a risk that some Senators will succumb to new myths while claiming to reject old ones.

I agree with Mr. Luns, Secretary-General of NATO, who said last week:

"We in the West have sought to make it abundantly clear that for us detente means the improvement of relations and exchanges, cultural and economic, between nations and involves freer movement of ideas and persons."

Congress should also consider the views of another responsible and respected European leader, Dirk Stikker, a great statesman of the Atlantic Community. During World War II, Dirk Stikker was active in thwarting the Nazi occupation. He has been Netherlands Foreign Minister, Chairman of OEEC, Ambassador to Great Britain and to Iceland, and Secretary-General of NATO, 1961–1964. In a message sent to me this week, Mr. Stikker reminded us of what East-West relations are all about. The full text of Dr. Stikker's message follows:

PERSONAL TELEGRAM TO SENATOR JACKSON FROM DIRK U. STIKKER

LAGO DI COMO, ITALY,
February 23, 1972.

Senator HENRY M. JACKSON,
United States Senate,
Washington, D.C.

MY DEAR FRIEND: I just finished reading the Congressional Record of Senator Fulbright's statement in the Senate of February 17 about Radio Free Europe and Radio Liberty.

As Chairman of the West European Advisory Committee of Radio Free Europe I would like to present my own views which are quite different from those of Senator Fulbright.

We of the oldest generation of this old continent do not like to reply in kind and therefore I will be brief.

First of all, I want to assure you that since I've been Chairman of that European Advisory Committee I have been in touch with those who can be considered as representative for public opinion in Western Europe and to my knowledge the reaction to the work Radio Free Europe is doing is positive appreciation.

I've personally followed the way Radio Free Europe prepares its programs and again I know that it is an independent organization.

We all want a detente. We all want to prevent hot or cold war. But what we do not want is detente abroad and suppression at home and I think we will all agree with what my successor at NATO, Mr. Luns, said in a speech a few days ago: "We in the West have sought to make it abundantly clear that for us detente means the improvement of relations and exchanges, cultural and economic, between nations and involves freer movement of ideas and persons."

Freer movement of ideas is what the radios are all about.

Those who like myself have lived for five years in occupied territory know what it means that the only contact with the outside world is the radio. That contact was in our darkest hours the source to keep alive our courage and our hope.

The American way of life has always included the right of free speech and press. Americans have always believed that an informed public opinion is essential to the development of better mutual understanding among men and nations. Radio Free Europe and Radio Liberty are doing a great deal to assure that the peoples of East Europe and the USSR are kept informed. I can think of no time when this function has been more essential than right now.

I hope that (as I have made a statement on this subject in the subcommittee of the Committee of Government Operations of the United States of which you are chairman) you can find a way that this opinion of an old European who has been fighting for these principles during and since the last World War can be made known to your colleagues.

Best personal regards.

Sincerely,

DIRK U. STIKKER.

STATE OF THE AGING: HOUSING—A CRITICAL NEED

Mr. WILLIAMS. Mr. President, the recent, historic White House Conference on Aging has given the Congress and the executive branch new mandates for action on aging during the 1970's.

The message of the conferees who met 2 months ago was plain and compelling. In down-to-earth language they told the Nation that the elderly's time is now.

A new, compelling national policy on aging—as expressed at the Conference—must now be translated into early action if that policy is to have any real impact upon the aged of today and tomorrow.

Their challenge cannot be ignored.

Their challenge cannot be met by election year promises and post-election forgetfulness.

To respond to that challenge, Democrats and Republicans alike in the Congress must take immediate action within the next few weeks and months.

To keep the challenge from falling into obscurity, a bipartisan congressional coalition—in alliance with the administration whenever it is receptive—must then sustain that effort.

As a member of the Senate Committee on Aging and as its former chairman—and now as chairman of the Senate Committee on Labor and Public Welfare—I say here and now that I will do all in my power to make the 1970's a decade of accomplishment for older Americans, rather than a period of continuing disappointment, frustration, and mounting anger.

For that reason, I am pleased that the senior Senator from Idaho, my successor as chairman of the Committee on Aging, initiated a Senate floor discussion of the state of the aging. He, together with committee members representing both parties, are providing a congressional springboard for implementation of White House Conference recommendations.

My intention today is to discuss the problems that come before the Subcommittee on Housing for the Elderly, on which I serve as chairman.

But, before turning to those problems and the policy shortcomings which help produce them, I would like to point out that the White House Conference recommendations in other areas are identical or similar to proposals I have advanced within recent years, such as:

Major increases in social security benefits;

Establishing a floor under the income of every older American;

Liberalization of the retirement test under social security;

General revenue financing for a portion of the social security program;

Extension of medicare coverage to include out-of-hospital prescription drugs;

Part-time employment for older Americans in worthwhile service projects right in their own home communities.

Extension of home health services under medicare to provide alternatives to more costly forms of institutionalization.

Greater opportunities for adult education.

A greater research effort into the aging process, as well as social issues affecting older Americans.

More useful assistance to middle-aged and older workers who face long periods of unemployment when layoffs or plant shutdowns occur.

Greater attention to transportation needs of the elderly.

A reversal of recent policy decisions which tend to downgrade the role and functions of the Administration on Aging.

More responsive governmental attitudes to the especially intense needs of those older Americans who are members of minority groups.

A greater emphasis upon health maintenance, or preventive medicine.

Realistic alternatives to institutionalization of the ill, disabled, or isolated and helpless elderly.

Nowhere were the similarities in objectives more apparent than in the field of housing. The conferees agreed with many recommendations which I support and which the Senate Committee on Aging has made in recent annual reports.

In this address, I will discuss the most vital of those recommendations.

In this address, I hope to describe in broad terms actions that can lead to the implementation of a new national policy on housing for the elderly in the United States of the 1970's and the decades beyond.

HOUSING: NO. 1 COST FOR ELDERLY

But first, the question must be asked: Why is housing now such a critical problem for older Americans?

Part of the answer lies in the fact that housing is the No. 1 expenditure for older Americans.

They spend about 33 percent of their total income for shelter, in contrast to 23 percent for younger persons.

Thirty-three percent of anyone's income is a cruel bite, but for those on retirement income the bite is even more painful because most incomes are so desperately low:

We are talking about an age group including 6.5 million persons—one out of every three persons of age 65 and over—who are below or very near the poverty line.

We are talking about an age group in which more and more people are living into their 70's, 80's, and 90's, trying to stretch savings, annuities and social security over many more years than had been the case in the past. As they grow older, medical bills are likely to increase, and medicare pays only 43 percent of their medical bill.

In addition, may of our older persons are living in the very areas where the greatest deterioration of housing units is taking place.

At least 60 percent are in urban areas, many of them in the "inner city."

Thirty-four percent are in rural areas and 5 percent are on farms. And many are attempting to live in large old houses meant for big families rather than for an elderly couple or a widow or widower.

An overwhelming majority—70 percent—of older Americans are homeowners, and 80 percent of their holdings are free and clear of mortgages or other claims against ownership. Equities of $25,000 or more exist on more than 50 percent of these dwellings.

But homeownership does not guarantee satisfaction or security. Threatened by the ever-rising property tax, many older persons are trying to make do in old houses badly in need of repair, or even beyond repair.

All in all, an estimated 6 million persons—almost 30 percent of all older Americans—live in unsatisfactory or substandard housing.

Generally speaking, the lower the income the greater the problem.

Old age assistance recipients, for example, are hit particularly hard: perhaps 45 to 70 percent live in deficient housing; 15 percent have no running water; 30 percent no flush toilets; 40 percent of the housing has one or more other major defects.

Complicating the situation further, many older persons find it impossible to stretch limited incomes far enough to provide maintenance or repairs. Often, failing health or limited physical mobility

may sharply restrict their ability to rehabilitate or maintain their homes.

Should homeowners move into rental housing? That is easier said than done. Rental units in the past few years have been showing a mere 5-percent vacancy rate. Apartments along the eastern corridor are showing only 2.8 percent. Federal programs, as I will discuss later, have provided only sporadic and limited help.

The net impact is that millions of older Americans are finding themselves in an impossible housing situation.

Whether they live in a home that is really not suitable for their needs or in apartments in older city neighborhoods, they stand in need of alternatives.

But acceptable alternatives are in tragically short supply.

THE FEDERAL RESPONSE

Given the great and growing need for housing within the economic reach of the elderly, the Federal Government has offered several significant, but limited, initiatives.

All Government programs taken together produced only 336,000 units for the elderly or an average of about 35,000 units annually between 1960 and 1970.

This one-third of a million units roughly corresponds to the annual net increase in the number of citizens who make it to their 65th birthday in the United States. At that rate, this Nation would barely maintain its present rate of desperate inadequacy.

Another comparison may also help make the point. The President's Committee on Urban Problems developed some statistics from which the committee has made a conservative projection of the need of the 5 million elderly below the poverty line. They say that there is an immediate need for 120,000 units a year for this group alone. Compare that estimate with the 35,000 total annual production for the last 10 years.

Faced by such facts, the present administration might be expected to declare that an emergency exists, and emergency action is called for.

But the last word from Secretary Romney—presented by his emissary at a hearing I conducted in October—was that there is no reason to suspect that elderly families with adequate income "cannot compete effectively in the general housing market, and, therefore, achieve their appropriate share of the housing produced."

His startling conclusion, however, ignores one basic fact: older Americans live on about one-half of the income of those still in the work force.

Moreover, the administration's conclusion was based upon two assumptions which have very little relevance for the elderly:

First. Overcrowding for all age groups diminished between 1960 and 1970.

Second. Plumbing in housing for all Americans improved during the same decade.

A close look at these assumptions reveals that overcrowding is really not a serious problem for most elderly homeowners. Many now live in old family houses that are too big for them or they live alone in apartments.

As for bigger and better plumbing, everyone likes it. But here, again, the Secretary has not chosen a criteria which necessarily has special meaning for the elderly. Since 70 percent are living in homes bought many years ago, they are either likely to have had plumbing in the first place or are unable to pay out the dollars needed for rehabilitation.

Administration perspective on housing for the elderly was expressed in another way by another HUD representative at a hearing last year.

Eugene Gulledge, Assistant Secretary and Federal Housing Administration Commissioner, said that the administration was proud of its record in increasing overall housing production, largely through the interest subsidy mechanism. He said:

> Because housing for the elderly is an integral part of our production goals, and because most of our assisted programs can and do serve their needs, it follows that larger and larger numbers of our senior citizens are now being given the opportunity to live in decent housing, appropriate to their needs.

But you cannot house citizens in rhetoric.

HUD funds helped produce only 41,000 units for the elderly last year, and much of that was possible only because of a "pipeline" or backlog of applications from an earlier—and abandoned—program.

I have discussed numbers of units to show the lack of responsiveness of Government programs, but our national failure can be measured in other terms.

To this end, the resolutions of the White House Conference on Aging are both an indictment of our current efforts and a clarion call for action on a much broader scale.

WHITE HOUSE CONFERENCE RECOMMENDATIONS

Mr. President, many of the individual sections at the White House Conference produced eloquent statements of need and proposals to meet those needs.

But the housing section, in my judgment, merits special praise for the eloquence of its statements, the depth of its convictions, and the high quality of its recommendations.

The major call was for "a national policy on housing for the elderly worthy of this Nation," enjoying a high priority and embracing not only shelter but needed service of quality that extend the span of independent living in comfort and dignity, in and outside of institutions, as a right wherever the elderly live or choose to live.

The housing section participants declared:

> Availability of housing in great variety is imperative. Such housing should respond to health and income needs and provide a choice of living arrangements. It should include sales and rental housing, new and rehabilitated housing, large and small concentrations. It should be produced by public agencies and by private profit and nonprofit sponsors, with incentives to encourage such housing in all communities.

Needs of minority groups, the disabled, and the aged in isolated rural areas would receive special concern and priority. A decent and safe living environment, "the inherent right of all elderly citizens," would become an actuality at the earliest possible time.

Specifically, the section report called for the following:

First. Construction of 120,000 federally assisted units for the elderly each year.

Second. Supportive service for the residents of federally assisted housing projects and the use of these housing projects as the base for outreach programs to serve the general community.

Third. Relief from escalating property taxes which are becoming confiscatory in many States.

Fourth. The incorporation of architectural and design standards in housing to meet the special needs of the elderly. Only 180,000 of the 336,000 units built in the last 10 years were specifically designed for the elderly.

Fifth. The revitalization of section 202 which provided direct loans to nonprofit sponsors desiring to make available housing for the elderly. The delegates specifically requested that the senior housing administrative component of HUD have audit responsibility for this program and that the portion of 236 funds going to the elderly should be placed under this same management.

Sixth. Rent supplements increases. To date there have been only 162 projects and some 4,200 persons of all ages served by this program.

Seventh. The promulgation of new programs which would assist families to care for their relatives in their own homes.

Eighth. The development of physical and environmental security standards for housing for the elderly, perhaps in recognition that crime and the likelihood of fires in high-rise structures are becoming more and more threatening.

Ninth. More HUD research to deal with the health, physical, and social aspects of housing. HUD's budget for research last year was only $30 million and most of that was spent on the development of modular and mass produced housing.

Tenth. Establishment of the Office of Assistant Secretary of Housing for the Elderly within HUD who would be a highly visible advocate for older Americans. This official would have statutory authority to create and implement a national policy of housing needs for the elderly.

The White House conferees would not have had to make such far-reaching recommendations, of course, if present programs were anywhere near adequate. Taking a look at those programs, here is what we find:

LOW-RENT PUBLIC HOUSING

Low-rent public housing continues to be the largset Federal program serving the need of the elderly, providing 282,000 of the 336,000 units constructed during the past decade. But this number falls short of the documented need. Long waiting lists are typical in some areas. An many older Americans are too "poor" for public housing.

Today there are some urgent indications that the program is in trouble. Heading the list, is the serious problem of crime which threatens the very existence of the aged. This point was made very forcefully at hearings I conducted last October when witnesses described

murders, rapes, muggings, and the terrorizing of old persons throughout the United States.

Undoubtedly crime is a major reason for the high vacancy rate at some public housing projects. In St. Louis, for example, the vacancy rate is approaching 40 percent because many individuals prefer the discomforts of the slums to the constant threat of danger to themselves and their property.

Additionally, poor management plagues much public housing. Maintenance is usually minimal, and quite frequently nonexistent. As a consequence many tenants are made to feel like unworthy welfare cases rather than proud individuals.

Despite these shortcomings, the public housing program has served many older Americans effectively. What is needed now is essential reform, instead of outright abandonment.

RENT SUPPLEMENT PROGRAM

Another program with great potential for elderly tenants is the rent supplement program. But it now serves only about 4,200 persons. And many older Americans are discovering that a badly needed social security increase can push them above the qualifying income limitations, and eventually lead to a forfeiture of this valuable assistance. This problem is symptomatic of the urgent need for further improvements in the rent supplement program.

SECTION 235 HOUSING

Another program requiring reform is FHA section 235, which provides homeownership assistance for low- and moderate-income families. With the Federal Government underwriting the interest cost above 1 percent, this is undoubtedly one of the most costly programs ever conceived. Several leading authorities have pointed out that a $15,000 home could cost the Federal Government nearly $25,000 in interest subsidies over a 40-year period. Additionally, this program has been attacked because:

FHA has permitted real estate speculators to sell substandard homes at inflated prices, oftentimes receiving as much as a 150-percent markup.

It has led to instant slums in certain instances because of shoddy workmanship, poor site planning, and substandard materials.

SECTION 202 AND SECTION 236: A MOUNTING CONTROVERSY

Now I would like to turn to the section 236 interest subsidy program which provides rental units for low- and moderate-income families of all age groups. Under this program, the Federal Government assumes the difference in interest from the market rate less the 1 percent paid by the sponsor.

Unfortunately this program has led to the abandonment of the popular section 202 housing for the elderly program, which authorized direct loans at 3-percent interest to nonprofit sponsors.

I have consistently argued that the Congress intended the 202 and the 236 program to coexist. However, HUD administrative decisions have required the mandatory transfer of all 202 applicants to 236.

This is extremely shortsighted, in my judgment. By now the arguments pro and con on this issue are well known:

First. Section 202 has been one of the most successful housing programs in our history, providing 45,000 units without a single failure during the 10 years of its existence.

Second. It was one of the two housing programs exclusively for older Americans and specifically designed for their needs. By contrast section 236 serves all ages and has no special design criteria for seniors.

Third. Section 202 loans were repaid to the Government with 3-percent interest. The amount of this yearly interest return created a revolving fund which meant that the same funds could be used again and again. On the other hand section 236 can result in staggering costs for the Government over the long haul. A $3 million project can, for example, cost the Federal Government $8 million in interest over a 40-year mortgage.

A NATIONAL HOUSING POLICY FOR OLDER AMERICANS

A brief description of existing programs and the recent White House Conference recommendation makes a compelling case of the need for a new national housing policy for the elderly.

Just as evident is the fact that some of these needs are more immediate than others. As always we must face the question of priorities. I will focus on a few of these critical items, although they must continue to be viewed as part of a broader policy.

At the same time I am happy to report that the Senate Committee on Banking, Housing and Urban Affairs, of which I am a member, has acted favorably on some of the following proposals. I understand that the committee's report will be released on February 28.

One. The first and the most pressing need in my judgment is to resolve the dispute over 202 and 236. I am painfully aware of the fact that the elderly are not served when the Congress and the administration engage in years of argument about the means of providing housing. On the other hand, we in the Congress are charged with the responsibility to initiate programs which are efficient and economical.

My position is essentially for the coexistence of sections 202 and 236. I believe this is what the Congress really intended all along. Accordingly I have proposed and the Senate Housing Subcommittee has accepted a $100 million increase in the appropriation for section 202 which will raise total authorizations from $650 to $750 million. At the same time I believe that section 502 of the administration's housing bill, S. 2049, should be perfected to assure that the successor program to 236 is responsive to the special needs of the elderly. My amendment to this effect has also been agreed to by the committee.

Two. Another critical problem for aged homeowners is the property tax, which in many cases is imposing an intolerable drain upon limited incomes. Large numbers are now being forced to liquidate their assets in order to pay for this mounting burden. Many are being forced onto the poverty rolls because the tax remains unchecked. In a 3-year period—from 1967 to 1970—property tax revenues increased by about 35 percent. And there appears to be no end in sight.

In far too many cases, a badly needed social security increase may be obliterated by a sharp rise in property taxes or rent. There is also compelling evidence to suggest that the elderly are hardest hit; many aged homeowners are turning over 20, 30, or 40 percent of their total income to the local assessor. In some cases, the tax bite is more than 50 percent of the retirement benefits.

A classic example occurred in my own State of New Jersey, where one elderly widow, with an annual income of only $1,176, was paying $796 for property taxes. This came to almost 70 percent of her total resources, leaving her only about $7 per week for food, clothing, transportation, medical care, maintenance of her home, and other expenses.

This is not an isolated story. The elderly are now being squeezed through the property tax wringer in every State of the Union. Their problems have reached crisis proportions and require immediate and far-reaching attention.

It is heartening to note that many State and local governments are now considering various alternatives to make the property tax more equitable, especially in view of the recent decisions in California, New Jersey, and elsewhere. However, it is quite likely that many years will elapse before all the issues related to these landmark cases are fully and effectively resolved. In the meantime, the overwhelmed elderly homeowner needs some form of relief from these confiscatory taxes.

And any proposal granting relief, I believe, should be based upon these fundamental concepts:

It should be available to the tenant as well as the homeowner.

This is essential because renters also feel the pinch from high property taxes, since this burden is frequently shifted by the landlord to the tenant.

Relief should be directed primarily at low- and moderate-income older Americans.

A "tier" or "step" system should be employed to provide the greatest assistance for the very low income person.

Relief should be as direct as possible and without cumbersome procedures to be eligible. For example, it may take the form of a tax refund or rebate for persons whose incomes are too small to file a tax return.

Property tax relief should be linked to property tax reform.

Federal assistance should be available to States which include these principles in any legislation to provide relief for aged homeowners and tenants.

The advantages of this approach are many. First, it can provide a badly needed element of economic justice by removing oppressive burdens for elderly persons who simply lack the resources to be saddled with this overwhelming responsibility. Second, it can provide urgently needed relief without the negative connotations associated with welfare, since the local public assistance office is bypassed. And finally, it can deliver the most effective relief for persons in great-

est need—the low- and moderate-income aged homeowner and tenant.

Three. Another part of my legislative package will deal with rehabilitation of existing one-family or two-family homes.

Mr. President, I am well aware that the rehabilitation of such structures has fallen under a cloud of suspicion because of recent criticisms of the 235 program, as described earlier.

My rehabilitation program, however, would differ considerably from the mechanisms used under 235. Instead of rehabilitating for one family or couple, my proposal will call for renovation in such a way that several elderly persons could share a private house formerly occupied by only one family or couple.

A model for this kind of program already exists. The Philadelphia Geriatric Center, improvising with fragments of existing programs, has purchased nine row homes in an age-integrated neighborhood adjacent to its hospital, nursing home, and apartment units. Several of the homes have already been renovated to furnish low-cost housing for three or four elderly persons in each building. Each person has a private efficiency apartment and each person has access to a common living room and kitchen-dining area.

Center officials describe such an arrangement as "intermediate housing" which is especially suitable for persons who may not require the degree of service provided by institutions and yet do not wish to live in large age-segregated buildings. Center officials screen potential tenants to assure compatability with other tenants and compatability with the very concept of intermediate living. In addition, the center provides services: the elderly are not put in a "unit" and then forgotten, as is so often the case in other forms of housing.

I believe that the Philadelphia experiment should be applied on a broader scale, and I am now attempting to determine whether new legislation would be needed to do so, or whether HUD can be persuaded to use existing authority to provide incentives for similar projects under varying circumstances in Philadelphia and perhaps in other cities.

Four. Just as I believe that present programs should be explored for possible authority for the intermediate housing program, so do I suspect that much more could be done with present resources for other purposes.

For that reason I am today writing to Dr. Arthur Flemming, Chairman of the continuing White House Conference on Aging and Special Consultant to the President on Aging, to propose the following:

Dr. Flemming should meet with representatives of HUD, HEW, and other appropriate departments or agencies to design and implement—at the earliest possible date—several prototype projects which mobilize existing programs for experimental purposes.

Please notice that I use the word "prototype," not "demonstration." In bits and pieces, in one way or another, many concepts related to housing have been tested and have proven their worth.

The trick now is to put the demonstration successes together into prototype projects which will combine several useful concepts at once. And a number of models already exist for possible future development, including:

In an urban setting, living units should be mixed with buildings offering intermediate and more extensive medical care. Service centers should be established. Youngsters could be recruited into a Security Corps. A day care center could be provided for young and old.

In a suburban setting near a college campus, housing should be provided to promote interchange between retired persons and students. Outreach could be provided for satellite services, and the communication between young and old could lead to development of a center for gerontological studies.

In rural areas, experiments should be conducted to promote greater flexibility in the use of Farmers Home Administration Loans.

Dr. Flemming—known as a man capable of cutting red tape and transforming concepts into action—is now in an ideal position to win clearance for these prototype projects in a matter of months instead of the 2- to 3-year processing period which so often hamstrings innovative proposals.

Five. Public housing certainly has a place in any housing program for older Americans, despite the very critical problems I discussed earlier.

But, several improvements are needed now to improve this program. A major step forward, in my judgment, would be to implement the congregate meal services provision of the 1970 Housing Act. This measure would broaden public housing coverage to include central dining facilities for elderly persons who cannot move around well enough to do their own cooking or shopping.

Perhaps even more significant, this proposal could have potentially far reaching implications on a number of key fronts. It can enable many elderly persons to remain in their own homes, rather than being unnecessarily or prematurely institutionalized at a much higher public cost. Most older Americans would prefer to live in their own home, instead of a nursing home. Equally significant, this measure can provide the heart of a new approach for social services for the aged. It can also provide the foundation for a comprehensive and coordinated network of services for their total housing needs.

Despite the overwhelming support for this concept, HUD has been dragging its feet in implementing this vital reform. Not one project has been built under this measure, even though this legislation was signed into law more than 1 year ago. For that matter, regulations to implement this provision were approved only recently. This slow-motion pace must end now, and I urge HUD to begin steps immediately to implement this measure.

Equally important, security arrangements must be substantially improved. Today far too many elderly tenants are living under a form of "house arrest." They live under a constant fear of being mugged, robbed, beaten, or vandalized.

However, several steps can be taken to control and prevent crime in public housing neighborhoods. For example, Federal funding to help housing authorities improve lighting can help immeasurably. In several communities where lighting has been improved in high crime areas, there has been a significant reduction in the crime rate. This was clearly revealed in a recent survey of 1,300 police officials throughout the Nation. Of this total, nearly 85 percent reported a drop in the crime rate with an improvement in street lighting, and with good lighting, 42 percent of the officials reported a 50 percent reduction in crimes.

And above all, Federal funding must be released to provide trained security personnel at public housing projects. This measure can be one of the most important weapons in our arsenal to make public housing projects safe for its occupants. The Congress spoke out forcefully and clearly in the 1970 Housing Act that this provision should be implemented. And now is the time for HUD to carry out this strong expression of congressional intent.

Other arrangements should also be explored, including:

Additional security personnel at public housing projects during the first part of the month when elderly tenants receive their social security checks;

Development of a system to process lost or stolen food stamps;

Promotion of cooperative arrangements with local police departments to provide greater security during the evenings or at times during the month when the aged receive retirement or public assistance checks; and

Proper design of public housing facilities, to minimize the tenant's vulnerability to crime.

Six. Clearly, a policy and program on housing for the elderly will not take shape until HUD provides organizational muscle to make things happen.

As things stand now, HUD is divided into two major halves: production and management. Housing for older Americans too often falls in between the two divisions. Even though a small unit of housing for the elderly and the handicapped struggles nobly, it is understaffed and tucked away into the boondock regions of the management section of HUD.

We need an advocate for the elderly in HUD. And that advocate should have the power to make policy and to make certain that the policy has high priority.

For that reason, I call again for action on my bill, S. 1935, which would establish the post of Assistant Secretary for Housing of the Elderly. I might add that I was most pleased that the White House Conferees adopted this proposal as one of their major recommendations.

The Assistant Secretary would, as I have indicated, be a visible advocate of the elderly, he would administer and coordinate housing programs for older Americans. His office would serve as a clearinghouse for information and would be in the position to formulate a comprehensive response to the needs of the elderly.

The Secretary would be in charge of

administering my new housing program when it passes the Congress, which would include elements of the old direct loan program along with appropriate services including the social, nutritional, health, and recreational needs of citizens.

As specified in the White House Conference recommendation, he would have charge of that portion of 236 funds earmarked for the elderly and would be responsible to see that the goal of 120,000 units for the elderly is met.

The Assistant Secretary should institute a number of demonstration projects which I am now proposing:

First. Projects to test increased physical—fire—and environmental safety—crime—of federally assisted housing projects.

Second. A pilot program to assist families to house their elderly in their own homes, on a much more extensive basis than now contemplated.

Third. Housing allowances for the elderly.

Fourth. Senior citizen day care centers.

Fifth. Proposals to aid older Americans in the repair and rehabilitation of their homes.

I am pleased to announce that the Housing Subcommittee has accepted an amendment to the administration's Housing Consolidation Act (S. 2049) which calls for the creation of the Office of Deputy Assistant Secretary of Housing for the elderly. Certainly this is an important step toward meeting the goal of my bill, S. 1935, and the recommendations of the White House Conference.

I must say that I am gratified that the Housing Subcommittee of the Senate Committee on Banking, Housing, and Urban Affairs has adopted the three amendments I have already mentioned. This is a fine beginning toward realizing the goal of an effective national housing policy. But it is only a beginning.

I have attempted today to offer some of the ingredients of a comprehensive national policy, the elderly unlike younger families, spend most of their time in their homes and apartments. It is, therefore, vital that Federal programs endeavor to provide them with more than just the cold basic bricks and mortar. It should be our goal to allow our older Americans to live in dignity, independently as long as they can or desire to do so. This is little more than the basic right of all men. The alternatives are a loss both to the community and to the individual. I will not quote statistics about how many of our elderly are unnecessarily institutionalized at this point, except to point out that each case represents a failure of society. The time has come to keep the promises easily made and so easily broken to our older Americans. It is time a decent and safe living environment becomes a reality for our 20 million elderly.

CARL HAYDEN—A SENATOR'S SENATOR

Mr. SYMINGTON. Mr. President, one of the true priviliges of being a U.S. Senator in recent years was the opportunity of serving with an American whose public career is unique in the history of the United States—Carl Hayden of Arizona.

No Senator ever had more friends. Each year that he served he increased that number—and today they are countless because he has the honor of the longest tenure in the history of the U.S. Congress.

As a Senator from his State for nearly half a century, he became known as a man who worked hard, said little, and accomplished much.

No one could ever forget his short but moving talk the day he announced his retirement, a sad day for the people of this Nation.

A county sheriff before coming to Washington, the pioneer Arizona lawmaker served during the terms of 10 Presidents, from William Howard Taft to Lyndon Johnson, and was regarded by all of them as a trusted friend and valuable counsel.

Senator Hayden was a member of the Appropriations Committee ever since his election to the Senate. He was chairman of that committee for 14 years prior to his retirement. As President pro tempore of the Senate, as well, he made significant additional contributions of service.

Senator Hayden's deep affection for the West, particularly for his State of Arizona, was best characterized by his enormous dedication to the concerns of his constituents. At the same time, he always weighed the good of his country with the needs of his State, and because of his invariably fair judgment was referred to by former President Johnson as the third Senator from every State.

Carl Hayden will long be one of the most sorely missed Members of the Senate. We could never repay him for all he has done for the Nation he loved so much and served so well. His life and the history he helped write will always be a source of inspiration and an ideal model for all present and future public servants.

TRIBUTE TO THE LATE SENATOR CARL HAYDEN

Mr. CASE. Mr. President, Carl Hayden was already a veteran legislator when I first came to Congress in the forties.

He truly became a legend in his time, a bridge between the days of the pioneers and our modern society.

Arizona was fortunate indeed to have such an able advocate in the Halls of Congress.

EXTENSION OF HUNGER COMMITTEE

Mr. PERCY. Mr. President, I had the honor to appear this week with the distinguished Senator from South Dakota (Mr. McGOVERN) before the Committee on Rules and Administration to testify in support of Senate Resolution 241 to extend the life of the Select Committee on Nutrition and Human Needs for 1 year.

I believe our committee has done much in the past year to eliminate hunger and malnutrition in America. And this administration has done more to expand the coverage of our major food and nutrition programs than any previous administration.

But our work is not yet done. We have not yet fulfilled our pledge to the American people to win the war against hunger and malnutrition in this country. That is why we must allow the work of the Select Committee to continue.

Mr. President, I have received many letters from around the country which carry this same appeal: Let the contribution of the Select Committee on Nutrition and Human Needs continue. I ask unanimous consent that three of these letters be printed in the RECORD.

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

AMERICAN SCHOOL FOOD SERVICE ASSOCIATION,
Denver, Colo., January 28, 1972.

Hon. CHARLES H. PERCY,
Senator from Illinois,
New Senate Office Building,
Washington, D.C.

DEAR SENATOR PERCY: Our Washington office has advised me today that on Wednesday, February 2, 1972, the Senate will again consider extending the life of the Senate Select Committee on Nutrition and Human Needs. *I would again wish to raise my voice to urge that this Committee be continued.*

On October 13, 1971 when I had the privilege of testifying before this Committee, I expressed on behalf of the 50,000 members of our organization and on behalf of the 50 million school children of this nation, our appreciation for the work of this Committee.

I wish to again express such appreciation on behalf of our members, the children, and—indeed—every individual in our nation.

Sincerely,

JOHN PERRYMAN.

STATE OF GEORGIA,
OFFICE OF SCHOOL ADMINISTRATIVE SERVICES,
Chicago, Ill., February 16, 1972.

Hon. CHARLES PERCY,
U.S. Senator,
Senate Office Building,
Washington, D.C.

DEAR SENATOR PERCY: May I take this opportunity to express my appreciation to you and the other members of the Senate Select Committee on Nutrition and Human Needs for the magnificent contribution made to the School Food Service Program.

Since 1968 the number of needy children being served through Child Nutrition Programs has more than doubled. The work of the Senate Nutrition Committee is reflected in this growth. As a State Food Service Director, I can assure you that the present level of funding, and method of funding makes the task of reaching children much easier.

Although tremendous gains have been made, we must not rest until all children needing a lunch at school have that opportunity. Therefore, I am hopeful that the Senate Nutrition Committee will continue its efforts to the end that the nation has a Child Nutrition Program responsive to the nutritional needs of all children.

Sincerely yours,

JOSEPHINE MARTIN,
Chairman, Legislative Committee,
American School Food Service Association.

THE AMERICAN DIETETIC ASSOCIATION,
Chicago, Ill., February 16, 1972.

Hon. CHARLES PERCY,
New Senate Office Building,
Washington, D.C.

DEAR SENATOR PERCY: I am writing on behalf of the 23,000 members of The American Dietetic Association to urge approval of the legislation that is required to extend for an additional year the Select Committee on Nutrition and Human Needs. This Committee has contributed greatly to improving nutri-

tion and food assistance programs in the United States. Many unmet needs, however, in the field of nutrition continue to confront our nation. We believe that the Select Committee on Nutrition and Human Needs will provide a useful forum for the discussion of nutrition problems.

With best wishes, I am

Sincerely,

KATHARINE E. MANCHESTER,
President.

THE HONORABLE ALF M. LANDON INTERVIEWED

Mr. DOLE. Mr. President, there are never sufficient numbers of senior statesmen, who are wise and able to view present events in the perspective of many past battles and prior experiences. Thus, it is a cherished occasion when we are privileged to share the views of these great men, especially rewarding when we are afforded the opportunity of sharing the views on the issues with one who is held in such high, universal esteem as the Honorable Alf M. Landon, former Governor of Kansas and Republican presidential candidate. Recently, the American people were afforded such an opportunity when he was interviewed by Elizabeth Drew on "Thirty Minutes With . . . ," a production of the National Public Affairs Center for Television, seen on the Public Broadcasting Service.

Mr. President, I believe my colleagues would appreciate the thoughts, reflections, and wisdom of Alf Landon, and I ask unanimous consent that the text of the broadcast be printed in the RECORD.

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

PROCEEDINGS OF INTERVIEW

NARRATOR. In Topeka, Kansas, Thirty Minutes With . . . Alf Landon, Republican candidate for President in 1936, two term Governor of Kansas, and Elizabeth Drew.

Mrs. DREW. Governor Landon, you are now one of the statesmen of the Republican Party, a leader of its progressive wing, frequently consulted by politicians. How do you assess President Nixon's chances of reelection?

Mr. LANDON. I couldn't give you any accurate answer to that this far ahead of time. There's too many events going to occur in the world and in the United States that will have a definite effect on that election and to attempt to appraise it at this time would not be accurate entirely, but as it looks now I would say that the chances of his election, odds are 3 to 2.

Mrs. DREW. 3 to 2?

Mr. LANDON. At least.

Mrs. DREW. That makes him not a shoo-in though.

Mr. LANDON. Well, it don't make him a shoo-in but that's the best, the nearest I can give you to an honest appraisal of the political situation as I see it today and if Mr. Nixon continues his enlightened and vigorous constructive leadership, as I am sure he will, and as he has time for these policies to mature which he will have in the coming ten months or so, I am sure his chances of election will be better in next November than they really are today.

Mrs. DREW. Now you were not for his nomination in 1968.

Mr. LANDON. No.

Mrs. DREW. How do you assess the job he has done? You say he's enlightened and constructive. Why are you more enthusiastic now than you were?

Mr. LANDON. Well, one, he has reversed the jingoism of the previous administrations and the containment of communism policy, for instance, by force around over the world and has pursued a course which by and large really follows the outline of President Kennedy's American University speech in which he did not have the time to develop of course because of the unfortunate tragedy but in which he outlined the policies which the President is now—President Nixon is now continuing to develop of negotiation.

Mrs. DREW. Now you urged the recognition of Red China into admission into the United Nations I think as early as 1948.

Mr. LANDON. As the charter is being written in San Francisco I said you couldn't leave out—it wouldn't possibly work leaving out the country of that size. I didn't say it would work if China was in it but at least we see for the first time in an organization designed for peace all the major powers of the world together. Now in the League of Nations one of the arguments at the time was the failure of the League of Nations was due to the absence of America because we hadn't joined. I didn't think that made much difference. Regardless of whether that was true or not today for the first time all the major countries of the world are together in the United Nations.

Mrs. DREW. I interrupted you when you were talking about Mr. Nixon's achievements but I assume that that would be one that you would be quite pleased with, having——

Mr. LANDON. Very, very definitely yes.

Mrs. DREW. Go on why else?

Mr. LANDON. And the second—the domestic policies. I like his domestic policies. He started out with the more orthodox fiscal policy of attempting to remove the uncertainty regarding the American dollar in the international monetary markets of the world and when he found that didn't work, he was perfectly willing to adjust and fit to the situation that existed and he found it necessary to change his policies. He's done it. Done that and the universal acceptance of the so-called stabilization of the American dollar today in the international market—monetary markets of the world. The problem of the dollar started about seven or eight years ago with our failure to meet our payments abroad and that gradually built up to an enormous deficit. Then compounding that in the last two years or so, the balance of trade turned against us.

The balance of payments had been against us all these years and were building up, adding to our deficit and then in about—about two years ago that was compounded when the balance of trade turned against us so that he had both problems to deal with and I think there's general acceptance that his —by Democrat economists at least like Walter Heller for instance—that as to the soundness of his present monetary policies.

Mrs. DREW. You know one of the issues that the politicians talk about and argue over and I am sure will come up in the course of the next year is whether or not the mood of this country is one of unease or how much unease there is. I wonder as you sit here in Kansas how you see the mood of the country?

Mr. LANDON. I think there is an uneasiness, frustrations when economic conditions are not good, there is generally—a general mood of as you say frustration and uneasiness. If the economic conditions improve, as they improve it tends to eliminate that uncertainty. Along with that of course thoroughly aside from the economic conditions are other factors involved in the present mood of the country today.

Mrs. DREW. What are they?

Mr. LANDON. Well, primarily ethnic groups for one reason. The problems of getting along together as it were in America which is nothing particularly new about them. It's old. We're a country based, built by ethnic groups. Go back to the old no-nothing campaigns, back in the 1850s which were anti-Irish and anti-Catholic so this problem of getting along together is a problem that we've had to work with a good bit of our national life.

Mr. DREW. Do you think we're getting better at it or worse at it?

Mr. LANDON. I think we're getting better at it all the time and take the Afro-American problem. Before that it was in the early days of infancy as I said the Irish and then became the Italian immigration into our country and the different groups. We had a big German and Swede immigration after the Civil War period in the seventies and eighties especially. All of these ethnic groups had to be adjusted one way or another with the other ethnic groups which is America.

Mrs. DREW. Speaking again of the mood what do you make of the polls that have been coming out that show us a rather sharp decline in public confidence in virtually all institutions, whether it's business or government or what have you?

Mr. LANDON. That was true back in the thirties with the great depression of the thirties and it disappeared for the time being. Go back to the adjustments to the Civil War in the 1880s and 1890s. There was the same difficulties. As I say it's more than economic. Today we have changed from the Agrarian civilization to an industrial civilization. That's one of the factors involved. The adjustment to city life by a great shifting of, increase of population coming from the more rural areas.

All of that—America has never had the old established society of Europe, for instance. We move around in this country. It's easy to move around and we, not only into new occupations but along with the new occupations we have entirely a change of living conditions.

Mrs. DREW. I'd like to go back to that poll and break it down a little bit. Let's start with business. Do you think it's responsive enough to the public?

Mr. LANDON. I think part of the trouble today in the lack of credibility that you are talking about is the lack of responsibility of big business. Public responsibility and they're commencing paying for that folly. Today I think there is more realization in management of their public obligations and responsibilities as well as their profit and loss statement for their stockholders than there was five years ago, for instance.

Mrs. DREW. Do you think the government should be coming to the rescue of Lockheed or Penn Central?

Mr. LANDON. I did not. I didn't think we had any more business coming to their rescue of Lockhed and——

Mrs. DREW. Penn Central.

Mr. LANDON. Penn Central than bailing out all bankrupt concerns, bankrupt through mismanagement.

Mrs. DREW. Going to politics for a minute, the decline of confidence there has to—seems to have to do with the way politicians make decisions, the money they seem to need, the secrecy with which some of these arrangements are made, is that different from things you've seen before?

Mr. LANDON. No. This is different though that today first you started with the growth of the daily newspapers through the wire associations and so forth and then you come down to the news—atomic media today and both TV and radio bring government in Washington closer at home today than it's ever been. They bring it in the homes if you please so that government in Washington or in the state capitol for that matter with the people for instance out in the other areas of the state are really today more coverage—there's more coverage of them and as a result there's more information today than ever existed before in this history of our country and when the—and the feeling that they don't know as much as they should is a natural corollary of that.

But when you come right down to it, as I say, owing to the news coverage today, the press and the electronic news, there's more multiplicity of information available to the average citizen than ever before in the history of our country or probably any other country in the world.

Mrs. DREW. You were involved in reform in Teddy Roosevelt's Bull Moose movement. Is that very different from some of the reform movements you see now?

Mr. LANDON. Well, you know Teddy Roosevelt's progressive slogan was "Pass Prosperity Around." What's the difference between that and what the government is doing today?

Mrs. DREW. But weren't you also involved in some of the reform of the process of politic and state government?

Mr. LANDON. Well, us young fellows, we were the wild eyed boys back in those days, the old progressive bunch. We thought we had all the answers to the problems of our government, state and national, in popular elections, United States Senators, primaries. We thought that that was going to solve the problems of our government in those days. Well, it just doesn't work out that way but there has never been a time as a result of the primary and the popular election of the United States Senators I can remember before we had that here in Kansas when the Senators from Kansas was known in the old days—one of them was known as the Santa Fe Senator and the other one the Union Pacific Senator, United States Senators. In the vernacular of the day, how true that was I don't know because that goes way back into the eighties and nineties.

Mrs. DREW. How about the State House? Was it true everybody had a railroad pass?

Mr. LANDON. Oh, in the past legislation for instance, you're talking about. It was a great issue during 19—say about 1907. In those days when a man was elected to the legislature he immediately got a railroad pass from his home to Topeka and back so that the anti-pass legislation removed—there was quite a fight over it in the legislature in 1907. I was going to law school down at KU. I remember being here at the session in the House when the debate was going on. The legislators didn't like to give up those free passes but they did and that's another evidence, factor, of the change for the better that's taking place in our government.

Mrs. DREW. Why has the Republican Party remained a minority party?

Mr. LANDON. That would take quite an answer. Without making it too short I must say that I am not sure when we were the majority party that we were meeting the demands of the times. We were in tune with the demands of the times. I think Mr. Nixon is and that's why I like what he's doing.

Mrs. DREW. But he's still a minority President?

Mr. LANDON. Yes, but he might not be by the time he gets through. For instance, we've talked about his foreign policy. We talked about the domestic economy. I like his support of what's known as the Moynihan Plan.

Mrs. DREW. The Moynihan Plan, you mean for welfare reforms?

Mr. LANDON. Yes. I think our national welfare programs—I think it's been a national scandal all these years and——

Mrs. DREW. Which part are you scandalized by? Different people have different reasons for being scandalized. Some say it's because people receive too much and some say it's because they don't receive enough.

Mr. LANDON. I don't think that it—I wouldn't describe it to agree with that description alone. It's been more the equitable distribution and hasn't reached the people who need it really. Now in a nutshell the Moynihan Plan or Nixon Plan is designed to enable the poor to break out of the circle of poverty that they're in. Now what the difference between that and underwriting Penn Central and Lockheed for their poor management.

Mrs. DREW. You're for helping the poor but not for Lockheed and Penn Central. We stay clear on that.

Mr. LANDON. That's right, but the very people that are for Lockheed and Union Central bailing out, they're not for the——

Mrs. DREW. They're in your party. How do you——

Mr. LANDON. Well, they're in the Democrat Party too as far as that goes. They're not for bailing out—this is a Democratic Congress. If the Moynihan Plan hasn't been passed which the President would make amended to the Democrat Congress its first session, it's the Democrat Party's fault.

Mrs. DREW. Well, you know how these things work out, that Republicans and southern Democrats get together against——

Mr. LANDON. I don't think so.

Mrs. DREW. You don't think so?

Mr. LANDON. No.

Mrs. DREW. I'd like to go back to the parties for just a minute and ask you something else which is how do you account for the fact that fewer people are identifying with either party and there's a rise in what people identify themselves as independents.

Mr. LANDON. Party lines started breaking down in the Republican Party in the north and the Bull Moose Progressive Party campaigns in 1912 and 1914. They broke down somewhat in the south in the Al Smith campaign in 1928 but they really didn't start breaking down until the Dixiecrat ticket of Strom Thurmond in 1948 and it's been a little slower down there than it has elsewhere in the country, but this party lines generally have been breaking down. Now that's both good and bad. My recomm—because a strong party organization responsive to the demands of the time is really important to achieve legislation and administration both.

On the other hand, I never did believe in voting for a yellow dog because he's on the party ticket.

Mrs. DREW. Do you think there's a chance we might be getting to a period when the two party system as we've known it is just not going to exist?

Mr. LANDON. I think Mr. Nixon's so-called southern strategy, the long-range implication of that has been completely overlooked. It's been talked about just on the basis of his campaign for reelection. Now the Democrat Party following the Civil War, base was in the south. It was really a regional party until Mr. Roosevelt put a firm base under the Democrat Party in the northern states.

In these years the Republican Party has really been a regional party. Mr. Nixon is trying to put a base under it in the southern states. So if he's successful for the first time in a little better than 100 years, we'll have two really genuine national major parties in America.

Mrs. DREW. I want to ask you a question about yourself for just a moment. You're, if you don't mind my saying it,

Mr. LANDON. Go ahead.

Mrs. DREW. 84. You run your businesses in radio and oil and you talk to the politicians across the country. How do you keep up and how do you keep in such shape?

Mr. LANDON. Well——

Mrs. DREW. It's really two questions there.

Mr. LANDON. First thing as I take it, I like to get in horseback riding early in the morning.

Mrs. DREW. What's early?

Mr. LANDON. Depends on the time of year and the weather. In the summertime, spring and late spring and summer and early fall, I like to be out at least down at the barn around 6:30 or something like that.

Mrs. DREW. That's early.

Mr. LANDON. And sometimes I don't get out—I don't get out as early as I used to and I don't ride as far and as fast as I used to. But I still like to get out on the horse in the morning and after that why, then I enjoy other activities.

Mrs. DREW. How do you stay informed enough to be talking to the Senators and people in your party. What do you read?

Mr. LANDON. I read the newspaper pretty close and——

Mrs. DREW. Several of them?

Mr. LANDON. Yes and I read—I listen to the news broadcasts in the later afternoon and evening and then there's always some very interesting and goodlooking women like you come along and keep me on my toes like this interview.

Mrs. DREW. Thank you. What do you see has happened to the institution of the Presidency versus the Congress in their relative strength. This is something we worry about a lot.

Mr. LANDON. I don't worry about it. I think the Congress is the one that had neglected their constitutional responsibility.

Mrs. DREW. In what way?

Mr. LANDON. Over treaties, for instance. I fully supported Senator Fulbright's moves to bring back to the Congress—to the Senate their responsibility over the commitments that our President might be making around over the country. Instead of submitting them in the agreement that he was making to the Congress—to the Senate for advice and consent why he was making what came to be known as executive agreements which at the same time could be as binding as really formal treaty.

Mrs. DREW. Is this a recent thing though. Are you talking just about President Johnson?

Mr. LANDON. No, I am talking about Woodrow Wilson had us into the Mexico—war with Mexico both on land and sea before he had—without declaration of war. Roosevelt had us in World War II a year before he asked Congress for a declaration of war. President Truman went into Korea, a decision between night and morning. I praised him at the time. Colgate University—for his courage.

Mrs. DREW. Governor Landon. Thank you, Governor we've run out of time. Thank you very much.

NARRATOR. In Topeka, Kansas, Thirty Minutes With . . . Alf Landon and Elizabeth Drew.

This has been a production of NPACT, the National Public Affairs Center for Television.

CBW OPERATIONS IN ALASKA

Mr. GRAVEL. Mr. President, 4 years ago a malfunctioning valve on a test aircraft resulted in the death of more than 4,000 sheep in the valleys near the Dugway, Utah, proving grounds. This accident blew the cover off the Army's secret chemical and biological warfare (CBW) program. At that time the public hardly knew the CBW program existed, including the CBW test mission conducted by the Army's Arctic Test Center at Fort Greely, Alaska.

Since I first learned of the Army's loss of a cache of nerve gas rockets and artillery shells at Fort Greely, I have addressed numerous inquiries to the Secretary of Defense concerning CBW activities. I have been appalled by the difficulty I have encountered in obtaining meaningful and accurate information from the Department of Defense on these matters.

Recently I received a letter from Dr. Richard A. Fineberg, assistant professor of political science at the University of Alaska, detailing some of the questions about CBW testing in Alaska that remain unanswered after more than 2 years of painstaking research. Dr. Fineberg has made a thorough study of the

Army's CBW activities in Alaska, and his book on this subject, The Dragon Goes North: Chemical and Biological Warfare Testing in Alaska, will be published shortly by McNally and Laftin of Santa Barbara, Calif. I think the issues raised by Dr. Fineberg in his letter are of importance to the Senate, and I request that it be placed in the RECORD.

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

JANUARY 15, 1972.

Hon. MIKE GRAVEL,
U.S. Senate,
Washington, D. C.

DEAR SENATOR GRAVEL: While investigating the chemical and biological warfare (CBW) program in Alaska, I raised several questions which remain unresolved to date. I believe that these matters warrant further inquiries to the Department of Defense. The material on which these questions are based is quoted in full in the appendices to my book, *The Dragon Goes North: Chemical and Biological Warfare Testing in Alaska,* to be published shortly by McNally and Loftin, Santa Barbara, California.

1. When I disclosed in June 1970 that the Army drained a small lake in Alaska to recover missing nerve gas weapons from the bottom of the lake, the Army hastened to inform members of Congress that "(d)uring the entire operation no lethal chemical agent was released into the atmosphere, and no personnel were exposed to the agents." ("Information for Members of Congress," furnished by Office, Chief of Legislative Liaison, Department of the Army, June 5, 1970.)

But the following month the Army informed me that during the strange recovery operation at least one artillery shell containing nerve gas was observed leaking and that at least two persons were treated as "possible exposure" cases—one in connection with the leaking shell. (Material included in letter from August T. McColgan, Information Officer, Headquarters, U.S. Army Test and Evaluation Command, July 10, 1970.)

Strangely enough, the Army's "final reply" to inquiries about this incident, drafted several months after I had been informed by the Army of the gas leakage and possible exposure cases, did not correct the erroneous statement you had received from the Army June 5, 1970. (Letter to Sen. Gravel from Col. Philo G. Hutcheson, Colonel, GS, Office, Chief of Legislative Liaison, Department of the Army, Dec. 21, 1970).

The Army subsequently corrected its self-styled "final reply" in a letter to you released publicly some months later. In this letter, the Army said that "certain conflicting information" in the case became available after the final reply to your questions had been drafted. But the Army had advised me of this information nearly six months before the Army answered your queries. (Letter to Sen. Gravel from Col. Hutcheson, July 2, 1971).

I can only conclude that the Army was either unable or unwilling to apprise you of the actual situation at Ft. Greely. Should Congress tolerate this kind of obfuscation of matters of public concern?

2. Two servicemen stationed at Ft. Greely, Alaska, have died of pneumonia—one in 1969 and one in 1970. Pneumonia is seldom fatal to healthy young males. Ft. Greely was the site of open-air biological agent weapons tests in 1966 and 1967. The only biological agent the Army has acknowledged testing is tularemia (rabbit fever), a disease which frequently develops into pneumonia. You asked the Army to look into this matter April 20, 1971.

In response to your inquiry, the Army said that a complete and thorough review of the records disclosed no evidence to support the possible involvement of *chemical* agents in the death of either serviceman. (letter from Hutcheson, June 2, 1971.)

The so-called "complete and thorough review" failed to mention the possibility that *biological* agents might have been implicated. As you are well aware, the Army draws a clear-cut distinction between chemical and biological agents; tularemia is a biological, not a chemical.

You also asked the Army about the discrepancy between the hand-written physician's account and the typewritten summary covering the case of one of the deceased servicemen. The Army responded that none of the handwritten statements in the clinical record were altered, nor were additional statements inserted. As the copy of the deceased servicemen's hospital records I submitted to you last February indicate, there is indeed a change in the typewritten reports prepared by the Army after the patient's death.

When he was admitted to the Army hospital at Ft. Wainwright May 3, 1969, the deceased was seen by Maj. Tom Carter, M.D. Maj. Carter's handwritten interview notes were brief:

25 y.o. caucasian male developed fever & chills yesterday pm, nausea this afternoon, and now mod. productive cough. Denies pains or aches, previous URI [upper respiratary tract infection], drinking spree, etc. Has had mild headache this afternoon.

In the narrative summary of the case, typewritten three weeks after the serviceman's subsequent death, Maj. Carter's handwritten comments were expanded to include the phrase "specifically he denies . . . exposure to gaseous toxins." The typewritten summary in the record reads:

This 25-year-old white male entered with a chief complaint of cough and fever for 24 hours, which began in the afternoon of the day prior to admission, slowly progressed to include nausea, and eventually a productive cough. Specifically he denies having a previous upper respiratory tract infection, generalized myalgia or arthralgia, excessive ingestion of any medications or ethanol, nor any exposure to gaseous toxins. At the time of admission his only additional complaint was that of a mild headache.

Clearly there is an addition in the typewritten account. There is no basis in the handwritten notes for the reference to gaseous toxins inserted into the typewritten account prepared after the serviceman's death. Additional circumstances detailed in my book make it reasonable to inquire about the possibility of a link between CBW and these cases. Here again, however, the Army appears to be either unwilling or unable to respond meaningfully to legitimate inquiries.

3. For over a year I tried to learn about alleged CBW operations northwest of Clear, over 100 miles from Ft. Greely. Inquiries through Ft. Greely and the Army's test and Evaluation Command (TECOM) yielded no information until I finally pinpointed a precise location through non-military sources. Then, and only then, did TECOM belatedly admit that there had been a "meteorological test" at the site in question in 1968. After a year of dodging inquiries, the Army conceded that "to the uninitiated . . . this could have been mistaken for Chemical or Biological test operations." (Letter from McColgan, June 25, 1971.)

TECOM might have added that the ecological research group the Army employed to monitor the biological tests at Ft. Greely was dispatched to the remote site near Clear, that the operation was linked to Ft. Greely's Nuclear, Biological and Chemical test division, as well as the Desert Test Center (a Utah CBW test unit), and that the Bureau of Land Management, the federal agency responsible for administering the land used for this test, was not consulted.

Under what conditions can the Army use land managed by other federal agencies without first securing permission from that agency? This incident demonstrates the ease with which the Army could use a remote Alaskan site for almost any purpose it wishes—including CBW testing.

In my mind, these specific items raise serious questions concerning the Army's manipulation of the information it chooses to make public about CBW. These details are part of a pattern of duplicity which has characterized CBW operations in Alaska and elsewhere.

The President and Army public relations specialists would have us believe that the CBW program is being curtailed. Careful research and analysis indicates that this may not be the case. (See for example Arthur Kanegis and Lindsay Richards, "The Budget Gives the Game Away," *The Nation,* Oct. 11, pp. 337–340.)

The careful attention of Congress to the information submitted by the Department of Defense in accord with P.L. 91–121 and P.L. 91–441 is an important factor countering the continuation of a clandestine CBW program. As an Alaskan, I am grateful for your continued effort and energy looking into these matters.

Sincerely,

RICHARD A. FINEBERG, Ph. D.,
Assistant Professor of Political Science.

Mr. GRAVEL. Mr. President, each of the matters raised in this letter has been the subject of several inquiries to the Department of Defense by either myself or Dr. Fineberg. In each case the Army apparently has been either unwilling or unable to respond to the questions posed.

Section 409(b) of Public Law 91–121, as amended by section 506(a) of Public Law 92–441, provides that transportation, open-air testing, or disposal of all lethal chemical or biological agents shall not be effected until the Secretary of Defense has (a) determined that this action is necessary in the interests of national security, (b) consulted with the Secretary of Health, Education, and Welfare and implemented precautions recommended by his representatives, and (c) notified the President of the Senate and the Speaker of the House. These stipulations were enacted to insure congressional oversight of CBW activities after the accident at Dugway and other CBW fiascos were disclosed publicly.

Last summer a special team was flown to Alaska from Dugway to decontaminate two pits containing waste materials from previous chemical warfare tests at Fort Greely. Although the Army was concerned enough to dispatch specially trained personnel to Alaska and to provide them with protective clothing and equipment as a precautionary measure, the provisions of Public Law 91–121 and 91–441 mentioned above were not followed. I am deeply troubled by this apparent breach of statute in an area in which the Army's past record of clandestine activities—and mistakes—already has been well established.

The Fort Greely incident was first revealed in an article by Dr. Fineberg in the Anchorage Daily News, August 6, 1971, and I ask that it be printed in the RECORD.

The President and Secretary Laird have assured us that this country's CBW policies have been modified. I can only hope that this is the case. In the meantime, congressional oversight continues to be a critical factor in assuring safe,

efficient, and reasonable management of CBW programs and policies.

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

[From the Anchorage Daily News, Aug. 6, 1971]

CHEMICAL WARFARE WASTE—ARMY "CLEANING UP" PITS AT FORT GREELY

(By Dr. Richard A. Fineberg)

A special team has been flown into Alaska from the Dugway Proving Grounds in Utah to decontaminate two pits containing waste materials from chemical warfare tests at Gerstle River, about 30 miles south of Ft. Greely.

The Daily News learned that the seven technicians from the Utah chemical-biological warfare (CBW) facility are presently on a two-week assignment. Their mission began July 25 and is scheduled to end this week.

Disclosure of the operation was made by the Aberdeen Proving Grounds, Md., headquarters of the Army's Test and Evaluation Command, and was given to this reporter this week by Lt. Col. E. M. Hunt, executive officer of the Arctic Test Center (ATC) as Ft. Greely.

According to the Army's statement, the two pits "are being uncovered for inspection, further decontamination if necessary and removal to one of several consolidated disposal pits in the same area."

One of the pits was apparently used in 1961 to dispose of containers of distilled mustard gas. Mustard is a highly persistent blistering agent which was used during World War I. "The other pit is also believed to contain decontaminated residue from mustard agent tests," the statement notes.

"The Army is reasonably sure that no further residual contamination exists," according to the Aberdeen statement. Although no problems are anticipated, all personnel working on the project have protective clothing and equipment "as a precautionary measure."

Neither the size of the pits nor the number of personnel involved in the clean-up operation is known. The Army says only that the two pits are "small."

At least two dump trucks were observed at Gerstle River Monday. Both are reported to be 2½-ton vehicles. In addition, six men were spotted boarding a tracked vehicle at Gerstle River in the rain Monday morning.

Informed sources say that both the men and the trucks are working on the decontamination project. The Army reported in May that a crew of five men maintain the normally quiet chemical weapons test site at Gerstle.

The Army also says it has "no knowledge" of a large balloon seen flying about 200 feet above the compound at Gerstle River the week before the Dugway group arrived. Weather balloons are frequently used to gather data on local wind currents before dangerous CBW agents are released into the atmosphere.

The cream-colored balloon, about six feet in diameter, was anchored to a wire in the Gerstle River compound on at least one evening during the week of July 20. It was spotted by this reporter from the Alaska Highway. According to the Army, neither the ATC nor the Ft. Greely weather team, which maintains a station at Gerstle River, has knowledge of such a balloon.

The Army has been reluctant to comment on its activities at Gerstle River. Aides to Sen. Mike Gravel say that the senator asked the Army early in July about reports that groups from Dugway "come and go" from Ft. Greely, but the Army has not yet replied.

The command at Ft. Greely has a firm "no comment" for questions about Gerstle River. Lt. Col. Hunt reports that "my instructions are to record all questions and forward them to TECOM" (Test and Evaluation Command).

He says that he called TECOM headquarters at Aberdeen "on a daily basis" for more than a week in an effort to secure release of information concerning the Gerstle River clean-up operation.

The Army lost more than 200 rockets and artillery shells filled with deadly nerve gas at Gerstle River in 1966. The weapons were left on an ice-covered lake during mid-winter and sank to the bottom several months later during break-up. In 1969 the Army drained the lake to recover the missing weapons.

News of the nerve gas boondoggle surfaced nine months after the chemicals themselves. In its belated acknowledgement of the incident, the Army initially denied that any nerve gas had leaked or that there had been any instances of exposure. Subsequently, the Army admitted that at least one weapon had been leaking in 1966 when it was placed on the ice, that another was observed leaking during the 1969 recovery operation, and that there were two possible exposures to nerve gas while the rockets were being recovered.

INDEPENDENCE OF ESTONIA

Mr. BEALL. Mr. President, on February 24 the peoples of the free world solemnly mark the 54th anniversary of the independence of Estonia. But its remembrance is not a cause for celebration, but rather for mourning and introspection. The Estonian people are not free, and their repression serves as another reminder to all of the dictatorial ambitions of the Soviet Union.

Estonia proclaimed her independence on February 24, 1918. On November 28 of that year, Soviet Russia attacked the new nation, embroiling its natives in a struggle for Estonian independence and freedom. With the help of volunteers from Finland, Denmark, and military supplies from other Western countries, the Estonians, against overwhelming odds, cleared their country of the enemy. The war came to an end with the signing of an armistice, followed by the Treaty of Peace in Tartu, Estonia, on February 2, 1920. In this treaty, Russia renounced forever any claims to the territory of Estonia.

But like countless other Soviet promises, this too was treacherously made to be broken. Forced by the Russo-German Non-Aggressive Pact to sign so-called pacts of mutual assistance with the Soviets in September–October 1939, the Estonians were subjected to the violent occupation of their nation by the Red army and secret police. Their government was replaced by Russian puppets, their constitutional rights were abolished, and tens of thousands of innocent people from all walks of life were arrested and sent to remote regions of Russian or summarily liquidated. The fire of freedom had been successfully extinguished by the Soviet tyrants.

We in America must continue to reaffirm our commitment to the captive people of Estonia, and do our active part to keep the message of hope alive. We look to the past in marking this day, but we must also look to the future. The aspirations of these enslaved people for equal justice and freedom cannot be allowed to die at the hands of Soviet oppressors.

We mark this occasion, not with the joy that accompanies our own Independence Day celebration, but with the grim realization that freedom is a precious gift worthy of defending, as the Estonian people can so sadly attest. Estonian independence was all too brief. We must, however, fervently work and hope for the day that liberty will return to that land. It is in this spirit that we observe the 54th anniversary of Estonian independence. Estonian people will not enjoy that privilege with us.

SENATOR MUSKIE ON THE WAR

Mr. HUGHES. Mr. President, in recent weeks, the Nixon administration has escalated the air war in Indochina and has also escalated its inflammatory rhetoric against those critical of our present war policies. The reaction appears to have been more against the right of honest dissent than to the substance of the criticism.

A major target of this attack was the distinguished Senator from Maine (Mr. MUSKIE). Yet on reading the remarks which provoked such a violent reaction, I find only a straightforward accounting of the facts and an eloquent plea for peace. As Senator MUSKIE said:

> We must judge the President's policy and our own by a single standard: Can they bring America's soldiers and prisoners home from Vietnam? For what we need is not a reason to prolong the agony of war, but a way to peace.

In order that Members of Congress and the American people may judge for themselves the soundness of Senator Muskie's proposals, I ask unanimous consent that the text of his speech on the war be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the Record, as follows:

REMARKS BY SENATOR EDMUND S. MUSKIE

I have been asked to talk with you today about the environment . . . the earth God made. Instead, I want to ask you to reflect with me on the earth man has remade. For if what we mean by the environment is what we have done to our land and our lives, then half a world away, we have come dreadfully close to fulfilling the nightmare of Tacitus: "They have made a desert and called it peace."

Four years ago, this nightmare as first invoked to describe the war in Vietnam. Since then, every year has been hailed as a year of hope for peace. And every year, we have seen our hope turn to the dust of new-made graves. America's leaders have been carried along on a tide of illusion, convinced at first that we were right, committed still to making right a war we know is wrong. We fight for a make-believe victory in a real place and real people die each day.

The President gave us his latest solution last week, and he is at a crossroads. The choice for the President is whether he will use his dramatic announcement to build political support for endless battle—or whether he will seek to end the fighting now. Those of us who are out of power must welcome Administration proposals to move American troops out of Indochina. But we must also question the wisdom of a course which attaches so many conditions to our leaving that it can only leave us where we are now—watching our sons fight and die, not for a cause, but for a mistake—looking to a future where more human beings will suffer at our hands in a senseless and immoral conflict.

Surely when we look into our own consciences, we must know that saving lives is

more important than saving face. And just as surely, we must judge the President's policy and our own by a single standard: Can they bring America's soldiers and prisoners home from Vietnam? For what we need is not a reason to prolong the agony of war, but a way to peace.

Most of us had hoped that this was what we would hear from the President last week. We had hoped for news of future negotiations that would succeed instead of past negotiations that have failed. We had hoped to see the President remove the war as an election issue by stopping the war before the election.

But again, as so often before, we find our hopes disappointed. We have now had the time to look closely at each of the eight points and listen carefully to all of the official explanations. We waited for a response from Hanoi. All we have heard is harsh criticism of the President's plan, and their official newspaper rejected it on Saturday.

Why are we at an impasse? What has our government really offered to the other side?

Most Americans thought they heard the President agree to set a date certain for our withdrawal. But it is not the genuine date certain so many of us have urged upon him. He did not offer to exchange our presence in Vietnam for the freedom of our prisoners. Instead, he laid down additional conditions . . . a general settlement of all outstanding issues or a ceasefire in all of Indochina.

As part of the general settlement, the President suggested the kind of elections already rejected by the other side—because they would be controlled by our side. The administration promises that such elections will be "free" . . . the same promise that was made in every American proposal of the 1960s . . . the same promise that was broken in 1971, when we saw so clearly what we had purchased with our treasure and our blood: A democratic regime so undemocratic that its Presidential election was unfree, unfair, and uncontested. This time, General Thieu has volunteered to step down thirty days before the voting, but his hand-picked agents would continue to control the police; the province, district, and village chiefs; the whole machinery and force of government. What opponent would then risk his liberty or even his life in open opposition? How could anyone call such elections free?

The President has also offered the kind of ceasefire already rejected by the other side—because it would strengthen our side. The Administration claims that the principle of a ceasefire has been accepted by their negotiators as well as ours. But the administration's words cannot conceal a plain reality. Hanoi apparently proposes a ceasefire as part of a settlement on their terms—which our government rejects. The President proposes a ceasefire on our terms—which Hanoi rejects. Our kind of ceasefire would force the North Vietnamese to withdraw their forces in some unspecified fashion from South Vietnam, Laos, and Cambodia. We are asking them to stop fighting and concede Saigon's control over most of the countryside, abandoning their supporters to the police power of an enemy regime.

The President called for just such a ceasefire in his proposals of October, 1970. His proposals were turned down then. How could anyone expect a similar ceasefire offer to be anything but a stumbling block now? How could anyone expect Hanoi to settle for something which must seem to them nothing more than a date certain for their own surrender.

In short, in the face of a frustrating deadlock, the President has basically renumbered and reissued the proposals that have failed for six years. We are trying to win at the conference table what we have not won and cannot win on the battlefield. And yet we persist.

When will we ever learn?

We have no right to take for our own the awful majesty of God over life and death, destroying land and people in order to save them.

We have no right to kill, wound, or displace over a hundred thousand civilians a month by continuing to rain over four million pounds of bombs a day on Indochina.

We have no right to send young Americans to Vietnam as bargaining chips for the freedom of prisoners of war who would be free if those young Americans were not sent at all.

And we have paid so high a price for being wrong. We have seen 55,000 of our sons come home from Asia in coffins . . . twenty thousand of them in the last three years. We have seen hundreds of our soldiers captured or missing in action . . . four hundred of them in the last three years. We have seen countless Vietnamese killed and innocent children scarred and shot . . . and no number of years can erase the terrible memory.

There are those who say that if we sustain the pressure and stand the pain, we can fight on to victory. We have heard their voices before. We can only reply in the words of an ancient king: "One more such victory and we shall be undone."

So our task is to leave Indochina, to leave it to the Vietnamese to work out their own peace, not to determine their destiny according to a plan written in Washington.

There is only one way out of this war. We must take that way now, before further erosion in our troop strength and our bargaining position frustrates any chance to exchange American military disengagement for American prisoners in the North. This disengagement, I believe, would also set the stage for the Vietnamese to reach a political settlement among themselves. The President must stop throwing away that opportunity. He must commit this country to take two vital steps—not only because they are realistic—but because they are right.

First, we must set a date when we will withdraw every soldier, sailor, and airman, and stop all bombing and other American military activity, dependent only on an agreement for the return of our prisoners and the safety of our troops as they leave.

Second, we must urge the government in Saigon to move toward a political accommodation with all the elements of their society. Without such an accommodation, the war cannot be ended. And it is clear that the American people will not support an indefinite war either by our presence or by proxy.

We must turn toward peace. And we must face this fact: If we have learned anything in seven years, it is that we cannot bomb Hanoi into submission. We cannot bomb them into freeing our prisoners, any more than we were able to bomb them to the conference table in the 1960's. We have learned that this disastrous course will not contain the spread of Communist power, will not strengthen our leadership among nations, and will only turn the people of Asia and indeed of all the world against us, as a country that is violating its deepest principles of morality and respect for human life and human rights.

We should never have gone to Vietnam. We should never have stayed there. A thirty-year-old Laotian mother in a refugee camp recently asked the only question still worth answering: "And, as for the other men and women, do they know all the unimaginable things happening in this war?"

We are the other men and women. We know the truth. How can we go on as we have . . . unleashing terror and destruction to prop up a corrupt dictatorship? Is this what America was made for? Is this what we want America to stand for in our time?

It took too much time for most of us to see the full depth of the tragedy in Vietnam. At first, there were only the quiet stirrings of doubt, then the public outcry of a few brave people, then the great debate over the bombing of the North. In the process, many of us learned that we had been wrong. And I say what I must now, not in righteousness, but in the conviction that we cannot and should not shrink from the truth.

This war has lasted far longer than anyone ever dreamed it could. It has drained us of our treasure and our spirit and our unity far beyond what we can possibly afford. It has brought tragedy and suffering to homes across the nation where young men will never return. It has brought doubt and division to our schools, our churches, and our communities. It has subverted our respect for government and our ties with one another.

It is not an easy thing for a great country to admit a mistake. But it is perhaps the definition of greatness in a country that it can.

So what now must we say of Vietnam?

For the sons who have already died in battle, whose brothers should not have to follow them to war and to an early grave—

For the innocent people of a thousand Asian villages, people who may not know the name of their nation, let alone the cause of their dying—

For the American prisoners of war, who deserve something better than a life sentence or a slow death in foreign jails—

For all those who suffer in Indochina as we meet here—

For their sake and for our own—

We must be willing now—all of us—to say, "Enough."

PROPOSED CHANGES IN PAROLE SYSTEM

Mr. PERCY. Mr. President, last week, Judge William Bryant of the U.S. District Court for the District of Columbia ordered the Chairman of the U.S. Board of Parole to answer questions of attorneys representing would-be parolees concerning why and how parole decisions are made. Though this order has been delayed for several days, it is, in my opinion, a significant indication of the possible future direction of offender rehabilitation.

Current practice permits the ordinary prisoner some 5 to 15 minutes with a parole hearing examiner, sometimes after having spent years in prisons. He usually enters the parole hearing with only a vague idea of what is expected of him, and he leaves the hearing with little additional information. He is told only yes or no—yes, he can rejoin his family and have the opportunity to live a life of responsibility in the comunity, or no, he must remain in jail. But he typically is given no reasons. He does not learn what he did poorly or what he did well. Neither is he given any goals. As a consequence, uncertainty, despair, and frustration impede the whole rehabilitative process. The attention and energy of the prisoner is directed away from thoughts of improving himself to brooding about the unfairness of the system.

Judge Bryant's decision will not exactly open up the gates of prison. It will, however, insure that the prisoner at least knows why he is still in prison. It has been said that it is not always so important that justice be done, but that justice seems to be done. As procedures stand now, if a man is properly denied parole, the denial must seem to him unjust simply because he was not told why. Judge Bryant's decision holds out the promise that a prisoner now can have the benefit of this most basic information.

On February 17, I introduced S. 3185, a bill to reorganize the Federal parole system. Under my bill, a prisoner would routinely be told the reasons he was imprisoned and precisely what society expected of him as the prerequisite of parole. The prisoner would thus be aware of the goals of rehabilitation and advised of what he has done well, and what he must do in the future to earn release.

Some of these needs which my bill seeks to address are the basis of Judge Bryant's decision. The Parole Board has these failings of the parole system. It is my strong hope that in light of these new pressures for reform, the board will make every effort to accommodate some of the present capability to correct some of the pending proposals.

Mr. President, I ask unanimous consent that an editorial from the February 20 Washington Post concerning this subject be inserted in the RECORD at this point.

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

PAROLE: A MAJOR STEP FORWARD

The U.S. District Court decision to require the Federal Parole Board to submit to questioning by attorneys for prisoners is a major step forward in the developing concept of prisoners' rights. For years, parole, originally considered a benign step on the road to rehabilitation, has, in actuality, been a source of excruciating mental pressure to prisoners in most major penal systems in this country.

The system is fraught with possibilities for abuse. Generally there are few, if any, clear standards of conduct for prisoners to follow in an effort to gain the parole board's favor. In some jurisdictions, a prisoner may follow the recommendations of one panel of the parole board for a whole year only to return and face another panel with totally different standards. Because of the lack of clarity in standards, because there is no requirement of due process (to be represented, for example, at parole hearings by a lawyer) and because the information on which the boards make their determinations is kept secret, there is a broad area of possibility for guards and other authorities to take out grudges against prisoners by providing board members with unfavorable information which the prisoner never has a chance to answer or, in some cases, even to know.

Prisoners, during a seemingly endless stream of empty days, spend a great deal of psychic energy worrying about and preparing for parole hearings. When the hearing comes, it is short, usually less than 20 minutes and often as brief as seven, and is filled with bracing moralistic suggestions and sometimes accusations. The prisoner, having faced the ordeal alone, then goes back to the prison population to wait for the simple unexplained yes or no. Many thoughtful students of penal reform, as well as many prisoners, believe that the uncertainty and the mystery surrounding the parole process not only demeans the whole notion of rehabilitation, but is also the most burdensome of all the antiquated aspects of our creaking penal system.

Judge Bryant's decision is a welcome ray of light in an otherwise dark and murky field.

EULOGY OF THE LATE SENATOR CARL TRUMBALL HAYDEN, OF ARIZONA

Mr. CHILES. Mr. President, I join my colleagues in tribute to the late Senator Carl Trumball Hayden, of Arizona. While I did not have the privilege of knowing him personally, I share his legacy each day that I serve in the U.S. Senate.

A devoted servant of his beloved State of Arizona and of his country, Carl Hayden was a dedicated, hard-working man who had power, but used it wisely and moderately.

Carl Hayden was a frontier sheriff who saw this country change from a frontier society to the most powerful Nation on earth. Yet, he never opposed progressive legislation, and he always looked to the future.

His 56 years of service are unequalled in Congress, and I am extremely proud to be a Member of the Senate which he so loved.

NEW YORK TIMES EDITORIAL CONCERNING THE CONFERENCE REPORT ON THE FOREIGN AID APPROPRIATION BILL

Mr. FULBRIGHT. Mr. President, the New York Times for February 24 contains an editorial concerning the conference report on the foreign aid appropriation bill, entitled "Foreign Aid Fiasco," which, from the standpoint of upholding the Senate's position, is an accurate description of what happened in the conference.

It is the first time in my memory that conferees on an appropriation bill have come back with a bill containing more money than was voted by either the Senate or the House. This conference report contains $113 million more than the Senate approved and $186 million more than the House allowed. The big increases are on the military side. As the editorial points out:

Under the adamant leadership of Mr. Passman, the House conferees insisted on pushing up the spending for military assistance from $350 million to $500 million. Similarly, the so-called "supporting assistance" which goes to countries like South Korea and South Vietnam to help them sustain their military burden went up from the $400 million which the Senate had voted to $500 million. Is that what Mr. Passman means by economizing?

* * * * *

Mr. Passman and his House colleagues have amply demonstrated once again that they conceive of the foreign aid program as an opportunity not to help people in poor countries but to export that familiar American product—the military-and-civilian contractor's pork barrel.

The editorial states that the chairman of the Senate conferees, Senator PROXMIRE, ". . . is right in refusing to sign the conference report." The Senator from Wisconsin is to be commended for his efforts to uphold the Senate's position and in refusing to sign a report which clearly does not do so. It is unfortunate for the taxpayers that his fellow conferees did not follow his leadership.

I ask unanimous consent to have the editorial printed in the RECORD.

In addition, Mr. President, I ask unanimous consent to include an article by Mr. Herbert Scoville, Jr., commentary on the so-called arms limitation effort of the administration. It is an excellent description of our policy.

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

[From the New York Times, Feb. 24, 1972]

FOREIGN AID FIASCO

Representative Otto Passman, Democrat of Louisiana, in his long career as chairman of the House Appropriations subcommittee dealing with foreign aid, has steadfastly pretended to be the enemy of waste and the champion of the taxpayer. The compromise reached this week by House-Senate conferees on the foreign aid bill demonstrates the fraudulence of his claim.

After the Senate temporarily killed the entire program last October in a surprise vote, it set to work to shift the pattern of foreign aid spending. The Senate objectives were to invest more in conomic development and less in military aid and to diminish American bilateral arrangements in favor of an increased role for international organizations such as the World Bank.

Although the Senate was more tight-fisted with the needy countries than is becoming to the world's richest nation, its efforts to restructure the program were clearly headed in the right direction. Unfortunately, those efforts did not fare very well in the conference committee.

Under the adamant leadership of Mr. Passman, the House conferees insisted on pushing up the spending for military assistance from $350 million to $500 million. Similarly, the so-called "supporting assistance" which goes to countries like South Korea and South Vietnam to help them sustain their military burden went up from the $400 million which the Senate had voted to $500 million. Is this what Mr. Passman means by economizing?

The House appropriated nothing for the American contribution to the World Bank and the derisive sum of $13-million to the Inter-American Bank. These contributions are periodically made by member countries and from the financial back-up for the bonds which these international banks sell to finance their lending. The conference committee split the difference between nothing and adequacy.

The same kind of simple-minded arithmetic prevailed with regard to the Peace Corps, which received $72 million, halfway between the higher Senate and the lower House figures. Trivial cuts—trivial except that people may die because of them—were made in humanitarian programs such as aid to the Bangladesh refugees.

The Senate conferees did not lose on every issue. They did succeed in restoring money for the United Nations Development Fund which the House had eliminated entirely. But, on balance, the conference was a fiasco.

Senator William Proxmire, Democrat of Wisconsin, chairman of the Senate conferees, is right in refusing to sign the conference report. Mr. Passman and his House colleagues have amply demonstrated once again that they conceive of the foreign aid program as an opportunity not to help people in poor countries but to export that familiar American product—the military-and-civilian contractor's pork barrel.

[From the New York Times, Feb. 24, 1972]

ARMS LIMITATION OR ARMS RACE?

(By Herbert Scoville Jr.)

WASHINGTON.—President Nixon's $6-billion new defense requests call for an increase of more than a billion dollars for new strategic weapons. At the same time, concrete results on the Strategic Arms Limitation Talks have again been postponed, at least until he goes to Moscow.

Why the urgency on new weapons programs and interminable delays on a mutual halt to the arms race? Why wait until May? Are national politics controlling our security decisions.

An advanced airborne command post and a future generation submarine missile system headed the list of defense programs

which he believes cannot even wait until next year. What has happened since last summer to require, on an emergency basis, a new airborne command and control system for the President and top officials? Certainly we have always assumed that Russian submarines would be deployed in locations which would permit their missiles to reach Washington, just as our Polaris missiles have been stationed for years within range of Moscow.

Secretary of Defense Laird now tells us that our present command communication systems are vulnerable to Electromagnetic Pulse, the high intensity radiation pulse produced by a large nuclear explosion. But this phenomenon is not new. It has been observed in our nuclear tests for more than twenty years. We have had extensive research programs to limit its effects. In 1968 the Defense Department issued an unclassified handbook for the benefit of manufacturers who wished to build more resistant electronic equipment.

Either we are seeing another example of a fabricated danger to keep the military-industrial complex active, or our defense planners should be accused of dereliction in their duties. Although Electromagnetic Pulse is widely advertised as the new menace, the initial procurement under supplemental appropriations will be for four large aircraft, presumably Boeing 747's, the first three of which will be fitted with old electronic equipment, not items newly designed to resist Electromagnetic Pulse.

Similarly, we should ask the question: What emergency suddenly requires supplemental funds and big new expenditures for a new submarine missile system? Secretary Laird recently said this was not subject to negotiation at the talks on strategic arms because it was a replacement for the Polaris submarines. But we are still converting at a cost of $5 billion the Polaris submarines to launch the advanced Poseidon missile. Why—if Polaris is becoming obsolete? Actually, even the Poseidon is unnecessary unless the Russians build a large ABM system which would take many years and which would be banned if President Nixon's optimism on a treaty limiting ABM's is realized.

Defense authorities at all levels have stated that our submarine forces are not threatened by Soviet antisubmarine warfare. Secretary Laird says our Polaris deterrent is "highly survivable." We have even no concept of the nature of such a potential threat since the required technology is as yet undiscovered. While a new submarine missile system may take seven years to build, the lead time for effective antisubmarine warfare deployment is much longer, if it can be done at all. Spending large sums now on a new submarine and missile may prematurely commit us to much larger amounts for weapons designed against the wrong threat.

What is the rush about? No new, unforeseen danger to our deterrent has developed. The Soviet ICBM program is way behind that predicted by Secretary Laird in 1969. Then we started the Safeguard ABM because of estimates that Russia would add about 150 ICBM's to its arsenal each year and that more than a third of these would be the large SS-9's. President Nixon now states that only 80 ICBM's were added last year—only a handful of these were SS-9's. In August, 1969, the Russians were reported to have more than 275 SS-9-type launchers operational or under construction; now, two and one-half years later, the number is only about 300.

The Soviets have not yet tested a missile with multiple warheads which could be aimed accurately at several targets (i.e., MIRV's), and thus threaten our Minuteman. Yet when President Nixon first justified our ABM program, he expressed fears that such testing started in 1968.

True, the Russians are building up their fleet of missile submarines at the rate of nine to ten per year, not a large increase over Secretary Laird's prediction of six to eight per year in 1969. When those under construction are completed, they will have approximate numerical parity with the United States but not with the combined NATO fleet. However, our Polaris-Poseidon missile system is vastly superior to the Russian one.

Furthermore, such submarines cannot attack our Polaris deterrent or in any way make it obsolete so that it would have to be replaced by a new one. We must avoid the puerile notion that because the Russians are building a weapon we must have a similar program even though our security doesn't require it. This is "keeping up with the Joneses" on a billion-dollar scale.

Are we still so naive as to think we can scare the Russians into halting their programs? Delay in an agreement only ensures larger Soviet force levels. By May the Russians may have added another 100 missiles to their arsenal and the United States another 200 warheads. Bargaining chips bought for arms control negotiations are never cashed and lead only to an accelerated arms race. We should put the extra effort into improving our security by a mutual limit on arms now, not in May or not next November.

AMERICAN NEWS MEDIA IN CHINA

Mr. ALLOTT. Mr. President, like most Americans, I have been struck by the thoroughness, competence and all around good taste and judgment shown by the representatives of the American news media traveling with the President and Mrs. Nixon in China.

The coverage has a solemnity appropriate for the occasion. But it also is good humored and openminded.

These hardworking ladies and gentlemen obviously have done their homework, and their demonstration of professionalism and responsibility is a credit to the Nation.

CASPER: TIED CLOSELY TO THE INDEPENDENT OIL MAN

Mr. HANSEN. Mr. President, a magazine article written by an outstanding and knowledgeable newspaperman, Mr. Irving Garbutt, of Casper, Wyo., has been brought to my attention.

Mr. Garbutt's article points out the importance of the independent oil industry to Wyoming's second largest city, and to the entire economy of the State. I ask unanimous consent that the article be printed in the RECORD, along with several paragraphs about the author which establish his excellent credentials.

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

CASPER: TIED CLOSELY TO THE INDEPENDENT OIL MAN

"As for me," says Irving Garbutt, "a checkered career."

Garbutt, who started newspaper work in 1934, has held down virtually every job available, and presently is editor of the editorial page and oil editor for the Casper Star-Tribune. He dropped out of the newspaper business once in 1940 to join the Army and stayed until World War II was over. After six years of covering the oil beat, Garbutt quit to try his hand at ranching. "With a spread of about 700 irrigated acres and running 1,000 sheep. I just kept expanding from 1952 until I expanded myself out of business in 1958."

Then it was back to newspapering in Casper. "The oil page is one day a week chore now, thanks to automation and computers," says Garbutt, "but it isn't nearly as much fun as when we had scout checks and traded information on wildcats."

"I find writing editorials and turning out the oil news is a good combination, as it gives me the background for editorials on the subject of the energy crisis, etc."

Garbutt is married, with three boys at home, the youngest six. "We had ten," he says, "but the oldest are married now and there are several grandchildren."

"I've been to Casper," the bumper stickers read. Casper motorists slapped on about 4,500 provided by Publisher Bill Missett of the Casper Star-Tribune and the Chamber of Commerce in the summer of '69.

Reaction was surprising. Just who, or where, is Casper? A Jolly Ghost or a town?

As might be expected, many people around the country were more familiar with Medicine Bow (population 292), the home of The Virginian, or Laramie, Wyo., towns made popular by television westerns.

A small post office named Bill, 70 miles northeast of Casper (population one—the postmaster) also issued bumper stickers saying "I've been to Bill!" These proved popular.

BIG OIL COMPANIES LEAVE

For Casper, the Jolly Ghost image was no joke a few years before, in 1965. A big major, Pan American Petroleum (now Amoco Production) had moved its large division offices from Casper to Denver, emptying a four-floor office building downtown.

Shell Oil had followed, vacating two floors of another office building. Mobil Oil closed its refinery—the smallest of three in Casper—then a year later moved its regional offices to Denver. Other majors joined the exodus in the next two or three years: Standard of California, Tenneco, Amerada Hess. A host of brokers, geologists and landmen whose work was closely tied to the majors were forced to follow.

In most cases modern new office buildings were emptied, buildings which the city hoped would anchor the oil offices more or less permanently.

Other factors cited to enhance the image of Casper as "Oil Capital of the Rockies" were some of the best schools in the region, a thriving junior college, paved streets, parks and playgrounds, a modern airport, recreation assets like nearby Casper Mountain with its popular ski facility, Alcova Lake with boating and fishing, square miles of wide open range land on all sides affording unexcelled opportunities for hunting deer and antelope, and trout streams.

Since World War II, the town had been jumping at an annual growth rate of 10 percent a year, reaching a population of 40,000.

A citywide street paving program costing millions of dollars had just been launched.

The announcement of moves by the majors came as a sharp economic shock. Vacant houses appeared on every block as people moved. The Chamber of Commerce was more optimistic, however. "It will halt our growth rate for a few years, but we'll hold our own," said a spokesman.

The spirit of a town becomes evident when it is socked by a few hard economic punches. It was almost in a defiant spirit that Casper citizens went ahead with bond issues for schools and expansion of Casper College, which had grown to more than 1,000 fulltime students plus a popular adult education program.

RENOVATION BEGINS

Independent Casper oilman Fred Goodstein, who started from scratch in the Great Depression as a scrap iron dealer and built a multi-million dollar fortune with his firm, Tri-Good Oil, and other enterprises, donated a half-million dollars for the handsome Goodstein Library at Casper College.

The Federal Housing Administration, with federal money plus faith in Casper, renovated and updated vacant houses which it had been forced to repossess. The agency drew some criticism for spending as much as $2,000 or $3,000 to make a vacant house more attractive, but its policy was vindicated sooner than had been thought possible.

Downtown, as most cities, was a worry to the merchants and city fathers . . . what with two large outlying shopping centers drawing the trade. But Casper's downtown remained viable as a financial center, with the First National and Wyoming National, the two largest financial institutions in Wyoming, occupying new buildings with drive-in and "total service" facilities. The Wyoming National, with its unique concrete petal design, has become an architectural showplace in the region and featured in national publications.

Businessmen redecorated and remodeled. Shacky frame structures dating back to the false front stores of Casper's early day as a sheep ranching center, were demolished. The city provided parking areas. Downtown became more and more like a shopping center itself.

The three big downtown hotels, monuments to the oil boom of the 1920s when the Salt Creek Field was at its peak, suffered the most. Like hotels everywhere, they couldn't meet the competition from the big new motel complexes. One, the Townsend, survived by catering to Casper's plush Petroleum Club.

Casper's new Ramada Inn, only three blocks from the center of downtown, and a new Holiday Inn provided the facilities for one convention after another. Casper, in the center of the state, is a convention town.

By 1970, Casper had bounced back to 40,0000 population and is still growing.

OILMEN RETURN

The biggest factor in its recovery was the return flow of the independent oil men, drillers, oilfield service and supply firms, geologists and landmen—drawn largely by the Muddy sand play in the Powder River Basin of northeastern Wyoming and southeastern Montana. Casper was the logical headquarters for much of this activity.

The Muddy sand play has been called the biggest "onshore" development in the U.S. in 1969–70. It produced new giant oilfields by Rocky Mountain standards: Bell Creek in Montana and Hilight in Wyoming, both in the 50,000 barrel a day category. Hilight, only 60 miles northeast of Casper, has not reached its full potential due to delays arising from field unitization plans.

The downtown office buildings filled rapidly. The former Pan-American Petroleum Building, purchased by an insurance firm, was remodeled to accommodate the influx of independent oil company offices.

The Petroleum Building and Goodstein Building—both built by Goodstein—and the Western Resources Building (formerly Great Plains), all modern structures erected in recent years, filled with oil and uranimum offices.

The old Ohio Office Building across the street from Marathon Oil's division headquarters, was razed to make room for a parking lot for oilmen. It had been occupied by Tenneco.

While Casper seeks diversified industry for the future, it continues to owe its prosperity largely to the independent oil man.

Robert H. (Terry) Martin, central division manager for the Rocky Mountain Oil and Gas Association (RMOGA), pointed out that the oil industry is the No. 1 employer in Casper, with 3,000 working in production and exploration, 500 in oil refining, and 1,500 in service, supply and equipment firms related to the industry.

More than 400 service and supply firms are listed in the yellow pages of the Casper telephone directory.

The Wyoming Geological Association (WGA) claims 400 geologists in Casper, or one geologist for every 100 people. This could be the biggest ratio of geologists to population anywhere, and of course includes a number of petroleum geologists who have entered the uranium and coal mining areas.

TAXES BOOST ECONOMY

The oil industry pays around $4 million taxes in Casper and Natrona County on oil production, refining, rigs and other equipment—exclusive of buildings and real estate. The tax base of $145 million, highest in the history of the county, rests at least 40 percent on the oil industry.

Three refineries continue to operate, American Oil (Standard of Indiana), Texaco and Little America. The latter is the former Socony-Mobil Refinery, which was acquired by Little America, a motel chain, after it had been closed for only a year.

Pipelines bring in the crude from fields throughout the state, and one products line carries gasoline to the Denver market.

A city built on oil keeps angling for a variety of enterprises to keep its economy going once the oil reserves are depleted, and Casper has scored some successes in this area. Despite a hundred miles of wide open spaces on every side occupied mostly by sheep flocks and cattle, the city has become a major trading center for Wyoming.

A new light industry, Control Data, built a plant and employs 200, mostly women, in manufacturing components for computers.

CORE DRILLING PROGRAM

Next to the oil drilling boom, the biggest factor in Casper's resurgence is the intensive core-drilling program to develop new uranium ore reserves in the late 1960s. Wyoming had more than half of the truck-mounted rigs in the U.S. drilling holes in the big sedimentary basins. Vast new ore reserves were located northeast of Casper, adding to big reserves in Shirley Basin, 60 miles south of the city, and the Gas Hills area 60 miles to the west. Wyoming is now the leading state in the nation in uranium ore reserves, according to the Atomic Energy Commission.

Humble Oil and Refining is building an ore processing mill in the Powder River Basin northeast of Casper, while Utah International is completing a new mill in the Shirley Basin. When these are completed, the area around Casper will have nine uranium mills turning out "yellow cake" for the growing nuclear power industry.

Small wonder, then, that Casper traded in its slogan, "Oil Capital of the Rockies," for a more ambitious one: "World Energy Capital." This ambitious title also takes into account vast low-sulfur coal beds now being tapped for new coal-steam power plants, and hopefully, in the next decade, for coal gasification plants.

HOW IT BEGAN

The Salt Creek Boom of the early 1920s boosted Casper from a ranch center to a metropolis, by Wyoming standards. And production at Salt Creek has always pulled the economy and population up and down, in a yo yo fashion.

In the 1920s this great light-oil field gushed out more than 35 million barrels in a single year. By 1955 it had slumped to only 3.7 million barrels, giving the town a gloomy economic prognosis.

Few people realized that a waterflood initiated by Pan American that year would turn the wheel of fortune upward. Salt Creek was gradually turned into a model of secondary recovery and automation. The yield from 1,036 wells in July, 1971, was 1,017,935 barrels—a rate exceeding 12 million barrels a year.

Success of the waterflood was a key factor in holding up the assessed valuation of the county and city, which in turn made possible the floating of bond issues to improve and expand the college, schools, a new library addition, and finally a bond issue to expand the city water system to take care of the needs of a growing city of up to 100,000 people in the years ahead.

The population growth projection is not this high, however. The Board of Public Utilities anticipates no more than 60,000 in the next 20 years. With environmental issues and population pressure leading topics today, there is no push to increase population. Stable, ready growth is the goal.

In fact, many natives think the town is too big already, considering the hunting pressure on deer, antelope and elk in the area.

TRANSIENTS BRING GROWTH

The question has often been asked, what makes Casper tick? Perhaps it is the continual fresh infusion of new ideas and talents brought with each successive wave of oil men to the community. Their average stay may be only four, five or six years, but they immediately identify with community goals and problems. A transient population may have some edge over the static sort.

Oilmen serve the community on a variety of county boards—hospital, airport, county fair, library, welfare—as well as numerous civic and cultural groups. The town, as they say, is "highly over-organized."

Casper's Dave True, a former president of IPAA, has served on the college and university boards and set up scholarship programs for children of their employes. A former production man for Texaco at Cody after World War II, True built his own Casper-based company from the ground up and now operates oilfields, pipelines, a gas plant, two cattle ranches and the largest cattle feedlot in the state at Newcastle. It's automated, too.

Bill Curry, a onetime geologist for Atlantic Refining in Casper who made a fortune by forming his own independent firm and discovering the South Glenrock Field on a farmout from Continental, is known nationally for his testimony before Congress committees this year as outgoing president of AAPG.

Marathon Oil, which maintains its Rocky Mountain Division offices in Casper, has always contributed time, talent and funds to worthy causes like the Casper Family YMCA.

Ed Boland, an independent, was instrumental in developing a popular ski area on top of nearby Casper Mountain.

Rep. Warren Morton, in the State Legislature, and Senator Tom Stroock, in the Senate—both Casper independents—have espoused the cause of the oil industry in Wyoming's biennial 40-day session. Both have been noted for their fairness in all issues.

Casper geologist John Wold was for a time the only geologist in Congress. He served one term in the U.S. House of Representatives, but was defeated by incumbent Democrat Gale McGee in a bid for the Senate.

Wold, currently involved in coal leasing efforts, recalled the exodus of major oil firms in the late 1960's as sparking the drive for an oil severance tax in the state legislature. It was enacted in 1968 and now costs the oil industry in Wyoming an added $5 million in taxes every year, Wold estimated.

Senator Cliff Hansen, a frequent visitor to Casper, has won national recognition as a spokesman for the oil industry and often set his colleagues straight on erroneous attacks on the import program and other issues.

The list could go on and on, from the early days of the Salt Creek boom to the present. The independent oil man will continue to enrich the life of the city as the search goes on for new oilfields. Majors come and go, and usually after they leave, some independent wildcatter makes a strike and it's a new ball game. That's still the current scene in Casper.

VICTOR W. KEARNS, JR., AWARDED CARNEGIE MEDAL FOR HEROISM

Mr. DOLE. Mr. President, in this day and age, when people increasingly shy

away from involvement in the misfortunes of their fellow men, it is a rare occasion to hear of one who was not only willing to get involved, but to do so at considerable personal risk. Such was the case with Victor W. Kearns, Jr., of Merriam, Kans., who at peril to his own life, rescued a young man who was trapped inside a burning tractor-trailor. For his unselfish act of heroism, Victor Kearns was awarded a Carnegie medal from the Carnegie Hero Fund Commission.

Mr. President, I ask unanimous consent to have printed in the RECORD a story from the October 8, 1971, Kansas City Times, the text of the certificate presented to Mr. Kearns by the Carnegie Hero Fund Commission, and the text of congratulatory letters from his Congressman, the Honorable LARRY WINN, and from President Nixon. Kansans and all Americans are extremely proud for Mr. Kearns, and I believe my colleagues would find the story of his accomplishment both inspiring and meaningful.

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

THE WHITE HOUSE,
Washington, D.C., December 6, 1971.

Mr. VICTOR W. KEARNS, Jr.
Merriam, Kans.

DEAR MR. KEARNS: Senator Bob Dole has told me of your brave action in rescuing a young man who was trapped inside a burning tractor-trailer. I understand you managed to lower the window of the cab and pull him to safety, and that you sustained burns from the flaming vehicle.

Your disregard for your own personal safety and your willingness to be of assistance in an emergency situation demonstrates why you were awarded a Carnegie Medal in recognition of your heroism. I am pleased to have this opportunity to express my admiration for your courage and to add my congratulations to those you have received upon being honored in this special way.

With every good wish for the years ahead.

Sincerely,

RICHARD NIXON.

CONGRESS OF THE UNITED STATES,
Washington, D.C., December 17, 1972.

Mr. VICTOR W. KEARNS, Jr.,
Merriam, Kans.

DEAR VIC: I would like to take this opportunity to commend you on your unselfish and heroic actions of April 21, 1970. Your reactions to this life and death situation tell the story of a man who is sincerely concerned for the welfare of his fellow man, even to the extent of self-sacrifice.

I am pleased to see that the Carnegie Hero Fund Commission has recognized your display of courage and leadership by awarding you the Carnegie Medal. I also wanted to recognize, in my own way, what I consider an inspiring and encouraging act of humanity. Enclosed is a copy of the December 16th Congressional Record. I believe Page E 13666 will be of interest to you. I sincerely hope that, in this time of trouble, your strength and civil responsibility will set an example for others to follow.

Best personal regards, and may the New Year be rewarding and fulfilling.

Most sincerely,

LARRY WINN, Jr.,
Member of Congress.

CARNEGIE HERO FUND COMMISSION,
PITTSBURGH, PA.

This certifies that Victor W. Kearns, Jr., has been awarded a Carnegie Medal in recognition of an outstanding act of heroism:

Bronze Medal awarded to Victor W. Kearns, Jr., who helped to rescue Ronald E. Sheriff from burning, Lawrence, Kans., April 2, 1970. A tractor-trailer driven by Sheriff, aged 23, truckdriver, was involved in an accident and moved from the highway onto grass-covered terrain, where the detached cab of the rig landed upright on the ground alongside the trailer. Escaping fuel caught fire, and flames burned on the trailer and one side of the cab. Kearns, aged 35, county commissioner, ran to the other side of the cab and was trying without success to open the door when another man arrived. Flames increased as the two men then managed to lower the window. The other man reached into the cab, grasped Sheriff, and pulled him partially through the window opening. Kearns then also took hold of Sheriff, who had suffered extensive burns. Together, Kearns and the other man drew Sheriff out of the cab and moved him away from it. About a minute later the flames increased when a fuel tank exploded. Sheriff and Kearns recovered from burns they had sustained.

[From the Kansas City Times, Oct. 8, 1971]

COMMISSIONER GIVEN MEDAL FOR HEROISM

The Carnegie Medal for Heroism has been awarded to Victor W. Kearns, Jr., Johnson County commissioner, for rescuing a man from a blazing truck crash last year on the Kansas turnpike near Lawrence, Kans.

Kearns, 37, received the certificate and a $750 check in the mail yesterday from the Carnegie Hero Fund Commission in Pittsburgh. The commission was founded in 1904 by the famous industrialist, Andrew Carnegie, to recognize acts of bravery by private citizens who, at the risk of their lives, save or attempt to save the life of a fellow man.

Kearns said he was driving home from a public hearing in Topeka on April 21, 1970, when he spotted smoke streaming from an overturned trailer truck on the shoulder of I-70 near the East Lawrence exit. He said he saw a car crushed under the truck and he stopped to investigate.

"This can't be what it appears to be," Kearns recalled thinking as he ran over to the wreck. "The car was compressed into a bundle and I saw the driver, seat belts fastened, leaning out the door. . . . It was obvious he was dead."

Kearns said he climbed onto the burning truck to see if anyone was inside, but both doors to the cab were jammed. Even after another passer-by stopped to help, the doors wouldn't budge, Kearns said.

"The diesel tanks were ruptured and spitting out fire like a flame-thrower, so we were about to give up," he said. "Then we heard a scream from the guy inside the truck. Apparently he'd been unconscious until the flames reached him."

With more struggling the men got the door windows down and pulled the truck driver to safety. "About 30 seconds after we got him to the side of the road the cab blew up." Kearns said.

The Kansas Highway Patrol took the truck driver, Ronald E. Sheriff, 23, to the Lawrence Memorial Hospital where he was admitted with serious burns.

ALCOHOL AND HEALTH

Mr. MOSS. Mr. President, some of the concrete results of the deliberation and lawmaking by the Congress on alcohol abuse are now beginning to show up.

As required by title 1, section 102(1) of Public Law 91-616, the "Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970," the Department of Health, Education, and Welfare has compiled and is sending to Congress the first of several special reports required on "Alcohol and Health."

This initial report pulls together all current information on how the use of alcoholic beverages affects health. It draws a detailed portrait of American drinking habits, and attempts to place in perspective what the United States does to deal with alcohol abuse—including what laws and resources it has mustered.

Later reports will design and test methodologies to assess with precision the ways alcohol affects various areas of well-being, and identify methods for effective treatment and control. If the studies yet to be made turn up a need for further legislative action, such recommendations will be made to the Congress.

Mr. President, no one could hail more enthusiastically than I the appearance of this report, and the indication that the Federal Government is at long last involving itself in large-scale, fundamental efforts to combat what I have long contended was one of the Nation's major health problems.

It was in the fall of 1965 that I introduced the Senate's first bill to authorize the Federal Government to create a Federal Commission on Alcoholism to do research on alcoholism and give grants to the States to develop methods and facilities for the care, custody, treatment, employment, and rehabilitation of those who have the disease of alcoholism.

The following session I joined with Senator JAVITS in promoting a similar bill, and our efforts were later strengthened by Senator HUGHES, who as chairman of the newly created subcommittee on Alcoholism and Narcotics, drove through the comprehensive 91st Congress legislation establishing the Division of Alcohol Abuse and Alcoholism in the National Institute of Mental Health which has just compiled the new report.

This report not only recognizes alcohol as the great health hazard which it is, but calls it "the most widely abused drug in our society." In our drug-oriented and drug-fearing society, this is a point we cannot stress too often. Because of wide publicity on the dangers of using heroin or amphetamines, and of smoking cigarettes, we are inclined to think of our drug problems primarily as limited to reducing the misuse of tobacco and narcotics. But actually, the misuse of the widely used drug, alcohol, causes more illness, and tragically affects the lives of more people, than does abuse of either tobacco or narcotic drugs. The report estimates that alcoholism seriously affects 9 million Americans, and costs America about $15 billion a year, while alcohol-related problems warp the lives and brings heartache and often poverty to many additional millions of our men, women, and children.

Among American Indians, the report tells us, the incidence of alcoholism is at "epidemic level, reaching a 10 percent rate, double the national average, and up to 50 percent on some reservations."

The report states that drinking has been linked with one-third of all homicides, and one-half of all traffic deaths, the latter totaling 28,000 in the last year for which statistics are available. The percentage of deaths from traffic accidents resulting from drinking are even

higher among young people, aged 16 to 24.

Dr. Morris E. Chafetz, director of the Alcoholism Institute, says that in one sense, "abuse occurs any time a person becomes drunk," and "alcoholism occurs when a person needs a drink in increasingly large doses and indicates withdrawal symptoms when he cannot get it."

Dr. Chafetz calls alcoholism "America's largest untreated, treatable illness."

He puts the problem in excellent perspective, in my opinion, when he says:

> We are not telling people to drink or not to drink; that is a personal, private decision. What we are saying is that if one chooses to drink, he has a responsibility not to destroy himself or society.

The fact that the Division of Alcohol Abuse and Alcoholism is launching a nationwide advertising campaign costing $197,000, but expected to make use of free public service ads of the type used in the anticigarette campaign, to draw attention to the dangers both to the individual and to society of the abuse of alcohol, is most welcome news—a hopeful sign of our enlightened times.

I wish to assure Dr. Chafetz and his colleagues of my strong support for the work they are doing. It is most satisfying to realize that we are beginning to attack the disease of alcoholism on a scale which augurs some success for our efforts.

OPEN EXECUTIVE SESSIONS

Mr. HARRIS. Mr. President, Tuesday, the Senate Finance Committee voted on what I consider a most crucial policy within the realm of congressional reform—open markup sessions on welfare and social security legislation. I find it disappointing that members of the Committee are unwilling to either conduct executive sessions in the view of the public or, at the least, allow personal staff members into the sessions.

I ask unanimous consent that the press release I issued following the committee vote be printed at this point in the RECORD.

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

STATEMENT FROM THE OFFICE OF SENATOR FRED R. HARRIS

The Senate Finance Committee today rejected a motion by Senator Fred R. Harris (D-Okla.) to open up the Committee's mark-up sessions on welfare and social security to the public.

"We are doing the public's business on a highly important measure," Harris said in support of his motion. "The public has a right to view our proceedings the same as it does a session of the Senate itself."

The motion was rejected on voice vote with only Senator Harris voting in favor of the motion.

By the same vote the Senate Finance Committee also rejected a Harris motion that would change long-standing Committee proceedings and allow each member to bring one of his staff members into the mark-up sessions. This leaves the Committee rule excluding all but Committee staff from such sessions still in effect.

Later on the Committee did agree that on special occasions, as when a Committee member is presenting an amendment, he may be allowed to bring one staff member into the meeting if the Chairman approves on an individual case basis.

RETIREMENT OF JULIA THOMPSON

Mr. NELSON. Mr. President, a longtime spokesman and worker for better health care is retiring after 20 years as director of the American Nurses' Association Washington office. Julia Thompson has been a positive voice for improving health care throughout her career.

A native of Wausau, Wis., Julia Thompson had a distinguished career in public health nursing in Kansas and taught nursing before joining the ANA.

In Washington, she worked hard to improve social security benefits for the disabled and retired and to get health benefits written into many laws. She worked for the enactment of the historic medicare legislation at a time when some of her medical colleagues thought support of such legislation was heresy. In 1965, she was one of those who traveled on the President's plane to Independence, Mo., for the signing of the medicare bill in the Truman Library.

As a spokesman for nurses, Julia Thompson worked for years to convince Congress that nurses in the military should be given ranks commensurate with the responsibility they carry. Largely as a result of her efforts, the status of the Army Nurse Corps chief was elevated to brigadier general in 1970. The Air Force is now about to promote its chief nurse to brigadier general. Secretary Laird recently promised that the Navy will promote women to the rank of admiral.

After many years of effort, in 1956 Julia Thompson saw the beginning of Federal support to nursing education with the passage of a professional nurse traineeship program. The Nurse Training Acts of 1964 and 1971 were other pieces of legislation that she and the ANA worked for.

Nurses throughout the country have been well represented by Julia Thompson for these 20 years. I am proud to call her one of Wisconsin's own, and I share with all of her colleagues in wishing her well in her deserved retirement.

FIFTIETH ANNIVERSARY OF RESERVE OFFICERS ASSOCIATION

Mr. THURMOND. Mr. President, today I would like to extend a heartfelt happy birthday to the Reserve Officers Association which is marking 50 years of service to the Nation with its midwinter conference here in Washington.

Even If I were not a member of this major national organization, or had not been its national president for 1 year, I would still take this time to recognize this milestone. I understand that more than 2,000 members are converging on the Nation's Capital from the length and breadth of this great land of ours to say as only they can say it—we are proud to be Americans and to do our share in its defense.

The beginnings of the Reserve Officers Association go back to 1922 which marked the birth of the organized Reserves as a structure for making sure its citizen-soldier in this country would always be there in time of need.

Names such as John J. Pershing or Harry Truman figure in the inspiration and building of the Reserve officers. The birth pains were not light. In the 1920's a nation disillusioned by war, was turning to headlong pacifism, scuttling warships, allowing tanks to rust away in forgotten depots and generally disarming its uniformed forces. Worse, military leaders were not permitted to speak out against a foolish and eminently dangerous national no-defense policy.

It required the scrappiness and wisdom of Gen. Henry J. Reilly, the association's first national president to demand that Reserve officers, not on duty, were civilians with full rights under the first amendment to appeal directly to their Government.

He went so far as to obtain a ruling from the judge advocate. Some Congressmen were engaged; one of them even walked out of an Armed Forces hearing. But the right had been established for Reservists to speak out on matters vital to the national future.

This week, the members of the Reserve Officers Association rededicate themselves to this all-important role in standing watch upon a nation's ramparts.

During their all too brief but busy time, they will be visiting with me and fellow legislators here on the Hill. We wish to hear from them at least as much as they might from us.

Mr. President, during the 50th anniversary meeting the ROA members will hear from such distinguished speakers as Secretary of Defense Melvin Laird—who will be talking with an ROTC contingent—chairman of the House Armed Services Committee, EDWARD HÉBERT; Speaker CARL ALBERT, who also is being honored as Minute Man of the Year, and Army Secretary Robert Froehlke.

It will be my pleasure and honor to welcome the ROTC cadets at a breakfast. House Speaker ALBERT will be speaking at the concluding banquet when the association's honor is bestowed upon him.

On this golden anniversary of what I might abbreviate as Reserve officership, I wish to say congratulations and—keep up the good work. The country needs you and will benefit from the work the ROA is doing.

TRIBUTE TO SENATOR HAYDEN

Mrs. SMITH. Mr. President, I rise in tribute to our late friend and colleague, Senator Carl Hayden. It was my privilege to work with him during 15 of his 50 years as a member of the Senate Appropriations Committee. During those years, he maintained his reputation for honesty, fairness, and consideration of all his associates. He was never flagrant in the use of his extensive power.

Senator Hayden was an excellent judge of priorities, and used his great influence to maintain strong national defenses and developmental domestic spending. Carl Hayden faced up to his responsibilities as a Senator, remaining in Washington to give careful and thoughtful attention to the many problems his positions accorded him.

Senator Hayden was a pioneer in the development of his part of the country and a pioneer in development of Federal solutions to regional problems. The dams he helped establish provided water and power to open vast regions of the West and Southwest to settlement.

Born in a prairie settlement his father established, Carl Hayden was elected sheriff of his community in his early twenties. Before Arizona became a State, Carl Hayden came to Washington to represent the territory. For the first promising 13 years of statehood, Carl Hayden was the Representative from Arizona, and the following 43 years he served Arizona as a Senator.

Entire generations grew to maturity with his vigorous and strong character before them. In his unpretentious, receptive, and diligent way, Carl Hayden proved again and again the wisdom of the people of Arizona in choosing him to represent them.

His participation in history is unparalleled. When Carl Hayden came to Washington to represent Arizona, the western plains were undeveloped lands. When he ended his years in the Congress, the western plains had become thriving, modern States. His influence on legislation helped bring about tremendous economic and social changes.

When Carl Hayden came to Washington, automobiles were only beginning to replace horse-drawn carriages as the fashionable means of city travel. Americans were far more interested in domestic growth than in international affairs. During Senator Hayden's years in Congress, the United States became the strongest Nation in the world, no longer able to ignore its international responsibilities. The last few years of his Senate career saw a renewed drive to exercise our energies and idealism in pursuit of national rather than international goals.

Outstanding as a leader on the frontier, Carl Hayden proved himself equally outstanding as a leader in the U.S. Senate. He was a legend in his own time.

EQUAL RIGHTS AMENDMENT

Mr. DOLE. Mr. President, I wish to announce my intention to support—without inhibiting or crippling amendments, provisos, or conditions—the equal rights amendment to the Constitution.

This is a measure that has become familiar to the Halls of Congress, a measure commanding the forces of reason, equity, and fairness to which our society's institutions must be responsive if they are to continue to grow and function.

AN OLD STRUGGLE

The struggle for women's rights is more than a century old. In fact, it has been with us since the birth of our Nation. Recent years have seen some progress after many long years of effort. Some recognition of women's rights—brought about by the application of women's political, legal, and personal energies—has been achieved. But no fundamental, basic guarantee of these rights has yet been indelibly forged. The equal rights amendment appears to be the most effective, direct, and desirable means of providing that guarantee.

SIGNIFICANCE TO KANSAS

I support this amendment with a profound sense of the rightness of its cause. But I also support it with an awareness of the historical significance it holds for my State.

The State of Kansas has many proud and longstanding social, commercial, and political traditions. Foremost among these great traditions is a strong and sometimes exuberant regard for individual rights and freedoms. Perhaps one of the most widely known incidents of history concerns the Kansas struggle to assure equal rights for all citizens. During the Civil War era, the whole State was made a focal point of contending pro- and anti-slavery forces; but one of the deepest and most enduring civil libertarian traditions in the State is one that took root in those early days of statehood: The effort to ensure for women the fullest participation in life—whether on a legal, political, or social basis.

When the women's suffrage movement was initiated in the middle 1800's, there were two major routes to universal suffrage available. On one hand was the implementation of a constitutional amendment applicable to all the States and on the other were referendum efforts to change the State constitutions.

FIRST REFERENDUM CAMPAIGN

In the 19th century, the suffragette movement focused its early efforts on individual State referendum campaigns. The first of those campaigns was launched in Kansas in 1867. It was led by individuals whose names would become synonymous with the women's rights movement: Olympia Brown, Lucy Stone, Elizabeth Cady Stanton, and Susan B. Anthony. They waged a vigorous campaign throughout the State, and, much to the surprise of many observers, they won nearly one-third of the 30,000 votes cast. They did not win the day, but they did set a powerful example to women everywhere. In the next 51 years, 56 referendum campaigns were conducted across the Nation, and the suffrage movement gained the strength that eventually led to the adoption of the 19th amendment of the Constitution.

According to Eleanor Flexner in Century of Struggle:

> It was no accident that the first round of the political struggle to win women the vote should have taken place in the State of Kansas. During the violence and upheaval of its territorial period in the 1850's, many New England women had come with their menfolk to try and make Kansas "free soil," bringing with them the ideas sown by Margaret Fuller and Lucy Stone.

Despite a series of defeats for universal woman suffrage, however, certain gains were made in the direction of partial or limited suffrage, on such matters as schools, taxes and bond issues. Kansas had led the way in granting partial suffrage, becoming, in 1861, only the second State to grant women the school vote; and, in 1887, it granted women municipal suffrage, an action hailed as a landmark of progress in the movement.

SEVENTH STATE TO EXTEND FULL SUFFRAGE TO WOMEN

Finally, Kansas became the seventh State to extend complete suffrage to women—a full 7 years before Congress passed the 19th amendment.

The passage of the 19th amendment was greeted with particular welcome by Kansans. Governor Henry Allen was one of the first two governors to recommend its adoption, and the State legislature compiled with ratification on June 16, 1920, within 2 weeks following Congress' action.

KANSANS ORIGINATED EQUAL RIGHTS AMENDMENT

For many, passage of the women's suffrage amendment was the end of the line. Women had the vote: What else did they need? But Kansans did not share this attitude, and in 1923, two members of the Kansas congressional delegation, Senator, and later Vice President, Charles Curtis, and Congressman Daniel B. Anthony, a cousin of Susan B. Anthony, introduced the measure that has come down to this day in substantially the same form, the equal rights amendment.

I believe the time is long past due for this Nation to eliminate every last barrier to women's full exercise of their rights as citizens and to their participation in the life of this country to the maximum extent of their considerable abilities and talents.

I am proud to add my name to the list of distinguished Kansans—men and women—and Americans who have carried forth the cause of women's rights in the United States.

PROTECTING THE AMERICAN TAXPAYER

Mr. MATHIAS. Mr. President, late last year, as the Revenue Act of 1971 neared passage, I inserted into the RECORD a letter from the National Society of Public Accountants (NSPA) supporting an amendment I introduced to provide for the confidentiality of information which taxpayers provide to income tax return preparers.

My amendment was adopted by the Senate and became part of the law signed by the President.

More recently, the Internal Revenue Service has asked for comments from interested parties on the question of whether or not further action to regulate income tax preparers is desirable.

The NSPA has promptly responded to the request by IRS and has put forth what it believes, based on the long experience of its members, is a constructive and specific program of action. I am pleased that the IRS, the NSPA, and I are in total agreement that the goal of our actions should be the best and most reasonable protection and aid for the American taxpayer. I believe that this subject is so important that it merits the attention of all my colleagues, and for that reason I would like to ask unanimous consent that the proposals of the NSPA and its letter to Mr. J. R. Turner, the Acting Assistant Commissioner of

the Internal Revenue Service be inserted into the RECORD at this point.

I also wish to thank the NSPA for the public-spirited attention it has given to this important issue.

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

NATIONAL SOCIETY OF PUBLIC ACCOUNTANTS,
February 25, 1972.

Mr. J. R. TURNER,
Acting Assistant Commissioner,
Internal Revenue Service,
Washington, D.C.

DEAR MR. TURNER: In response to your request for the view of the National Society of Public Accountants on the extremely controversial question of regulating Federal tax return preparers, NSPA has developed the enclosed recommendations for consideration.

We have felt for some years that the unfettered growth of certain segments of the commercial preparation field (as contrasted with professionals who are governed by ethical codes of conduct) has created serious problems for the taxpayer seeking assistance in filing or in tax planning. The persuasive forces of advertising have especially caused us concern.

Our recommendations are intended to offer an increased measure of responsibility on the part of those who engage in tax return work, while we remain mindful of the realistic problems of administration and enforcement that make some proposals impractical.

NSPA is delighted by this reply to take the lead among the professional organizations whose comments were sought. We hope that our suggestions will be endorsed by the other major bodies representing professionals engaged in accounting and tax services.

We would welcome any thoughts you have on our suggestions and look forward to working closely with the Internal Revenue Service in this important matter. Thank you for the opportunity.

Sincerely,

RUDOLPH J. PASSERO,
President.

RECOMMENDATIONS BY THE NATIONAL SOCIETY OF PUBLIC ACCOUNTANTS FOR THE PROTECTION OF TAXPAYERS

American taxpayers must be protected from incompetent and irresponsible tax return preparers.

Every Federal tax return preparer who assists taxpayers for a fee must register with the Internal Revenue Service.

Continuing technical education must be shown for renewal of registrations at three-year intervals.

Advertisng the fact of registration would be prohibited to prevent any apparent endorsement by IRS.

No prohibitions on advertising other than those now in effect would be imposed.

Preparation for a fee without a current registration would be illegal.

Every return under a registrant's responsibility must bear his name and registration number.

Revocation or suspension of a registrant by IRS would be for gross misconduct, fraud, etc.

AMERICAN TAXPAYERS MUST BE PROTECTED FROM INCOMPETENT AND IRRESPONSIBLE TAX RETURN PREPARERS

The main objective of these recommendations is to protect the taxpaying public. It is necessary to begin by identifying preparers so that they can be held accountable for their work. The need for a greater measure of responsiblty for the quality of work and the uses made of confidential information in the tax field has long been a concern of the National Society of Public Accountants. The rampant increase of commercial tax preparation operators and heavier reliance upon advertising has led to recent action by the Federal Trade Commission and enactment in Congress of provisions insuring confidentiality in the Revenue Act of 1971. NSPA applauds these steps. Members of NSPA are bound by a strict Code of Professional Ethics and those engaged in tax practice must meet additional provisions specifically applied to that aspect of professional practice. Confidentiality has been the keystone of these Codes. Other professional groups similarly oversee the manner in which their members practice. By requiring the identification of all preparers responsibility to the public is assured. Continuing technical education will do much to insure competence in a constantly changing field. Above all, with mandatory registration the scope of the problem and the troublesome areas can be pinpointed and specific remedies designed in the future.

EVERY FEDERAL TAX RETURN PREPARER WHO ASSISTS TAXPAYERS FOR A FEE MUST REGISTER WITH THE INTERNAL REVENUE SERVICE

Registration at a local IRS District Office would be required of every return preparer who prepares Federal tax returns for a fee on a full-time, part-time or even seasonal basis. Every registrant would be assigned a registration number. For multiple offices or franchise operations, the individual in charge of each of the respective offices would be required to register. No qualifications are set for the initial registration. This disclosure is the heart of the recommendation. Any exceptions from registration will erode the usefulness of the program as a means of identifying the problem areas. The National Society of Public Accountants believes that the simple and inexpensive registration process suggested would cause the true professional no great burden and that administrative costs could be made self-sustaining to a large extent by a minimal fee. While no qualifications are set for initial registration, this would serve to get the program started. It avoids the problems inherent in licensing after examination. The only persons who might be reluctant to register would be the marginal preparers who have something to hide.

CONTINUING TECHNICAL EDUCATION MUST BE SHOWN FOR RENEWAL OF REGISTRATIONS AT 3-YEAR INTERVALS

Registrations would be valid for a period of three years (or some other reasonable period). In order to renew a registration, an individual would have to show that he has received continuing technical education in the Federal tax field. The standards for continuing education would be set by the IRS. An affidavit filed with the local District office would be required of the registrant. Appropriate penalties should be imposed for filing of a false affidavit concerning participation in approved continuing technical education programs. Qualifying continuing education could include correspondence courses, conferences and seminars sponsored by professional and technical organizations, formal courses at educational institutions, participation in courses or seminars that could be sponsored by the Internal Revenue Service, inhouse training in firms with a set number of persons in attendance and by other means prescribed by the IRS. NSPA believes that the field of tax practice is so complex and that technical regulations, interpretations and court decisions bring change so frequently that some proof of continuing education is highly desirable. A key element here is that methods of compliance are flexible enough to permit a variety of means be available to the practitioner to meet the requirements. The National Society and affiliated state societies already offer a wide range of seminars, materials and services to assist members in keeping up to date on changes in tax law procedures.

ADVERTISING THE FACT OF REGISTRATION WOULD BE PROHIBITED TO PREVENT ANY APPARENT ENDORSEMENT BY IRS

By prohibiting the registrant from advertising his registration, the danger of misleading the public into thinking any given registrant is endorsed by the Federal Government is removed. The registration number would have to be made available to a client upon request (so that he was assured the preparer possesses a registration) but a commercial preparer could not benefit from the fact of registration in his promotional practices. This would eliminate to the maximum extent possible the misuse of a registration program by an unscrupulous operator to further deceive the public about his qualifications. To avoid any loopholes, the prohibition against promotional use of the fact of registration should extend to stationery, signs, cards and listings. Since registration would be mandatory for all who prepare Federal tax returns for a fee, everyone doing so would presumably possess a registration. Penalties for practice without a registration are provided.

NO PROHIBITIONS ON ADVERTISING OTHER THAN THOSE NOW IN EFFECT WOULD BE IMPOSED

Professional ethical codes would continue to operate on attorneys, certified public accountants, independent public accountants and enrolled agents (who are licensed after examination to practice before the IRS on tax matters). Misleading advertising, false and erroneous claims should continue to be prosecuted under present laws by the Federal Trade Commission and other entities. A complete ban on advertising, while considered desirable and adhered to by NSPA members along with other professional organizations, would be subject to attack on legal grounds.

PREPARATION FOR A FEE WITHOUT A CURRENT REGISTRATION WOULD BE ILLEGAL

Preparation of a Federal tax return for another for a fee without a registration, or with an invalid registration, should be a misdemeanor subject to fine and imprisonment upon conviction. This is vital if the recommended program is to succeed in identifying preparers, holding them to a measure of responsibility for their work and bringing all preparers under the requirements of continuing technical education. Enforcement of this provision will be aided by reports from fellow practitioners and commercial competitors as well as the public. As the program is implemented, taxpayers will learn to check the registration of their prospective return preparers to see that he is registered and has a current registration (which will in the future demand continued technical education).

EVERY RETURN UNDER A REGISTRANT'S RESPONSIBILITY MUST BEAR HIS NAME AND REGISTRATION NUMBER

All returns prepared in whole or in part under a registrant's responsibility for compensation must be signed by him and include his registration number. The identification of preparers will enable the IRS to determine, when a pattern of returns shows a problem, the source. This will be true even if the preparer has moved around geographically.

REVOCATION OR SUSPENSION OF A REGISTRANT BY IRS WOULD BE FOR GROSS MISCONDUCT, FRAUD, ETC.

The IRS should have the right to suspend or revoke a registration for cause under procedures that afford the registrant his rights of due process, administratively and constitutionally. Reasons for suspension or revocation could include gross incompetence, unethical advertising, fraud, willful misconduct, filing a false report and similar activities. It may be expected that some unqualified

or unethical persons may not seek the registration at all since it makes them identifiable for their work. Those who are not willing to meet some continuing technical education requirements probably should not be in practice anyway. The program is designed not as one of exclusion, although it may have that effect to a degree, but rather as one of inclusion. By bringing the wide variety of preparers under the umbrella of coverage, the public will be better served in this important area. With disclosure comes responsibility; with renewal comes continued education and with these combined, the American taxpayer will be better protected. The National Society of Public Accountants stands ready to help to realize this goal.

THE GENOCIDE CONVENTION AND STATE AND LOCAL LAWS

Mr. PROXMIRE. Mr. President, critics of the Genocide Convention have questioned the power and jurisdiction of the treaty in relation to State and local authority. They believe that ratification of the genocide agreement would preempt these local laws.

However, the implementing legislation is quite explicit when it states that:

Nothing in the Act shall be construed as indicating an intent on the part of the Congress to occupy, to the exclusion of State or local laws on the same subject matter, the field in which the provisions of the Act operate nor shall those provisions be construed to invalidate a provision of State law unless it is inconsistent with the purposes of the Act or the provisions of it.

In essence, State and local laws will maintain their full powers and rights of jurisdiction. The implementing legislation indicates clearly which acts shall be considered acts of genocide and prescribes appropriate punishment. In each case, the provisions of the Genocide Convention shall be consistent or complimentary to existing statutes enforced by the communities of this Nation.

The Genocide Convention is not in conflict with any present law or agreement but rather represents a new safeguard against any future atrocity. Immediate action should be taken to ratify the Genocide Convention.

PRICE SUPPORTS AND INCOMES OF FARMERS AND RANCHERS

Mr. TOWER. Mr. President, there have been several comments from individuals and news sources complaining about price supports and increased incomes received by farmers and ranchers for commodities, whether crops or livestock. The total blame for increased food costs is being put on the shoulders of the American agriculturalist.

There are several points which I would like to make in behalf of farmers and ranchers in America. The American housewife is buying more and better food for a smaller percentage of her disposable income than any housewife in any part of the world at any time in history. An American farmer buys his needs in America and the price includes the high cost of the American wage scale. These costs are constantly going up, while the price of most farm products is very much the same as it was twenty years ago, if not lower.

Cattle prices are now at their 1951 level, and food prices have increased only 7 percent in 21 years. Yet at the same time, money paid to wage earners has increased 340 percent, money to government employees has increased 430 percent, business and professional income has increased 200 percent and dividends have increased 300 percent.

There is a tremendous investment behind agriculture which is necessary if the American farmer is to continue as the most efficient producer in the world. The investment behind the average agricultural worker is $50,000 while the average investment behind the industrial worker is $25,000. The farmer must pay interest on his huge investment of land, modern machinery, fertilizer, insecticides, seed, labor, and many more items. These production costs must come from somewhere. If we will provide farmers with the costs of production, however, they will provide food for all our domestic needs as well as a large part of that needed abroad.

American farmers have always bought in a protected market. They pay American prices for the goods they purchase, yet must sell in a free international market, competing with goods produced by those with a wage scale only a fraction of that in the United States. There would be no need for price supports if the American farmer could buy in a completely free market. Until this is possible, however, it is up to us to give the assistance necessary to insure the American people that they will be able to buy enough to eat at a very reasonable cost.

People do not seem to realize that virtually every segment of the economy receives, or has received, Government assistance. Railroads, steamships, airlines are either directly or indirectly subsidized. Tariffs help protect manufacturers from foreign goods at lower prices and in turn help hold down the cost to the consumer. If we remove the support from agriculture, the farm production would not be able to maintain the present rate. After taxes and interest, there would not be enough left to operate. To produce in supply for American demands, it is essential that farmers utilize modern equipment. If there were not Government price supports to offset the high cost of this equipment, the additional income would have to come from higher prices.

The support paid to farmers does a lot more for consumers in the cities than it has ever done for people on our farms. Agriculture supports make it possible for Americans to enjoy more and cheaper food than consumers in any part of the world. The blame for higher food prices lies elsewhere. While the price received by the farmer for his goods is just beginning to catch up with a period of 20 years ago, the average hourly labor cost for marketing food has increased 66 percent in the past 10 years. Food costs have risen to offset higher wages for those who process and retail food. Higher consumer income has influenced more competition for food. Farm food prices are up only 7 percent from 20 years ago while retail food prices are up 44 percent. The reasons for higher food prices are quite evident.

Even with the predicted increase in amounts paid for food, the percentage is less than the expected increased income, therefore, causing an actual decrease in the percentage of income spent for food, possibly an all time low.

I do not oppose higher wages, but feel that the farmer deserves an increase in income while the rest of the Nation is receiving theirs.

TRIBUTE TO DR. PHILIP E. MOSELY

Mr. DOMINICK. Mr. President, I was deeply saddened to learn of the passing of Dr. Philip E. Mosely on January 13, 1972.

Dr. Mosely spent most of his career in the academic field, but he also played a major role in the foreign policy community. He was called "the father of Russian studies in this country" by Marshall D. Shulman, the current director of the Russian Institute at Columbia University.

I was privileged to have known Dr. Mosely in my capacity as an advisory member of the Board of the Center for Strategic and International Studies, where he served as chairman of the research council and, until his retirement just over a year ago, as chairman of the executive committee.

Dr. Mosely made outstanding contributions to the Center and to the country, and the Center will deeply miss him and his expertise on the Soviet Union, now so formidable with its ever expanding strike forces.

I ask unanimous consent that Dr. Mosely's detailed obituary be printed in the RECORD.

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

[From the New York Times, Friday, Jan. 14, 1972]

DR. PHILIP E. MOSELY, SCHOLAR OF SOVIET AFFAIRS, DEAD AT 66

(By Israel Shenker)

Philip Edward Mosely, Adlai E. Stevenson Professor of International Relations at Columbia University and a leader of Russian studies in this country, died yesterday morning at his home, 29 Claremont Avenue, after a long illness. He was 66 years old.

As a founder (1946) and director (1951–55) of the Russian Institute at Columbia, Dr. Mosely was instrumental in establishing that institution as a center of advanced scholarship.

Most of his career was in academic life, but he spent many years—officially as a member of the State Department, unofficially as a senior figure in the foreign policy community—advising on affairs of state.

The Russian Institute's current director, Marshall D. Shulman, called him "the father of Russian studies in this country." There were some grandfathers as well, but Dr. Mosely did a good deal more than most for students, encouraging them, even writing personal checks to tide them over personal difficulties.

He was a small, dark-haired man of normally equable temperament, but occasionally he could be roused to striking exhibitions of temper, as happened when an offhand allusion by the scholar E. H. Carr to American motives roused his fury.

STUDIED THE NUANCES

Dr. Mosley was a charter member of that band of scholars, called Sovietologists or Kremlinologists, who are expected to do more

with less than perhaps any other specialists save archeologists of remotest prehistory. Prof. David Joravsky of Northwestern has defined Kremlinology as "the effort to do archival research in Soviet politics without access to the archives."

From subtle shifts in the way leaders are addressed or applause recorded, from dribbles of doctored statistics, from the very mien of a man glimpsed through the miasma of newspaper reproduction, these archivists without archives are expected to elaborate political theories and venture daring predictions.

Like his colleagues, Dr. Mosley had to contend with the subordination in the Soviet Union of reported fact to official political judgment.

Others spread themselves thin in works of massive scholarship; he was more the man of the article and the reviews. As a teacher, he helped turn thousands of students to the elusive enterprise of discerning and ordering the facts of the past and of influencing the policies of the future.

Andrew W. Cordier, dean of the School of International Affairs, called Dr. Mosley "one of the most thorough and knowledgeable members of the entire Columbia faculty."

In a statement Dr. Cordier said: "He regarded teaching, student counseling, and his uniquely effective relationship with students as the top priority of his schedule."

But he was capable of extending his strictures and warnings to any target, however, highly placed. In a review in the New York Times Book Review in 1961 he took Nikita S. Khrushchev, Premier of the Soviet Union, to task for having failed to understand "the forces of fredom," and said it was urgent for the Communist leader "to broaden his perspective."

After earning bachelor's and doctorate degrees from Harvard University, Dr. Mosley—with time out for research in the Soviet Union and the Balkans—taught at Princeton, Union College, Cornell and Hunter. In 1940 he joined the Columbia faculty but spent 1942 to 1946 in the State Department.

An adviser to Secretary of State Cordell Hull at the Moscow Conference in 1943, he was a political adviser in the United States delegation to the European Advisory Commission (1944–45), to the Potsdam Conference (1945) and to the Council of Foreign Ministers (London and Paris, 1945–46). He was United States representative on the four-power Commission for Investigation of the Yugoslav-Italian boundary (1946). The Commission rendered a divided verdict, the West on one side, the Soviet Union on the other.

After returning to Columbia as a professor of international relations, Dr. Mosley left once more, in 1955, to become director of studies at the Council on Foreign Relations. He returned to Columbia in 1963 as director of the European Institute and as associate dean of the School of International Affairs.

He was the author of "Russian Diplomacy and the Opening of the Eastern Question in 1838 and 1839" and of a collection of articles entitled "The Kremlin and World Politics," and he edited "The Soviet Union, 1922–1962."

Under his chairmanship the Joint Committee on Slavic Studies, in 1949, began its publication of a weekly Current Digest of the Soviet Press.

Dr. Mosley was a talented, even facile linguist who spoke more than half a dozen foreign languages.

He is survived by his widow, Ruth Bissel Mosley; two daughters, Mrs. John (Ann) Lesch of Princeton, and Mrs. Philip (Patricia) T. Jackson of Oberlin, Ohio; a brother, James M. Mosley of Boston; a sister, Mrs. Edward (Eleanor) Rust Collier of Harrisville, N.H., and one granddaughter, Laura Jackson.

The interment, in the family plot in his home town of Westfield, Mass., will be private. A memorial service will be held on Feb. 5 at 3 P.M., in the auditorium of Columbia's School of International Affairs, 420 West 118th Street.

SENATOR GOLDWATER BRINGS PERSPECTIVE TO PRESIDENTIAL CAMPAIGN

Mr. DOLE. Mr. President, the distinguished Senator from Arizona (Mr. GOLDWATER) spoke before the students and faculty of the University of Florida on February 3, 1972, and provided his audience considerable insight into the operations and significance of the political process presently enveloping the people of Florida, and other parts of the country. In it he convincingly refutes some of the social, economic, and military myths fostered by certain aspirants to the presidential nomination, and provides wise counsel to the voting public in the exercise of their rights and responsibilities.

Mr. President, the Senator from Arizona's speech conveyed an enlightening message for all Americans. I commend it to them and to the Senate and ask unanimous consent that the text be printed in the RECORD.

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

AN ADDRESS BY SENATOR BARRY GOLDWATER

At the very outset, ladies and gentlemen, I should like to assure you that my appearance in Florida tonight has absolutely no connection with the fact that on March 14th your state will hold the second Presidential Preference Primary in the nation. Perhaps more than most speakers from Washington, I can understand why it isn't only the fine weather which is attracting prominent colleagues of mine to the Florida hustings at this time.

I am sure I don't need to tell you people that you are about to become yearly participants in one of the great national dramas of the political world. More than any other state but New Hampshire, Florida is being watched for an indication of who might ultimately wind up as President Nixon's Democrat opponent in November. So beware. You are in the spotlight of political fighting such as we have seldom before seen.

Let me warn you that you are in for a lot of noise. You are about to be bombarded with all kinds of charges, slogans, claims and counterclaims and bombast in almost undiluted quantities.

You will hear that the United States has now become the land of the "freeze" and the home of the "phase." You are about to be told that everything wrong in this country—whether it be from smokestacks belching smoke into the polluted atmosphere in one town or from the unemployment resulting from the lack of such active smokestacks in another town—is President Nixon's fault. You will be told that this is the best of times, but you will be told more often that this is the worse of times. You will hear many claims that the way to peace is to throw away our weapons. You will hear demands for freeing Angela Davis and for jailing J. Edgar Hoover. You will hear men who voted for the Gulf of Tonkin Resolution and every request by a Democrat President for arms to fight in Vietnam claiming that the whole show is Nixon's fault because he hasn't yet surrendered.

You may occasionally hear a small Republican voice having the temerity to point out that the Indochina War started under President Kennedy, grew to its ugliest peak under President Johnson and was reduced to almost nothing by President Nixon. You will hear Nixon blamed for not obtaining the release of 1500 prisoners of war, most of whom were captured before he took office. You will hear him charged with failing to surrender the Saigon government to North Vietnam and, consequently, refusing to end the bloodshed.

You will get a full quota of rhetoric from Democrats competing with each other for the opportunity of opposing Richard Nixon in this year's election. And you will hear a comment or two from Republican candidates who are opposing the President within their own party as a token of their complaints about some of his policies.

So tonight, ladies and gentlemen, if I may, I should like to place the situation in this country in some kind of perspective. In this, your own point of view, is extremely important and it should be based on history as well upon current events. For example, if you judge the whole nation from what you read in the public print and see and hear through the electronic media you should be depressed and gloomy and pessimistic about the future. But, if you could look back and study what went on in this country during the Great Depression you might alter your attitude.

Back in the early 30's things were really bad. We had extreme poverty in those days and we had real hunger among the people. But, strangely enough, we did not have a crime wave. Now that's worth thinking about, particularly when you hear the "bleeding hearts" among us insisting that poverty is the seedbed of crime and almost every other domestic ill. Actually, the record shows that affluence—not poverty—is the seedbed of crime. Today, the average national income, even allowing for inflation, is higher than any other nation on earth. And today, our crime rate, even allowing for the increase in population, is higher than at any other time in our history. And today, at a time when we have more and better health education than any other time in our history, we have a higher rate of social disease. And today, when we have more fruits of prosperity, more leisure time, more new and different ways to amuse ourselves, the rate of drug addiction, usually associated with poverty and boredom, is a national problem of enormous proportion.

Another myth about which you shall hear a great deal in the weeks ahead is that a weak America will be a better America because we will not have the weapon to engage in costly wars. The idea here is to convince other nations that we are not a military threat of any kind. And this is the most dangerous kind of nonsense. If we wish to remain great and remain free, we must have a defense establishment at least equal to that of any other nation in the world if our policies are to have credibility and respect from other nations. All these arguments about disarmament and sweetness and light among nations all come down to the suggestion that we disarm unilaterally and thereby shame the other super powers into following suit. Of course, none of these so-called experts—one wants to cut defense expenditures by 20 billion dollars immediately—ever get around to explaining what would happen to American policies and American interests if the other super powers refuse to do the same. Even the peaceniks are willing to acknowledge today that the Soviet Union is on the biggest arms building binge in world history. But, they can't for the life of themselves see this as a legitimate reason for strengthening our own defenses. Time and again you hear these anti-defense candidates argue that the United States is the strongest nation on earth. Well, I've got news for them. When you start figuring out how many ICBM's we have versus the Soviets; how many submarines we have versus the Soviets; how many divisions we have compared to the Soviets, you begin to get a

different picture. The fact is that we are at this very moment a second-rate military power and we will be even weaker if the President's defense budget is not approved in this session of Congress.

And, we are told today that America is the richest nation on earth. And most of us believe that. Actually, we are more in debt than all of the other nations in the world combined. Let me ask you, do any of you know what a debt of 400 billion dollars plus is? Well, I'll take a shot at explaining. If you stacked up one million dollars in thousand dollar bills, you'd have a stack eight inches high; if you stacked up a debt of 400 plus billion dollars in one thousand bills, you would have a stack over 50 miles high.

Ladies and gentlemen, we need to look at ourselves realistically. We have been for some years now in what I would call a state of national doldrums. And the doldrums we face today result naturally from the prodigious, exhausting efforts in the past that won two world wars, put out a score of brush fires, spent $200 billion in feeding the poor and restoring the ravaged around the world.

It has been said, and with a great deal of truth, that no nation ever tithed itself so generously to help others. Now we may be disappointed that there is little, if any, gratitude. But we didn't rebuild Germany to get its thanks. We didn't build up Japan to gets its thanks. We didn't send foreign aid around the world to make ourselves rich. We did it because we were a responsible member of the family of nations and had been taught to do the decent thing and help our neighbors fight oppression and communism.

So today, we arrive at a moment that could have been predicted from the lessons of history. Our former foes are challenging us, our former friends are criticizing us and within we are torn by conflicting ideologies that only the unchallenged can afford.

Until recent years our national goals have been lost in a euphoria of helping everybody and everything and being all things to all people. Now, it is time to reset our compass and fix a new course. We have a great destiny among nations. It is as clear, shining and magnificent as when it was first expressed in the Declaration of Independence 200 years ago.

We are still a young nation. We are only beginning to sense our greatness and we can follow through only if we cherish the freedoms which were bequeathed to us by our founding fathers. I mean the freedoms to work, to love, to learn, to play; freedom to compete, to invent, to save, to invest, to create, to promote, and to own; freedom to choose, to join, to vote, to speak and to walk erect with head held high; freedom to be ourselves and to be free to glorify our God.

And of course, we shall not lose these freedoms so long as we retain our perspective and choose carefully the leaders who offer us common sense and correct goals. Mankind has not changed in a thousand years and more. Common sense tells us that. Aesop's fables written over 2,000 years ago describe the same foibles and personality traits that we encounter today.

I can think of nothing more important for this year's voters—especially those of you who fall into the 18- to 21-year-old group of brand new registrants—to keep in mind that what candidates are best suited to the job of protecting and extending our freedoms. And, I wish you would understand when I say that I am not speaking of license when I mention the word "freedom." I am talking about the kind of freedom that stems from a system of ordered justice and law enforcement. I am speaking of the kind of freedom that recognizes and holds precious the freedom of all men and not that of just a few.

I would like to say also that this year will be an especially appropriate time for our newly-eligible young voters to get their feet wet in the exercise of their political privileges.

I say that because I think 1972 may well become one of the most fateful 12 months period in American history. Enormous decisions are to be made in 1972—decisions which may well determine the future status of the United States as a world leader or a secondary power.

The schedule of events for the remainder of the year is almost awesome. It will include the first visit ever by an American President to Communist China. It will include an enormously important Summit meeting with Soviet leaders in Moscow—a meeting which could well determine whether there is to be a limitation of strategic armaments by the world's super powers or whether we are to be condemned forever to endless rounds in a world arms race.

I already have touched on the important political events, which in November will decide whether we are to reelect President Nixon and carry on his domestic reforms and his new worldwide initiatives or whether we are to replace them with someone who views differently our place in history.

And I would remind you these are just the scheduled events, those of historic importance which have already been set in motion. The year also bids fair to bring vast new problems on the international scene which could have an important bearing on war or peace, on worldwide prosperity and on Communist moves toward worldwide domination.

And, as I have already mentioned, the decisions to be made soon by the American public on future defense expenditures will have an important effect on every other international development.

All in all, ladies and gentlemen, the year 1972 is loaded with both opportunities and challenges for this nation.

The manner in which they are handled could effect our lives and the entire free world for many years to come.

This is a good year to study carefully the positions and the policies of candidates for national office and choose conscientiously in the name of freedom.

THE HOLY CROWN OF ST. STEPHEN OF HUNGARY

Mr. WILLIAMS. Mr. President, much concern has recently been expressed in this body and across the Nation regarding the disposition of the Holy Crown of St. Stephen, the great national treasure of Hungry. At the end of the Second World War, the Holy Crown fell into American hands: since that time it has been held in trust for the people of Hungary, anticipating the day of its return to a proud and free Hungarian Nation. Unfortunately, that day has not yet arrived. Just 15 years ago, in 1956, the people of Hungary rose up in defense of their ancient liberties, only to be cruelly beaten down by the armed might of Soviet Russia. Today, the Holy Crown still remains as an American trust until such time as it becomes appropriate to return it to a free government of Hungary.

The brutal invasion of Czechoslovakia by the Soviets and their allies barely 4 years ago—1968—is powerful evidence of the realities of tyranny which have prevailed in Hungary for a decade and a half. It was in Budapest that the world first saw how aggressive Soviet power could be, directed against a free people in its homeland. The Soviet invasion of Czechoslovakia demonstrates the hostile grip which binds the captive nations to this day.

I am anxious to join my voice with those who oppose the present return of the Holy Crown to Hungary—at least until such time as the people of that unhappy Nation are able once again to dwell in freedom and security. Until that day, we as Americans have a solemn responsibility to hold the Crown in custody for its rightful owners.

It is not easy for us to appreciate the unique hold which the Holy Crown has upon the hearts and minds of Hungarians everywhere. It is the symbol of the Hungarian Nation and culture, the sign of a people and their sovereignty. It calls to mind the long, proud history of the Magyars, combining in itself social, political, and religious associations.

In the year A.D. 1001, St. Stephen, great-grandson of Arpad, received royal recognition from Pope Sylvester II, and his realm became an independent part of the Western European religious and political community. From the very beginning, the Crown in Hungary was limited, despite its great power, by the national assembly, by the electoral rights of the nation, by the right of armed resistance, by the national rights bound up in the coronation itself, and by the elements of a parliamentary system—perhaps the earliest in Europe.

In the words of a noted authority:

> All these various guarantees of the constitution converge in the doctrine of the Holy Crown by which the Magyars were the first among all other nations to realize the modern concept, unknown in the Middle Ages, of the state as a distinct being, as an organism. The state is embodied as an organic entity in the Holy Crown, which again is personified as the holder of public power deeply rooted in the nation itself and vested jointly in King and people in the political sense. Thus even earlier than in England the authority of the Crown is regarded as a trust; earlier than in France, it must be noted, the fundamental principle of national sovereignty is contained in this doctrine.

For Hungary, according to the medieval doctrine of the Holy Crown, "the nation is the source of all rights," including the authority of the Crown. The Holy Crown, then represents not only Hungarian sovereignty, but also the long traditions of constitutionality in that land. How ironic, then, to surrender this precious regalia to a totalitarian ideology whose basis of power proceeds from a gun.

Further, the return of the Crown associated with St. Stephen would betray the faith which made him one of the great figures in the history of the Middle Ages. First King of the Magyars and author of their Christianization, he laid the foundations for an enduring national sovereignty among a people whose cultural and spiritual awakening immeasureably enriched the heritage of European civilization. Hungarian Americans and Americans of every descent are deeply concerned for continued American custody of the Holy Crown. We trust that no rash move will be taken which would return the Crown to a regime wholly alien to its great tradition.

WINDING DOWN THE WAR

Mr. GRAVEL. Mr. President, many of us who are supercritical of the Vietnam

war and who try to expose the fraudulence in the administration's widely publicized "winding down" of the war are challenged to show evidence to support our criticism. After all there seem to be fewer casualties—at least military ones—at least nonyellow ones—and fewer American uniformed soldiers are there on the ground.

But other facts point another way. More tons of bombs have been dropped on Indochina in the last 3 years—95,000 tons per month—than in the Johnson era of escalation—60,000 tons per month. The bombing continues at over 50,000 tons per month. I ask that the attached table showing our total tonnages for Indochina through 1971 be printed in the RECORD in support of these remarks.

There are however, more subtle aspects to what we are doing in warring in Indochina. To a considerable degree, and with predictably awful consequences, we are substituting technology for manpower. Fancy, sophisticated weapons which combine electronics with ordnance in ways designed sometimes to kill and sometimes to maim and disable. Technical, "antipersonnel" monsters.

An article appearing in the February 1972 issue of Atlas entitled "The Silent War in Vietnam" which was written by a Helsinki journalist and originally appeared in Finland's leading daily describes this trend. I commend it to all Senators and ask unanimous consent that it be printed in the RECORD.

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

THE SILENT WAR IN VIETNAM

The war in Indochina is changing—it is becoming a silent war. The battlefields are shaking less because the big bombs have given way to small, harmful splinter bombs, to steel bullet bombs and fragment bombs. It has become a war personified by small mines camouflaged by leaves or sand; they wound rather than kill. And the newspapers are covering it less because there seems to be less happening.

This has been the major goal of Vietnamization: to forestall defeat implicit in a peaceful settlement by making the war less visible, allowing it to be carried on quietly into 1973 so that Mr. Nixon does not have to run for re-election as the only American president to have lost a war. Costs have been cut, troops are being withdrawn and American casualties have been reduced to make the Vietnamization plan look respectable to the American people and to the world. But behind the misleading statistics lies a new and equally destructive Vietnam War controlled from the White Igloo.

The White Igloo sounds as peaceful and innocent as an Eskimo hut on polar ice. But it is a cover name for something far more complicated—automated warfare planned and carried out by electronic machines. One U.S. Senator called it a "seismic and acoustic Christmas tree", another picturesque term which doesn't quite suit this system which is responsible for massive, blind-folded air strikes in Laos and along the Ho Chi Minh Trail.

The White Igloo operates without troops. Acoustic and seismic "sensors" and "reconnoiters" are built inside long poles which are dropped from planes in great quantities. They implant themselves upright in the ground. A radio transmitter and receiver is dropped by parachute; it may settle in a tree or shrub after which the chute self-destructs so that the radio will not be easily found by the enemy. The poles then receive sounds and vibrations from the environment which are relayed via the radio to a reconnaissance plane which circles at very high altitude overhead.

The messages are forwarded to a control center in Nakhon Phanom, Thailand, where they are fed into computers. Professional "target-seekers" determine the source of the messages; if they conclude that they originate from hostile troops, an air attack order is issued.

An IBM machine (Type IBM 360-65) analyzes the source of movement, indicating its numerical strength, speed and position. It is not of course misled by camouflage, darkness, fog or cloud cover. The control center orders an attack against the area. The order goes to airbases in Thailand or South Vietnam or to the aircraft carriers which circle the Vietnamese coast. IBM machines in the airplanes receive the attack signal, and they automatically fly directly to the target, unerringly dropping their bombs. General Evans, one of the directors of the White Igloo system, has noted that the splinter-bombs used in this type of procedure have achieved "excellent results."

Hundreds of different weapons have been created to fight the automated war in Indochina. There are laser and TV-guided bombs that find their own targets. There is the Starlight Scope, a powerful light source that destroys the camouflage of night. There are binoculars that can see the trademark of a golf ball at over a thousand yards.

There are devices that react to the secretions and temperature changes of the human body. And automatic rapid-fire guns that fire 5,000 shots per minute, mowing down everything like a scythe. There are magnetic devices that register all metallic items and relay their messages to the IBM machines, dozens of miles away. And there are weapons specifically designed to mutilate human beings without causing property losses: they can crush a person's leg but don't damage automobile tires.

There are grapeshot bombs, which bounce up to chest-level before they explode, releasing a round of 500 shots. Their bullets are a little bigger than those of a hunting gun and are obviously designed to kill, as they necessarily hit vital organs—except when a small child is struck by this spray of bullets at a distance, in which case he will likely carry them around for the paralyzed remainder of his life.

Round bullets are considered too humanitarian for certain purposes, and are often replaced by small, sharp-edged splinters (which inflict severe wounds and are more difficult to remove). Plastic and fiber bullets which escape X-ray detection are now being used.

There are cobweb bombs, which are dropped from airplanes. Upon hitting the ground, they send out 10-yard-long feelers called "reconnoiterers" in every direction. When the reconnoiterers hit something, the bomb explodes.

American war theoreticians have calculated that it is better psychological warfare, and better public relations at home, to disable people rather than kill them. A dead person is buried and forgotten; but an invalid has to be taken care of, perhaps for the rest of his life. When disabling weapons are used in large quantities, the Vietnamese must devote their energies to caring for their wounded.

It is not easy to fight these technical monsters. The Vietnamese guerrillas have managed to confuse the computers in several ways: for instance, they have hung bags of human urine on trees to confuse devices that record the location of human secretions.

The automation of the war in Indochina is still in its early stages, but improvements are rapid and continuous. We are facing a revolution in war technology the consequences of which are still impossible to estimate. The peoples of Indochina must be saved from the agonies of the new "electronic battlefield".

TONNAGE OF AERIAL MUNITIONS

Southeast Asia—Total

1965	315,000
1966	512,000
1967:	
January	63,039
February	68,142
March	77,384
April	77,393
May	80,587
June	78,042
July	80,035
August	79,535
September	78,885
October	83,497
November	83,088
December	83,136
Total	932,763
1968:	
January	90,036
February	103,000
March	123,672
April	124,660
May	127,942
June	125,159
July	128,407
August	126,379
September	117,569
October	122,233
November	114,925
December	127,672
Total	1,431,654
1969:	
January	129,684
February	115,759
March	130,141
April	125,080
May	128,300
June	121,775
July	122,793
August	111,047
September	102,084
October	99,907
November	100,509
December	100,158
Total	1,387,237
1970:	
January	117,675
February	100,639
March	100,358
April	97,494
May	97,323
June	80,682
July	79,582
August	70,867
September	59,390
October	54,538
November	58,434
December	60,464
Total	977,446
1971:	
January	71,792
February	66,500
March	92,191
April	85,000
May	76,463
June	60,803
July	49,196
August	51,277
September	*51,309
October	*47,137
November	*50,644
December	*61,838

*Department of Defense data.

Source: The air was in Indochina, Cornell University.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is concluded.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Berry, one of its reading clerks, announced that the House had passed a bill (H.R. 12931) to provide for improving the economy and living conditions in rural America, in which it requested the concurrence of the Senate.

HOUSE BILL REFERRED

The bill (H.R. 12931) to provide for improving the economy and living conditions in rural America, was read twice by its title and referred to the Committee on Agriculture and Forestry.

EDUCATION AMENDMENTS OF 1972

The PRESIDING OFFICER. Under the previous order, the Chair lays before the Senate the unfinished business, S. 659, which the clerk will read by title.

The assistant legislative clerk read the bill by title, as follows:

A bill (S. 659) to amend the Higher Education Act of 1965, the Vocational Education Act of 1963, and related Acts, and for other purposes.

The PRESIDING OFFICER. Who yields time?

Mr. SCOTT. Mr. President, I yield myself 10 minutes on the amendment.

The first two parts of our amendment utilize the exact language of the Ashbrook-Green amendment adopted by the House as section 408 of its bill, adding language which moderates the result, both as to funding and enforcement.

Subsection (a) deals with the use of Federal funds. It states a congressional policy against the use of Federal education funds for transportation, but consistent with the President's belief that there should be maximum possible "local control of local schools," permits funds to be used for busing on the express request of local school officials. While it is true that obligations incurred under the Constitution may sometimes require busing to achieve desegregation, the choice of whether an application for funds under this act may include a transportation component, is left entirely to local school districts. The voluntary nature of the application is assured by the proviso that no court and no officer of Government may order a local educational agency to apply for Federal funds for transportation purposes.

A second provision is intended to insure that no district can receive transportation funding when its proposed plan involves busing where "the time or distance of travel is so great as to risk the health of the children or significantly impinge on the educational process." In *Swann* v. *Charlotte-Mecklenberg Board of Education*, 402 U.S. 1, the Supreme Court said an objection to busing "may have some validity" when the foregoing conditions are demonstrated. In this section the Congress will be saying that this kind of objection does have validity—indeed that busing funds may not be awarded where the effectiveness of the educational process would be impeded by the time or distance of travel.

Thus, this is a fair compromise which should meet the legitimate concerns expressed by parents about the effects of school busing.

Subsection (b) deals with enforcement of civil rights in the field of education, particularly as set out in the Civil Rights Act of 1964.

As the Ashbrook-Green amendment adopted by the House would have the practical effect of repealing title VI of the Civil Rights Act of 1964 as it applies to education, a result which would mark a turning back of our national commitment to equal educational opportunity, modifications had to be made. The phrase "unless constitutionally required" inserted in the first sentence preserves the Federal role in enforcing the 14th amendment, while clarifying that Federal agencies are not permitted to go beyond constitutional requirements in implementing title VI of the Civil Rights Act. In enforcement as in funding, the amendment seeks to solidify the constitutional standard suggested by the Swann case, that is, that the Constitution cannot be read to require transportation to achieve desegregation "when the time or distance of travel is so great as to risk either the health of the children or significantly impinge on the educational process."

The third part of the amendment, subsection (c), deals with the effective date of certain district court orders. It states that district court orders which require the transfer or busing of students from one local education agency to another or which require the consolidation of two or more local education agencies will not become enforcible until all appeals or time for appeals have been exhausted. The purpose of this section is to avoid the disruption of normal educational operations under these district court orders while it is not yet certain that these student transfers are legally necessary. This subsection expires on June 30, 1973, by which time these legal questions will have been resolved.

This, of course, addresses itself to the Richmond case, the Denver case, and perhaps, if it goes on appeal, the San Francisco Chinatown case.

The amendment itself has some further language which ought to be mentioned; namely, the inclusion of the phrase which prohibits Federal agencies from urging, persuading, inducing, or requiring local agencies to undertake transportation under circumstances I mentioned, as in the Swann case, or where the educational opportunities available to the school to which it is proposed that such student be transported will be substantially inferior to those offered at the school to which such student would otherwise be assigned under a nondiscriminatory system of school assignments based on geographic zones established without discrimination on account of race, religion, color, or national origin.

Mr. President, I ask unanimous consent at this time to include in the RECORD a news report on this amendment which appeared in today's Washington Post.

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

BUS PLAN OFFERED IN SENATE—MANSFIELD, SCOTT URGE U.S. AID IF CITIES ASK IT

(By Eric Wentworth)

Senate Majority Leader Mike Mansfield (D-Mont.) and Minority Leader Hugh Scott (R-Pa.) yesterday offered a complex school desegregation amendment allowing federal aid for reasonable busing when local officials request it.

The bipartisan amendment, to be debated today, would also stay any federal district court desegregation order involving two or more school districts—such as the Richmond, Va. case—until all appeals were exhausted.

The Senate leaders offered their amendment as the Senate ground slowly through its first full day of debate on a combined higher education and school desegregation aid bill to which Southerners hope to add strong anti-busing language of their own.

The Mansfield-Scott amendment appeared aimed more at preventing the sort of extreme busing that critics fear could occur than at curtailing the degree of busing that the Supreme Court has so far actually allowed.

In fact the amendment borrows directly from the high court's April 1971 decision in the Charlotte-Mecklenberg, N.C. case. It bars federal funds or requirements for busing "when the time or distance of travel is so great as to risk the health of the children or significantly impinge on the educational process."

The Mansfield-Scott measure would allow federal funds for busing "on the express written request of appropriate local school officials" but would bar federal courts and officials from ordering such a request.

The measure also adopts a House-passed amendment barring federal officials from requiring or urging local school officials to spend state or local funds for any purpose for which federal funds are forbidden. But it adds the phrase "unless constitutionally required."

The Mansfield-Scott amendment would also prohibit federal officials from requiring or urging local officials to bus a student to a school where "educational opportunities available . . . will be substantially inferior" to those at the neighborhood school.

This provision, on its face, would appear responsive to those who oppose busing students from a white middle-class neighborhood to a black ghetto school however desegregation advocates argue that the presence of white middle-class students in a ghetto school would improve that school's "educational opportunities."

Another House-passed amendment would stay effectiveness of all court orders requiring busing for racial balance until appeals have been exhausted. But the Mansfield-Scott provision would stay only those orders requiring (1) busing students from the one school district to another or (2) merging two or more school districts to achieve racial balance.

In the Richmond case, District Judge Robert R. Merhige Jr. last month ordered consolidation of the predominantly black city school system with the predominantly white suburban systems of Henrico and Chesterfield counties. His order has already been stayed by the appeals court.

The Mansfield-Scott amendment would stay such an order until all appeals had been taken. But this legislative provision would itself expire June 3, 1973.

Earlier in the day, Senate Minority Whip Robert P. Griffin (R-Mich.) said he would offer an amendment taking away the federal courts' authority to require busing and barring federal officials from requiring busing as a condition for providing federal aid.

Mr. SCOTT. Mr. President, this news article fairly and accurately presents, as I see it, the purpose of the amendment—that it is aimed more at preventing the sort of extreme busing critics fear can occur than at curtailing the degree of busing that the Supreme Court has so far actually allowed. In other words, where the courts have acted and school districts are required to comply under court order, there is obviously no intention on our part that we would subvert the intent of the court or that we would attempt to impose language which would prevent the court from proceeding with its orders in those cases; but at the same time we would not enforce any form of busing under pending decisions of the lower courts until the date set in the amendment, which allows time for full and final clarification and adjudication.

The measure does adopt the House-passed amendment barring Federal officials from requiring or urging local school officials to spend State or local funds for any purpose for which Federal funds are forbidden, but it adds the phrase, of course, "unless constitutionally required."

Another House amendment would stay effectiveness of all court orders until appeals have been exhausted, and we have sought to meet that objection.

Our purpose, Mr. President, here has been to face up to the issue. It has been to responsibly propose an amendment which we think meets most of the concerns and of the objections. It will not satisfy those who would forbid the busing of 20 million schoolchildren which occurs in the United States today. Some 40 percent of schoolchildren, I believe, are bused under court agreements, under school district agreements, under court orders; another 25 percent or more by public transportation.

We are not going to abolish busing, because buses are used for legitimate purposes, and it is only situations where they are used for purposes which would appear to subvert the principle of equal and quality education to which we address ourselves.

The amendment does not please all of those who are in favor of busing under a broader system. It does not please them because they would prefer to have the Federal Government say, "Unless you accept the plan which we hand down to you, you will get no Federal funds."

What we want here are voluntary agreements of the school districts, where possible. Where that is not possible, what we want is for the courts to adjudicate the matter, so that a fair system for the integration of our school systems may be achieved. So we have the voluntary system plus the interposition of the courts, as in all of our jurisprudential actions.

The PRESIDING OFFICER (Mr. BAKER). The Senator's time has expired.

Mr. SCOTT. I yield myself 2 more minutes.

We are simply saying, "Let us obey the law, let us obey the courts, but let us not compel busing under extreme circumstances that would be dangerous to the health or the well-being of the children, or that would require them to go to inferior schools outside of the area where they would otherwise be able to attend schools nearer their homes."

As we have said, the whole issue is in such confusion by reason of appeals from these lower court decisions that it would be better to have the application of the act deferred in those cases until after final judgment.

Mr. President, I reserve the remainder of my time at this point, because the distinguished majority leader would like to discuss the matter on our side later.

The PRESIDING OFFICER. Who yields time?

Mr. RIBICOFF. Mr. President, will the Senator from North Carolina yield me time?

Mr. ERVIN. Mr. President, I would be glad to yield to the distinguished Senator from Connecticut, but I understand that the floor manager of the bill controls the time in opposition, unless tne Senator is in favor of the amendment.

Mr. PELL. Mr. President, I shall be making a statement shortly which would make it inappropriate for me to control the time. Therefore, according to the unanimous-consent agreement, the majority leader or his designee controls the time.

Mr. BYRD of West Virginia. Mr. President, as the designee of the majority leader, I yield time in opposition to the amendment to the Senator from North Carolina (Mr. ERVIN).

OPPOSITION TO THE SCOTT-MANSFIELD AMENDMENT

Mr. RIBICOFF. Mr. President, we are on the verge of taking a long step backward in our fight for racial equality in this country. It is unfortunate that the majority and minority leaders, who are perpetrating this amendment on the floor, will not be present in the Chamber to listen to the discussion. I think it is a sad reflection on the seriousness of a problem such as this when those who submit the amendment will not remain in the Chamber to engage in discussing it.

Mr. SCOTT. Mr. President, will the Senator yield me 1 minute?

Mr. RIBICOFF. I yield.

Mr. SCOTT. I shall return to the Chamber shortly. My presence and that of two other Senators is required to make a quorum in the Judiciary Committee, to vote on the confirmation of the nomination of the Attorney General, and I must go.

Mr. RIBICOFF. For years we have fought the battle of integration primarily in the South where the problem was severe. It was a long, arduous fight that deserved to be fought and needed to be won.

Unfortunately, as the problem of racial isolation has moved north of the Mason-Dixon line, many northerners have bid an evasive farewell to the 100-year struggle for racial equality. Our motto seems to have been "Do to southerners what you do not want to do to yourself."

Good reasons have always been offered, of course, for not moving vigorously ahead in the North as well as the South.

First, it was that the problem was worse in the South. Then the facts began to show that that was no longer true.

We then began to hear the de facto-de jure refrain.

Somehow residential segregation in the North was accidental or de facto and that made it better than the legally supported de jure segregation of the South. It was a hard distinction for black children in totally segregated schools in the North to understand, but it allowed us to avoid the problem.

Now that the courts have begun to find what we all knew to be true—that northern-style segregation is no more accidental than that in the South—we are searching for another way out. Joining in the chorus against busing seems to many to be the solution.

Two years ago, I supported Senator JOHN STENNIS of Mississippi who argued that now that segregation was a national problem, we should have a national solution. That seemed fair. At one point in the debate Senator STENNIS said that the people in the South could live with whatever integration the people in the North would support. I thought we should accept that challenge and begin to solve the problem in our own backyards as well as in the South.

I was roundly attacked at the time for being taken in by a clever southern ploy. Much was said about the motives of Senator STENNIS. As I said then, I was worried less about his motives than I was about our own.

Apparently Senator STENNIS knew northerners better than we know ourselves. Since that debate, the crisis facing this country has worsened and most of the leadership has vanished.

No one challenges the fact that the problem of racial isolation is no longer confined to the South, or that more blacks attend segregated schools in the North.

No one disagrees that the question of integration is no longer confined to our schools or that housing segregation in city after city threatens the entire concept of a unified society.

Few complain that we are winning the battle of school integration in the South and losing the war throughout the country.

If there was ever a time for men to stand up and be counted, it is now. If there was ever a time we needed to work together to develop a program for the future of integration in the country, it is now.

But where are the proposals? Where are the plans? Some object to the amendment that I introduced 2 days ago and that I have been supporting for a year and a half. I do not claim omniscience. I would be pleased to have suggestions of improvements, but none have been forthcoming.

The American people are watching this debate on school integration to see what course we are going to follow in the years ahead. Extremists who have opposed integration for years will continue to oppose it. The vast majority of Americans, however, are looking for leadership and guidance in the midst of exaggeration and confusion.

Our response here today is an amendment drafted by the Senate leadership against some forms of busing and some

forms of integration. It is a signal to the country that the best the U.S. Senate can do at this time is to duck the issue, to "waffle" as the Senator from Pennsylvania (Mr. SCOTT) so well put it.

This is an unacceptable response and I shall vote against it. This amendment represents a step on the road backward toward separate but equal schools, toward freedom of choice, toward all the theories we opposed when put forth by the Southerners. The Scott-Mansfield amendment is public notice that we have given up the struggle to end discrimination. Instead of being straightforward about it we hide behind an amendment that cops out for the U.S. Senate.

This amendment has serious weaknesses. It puts all the burden of resolving the problem of racial isolation on the courts and local officials. If they have the courage to confront the problem, that is fine. But this amendment makes it clear no one should expect any guidance, support, or help from the U.S. Senate.

This amendment also sows confusion and encourages delay and endless litigation. It talks about not requiring a child to go to a school substantially inferior to one he would have attended under a nondiscriminatory system of school assignments based on geographic zones. Who is to say what is an inferior school? What are the standards?

Who is the authority on the nondiscriminatory system of school assignments? Is that a system different than the one now existing in a given area?

Will every school board now gerrymander its district to insure that the whites go to the best schools and the blacks the worst? Are we now to write into the law and sanctify separate and unequal schools?

One section of this amendment in effect encourages every community where a court has ordered that school district lines be crossed to end segregation to appeal, appeal, and then appeal some more. For only when all appeals are over will the decree be effective, and that may take years.

This country has a right to expect and demand more from its leaders. But more apparently is not to be forthcoming.

President Nixon has refused to exercise any moral leadership on this question. He first developed what was termed a "southern" strategy by arguing he would do no more than the minimum required by the courts. As the problem of segregation moved North and into the suburbs, so has the President's political strategy. It is now clear that President Nixon is willing to let total racial separation become the reality beneath the theory of racial justice.

The administration's abdication in no way justifies the continued reluctance of Congress to take a stand on the future of this country. Throughout the Nation, an irresponsible, factually erroneous and intellectually dishonest debate is raging over busing children to one school or another.

It is time for the leaders of this country to make it clear that busing is not the basic problem we confront. None of us want to see schoolchildren bused 30, 40, or 50 miles a day each way to school. But simply saying that does nothing to deal with the crisis we face.

The question is, Do we believe that racial barriers and discrimination should be ended? And if so, how do we propose to do it?

A handful of courageous men have been willing to rise above the political pressures and the hysteria against busing rampant in this country. Governor Reuben Askew of Florida has shamed some of the national politicians appearing in his State by his forthright call for implementing—

> The highest destiny of the American people . . . to achieve a society in which all races, all creeds and all religions have learned not only to live with their differences—but to thrive upon them.

As Governor Askew has noted and I have long maintained, busing by itself is an artificial and inadequate instrument of change. But the answer is not to threaten an end to integration. As Governor Askew said:

> The way to end busing is to seek the broader community desegregation which will make it unnecessary. . . . We must decide which is worse—temporary hardship and inconvenience or continuing inequality and injustice.

Mayor Lindsay likewise declared in Florida his opposition to cutting and running on the issue of integration, noting that—

> Busing has become a moral issue, for when we debate busing now we are debating what this country stands for . . . We are debating whether we mean to provide justice and equality to our black brothers and sisters.

Court-ordered busing has not been widespread in the South or anywhere else in the Nation. In many cases, in fact, court-ordered desegregation has resulted in less busing than existed before. But few politicians have taken the time to learn this fact or to explain it to their constituents.

Many who claim they are against busing really oppose integrated schooling. Two-thirds of all American children today ride buses to schools for reasons unrelated to integration. None of their parents object to busing.

In South Today recently, a study showed that students attending private white academies in the South are being bused up to 120 miles a day. Bused pupils for the 10 schools studied in eight States were found to travel an average of 7.6 miles further each way to and from school than pupils bused to public schools in those States. But no one is objecting to this busing.

More is at stake here than a few amendments one way or the other to this particular bill. The tone of the debate in the days to come and the level of the dialogue will reverberate across this country. We will be revealing not only our hopes for the future, but also the degree of our faith and trust in the basic decency of the American public.

I yield to the floor.

The PRESIDING OFFICER. Who yields time?

Mr. GRIFFIN. Would I be able to get some time from one side or the other?

Mr. PELL. Absolutely.

Mr. ERVIN. How much time does the Senator wish?

Mr. GRIFFIN. Three or 4 minutes.

Mr. ERVIN. I yield 5 minutes to the Senator, and if he needs more time, he can call on me for it.

Mr. GRIFFIN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER (Mr. BAKER). The Senator will state it.

Mr. GRIFFIN. Yesterday, as I understand, it was established that an amendment still could be offered as a perfecting amendment to the amendment offered by the Senator from Alabama (Mr. ALLEN).

The PRESIDING OFFICER. The Senator is correct.

Mr. GRIFFIN. The junior Senator from Michigan indicated yesterday that he would seek today to offer such a perfecting amendment.

A parliamentary inquiry: Would it be in order for the junior Senator from Michigan to offer such a perfecting amendment at this time?

The PRESIDING OFFICER. The Chair rules that the Senator from Michigan is entitled to send to the desk, for reading, an amendment to the Allen amendment as he described in his parliamentary inquiry, but that debate or consideration of the perfecting amendment is not in order until expiration of the time on the Scott-Mansfield substitute or until that time is yielded back.

Mr. GRIFFIN. I wish to propound a further parliamentary inquiry: Would it be in order for the junior Senator from Michigan at this time to ask unanimous consent that at the expiration of the 2 hours which is now being used on the pending substitute amendment offered by the majority and minority leaders, the junior Senator from Michigan might be recognized for the purpose of offering his perfecting amendment?

The PRESIDING OFFICER. Such a unanimous request would be in order.

Mr. GRIFFIN. Mr. President, I propound such a unanimous-consent request.

Mr. MANSFIELD. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. GRIFFIN. It is rather shocking, Mr. President, that the junior Senator from Michigan apparently will not be able to get the floor to offer his amendment. I understood yesterday, of course, that those in the positions of leaders have the privilege of being recognized first. When I sought recognition yesterday to offer my amendment, it developed that the leaders were ready with their substitute. Obviously, there was nothing the junior Senator from Michigan could do except to defer. The leaders were recognized and have offered their substitute. That is fine. But I must say I am rather surprised and disappointed, after the Senate has had an opportunity to debate the substitute offered by the leaders that I cannot now be recognized for the purpose of offering an amendment—an amendment about which I have served notice upon the Senate.

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

Mr. GRIFFIN. I yield.

Mr. MANSFIELD. Mr. President, may I say—and I emphasized this several times on yesterday—that any Senator would have the right to offer a perfecting amendment. The door is open. If the Senator wants to offer a perfecting amendment relative to the amendment offered by the distinguished Senator from Alabama, I would have no opposition to that, if at the same time the distinguished minority leader or I could be recognized to offer a perfecting amendment as well at the appropriate time.

Mr. GRIFFIN. I would say to the distinguished majority leader that, of course, if he wants to perfect the substitute which he and the minority leader have offered, it is quite common for the proposer of an amendment to modify his amendment.

Mr. ERVIN. Mr. President, I hope that all of this time is not being charged to the time of those opposed to this amendment.

Mr. MANSFIELD. That is not the intent of the majority leader, may I say. But we have a right to perfect, as does any other Senator, and I am sure that the distinguished acting minority leader would recognize that fact.

The PRESIDING OFFICER. In response to the parliamentary inquiry by the Senator from North Carolina, the Chair rules that unless there is a unanimous-consent agreement to the contrary, this colloquy and these parliamentary inquiries are being charged against the 5 minutes which was yielded by the Senator from North Carolina to the Senator from Michigan, which has now expired.

Mr. GRIFFIN. I thank the Chair. I think I understand quite thoroughly what my situation is.

The PRESIDING OFFICER (Mr. BAKER). Who yields time?

Mr. PELL. Mr. President, I yield to the Senator from New York (Mr. JAVITS).

The PRESIDING OFFICER. Is this a time limitation or a general yielding of time?

Mr. PELL. Mr. President, actually, at this point, I do not have the right to yield the time.

Mr. MANSFIELD. Mr. President, may I ask how much time is left on the basis of the Scott amendment on this side?

The PRESIDING OFFICER. There are 45 minutes remaining for both the proponents and the opponents.

Mr. MANSFIELD. I yield 5 minutes to the Senator from New York.

The PRESIDING OFFICER. The Senator from New York is recognized for 5 minutes.

Mr. JAVITS. Mr. President, we are engaged in a debate which the country should understand clearly rather than abstractly. With the light laying on of hands which seems to be going on around here ever since yesterday, the question is whether the amendment proposed by the leaders, which is a compromise on the whole issue of busing, and I believe a fair and honorable compromise, should be approved in order to demonstrate that it is fair and honorable. As I am known to be an ardent advocate of desegregation of the schools, and I am proud of that distinction, let me say what I think we are giving up if this amendment is adopted and why, therefore, I favor it.

We are giving up, first, the authority to order the use of Federal funds for busing notwithstanding the desires of any local educational agency. We are giving up, second, and this is critically important, as I shall demonstrate in a minute, the definition of the words "significantly impinging on the educational process" which are mentioned in Swann versus Charlotte-Mecklenburg, because those words could be construed differently from the way we are construing them in this amendment. We are construing them as affecting not only the transporting of children, but the time or distance involved in travel, and the maintenance of quality education for those already receiving it, as well as for those for whom it will be established.

The way the substitute reads, we will give the courts the requirement to test out busing in terms of the places to which the children are going in the educational process, and those children with whom they are to learn.

Finally, and of critical importance, we are giving up, as I said yesterday—and this is the doubt I have on constitutional grounds but probably the courts will never catch up with it as it goes on for just 16 months—we are giving up a stay of orders which affect more than one local educational agency. For anyone who believes in desegregation of the American public school system, these are critically important factors, with all respect far more important than almost anything else affecting this matter. Yet, for the country it is a trauma, as depicted by other representatives, although I must say frankly that I do not see it nearly so seriously in my State as they do, although we have problems on school desegregation even there.

Incidently, this idea of de jure segregation existing only in the South has been completely exploded, as the courts have handed down decrees pending in Detroit, Mich., in Denver, Colo., and other cities, and HEW has commenced title II proceedings in Boston, Mass., and in other places.

I lay aside the idea of the Senator from Connecticut (Mr. RIBICOFF), of giving metropolitan areas a long period of time, or giving them a set pattern in which to desegregate years hence because, with all respect, I do not think that it helps me in this particular controversy. I am sure that the matter will be brought up as a definitive proposal, as he has done before, although the Senate did not go along with it, but we can decide and argue that later on.

Right now, the issue is those who would eliminate busing by a condign cutoff, which is in essence contended for here by the Senators from Alabama, North Carolina, Michigan and others; or those who would try to find a practical way in which to serve both purposes, that is, to deal with the main complaints of the American middle-class parents, and the need to honor the Constitution, after all these years since 1954—North, South, East, West.

It seems to me from those points of view where I started first with what it costs us—to wit, people who believe in desegregation—this compromise which has been suggested, if anything, is weighted on the side of the opponents of busing and, for this reason, the big complainers are the middle-class families and the local educational agencies in the suburbs. They have an absolute right, through the local educational agency, to reject the busing concept at the behest of any Federal official, unless required by the Constitution, unless their local agency seeks to go ahead with it under this amendment. And hopefully the courts will be guided in construing constitutional remedies by the standards suggested in this amendment.

So it seems to me that looks after more than adequately that point of view, that attitude. For those who complain that areas heavily impacted with blacks and other minorities do not want to bus themselves, either the local agency representatives of that temper and character in that particular area can, for practical purposes, refuse to do it on educational grounds. That is the essence of this amendment and we have applied the rules of the Swann case, which are intelligent and equitable, and construed them in the broadest possible way on both sides of the equation.

For me, I would normally be against this, but I am not against it, I support it, because I believe that the other issues which are contained in the higher education bill and in desegregation in trying to give our children a decent education, this is a major factor in their development, that the heat should be taken out of the issue, that this is the greater good, even though I think much of it is for practical purposes being given up, much of the essence of it is being given up by people like myself who believe in desegregation and that busing is essential to it.

Mr. PASTORE. Mr. President, will the Senator from New York yield?

Mr. JAVITS. I yield.

Mr. PASTORE. Does the Senator feel that the compromise amendment conserves and preserves the concept of the decision of local authorities?

Mr. JAVITS. Most assuredly it does. That is what is contended for here. Who knows better than the local educational authority? It seems to me that what we are dealing with here is the essential question, which is the funding source. That is what we have control of.

In that respect, I would like to call to the attention of the Senate that we have a good many provisions in our laws today on this subject, not only for the normal provision, which we have in the bill, too, respecting transportation or assignment of students to overcome racial imbalance, but also have adopted what was a compromise in the Stennis amendment, which deals with uniformity of desegregation policies throughout the country, so that the South would not be favored over the North or disadvantaged with respect to the North in any such situation.

Mr. President, I ask unanimous consent that that provision which deals specifically with the question of racial im-

balance wherever found, from Public Law 91-230, section 422, be printed in the RECORD.

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

PROHIBITION AGAINST FEDERAL CONTROL OF EDUCATION

SEC. 422. No provision of the Act of September 30, 1950, Public Law 874, Eighty-first Congress; the National Defense Education Act of 1958; the Act of September 23, 1950, Public Law 815, Eighty-First Congress; the Higher Education Facilities Act of 1963; the Elementary and Secondary Education Act of 1965; the Higher Education Act of 1965; the International Education Act of 1966; or the Vocational Education Act of 1963 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.

Mr. JAVITS. Mr. President, to conclude, this is truly a compromise. It hurts the people who are on my side of this issue. But this is the greater good, of getting on with the business of education and allaying the antagonism of millions of people on a relatively peripheral issue which has been blown up into an enormous national issue—to wit, busing; so that I think people in my position are best advised to back this compromise and I hope that the Senate will approve it.

Mr. ERVIN. Mr. President, I yield 5 minutes to the distinguished Senator from Georgia (Mr. TALMADGE).

The PRESIDING OFFICER (Mr. HUGHES). The Senator from Georgia is recognized for 5 minutes.

Mr. TALMADGE. Mr. President, may I have the attention of the distinguished majority leader in order that I might inquire of him about the nature of his amendment.

Mr. MANSFIELD. Yes.

Mr. TALMADGE. Mr. President, section (a) of the Senator's amendment seems to prohibit the appropriation of Federal funds for busing, "to overcome racial imbalance." Does the Senator construe this statement to prohibit the appropriation of funds for busing to overcome both de facto and de jure segregation, or only de facto segregation?

Mr. MANSFIELD. So far as I am concerned, it applies to both.

Mr. TALMADGE. In section (b), the Senator's amendment prohibits Federal officials from requiring the expenditure of State and local funds for busing unless such busing is "constitutionally required." Who determines what types of busing are "constitutionally required," and who has the burden of proof in establishing this?

Mr. MANSFIELD. Mr. President, in my judgment the courts in that case would have that responsibility.

Mr. TALMADGE. In other words, if the courts determine that it should be required, it would be.

Mr. MANSFIELD. Yes. As I understand it, the function of the court is to determine the constitutionality of questions which come before it.

Mr. TALMADGE. Mr. President, section (c) of the amendment postpones the effectiveness of orders entered by a U.S. district court which require school busing "for the purpose of achieving a balance among students with respect to race." The 1964 Civil Rights Act says that desegregation does not mean the assignment of students to public schools in order to overcome racial imbalance. Why is the amendment not in conflict with the 1964 Civil Rights Act?

Mr. MANSFIELD. Mr. President, it is a matter of interpretation, may I say. And I would not agree with the interpretation just made by the distinguished Senator.

If the Senator will turn to section (c), he will note that it reads as follows:

Notwithstanding any other law or provision of law, in the case of any order on the part of any United States district court which requires the transfer or transportation of any student or students from one local educational agency to another, or which requires the consolidation of two or more local educational agencies for the purpose of achieving a balance among students with respect to race, sex, religion, or socioeconomic status, the effectiveness of such order shall be postponed until all appeals in connection with such order have been exhausted or, in the event no appeals are taken, until the time for such appeals has expired. This section shall take effect upon the date of its enactment and shall expire at midnight on June 30, 1973.

That, I think, allows sufficient time for appeal.

Mr. TALMADGE. Mr. President, I say with all due respect to the distinguished majority leader that the effect of section (c) of his amendment would be to repeal the Civil Rights Act of 1964 which specifically states that we may not assign students to schools for the purpose of achieving a specific racial balance.

What the Senator would do would be to contravene that action of the court by his amendment with respect to the case which originated in Richmond, Va. where several different school districts were required to be integrated and cross-bused for a period of time.

That decision has already been stayed by the Fourth Circuit Court of Appeals, and it would be effective from that standpoint. The time schedule that the distinguished majority leader places on his amendment would mean that the States would not have a chance to get to the Supreme Court to be heard on that procedure.

Mr. MANSFIELD. Mr. President, that is a matter of opinion. Other cases involving this broad question have been instituted. Because of the extreme urgency of this particular case and others the Supreme Court is likely to decide the issue prior to June 30, 1973.

There are other factors. I notice, for example, that just this week the Supreme Court returned from a 4-weeks' recess. Why do they have to have a 4-weeks' recess? Why can they not operate as the Senate does, for example?

I think they have plenty of time to settle these issues rather than avoid or postpone them. They have ample time to decide the issues involved here.

Mr. TALMADGE. Mr. President, I say most respectfully to the Senate that the the case has not even gone to the Fourth Circuit Court of Appeals. It will have to be heard by them and will then have to be appealed to the Supreme Court. The time schedule will not be ample.

May I say that the Sirhan case, which involves the assassin of our distinguished former colleague Robert Kennedy, has not gone to the Supreme Court yet.

Mr. MANSFIELD. That may be so. I have not followed the case that closely. However, I do know that he is still incarcerated in a jail, in prison in California. However, I have an idea that the fourth or fifth circuit, whichever circuit is handling this case, will face up to its responsibility. And, in my opinion, the case referred to will be decided by midnight of June 30 next year.

Mr. TALMADGE. Mr. President, shortly, this body will vote on the so-called Scott-Mansfield amendment.

The description of this measure as an "antibusing" amendment would be laughable were it not for the fact that hundreds of thousands of students and teachers will suffer from the consequences of this amendment. The fact of the matter is that this measure not only sanctions busing, but also compounds the hypocrisy which has surrounded and saturated this issue for years.

On its face, the amendment appears to prohibit the use of either Federal or State funds for busing. Stripped to its bare bones, however, the amendment merely perpetuates the artificial distinctions between "de jure" and "de facto" public school segregation. These artificial legal devices have been manipulated by Federal judges and Federal bureaucrats to mandate busing throughout one region of the country and to allow public school segregation to continue to run rampant in other parts of our country.

Therefore, Mr. President, this amendment is in no way a compromise. It is a codification of existing Federal statutes, or decisions, and bureaucratic guidelines which apply a double standard to the practice of busing to overcome racial imbalance in our public schools.

Mr. President, this amendment says nothing, does nothing, and accomplishes nothing to correct mistaken and misguided policies of the past, or to chart a new course for the future. It is a sham, a hoax, and a smokescreen. Therefore, Mr. President, I shall oppose this measure and I urge my colleagues in the U.S. Senate to do likewise.

The PRESIDING OFFICER. Who yields time?

Mr. ERVIN. Mr. President, I yield 10 minutes to the Senator from Kentucky.

The PRESIDING OFFICER. The Senator from Kentucky is recognized for 10 minutes.

Mr. COOPER. Mr. President, I oppose the amendment of the majority and minority leaders, but for different reasons than those adduced by some who have spoken against it. After studying it, I consider its purpose as simply to provide a moratorium on the practice of busing

until at least June 30, 1973, I assume for the purpose of determining if there can be appropriate legislation or constitutional amendments.

Nevertheless, I oppose the amendment because I do not believe its provisions can be successful against the constitutional determinations made by the courts and, to be frank, I believe it will cast doubt upon and is a retreat from the policy of the desegregation of schools which the Congress has supported at least since 1964 by the enactment of the Civil Rights Act and, since 1954, the date of the *Brown* case.

The first clause of section (a) would prohibit the use of Federal funds for transportation in order to overcome "racial imbalance" in any school or school system. I see no objection to this provision as it follows the wording of title IV of the Civil Rights Act of 1964. Nevertheless, the Supreme Court in the *Swann* case has ignored this wording and has ruled against the total prohibition of funds by States even for this purpose.

The second clause of section (a) prohibits transportation to carry out a plan of racial desegregation of any school or school system except upon the express written request of local school officials, and provides that no court, or officer of the United States, shall order the making of such a request. It may be argued that the Congress can prohibit the use of Federal funds for this purpose. The Supreme Court in the *Swann* case held that the State could not prohibit the use of funds directed toward the disestablishment of a dual school system. It seems to me inconsistent with the 1964 act, and our claims of support of school desegregation, to provide that no Federal funds can be used for transportation if it is necessary to assure school desegregation. Particularly would this be true if a court had ordered a school district to take such measures. If this language means anything, it is that entire financial burden would be borne by State and local sources.

Further, I do not believe that the Congress can strip a court of its power to enforce its own judgments. If it can, this amendment will emasculate court decisions and school desegregation.

Section (b)(2) would in effect repeal section 602 of title VI of the Civil Rights Act of 1964 which provides that Federal funds may be denied a school district if it is not proceeding toward the desegregation of schools. I may say that in 1964 I voted against title VI because I looked upon it as coercive; this amendment would, if adopted, have the effect of inhibiting the school districts from proceeding toward desegregation.

In short, upon the legality, or constitutionality of these statutory provisions, I consider it very doubtful that they would be upheld by a court on constitutional matters and, just as important, they appear to negate what I assume has been the purpose of the Congress and the courts to follow the Brown case in working toward school desegregation.

On the question of busing, I would like to say that I do not believe in the theory of doctrinaire or arbitrary busing: that children should be transported across proper geographic district lines or within proper geographic school districts without regard to their health, safety, age, and the quality of education which they will receive in the school to which they are transported. There are, without a doubt, other criteria which could be used in making these determinations. The Congress has failed to provide such criteria and the courts have determined their own criteria. Those provisions of the amendment which deal with criteria are correct, in my judgment, even though they add nothing to those developed in the Swann case. But this is a route we can follow and, while the courts might not follow our criteria, it could be persuasive on them.

I do not want to be negative. I believe amendments can be formulated to deal with criteria, which courts might be persuaded to follow.

In any event, I believe that Congress should make some determinations about de facto segregation. The old basis that the States or local governments have caused dual school systems and discrimination and that only such areas in the South must come under the law, seem to me today to be impractical and grossly unfair. The growing cities in the South are just as much segregated de facto as the cities of the North, and yet they are proceeded against de jure. I believe that the records show that the South, though under compulsion, has a better record on school desegregation than the large cities of the North.

I recognize the amendment is an effort to find "a compromise" but I do not believe that you can find "a compromise" by challenging by statutory means decisions of the courts made on constitutional grounds. Also, as I have said, I consider this amendment and others a retreat from the large purpose of school desegregation.

Mr. President, as one who comes from a State where there is not a great problem in this regard, as in the case of Senators from Northern States where there are fewer blacks and there are no problems. I do not want to be negative in this matter. I hope we can develop some criteria for the courts, which I believe can be done, and end the unfair destinction between de jure and de facto segregation. I believe that this measure is not a compromise but a fall back in the battle and effort toward school desegregation.

The PRESIDING OFFICER. Who yields time?

Mr. ERVIN. I yield 5 minutes to the distinguished Senator from Alabama.

Mr. ALLEN. Mr. President, this amendment offered by the distinguished majority leader and the distinguished minority leader is no antibusing amendment; it is a probusing amendment. If it had not been offered by such honorable and distinguished statesmen as the distinguished minority leader and majority leader I would feel that this method of approach is both a cynical and a hypocritical approach to this problem.

The Senator from New York named what he said were somethings they were giving up by this amendment. I listened very carefully to his enumeration of things they were giving up, and I could not see that they were giving up anything of consequence. He did not state they were giving up busing because the amendments seek to freeze into law the concept of the use of forced busing of little schoolchildren in order to create a racial balance.

Mr. President, the whole country is demanding action by the Senate on this question. The country wants an end to busing of small children, the busing of little schoolchildren from their own neighborhoods to strange neighborhoods, from their own schools to strange schools, from their own classmates, friends, and playmates, to strange classmates and playmates, from familiar schoolteachers over to strange schoolteachers.

But, Mr. President, what is being offered here reminds me so very much of an admonition in the Sermon on the Mount, where Jesus said, "What man is there of you, whom if his son ask bread, will he give him a stone, or if he ask a fish will he give him a serpent."

People want an end put to this destruction of the public schools of the South and, in some isolated areas, of the North. They want an end put to the busing of little children.

But what do they offer? They offer a program for busing. The distinguished Senator from New York made the statement, if my ears did not deceive me, that the local school agencies would have the right to determine whether they should bus students.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. ERVIN. I yield 1 additional minute to the Senator.

Mr. ALLEN. That is hardly the way the junior Senator from Alabama reads the amendment. The local school board would have the authority to refuse to use Federal funds for that purpose. But if the Court wants them to but they have to bus, and they have no option in the matter.

The assertion on the floor of the Senate that the local school board has the option to bus or not bus could not be borne out by the provisions of this amendment.

Mr. President, I am going to comment also on the parliamentary situation with regard to this amendment and the inability of the Senator from Michigan to offer an amendment, not to this amendment. The parliamentary situation is such that this amendment has been offered to us, take it or leave it. Mr. President, you cannot amend it, you cannot change the dotting of an "i" or the crossing of a "t." Take it or leave it.

They say, "We say it is a good compromise." Well, we do not want any compromise on the issue of busing, and if we did this would not be any compromise. All this is is a hodgepodge of collections of dictum from Supreme Court decisions.

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

Mr. ERVIN. I yield 1 additional minute to the Senator.

The PRESIDING OFFICER. The Senator from Alabama is recognized for 1 additional minute.

Mr. ALLEN. Busing continues under rulings of the Supreme Court, the word-

ing of which is found in this amendment. Busing will continue after these amendments are agreed to.

I hope that the distinguished Senator from Michigan will be allowed to obtain recognition at 12:30 today to offer his perfecting amendment, which he has served notice on the Senate time and again he wants to offer. I hope he will be given that opportunity.

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

The PRESIDING OFFICER. Who yields time?

Mr. PELL. Mr. President, will the distinguished minority leader yield to me for 5 minutes?

Mr. SCOTT. I yield 5 minutes to the Senator from Rhode Island.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized for 5 minutes.

Mr. PELL. Mr. President, as floor manager of the bill I obviously have an acute interest in this amendment. Not being a lawyer, as many of my colleagues are, I read and reread the amendment in order to understand it. It is not easy to grasp, indeed in reading the newspapers this morning I am not sure whether it is understood by the press and public of our Nation.

As I see this amendment, it would do three things. First, it states that no funds could be used for carrying out busing activities, transportation of students, in order to overcome racial imbalance unless it is so requested by the local authorities. Second, it says that there will be no pressure on the part of Federal officials to local officials to use local funds or State funds for the purpose of transporting students to alter the racial composition of a school, unless it grows out of a court decision.

And finally it makes sure, as I said yesterday on the floor, that no efforts would be made to transfer children from a school, to an inferior school.

Very simply stated, that is how I understand the provisions of this amendment. For these reasons, as floor manager of the bill, I find it has merit and goes along the moderate course of which I spoke yesterday.

In this connection, I would like to ask the minority leader his interpretation of the phrase that no funds shall be made available for transportation "where the time or distance of travel is so great as to risk the health of the child or significantly impinge on his or her educational process."

I realize he explained this is his statement yesterday, but to further simplify our interpretation of this provision, would it not really mean that a child would not be transported for an hour or an hour and a half for the purpose of eliminating racial imbalance?

Mr. SCOTT. Mr. President, in my view, what we are seeking to have the Congress say is what the Swann case said it might well conclude. The Swann case made it clear that there were certain kinds of busing which would be inimical to the health or welfare of the child—namely, to require a child to be on a bus for inordinately long distances or under conditions which would not contribute to the child's health or to the improvement of his educational opportunity.

We are now seeking to say that the Congress agrees to that, and we take it from the main phrase used in the opinion to say that Congress does intend that long busing should not be encouraged or approved.

I do not know whether it would be an hour, but certainly, if very lengthy busing were involved, if children were required to get up at 5 o'clock in the morning and 6 o'clock in the morning to attend an 8 o'clock or 8:30 session, if I were on the bench I would certainly hold that that would be impinging on the child's health or educational opportunity. Even 1 hour would mean a total of 2 hours a day out of the child's time. It seems to me to be getting rather close to the situation the court had in mind. I am sure the courts will judge this phrase, if enacted into law, on the standard of reasonableness.

Mr. PELL. Actually, from the standpoint of the improvement of the health of the child, a good case could be made that the child should walk if it is not more than, say, 2 miles.

Mr. SCOTT. The Senator is an old-fashioned conservative in that regard, and certainly I am, too. However, if there had been busing in Loudon County during the last week, and it ordinarily took 1 hour for the children there to get to school, it would have taken them 3 or 4 hours then. Of course, there are certain circumstances we cannot control, and the weather conditions should be considered. One hour on a city boulevard might be much different from 1 hour in a rural area, with bad roads and bad weather conditions.

Mr. PELL. I am talking a little now of the spirit, and I have often felt that we could give consideration to the regulation or provision that there should be no busing if the distance to be traveled was not more than 2 miles, or a safe distance. That would be a good thing for improving the health of schoolchildren.

Mr. SCOTT. I will be openminded about it. I would like to give the Court a chance to clear up the first confusion first. I would certainly be openminded about it.

Mr. PELL. Mr. President, the amendment retains local option; it recognizes that there should not be busing only for the sake of busing; it recognizes the importance and good of the neighborhood school concept. It does not go as far as the opponents of busing which has become a red letter word would like and busing of any sort which would seem to be eliminated in many cases under the House version of the bill. Also, we are going to be faced in conference with a very strong position on the part of the House. We must insure that busing for handicapped children, busing of children that has nothing to do with racial imbalance, will not be prohibited under that language.

What we have done here is to chart a moderate course. When we seek to reduce the difference between this amendment and what the House has, it will be probably found to be a course that will be more in conformity with the wishes of those who are really concerned about the overbusing of children, a concern which I share. In my State we do not have much busing from the standpoint of racial imbalance, nevertheless I recognize the stemming unfairness and impropriety of busing children long distances past several schools they would like to attend for the sake of complying with court orders.

For that reason I shall support the amendment of the majority and minority leaders.

Mr. SCOTT. I thank the distinguished Senator from Rhode Island.

I yield myself 2 minutes.

Mr. President, I would add, particularly, that some children have disabilities or are unable to walk as well as others, and for reasons of eyesight or other disability, that might be an added burden, all of which the court would take into consideration. What I am pleading for here is substantial justice, because the way busing presently is being operated is surely of the greatest concern to parents all over the country. We are trying to work out something that is fair.

I note particularly that this debate has established, in my own opinion about myself, better than any debate we have had here, the precise nature of my own moderate philosophy, which lies—and we all like to arrogate all the good phrases to ourselves—between the extremes. It is the middle of the road. The ruts are on the side. We do not know where the truth is.

The distinguished Senator from Alabama has referred to asking for bread, but being given a stone. Our proposal is, not a stone, but a stepping stone—a stepping stone to higher and better education, to quality education, by which they may earn bread, and more bread than they would under the New Testament views of the Senator from Alabama. We are in search of truth. The old prophet, the Khasidah of Abdu el Yezdi, said:

> All faith is false; all false is true. Truth is a shattered mirror strown
> In myriad bits,
> And each believes his part the whole to own.

We do not know what is truth, but I believe I know what is substantial justice. I believe we have achieved it when we have ploughed a course down the middle, which does not satisfy those who are against all busing, which does not satisfy those who are for all busing, but which applies certain standards of reason, of practicality, having respect for the courts, advising the courts that the Congress believes in certain guidelines, recognizing that the courts have the last say on matters of what is constitutional and what is not.

I believe it is a reasonable, rational, and acceptable position. I hope Senators will be moved to support the amendment.

The PRESIDING OFFICER. Who yields time?

Mr. ERVIN. Mr. President, I yield myself 1 minute.

The distinguished minority leader says, "Let us work out something," so his method of working out something is very

simple. He and the majority leader offer an amendment on which nobody can work out anything in respect to anything in their amendment.

I yield 5 minutes to the distinguished Senator from Florida (Mr. GURNEY).

Mr. GURNEY. Mr. President, I am wholeheartedly opposed to this so-called compromise busing proposal which we now consider. I am reminded of the old iceberg metaphor—what appears above the waterline, in this case the printed amendment, looks harmless. Of far greater consequence, however, is what lies below the waterline, in the amendment, the consequences arising from what has been left unsaid, from what is written between the lines.

The crux of this amendment, as we all know, is a codification of the Supreme Court's Swann decision. In other words, this "compromise" is no compromise at all, but merely a statutory expression of the status quo. This is no antibusing amendment. This amendment strengthens and would place the stamp of approval of the Senate upon the busing already sanctioned by HEW and the Federal courts.

This amendment is designed to head off honest antibusing amendments and give those in this body who do not want to vote against an antibusing amendment the chance to get off the hook. The first part of this amendment says that no funds appropriated may be used for busing to overcome racial imbalance or to carry out desegregation plans unless there is a written request from local school officials and the courts and Federal agencies are prohibited from ordering such a written request.

Now let us take a look at what this really means. There is no provision saying that a court cannot order a busing plan, it merely says they cannot order the actual request for funds. What alternative is there for a local school district, under court order to bus, but to request money for busing. If an animal is hungry enough, he will perform any trick he can to be rewarded with food.

The prohibition against busing included in this bill is taken directly from the Swann decision. At that time the Supreme Court said:

> An objection to transportation of students may have validity when the time or distance of travel is so great as to risk either the health of the children or significantly impinge on the educational process.

To date the Federal courts have shown little concern for the health and education of students to be bused.

Looking at the next part of this amendment, we have wording to prohibit any Federal agency from requiring the use of local funds for busing, or from making other Federal funding contingent on implementation of a busing program "unless constitutionally required." These last three words are crucial. First of all, courts are not mentioned at all in this prohibition but we all know that court orders for busing are now based on constitutional grounds. This whole verbal exercise boils down to the simple fact that Federal agencies could not order busing, but the courts can continue their present practice.

Federal agencies are also subject to the Swann prohibition previously mentioned, to which has been added a curious additional stipulation against busing students to an inferior school.

The final section is also familiar. It echoes a House-passed amendment postponing, but not prohibiting, busing until all appeals, or appeal time, is exhausted.

Mr. President, this Nation has expressed a great deal of concern for truth in the past few years. Congress has considered legislation calling for truth in lending, truth in advertising, fair labeling, consumer protection, and so forth. Such concern is healthy, because all citizens have a right to know exatly what they are dealing with—and that should include truth in legislation.

To call this amendment a compromise, in my opinion, can hardly be justified. Nor can there by any claim whatsoever that this is an antibusing amendment. It certainly is not.

The distinguished minority leader, coauthor of the amendment, in a recent U.S. News & World Report interview, predicted that Congress would "waffle" on the busing issue and that Congressmen were uncertain as to the will of the people on this issue. Whenever there has been busing, in North, South, East or West, the will of the people has been expressed in loud, ringing voices violently opposed to busing. Michigan and California Congressmen have learned that their constituents are just as opposed to busing as parents in Southern States.

I certainly know how the vast majority of Floridians feel about busing. They are almost unanimously opposed. Right now it is the overriding issue in the Florida presidential primary. This has been a major national issue for well over a year. There have been newspaper and magazine articles on busing, polls taken, studies made, and even Presidential statements. I am genuinely surprised that any Congressman could be unaware of his constituents' feelings on such a crucial issue.

I cannot support this proposal because I believe it is misleading and unresponsive. It is called an antibusing amendment when it really perpetuates the status quo.

I have previously made my own stand on forced busing very clear—but I will repeat it again—I am unalterably opposed to it. I do think, however, that we must put aside semantics and face this issue squarely. Political year or not—the American people deserve more than waffles. They deserve a vote up or down on an amendment with teeth in it which would stop forced busing.

I think that the Senate should reject this amendment that does nothing but preserve the status quo, and vote up or down on some of the other amendments pending before this body right now, that would do something effective.

Mr. ERVIN. Mr. President, I yield 10 minutes to the distinguished Senator from South Carolina (Mr. HOLLINGS).

Mr. HOLLINGS. Mr. President, I appreciate my distinguished friend yielding me a little time.

If we go back to the original decision and the facts in the Briggs against Elliott case, and how it dealt at that particular time with busing, I think it will help fix in Senators' minds what is constitutional and what is unconstitutional, and what is racist and what is not racist.

I have been reading editorials now for the past several weeks—in fact, for a year or so—talking about quality education, when the real issue is safety in the schools; talking about how we have had busing for the last 10 years, why not busing at the present time, where the real matter involved is individual rights.

That has caused me to recall the original case down in Clarendon County, S.C., which was the segregation case that the State of South Carolina lost, in which the Supreme Court ruled against my State in May of 1954, and which impressed upon my mind and my conscience the right and the wrong, the constitutionality and the unconstitutionality, of this situation.

We had at that time, Mr. President, white neighborhood schools and buses. We had the white children in a particular neighborhood bused to the white schools. Then there were blacks in that same neighborhood who were bused past that white school to a black school. Why? Because of their race, that is why.

They were told, "We require, as a matter of State policy, that you be bused past that school and sent to an all-black school."

Of course, at that time the argument was, "Look, as long as we provide an equal facility—as long as you have just as good an atheletic program, just as good a bus, and all the other accoutrements—separate but equal is constitutional."

That was the issue in December of 1952, when I was appointed by then Governor Byrnes, previously Senator Byrnes of this body, to attend the proceedings on behalf of South Carolina, when John W. Davis, the great constitutionalist, was making the argument for South Carolina in the Briggs case.

Mr. Davis, the State of South Carolina, lost that argument. The decision of 1954 came out, and they decided there and then, if the senior Senator from Kentucky please, that busing was unconstitutional.

That is point one. They decided that you could not deny admission on account of race, and that you could not bus on account of race.

Now, what has occurred? We have gone along, down in my backyard and all over the South, as best we could. There has been resistance; it has all been bedded in a historical and cultural way and pattern of life that has not been easy. But some 2 years ago, we had everything seemingly worked out, and we had massive integration, you might call it, after the President of the United States had counseled down in New Orleans with the Attorney General and Secretary Schultz. Everything seemed to be working until, wham, what happened? It hit them in Minnesota, in Connecticut, in New York, and in Detroit. It hit them in Jackson, Mich., the same way it had hit them in Jackson, Miss. Then, they all stirred around looking for cover, say-

ing "What we really need to do is study the thing."

The Senator from Minnesota got a great study committee, and they started talking Latin, which even the Catholic Church had given up on, about de jure and de facto. They tried everyway in the world to deny the impact of the Brown decision, and in the process they ruined us in our backyard, because last week, in Charleston, where we had had a peaceful atmosphere, we had a riot and had to close the schools. Why? Because we do not like discrimination. They are discriminating. They say, "You do it down South. But when you get North, you study it." Who are the racists here?

Where are we? At those arguments back in 1952 Mr. Marshall told Justice Frankfurter, in what we call a colloquy here:

> No, if the Justice please, we are not trying to force any child into any school. All we are trying to do is remove the State imposed policy of separation by race; and if that is removed, the child will have the choice to attend any school he desires.

Where did freedom of choice come from? From Thurgood Marshall, who is now Justice Marshall. That was his argument.

At that time, I say to my good friend, the Senator from Kentucky (Mr. COOPER), who is a lawyer and was a judge, in that case they argued too, about the courts and what authority they would have.

That is the one thing that Thurgood Marshall, John W. Davis, Felix Frankfurter, lawyers, judges, and the court, all on both sides, could agree with. They said at that time that it would be a matter for legislative determination and the court could not set itself up as a super school board; because you get one judge in Charlotte setting one policy, another judge in Richmond trying to run over the counties and cities, that is what has happened and as a result there is complete chaos and no quality.

Why are the Democratic candidates unable to get with it? Why can they not come up in the polls? Why can they not make their mark politically? Because they are not talking sense. As Adlai Stevenson said 20 years ago, you have to talk sense to the American people. When George Wallace talks sense, it is racism. Perhaps it is to some but I leave him to defend that. What he is talking about and what the American people are talking about are fundamental rights, constitutional rights, to own a home and live in a neighborhood and attend the school in that particular area. Public schools mean just that, supported by the public. That is where the quality comes from. Leave the parents out of it, leave the local participation out of it, and leave the local administration out of it, and you have left the quality out of it and you have ruined the school. And the issue is not just peace in Vietnam, but peace in your own home.

That is why we find the results in a poll taken in New Hampshire. Does the Senator from West Virginia know what they say in New Hamphire is the most important issue?

Mr. BYRD of West Virginia. Busing.

Mr. HOLLINGS. Busing. But, there is not a single bus in New Hampshire.

That is what this amendment goes to. It is not the bus. It is what the bus leads to. It is the rights. It is the individual. It is the discrimination. What the Senator from Pennsylvania and the Senator from Montana are trying to do is to write in all kinds of discrimination.

I have the highest respect for both these gentlemen, and my ordinary tendency would be to vote for anything on which their names appear. But when I read this one, I say it is a dirty shame to propose a thing like this and call it leadership in this day and time in the United States.

We cannot get anybody to pay the bills. Conservative Republican President Nixon has added $100 billion to the national debt, and nobody is talking about paying that bill. The town is up for auction to the highest bidder around here. We have "bread and circuses" called family assistance. And when we come to the fundamental, we dance all around the mulberry bush.

Look at this language in the first section; it begins: "No funds appropriated," but then they put down, "in order to overcome racial imbalance."

We had that in 1954, and again in 1964 in the civil rights statute. We had it in the Whitten amendment. We have had it time and time again.

Mr. ERVIN. Mr. President, will the Senator yield for a question on that point?

Mr. HOLLINGS. I yield.

Mr. ERVIN. Yes.

Did not the Supreme Court declare, in the great Swann case, that those words refer only to de facto segregation and did not refer to segregation where there is discrimination? Therefore, this section 1 does not apply anywhere except where there is de facto segregation.

Mr. HOLLINGS. Except to the South. That is what we are talking about. We are discriminating, and we want to cloak discrimination with the dignity of the leadership of the U.S. Senate and say it is the great compromise. They talk about "Tricky Dick." It is "Tricky Congress." [Laughter.]

How can you discriminate between the school whose officials apply for busing funds and one that does not. The child at one rides; the other walks. And they say we have eliminated discrimination.

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

Mr. ERVIN. I yield 2 additional minutes to the Senator.

Mr. HOLLINGS. An insurance company had a contest and the winning slogan was that Capital Life will pay for the small print on the back. Do not take it away. That was the insurance contract. Whoever wrote this amendment can get a job later with an insurance company.

Let us go to the next section: The executive agencies cannot require busing "unless constitutionally required."

Then they talk about the health of children and say "where the educational opportunities available at the school to which it is proposed that such students be transported will be substantially inferior," busing cannot be required. In reality, it means nothing, for who is to interpret this language but the same people that have done it until now.

That language is really to go back home and tell everybody at the country club and in the suburbs and over in Virginia, "Don't worry. We've taken care of you. You won't have to send your child to the District of Columbia."

My child got out of Woodrow Wilson High, where there was a black principal, a black teacher, and other black personnel. It was a good school.

Mr. ERVIN. Mr. President, will the Senator yield, with the understanding that I will restore to him any time that I may use?

Mr. HOLLINGS. I yield.

Mr. ERVIN. Does not the provision in section 3 that says it will apply only to June 30, 1973, show an effort to put the decision of this entire issue beyond the next election?

Mr. HOLLINGS. That is correct.

If anyone has any doubts, this is why Senator SCOTT could write it:

> For the purpose of achieving a balance among students with respect to race, sex, religion, or socioeconomic status, the effectiveness of such order shall be postponed until all appeals in connection with such order have been exhausted or, in the event no appeals are taken, until the time for such appeal has expired. This section shall take effect upon the date of its enactment and shall expire at midnight on June 30, 1973.

How can you face up when you postpone?

There is the copout. There is an old political axiom: "When in doubt, do nothing, and stay in doubt all the time." And then they talk about leadership.

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

Mr. ERVIN. I yield the Senator 3 additional minutes.

The PRESIDING OFFICER. If the Senator will suspend for a moment, the Chair cautions the gallery that there should be no displays in the gallery.

Mr. HOLLINGS. Mr. President, this amendment is just full of loopholes. It looks it. It has so many holes that it looks like swiss cheese, but it smells like limburger. [Laughter.]

They say the southerners are filibustering and are denying rights. Really we are protecting rights, not trying to sell the people of this country a bill of goods.

We will put up the amendments. The Senator from North Carolina has the amendment on the appellate authority of the Supreme Court.

If you really want to solve the problem, build a better mousetrap. If you give the money—and we will find the money—the Senator from West Virginia and others of us have talked about it—if you give them a better school in the neighborhood, better teachers, better playground facilities, and better physical facilities, those in the country club will chip in and buy a bus to get down to the good school. That is the way to bring about racial balance in the schools. But do not destroy rights, do not discriminate in order to eliminate discrimination.

But in all this mishmash and mumbo jumbo, none of these can be accomplished.

I close, as the distinguished Senator from North Carolina has been good enough to give me this time, and we can talk further about it on another amendment, but the League of Women Voters says, "We do not favor enforced, massive busing, certainly not busing for busing's sake." But think of the years that busing was used in the South for segregation purposes and no one dared to complain. That does not change the constitutional mandate, or the denial on account of race, or busing on account of race.

Let us get back to fundamentals. That is what we have left. In leaving that fundamental right in the Constitution, we do not need any constitutional amendment. Someone should put in the 14th amendment as a statute and see if we can pass it. No one should be denied the benefits of the Constitution. Once the Court leaves to the legislative branch the proper administration of the schools, once the money is given, not for busing but for building better schools and facilities, we will be able to solve this problem.

I thank the distinguished Senator from North Carolina for yielding me this time.

Mr. MANSFIELD. Mr. President, what is the situation on the time remaining?

The ACTING PRESIDENT pro tempore (Mr. GAMBRELL). The Senator from Pennsylvania has 24 minutes and the Senator from North Carolina has 5 minutes remaining.

Mr. MANSFIELD. Mr. President, would the Senator from North Carolina allow me to finish debate on this amendment?

Mr. ERVIN. Yes; but I would like to use my 5 minutes.

Mr. MANSFIELD. Of course, after the Senator has used up his 5 minutes.

Mr. ERVIN. Yes; Mr. President, I yield myself 5 minutes.

The ACTING PRESIDENT pro tempore. The Senator from North Carolina is recognized for 5 minutes.

Mr. ERVIN. Mr. President, this proposal is not a compromise. It does not resemble a stone or a fish. If it had not been introduced by two gentlemen of such impeccable character, I would say it was a hoax. I know they did not draw it, but whoever drew it has practiced a fraud on them and has attempted to use them as a conduit to practice a fraud upon the Senate.

I say that for this reason: Section 1, under the decision in the Swann case, cannot apply to anything except de facto segregation. That is made obvious in title IV of the Civil Rights Act of 1964 and the decision in the Swann case.

I ask unanimous consent that title IV of the Civil Rights Act of 1964 be printed in the RECORD.

There being no objection, the title IV of the Civil Rights Act of 1964 was ordered to be printed in the RECORD, as follows:

TITLE IV—DESEGREGATION OF PUBLIC EDUCATION

DEFINITIONS

SEC. 401. As used in this title—

(a) "Commissioner" means the Commissioner of Education.

(b) "Desegregation" means the assignment of students to public schools and within such schools without regard to their race, color, religion, or national origin, but "desegregation" shall not mean the assignment of students to public schools in order to overcome racial imbalance.

(c) "Public school" means any elementary or secondary educational institution, and "public college" means any institution of higher education or any technical or vocational school above the secondary school level, provided that such public school or public college is operated by a State, subdivision of a State, or governmental agency within a State, or operated wholly or predominantly from or through the use of governmental funds or property, or funds or property derived from a governmental source.

(d) "School board" means any agency or agencies which administer a system of one or more public schools and any other agency which is responsible for the assignment of students to or within such system.

SURVEY AND REPORT OF EDUCATIONAL OPPORTUNITIES

SEC. 402. The Commissioner shall conduct a survey and make a report to the President and the Congress, within two years of the enactment of this title, concerning the lack of availability of equal educational opportunities for individuals by reason of race, color, religion, or national origin in public educational institutions at all levels in the United States, its territories and possessions, and the District of Columbia.

TECHNICAL ASSISTANCE

SEC. 403. The Commissioner is authorized, upon the application of any school board, State, municipality, school district, or other governmental unit legally responsible for operating a public school or schools, to render technical assistance to such applicant in the preparation, adoption, and implementation of plans for the desegregation of public schools. Such technical assistance may, among other activities, include making available to such agencies information regarding effective methods of coping with special educational problems occasioned by desegregation, and making available to such agencies personnel of the Office of Education or other persons specially equipped to advise and assist them in coping with such problems.

TRAINING INSTITUTES

SEC. 404. The Commissioner is authorized to arrange, through grants or contracts, with institutions of higher education for the operation of short-term or regular session institutes for special training designed to improve the ability of teachers, supervisors, counselors, and other elementary or secondary school personnel to deal effectively with special educational problems occasioned by desegregation. Individuals who attend such an institute on a full-time basis may be paid stipends for the period of their attendance at such institute in amounts specified by the Commissioner in regulations, including allowances for travel to attend such institute.

GRANTS

SEC. 405. (a) The Commissioner is authorized, upon application of a school board, to make grants to such board to pay, in whole or in part, the cost of—

(1) giving to teachers and other school personnel inservice training in dealing with problems incident to desegregation, and

(2) employing specialists to advise in problems incident to desegregation.

(b) In determining whether to make a grant, and in fixing the amount thereof and the terms and conditions on which it will be made, the Commissioner shall take into consideration the amount available for grants under this section and the other applications which are pending before him; the financial condition of the applicant and the other resources available to it; the nature, extent, and gravity of its problems incident to desegregation; and such other factors as he finds relevant.

PAYMENTS

SEC. 406. Payments pursuant to a grant or contract under this title may be made (after necessary adjustments on account of previously made overpayments or underpayments) in advance or by way of reimbursement, and in such installments, as the Commissioner may determine.

SUITS BY THE ATTORNEY GENERAL

SEC. 407. (a) Whenever the Attorney General receives a complaint in writing—

(1) signed by a parent or group of parents to the effect that his or their minor children, as members of a class of persons similarly situated, are being deprived by a school board of the equal protection of the laws, or

(2) signed by an individual, or his parent, to the effect that he has been denied admission to or not permitted to continue in attendance at a public college by reason of race, color, religion, or national origin.

and the Attorney General believes the complaint is meritorious and certifies that the signer or signers of such complaint are unable, in his judgment, to initiate and maintain appropriate legal proceedings for relief and that the institution of an action will materially further the orderly achievement of desegregation in public education, the Attorney General is authorized, after giving notice of such complaint to the appropriate school board or college authority and after certifying that he is satisfied that such board or authority has had a reasonable time to adjust the conditions alleged in such complaint, to institute for or in the name of the United States a civil action in any appropriate district court of the United States against such parties and for such relief as may be appropriate, and such court shall have and shall exercise jurisdiction of proceedings instituted pursuant to this section, provided that nothing herein shall empower any official or court of the United States to issue any order seeking to achieve a racial balance in any school by requiring the transportation of pupils or students from one school to another or one school district to another in order to achieve such racial balance, or otherwise enlarge the existing power of the court to insure compliance with constitutional standards. The Attorney General may implead as defendants such additional parties as are or become necessary to the grant of effective relief hereunder.

(b) The Attorney General may deem a person or persons unable to initiate and maintain appropriate legal proceedings within the meaning of subsection (a) of this section when such person or persons are unable, either directly or through other interested persons or organizations, to bear the expense of the litigation or to obtain effective legal representation; or whenever he is satisfied that the institution of such litigation would jeopardize the personal safety, employment, or economic standing of such person or persons, their families, or their property.

(c) The term "parent" as used in this section includes any person standing in loco parentis. A "complaint" as used in this section is a writing or document within the meaning of section 1001, title 18, United States Code.

SEC. 408. In any action or proceeding under this title the United States shall be liable for costs the same as a private person.

SEC. 409. Nothing in this title shall affect adversely the right of any person to sue for or obtain relief in any court against discrimination in public education.

SEC. 410. Nothing in this title shall prohibit classification and assignment for reasons other than race, color, religion, or national origin.

Mr. ERVIN. Mr. President, in interpreting the Swann case, the Supreme Court stated, on page 13 of the original report on the Swann case:

> There is no suggestion of an intention to restrict those powers or withdraw from courts their historic equitable remedial powers.

Mr. President, the Supreme Court says that notwithstanding the Civil Rights Act of 1964 provides that—

> No court shall order the transportation of students to overcome racial imbalance.

The court said further:

> The legislative history of Title IV indicates that Congress was concerned that the Act might be read as creating a right of action under the Fourteenth Amendment in the situation of so-called "de facto segregation", where racial imbalance exists in the schools but with no showing that this was brought about by discriminatory action of state authorities. In short, there is nothing in the Act which provides us material assistance in answering the question of remedy for state-imposed segregation in violation of *Brown I*. The basis of our decision must be the prohibition of the Fourteenth Amendment that no State shall "deny to any person within its jurisdiction the equal protection of the laws."

Mr. President, what do those words mean?

They mean that the court held that the Civil Rights Act of 1964 applied only to de facto segregation.

In other words, the Supreme Court of the United States held in the Swann case, which has been extolled here, that Members of Congress were such asses that they passed a law to regulate something they had no constitutional power to regulate, and did not intend to pass a law to regulate the only thing they had the constitutional power to regulate.

So, these words—these weasel words—in the first section of this substitute amendment are the same words used in the Civil Rights Act which the Supreme Court declared in the Swann case did not apply to but one kind of situation, and that is de facto segregation.

So, Mr. President, the children ask for fish and this amendment gives them a serpent.

Mr. President, I absolve the two authors of this amendment from any complicity in the purpose of its draftsmen to practice a fraud upon the Senate, because they have demonstrated they do not even know what their own amendment means.

Mr. President, I reserve the remainder of my time.

The ACTING PRESIDENT pro tempore (Mr. GAMBRELL). All time of the Senator from North Carolina has now expired.

Mr. SCOTT. Mr. President, I yield 2 minutes to the distinguished Senator from Kentucky (Mr. COOPER).

The ACTING PRESIDENT pro tempore. The Senator from Kentucky is recognized for 2 minutes.

Mr. COOPER. Mr. President, I agree wholly with what the Senator from North Carolina has said, that the clause in section (a) has no meaning at all.

I can recall when the 1964 Civil Rights Act was passed, when questions were asked of the manager of the bill on the floor—I would not want to be incorrect but I believe it was the Senator from Minnesota (Mr. HUMPHREY), and if I am not correct, I shall correct it later—when asked to interpret the language of section 4 which has just been placed in the RECORD, as to whether that required busing, the answer was no.

Mr. President, former Senator from Illinois Paul Douglas and I managed title IV of the Civil Rights Act of 1964. I know that everyone will agree Senator Paul Douglas of Illinois was one of the great advocates of civil rights and I think that I have hewed to the line pretty closely during my time in the Senate.

We were asked—both of us—if the language of section 4 of title IV required busing and our answer was no, only within properly and geographically arranged school districts.

The courts have ignored that interpretation and have made their own interpretation. It is correct that in the Swann case the courts even held that one could not prohibit the use of funds even to secure racial imbalance. What the Senator says is correct.

Mr. MANSFIELD. Mr. President, what the distinguished Senator from Kentucky (Mr. COOPER) has just said relative to the 1964 Civil Rights Act is correct.

First, I want to make a few points clear——

The ACTING PRESIDENT pro tempore. Does the Senator from Pennsylvania yield time to the Senator from Montana?

Mr. SCOTT. Yes, Mr. President, I yield to the distinguished majority leader whatever time he may desire.

Mr. MANSFIELD. Mr. President, first, may I say to the distinguished Senator from South Carolina (Mr. HOLLINGS), whose speech I enjoyed very much—and I can understand his deep feelings on this matter—that there is no "small print" so far as the Senator from Montana is concerned.

May I say also that I have had no contact with "liberal Senators" in the drawing up of this amendment which was, in large part, my own idea. I did not even speak to the distinguished minority leader on this matter until yesterday morning.

May I say also that I have had no contact with the administration. This proposal is offered in good faith. It is not a hoax. It is not something cynical. It is not perfect. But it is an attempt to face up to the most pressing domestic problem of the time and to do so, hopefully, on a constructive basis.

I do not want to see that issue prolonged for 5, 8, or 10 years. That is why I feel that initiating the constitutional amendment process would not be apropos at this time, because not only have there been proposals for a 10-year drawing-out period, so to speak, but there have also been proposals for a constitutional amendment which, in my opinion, would have difficulty passing this body because of the two-thirds vote required. The same would apply to the other body. And it would take three-fourths of the States to ratify such a constitutional amendment if all appropriate steps were taken. The idea is to face up to it now.

May I say that it is a matter for the Senate itself to decide. And what the Senate in its wisdom does will be perfectly satisfactory to the Senator from Montana, whether he agrees with it or not.

Mr. President, with those preliminary remarks out of the way, to make my position clear, very clear, I will now turn to the amendment itself.

First, may I say that the amendment would prohibit busing to achieve school desegregation if, in the process, the health of students is endangered.

Second, it would prohibit busing to achieve school desegregation if, in the process, the educational process is significantly impinged upon.

Third, busing would be barred where the school to which the student was transported is found significantly inferior. Our overall goal, as I understand it, is quality education for all.

Mr. RIBICOFF. Mr. President, will the distinguished Senator yield?

Mr. MANSFIELD. I cannot yield at this time. We are under limited time. I hope the Senator will forgive me.

Fourth, it prohibits the use of Federal funds to carry out busing unless expressly requested in writing by local school authorities.

Fifth, there would be no court orders for school district mergers or consolidations or where students are assigned to schools outside home districts until all appeals are exhausted—but this would not extend beyond June 30, 1973.

Sixth, it forbids the practice of coercing localities into busing by threatening to hold back Federal funds.

Seventh, Federal agents would be precluded from conditioning approval of funds for State or local purposes on busing.

Eighth, though busing would be allowed on the express written request of local school officials, no Federal court or official could order such a request.

Ninth, it would forbid Federal officials from requiring or urging local officials to spend State or local funds for any purposes for which Federal funds are forbidden.

What the amendment does not do is this:

It does not change or modify or alter the Constitution of the United States or in any way permit practices of discrimination as barred by the Constitution and by the laws of the land.

Mr. President, were I a lawyer, constitutional or otherwise, I might feel a little more comfortable addressing the subject I am about to raise. At the root of the "busing" issue there is the law and the Constitution. For both of these I have the highest regard and respect. I must approach this subject instead, however, as one who is deeply concerned about an issue that throughout this country—north, south, east and west—has generated more emotion and has divided and torn apart as many communities as has any issue in my career as a public servant.

It is an important issue; important because it involves, in my judgment, the

most precious resource this Nation has to offer—schoolchildren. At stake is the right of each child to obtain the best education possible. It is a right in my opinion that is just as sacred and just as sacred and just as carefully protected as any right preserved by the Constitution of the United States. It was on the basis of that document that the Supreme Court first ruled that segregated schools in our society violate a child's right to seek the best education possible—a "quality" education on an equal basis for all, regardless of race, color, national origin or economic circumstances. I refer of course to the famous Brown case decided back in 1954.

To comply with the law, local school districts have assigned students to schools in a nondiscriminatory way. Over 65 percent of our children attending schools today live at such a distance from their school as to require the use of buses or other means of transportation. Substantial busing was employed before the Brown case in 1954, and circumstances have not changed. What has generated the controversy is not the bus ride but what is at the end of the ride. Every parent wants his child to obtain the highest quality education; and no law should interfere with that desire.

The bill before us meets that issue directly as it should—all education measures are designed to improve the quality of schools that have been so long neglected, to provide funds for these purposes and to facilitate constitutionally guaranteed rights of every child to a quality education without regard to race, creed, religion or national origin. It is this goal we should seek to advance; in achieving it, our premise should be founded with the recognition that this society of ours is composed of varied backgrounds, and a multitude of beliefs and origins and that the quality of each student's education is enhanced by contributions from the widest spectrum.

With that said, I can nevertheless understand the concern of parents who, after living in a community for some time, or after having moved there for the express purpose of finding "better" schools, learn that their children must board buses every weekday to take them out of their community away from their neighborhood to different schools. Rearranging school districts that have been intentionally drawn by local school officials to segregate the schooling of children by race must be stopped, but not by burdening the child with the sins of their elders. The basic bill before us offers another remedy.

It is for this reason that I have joined in attempting to meet the issue. It is for this reason that I have taken the position that the issue must be faced now, today, not next year or the year after, or whatever length of time it would take after initiating the constitutional amendment process. To me, that course of action is neither necessary nor prudent. I believe the remedy lies instead within the legislative process.

I have therefore joined in an amendment to the Education Act. The amendment seeks to correct the most grievous consequences of what has become known as "forced busing" within our society.

Under this amendment, busing must be voluntary. I repeat—the goal of this amendment is voluntary busing. For decades now, in my memory, the schoolbus has been used as a means of getting children to and from school. They were used before 1954. They have been used since 1954. Schools and school districts should always, in my judgment, have buses available as a means of transporting schoolchildren.

Education is basically a State or local matter. Assigning students to schools and the problem of getting them there is better handled by local school authorities. Federal involvement has been limited to the use of Federal funds to see that where possible each child in the Nation is afforded quality education. That is the goal. Under this amendment, therefore, the use of Federal funds for busing would be strictly voluntary. Any school system that desegregates may obtain Federal busing funds but does so only upon its own, independent application.

The bill itself seeks to furnish the real answer to years of discrimination. Elsewhere under it, funds are designated to upgrade those schools that have in the past been deprived. It should be said that neither the bill, nor this amendment, would tolerate discrimination as prohibited by the Constitution, and I hope that no one would even attempt to change the Constitution to permit discrimination. In that regard, a constitutional right without a remedy is no right at all.

There is another aspect to this busing issue which has disturbed me very much. It is that Federal administrators or officers or employees may have coerced local school districts into a program of busing. No system of busing can be voluntary if established in the face of threats to cut off Federal funds to which that school district would otherwise be entitled.

This amendment bars this practice and does so in clear and unmistakable language. Even if such a request is made, no schoolchild under this proposal need ride a bus if in doing so there would be any risk to the health of the schoolchild in question.

There is one final aspect to the problem which this proposal would address. Even if a system of busing is established on a voluntary basis and at the uncoerced request of the local district, no child should be transported out of his community, away from his neighborhood to attend a school that is inferior to the school to which that child would otherwise be assigned.

More than any other aspect of this problem, it is this issue that reaches to the very essence of the concern of the parent. So many have said: "It is not the bus ride that concerns me; it is what's at the end of the line that most disturbs me." I agree with that sentiment. Quality education is the goal. And no student should suffer for the sake of riding a bus.

Once moving to a particular community because of the fine reputation of its schools and making such a move in reliance upon the fact that one's child or children will be attending those schools, no parent should be compelled to stand aside to watch his child deprived of that opportunity unless he is assured that his child will receive an education that is substantially identical. Therefore, this amendment would bar the transportation of a child to any school that is substantially inferior to or where the quality of education is substantially less than that found at the school he would otherwise attend.

To summarize, the amendment bars forced busing. It does so by conditioning the approval of any plans to transport children by bus on the express request of the local community school district. The amendment also bars a number of practices that have arisen in connection with the busing issue. Foremost, it bars the practice of coercing localities into busing by threatening to hold back funds to which they were entitled otherwise. Moreover, in any busing scheme—even though initiated at the request of the community—no child can be made to ride the bus if such activity threatens his health or impinges the education process. And finally, no child may ride the bus if it means attending a school inferior to the one he would otherwise attend.

One final point. There are now pending a number of cases within the Federal courts which seek to merge or abolish school district boundaries. This is a particularly vexing problem and one which I think every Member of this body is in sympathy with. I, for one, do not wish to see broad school districts broken apart without the most careful and cautious consideration.

At the present time these cases are in various stages as they wind their way through the courts to the Supreme Court. It is therefore provided in this proposal that while these proceedings continue their way through the appellate process, the consolidation or merging of school districts under court order be suspended until such time as the Supreme Court has had an opportunity to rule.

May I say in passing that this goes far beyond the Richmond decision and it extends to cases pending in other parts of the country, in the Midwest and the North, as well.

To achieve uniformity and consistency and to promote harmony, I think that such a provision is necessary and in the public interest. If further legislative action is found necessary, this suspension will provide the added opportunity to give Congress the chance to take necessary remedial steps to correct any inequities or to provide any new remedies, depending on the outcome.

So the date of June 30, 1973, at midnight, is a flexible date.

I should like to say finally, that in compliance with Court mandates, thousands of school districts throughout this Nation have desegregated smoothly and peaceably. I would venture to say were we a totally colorblind society, there would be no busing issue at all. The fact is, we are working toward the goal of being colorblind and ultimately we will achieve that goal, because, if we are to survive as a nation of laws we have no choice. In the process, however, I do not wish to see any child suffer for lack of educational opportunities be he white, black, yellow; a youth of the poorest ghetto, the Indian reservation, or suburbia. With education assistance provided

at the Federal, State, and local level, I would hope all children could be given equal educational opportunities.

Mr. President, may I say in closing that this is a constructive effort on the part of those of us who are offering it to meet a pressing problem and to meet that problem now.

Mr. RIBICOFF and Mr. HOLLINGS addressed the Chair.

Mr. MANSFIELD. How much time do I have remaining?

The PRESIDING OFFICER. The Senator has 2 minutes remaining.

Mr. MANSFIELD. I yield to the Senator from Connecticut.

Mr. RIBICOFF. The Senator refers to not requiring a child to go to a school substantially inferior to the one he would have attended under a nondiscriminatory system of school assignments based on geographic zones established without discrimination on account of race, religion, color, or national origin.

Will the Senator tell us who is to say what is an inferior school?

Mr. MANSFIELD. I would say it would be up to the courts to make that decision, if need be. It would be up to the government, local, State and Federal working hand-in-hand with the education community to determine if the educational opportunity is substantially less at one institution as opposed to another.

Mr. RIBICOFF. In other words, we may have a lawsuit to determine if each and every school is inferior or not.

Mr. MANSFIELD. Not necessarily, because I think standards as between the schools can be drawn quite readily. In certain cases the difference is so apparent that the answer would be easily forthcoming.

Mr. RIBICOFF. How is it going to be easily forthcoming? What would be the standard, for instance, in the little dilapidated schoolhouse with a white teacher or a black teacher? Who will set the standards of what is inferior under the Senator's amendment?

Mr. MANSFIELD. The question has been answered. The Senator is going around the issue. A number of factors contribute to determining the type of education a schoolchild gets, and we know that in many schools of this country students are being passed from grade to grade with no education in reality. There would be no question there as to what type of school that was.

In most of suburbia as well there would be no question as to what type of better school that would be. It is my judgment that the education community and all agencies of government, Federal, State, and local that contribute to the education process would be most capable of handling the task.

Mr. RIBICOFF. It may, however, take years for these determinations to be made.

The ACTING PRESIDENT pro tempore. All time has expired.

Mr. HOLLINGS. Mr. President, on both sides?

The ACTING PRESIDENT pro tempore. On both sides of the amendment.

Mr. GRIFFIN. Mr. President——

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

Mr. GRIFFIN. Mr. President, I send to the desk a perfecting amendment to the text of the amendment proposed by the Senator from Alabama (Mr. ALLEN).

The ACTING PRESIDENT pro tempore. The clerk will read the amendment.

The assistant legislative clerk proceeded to read the perfecting amendment.

Mr. GRIFFIN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with. I will say, for the benefit of the Senate, it is my amendment No. 927 insofar as the substance of the language is concerned.

The ACTING PRESIDENT pro tempore. Is there objection to the request of the Senator from Michigan? Without objection, it is so ordered.

The perfecting amendment is as follows:

In line 3 of the Allen amendment as printed (No. 922), after the word "teachers", strike all that follows through and including the last word in line 4, and insert in lieu thereof the following: "on the basis of their race, color, religion or national origin."

And after line 4, add the following:

SEC. 902. No court of the United States shall have jurisdiction to make any decision, enter any judgment or issue any order the effect of which would be to require that pupils be transported to or from school on the basis of their race, color, religion, or national origin.

SEC. 903. No department, agency, officer, or employee of the United States, empowered to extend Federal financial assistance to any program or activity at any school by way of grant, loan, or otherwise, shall withhold or threaten to withhold any such Federal financial assistance in order to coerce or induce the implementation or continuation of any plan or program the effect of which would be to require that pupils be transported to or from school on the basis of their race, color, religion, or national origin.

SEC. 904. Notwithstanding any other law or provision of law, in the case of any order on the part of any United States district court which requires the transfer or transportation of any student or students from any school attendance area prescribed by competent State or local authority for the purposes of achieving a balance among students with respect to race, color, religion, or national origin, the effectiveness of such order shall be postponed until all appeals in connection with such order have been exhausted or, in the event no appeals are taken, until the time for such appeals has expired.

SEC. 905. If any provision of this title, or the application thereof to any person or circumstance, is held invalid, the remaining provisions of this title, or the application of such provision to other persons or circumstances, shall not be affected thereby.

Mr. SCOTT. Mr. President, will the Senator yield, on time?

Mr. GRIFFIN. I yield.

Mr. SCOTT. Mr. President, I ask unanimous consent that the time in opposition to the perfecting amendment be allocated to the distinguished manager of the bill, the Senator from Rhode Island (Mr. PELL).

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

Mr. GRIFFIN. Mr. President, there is one significant feature of the Mansfield-Scott substitute that has merit, in my view. I refer to subsection (c) that would postpone the effective date of a court order requiring cross-district busing. Except for that one provision, it is the judgment of the junior Senator from Michigan that the so-called Scott-Mansfield compromise accomplishes little or nothing.

The effect of the compromise proposal, as I understand it, will—except for subsection (c)—be to leave the Senate and the country in the same situation with regard to busing as we find ourselves in now.

Mr. President, the amendment which I have offered seeks to withdraw the remedy of busing from the jurisdiction of the Federal courts. As I explained yesterday, I came to the advocacy of this approach with some reluctance. However, as a lawyer, who has studied the various alternatives available to Congress to deal with the busing problem, it seems to me that unless we are going to amend the Constitution, this is about the only meaningful legislative route open.

It should be acknowledged that there is some question about the constitutionality of this approach. The distinguished Senator from North Carolina (Mr. ERVIN) has eloquently documented the case and the arguments for the constitutionality of this approach.

In times past the Congress has withdrawn the jurisdiction of Federal courts to utilize a particular remedy in dealing with a problem. Perhaps the most noteworthy example is the Norris-LaGuardia Act, when Congress denied the Federal courts jurisdiction to issue injunctions in labor disputes. The Norris-LaGuardia Act did not withdraw all jurisdiction from the Federal courts to deal with labor disputes; it withdrew only the jurisdiction to utilize a particular remedy; namely, the injunction.

A more classic example, perhaps, was the case of Ex parte McCardle. In that case, Congress went so far as to withdraw from the Supreme Court jurisdiction to review applications for writs of habeas corpus. Surely that would have been an extreme example. In passing on the power of Congress to do that, the Supreme Court, through Chief Justice Chase, said:

> We are not at liberty to inquire into the motives of the legislature. We can only examine into its power under the Constitution and the power to make exceptions to the appellate jurisdiction for this reason is given by express wording.

Mr. President, I regret that it has become necessary to propose such restrictions upon the courts and upon HEW. But along with the vast majority of Americans, black and white, northerners and southerners, I believe too many of the courts and bureaucrats have lost sight of the fundamental purpose and meaning of the 14th amendment as well as the mandate of Brown against Board of Education.

The Brown case, as I read it, stands for the proposition that government at all levels should be color blind. Mr. President, in the Brown case a young black

child was being bused miles past a school in her neighborhood to attend a school segregated as a matter of law. Now, in 1972, we find ourselves in the ironic and ridiculous situation where many children, after the Brown decision, are still unable to attend the school in their neighborhood. Most people thought that was the objective of the holding in Brown. Instead small children are now being bused for miles beyond the schools in their local neighborhoods—bused because they are black or because they are white—and they are required to attend far distant schools by reason of court orders.

Mr. President, it really comes down to a basic question: do two wrongs make a right? If it is wrong for a school district to bus children miles past their neighborhood schools because they are white or because they are black, is it right when a district court requires such busing?

I would submit that the 14th amendment applies to government at all levels, to all the branches of government, and to the courts as well as to the legislative bodies—to the Federal Government as well as to the States and local units of government.

Mr. President, I am happy to yield 5 minutes of my time to the distinguished Senator from Texas (Mr. TOWER).

Mr. TOWER. Mr. President, we are debating in this body what has been termed "the most emotional issue of the year." This assertion is probably correct. However, this concern over the busing of schoolchildren is much more than that; it is probably the most important domestic issue of this year and many years to come. What we are dealing with here is not simply some new program that may or may not work; some program that if it does not work can be retooled or abandoned. We are dealing with the lives of our American schoolchildren and their education. Damage done to their education can probably not be corrected. Damage done to already beleaguered school districts may not be able to be set right. We have a very important question to be resolved: Shall we use our schools as vehicles for social engineering or shall we concentrate with our limited financial resources on providing a quality education for all of our children.

Yes, busing is an emotional issue because the things that most Americans hold most dear are their children and their education. We Americans will go to almost any lengths to protect our children and to provide for them the best things in life that we can. It is for precisely this reason that we must take positive steps to eliminate the disruptive practice of forced busing for the purpose of achieving a numerical, racial balance in our school system.

Before I came to the Senate, I taught for many years in an integrated classroom situation. I know for a fact that blacks, whites, and other groups can indeed work and learn well together. The point is not whether desegregation should continue; I do not advocate a return to the dual school system. The separation of children simply because of their race or national origin is not consonant with the American ideal of equality. However, social scientists must not be allowed to urge upon us a reverse bias in turning the emphasis of the schools from education to social engineering.

Mr. President, if there were any educationally sound reason to have massive, forced busing, then the people of this country might not mind this practice so much. But look at the facts: no such educational reason exists. On February 18, Senator MONDALE, who is chairman of the Select Committee on Equal Educational Opportunity and who has spent nearly 2 years studying such tools of desegregation as busing, spoke to the Senate concerning his observations. In his report, after all the testimony that had been taken, he could not come forward with one educational reason why we must have massive, forced busing in urban areas. In urban areas where massive busing has been undertaken, there has been very little accomplished educationally while millions of dollars have been spent to buy school buses and pay drivers. The Select Committee did turn up some very interesting facts, however; namely, the vast amount of money spent by school districts for noneducational activities. In Pontiac, Mich., court ordered busing is costing that district $700,000 yearly. In Dade County, Fla., busing is costing that district $1.5 million in just 6 months. In Harrisburg, Pa., busing is costing the taxpayers $500,000 yearly. This is being repeated all across the Nation. School districts that are in difficult financial straits are being forced to spend millions of hard-earned taxpayer dollars for expenditures that are of little or most probably no educational value. We simply must not allow this tremendous waste of resources to continue when the only outcome in sight is further disruption of educational opportunities, the neighborhood school, and the parents' freedom of choice.

Mr. President, now that we have identified a major problem, we must decide on a way to extricate the Nation from it. There are two methods which show a good deal of promise in this area. The first is a constitutional amendment which would prohibit busing. This is the approach that I favor in the long run, for it is the only approach that is 100 percent certain. No enterprising Federal judge can rule a constitutional amendment to be unconstitutional.

For this reason, I have joined in sponsoring such an amendment and will continue to do everything I can to see that it is finally passed. I realize, however, that the method of amending the Constitution is quite rightly a difficult and time-consuming process and that the question of quality education demands our attention now. Therefore, I am also supporting a second method of affording relief from forced busing. This method is removing from the Federal courts the authority to force a school district to bus or assign a student in order to achieve a racial balance. In this respect, I have cosponsored with Senator GRIFFIN an amendment to this affect which is currently pending to S. 659.

It is long and well settled that the Congress has the authority to determine the matters over which the interior Federal courts shall have jurisdiction and over which the Supreme Court shall have appellate jurisdiction. Article III of our Constitution makes this power abundantly clear. This matter has been judicially established at least since ex parte McCardle in 1867. Most recently, the Congress in the Norris-LaGuardia Act has withdrawn the jurisdiction of the courts to issue injunctions in labor controversies, except in the most carefully defined areas.

Mr. President, the amendment clearly states that:

> No court, department, agency, or officer of the United States shall have jurisdiction or power to order or require by any means whatever the authorities controlling or operating any public or private school in any State, district, territory, Commonwealth, or possession of the United States to transport any student from one school to another school, or from one school district to another school district, or from one place to another place, to alter the racial composition of the student body at any school.

The ACTING PRESIDENT pro tempore. The Senator's 5 minutes have expired.

Mr. TOWER. I ask for 2 additional minutes.

Mr. GRIFFIN. Mr. President, how much time remains on this side?

The ACTING PRESIDENT pro tempore. The Senator from Michigan has 44 minutes remaining.

Mr. GRIFFIN. I yield the Senator from Texas 2 additional minutes.

Mr. TOWER. The second part of the amendment provides the same prohibition on the assignment of students. The language is very clear. It is concise.

No Federal official could fail to see that busing would be banned and that this Congress and this Nation mean to use their educational funds to educate, not to experiment with the lives of their children.

Mr. President, there are pending many more amendments to this bill dealing with busing that I am sponsoring. I will continue to sponsor them and I shall vote for them. Yet, not one of them give the promise of stopping busing that this amendment gives. I regret that this is so, but the Federal courts have on numerous occasions refused to follow congressional guidance in this area. Specifically, I refer to the Civil Rights Act of 1964. In title IV, section 2000c(b) of that act desegregation is defined:

> "Desegregation" means the assignment of students to public schools and within such schools without regard to their race, color, religion, or national origin, but "desegregation" *shall not mean* the assignment to public schools in order to overcome racial imbalance. (Emphasis supplied).

The courts have actively ignored this provision, and, I am afraid, would continue to ignore anything but a constitutional amendment or the amendment which I am here sponsoring which would withdraw this matter from the jurisdiction of the courts.

Mr. President, in the past few months, there has been much said by many to confuse the issue of busing. Many have said that we are trying to overturn the Brown decision. Nothing could be further from the truth; I would certainly have no part of any such attempt. The issue is clear: are we going to continue

to force busing or are we going to end it? If we are going to end it, most probably the only way to end it is through the two methods I am currently supporting. Those who are for busing should vote against us; those who oppose busing should join us.

I thank my colleagues for yielding.

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

Mr. GRIFFIN. I yield 2 minutes to the Senator from Virginia (Mr. SPONG).

Mr. SPONG. I thank the Senator from Michigan.

Mr. President, I notice, in reading the Mansfield-Scott amendment, that the section dealing with stays in pending court cases, is explicit with regard to orders requiring consolidation.

I ask the Senator from Michigan, since his section 903 is not explicit with regard to this matter, if he would consider modifying his amendment to provide, on line 12 of page 2, after the words "local authority," language which would say "or which require the consolidation of two or more educational agencies". That is the language in the Mansfield-Scott amendment.

Mr. GRIFFIN. I would respond to the Senator from Virginia by saying that it is the interpretation of the junior Senator from Michigan that his amendment would encompass the situation that concerns the Senator from Virginia. However, I see no harm to be done by inserting the language suggested; it might serve a useful purpose.

If the Senator would restate the wording of his proposal, I would then be in a position to modify my amendment accordingly.

Mr. SPONG. The Senator wishes me to restate it?

Mr. GRIFFIN. Yes.

Mr. SPONG. On line 12 of page 2, in section 903, after the words "local authority," insert "or which requires the consolidation of two or more educational agencies."

Mr. GRIFFIN. I state to the Chair that under the renumbering, the reference would be section 904, as the amendment has been proposed. Mr. President, I modify my amendment accordingly.

The PRESIDING OFFICER. The amendment is so modified.

Mr. SPONG. I thank the Senator from Michigan.

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

Mr. PELL. I yield 3 minutes to the distinguished Senator from California.

Mr. TUNNEY. Mr. President, I am going to support the Scott-Mansfield amendment for the primary reason and hope that it may help to defuse the rampant emotionalism in the Nation on the busing issue.

I respect the constructive purposes of this amendment's sponsors.

But I am saddened by the presumptions of necessity that have forced the Senate to focus its attentions this week on only one, largely symbolic factor—busing—involved in a profound challenge the Nation.

That challenge is to provide good schools for all of America's children, regardless of race.

The fact that busing is an issue at all is the direct result of our failure, in both State and Federal Governments, to deal with that fundamental challenge. We have continued to allow inner city schools to be strangled by lack of money and we have refused to deal effectively with lack of meaningful housing and job opportunities. Thus, we have forced our judicial system to reach out for other tools, such as busing, to right the inequities which we have been unwilling or incapable of doing ourselves.

Now we are confronted with the results of those failures. Busing has become the focal point of a political storm which should properly be directed at the fundamental issue of providing quality education for every child in the Nation.

Many of us frequently and publicly reaffirm our determination to build quality education for all children. Some of us openly and sincerely commit ourselves to the principles of integration of our schools—and our society.

I support the amendment in the hope that it will remove the emotion and the politics from the fundamental task which we face. It will diffuse some of the objections without depriving school districts of the opportunity to use busing where it is needed for any reason.

But let us not kid ourselves. Neither this amendment nor any other busing amendment is going to move us one step closer to an integrated society or to quality education for our children, in and of itself. If Congress adopts busing amendments but does nothing to provide the money and the personnel and the leadership for good schools in every city and suburb in this Nation, we are ultimately going to be looked upon as hypocrites.

The California Supreme Court recently laid down the challenge to us:

> In a democratic society free public schools shall make available to all children equally the abundant gifts of learning.

I suggest that we get on with this task.

Mr. PELL. I yield myself such time as I may require.

Mr. President, the amendment of the Senator from Michigan is a very strong amendment which, if adopted, would repeal the provisions of the Civil Rights Act and would erode the power of the courts in a way that is rare.

As I said earlier, I recognize both the desirability and the necessity of seeking to reverse the present unacceptable and in some cases unconscionable busing of children for the sake of busing—busing where no educational advantage is secured but where in some cases it is reversed.

What we need is a moderate approach that on the one hand would stop such a course but on the other would not result in the creation of a more rather than a less segregated society.

It is for that reason that I intend to oppose this amendment and to support the amendment of the majority and minority leaders.

Mr. GRIFFIN. I yield 5 minutes to the distinguished Senator from Tennessee.

Mr. BAKER. I thank the distinguished minority whip for yielding so that I may speak in support of his amendment.

Mr. President, I do not think for one moment that when we talk about busing, we are talking segregation or desegregation; and I do not conceive for one instant that if we decide, as a matter of national policy, to end the practice of judicially prescribed busing for racial balance, we are going backward or rolling back time to some period in history prior to the Brown decision in 1954.

I do not think for a single scintilla of time that by deciding, as a matter of national policy, that busing does not serve the interests of the child, or of education, or of the unitary school system, we are in some strange way turning our back on a national commitment to a plural society, to a unitary school system, and to the further progress of civil rights. I think, instead, that we are debating here and now whether or not busing, as a judicially determined technique for bringing about a racial balance in order, as the Court says, to eliminate the last vestiges of institutional segregation, is a desirable public purpose. In my view, clearly, it is not.

Mr. President, perhaps my view is a little more immediate and certain and less hypothetical than the view of some, because in Tennessee, in my native State, in the capital city of Nashville, we have judicially decreed busing, and we have 40,000 students in Nashville being bused twice a day, some of them as long as an hour and a half.

I can testify first-hand that many, many people in Nashville who are dedicated to the purposes of civil rights—and have always been—are vehement in their opposition to busing. I can testify first-hand that there is not a bias or sentiment in Nashville against a unitary school system or the furtherance of the cause of civil rights; but I very much doubt that one could find 10 percent of the people of Nashville who favor busing as we know it, as we have experienced it since September 1971.

Some say—and I suspect that there is a good bit of merit to the argument—that we ought to try other remedies first, before we try legislative proposals such as I support and such as offered by the distinguished junior Senator from Michigan. Some say that perhaps there should be a further determination of what the courts require, because, after all, the Swann decision was painted with a fairly broad brush, and it was. Much of that broad-brushing is incorporated in the Scott-Mansfield substitute—that is, busing is permissible, but use it only when it does not interfere with the child's education or where it does not jeopardize his health. That is not exactly what Swann said, but that is very nearly what it said. But I do not know what that means, and I submit that no one else does either. Nor are we defining with any sort of exactitude what these subjective, descriptive adjectives mean.

To illustrate that point, I would point our that district court busing orders, very massive in their effect, such as in Nashville and other places have all been uniformly upheld, on appeal creating the distinct impression that the appellate courts including the Supreme Court leave vast leeway and latitude to the lesser courts—the district courts and the courts

of appeal—to decide whatever they want to decide about busing.

That, Mr. President, does not accord with my views of our responsibility as the policy-setting agency of this three-tiered Federal Government. I believe that not only does Congress have the clear and constitutional authority to do what the distinguished junior Senator from Michigan (Mr. GRIFFIN) proposes we do in the limitation of jurisdiction and the legislative stay, but I believe, indeed and in fact, that it is our responsibility, as servants of the people, to act on this important issue.

As some would say, we should try the judicial technique first. Maybe we should. Maybe that would be preferable. Some say a constitutional amendment is more certain; I agree. But this time is now, and this proposal is before us.

I intend to support it because I intend to do what I can, when I can, to make it perfectly clear that while I support the concept of a unitary school system, and while I support the concept of equal opportunity for every citizen of the United States, I do not support busing. I want carefully, precisely, and exactly, to excise the authority of the Federal judiciary to judicially decree busing—nothing more and nothing less.

So, Mr. President, I disavow any implication, allegation, or any charges that being antibusing is in someway being antiblack, anticivil rights, anti-Chinese, or antianything else other than busing itself. It is not. So far as the senior Senator from Tennessee is concerned, it is nothing more than a statement that busing is not an acceptable and desirable technique to be utilized in further efforts to remove institutional segregation as an ugly scar on the landscape.

Busing is not appropriate to the needs of these times.

I commend the distinguished Senator from Michigan (Mr. GRIFFIN) for acting with precision and exactness in his efforts to do three things:

One, to remove the authority of the Federal judiciary to decree busing.

Two, to see that the administrative agencies of government do not substitute their power in place of that of which we deprive the judiciary.

Three, that there be a legislative stay of the effectiveness of any busing orders until the Government of the United States, the Congress of the United States, the executive branch and, indeed, the courts, have an opportunity to study this very volatile and very important issue and clearly define the distinction between being antibusing and not being anticivil rights.

Thus, Mr. President, I commend the distinguished Senator from Michigan and I intend to support his amendment.

Mr. GRIFFIN. I thank the Senator from Tennessee for his comments, and in a moment I shall be glad to yield to the distinguished Senator from Georgia (Mr. TALMADGE).

I share the view of the Senator from Tennessee that the vote on my amendment in no way represents a vote for or against segregation.

Mr. President, because this subject affects my State so directly, I have been very interested in polls which determine and measure the opinions of black people in Detroit, in Pontiac, and in other areas of the country.

Mr. President, a week or so ago I reported on certain surveys of black people in the Detroit area, surveys which were published by the Detroit News.

In this morning's Detroit Free Press there is an interesting story about a survey which reflects the opinion of blacks and Latin-Americans in the Pontiac area.

The distinguished Senator from Texas (Mr. TOWER) mentioned that busing in Pontiac will cost $700,000 a year. I am not immediately in a position to verify that figure but I would not doubt it. If the average pay of teachers is in the neighborhood of $10,000 a year, one can quickly compute how many additional teachers could be hired with the money that will be going for busing.

The article in the Detroit Free Press reads in part, like this:

The majority of Pontiac blacks and Latins do not believe school busing will help integration or improve their children's education, according to an independent survey conducted last October among the city's 33,000 blacks and undetermined number of Latins.

Results of the survey, which asked questions of 250 blacks and 50 Latins, were never released to the public.

The minority attitude survey shows 64 percent of the city's minority population does not believe busing will give their children a better education.

Taken separately, 62 percent of the Latin people surveyed also responded negatively.

Although the study was presented to the Pontiac city planning commission in November, the city commission received copies informally only "several weeks ago," a spokesman said.

The telephone survey was taken by Parkin, Rogers and Associates, Inc. of Detroit in association with a black consulting firm, the Urban Design Institute, also of Detroit.

Mr. President, I ask unanimous consent that the complete text of the article be printed in the RECORD.

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

[From the Detroit Free Press, Feb. 24, 1972]

SURVEY RESULTS UNCOVERED—POLL SHOWS PONTIAC BLACKS, LATINS, COOL TO BUSING

(By Tim McNulty)

The majority of Pontiac blacks and Latins do not believe school busing will help integration or improve their children's education, according to an independent survey conducted last October among the city's 33,000 blacks and undetermined number of Latins.

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Taken separately, 62 percent of the Latin people surveyed also responded negatively.

Although the study was presented to the Pontiac city planning commission in November, the city commission received copies informally only "several weeks ago," a spokesman said.

The telephone survey was taken by Parkin, Rogers and Associates, Inc., of Detroit in association with a black consulting firm, the Urban Design Institute, also of Detroit.

Four questions concerning busing were asked.

Seventy percent of the total group said busing would not be good for integration and 73 percent said busing costs more than it's worth.

A total of 95 percent said they do not think the only way to stop racial unrest is to end busing.

Latin responses (taken alone) showed 68 percent felt busing is not good for integration, 57 percent agreed busing is more costly than beneficial and 80 percent did not think racial unrest can only be avoided by ending busing.

"Some feel that busing will not enhance the city's segregated housing pattern and that efforts (toward integration) should be made in housing instead," according to the report.

"Others are concerned that, through busing, local currently black schools might be phased out, with new or larger schools built solely in white areas . . . (and) some minority respondents felt that busing will eventually result in a lower rate of minority administrators and teachers."

Although one city official said the survey wasn't released because it was a "poor job" and incomplete, Pontiac Community Development Director James Bates said: "It wasn't considered a bad job . . . it gave us a sample of blacks and Latin Americans but it doesn't reflect the opinions of others in the city.

"The minority groups have always contended that their attitudes were never solicited or listened to and this was an attempt to do that."

But both Bates and Andrew Pettress, director of the city's new Human Resources Department, said a more complete citywide attitudinal survey would be taken in the spring.

But Mrs. Irene McCabe, leader of the Pontiac-based anti-busing National Action Group said: "The results don't surprise me one bit. It's indicative and in step with the type of government we have in this city that they didn't release the results.

"They (city officials) believe the people in this town are fools and stupid . . . I live in this city. I talk to the people. Anybody who's honest with himself knows busing is negative in all areas—financial, educational and in race relations and integration.

"The people in Pontiac were polarized before busing with the crime problem," she continued, "and now busing has made it worse. But it's consistent that the commissioners tried to hide the truth. They're consistent liars. And if that gets me in court, that's okay. I'm ready for it."

Those interviewed were selected at random in the survey.

Besides busing questions the interviewers asked opinions on favored shopping locations, favored programs for spending tax dollars, the school district's new Human Resources Center near downtown and the greatest dislikes about the respondents' own neighborhood.

The combined response from the two minority groups was 68 percent in favor of spending tax money on "redeveloping the run-down area of the city." Thirty-one percent of the combined group said the biggest complaint or "dislike" about their neighborhoods was the lack of recreational facilities.

Seventeen percent said run-down housing was the worst problem; 12 percent said inadequate schools; two percent complained of traffic congestion and another 31 percent said "most of the above." Seven percent listed other problems as the worst conditions in their neighborhoods.

Mr. GRIFFIN. Now, Mr. President——

Mr. ERVIN. Mr. President, will the Senator from Michigan yield for a clarifying question?

Mr. GRIFFIN. I yield.

Mr. ERVIN. Does the amendment of the Senator from Michigan, impair in

any respect the existing power of the Federal courts to compel local school boards to abolish discriminatory zones or districts and establish zones or districts, which will not in any way deny children from any school, on account of their race?

Mr. GRIFFIN. The Senator from North Carolina is absolutely correct. If the Federal court finds that attendance zones have been drawn with a view toward separating the races or to achieve racial discrimination, the courts would be free after enactment of this amendment to require the redrawing of such attendance zones so that they will not be established on the basis of race. Indeed, any other remedy that the court has available would continue to be available.

Mr. ERVIN. It would not impair in any respect the power of any local school board, of its own volition, to bus for any purpose?

Mr. GRIFFIN. The Senator is absolutely correct. In times past, I have voted against some of the amendments offered on this subject, particularly when the wording went too far. In some situations I can recall, we were required to vote on amendments which, in effect, would have precluded voluntary as well as forced busing. My amendment does not preclude or apply to any voluntary program that might involve busing. I am keenly aware of the importance of this point because the Detroit school system, without any court order, instituted what is called a magnet plan; the program was designed, primarily to provide quality education; it utilizes some busing and, incidentally, also mixes the races. My amendment would not touch that kind of situation.

Now, Mr. President, I yield to the distinguished Senator from Georgia (Mr. TALMADGE).

Mr. TALMADGE. Mr. President, I express my strong support for the amendment to remove from Federal courts the jurisdiction to order forced schoolbusing to achieve an artificial racial balance.

This legislation is required to begin to put our schools back under local control, and to take from Federal courts the life-or-death power they have wielded with such a heavy hand in recent years.

This is a principle embraced by the President of the United States—although he has thus far failed to do anything about it.

If we value public education in America, the time has come for the Congress to act.

We must act to overcome callous judicial and bureaucratic arrogance. We must act to make our Government and courts more responsive to the will of the majority of the people of this country.

Who is guilty of arrogance and total disregard for what the American people desire and what is in their best interests?

Members of the Federal judiciary and the bureacrats of the Department of Health, Education, and Welfare.

These men can afford to be arrogant. They are safely insulated from the people they are supposed to serve.

Federal judges serve for life. Their compensation cannot even be reduced while they are in office.

The Federal bureaucrat is even more secure. Except for the few who occupy the very few top positions, they are faceless. They are virtually nameless as far as the average citizen is concerned.

The workingman does not even know and has no direct contact with the bureaucrat whose salary he pays. Protected by their seniority, these officials remain entrenched while administrations come and go.

I would like to suggest some examples of the arrogance that has been foisted on the American people.

The Federal judiciary, in its school desegregation decisions, has come full circle. Federal courts have parted company with reason and what the average citizen clearly understands as commonsense.

Eighteen years ago, in the Brown decision, the Supreme Court held that race cannot be a factor in the assignment of children to public schools.

Now, the courts say precisely the opposite. According to them—

We must classify children by race.

We must assign children to a particular school because of race.

We must achieve a contrived racial balance.

Federal courts have not yet taken away the right of Americans to live and work where they please. But they have denied parents the right to decide where their children will go to school.

Federal courts and bureaucrats have arrogantly turned their backs on legislation enacted by the representatives of the American people in Congress. The very language of the 1964 Civil Rights Act prohibits the assignment of students to public schools in order to overcome racial imbalance.

During debate on that legislation, the junior Senator from Minnesota, who was then floor manager of that bill, stated that the Constitution would be violated if children were bused to create a racial balance.

I submit that the Constitution and the law are being violated at this very moment. Children in my own State and in other States are being bused and herded about like sheep to do just what Mr. HUMPHREY and the Congress said could not be done.

Numerous other antibusing amendments have been attached to various appropriations bills. In each case, the language clearly prohibited the forced busing of children to achieve racial balance.

In each case, the language of these measures has been twisted or ignored.

Busing has been achieved by a hypocritical double standard. Federal courts and HEW divide segregation into two categories, "de facto" and "de jure."

"De jure" means by law and there has in fact been no school segregation under the law since the 1954 Brown decision.

In another point of fact, southern schools are now more integrated than those in any other section of the country.

But courts and bureaucrats and so-called liberals have been forced to seek a way out of their dilemma. They want to rationalize the proposition that while segregation in the South is evil, segregation in other parts of the country is something to be tolerated, and even protected.

So they seized upon the de facto-de jure distinction. This kind of hypocritical arrogance may be morally satisfying to some, but it has no foundation under the law or the Constitution.

It is not in the best interests of children anywhere, black or white. It mocks and reduces education to a shambles. It destroys the rights of all Americans in a free republic to get a quality education.

A serious example of this arrogance is the fact that judges and officials totally ignore the will of the people they are sworn to serve.

They ignore legislation enacted by Representatives and Senators whom the American people send to Washington. They force a doctrine on the American public that polls show to be held in overwhelming disfavor by citizens of this nation, both black and white.

By ignoring the will of the people, these so-called public servants are smugly secure in the belief that they know better than the people, what is good for them.

I submit they do not. Let us examine some of the results of forced schoolbusing. Look at the price we are paying for this idiotic policy.

In Chatham County, Ga., this year, that school district will have to raise in excess of $850,000 to pay for court-ordered school busing.

I cannot believe we are unable to think of other ways to spend this money which would be more beneficial to our children and their education.

The cost of busing is rampant throughout the country.

In Dade County, Fla., the bill for forced busing came to $1.5 million for only 6 months.

In Pontiac, Mich., the bill is $700,000 a year.

In Pasadena, Calif., the cost of $300,000 per year.

In Harrisburg, Pa., it is $500,000.

In spite of all this, advocates of forced schoolbusing insist that it is improving the quality of public education in America. It is interesting to note that for the most part, their children are enrolled in private schools.

They demand that the workingman and his children bear the cost of their social experiment. But they protect their own children.

This is the ultimate hypocrisy.

In addition to the cost in tax dollars, there are human costs.

Children stand alone and shivering in the rain at 6 o'clock in the morning waiting for a schoolbus.

Parents lose interest in and respect for their local, neighborhood schools, because, to them, there are no such things any more.

Neighborhoods are silent where children once played, because they spend 2 hours every afternoon on schoolbuses riding down some remote highway.

Many of these extreme hardships are reflected in mail I receive every day from Georgians.

The children of a mother in Savannah are bused 15 miles every day.

A 10-year-old girl, who also lives in

Savannah only two blocks from a school, is bused 15 miles to another one. In 1 year, she will travel more than 5,000 miles on a schoolbus.

In Chatham County, a young girl is bused 20 miles to school every morning and afternoon. In Pooler, Ga., one famliy has six children. Two older boys go to a school 10 miles away. Two smaller boys go to school 4 miles away in the opposite direction. In each case, the boys have to walk a mile to get to the buses.

I want to read to the Senate some of the letters I have received.

One letter states:

> There are four primary public schools within three miles of my home. My fifth and sixth grade children were, however, assigned to a school 16 miles away . . . children that got home at 3:15 last year aren't coming home now until 6:15.

Another letter states:

> We live within 100 yards of a neighborhood school, and our child is being bused 10 miles each day.

Another Georgian wrote:

> Savannah children in the first through sixth grades are having to get up at 6 a.m. in order to be 30 minutes late daily for their classes due to this busing. Many of them are not getting home until 5:30 and 6 p.m.

Another states:

> I have a son eight years of age. We have three elementary schools within walking distance of our home. The Fifth Circuit Court of Appeals has seen fit to order this boy bused 24 miles each day to a foreign neighborhood.

From Wilkinson County, Ga., I heard that "every day the schoolbuses travel as far as from Washington, D.C., to Miami, Fla., and halfway back. Busing will run $133,000 next year."

A mother of six children in LaGrange, Ga., wrote me about her plight. Three of her children are in junior high school, and three attend elementary school. Yet, these six children have been assigned to five different schools.

This issue is dividing our country as it has not been divided since the War Between the States. This amendment provides a logical answer to forced schoolbusing. I urge its support.

I say, let us abandon this foolishness. Let us abandon the busing tyranny. Let us get back to public education for all, which schools were designed to achieve.

We have tolerated judicial and bureaucratic arrogance to the point that it is intolerable. The time to end it is now.

Mr. President, I thank my distinguished friend, the Senator from Michigan, for yielding to me. I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. PELL. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time be charged equally against both sides.

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

The second assistant legislative clerk proceeded to call the roll.

Mr. 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. JAVITS. Mr. President, will the Senator yield to me for 5 minutes?

Mr. PELL. I yield to the Senator from New York as much time as he desires.

Mr. BYRD of West Virginia. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senate will be in order.

The Senator from New York is recognized.

Mr. JAVITS. Mr. President, the perfecting amendment which is offered by the Senator from Michigan, which I oppose, essentially picks up the various amendments made in the bill in the other body and, in my judgment, proceeds very much along the same lines as the Senator from North Carolina (Mr. ERVIN) originally proposed to proceed with his consolidated amendment, that is, the one which incorporates amendments of the other body in the one amendment.

Mr. President, I have listened with great interest to the argument of the Senator from Michigan (Mr. GRIFFIN) in favor of his amendment. I am opposed to his position, but I am now dealing with what its proponents claim to be their legitimate reasons why the Griffin amendment should be agreed to. The difficulty I find with their argument is that it proceeds completely without regard either to the Scott-Mansfield amendment or the decision in the Swann case.

In short, we are not now arguing the busing issue as if nothing ever happened. We are arguing the busing issue and the Griffin amendment as an alternative to the amendment offered by the leadership, and following the decision of the Supreme Court in the Swann case.

I consider that decision to be a milestone in the history of the law setting down for the first time effective guidelines by which the courts shall determine their action in school desegregation cases.

I consider the Scott-Mansfield amendment as representing the exercise of the authority of Congress over Federal funds and over Federal actions and Government departments, and so forth, which have been so greatly complained about by those who have opposed what they call forced or involuntary busing.

Finally, by adopting the standards of the judgment suggested in the Swann case, we actually and explicitly spell out what we think they mean in law. It is my judgment that the courts will follow that. They are not compelled to do so, but I am deeply convinced they will, because if we agree to the Scott-Mansfield amendment, we will have based our legitimate policy upon our interpretation of what was the meaning in the Swann case. The important feature of that interpretation, and this is the big issue, is the question of whether busing would create a substantial impingement upon the educational process; and we add that the courts should consider the educational impact not only for the child that is bused, but also the school to which he is bused; and that standard must be judged according to the standard of the school to which he is bused.

That question involves the great reason why busing suddenly burgeoned into the great national crisis depicted here and in the other body. Mr. President, when you take the Swann case and the Scott-Mansfield amendment, you are doing what those who are friendly to the enforcement of the Constitution would agree needs to be done.

But if you follow the Griffin route, no matter how you describe it, the fact is that it cancels out the practical probability of desegregating the schools of the country—North and South, East and West.

I do not challenge for one minute the good faith of any Senator who supports the Griffin amendment, but the effect of it, I argue—and that is why I said I would be addressing myself to the argument—if it can be done constitutionally—and that is a big question—it cuts off the de jure desegregation cases—I am not talking about de facto now—of the public schools that remain still segregated.

The reason for that is that the court itself has held, and all the testimony before the select committee which the Senator from Minnesota (Mr. MONDALE) heads, and of which I am a member, has demonstrated, that some busing is an indispensable ingredient of the effort to bring into constitutional conformance schools which are now not complying with the guarantees of the Constitution.

There is no question about the effort which is made by the amendment to cut that off entirely. Therefore, I say—and I say it advisedly—that adoption of this amendment, if it becomes law, would dismantle the effort to desegregate the public schools of the country in accordance with the requirements of the 14th amendment, granting and not withstanding the utmost good faith of those who support this position.

Second, and very important, I have grave doubts as to whether it is constitutionally possible to engage in this condign cutoff of a remedy.

Let us remember that no effort is made by this amendment to deprive courts of jurisdiction over school desegregation cases under the 14th amendment. What is sought to be cut off is a remedy. However clear the cases are that jurisdiction can be taken away from the Federal courts lower than the U.S. Supreme Court—which is the only court actually recognized by the Constitution—it is not at all clear that if we do not take away the jurisdiction the Congress has conferred, we can take away a remedy, one of the remedies which the Court may wish to utilize in respect to exercising its jurisdiction. I think that is a very grave question, one which would bring us, I believe, into conflicts with the courts—conflicts which I do not believe we wish to incur.

Now on the issue of policy, I think we have a very profound social question before the Congress. No matter how one slices it or limits it, certainly the Mansfield-Scott amendment deals with the problem very effectively and substantively. The fact is if we do not have some residual rights with respect to busing clearly defined, clearly delimited, in the armory of means available to the courts to desegregate public schools, we are simply not going to desegregate them in

a very important measure. It does, however its detractors may seek to describe it, have that result.

As I believe that there is a minority here—I do not know how large or how small a minority—which in effect does not wish—notwithstanding the need for some busing in that regard—to desegregate the public schools, this is a perfectly legitimate exercise of their opportunity or right to seek to legislate in that way. I certainly oppose it, but I cannot allow the argument to stand that we are really not doing anything about the desegregation process by depriving the courts of this remedy, circumscribed as it is circumscribed in the Scott-Mansfield amendment as it relates to the authority of Federal officials by adopting the Swann case definition and implementing it the way the amendment does.

For all those reasons, I say those who favor enforcement of the 14th amendment in respect of schools should vote against the Griffin amendment. This is the solid, basic line of division.

As to the implementation of how we are to go about circumscribing, preventing excesses, heeding those who have made complaints about busing, we do that very adequately in respect of the Scott-Mansfield amendment, and coupling that with the Swann decision.

For those reasons, I hope very much the Griffin amendment will be rejected.

Mr. SPONG. Mr. President, will the Senator from Michigan yield? I only need 3 minutes.

Mr. GRIFFIN. Mr. President, I yield to the Senator from Virginia.

Mr. SPONG. Mr. President, when you couple the Swann decision with the Mansfield-Scott amendment, you are fostering, whether intentionally or not, the hypocritical policy in this country which distinguishes between de facto and de jure segregation.

Today in the United States there is more racial isolation in the cities of the East and of the Midwest than there is in many cities and many States in the South.

What we should be concerned with is what is in the best educational interest of the children of the United States, but as long as we pass legislation which does not address itself, at least eventually, to a national policy, then we are deluding ourselves that we are helping the Nation's education.

I submit to you that the Mansfield-Scott amendment, as well intentioned as it may be, fosters the distinction between de jure and de facto segregation, and in doing so fosters a policy of hypocrisy which should not be allowed to continue.

During the course of this debate I hope to put into the RECORD research which shows that in excess of 40 of the 50 States of this Nation have had statutes, local and State, of one kind or another, that foster discrimination. Whether they were passed 50 years ago or 15 years ago or 25 years ago, they have in some way contributed to the patterns that have resulted in racial isolation in those areas.

So I think that anything that is passed by this body—and we must address ourselves to this problem—must be national in concept.

The inherent weakness of the Mansfield-Scott amendment is that it is not national in application. In almost every case that has gotten to the courts outside the South, whether in Michigan or California or elsewhere throughout the United States—one in Nevada, I believe, yesterday—the courts have found vestiges of legal discrimination. They may not have been State imposed—and that is the word that is always very carefully used—but the actions were there.

Consequently, I think we may be deluding ourselves and fostering a policy that will do no good for the eventual health of public education throughout the United States if we are not able to come up with a policy that is national in application and if we continue to encourage what I consider to be a false distinction between de facto and de jure segregation, which the Supreme Court has not yet settled, despite several opportunities to do so.

I appreciate the arguments of the Senator from New York, but I would say that the educational problems resulting from racial isolation in parts of the United States outside the South are so grave that a national policy emphasizing educational interests is needed more than anything else.

Mr. JAVITS. Mr. President, will the Senator yield me 3 minutes?

Mr. PELL. I yield 3 minutes to the Senator from New York.

Mr. JAVITS. Mr. President, it seems to me that the argument made by the distinguished Senator from Virginia, rather than refuting, confirms everything I have said. If it is a fact that the laws in our States have brought about or been conducive to segregation, then that is de jure segregation. The courts more and more are finding that. They have now extended their findings to Michigan, to New York, to Denver, and it will extend its findings further.

I am glad that the courts are growing more sophisticated about what de jure segregation is, and that you can gerrymander school districts and engage in other practices which are just as much de jure segregation as the blatant maintenance of a dual school system as it was practiced in the South.

What is endemic in this argument—and I have great respect for the Senator from Virginia, with whom I have joined in many things—is the idea that desegregation is not essential to a quality education. We contend that it is, and we contend that the proof sustains that. Certainly the overwhelming body of evidence—and that is what we have to rely on—from every part of the country, before the Select Committee on Equal Educational Opportunity, sustains the proposition that to this day, the best, most effective, greatest volume of quality education can only come about by the desegregation process.

The fact is that the South has massively desegregated. I say, "Bravo." But does that not prove the point that that is what this educational process lacks? The pride that Southern Senators take in the fact that there has been desegregation is only an endorsement by them of its contribution to quality education.

So I believe we are on the same wavelength, even though we may differ as to remedy. All I argue is that the combination of the Scott-Mansfield amendment and the Swann decision takes all desegregation, wherever it is, and puts it within reasonable, tolerable, and acceptable limits to parents, all those parents whose children are affected by segregation, and of all races.

Not being vote comptometers here, which is the pride of a Senator, we must appraise the situation, whatever may be the heat in many sections of the country, and decide what is in the best long-range interests of the United States. I believe that the greatest contribution to domestic tranquility we can make will be in the way in which we hammer out and fashion a way to desegregate without running afoul of the abrasive elements which have resulted in the present deep feelings with respect to busing.

I believe we will accomplish that if we agree to this amendment.

Mr. PELL. Mr. President, I yield 2 minutes to the Senator from Michigan (Mr. HART).

Mr. HART. Mr. President, I rise to ask permission of the Senator from New York to adopt, if he will be so kind as to permit me, the words he has spoken, both in his efforts to persuade us to reject the pending amendment and in the additional comment he has made with respect to the anticipated Mansfield-Scott substitute.

It is always with reluctance, I suppose, that one differs with a colleague from one's State. But on this question, our differences are no secret, and our convictions on both sides, I hope, are respected.

I do hope very much, Mr. President, that this amendment and others like it will be rejected, because no matter how you slice it, they tend to be understood as meaning that when we find a violation of the 14th amendment in the case of schools we do not apply the general principle. The general principle, when a constitutional right is found to be denied, is that we try to fix the situation—to fix it so as to deliver, to the extent possible, the denied right. But in this case, volatile as it admittedly is, we in a sense say, "Forget it, do not fix it," and we say that in a variety of fashions, including denying money to a school district found to be in violation of the Constitution, denying money that would permit that district to use the limited tool of the bus.

I appreciate very much the remarks made by the Senator from New York, and join in his petition that we reject this amendment and the series to come.

Mr. GRIFFIN. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 12 minutes.

Mr. GRIFFIN. Mr. President, the distinguished Senator from New York, for whom I have the highest regard, has argued that the amendment now pending would be held unconstitutional. To buttress the argument which I made earlier, and which the distinguished Senator from North Carolina has made, that such an amendment is a constitutional exercise of Congressional power, I wish to read into the RECORD the pertinent

important language from the Norris-La Guardia Act:

No court of the United States shall have jurisdiction to issue any restraining order or temporary or permanent injunction in any case involving or growing out of any labor dispute . . .

In addition, Mr. President, I ask unanimous consent to have printed in the RECORD certain portions of a book by Charles Alan Wright, professor of law at the University of Texas. The portions are contained in a chapter of a book entitled "The Judicial Power of the United States."

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

[From the Handbook of the Law of Federal Courts]

JUDICIAL POWER OF THE UNITED STATES

(By Charles Alan Wright)

* * * * *

CONGRESSIONAL CONTROL OF JURISDICTION [1]

In section 8 it was seen that, in general, the jurisdiction of the federal courts must find its basis in Article Three of the Constitution. The present section is concerned with the extent to which the judicial power granted by the Constitution is subject to control by Congress.

The question is most readily answered with regard to the original jurisdiction of the Supreme Court. Although the First Congress, in the Judiciary Act of 1789, undertook to set forth that jurisdiction, it has always been understood that the constitutional language is, in this regard, self-executing, and that Congress cannot take that jurisdiction away from the Supreme Court.[2] Congress cannot expand the original jurisdiction of the Supreme Court, even to cases otherwise within the judicial power of the United States,[3] nor can it deny such jurisdiction. It can, however, provide that the jurisdiction of the Supreme Court in cases within the grant of original jurisdiction, be concurrent with the district courts,[4] and can give appellate jurisdiction in cases that might also fall within the original jurisdiction of the Supreme Court.[5]

The Constitution, after defining the original jurisdiction of the Supreme Court, provides that in all other cases within the judicial power of the United States, "the Supreme Court shall have appellate Jurisdiction, both as to Law and Fact, with such Exceptions, and under such Regulations as the Congress shall make." The power to make exceptions in this jurisdiction was tested in the famous case of Ex parte McCardle.[6] An act of 1867 gave the Supreme Court appellate jurisdiction in habeas corpus cases. Prior to that time there was no such jurisdiction on appeal, though the Supreme Court could issue original writs of habeas corpus and certiorari, and review a denial of habeas corpus below by this means. McCardle was a civilian, held for trial by a military commission in Mississippi pursuant to Reconstruction statutes. The circuit court denied his application for habeas corpus, and he appealed. In 1868, while the case was pending before the Supreme Court, Congress, apprehensive lest the Supreme Court would grant the writ and thus invalidate much of the Reconstruction legislation, passed an amendatory statute, taking away the appellate jurisdiction of the Supreme Court in habeas corpus cases. The Supreme Court held that the 1868 legislation deprived it of jurisdiction. It considered that this was a legitimate exercise of the congressional power to make exceptions to appellate jurisdiction, and that it was immaterial that the act was passed after the Supreme Court had already taken jurisdiction of the case. This case has long been read as giving Congress full control over the Supreme Court's appellate jurisdiction, but of late there has been some suggestion that this is reading too much into the McCardle decision, and that Congress does not have power to make such exceptions as will destroy the essential role of the Supreme Court in the constitutional plan.[7] This reading, for which there is little or no direct authority, is fortified by the fact that shortly after the McCardle case it was held that the Supreme Court could still issue original writs of habeas corpus and certiorari, and thus review in a case like McCardle's.[8] The argument is that the essential role of the Supreme Court is not destroyed when, as in 1868, one means of approach is taken away but another is left open. To deprive litigants altogether of access to the Supreme Court in cases involving the supremacy of federal law, as was proposed in a bill considered by Congress in 1958 that would have denied all jurisdiction to the Supreme Court in cases involving five classes of subject matter, would, on this approach, be invalid.

Congress has a considerable discretion in dealing with the jurisdiction of the lower federal courts. It can provide a particular court for hearing certain questions and deny all other courts the power to consider that question,[9] even to the point of precluding raising the invalidity of a regulation as a defense in a criminal action, where there was a court provided in which the invalidity of the regulation might have been asserted.[10] Congress can provide that cases within the judicial power shall come to the federal courts by removal, rather than in their original jurisdiction.[11] It can take away from the courts power to grant a particular remedy or to enforce a particular kind of contract.[12]

From the First Judiciary Act to the present, Congress has provided that in certain instances the jurisdiction of the federal courts shall be exclusive of the courts of the several states,[13] though federal jurisdiction is not exclusive unless Congress chooses to make it so, either expressly or by fair implication.[14] At present the most significant areas in which Congress has made federal jurisdiction exclusive are bankruptcy proceedings,[15] patent and copyright cases,[16] cases involving fines, penalties, forfeitures, or seizures, under laws of the United States,[17] and crimes against the United States,[18] though there are some others.[19] The statute purports to give the federal courts exclusive jurisdiction of cases of admiralty and maritime jurisdiction,[20] but by virtue of the "saving to suitors" clause in the statute, in fact federal jurisdiction is exclusive only in limitation of liability proceedings and in maritime actions in rem.[21]

Though a wide power in Congress to regulate the jurisdiction of the federal courts has never been challenged, there has been discussion from 1789 on as to whether Congress can refuse to vest in any federal court some part of the judicial power granted by the Constitution. On this question at least four positions are possible: (1) the constitutional grant is self-executing, and if there is some part of the judicial power not vested by Congress, the courts can hear such cases on the basis of the Constitution alone; (2) the constitutional language is mandatory, and Congress should vest the whole of the judicial power, but the duty is not enforcible if Congress should fail to act; (3) Congress has discretion in deciding whether or not to give to the federal courts any part of the constitutional judicial power, save that the grant of original jurisdiction to the Supreme Court is self-executing; (4) though Congress has a wide discretion in granting or refusing to grant jurisdiction, there are due process limitations on this discretion. Scholarly and judicial support can be found for each of these views.

The difficulty on this point was felt in the first Congress. "The crucial contest in the enactment of the Judiciary Act," Charles Warren tells us, was between the broad pro-Constitution men who believed that Congress had no power to withhold from the federal courts any of the judicial power granted by the Constitution, and the narrow pro-Constitution men who were anxious to give the federal courts as little jurisdiction as possible.[22] Though the jurisdictional grants which were made in the First Judiciary Act are patently a compromise between these two positions, the fact is that Congress did not grant to the federal courts the full judicial power of the United States. There was no general grant of "federal question" jurisdiction, jurisdictional amount requirements barred access to federal court for small cases otherwise within the judicial power, and the troublesome "assignee clause" denied jurisdiction, though there was diversity between the parties of record, in some cases where the plaintiff was an assignee of a claim originally owned by a person who, for want of diversity, could not have sued in federal court.

The constitutionality of the decision of the first Congress might have been thought settled in 1799.[23] A case came to the Supreme Court in which the indorsee of a note had sued, and diversity existed between him and the defendants, but the record did not show the citizenship of the indorsers of the note. At the oral argument it was asserted that the citizenship of the indorsers was immaterial; since there was citizenship between the parties of record, the constitutional requirement was satisfied, and Congress lacked power to limit that jurisdiction by the assignee clause. Chief Justice Ellsworth expressed his doubt as to how far the argument could be carried, and Justice Chase expressed his view more strongly: "The notion has frequently been entertained, that the federal courts derive their judicial power immediately from the constitution; but the political truth is, that the disposal of the judicial power (except in a few specified instances) belongs to Congress. If Congress has given the power to this court, we possess it, not otherwise; and if Congress has not given the power to us, or to any other court, it still remains at the legislative disposal. Besides, Congress is not bound, and it would, perhaps, be inexpedient, to enlarge the jurisdiction of the federal courts, to every subject, in every form, which the constitution might warrant."[24] Though the opinion of the Court, holding the suit must fail for want of allegations as to the citizenship of the indorsers, does not discuss the constitutional question, it was necessarily present in the case, and, in view of the oral argument, cannot be thought to have been overlooked.

A different answer was given, however, by Justice Story, speaking for the Court in 1816, in the supremely important case of Martin v. Hunter's Lessee.[25] The language of Article Three, he said, "is manifestly designed to be mandatory upon the legislature. Its obligatory force is so imperative that Congress could not, without a violation of its duty, have refused to carry it into operation. The judicial power of the United States shall be vested (not may be vested) in one supreme court, and in such inferior courts as Congress may, from time to time, ordain and establish. * * * The judicial power must, therefore, be vested in some court, by Congress; and to suppose that it was not an obligation binding on them, but might, at their pleasure, be omitted or decline, is to suppose that, under the sanction of the constitution they might defeat the constitution itself; a construction which would lead to such a result cannot be sound.* * * If, then, it is the duty of Congress to vest the judicial power of the United States, it is a duty to vest the whole judicial power. The

Footnotes at end of article.

language, if imperative as to one part, is imperative as to all." [26]

Despite this strong statement of view, Justice Story apparently believed that the Constitution, though mandatory, was not self-executing. Sitting at circuit two years later, he marvelled at the fact that the jurisdiction conferred by Congress fell so far short of the constitutional extent, but held nevertheless that the court had no jurisdiction not given by some statute.[27]

Justice Story's view was not to prevail. At least since 1845 it has been frequently stated by the Supreme Court that "the judicial power of the United States, although it has its origin in the Constitution, is (except in enumerated instances, applicable exclusively to this court) dependent for its distribution and organization, and for the modes of its exercises, entirely upon the action of Congress, who possess the sole power of creating the tribunals (inferior to the Supreme Court), for the exercise of the judicial power, and of investing them with jurisdiction either limited, concurrent, or exclusive, and of withholding jurisdiction from them in the exact degrees and character which to Congress may seem proper for the public good." [28]

There is so much authority for the proposition that Congress is free to grant or withhold the judicial power that it might seem unnecessary to belabor the point. Yet lingering doubts remain. In 1949 the Court of Appeals for the District of Columbia asserted that it is compulsory upon Congress to confer the whole of the judicial power upon some federal court, and that if a case arises under the Constitution, laws, or treaties of the United States, jurisdiction to entertain it is in some district court by compulsion of the Constitution itself.[29] That decision was reversed, though on other grounds,[30] but it is interesting that a court at so late a date was willing to take a position which went even beyond Story's. Yet the position is supported by some modern writers.[31] Further there are other writers who recognize the general authority of Congress in this area, but who suggest that there are due process limits on the congressional power.[32] A decision of the Second Circuit lends supports to this thesis, saying that "while Congress has the undoubted power to give, withhold, and restrict the jurisdiction of the courts other than the Supreme Court, it must not so exercise that power as to deprive any person of life, liberty, or property without due process of law or to take private property without just compensation." [33] If there is any limit on Congress, this is probably the maximum limit. One hundred and seventy years of history stand in the way of those who would claim that Congress must vest the entire judicial power.

FOOTNOTES

[1] Barron & Holtzoff (Wright ed), § 21; Harris, The Judicial Power of the United States, 1940, c. 2; Hart, The Power of Congress to Limit the Jurisdiction of Federal Courts: An Exercise in Dialectic, 1953, 66 Harv.L.Rev. 1362; Ratner, Congressional Power over the Appellate Jurisdiction of the Supreme Court, 1960, 109 U.Pa.L.Rev. 157; Merry, Scope of the Supreme Court's Appellate Jurisdiction: Historical Basis, 1962, 47 Minn.L.Rev. 53.

[2] Chisholm v. Georgia, 1793, 2 Dall. 419, 1 L.Ed. 440; Florida v. Georgia, 1854, 17 How. 478, 15 L.Ed. 181; Kentucky v. Dennison, 1860, 24 How. 66, 16 L.Ed. 717.

[3] Marbury v. Madison, 1803, 1 Cranch 137, 2 L.Ed. 60; Wisconsin v. Pelican Ins. Co. of New Orleans, 1888, 8 S.Ct. 1370, 1379, 127 U.S. 265, 300, 32 L.Ed. 239.

[4] Ames v. Kansas ex rel. Johnston, 1884, 4 S.Ct. 437, 111 U.S. 449, 28 L.Ed. 482; U.S. v. California, C.A.9th, 1964, 328 F2d 729, certiorari denied 85 S.Ct. 84, 879 U.S. 817, 18 L.Ed.2d 29. Congress has in fact done this ever since 1780. See 28 U.S.C.A. §§ 1251, 1351. See §§ 109, 110 below.

[5] Cohens v. Virginia, 1821, 6 Wheat. 264, 5 L.Ed. 257.

[6] 1868, 7 Wall. 506, 19 L.Ed. 204.

[7] Ratner, Congressional Power over the Appellate Jurisdiction of the Supreme Court, 1960, 109 U.Pa. L.Rev. 157; Hart, The Power of Congress to Limit the Jurisdiction of Federal Courts: An Exercise in Dialectic, 1953, 66 Harv.L.Rev. 1302, 1365. See also Merry, Scope of the Supreme Court's Appellate Jurisdiction: Historical Basis, 1962, 47 Minn.L.Rev. 53, arguing that congressional control of the Supreme Court's appellate jurisdiction was intended to extend only to questions of fact, not questions of law.

In a dissenting opinion in Glidden Co. v. Zdanok, 1962, 82 S.Ct. 1459, 1501 n. 11, 370 U.S. 530, 605, 8 L.Ed.2d 671, Justices Douglas and Black say "there is a serious question whether the McCardle case could command a majority view today."

[8] Ex parte Yerger, 1869, 8 Wall. 85, 19 L.Ed. 332.

[9] Lockerty v. Phillips, 1943, 63 S.Ct. 1019, 319 U.S. 182, 87 L.Ed. 1339.

[10] Yakus v. U.S., 1944, 64 S.Ct. 660, 321 U.S. 414, 88 L.Ed. 834.

[11] Tennessee v. Davis, 1880, 100 U.S. 257, 25 L.Ed. 648; Martin v. Wyzanski, D.C. Mass. 1967, 262 F.Supp. 925.

[12] Lauf. v. E. G. Shinner & Co., 1938, 58 S.Ct. 578, 303 U.S. 323, 82 L.Ed. 872.

[13] 1 Barron & Holtzoff (Wright ed.), § 22. The constitutionality of this practice was thought beyond serious question in The Moses Taylor, 1867, 4 Wall. 411, 18 L.Ed. 397.

[14] Claflin v. Houseman, 1876, 93 U.S. 130, 23 L.Ed. 833; Charles Dowd Box Co. v. Courtney, 1962, 82 S.Ct. 519, 523, 368 U.S. 502, 507–508, 7 L.d. 2d 483. Note, Exclusive Jurisdiction of the Federal Courts in Private Civil Actions, 1967, 70 Harv.L.Rev. 509.

[15] 28 U.S.C.A. § 1334; 1 Barron & Holtzoff (Wright ed.), § 35; Mussman and Riesenfeld, Jurisdiction in Bankruptcy, 1948, 13 Law & Contemp.Prob. 88.

[16] 28 U.S.C.A. § 1338(a); 1 Barron & Holtzoff (Wright ed.), § 50; Note, The Jurisdiction of State Courts over Cases Involving Patents, 1931, 31 Col.L.Rev. 461.

[17] 28 U.S.C.A. §§ 1355, 1356; 1 Barron & Holtzoff (Wright ed.), § 44. The ALI Study, pp. 184–186, proposes repeal of these provisions.

[18] 18 U.S.C.A. § 3231.

[19] 28 U.S.C.A. §§ 1351 (consuls and vice-consuls as defendants), 1583 (review of decisions of collectors of customs); 1346 (United States as defendant). In the last of these categories it is only by implication that federal jurisdiction is exclusive.

Some provisions for exclusive federal jurisdiction appear outside the Judicial Code. See, e. g., 15 U.S.C.A. §§ 15, 26 (antitrust actions), 15 U.S.C.A. § 78aa (cases under the Securities Exchange Act) 15 U.S.C.A. § 717u (violations of the Natural Gas Act), and 40 U.S.C.A. § 270 (b) (suits on bonds under the Miller Act).

[20] 28 U.S.C.A. § 1333. See Barron & Holtzoff (Wright ed.) § 32.

[21] See ALI Study, pp. 234–239; Black, Admiralty Jurisdiction: Critique and Suggestions, 1950, 50 Col. L. Rev. 259, 266–267.

[22] Warren, New Light on the History of the Federal Judiciary Act of 1789, 1923, 37 Harv. L. Rev. 49, 65–70.

[23] Turner v. The President, Directors, and Company of the Bank of North America, 1799, 4 Dall. 8, 1 L. Ed. 718.

[24] 4 Dall. at 10.

[25] 1816, 1 Wheat. 804, 4 L.Ed. 97.

[26] 1 Wheat. at 328–330.

[27] White v. Fenner, C.C.D.R.I. 1818, 29 F.Cas. 1015 (No. 17,547).

[28] Cary v. Curtis, 1845, 3 How. 236, 245, 11 L.Ed. 576 To the same effect, see Sheldon v. Sill, 1850, 8 How. 441, 12 L.Ed. 1147; Plaquemines Tropical Fruit Co. v. Henderson, 1808, 18 S.Ct. 685, 170 U.S. 511, 42 L.Ed. 1126; Kline v. Burke Const. Co., 1988, 43 S.Ct. 79, 260 U.S. 226, 67 L.Ed. 226, 24 A.L.R. 1077; Lockerty v. Phillips, 1943, 63 S.Ct. 1019, 319 U.S. 182, 87 L.Ed. 1339.

[29] Eisentrager v. Forrestal, D.C.Cir. 1949, 174 F.2d 961, 966.

[30] Johnson v. Eisentrager, 1050, 70 S.Ct. 936, 330 U.S. 763, 94 L.Ed. 1255.

[31] 1 Crosskey, Politics and the Constitution in the History of the United States, 1953, pp. 610–620; Howland, Shall Federal Jurisdiction of Controversies Between Citizens of Different States be Preserved? 1932, 18 A.B.A.J. 499.

[32] Hart, The Power of Congress to Limit the Jurisdiction of Federal Courts: An Exercise in Dialectic, 1953, 66 Harv.L.Rev. 1362; Pritchett, The Political Offender and the Warren Court, 1958, pp. 65–69.

[33] Battaglia v. General Motors Corp., C.A.2d, 1948, 169 F.2d 254, 257, certiorari denied 69 S.Ct. 236, 335 U.S. 887, 93 L.Ed. 425.

Mr. GRIFFIN. I yield the distinguished Senator from North Carolina such time as he may require.

Mr. ERVIN. Mr. President, I just wish to reply very briefly to the argument made by the Senator from New York. He said that you could not have quality education unless you have forcibly integrated education.

I have high respect for the Senator from New York, but I think that argument is an insult to both the white and the black races. If that be true, I do not know how countries like Germany, which have no one to integrate, can ever be educated, or how countries like those in Africa which have no one to integrate can ever have quality education.

It is an absurdity to say that the black child cannot learn unless he has the enforced companionship of white children, or that the white child cannot learn unless he has the enforced companionship of black children.

As to the argument of the Senator from New York about the jurisdiction of the courts, I call the attention of the Senate to a statement which I understand was written by Edwin S. Corwin, one of the greatest constitutional authorities of this country. On page 700 of his book on the Constitution of the United States of America, which is in the office of every Senator, after reviewing the authorities, he states:

> The result is to vest an unrestrained discretion in Congress to curtail and even abolish the appellate jurisdiction of the Supreme Court, and to prescribe the manners and forms in which it may be exercised.

This amendment of the distinguished Senator from Michigan merely says that in exercising their jurisdiction, they shall not use busing as a method or form or manner of its exercise.

Then on the question of the jurisdiction of the district courts, the same book states, on page 705:

> The manner in which the inferior Federal courts acquire jurisdiction, its character, the mode of its exercise, and the objects of its operation, are remitted without check or limitation to the wisdom of the legislature.

The mode of exercise of jurisdiction relates to the remedy. Certainly Congress has the right to say "You cannot exercise your jurisdiction by requiring children to be bused out of their neighborhoods into schools elsewhere."

As the Senator from Michigan has so well pointed out, when labor—and labor is composed of adults, who are able to

look after themselves in large measure, as contrasted to little children—was being oppressed by injunctive government at the hands of the Supreme Court of the United States and other Federal courts, Congress came to the relief of labor and prevented the continuance of that tyranny against labor by denying the Federal courts the power to issue injunctions in labor controversies.

Surely, if Congress owes a responsibility to protect labor against judicial tyranny, it owes a greater responsibility to protect helpless little children and their parents against judicial tyranny which takes them out of their neighborhoods and transports them hither and yon on bureaucratic and judicial chessboards, just to mingle the races in the schools and not to enlighten their minds.

Perhaps I used a wrong metaphor when I said "chessboards," because chess is played according to certain rules. But the Supreme Court of the United States, in the case to which the Senator from New York pays such great tribute, said this:

> No fixed or even substantially fixed guidelines can be established as to how far a court can go, but it must be recognized that there are limits.

What the limits are, nobody tells us.

The result of the Swann case, instead of being an enlightened opinion, is to say that in this country, instead of having a government of laws, we are to have a government of men and that the rights of little children and of their parents and local school authorities are to be governed not by law, not by the Constitution, but by the caprice and the whim of Federal judges.

Mr. GRIFFIN. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator has 5 minutes.

Mr. GRIFFIN. I yield 4 minutes to the Senator from Alabama and reserve the remaining 1 minute.

Mr. ALLEN. I thank the distinguished Senator from Michigan.

Mr. President, I invite attention to the fact that the amendment before the Senate is only a perfecting amendment. It perfects an amendment which was offered by me and the distinguished Senator from North Carolina (Mr. ERVIN). It adds additional provisions to the amendment which I offered. It therefore perfects that amendment, and, if agreed to by the Senate, it would not be the Senate's final word on the subject. It still would be subject to the substitute offered by the Senator from Montana and the Senator from Pennsylvania.

Mr. President, why should not those of us who want to put an end to the pernicious practice of forced busing not be permitted to offer the best alternative possible to the Scott-Mansfield substitute? The changing of an amendment, the adding of provisions, is a courtesy that is accorded to every Senator on request, in the ordinary procedure. All that is sought at this time is to add a provision to form a basis for an alternative provision to the Scott-Mansfield substitute which is so much a pro-busing amendment rather than an antibusing amendment.

I hope that this perfecting amendment will be adopted and that other perfecting amendments will be adopted before there is a final vote on the Scott-Mansfield amendment, which was offered to an amendment of mine and the distinguished Senator from North Carolina (Mr. ERVIN).

GOOD ADVICE ON BUSING

Mr. HART. Mr. President, as we embark on what can become an emotional debate on school busing, all of us would do well to read an article written by Leonard Woodcock, President of the United Auto Workers, and published in yesterday's Detroit Free Press.

Mr. Woodcock suggests that in debating the question of busing, we are "engaged on the wrong issue, on the wrong terms, at the wrong time."

Mr. Woodcock writes:

> The great debate should be over how we can best achieve in the shortest possible time, non-discriminatory high quality education. In *Brown* v. *Board of Education*, the Supreme Court mandated the elimination of racially segregated schools. I reaffirm my strong belief in that decision—separate cannot be equal.

Mr. Woodcock makes a strong appeal that public officials and press alike do their best not only to keep the busing issue in perspective but to address themselves to the more important problems. We would do well to follow his advice.

I ask unanimous consent that Mr. Woodcock's article be printed in the RECORD.

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

BUSING CONTROVERSY CLOUDS REAL ISSUE OF EDUCATION

(By Leonard Woodcock)

Plain talk about the problems of public education in this nation is long overdue. There has been too much heat and not enough light shed on vital, sensitive issues of public education—unfairly narrowed by some to what is commonly referred to as the "busing issue." My own words as well as those of others have been taken out of context, distorted and blown out of proportion. It is time now to put the issue properly into context.

The great debate should be over how we can best achieve, in the shortest possible time, non-discriminatory high quality education. In Brown v. Board of Education, the Supreme Court mandated the elimination of racially segregated schools. I reaffirm my strong belief in that decision—separate cannot be equal.

"Busing" has become a highly explosive and emotional word and it is, unquestionably, a code word exploited by some men in high places whose mission should be to pull this nation together rather than to tear it apart. I hope we can persuade those who seek high public office to address themselves to real problems and to heal the nation's wounds, rather than to exacerbate our differences and to promote hate and fear.

It is, however, clear that certain senators, congressmen, state legislators and even those in more exalted political office seem determined to pursue the course of division in this matter. They press constitutional amendments, which, in my view, are unwise and unworthy, and they fan the fires of prejudice. They speak in careful terms but their hidden troops carry the message into the back alleys in naked racist terms. These are the professional anti-busers.

At the other end of the spectrum are those well-meaning liberals who take the bait and tragically do battle on the field and in the terms chosen by the professional anti-busers.

Both groups do the community great disservice. They are engaged on the wrong issue, on the wrong terms, at the wrong time.

Immediate and massive busing cannot solve problems born of generations of discrimination and insensitivity. It is, however, also wrong to eliminate any possibility of the use of some busing as a tool and to use the concept to isolate and polarize the races in the hope of selfish political gain.

At this moment of relative affluence, it is nothing short of shocking to see inner-city schools shortchanged on funds, overcrowded, ill-equipped and poorly manned. Those who have been the victims of segregation, discrimination and societal oversight now see their children punished anew by the denial of a decent educational opportunity. I say these conditions are intolerable.

By the same token, we would be less than fair if we did not understand the feelings of those parents who, without regard to color, have made great sacrifices to move into areas where their children could attend better schools and who face the prospect of having those children bused back to inferior schools. That situation also is tragic.

Americans must recognize that past segregation, as well other forms of racial discrimination, left deep scars and have cast a pall on our system. There is no question but that every American must share the responsibility and the cost of erasing every vestige of discrimination in our society. In this respect, an important area of concern must be the public education system.

Our schools became bastions of segregation in two principal ways. Some localities by law and conscious effort, operating under the discredited doctrine of separate-but-equal, required segregated schools. In other sections of the country, segregated schools are the result of years of economic, social and housing discrimination which created ethnic and racial ghettos.

OVERDUE BILL

Segregated housing in the North was rarely a product of individual choice. Separate neighborhood patterns grew out of the poverty of many black families, restrictive zoning and land use, unconscionable practices of real estate dealers and mortgage lenders—all imposed by society.

Segregation in the public schools must be recognized as the direct result of years and years of racism in our society.

The bill that has become overdue is owed by every American. It cannot be paid in full by innocent young people. Society's past transgressions must be remedied by the whole body politic. It is neither realistic nor fair to insist that only one segment—schoolage children—bear the entire cost. I, for one, certainly sympathize with those parents whose children would be sent to inferior schools because of the errors and misdeeds of others.

Those of every race, creed and national origin who really care about children and the future of our country realize that the issue must be one of quality, equal education. Just as the isolated, misused busing issue is neither black nor white—as polls and surveys repeatedly show—neither is quality education a goal of only one race. It is that issue, quality education, around which we can rally.

What we most need now is a direct and concerted effort to achieve quality and equality in public education for all children in all schools. Neither black nor white children are served by being bused into inferior schools. That is the main issue—quality education—not busing.

We know enough about what quality education should be to know that for most Americans it does not now exist. The essential elements of quality education are,

unfortunately, easier to list than to achieve, but identification of needs is the very first step. To obtain quality public school education in this nation we need, immediately, to make a massive commitment to the following goals:

More money and more equal financing, on a fairer and more progessive tax base.

More teachers—better qualified, trained and more dedicated—assigned on the basis of pupil need.

More and better guidance counselors and administrators.

Better, more modern school plants and equipment.

Curriculum improvements and use of more modern and experimental techniques.

More community, especially parent, involvement.

More adequate security in terms of administrative and police protection.

Achievement of a fair, non-discriminatory system.

If we fail or delay in meeting our obligations to the children, future generations of Americans will pay the price. America cannot wait to make the proper commitment to quality and equality of education.

As we move toward quality education, of necessity, we must also move toward desegregation. The slow process of integration of neighborhoods takes too long; but busing and any other techniques of integrating schools might sensibly and rationally be used with the effort of quality education, but not before it.

MEANS, NOT AN END

In a democracy, any ideal system of quality education must be non-discriminatory. Consequently, a total commitment to qualify education, by definition, includes a commitment to desegregation. That is why we cannot support the effort to isolate one technique of achieving integration and outlaw it, even though those of little principle would go so far as to amend the United States Constitution. At the same time, while I refuse to discard any reasonable tool of desegregation, I recognize that premature moves aimed solely at racial balance can be counter-productive and harmful to quality education and racial peace.

It is against the national interest to isolate and emphasize busing as an issue. Busing is not an educational system; it is merely a means of transportation. More than 40 percent of American children have traditionally been bused to school.

In trying to suggest the lines of public debate on these great issues, I have avoided any discussion of pending court cases. It does not seem appropriate to me for the public or its leaders to debate such matters. Judges, I hope, are interested in framing their decrees on the basis of the law as they see it and not on the results of polls or the views of politicians and others. I do emphasize, however, my strong feeling that court decrees, in a system of law, must be respected. Of course, I also see it as perfectly proper in individual cases for appeals to be lodged and stays to be sought.

Finally, I would hope that not only would our political leaders emphasize real priorities and avoid destructive and emotional demagoguery, but that the media—press, radio and television—would also put this sensitive national problem in proper perspective.

In this context, I suggest that such questions as "Do you favor widespread busing?" do not serve a legitimate purpose. They are improper. To ask the question is to foreclose honest discussion. Instead, we must ask, "How can we best achieve quality, equal and integrated education?" That question can be answered. Let us hope that the leaders of public opinion will address themselves to that issue.

To play on black frustration and white fear is to play Russian roulette with America's future.

For myself, I favor quality and equality of education, which, of course, includes desegregated schools.

ORDER OF BUSINESS

Mr. JAVITS. Mr. President, will the Senator yield me 2 minutes?

Mr. PELL. I yield 2 minutes to the distinguished Senator from New York.

(The remarks Mr. JAVITS made at this point on the introduction of S. 3228 are printed in the RECORD under Statements on Introduced Bills and Joint Resolutions.)

EDUCATION AMENDMENTS OF 1972

The Senate continued with the consideration of the House amendment to S. 659, a bill to amend the Higher Education Act of 1965, the Vocational Education Act of 1963, and related acts, and for other purposes.

The PRESIDING OFFICER. Who yields time?

Mr. PELL. Mr. President, I suggest the absence of a quorum, the time to come out of my time.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

Mr. GRIFFIN. Mr. President, I ask for the yeas and nays on my amendment.

The yeas and nays were ordered.

Mr. PELL. Mr. President, I wonder whether the Senator from Michigan would be willing to yield back his minute and I will be willing to yield back my 30 minutes.

Mr. GRIFFIN. I yield back my remaining time.

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

The PRESIDING OFFICER. All time has been yielded back.

Mr. MONDALE. Mr. President, I send to the desk a perfecting amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read the amendment as follows:

At the end of the language to be stricken add the following:

"All requirements established under this Act shall be applied on a uniform basis to conditions of segregation, whether de facto or de jure, throughout the Nation."

Mr. BAKER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. Who yields time?

Mr. PELL. Who has the time, Mr. President?

Mr. PASTORE. The mover of the amendment.

Mr. GRIFFIN. Mr. President, who has the floor?

The PRESIDING OFFICER (Mr. KENNEDY). The Senator from Minnesota, the Senator from Montana, or his designate.

Mr. MANSFIELD. The Senator from North Carolina (Mr. ERVIN) has control of the time in opposition.

The PRESIDING OFFICER. Who yields time?

Mr. MONDALE. Mr. President, I yield myself such time as I may need.

Mr. President, repeatedly, we hear charges that school desegregation requirements are enforced only in the South. Recent decision in Pasadena and San Francisco, Calif.; Detroit and Pontiac, Mich.; South Holland, Ill.; and pending lawsuits in Cincinnati, Ohio; Indianapolis, Ind.; and in East St. Louis, Ill., and elsewhere, as well as recent HEW actions in Boston, Mass., and Ferndale, Mich., demonstrate that this is not the case. But I do believe that, until the past few years, desegregation in the South—where segregation was the product of State law—did receive more attention from the Departments of Justice and Health, Education, and Welfare than did the elimination of racially discriminatory school assignments in the North—where proving official discrimination is a far more complex task.

This perfecting amendment is intended to insure that the pending bill is administered on a nonsectional, uniform basis throughout the country.

Mr. President, I also wish to speak briefly in opposition to the amendment offered by the distinguished Senator from Michigan (Mr. GRIFFIN). In my opinion, amendment No. 915 is both unconstitutional and highly destructive.

The amendment clearly attempts to deprive Federal courts and Federal agencies of the power to require that pupils be transported to or from school to achieve elimination of unconstitutional segregation.

This prohibition would protect school assignments which are clearly discriminatory. If this amendment were adopted, and if it were the law of the land—which it cannot be because it seeks to amend the Constitution—but if it were, the court would find that a school district was deliberately and knowingly separating children on the basis of color, sending all whites to the white school and all blacks to the black school, and that the school district was doing so as an official, conscious policy, and the court would be denied any authority to do anything about it. And Federal agencies would be unable to act under title VI of the Civil Rights Act of 1964.

With respect to courts, this approach is, in my opinion, plainly unconstitutional. The amendment would severely weaken title VI of the Civil Rights Act, by prohibiting the application of constitutional standards in administering its provisions with respect to public schools.

As the Supreme Court stated in Green against New Kent County, decided in March 1968, the goal of the 14th amendment and title VI of the Civil Rights Act of 1964 is to eliminate the results of past racially-based student assignment practices, so that "no student will be effectively excluded from any school on the basis of race."

The Constitution deals only with segregation which is the result of racially discriminatory official action. But once school officials have taken account of race

in assigning students and locating schools, an effective remedy cannot be achieved without taking race into account—and reasonable transportation may also be needed.

Mr. President, we get the impression from this debate that there is no longer discrimination in the schools, that whatever may have been the case some years back, discrimination based on race in the assignment of pupils to schools throughout the country is over and that, therefore, we can safely prohibit any further school busing.

Yet, there is abundant evidence, in fact, that discrimination continues to exist throughout the country.

For example, in Pasadena, Calif., a northern community, the U.S. Federal district court found the following:

First, that the school district intentionally gerrymandered attendance zones to concentrate black students in particular schools, and white students in other schools.

Second, that the school district provided transportation to permit white students to avoid integration. In other words, in this northern school system very recently, the court found there was busing, but it was busing for the purpose of separating the children on the basis of race.

Third, that the school district has contributed to the racial identifiability of its schools by assigning the great majority of its black teachers and administrators to predominately black schools—and even assigned substitute teachers on a racial basis.

Fourth, that less well educated, less experienced, and more highly paid teachers were concentrated in majority black schools.

Fifth, that black teachers were denied advancement to administrative positions on a racially discriminatory basis.

Sixth, that in particular, the size of schools was regulated to assure that integration would not take place—and portable classrooms were located at black elementary schools to prevent the assignment of students to adjoining white schools.

Seventh, that transfers out of neighborhood schools were permitted when the stated purpose was clearly to foster segregation.

The issue of discrimination in American public schools is very much still with us. I pointed out in my speech the other day the case of South Holland, Ill. This is a fairly recent case. It is a northern city. The court there found that the public agencies were deeply involved in fostering school segregation. The court found that the schools were located in the center rather than at the boundaries of segregated residential areas in order to achieve school segregation, in order to assure that the schools would be black and white schools, not just plain public schools.

The court also found that the school assignment policies were adopted under which black children living nearer to white schools attended black schools, and white children living nearer to black schools attended white schools.

In other words, to put it mildly, they had a system of busing to separate children on the basis of race. They would take the black children, who could go to a closer school, a school that would be predominantly white, and bus them right by that school and take them to a much more distant school that was predominantly black. That is an example of prejudice of recent origin in a northern community.

There is, therefore, much evidence that, repeatedly and widely throughout the country, the concept of public education has been widely ignored for the purpose of achieving segregation.

Indianapolis, Ind., is a very recent case. The court found that housing segregation was encouraged by realtors and lending agencies, by racially restrictive covenants and land deeds, and even by a 1926 city ordinance which prevented blacks from purchasing "a home-residence on any property located in a white community or a portion of the municipality inhabited principally by white people."

Before 1949, schools in Indianapolis were segregated by law.

Subsequent to 1949, school boundary lines were designed to permit segregation—the assigning of children to schools that were not closest to their homes in order to maintain segregation.

School locations were chosen to continue segregation.

Additions to existing black schools were constructed to avoid sending students to nearby white schools.

"Optional attendance zones" were used to permit students to leave "neighborhood schools" to avoid integration.

Even special education classes—normally districtwide—were largely segregated.

The Department of HEW found in Boston, Mass., that two separate and overlaying sub-school systems were being maintained—one with 8 years of elementary school and 4 years of high school; and one with 6 years of elementary school, 3 years of junior high school, and 3 years of high school.

More than two-thirds of the students in the sub-system with the 4-year high schools are from minority groups, while more than three-fourths of the students enrolled in the subsystem with the 3-year high schools are white.

In Detroit, Mich., in a current case, the Federal court found that schools were intentionally located to increase segregation and that State and Federal agencies, including the FHA, were involved in preventing black families from obtaining housing outside the Detroit ghetto.

Mr. President, we could go on with current examples throughout the country. Discrimination is not dead. It is very much alive.

But efforts to discriminate would be dead if the pending amendment, No. 915, were agreed to—and if it were constitutional, which it is not—because in each of the instances I have cited the courts would be denied—the power to do anything about those discriminatory practices. And the Department of HEW and the Department of Justice would be denied as well the opportunity to even begin the effort.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. GRIFFIN. Mr. President, who has control of the time?

The PRESIDING OFFICER. The Senator from North Carolina has control of the time.

Mr. ERVIN. Mr. President, I yield 5 minutes to the Senator from Michigan.

The PRESIDING OFFICER. The Senator from Michigan is recognized for 5 minutes.

Mr. GRIFFIN. Mr. President, I wish to propound some parliamentary inquiries of the Chair.

The PRESIDING OFFICER. The Senator will state the parliamentary inquiries.

Mr. GRIFFIN. Mr. President, as I understand it, the amendment now pending, offered by the distinguished Senator from Minnesota (Mr. MONDALE), is a perfecting amendment to the text of the committee amendment proposed to be stricken by the amendment of the Senator from Alabama (Mr. ALLEN).

The PRESIDING OFFICER. The Senator is correct.

Mr. GRIFFIN. Mr. President, would it be in order for the junior Senator from Michigan, or any Senator, to offer a further amendment to the perfecting amendment offered by the Senator from Minnesota?

The PRESIDING OFFICER. The Chair would advise the Senator that the amendment is open to an amendment in one degree.

Mr. GRIFFIN. Mr. President, would it be in order for the junior Senator from Michigan to offer such an amendment at this time?

The PRESIDING OFFICER. Not until the time has expired, except by unanimous consent.

Mr. GRIFFIN. If I send such a perfecting amendment to the desk at this time, it is my understanding that it could be read at this time but could not be called up for consideration until the expiration of the 2 hours.

The PRESIDING OFFICER. The Chair will entertain a request under those circumstances.

Mr. GRIFFIN. Mr. President, I send to the desk such a perfecting amendment and ask that it be stated. And I wish to indicate that upon the expiration of the 2 hours, the junior Senator from Michigan will be standing on his feet seeking recognition for the purpose of offering that amendment.

The PRESIDING OFFICER. The amendment will be read on the Senator's time.

Mr. GRIFFIN. Yes.

Mr. MONDALE. Mr. President, a parliamentary inquiry.

Mr. GRIFFIN. I do not yield for that purpose now. However, I will later.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk proceeded to state the amendment.

Mr. GRIFFIN. 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 the amendment will be printed in the RECORD.

The amendment reads as follows:

In the text of the Mondale amendment, after the words "uniform basis" insert a period, strike the remainder of the sentence, and add the following:

SEC. 902. No court of the United States shall have jurisdiction to make any decision, enter any judgment or issue any order the effect of which would be to require that pupils be transported to or from school on the basis of their race, color, religion, or national origin.

SEC. 903. No department, agency, officer, or employee of the United States, empowered to extend Federal financial assistance to any program or activity at any school by way of grant, loan, or otherwise, shall withhold or threaten to withhold any such Federal financial assistance in order to coerce or induce the implementation or continuation of any plan or program the effect of which would be to require that pupils be transported to or from school on the basis of their race, color, religion, or national origin.

SEC. 904. Notwithstanding any other law or provision of law, in the case of any order on the part of any United States district court which requires the transfer or transportation of any student or students from any school attendance area prescribed by competent State or local authority or which requires the consolidation of two or more local educational agencies for the purposes of achieving a balance among students with respect to race, color, religion, or national origin, the effectiveness of such order shall be postponed until all appeals in connection with such order have been exhausted or, in the event no appeals are taken, until the time for such appeals has expired.

SEC. 905. If any provision of this title, or the application thereof to any person or circumstance, is held invalid, the remaining provisions of this title, or the application of such provision to other persons or circumstances, shall not be affected thereby.

Mr. GRIFFIN. Mr. President, if the junior Senator from Michigan obtains recognition and offers that perfecting amendment, will it be in order?

The PRESIDING OFFICER. Would the Senator state the parliamentary inquiry again?

Mr. GRIFFIN. The parliamentary inquiry is, if the junior Senator from Michigan, upon the expiration of the 2-hour time limit, can obtain recognition, would the amendment just read be in order?

The PRESIDING OFFICER. The amendment would be in order.

Mr. GRIFFIN. I thank the Chair.

Mr. President, a further parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. GRIFFIN. Mr. President, if the junior Senator from Michigan obtains recognition and offers that amendment, would any further amendment of any kind be in order thereafter, before we vote?

The PRESIDING OFFICER. Not until the vote on the suggested amendment, if offered.

Mr. GRIFFIN. Mr. President, I thank the Chair.

Mr. PASTORE. Mr. President, will the Senator yield for a parliamentary inquiry?

Mr. MONDALE. Mr. President, I yield such time as he requires to the Senator from Rhode Island.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. PASTORE. Mr. President, in other words, if this amendment is brought up and in order if the Chair recognizes the Senator from Michigan, that will preclude the minority leader and the majority leader from offering a perfecting amendment to their amendment.

The PRESIDING OFFICER. The Chair is advised that it will prevent any further amendment until the Senate had voted on that suggested amendment, if offered.

Mr. PASTORE. Mr. President, in other words, the perfecting amendment that will be sponsored at that time will have to follow the vote on the amendment of the Senator from Michigan?

The PRESIDING OFFICER. The Chair is advised that we would have to first vote on the amendment suggested by the Senator from Michigan and then on any other perfecting amendments that might be offered thereafter.

Mr. MONDALE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MONDALE. Do I understand that the ruling by the Chair on the question of the Senator from Michigan assumes that a prior amendment has not been called up and made to my amendment?

The PRESIDING OFFICER. The amendment of the Senator from Michigan cannot be called up until time has expired on the amendment of the Senator from Minnesota.

Mr. MONDALE. But the Senator from Michigan has not been recognized for the purpose of calling up his amendment.

Mr. ERVIN. No, I yielded to the Senator from Michigan, but I did not——

The PRESIDING OFFICER. Five minutes was yielded to the Senator from Michigan by the Senator from North Carolina for the purpose of having the amendment read.

Mr. MONDALE. My point is that, as I understand the parliamentary situation, the Senator from Michigan is not automatically recognized for the purpose of offering his amendment at the expiration of the time on the pending amendment.

The PRESIDING OFFICER. The Senator is correct.

Mr. ERVIN. Mr. President, if no other Senator wishes to address the Senate, I will proceed to discuss the amendment offered by the distinguished Senator from Minnesota. I yield myself such time as I may use.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. ERVIN. Mr. President, as one who believes that what is sauce for the southern goose should be sauce for the northern gander, the Senator from North Carolina is subjected to a temptation to support the perfecting amendment of the distinguished Senator from Minnesota. But the Senator from North Carolina has taken an oath to support the Constitution of the United States and the Senator from North Carolina considers that that oath imposes upon him the obligation to vote against legislative proposals which are clearly irreconcilable with that Constitution.

We have heard great tribute paid during this debate to the decision in Swann against Charlotte-Mecklenburg Board of Education. That case arose 70 miles from the home of the Senator from North Carolina and the Senator from North Carolina filed a brief amicus curiae in that case on behalf of the Classroom Teachers Association of Charlotte, Mecklenburg County, and asked the court to reverse that decision.

The Senator from North Carolina did so because the district judge in that case found as a fact that it was impossible to desegregate the predominantly black school districts in the city of Charlotte without busing thousands and thousands of school children. To the Senator from North Carolina that meant that they were dealing with a case of de facto desegregation.

But, unfortunately, the same Swann case indicates that we have different rules of evidence in some States of the Union from those rules of evidence which prevail in other States of the Union. It holds, in effect, that it takes less evidence to make out a case of discriminatory official practice in certain States from what is required in other States.

I am a great believer in uniformity. I have an amendment here, a perfecting amendment, on which I hope to get a rollcall vote that would provide that the rules of evidence which prevail in the Federal courts in school desegregation cases shall be uniform throughout the United States and that no presumption shall arise and no inference shall be drawn from the circumstances that the school authorities having control or management of particular schools happen to be operating in a State so ignorant that it did not precede the Supreme Court itself in discovering that the separate but equal doctrine had ceased to be a part of the law of the land.

The Swann case recognizes that different rules of evidence prevail in Federal courts in those States where the government was so dumb it was not smarter than the Supreme Court and did not anticipate before the Brown case that the separate but equal doctrine was no longer part of the law of the land.

Now, I cannot vote for the amendment of the Senator from Minnesota because the Supreme Court declares 23 times in the Swann case that his amendment is unconstitutional in that it attempts to make the Mansfield-Scott amendment applicable to de facto segregation.

The Swann case states 23 times in 28 pages that Congress has no power to legislate in respect to de facto segregation—23 times. And here, under the amendment of the Senator from Minnesota, and under the second sentence in subsection (b) of the Mansfield-Scott amendment, the Department of Health, Education, and Welfare would have the right and power to require every school district in the United States, whether it was segregated de facto or de jure, to transport students unless the time and the distance of travel is too great or unless it would impinge on their educational opportunity, and a few other nebulous things that are about as concrete as the stars in the Milky Way.

The Senator from North Carolina believes that we ought to leave control of the schools in the hands of local officials. We cannot vote for an amendment which the Supreme Court declared in the Swann case 23 times would be unconstitutional if it were agreed to.

Mr. President, I yield back the remainder of my time in opposition to the amendment.

Mr. GRIFFIN. Mr. President, will the Senator reserve several minutes?

Mr. ERVIN. Yes; I reserve whatever time the distinguished Senator from Michigan wishes to use.

Mr. GRIFFIN. I thank the Senator.

Mr. President, earlier the Chair will recall that the junior Senator from Michigan propounded a series of parliamentary inquiries and made it clear that he had prepared and waiting at the desk a perfecting amendment to the amendment offered by the Senator from Minnesota (Mr. MONDALE), and that the Senator from Michigan asked and had it established that the amendment would be in order if the junior Senator from Michigan could get recognition.

At the end of the period of time which is allotted for the particular amendment before the Senate, the junior Senator from Michigan will be on his feet and will be seeking recognition and hopes very much, of course, that the Chair will respect that prior notice and that the junior Senator from Michigan will have the opportunity to have his amendment considered. I thank the Senator from North Carolina for yielding. If he wants to yield back the remainder of his time, that is fine with me.

Mr. ERVIN. Mr. President, the Senator from North Carolina yields back his remaining time.

Mr. SCOTT. Mr. President, is there time in opposition to the amendment?

Mr. ERVIN. Mr. President, I will say to the Senator that I had control of the time in opposition.

Mr. SCOTT. Is the time for the opponents all yielded back?

Mr. ERVIN. I have yielded back my time, but the Senator from Minnesota still had some of his.

Mr. JAVITS. Mr. President——

Mr. ERVIN. If I could ask unanimous consent to withdraw my yielding back my time, I will be glad to yield some time to the distinguished Senator from Pennsylvania.

Mr. SCOTT. If the Senator from New York will yield me time, since he has the time of the Senator from Minnesota, that would be satisfactory.

Mr. JAVITS. I yield to the Senator from Pennsylvania.

Mr. SCOTT. Mr. President, I want to say that I had already lodged with the Chair the request that when the time had expired, either the majority and minority leader be recognized, under the earlier understanding that any Senator might offer such amendments as might be in order. I did not want to take anybody by surprise, but we had already made a request prior to the request by my colleague, the distinguished Senator from Michigan, or, in any event, so far as I was aware.

Mr. GRIFFIN. I was going to say I had made it clear much earlier, before the minority leader came into the Chamber, that I intended to seek recognition at the expiration of time on the pending amendment.

Mr. SCOTT. I think the important thing now is that we all want to get votes on our respective amendments. If the distinguished Senator from North Carolina wants to yield back his time——

Mr. JAVITS. Mr. President, I am not ready to yield back my time.

Mr. ERVIN. Mr. President, I would like to propound a parliamentary inquiry.

The PRESIDING OFFICER (Mr. STAFFORD). The Senator will state his parliamentary inquiry.

Mr. ERVIN. Is it not the duty of the Chair to recognize whichever Senator first demands recognition when time for demand recognition has arrived?

The PRESIDING OFFICER. The Chair will ask the clerk to read rule XIX, paragraph 1.

The assistant legislative clerk read as follows:

When a Senator desires to speak, he shall rise and address the Presiding Officer, and shall not proceed until he is recognized, and the Presiding Officer shall recognize the Senator who shall first address him. No Senator shall interrupt another Senator in debate without his consent, and to obtain such consent he shall first address the Presiding Officer, and no Senator shall speak more than twice upon any one question in debate on the same day without leave of the Senate, which shall be determined without debate.

The PRESIDING OFFICER. Who yields time?

Mr. SCOTT. Mr. President, will the Senator from Minnesota yield me 2 minutes?

Mr. MONDALE. Mr. President, I yield such time as he may need to the Senator from Pennsylvania.

Mr. SCOTT. Mr. President, I am serving notice now that I will be on my feet from now until all time is yielded back and will be seeking recognition, and I believe, as the distinguished majority leader has made clear so many times in the past, it is the custom and precedent of the Senate to recognize the majority leader if he is seeking recognition, and perhaps the somewhat lesser custom, to recognize the minority leader if the majority leader is not seeking recognition. In any event, I am on my feet and will be here until the time expires.

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

Mr. SCOTT. I yield.

Mr. MANSFIELD. Mr. President, there is nothing in the rules of the Senate which calls for precedent in recognizing either the minority or majority leaders or their deputies if they are acting in that capacity during the absence of the joint leadership. It is my recollection, however, that on the basis of custom, it has been the usual courtesy extended to the leadership on those occasions; and if a motion is being made at the present time, or if the question has been raised, that such will not be the case in this particular instance, then it will set a precedent in other instances as well.

May I point out also that even though there are no rules or regulations, to the best of my knowledge, which accord that privilege to the leaders, who have little privilege, really, and little power, compared to other Senators, if my memory serves me right, the equivalent of a Constitution in Great Britain is an unwritten document and it is based in large part on custom and precedent, and down through the centuries it is recognized as law. I am not saying it should be recognized as law in this instance, but in a like manner as our laws are based on that country's, the tradition and practice of precedent I cite as a similarity which should be brought to the attention of the Senate at this time.

It is, of course, up to the Chair to do what it wishes, but I would cite precedent and custom as being factors in this matter, and I would hope that if either the minority leader is or I am on my feet at the appropriate time, we would be recognized for that purpose.

Mr. ERVIN. Mr. President, a parliamentary inquiry.

Mr. SCOTT. Mr. President, I do not believe the Chair has responded to the question.

The PRESIDING OFFICER. The Chair will say that the Chair is aware of the tradition and custom in the Senate which recognizes the leadership.

Mr. ERVIN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. ERVIN. When the majority leader or the minority leader, or the majority leader and minority leader in unison, introduce an amendment, do they not introduce an amendment in their respective capacities as Senators from the States which they represent rather than in their capacities as leaders of the Senate, and in consequence is it not true that under the Senate rules they have no priority in obtaining recognition for the purpose of offering amendments over other Senators?

The PRESIDING OFFICER. The Chair will say to the Senator that he is advised that that distinction has not been made in the past.

Mr. SCOTT. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. SCOTT. As I understand it, the proponents of the amendment have yielded back their time.

The PRESIDING OFFICER. If the Senator will bear with the Chair, the Senator from Minnesota has not yielded back his time, according to the understanding of the Chair.

Mr. SCOTT. But the Senator from North Carolina has yielded back his time?

The PRESIDING OFFICER. That is correct.

Mr. SCOTT. I stated it incorrectly.

I understand the Senator from Minnesota is about ready to yield back his time. If he does so, I serve notice on the Senate that the moment the Senator yields back his time, I am standing here seeking recognition.

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

Mr. SCOTT and Mr. GRIFFIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

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

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. BAKER. Mr. President——

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

Mr. SCOTT. Mr. President, the Senator from Pennsylvania has been recognized before the Senator suggested the absence of a quorum. The RECORD will so show.

Mr. BAKER. Mr. President, what is the status and who has the floor?

The PRESIDING OFFICER. The Chair recognized the Senator from Pennsylvania.

Mr. BAKER. What was the disposition by the Chair of the request for a quorum call?

The PRESIDING OFFICER. The Chair had recognized the Senator from Pennsylvania before he heard the request for a quorum call.

Mr. BAKER. Mr. President, a further parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BAKER. Does that negate the request for the quorum call?

The PRESIDING OFFICER. The Chair would advise the Senator that it does, since the Senator from Pennsylvania had been recognized.

Mr. SCOTT. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

At the end of the language to be inserted by the Mondale perfecting amendment add the following:

SEC. — (a). No funds appropriated for the purpose of carrying out any program subject to the provisions of the General Education Provisions Act, including this Act, may be used for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to overcome racial imbalance in any school or school system, or for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to carry out a plan of racial desegregation of any school or school system, except on the express written request of appropriate local school officials: *Provided, however,* That no Court, and no officer, agent or employee, of the United States shall order the making of such a request: *And provided further,* That no funds shall be made available for transportation when the time or distance of travel is so great as to risk the health of the children or significantly impinge on the educational process.

(b) No officer, agent or employee of the Department of Health, Education, and Welfare (including the Office of Education), the Department of Justice, or any other Federal agency shall, by rule, regulation, order, guideline, or otherwise, (1) urge, persuade, induce, or require any local education agency, or any private nonprofit agency, institution or organization to use any funds derived from any State or local sources for any purpose, unless constitutionally required, for which Federal funds appropriated to carry out any applicable program may not be used, as provided in this section, or (2) condition the receipt of Federal funds under any Federal program upon any action by any State or local public officer or employee which would be prohibited by clause (1) on the part of a Federal officer or employee. No officer, agent or employee of the Department of Health, Education, and Welfare (including the Office of Education) or any other Federal agency shall urge, persuade, induce or require any local education agency to undertake transportation of any student where the time or distance of travel is so great as to risk the health of the child or significantly impinge on his or her educational process; or where the educational opportunities available at the school to which it is proposed that such student be transported will be substantially less than to those offered at the school to which such student would otherwise be assigned under a nondiscriminatory system of school assignments based on geographic zones established without discrimination on account of race, religion, color or national origin.

(c) Notwithstanding any other law or provision of law, in the case of any order on the part of any United States district court which requires the transfer or transportation of any student or students from one local educational agency to another, or which requires the consolidation of two or more local educational agencies for the purpose of achieving a balance among students with respect to race, sex, religion or socioeconomic status, the effectiveness of such order shall be postponed until all appeals in connection with such order have been exhausted or, in the event no appeals are taken, effect upon the date of its enactment shall expire at midnight on June 30, 1973.

Mr. SCOTT. Mr. President, at this point I demand the yeas and nays.

The yeas and nays were ordered.

Mr. BAKER. Mr. President——

Mr. ERVIN. Mr. President——

The PRESIDING OFFICER. Who yields time?

Mr. SCOTT. Mr. President, at this point I am not prepared to yield time. While I intend to continue for a few minutes, it might be well to clarify who has the time for the other hour in opposition to my perfecting amendment.

The PRESIDING OFFICER. The Chair understands that the minority leader has 1 hour for the amendment, and that the other hour would go to the manager of the bill, if he is opposed to the amendment. If not, that time also goes to the minority leader.

Mr. PELL. Mr. President, I yield the time in opposition to the Senator from North Carolina (Mr. ERVIN).

The PRESIDING OFFICER. The Senator from North Carolina, then, has 1 hour.

Mr. BAKER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. Who yields time?

Mr. BAKER. Will the Senator from North Carolina yield to me so that I might propound a parliamentary inquiry?

Mr. ERVIN. I was under the impression that the distinguished Senator from Pennsylvania has the floor.

Mr. SCOTT. Mr. President, I have the floor, and I was prepared to proceed for a few minutes, with the understanding that the Senator from North Carolina would then perhaps wish to proceed. If the Senator from Tennessee could withhold his parliamentary inquiry for a few minutes and give me a chance to explain the amendment, then I understand that the Senator from North Carolina will yield to him.

Mr. BAKER. Mr. President, I shall be glad to withhold the parliamentary inquiry. I might say, so that the minority leader will be in a position to respond to it in his explanation, that I intend, at the appropriate time, to call for a division of the question.

Mr. ERVIN. Mr. President, I was just going to ask the Senator from Pennsylvania if he would be willing to have some copies of his amendment made, so that some of us could see it. It was sprung on us suddenly, and I could not understand it by hearing it read.

Mr. SCOTT. Mr. President, I thank the Senator from North Carolina, who has excelled in the educative process on the floor of the Senate for a long time. I am glad to join in that educative process here, if the Senator from North Carolina would like, because I am happy to say to the Senator that the language sent to the desk, in the form which is permitted under the rules and under the agreement, is the so-called Mansfield-Scott amendment, as to which a change has been made in one line, where, in referring to certain schools, the words "inferior to" which had been used have been changed to "less than."

I am now prepared to argue for the adoption of this amendment, which is in its content the original Mansfield-Scott amendment as slightly revised.

Mr. ERVIN. Mr. President, if the Senator from North Carolina correctly understands the explanation of the Senator from Pennsylvania, the Senator from Pennsylvania is offering an amendment to the amendment which he and the majority leader introduced under circumstances whereby no one else could offer an amendment to it.

Mr. SCOTT. Well, Mr. President, I think that Senators would all readily agree that we are proceeding in order, that we are proceeding in accordance with the rules, that we have seen those rules honored as various amendments have been offered, including amendments to amend and to strike, that this amendment is indeed in order, and that what we have been struggling to do all day long is to get the Senate to say, in the words of the distinguished majority leader, that it is willing to face up to the busing issue.

I have indicated that I think in some way or other we ought to face up to it. I think now is the time. The amendment which we have introduced, as I have pointed out, is an amendment which meets a number of the concerns of parents, teachers, and students in this country, which defers the effect of lower court rulings for a period of time until the Supreme Court shall have an opportunity to act upon certain decisions as to which many have reservations presently, and I refer to the Richmond case, the Denver case, and perhaps others; that we have sought in this amendment to preserve the concept of voluntary agreements in and among school districts, that we have sought to preserve the integrity of the judicial system, and that we have sought to preserve the constitutionality of what we do from judicial attack.

In so doing, we have come up, I think, with an amendment which, as I said before, some have objected to because it

does not go far enough and others have objected to because it goes too far. That usually is the trademark of a good amendment.

In my judgment, this amendment does something which the other amendments do not. The amendment to which it is offered as a perfecting amendment, in the judgment of this Senator, would repeal title VI of the Civil Rights Act. We have struggled through many a long day here with civil rights legislation, and the last thing I want to see us do is to strike out any part of the Civil Rights Act, and I certainly do not want to strike out title VI.

In effect, what we are trying to do is arrive at a solution which will operate as fairly in the South as in the North. I have conceded many times on this floor that de facto segregation is just as deplorable as de jure segregation, but to go back and say we will repeal the Civil Rights Act in substantial part means that we go back to segregation. In my judgment a vote for the repeal of title VI is a vote for a return to segregated school districts, and I intend to oppose that in every way I can as long as I am a Senator of the United States.

Many attempts have been made to obfuscate by the most skillful rhetoric the intent of the prior amendment, even to the point of indicating that perhaps the amendment of the distinguished majority leader and myself is a hoax.

On the contrary, our amendment is the work of the majority leader and myself. It was not the work of others. It was not the work of conservatives, liberals, or moderates. It is the work of the majority leader and the minority leader. About 5 days were spent on an attempt to work out language which would be just, fair, and rational.

I believe we have done that, and I am entirely happy in my position in opposition to repeal of any part of the Civil Rights Act, passage of which was attained here through much difficulty, over many a long day and many a long night. So it is my hope that this amendment will be adopted.

I regret that anyone has used the word "hoax," because, indeed, it is not a hoax. If there is any magical misdirection here or any prestidigitation, it consists on the part of those who assert that they are seeking to adhere to the Constitution and to the Old Testament of the Bible, and who denounce our amendment as being other than it is.

The amendment is very simple. The amendment is very clear. The amendment preserves the Civil Rights Act. It preserves the stature and status of the courts and their right to rule. It preserves the voluntary system wherever voluntary agreements can be made. It defers the impact of lower court decisions until the Supreme Court has also had a chance to face up to this issue.

It is time, in my judgment, that we in the Senate stop obfuscating the issue, that we stop indulging in the kind of rhetoric which indicates that what everybody is trying to do is the same thing. What everybody is trying to do is not the same thing. The public is the judge of that. I will rest on the amendment. I will rest on my presentation. I know what I am trying to do. I grant the good faith of every other Senator, but I suspect that they all know what they are trying to do, too.

I reserve the remainder of my time.

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

Mr. ERVIN. I yield to the Senator from Tennessee such time as he desires.

Mr. BAKER. Mr. President, under rule XVIII, I demand a division of the question, according to paragraphs (a), (b), and (c) of the pending amendment.

The PRESIDING OFFICER. The question will be so divided.

Mr. BAKER. Mr. President, will the Senator yield to me for 3 minutes, so that I may speak on the amendment?

Mr. ERVIN. I yield to the distinguished Senator whatever time he wishes.

Mr. BAKER. Mr. President, I agree with the distinguished minority leader that the time has come to face up to the question involved. But the question is, "How?" Really, it is more than just a rhetorical question. It is one of great and basic significance—that is, whether or not the Senate can take it or leave it, or whether the Senate can work its will on an important fundamental issue. The time has come when we need to vote on particular issues, and that is why I have made the motion for a division of the question.

Mr. President, at least four proposals are pending before the Senate on this particular issue. Yesterday, there was a rather heated and spirited colloquy as to whether or not it was the proper effect, whether it was the desirable result, for the Senate, in effect, through procedural maneuvers, to find itself in a position in which it had no authority and no prospect for amending the substitute that was offered by the joint leadership. I expressed my opinion then that that was not a desirable way to handle a problem of such momentous impact.

As it turns out, we have managed to accommodate our desire for flexibility by a series of other perfecting amendments and amendments, and now, as the distinguished minority leader points out, we are about to face up to the question. But the question is not embodied in this perfecting amendment. It is not embodied in any single amendment. The question finally will be resolved when we decide one issue, and that is whether or not Congress and the people of this country approve of busing as an acceptable technique for the business of trying to eliminate the last vestige of institutional segregation in this country. It is my opinion that we do not approve of that technique. But, Mr. President, that has nothing to do with the continuing desire and dedication on the part of the senior Senator from Tennessee—and I believe a great majority of the Members of the Senate and of the country—to continue the fight for a unitary school system and for equality of opportunity.

Unfortunately, the matter now pending before the Senate does nothing to clarify the confusion that has arisen from several decisions, including the Swann case. It does nothing, for example, to define a unitary school system. It does nothing to describe the distinctions between segregation, desegregation, and integration. This proposal does nothing to describe or to further define what the highest court of the land meant when it said that in some cases busing might be appropriate and in others it might not be appropriate. There is in the Swann opinion almost a judicial invitation for us to provide congressional guidance to the courts as to how they should proceed to remedy the wrong identified in Brown.

Mr. President, those functions can legitimately be served by the Senate in these considerations, but they are not being so served in the proposal before the Senate.

It is my hope that the proposal before the Senate will be rejected; that the proposal by the distinguished junior Senator from Michigan, while not fully determinative of all the questions involved, will be adopted, and that, as the minority leader says, we will get about the business of facing up to the issue. That is why I called for a division of the question, so that we can express our opinions on the several issues on a take-it-or-leave-it basis.

The PRESIDING OFFICER. Who yields time?

Mr. ERVIN. I yield to the Senator from Alabama such time as he desires.

Mr. ALLEN. I thank the distinguished Senator from North Carolina.

Mr. President, we have come to the end of the line. There will be a vote on this amendment at the end of the 2-hour period allotted for its consideration. I am sure that some Senators are not altogether familiar with what has taken place in the Senate. I know that many people throughout the country do not know and never will know. But if I did not respect so much the distinguished majority leader and the distinguished minority leader, I would feel that they had resorted to strong arm tactics to assure that the vote first came on the Scott-Mansfield amendment rather than the amendment offered by the distinguished Senator from Michigan (Mr. GRIFFIN). I suppose it is the role of the individual Senators not to question why, but just to do and die, with respect to this amendment.

Mr. President, the matter first came before the Senate when the distinguished Senator from North Carolina and I offered an amendment to title IX. Then the distinguished majority and minority leaders came in with their substitute. Then Mr. GRIFFIN offered a perfecting amendment to the amendment of the Senator from North Carolina and myself. That then left two possibilities, and they were availed of by the Senator from Minnesota (Mr. MONDALE), who then offered a perfecting amendment to the original language of the committee substitute. The question then became: Who then would get recognition to offer the final amendment?

Mr. President, some 60 minutes ago, the distinguished Senator from Michigan (Mr. GRIFFIN) served notice that he wanted to be recognized as soon as the time was upon the Mondale amendment. He even went so far as to have read by the clerk the amendment that he pro-

posed to offer. It was read. He served notice that he wanted recognition.

I have written down the order of recognition with regard to this parliamentary maneuvering. First, the committee amendments—that is, the Senate committee amendments to the House amendments to the Senate bill. That came out with the bill itself from the Senate committee, and that was before the Senate. Then an antibusing amendment was offered by the junior Senator from Alabama and the senior Senator from North Carolina. Then what I have been calling in this debate a pro busing amendment—for that is what it is—was offered by the majority and minority leaders, the so-called Scott-Mansfield substitute.

There seems to be some misunderstanding or lack of desire to claim credit for the first place in the naming of this amendment. The Senator from Pennsylvania said it is the Mansfield-Scott amendment and the Senator from Montana says it is the Scott-Mansfield amendment. I do not blame either one of them for trying to put the first name on the other Senator. [Laughter]

But an antibusing amendment was introduced, and then a pro busing amendment was introduced by the Senator from Pennsylvania and the Senator from Montana. Then an antibusing amendment was offered by the distinguished Senator from Michigan (Mr. GRIFFIN), and then a pro busing amendment was offered by the distinguished Senator from Minnesota (Mr. MONDALE).

You would think, Mr. President, in that order that no attempt would be made by the leadership to get recognition the next time because recognition had been alternated—antibusing, pro busing, antibusing, pro busing—you would think, Mr. President, that the President Officer would have recognized an antibusing Senator, the Senator from Michigan (Mr. GRIFFIN), to offer the last amendment; but I guess there are some prerogatives of leadership in the Senate. Possibly I have been under an illusion that these prerogatives were exercised with regard to general legislation and not exercised with regard to legislation or proposed legislation in which the leadership had a definite interest by reason of sponsorship of the legislation.

Mr. ERVIN. Mr. President, will the distinguished Senator from Alabama yield for a question?

Mr. ALLEN. I yield.

Mr. ERVIN. Does not the Constitution of the United States plainly declare that each State shall have equal representation in the Senate of the United States?

Mr. ALLEN. Yes, sir; it says that.

Mr. ERVIN. So that if the majority and minority leaders can claim priority over all other Senators when it comes to proposing their amendments, then the State of Alabama, the State of Michigan, or the State of North Carolina have been deprived of equal representation in the Senate, at least contrary to the spirit if not the letter of the Constitution; have they not?

Mr. ALLEN. That is certainly correct. I say again that the distinguished majority leader and the distinguished minority leader are honorable men. I am sure that they would not do anything that smacked of being anything other than honorable action. But, Mr. President, it does seem that this is arrogance that they have adopted with respect to their amendment, when they come forward and dump it in—no one has seen it—but they dump it at the desk and say, "This is it," and then they maneuver the parliamentary procedure in such a way that it cannot be amended. No matter if a glaring mistake is found in the amendment, it could not have been amended.

Now, as the distinguished Senator from North Carolina pointed out, by offering the same amendment with the change of a word or two as a perfecting amendment to the original language, that gave them the opportunity of amending it.

The Mansfield-Scott amendment or the Scott-Mansfield amendment, as alternately they would call it, is a pro busing amendment.

Busing is going on. It is being carried on to the detriment of public education throughout the country.

Busing will continue to be accelerated under the provisions of the Mansfield-Scott amendment. Let there be no doubt as to that, Mr. President.

I hope that Members of the Senate will repudiate this strongarm method. I have no doubt that a majority of the votes will be cast for the Scott-Mansfield amendment, but why deny to the distinguished Senator from Michigan (Mr. GRIFFIN) the opportunity to have a vote up or down on his amendment?

He has been trying for 2 days to get his amendment acted on by the Senate, but here the advocates of this amendment say it is not to be changed in any particular, and they cut off his right to offer the amendment and to have an up-and-down vote on it.

Mr. President, if it is the wish of the Senate that busing continue—forced busing of little school children—if that is the wish of the Senate, then vote for the Scott-Mansfield amendment.

If the Senate wants to respond to the clamor throughout the country to stop forced busing of little school children then they will vote against the Scott-Mansfield amendment.

The issue is clearly drawn. It is very clearly drawn. If the Senate wants to go along with a smoke screen—because that is what it is, the Scott-Mansfield amendment—if they want to support a smoke screen, to seek to lull the people into believing that the Senate has taken some action on this matter, then vote for the Mansfield-Scott amendment.

On the other hand, if the Senate wants to make a genuine effort to stop the forced, massive busing of little schoolchildren, then they will vote against the Scott-Mansfield amendment.

Mr. President, I reserve the remainder of my time.

Mr. GRIFFIN. Mr. President, will the distinguished Senator from North Carolina yield to me?

Mr. ERVIN. I yield to the Senator from Michigan whatever time the Senator wishes.

Mr. GRIFFIN. I am looking to see if the minority leader is in the Chamber, but he is not. In any event, he predicted in an interview in a national magazine last week that the Congress would "waffle" on the busing issue.

I must say, in my opinion, that if the Senate adopts the proposed Scott-Mansfield substitute, we will be waffling on the issue. I am not quite sure exactly what "waffling" means, but I think that adoption of the Scott-Mansfield amendment would be a good example.

Mr. GAMBRELL. Mr. President, will the Senator from Michigan yield for a question?

Mr. GRIFFIN. I yield.

Mr. GAMBRELL. It was my impression, from watching the parliamentary procedure here, that waffling was where the joint leadership caught the distinguished Senator from Michigan (Mr. GRIFFIN) between themselves and the Chair. [Laughter.]

Mr. GRIFFIN. Well, the junior Senator from Michigan is going to try to keep his "cool." He appreciates the prerogatives of the leadership. I wish I could have gotten recognition. I was not accorded that privilege however, so that we will be proceeding to a vote on the Mansfield-Scott substitute.

I am very pleased that the distinguished Senator from Tennessee (Mr. BAKER) has prevailed in his request for a division of the question.

All Senators should be aware that there will be a rollcall vote on three separate subsections, (a), (b), and (c), of the Scott-Mansfield substitute.

As for the junior Senator from Michigan, he will vote against (a) and (b) and vote for subsection (c).

As I indicated earlier, in discussing the merits of this proposal, there is only one part of it that has any substance so far as this Senator is concerned and that part is subsection (c), which provides that any court order requiring consolidation of two or more local educational agencies or requiring the transportation of students from one local educational agency to another, will be stayed until all appeals have been exhausted or until the time for appeals has expired.

I believe that provision would be constitutional and that it would be effective in those limited number of cases to which it would apply. I shall vote for this one provision and vote against the other two because the other two, in effect, put the stamp of approval of the U.S. Senate on the busing practices now in effect. I think that it will be unfortunate if the Congress goes on record and endorses the busing practices now in effect.

I thank the Senator for yielding.

Mr. ERVIN. Mr. President, for the information of Senators, I would tell them how the word "waffle" is defined in the North Carolina lexicon. It is defined as "gumshoeing" and "pussyfooting" to dodge facing an issue. And that is precisely what the Scott-Mansfield or the Mansfield-Scott amendment in all three sections undertakes to do.

The Senator from Alabama (Mr. ALLEN) was defining how Senators who wanted to do certain things should vote,

for or against the Scott-Mansfield or the Mansfield-Scott amendment.

The Senator from North Carolina would say that all of those Senators who believe that tyranny on the bench and tyranny in the HEW is just as objectionable as the tyranny on the throne which caused our forefathers to engage in the Revolution to obtain their independence from England ought not to vote for all three sections of the Mansfield-Scott or the Scott-Mansfield amendment.

The PRESIDING OFFICER. Who yields time?

Mr. JAVITS. Mr. President, the proponents of the amendment have delegated me the assignment of time on the amendment. I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from New York is recognized for 5 minutes.

Mr. JAVITS. Mr. President, it would be expected that those who are opposed in essence to any busing, or perhaps to the desegregation of schools, would do their utmost to say we have to decide this question yes or no, in black or white and have to face the issue.

It is that old story, "I will hold your coat." We know very well that Government is not run that way, that the sentiments and feelings of millions of people are not dealt with in that way and that any government that is worthy of its name does its utmost and remedies great wrongs in such a way as to make them as acceptable as possible to the greatest number so that the remedies may be effective rather than to crush them under such a load of difficulty as to make them ineffective.

That is precisely what is happening here. School desegregation is a very measurable avenue of progress toward what has developed in this country.

There is no doubt in my mind, and I think in the minds of a majority in the country, that for many decades there was great injustice practiced that brought on the case of Brown against Board of Education and brought on the Civil Rights Act of 1964.

It was natural that in those situations we got to a point where various courts did various things which were generally straightened out by the Court of Appeals or by the Supreme Court. However, in many cases, whole areas, cities, and States got very upset by the danger that the courts might act unwisely. Experience demonstrates that the courts should—and they did—establish guidelines as to what would be a prudent way of securing rights under the Constitution.

Mr. President, the issue therefore is not whether we should or should not enforce the Constitution. The issue is when we enforce it, how do we do it, and does that enforcement result actually in bringing about some hope of obtaining constitutional guarantees.

Mr. President, for that the leadership has adopted a technique and a way of shaping the remedy to the difficulty with due consideration to public feelings about excesses.

Mr. President, in my judgment the remedy is very well fashioned because it takes account of what the courts have done and makes a fair disposition of what should be done with the Federal moneys which are available for school aid and makes a fair disposition of what Federal courts and HEW under title VI and the Constitution can require.

Mr. President, the one argument I would deal with specifically is the argument which was made here that if you support the Scott-Mansfield amendment, it would result in annulling title VI of the Civil Rights Act of 1964. That is based on the fact that we go too far in the amendment, that we do not preserve enough of the absolute power of the courts to order any kind of busing to make school desegregation effective.

The argument doubles back on itself, because if there is one way of breaking the back of title VI, it is by loading with amorphous, undefined limits. What we are trying to do by this procedure is to take the load off its back so that it becomes practicable in operation and in conformance with the policies established by the courts in enforcing the 14th amendment guarantees rather than invalidating them.

The people have a way of sensing these things. They do not know the fine points of the law, which we do in our duties here. However, they sense the decision, and if the periodicals are checked, it will be found that what the Scott-Mansfield amendment is being advertised as is a compromise. It is a compromise—to wit, a compromise between the completely antibusing forces and those who want the arbitrary standard of racial balance applied, regardless of educational consequences, recognizing accommodation must be made with the public feelings on the subject, and with very real problems which have arisen as a result of school desegregation. However, those who would oppose the use of the busing tool even as a temporary expedient and even on a limited basis would have us strike down all Federal enforcement powers under the 14th amendment which may require the use of some busing. That is the toughest thing for us to do. We cannot simply strike down these enforcement powers without effectively striking down title VI of the Civil Rights Act of 1964.

It seems to me, therefore, that if one favors eliminating title VI and an opportunity to really implement it, then he goes over into the antibusing category.

On the other hand, if one wants title VI carried out, he simply cannot say, in my judgment, that this particular goes too far, because the only way to preserve title VI and the only way, in my judgment, to preserve the benefits of a desegregated education for the children who are concerned is to write reasonable rules and reasonable guidelines and reasonable recommendations upon the use of the busing remedy by the courts, and HEW.

I respectfully submit that, to me, the most critical part of this amendment is its definition of what the courts in Swann meant by "impinging on the educational process" of the children. Further, knowing the courts as we do, I have every confidence that the courts will accept as an explanation that the educational impact of desegregation and busing is an important component of what Congress understands the requirements of the 14th amendment to be.

I believe it will be adopted by the courts as to what they understand. The critical aspect of it is, if we legislate in this fashion, whether or not the time or distance of travel impinging on the educational process meant only that the time and energy, considering the age of the children, was taken into consideration in busing the child, and that was what was meant by lessening his opportunity to learn because he was too tired, and so forth. That is excellent, as far as it goes, but we are extending that to our understanding of what it means to us. I think this legislation will be decisive to the courts; that desegregation should not impinge substantially upon the opportunity to learn of the disadvantaged child or the middle-class child. This, to me, is the most critical part of the amendment because it deals with the one big point with which an important majority of parents are concerned.

The other thing we cover in the same way by the same definition, including the voluntary requirement on the part of educational agencies for reverse busing, which is far more a matter of fear to many parents; that is, that children out of traditional suburban neighborhoods, generally speaking, or the higher class city neighborhoods, in economic terms, will be brought to schools where they fear the education will not be as good as that which they are leaving.

By writing in the definition which we do in subsection (b) of the bill it seems to me we are setting what the Supreme Court invited us to set, and that is educational guideline to help make the educational process work most effectively.

Mr. President, I conclude as follows. Those who would sustain title VI and those who would sustain the ongoing effort to improve educational opportunity for the disadvantaged children, blacks and others, without at the same time compromising the educational opportunity of other more advantaged children have essentially this pattern embedded in the amendment which would be voted on in three parts before us. No matter how they disguise it, to strike down that amendment, and, in consequence, to espouse the Griffin amendment or the Allen amendment, is to vitiate title VI, to break its back. That is the substantive issue.

Let us remember, too, if we pass the Griffin amendment or the Allen amendment, and so forth, we have nothing in conference because we are simply adopting what the House did to attempt to outlaw busing as a temporary tool, a limited tool, a minor tool, and nothing is in conference. On the other hand, if we adopt the Scott-Mansfield amendment we give the conferees a chance to work out a more practicable basis and bring it back here when the Senate has an opportunity to review our handiwork.

Mr. President, I speak about this matter with great feeling because I shall be one of the conferees. I consider it my duty to do my utmost to sustain in conference whatever the Senate decides. To any compromise we arrive at in conference I will do my utmost to give the char-

acter and thrust of what the Senate wants. Hence, I consider this vote to be extremely important.

I am the ranking Republican member of the committee and I will have a reasonable amount to say in conference.

For all those reasons I hope the most credible effort being made now not to let us go off the deep end of this trying and emotional question will be affirmatively supported by the Senate through the Scott-Mansfield amendment.

Mr. President, I reserve the remainder of my time.

Mr. ERVIN. Mr. President, I yield myself 2 minutes.

The PRESIDING OFFICER. The Senator is recognized for 2 minutes.

Mr. ERVIN. Mr. President, I am glad that at long last the Senator from Pennsylvania and the Senator from New York agree. They both said the purpose of the Scott-Mansfield amendment is the preservation of title VI of the Civil Rights Act of 1964. That is what I have said.

The Supreme Court said in the Swann case it had to do only with de facto segregation and it had nothing to do with the problem confronting the country; that is, shall children be bused to change racial composition rather than on the basis of their intelligence.

Mr. GRIFFIN. Mr. President, will the Senator from North Carolina yield a little time to me?

Mr. ERVIN. I yield.

Mr. GRIFFIN. Mr. President, I should like to establish for the education of this Senator and perhaps other Senators, what is going to happen when the time is all yielded back and we proceed to vote.

As I understand it, without any further debate there will be seven votes, one right after the other, all but one of which is a yea and nay vote. I believe that the Mondale amendment as of this moment has not had the yeas and nays ordered.

I say seven votes because I understand the first order of business will be to vote on perfecting amendments to that portion of the committee amendment which would be stricken by the Allen amendment. The pending Scott-Mansfield amendment has three separate votes on the various sections. That would be three votes. Then, a vote on the Mondale amendment, which may or may not be a yea and nay vote. Then, the Senate would proceed to vote on the Griffin amendment to the Allen amendment and then upon the Scott-Mansfield amendment to the Allen amendment, and then upon the Allen amendment, in that order.

The PRESIDING OFFICER. The Senator is correct, unless some other amendment is called up.

Mr. GRIFFIN. Perhaps, this explanation will help give other Senators some notice as to what is going to happen.

Mr. SCOTT. Mr. President, I yield myself such time as I may require. I wish to pose a parliamentary inquiry.

How much time remains?

The PRESIDING OFFICER. The Senator from Pennsylvania has 35 minutes remaining.

Mr. SCOTT. How much time remaining does the Senator from North Carolina have?

The PRESIDING OFFICER. The Senator from North Carolina has 37 minutes remaining.

Mr. SCOTT. I thank the Presiding Officer.

Mr. President, the purpose of my amendment has been stated often enough as not to require repetition. I would like to speak to the structure of the amendment and point out that as to each section of the amendment it goes to a specific situation which can be found in the amendment itself.

In other words, when you vote on sections (a), (b), and (c), you will be voting on the language that appears in (a), (b), and (c). You will be informed as you vote that it intends to accomplish certain things. Now, on some of the other amendments, Senators will be voting on legislative language which appears to limit busing in certain respects, but that legislative language does not tell the import of it is to repeal or substantially change parts of the Civil Rights Act, notably title VI.

In a recent article in U.S. News & World Report a reporter asked me if I thought the Senate would "waffle" on busing. I did not originate the word, I might add. My response was yes. Following that interview it occurred to me that is exactly the thing it was my duty to seek to avoid, if possible.

Following that interview, I discussed this with the distinguished majority leader. It was our thought that we would want to prevent any waffling on busing, any straddling on busing. We wanted an amendment which everybody understood.

I submit everybody can easily understand our amendment. They do not need to go to the law books on it. They do not need to consult court decisions beyond those with which they are familiar. They do not have to read the Old Testament, though that is a salutary process in the education of the Senate. And I also might add, in order to give equal time to the New Testament, that the reading of that also is a salutary process.

But I submit that I am far from waffling. I am one who is condemning waffling. I am one who is trying to avoid it. Others may be, too. I do not want to arrogate to myself all the attributes of virtue. But I want to make as clear as I can that our amendment is so specific, so clear, and so directly pointing to certain serious concerns as to give every Member of the Senate good reason to know whether he wants to do these things.

For example, does the Senate want to defer action by the lower courts which would greatly disrupt school districts or would it rather wait until the Supreme Court decides? Our amendment says wait until a day certain, which we fix in the amendment.

Does the Senate prefer voluntary agreements rather than agreements imposed as a condition to obtaining Federal funds? Our amendment says we prefer the voluntary route.

Does the Senate wish to abide by the Constitution? Our amendment says that is a very good idea, so we write it in.

Does the Senate wish to abide by the decisions that the highest court has made and by such future decisions as may be changed or altered or revised by the court as presently constituted? Our amendment says that is what we prefer, and we have written that in.

This is a good law and order amendment, I may say, and we have made the law. We have asked that we follow the orderly processes. We have asked that we do not compel school districts to engage in the turmoil of their reshuffling districts only to find that the district courts have a different idea. As we know, the Supreme Court always has the last guess, whether that is the last best guess or not.

So our purpose is clear. Our motives certainly should be above suspicion. We are doing it in the public forum. We are explaining as clearly as we can every step we take. We are not beating on the Old Testament. We are relying on parables and proverbs for the sustaining of our argument. We are relying on the principles I have mentioned.

I will conclude by pointing out what they are again: Deferment of action until final ruling. Voluntary school district plans. Adherence to the law of the land and the Constitution, and adherence to the action of the courts after the final court of appeals has been heard.

Mr. President, I reserve the rest of my time.

The PRESIDING OFFICER. Who yields time?

Mr. ERVIN. Mr. President, I yield to the distinguished Senator from Florida such time as he may use out of the time remaining in opposition.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. CHILES. Mr. President, in viewing the Scott-Mansfield amendment, I have tried to determine, from viewing that amendment, what would be the status of Florida and what would be the status of the other States in the South where we have had busing both by court order and under title VI of the act.

I was interested, in listening to the debate, to hear the distinguished Senator from New York say that if this amendment was not adopted, if any other language was adopted, we would not be able to use the temporary expedient of busing or busing to a minor degree.

I think that really kind of shows me that many people do not understand how busing goes on or to what degree it has been used, and that it only now is gaining and attracting some sort of national interest or the interest of many Members of this body who heretofore were not interested.

It has not been used as a minor expedient in the State of Florida. It has not been used in a minor degree. I think one of the greatest concerns the junior Senator from Florida has in seeing what will be coming up on this floor is that legislation is applied equally to all of the States.

As I view the amendment before us now, the Scott-Mansfield amendment, I see it might give great comfort to a State that has not entered into the tangle of busing, which has not had court orders requiring busing, which has not been required by HEW to enter into busing, because it builds in many delays and builds in many safeguards. I see that perhaps it

might relieve the pressure that is on now on a national basis. But I see that Florida might be left with a different standard, with a different requirement, than the rest of the country is left with.

So the junior Senator from Florida is going to review each of the amendments that comes up to see whether it is going to treat all of the States equally. Are we going to be under the same plan? Is what is going to be good for education in Florida going to be good for education in California, or Michigan, or any other State? Are we going to be treated equally or as we have heretofore been treated? In the South we have been treated with one degree and it is only now being used in regard to busing in other parts of the country. I would like to see that everyone kind of stays in the same boat until we determine what is going to be the national policy.

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

Mr. CHILES. I yield.

Mr. SPONG. I will ask the Senator from Florida if, in his judgment, after examining the Mansfield-Scott amendment and listening to the distinguished Senator from New York, who asked us to read the Swann decision with this amendment, this amendment does not foster the hypocritical distinction between de facto de jure segregation.

Mr. CHILES. Absolutely; I think it does, and I think when someone can say we are going to just allow the tool of busing as a minor expedient, it is said by someone who has been under that distinction and who has been protected by that distinction, which some of the other States have not been. It has nothing to do with the question of equality.

Mr. SPONG. It has nothing to do with educational opportunity.

Mr. CHILES. No; absolutely nothing to do with educational opportunity. I would dislike to have anyone say, "It is fine for you down here, but we do not want it up here, and we are going to protect ourselves. We are going to say that you should be treated on a different basis, and we are going to see that you are treated on a different basis."

The junior Senator from Florida wants to see that we get equal treatment. That is why I cosponsored the amendment by the Senator from Georgia (Mr. GAMBRELL), which requires equal treatment by the courts.

Mr. SPONG. I want to commend the Senator from Florida. I join him in desiring equal educational opportunity for all, but I am not going to support any amendment that, in my judgment, is not national in application.

The PRESIDING OFFICER. Who yields time?

Mr. ERVIN. Mr. President, I yield to the distinguished Senator from Mississippi such time as remains in opposition to the amendment as he may use.

Mr. STENNIS. Mr. President, I thank the Senator.

How much time remains under the unanimous-consent agreement?

The PRESIDING OFFICER. The Senator has 31 minutes.

Mr. STENNIS. I shall not use all the time.

Mr. President, this amendment has been before us such a short time that I would judge no one has had a real chance to analyze it or to speak with any confidence about what it may or may not mean. Frankly, I know I have not had a chance to do that, so I cannot fully weigh its import, though I do know enough about the background of the subject, having been through the legislative part of this subject several times, and having been through almost all the things that anyone can imagine from a practical standpoint as to how these rules apply at the schoolhouse level and at the level of the parents, their homes, and their children, that, while I am not a wise man by any means, I do not yield to anyone as having more experience or as having been through more of these cases than I have.

I used to go down to HEW and appear there before the examiners. I have had long conferences with men who were high up on the staff of HEW, and, together with the former Senator from Alabama, Mr. Hill, and the late Senator from Georgia, Mr. Russell, have had many conferences with Mr. Cohen and other Secretaries of HEW.

We were given assurances over and over again about what would be done, that the South was not going to be subjected to any more pattern enforcement, and so forth, than anyone else. I have had conferences over the years with the Department of Justice, and I have watched the Supreme Court decisions very closely.

I shall not be contradicted on this: HEW has largely centered on the southern schools alone. There was some sentiment in that Department, I found, that did not want to pick out just one area and stay on it, but that sentiment did not prevail. I have had positive promises from Secretaries of HEW that were not carried out. Frankly, I think they were overruled by someone in authority above them.

I have been to the Department of Justice, and I do not have any criticism of them; they had a problem and tried to handle it in the best way they could. Some very eminent lawyers worked on this matter, and I do not think they are satisfied, as a whole, with what is happening.

But perhaps the saddest thing of all is what the Supreme Court has done, as I see it. I certainly am not one who would want to discredit any court; but time after time, until just a few weeks ago, cases went to the Supreme Court of the United States that put this issue of what is going to be done beyond the South, and the Court has declined to hear every one of those cases. They have declined to take this problem, and it is a problem to everyone—Congress, the President, and the courts. But they declined to take such cases and, with all deference to them personally, I think that was an error.

I have spoken on this subject before here in the Senate, and have delineated the charges with specific dates and statistics. A few weeks ago, the court agreed to take the Denver case. I am not sure that that case really presents the issue. But we do not yet have any clear-cut rule that has any kind of national application. The Supreme Court could have given us a rule, whatever they saw fit to decide, years ago; but we do not have it yet.

We do have two amendments—that is, the same amendment in identical words passed twice here by a very decisive vote whereby the membership of this body adopted an amendment that I had the privilege of offering, saying it is the policy of the United States that guidelines and criteria established pursuant to the titles of these education bills shall be applied uniformly in all areas of the United States, in dealing with conditions of segregation by race, whether de jure or de facto, and so forth.

That, as I say, has been passed twice. That is the judgment of this body by an appreciable margin, meaning no criticism of those who did not vote for it.

But this amendment does not do a thing in the world to that situation. It is neither hot nor cold, whichever you want to call it. It does not clear up anything. It provides no rule to follow. There is no congressional direction for HEW, for the courts, or for the executive branch. It pretty much freezes in busing in the South. It freezes it in rather well.

I have said many times here that we will live with anything in the South that the North will apply to itself. I have pointed out conditions in Pittsburgh, in Philadelphia, in New York, in Chicago, and virtually nothing has been done about those things.

Whatever the conditions are, the figures show that segregation of the schools in those large cities is worse than it was 4 years ago, 3 years ago, or 2 years ago. If there were time, all of that could be brought up to date. It is already in the RECORD what the conditions were 3 years ago. I have not read anything about the Governors or the legislatures of those States, or, if I may say so, even the Senators from those States trying to influence their Governors and legislatures to really get into this thing and apply a uniform rule, applying to themselves what they have put on us. I just have not heard of it, and I do not believe they will bring up anything appreciable to the contrary.

The great State of New York—and it is a great State of wonderful people—passed a law, as Senators will recall, that prohibited the desegregation of the schools. That has been modified somewhat now, but that was what they thought about it when it came home to them.

So I hope now that the Senate will not go off and vote for this amendment on the ground that it really grapples with the problem and offers any solution or any relief, or anything different from what we already have. As I say, I think it rather well freezes the situations as they are in the Southern States, and makes it even more improbable, from one interpretation of it, that anything will ever be done beyond those States.

I know this is a serious matter. It really shakes those States when it gets to them. I am not arguing against having integrated schools.

I shall start with the case of Brown versus Board of Education. I am not trying to change it, but let us not be led away: This is a very political matter.

I am not without sympathy for any-

one who is on a hot spot. I think every candidate for President is on a hot spot about it, including the sitting President. I think every Member of this body coming up for election this year will be somewhat affected by it, as will all the Members of the House of Representatives.

Mr. President, I get no satisfaction from that. I do not like to see anyone in trouble. But let us not fool ourselves that we are getting rid of the subject matter. These mothers and fathers will know what this thing is when it hits home. They still do not know until it gets to their schools. But when they have come to know, they have reacted in the expected way.

This will go by degrees into other areas. Private plaintiffs are going to file more and more of these suits, and the facts are not going to be difficult to prove. They are not going to be so difficult to prove whatever may be the requirement of the court. They will not find it difficult to prove the facts in many, many of these cases I have referred to.

But in this matter of having a principle or right to go to school, if every black child has a right to go to school with the white children, and a constitutional right is denied unless they do, why give so much favor to the southern blacks and put such a penalty on the northern blacks? No one has ever answered that.

No one has ever answered that question. I do not say that a black child has to go to school with white children in order to get a good education or to have a personality or to have rights in his own right. I do not look at it that way. But if a principle is involved, practical or legal, let us at least try to have a uniform application of that principle and that right. I do not say it cannot be done.

The Senator from Pennsylvania argued here a few years ago—2 years ago, I believe—that the amendment I have cited about uniform application was impractical and could not be enforced, that it would take the Army to enforce it. I said then, "Don't say it cannot be done." It can be done. You can integrate the schools in Harlem, and it will not take long to do it. Just haul out enough black children, put them in Westchester County, and bring in enough white children from Westchester and put them in Harlem and you will have school integration there.

The same can be done in Pittsburgh, Philadelphia, Chicago, or anywhere else.

Mayor Daley got a notice one day. Somebody in HEW thought they meant what they said, that they wanted to integrate schools everywhere. He gave a notice to Chicago schools. Mayor Daley came in to Washington on the morning plane the next day. An announcement was made either that day or the next day that the matter was taken under advisement. That was years ago. That was before the present administration. The matter was taken under advisement. I recall that, because I was keeping up with the subject; but I saw the facts related in a columnist's column a few days ago. Some HEW official had told about going to see Mr. Cohen, a very fine man, former Secretary of HEW. He said he went there at the instance of the President of the United States and told him he wanted to look into it quickly. It got looked into quickly; it was taken under advisement the next day; and that is the last that was ever heard about that effort to integrate the schools in Chicago.

It depends on where the school is and who is affected, and oftentimes how many electoral votes they have in that State. So let us not fool ourselves.

We are not moving forward one inch, I respectfully say, in seeking an effective solution to this problem. We are not giving it a standard that will have any appreciable application through this amendment. There is no appreciable guideline for a court to follow. There is nothing that is binding on the President of the United States. It does not grapple with the program, but it just affords a program to pass over and sweep under the rug and ignore this problem.

Someone has said that this is just a local matter, a trivial matter, the matter of busing. Wait until it hits the homes of your constituents, and you will find out how trivial this matter is.

Something can be worked out. Conditions can be modified that will be a help educationally to both races, with better education, better training, better living together in harmony and respect. Accord and concord can be the result. But it will not be in this amendment.

I hope we can get to a vote on the amendment of the Senator from Michigan that refers to the jurisdiction of the courts. I do not think even that would be a permanent remedy, but it would be a long step forward as something practical, definite, and specific, and it would make itself felt.

I wish that in a deliberate way we could put together a simple constitutional amendment with language that all the people can understand and let the people pass on this problem. That is the only way it is going to be settled. When you get it to them, down where it is understood, in areas where it has been felt, I do not have any doubt about what the result will be.

So I trust, Mr. President, that this matter, serious as it is, will not be settled on the proposition of an amendment—with great deference—that freezes the situation in one area of the country, creates more doubt and uncertainty in other areas, and will not cause them to remedy the situation one bit—the matter of segregated schools. It will not touch topside nor bottom of these schools that are almost a hundred percent or 90 percent or 95 percent black. It will not touch topside nor bottom of that problem. I do not think it is even claimed that it will do so.

I do not blame anyone for wanting to keep this thing from getting stirred up in his State because of the turbulence. I think that is a pretty good word to use now. We are putting off the issue; we are postponing this matter. I do not believe that, under all the cricumstances, the Senate is going to be willing to pass this thing off on such a weak amendment that does not really grapple with the basic problem.

I thank the Senator for yielding to me, and I yield back whatever time remains.

Mr. SCOTT. I yield myself 2 minutes.

Mr. President, I view our amendment as having quite a contrary effect. In the first place, it is a national amendment in its scope. It is directed toward the school districts, as it should be. It affects the actions of school boards and school districts in all parts of the country. It defers action on enforcement until final appeal or up to a date certain in cases coming from such divergent States as Colorado, Virginia, and possibly California, as well as others. It deals with situations in Pennsylvania, New York, Michigan, and all the other States. It involves the application of Federal funds which the act clearly intends shall be used throughout the Nation. It has no sectional or geographical significance whatsoever.

The South has been too long regarded as a lone offender here by many uninformed people, not by this speaker. The problem is as great in the North, the East, and the West as in the South. In many ways, it is greater, because the integration process has proceeded further in the South. That is why this amendment is truly a nationwide amendment. There is not a word in it which could be construed as limiting the action of anybody to a southern situation. This amendment speaks without accent. It speaks without inflection. It speaks to all. It speaks to the national problem.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER (Mr. STAFFORD). Who yields time?

Mr. ERVIN. Mr. President, how much time remains unexpired for the opposition?

The PRESIDING OFFICER. The Senator from North Carolina has 14 minutes remaining.

Mr. ERVIN. Mr. President, the Senator from North Carolina yields to the Senator from Alabama (Mr. ALLEN) whatever portion of the 14 minutes remaining the Senator desires.

Mr. ALLEN. Mr. President, the country demands the stopping of busing of little schoolchildren. The country insists that an end be put to the massive, forced busing of little schoolchildren to create a racial balance. But the thrust of the amendment of the Senator from Pennsylvania and the Senator from Montana is busing right on.

The amendment of the Senator from Pennsylvania and the Senator from Montana is a pro-busing amendment. Let there be no doubt about that.

Mr. President, the determination of the Senator from Pennsylvania and the Senator from Montana that their amendment be voted on first that there be no opportunity to vote on the Griffin amendment, or that there be no opportunity to seek to amend their amendment, is requiring the Senate to go through four absolutely futile rollcall votes.

This amendment is before us in two separate amendments. On the one hand, is the amendment offered by the Senator from North Carolina and myself to which the Scott-Mansfield amendment was offered as a substitute, and then the Griffin amendment was offered as a perfecting amendment to the amendment

of the Senator from North Carolina and the Senator from Alabama.

Then, on the other side, the Senator from Minnesota (Mr. MONDALE) offered an amendment to the committee language, a perfecting amendment there. Then again, the Senator from Pennsylvania and the Senator from Montana offered their amendment in three parts and we are going to have separate votes. There will then be four votes, every one of which will be wiped out by subsequent rollcall votes, so that the Senate finds itself in this peculiar situation; namely, where Senators can vote against the Scott-Mansfield amendment on the upcoming vote and, irrespective of the outcome of that amendment, whether it carries or loses, they will get the opportunity subsequently to vote again on the Scott-Mansfield amendment.

What an exercise in futility, to have two separate votes on one amendment.

But, it was occasioned by the strong-arm tactics of the proponents of the amendment to demand a first vote on their amendment rather than to allow the Senator from Michigan (Mr. GRIFFIN) to offer his antibusing amendment. So we are going to have four votes before we get to a vote on the Griffin amendment.

Mr. President, far from solving the busing problem and putting an end to busing, the Scott-Mansfield amendment would freeze into the basic and fundamental law of this country a recognition of the busing concept. While the people of the country want an end put to massive, forced busing, the Senator from Pennsylvania and the Senator from Montana would seek to perpetuate that practice. That is all their amendment will do.

So, Mr. President, on the first three votes that we are going to have on the Scott-Mansfield amendment, broken down into three separate votes, I hope that the Senate will vote these amendments down. Those of us who want to vote later for the Scott-Mansfield amendment will have that opportunity.

But I think the Senate should indicate its disapproval of the methods that have been used to bring the Scott-Mansfield amendment to the first vote. I hope that the Scott-Mansfield amendment will be voted down and that the Mondale amendment will be voted down, and that will give us an opportunity to vote on the Griffin amendment followed by still another vote on the Scott-Mansfield amendment.

So, Mr. President, Senators find themselves in the unusual position of being able to vote both ways on the same question before the Senate.

I reserve the remainder of the time.

Mr. STENNIS. Mr. President, will the Senator from North Carolina yield me 1 minute?

Mr. ERVIN. Mr. President, I yield whatever time remains to the opposition to the Senator from Mississippi (Mr. STENNIS).

Mr. STENNIS. I thank the Senator but I did not mean to ask for all the time.

Mr. President, I was able to locate some statistics on the 1971 school year that I could not put my hands on before, to show what the picture is really like.

These are figures supplied at my request from HEW.

In school districts with 40,000 to 60,000 pupils, in Fresno, Calif., 64 percent of the black students were in schools 80 percent and above black; whereas in Richmond, Va., it was only 36 percent when these figures were made.

In Dayton, Ohio, 78 percent of black students were in schools of 80 percent or above black; whereas in Greenville, S.C., it was zero percent; that is to say they do not have any schools down there which are 80 percent or above black.

In Gary, Ind., it was 95 percent compared with Winston-Salem, N.C., at only 2.7 percent.

In northern school districts of 70,000 to 100,000 pupils, in Oklahoma City, 68.3 percent. Boston, 63 percent. That is the percentage of black students in schools, 80 percent and above black.

In the southern city of Charlotte, N.C., only 1.5 percent. In Indianapolis, Ind., 60 percent. In Milwaukee, Wis., 78 percent.

Mr. President, there is your uniformity. There is your "one policy"—"treat them all alike." That is the picture over the whole Nation.

I could not get the figures for 1971 for New York City, Philadelphia, or Pittsburgh but we do have them for 1970, and they show, for 1970, 65.7 percent of all black children in New York were in schools 80 percent and over black. In Philadelphia it is 80.2 percent. In Pittsburgh, it is 57.5 percent.

My point is, Mr. President, that this amendment will freeze in those in the southern area and do nothing to help the situation in other areas—as virtually nothing has been done in all these years.

That is concrete proof by these figures to illustrate what the picture really is, that this amendment, in my humble opinion, does not go to the problem and will not have anything to do with adjusting the conditions, and will have no tangible effect.

I thank the Senator from North Carolina for yielding me this time, and yield back to him what time remains.

Mr. President, I ask unanimous consent to have printed in the RECORD the complete details on the figures I have mentioned, together with my statement on the subject.

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

STATEMENT OF SENATOR STENNIS

I have compiled a table from the HEW preliminary statistics for the 1970–1971 school year and have selected certain comparably-sized Northern and Southern school districts and compared them on the table, which is set up with 4 columns.

The left-hand column is the name of the city; the 2nd column is the total public school pupil population of the city; the 3rd column is the percentage of black students in each city; the 4th column is the percentage of black students in schools having 80% to 100% black student population.

The purpose of the table is to show how much more *racially isolated* black students are in the North than in the South.

1971 HEW FIGURES REVEALING RELATIVE PERCENTAGES OF RACIAL ISOLATION IN PUBLIC SCHOOLS IN THE UNITED STATES

City	Pupils	Percent of blacks	Percent of blacks in schools with 80 percent or more black enrollment
Districts with 40,000 to 60,000 pupils:			
Fresno, Calif	55,000	9.3	64.0
Richmond, Va	44,000	69.0	36.0
Dayton, Ohio	55,000	42.7	78.1
Greenville, S.C	57,000	22.0	0
Gary, Ind	45,000	67.5	95.7
Winston-Salem, N.C	48,000	29.4	2.7
School districts with 70,000 to 100,000 pupils:			
Oklahoma City	70,000	23.6	68.3
Boston	96,000	31.0	63.0
Charlotte, N.C	80,000	31.8	1.5
School districts with over 100,000:			
Indianapolis, Ind	100,000	37.7	60.1
Milwaukee, Wis	130,000	28.0	78.8
1970 HEW figures:			
New York City	1,140,000	34.5	65.7
Philadelphia, Pa	280,000	60.5	80.2
Pittsburgh, Pa	73,000	40.3	57.5

Note: 1971 figures were sought from HEW, but have not been provided, on New York City, Philadelphia, and Pittsburgh, Pa.

Mr. ERVIN. Mr. President, what time remains?

The PRESIDING OFFICER (Mr. STAFFORD). The Senator from North Carolina has 6 minutes remaining, and the Senator from Pennsylvania has 20 minutes remaining.

Mr. ERVIN. Mr. President, the third section of the Scott-Mansfield amendment is a subterfuge in its practical effect, no matter how sincere it may be in the minds of its authors.

There is only one case originally in the entire United States that I have ever heard of to which it applies. That is the case involving the city of Richmond and the counties of Henrico and Chesterfield. That is the only case I have ever heard of where a judge attempted to cross the boundary lines between the independent subdivisions of government. So, it does not apply to the ordinary case at all. It reaches an ordinary case where there is a busing decision handed down by a district judge, and then it can be put into effect immediately.

So, it is a snare and an illusion in that regard as to everything except the city of Richmond and Henrico and Chesterfield Counties. It is also a snare and an illusion as it applies to the city of Richmond and Henrico and Chesterfield Counties.

I say that for the reason that the case cannot possibly reach the Supreme Court of the United States for review within the time limit prescribed in the third section of the Scott-Mansfield or Mansfield-Scott amendment.

Mr. President, to show how it operates generally, a district judge in the middle district of North Carolina entered a school desegregation decree requiring massive busing which was not satisfactory to those who wanted forced busing of virtually everyone. So they appealed the decision to the Circuit Court of Appeals of the Fourth Circuit. And the Circuit Court of Appeals of the Fourth Cir-

cuit held, under the authority of the opinion of Chief Justice Burger in Swann against Board of Education of Charlotte, Mecklenburg County, that they had to desegregate every school by busing so as to have exactly the same racial proportion of children in each school that they had in the county which comprised the entire school district.

The case was remanded by the Court of Appeals of the Fourth Circuit to the middle district of Tennessee, and the judge was required to reverse himself and enter a decree conforming to the opinion of the circuit court of appeals that there should be desegregation by busing of every school in proportion to the racial population of the county.

Then the local authorities applied to Chief Justice Burger, as the judge over the fourth circuit, for a stay of execution. This case indicates very well about how much consideration local school authorities get before that august body.

Chief Justice Burger refused to stay the execution. Notwithstanding that, he wrote an 8-page opinion in which he said that the decree of the district judge requiring the assignment of students to every school according to the percentage of racial population of the district was not required by the Constitution and that the court of appeals had misconstrued his decision. But notwithstanding the fact that the Chief Justice said they had misunderstood and misconstrued and perverted his decision—and he so stated in an 8-page opinion—he refused to stay the execution of judgment.

Then, lo and behold, when the school authorities applied to the Supreme Court for a writ of certiorari and insisted that the Chief Justice had declared that the decree was based upon a misconception and a misconstruction and a perversion of the opinion in the Swann case, he did not grant the writ but affirmed the judgment without argument.

The PRESIDING OFFICER. The time of the Senator has expired. Who yields time?

Mr. SCOTT. Mr. President, do I understand that the time of the opponents has expired?

The PRESIDING OFFICER. The Senator is correct.

Mr. SCOTT. Mr. President, I have no request for time. I would be glad to yield back the remainder of my time so that we may proceed with a vote.

Mr. ERVIN. Mr. President, before the Senator does that——

Mr. SCOTT. Mr. President, I reserve the remainder of my time and yield 1 minute to the Senator from North Carolina.

Mr. ERVIN. Mr. President, I was going to suggest that in order that the Senators who were not present be apprised of the fact that we are about to vote, we have a short quorum call so that the people in the cloakroom can advise them.

QUORUM CALL

Mr. SCOTT. 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. GRIFFIN. 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. GRIFFIN. Mr. President, will the Senator from North Carolina yield to me for 2 minutes?

The PRESIDING OFFICER. The time of the Senator from North Carolina has expired.

Mr. MANSFIELD. Mr. President, I understand that the Senator from Pennsylvania has some time remaining. I yield to the Senator from Michigan.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. GRIFFIN. Mr. President, earlier, in an effort to assist the Senate, as well as straighten out the matter for the junior Senator from Michigan, I stated the order in which the seven votes would be taken. I left the impression they necessarily would be one right after another.

Am I correct, and I ask this as a parliamentary inquiry, that once the Scott-Mansfield perfecting amendment is completed—and there will be three votes on that amendment—would it not be in order for another Senator, if he chooses to do so, to offer another perfecting amendment to the Mondale amendment, on which there would be 2 hours of debate?

The PRESIDING OFFICER. The Senator is correct.

Mr. GRIFFIN. I thank the Presiding Officer. I wanted to make that clear because we might get to the vote on the other matters tonight.

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

Mr. GRIFFIN. I yield.

Mr. MANSFIELD. I think it might be advisable to state to the Senate that after the three votes are completed it is the intention of the leadership to move to adjourn until tomorrow morning.

INTEGRATED SCHOOLS ARE NECESSARY AND DESIRABLE

Mr. MOSS. Mr. President, this country has made considerable progress since the 1954 decision of the Supreme Court requiring that our society end its brutal patterns of segregated schools. The segregated schools denounced by the 1954 decision were often in total violation of the neighborhood school concept—a concept that we all support. Children were often bused far from their neighborhood in order to attend school with those of their own race. This pattern destroyed the self-image of the minority children involved and helped to maintain the vicious segregation that racked so many portions of our country.

Neighborhood schools are the best kind of school system when they are available. We would all prefer to have our children walk to a local school. In most places in America, however, this is not possible. Sixty-five percent of American children ride to school on buses each day. This is usually because their homes are too distant from their schools. In some cases, busing is also because it is the only possible means by which integrated schools may be maintained.

Housing patterns are not likely to be changed rapidly in the next few years. Until they are changed, and until we are a truly integrated society in housing as well as public facilities, some movement of students must be used to attain integrated education.

I would prefer that busing not be necessary. But in some cases it is necessary, and we must face that fact.

We must keep sight of this basic goal of our society: equal opportunities brought, in part, by integrated, quality education. In discussing integration and education, we are often presented with numerous statistics relating to educational attainment.

These are certainly important aspects, but we must never lose sight of the fact that education also is basically a humanizing process. School patterns based on segregation can never teach us the human aspects that need to be transmitted through the education process. The important aspect of learning as we become adults is the learning of proper relationships with other human beings. Education is people learning skills and learning how to relate to each other. When walls of segregation are erected between people, such a process can never occur completely.

We know that integration, when properly handled in our public schools, works. The Coleman report, which is one of the most extensive studies ever completed on American education, found that blacks in all-black schools were 1 year behind the education level of blacks in integrated schools. In Berkeley, Calif., where integration has taken place very effectively, the achievement level of blacks in newly integrated schools rose 60 percent. At the same time, the achievement levels of white students rose as well. We know that success stories are not as striking in some other school systems, but that is partially because those communities have lost sight of the overall goal cited earlier. Integration is a total process. and unless economic integration, housing integration, and social integration also occur in a community, education cannot be expected to completely overcome the barriers of separation.

In the past we have often bused for the wrong reasons. Not too many decades ago, Indians were bused from their reservations to boarding schools, where they were shaved of their long hair and stripped of their native clothing. This occurred primarily in the West, but such cases are existent throughout our country. In other areas of the country, busing was used to divide people who were otherwise integrated in neighborhood housing patterns. Blacks were separated from their white neighbors and bused to distant all-black schools.

But we have stopped these incorrect activities and have begun to use busing only when other means of integrating school systems cannot be used. Let us not turn against this tool just at the time when we have eliminated its improper uses and have restricted it in its application. To do so will remove one of the devices necessary to the eventual accomplishment of integrated, quality education.

Let us make this clear: all of us favor quality education, all of us favor neighborhood schools when possible, and all of us prefer to eliminate long distances

in the daily travel to and from school. But these are not the real issues. The issue is whether we will continue to allow busing to be used as a limited and carefully constructed device for the purpose of helping us achieve integrated education. I do not believe that we can or should turn the clock back to the days before the 1954 Supreme Court decision regarding school integration.

I will support the Mansfield-Scott amendment on school busing. While I am afraid that it may in some cases restrict busing when it might be useful, I believe that, as a legitimate compromise, it is far more acceptable than other proposals that have been cast about in both Houses of Congress in the last few months. I will therefore support this measure, and urge my colleagues to do likewise. This is certainly better than attempts to repeal the 14th amendment by adding other constitutional amendments. It is also preferable to any of the other legislative proposals I have seen in the last few days. For these reasons, I will vote for the Mansfield-Scott amendment.

Mr. HART. Mr. President, I will vote for the Scott-Mansfield amendment but with reluctance on several counts.

I regret that the Senate of the United States endorse any provision which may be construed by those who have been denied their constitutional rights as a slackening in our commitment to deliver on the promise of the 14th amendment. And I fear, that in the context of today's national debate on "busing," the ramifications of accepting this provision are not all that we would desire in a nation threatened by the prospects of a divided society.

I believe most Senators are, as I am, unwilling to repudiate Brown and retreat to the discredited position of "separate but equal." I will support the Scott-Mansfield bill as the best vehicle to prevent such a retreat, and still provide some assurance to those who are apprehensive about unreasonable busing plans which might harm their children. Under the decisions of the Supreme Court these fears are unfounded, but until we can clear the confusion created by the heated public debate of the past few months, the Scott-Mansfield amendment should provide such assurance, without taking the clearly unacceptable positions embodied in other amendments that have been offered to this bill.

Those amendments, offered by the Senator from North Carolina and other Senators would, in my opinion, prevent the fulfillment of the mandate in Brown and would roll the clock back to 1954. I will oppose them.

I do regret the inclusion in the Scott-Mansfield measure of the provision for even a limited stay of Federal court orders in the field of desegregation. Congress ought singe out this area of effort to vindicate constitutional rights as quickly as possible, by tying the courts' hands in any way. Where appropriate, courts now have discretionary power to stay the effect of their order pending appeal, and appellate courts can issue such stays as well.

At least the stay provision in the Scott-Mansfield substitute, unlike the House-passed provision, is limited and is of definite duration. It covers orders which do raise an issue not yet ruled on specifically by the Supreme Court. They do raise a new issue, and, in that sense, differ from the implementation of plans involving remedies the Supreme Court has already made clear are appropriate. On such plans, there can be no justification for any further delay.

Still, even here Congress treads on dangerous ground when it begins to tamper with the courts. This is particularly true if we try to restrict in any degree the power of Federal courts to do what they find necessary to remedy a constitutional violation. The constitutionality of such restraints, at least where the courts retain jurisdiction to hear cases under the 14th amendment, is very questionable.

But more than the issue of constitutionality, I find disturbing any amendment which would substantially interfere with the court's ability to order remedies for segregation. Such amendments, which go far beyond the stay provision in the Scott-Mansfield bill, have been proposed. They would place Congress in the position of telling the courts, in effect, "even if you find segregation which violates constitutional rights, don't fix it."

I will continue to oppose such amendments interfering with the substance of court orders, and urge my colleagues to do so.

Mr. McCLELLAN. Mr. President, I am opposed to busing as a means of achieving racial balance in our public schools.

It is a tragic day for all Americans—black and white—when the fibers which bind our society together are torn asunder—are so recklessly and callously ripped apart—by the courts without due regard for the welfare and dignity, the safety and security of all the people.

The suffering we must now endure over this busing affliction is needless. It does not have to be—and it should not be allowed to continue.

The disruption and distress forced busing has wrought in our national life is indefensible. Every morning, millions of youngsters are carted off around the country—often to unfamiliar and even hostile surroundings. They are uprooted from their normal environment. They are jolted away from their comforts and companions close to home. They are forced to submit to the adverse uncertainties, insecurities and abuses of an experience that is not only unnecessary but which is detrimental to their welfare.

Under the court's almighty quest to impose its concept of an equal education, innocent children have become pawns in a nationwide game of chess in which everybody loses.

I submit that the psychological harm alone—resulting from this sudden and senseless rupture with all ties and traditions—is of a depth and magnitude that is immeasurable.

The emotional cost to our children—to their worried and weary parents—to their beleaguered and beset teachers—is sufficient reason for an immediate end to the forced busing scourge. But this terrible impact—as serious and disruptive as it is—only touches the mere surface of the widespread injury and injustice being inflicted upon the lives of our people who are directly subjected to its consequences.

In terms of dollars—we are being compelled to spend countless millions, not to improve the quality of education but simply to promote the world's biggest mass transit system.

In terms of time—we are talking about an agonizing situation that is refashioning a productive, progressive system of education into a horrible mass of confusion and resentment.

Where will all this end, Mr. President? Are we to pull together or remain idle while this divisive court edict pulls our great Nation further apart.

I do not want needless busing, Mr. President. The people of Arkansas do not want needless forced busing. And, I am convinced that the vast majority of Americans do not want forced busing.

The PRESIDING OFFICER. All time has expired and the vote now occurs on the amendment offered by the Senator from Pennsylvania, on which a division has been ordered. The yeas and nays have been ordered. The first vote will be on part (a) of the amendment. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Indiana (Mr. HARTKE), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Hawaii (Mr. INOUYE), the Senator from Washington (Mr. JACKSON), the Senator from South Dakota (Mr. McGOVERN), the Senator from Maine (Mr. MUSKIE), and the Senator from Alabama (Mr. SPARKMAN), are necessarily absent.

On this vote, the Senator from Minnesota (Mr. HUMPHREY) is paired with the Senator from Alabama (Mr. SPARKMAN).

If present and voting, the Senator from Minnesota would vote "yea" and the Senator from Alabama would vote "nay."

I further announce that, if present and voting, the Senator from South Dakota (Mr. McGOVERN), the Senator from Maine (Mr. MUSKIE), and the Senator from Indiana (Mr. BAYH) would each vote "yea."

I further announce that, if present and voting, the Senator from Washington (Mr. JACKSON), would vote "nay."

Mr. GRIFFIN. I announce that the Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Oregon (Mr. PACKWOOD), the Senators from Ohio (Mr. SAXBE and Mr. TAFT) are necessarily absent.

If present and voting, the Senator from Ohio (Mr. SAXBE) would vote "yea."

The result was announced—yeas 51, nays 37, as follows:

[No. 58 Leg.]

YEAS—51

Aiken	Church	Javits
Allott	Cranston	Kennedy
Anderson	Dominick	Magnuson
Beall	Eagleton	Mansfield
Bellmon	Fong	Mathias
Boggs	Fulbright	McGee
Brooke	Gravel	McIntyre
Burdick	Harris	Metcalf
Byrd, W. Va.	Hart	Miller
Cannon	Hatfield	Mondale
Case	Hughes	Montoya

Moss	Proxmire	Stevens
Nelson	Randolph	Stevenson
Pastore	Roth	Symington
Pearson	Schweiker	Tunney
Pell	Scott	Weicker
Percy	Stafford	Williams

NAYS—37

Allen	Dole	Jordan, Idaho
Baker	Eastland	Long
Bennett	Ellender	McClellan
Bentsen	Ervin	Ribicoff
Bible	Fannin	Smith
Brock	Gambrell	Spong
Buckley	Goldwater	Stennis
Byrd, Va.	Griffin	Talmadge
Chiles	Gurney	Thurmond
Cook	Hansen	Tower
Cooper	Hollings	Young
Cotton	Hruska	
Curtis	Jordan, N.C.	

NOT VOTING—12

Bayh	Jackson	Packwood
Hartke	McGovern	Saxbe
Humphrey	Mundt	Sparkman
Inouye	Muskie	Taft

So part (a) of the Scott-Mansfield amendment was agreed to.

Mr. SCOTT. Mr. President, I move to reconsider the vote by which part (a) of the amendment was agreed to.

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

The motion to lay on the table was agreed to.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the time on each of the next two rollcall votes, which will be back to back, be limited to 10 minutes, with the midway warning bell sounding at the 5-minute point.

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

The question now recurs on agreeing to the second portion of the amendment offered by the Senator from Pennsylvania (Mr. SCOTT), designated as part (b). On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Indiana (Mr. HARTKE), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Hawaii (Mr. INOUYE), the Senator from Washington (Mr. JACKSON), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Maine (Mr. MUSKIE), and the Senator from Alabama (Mr. SPARKMAN), are necessarily absent.

On this vote, the Senator from Minnesota (Mr. HUMPHREY) is paired with the Senator from Alabama (Mr. SPARKMAN).

If present and voting, the Senator from Minnesota would vote "yea" and the Senator from Alabama would vote "nay."

I further announce that, if present and voting, the Senator from South Dakota (Mr. MCGOVERN), the Senator from Maine (Mr. MUSKIE), and the Senator from Indiana (Mr. BAYH), would each vote "yea".

I further announce that, if present and voting, the Senator from Washington (Mr. JACKSON), would vote "nay."

Mr. GRIFFIN. I announce that the Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Oregon (Mr. PACKWOOD), the Senators from Ohio (Mr. SAXBE and Mr. TAFT) are necessarily absent.

If present and voting, the Senator from Ohio (Mr. SAXBE) would vote "yea."

The result was announced—yeas 50, nays 38, as follows:

[No. 59 Leg.]

YEAS—50

Aiken	Harris	Pastore
Allott	Hart	Pearson
Anderson	Hatfield	Pell
Beall	Hughes	Percy
Bellmon	Javits	Proxmire
Boggs	Kennedy	Randolph
Brooke	Magnuson	Roth
Burdick	Mansfield	Schweiker
Byrd, W. Va.	Mathias	Scott
Cannon	McGee	Stafford
Case	McIntyre	Stevens
Church	Metcalf	Stevenson
Cranston	Miller	Symington
Eagleton	Mondale	Tunney
Fong	Montoya	Weicker
Fulbright	Moss	Williams
Gravel	Nelson	

NAYS—38

Allen	Dole	Jordan, N.C.
Baker	Dominick	Jordan, Idaho
Bennett	Eastland	Long
Bentsen	Ellender	McClellan
Bible	Ervin	Ribicoff
Brock	Fannin	Smith
Buckley	Gambrell	Spong
Byrd, Va.	Goldwater	Stennis
Chiles	Griffin	Talmadge
Cook	Gurney	Thurmond
Cooper	Hansen	Tower
Cotton	Hollings	Young
Curtis	Hruska	

NOT VOTING—12

Bayh	Jackson	Packwood
Hartke	McGovern	Saxbe
Humphrey	Mundt	Sparkman
Inouye	Muskie	Taft

So part (b) of the amendment was agreed to.

Mr. MONDALE. Mr. President, I move to reconsider the vote by which part (b) of the amendment was agreed to.

Mr. SCOTT and Mr. MOSS moved to lay the motion on the table.

The motion was agreed to.

The PRESIDING OFFICER. The vote now occurs on part (c) of the amendment offered by the Senator from Pennsylvania. On this question the yeas and nays have been ordered, and the clerk will call the roll.

Mr. DOMINICK. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DOMINICK. Is any further debate or conversation permitted on this?

The PRESIDING OFFICER. No further debate on this amendment.

Mr. DOMINICK. So we just have to vote, without any further questions?

The PRESIDING OFFICER. On this particular amendment, that is the answer.

Mr. DOMINICK. I thank the Chair.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Indiana (Mr. HARTKE), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Hawaii (Mr. INOUYE), the Senator from Washington (Mr. JACKSON), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Maine (Mr. MUSKIE), the Senator from Alabama (Mr. SPARKMAN), are necessarily absent.

I further announce that, if present and voting, the Senator from Indiana (Mr. BAYH), the Senator from Minnesota (Mr. HUMPHREY), the Senator from South Dakota (Mr. MCGOVERN), and the Senator from Maine (Mr. MUSKIE), would each vote "yea."

I further announce that, if present and voting, the Senator from Washington (Mr. JACKSON) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Oregon (Mr. PACKWOOD), the Senators from Ohio (Mr. SAXBE and Mr. TAFT) are necessarily absent.

If present and voting, the Senator from Ohio (Mr. SAXBE) would vote "yea."

The result was announced—yeas 79, nays 9, as follows:

[No. 60 Leg.]

YEAS—79

Aiken	Ellender	Montoya
Allott	Fannin	Moss
Anderson	Fong	Nelson
Baker	Fulbright	Pastore
Beall	Goldwater	Pearson
Bellmon	Gravel	Pell
Bennett	Griffin	Percy
Bentsen	Gurney	Proxmire
Boggs	Hansen	Randolph
Brock	Harris	Roth
Brooke	Hart	Schweiker
Buckley	Hatfield	Scott
Burdick	Hruska	Smith
Byrd, Va.	Hughes	Spong
Byrd, W. Va.	Javits	Stafford
Cannon	Jordan, N.C.	Stennis
Case	Jordan, Idaho	Stevens
Chiles	Kennedy	Stevenson
Church	Long	Symington
Cook	Mansfield	Thurmond
Cotton	Mathias	Tower
Cranston	McClellan	Tunney
Curtis	McGee	Weicker
Dole	McIntyre	Williams
Dominick	Metcalf	Young
Eagleton	Miller	
Eastland	Mondale	

NAYS—9

Allen	Ervin	Magnuson
Bible	Gambrell	Ribicoff
Cooper	Hollings	Talmadge

NOT VOTING—12

Bayh	Jackson	Packwood
Hartke	McGovern	Saxbe
Humphrey	Mundt	Sparkman
Inouye	Muskie	Taft

So part (c) of the Scott-Mansfield amendment was agreed to.

Mr. SCOTT. Mr. President, I move to reconsider the vote by which part (c) of the Scott-Mansfield amendment was agreed to.

Mr. MONDALE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that further consideration of the amendment by the Senator from Minnesota (Mr. MONDALE), as amended by the amendment of the Senator from Pennsylvania (Mr. SCOTT) and the Senator from Montana (Mr. MANSFIELD), be postponed until tomorrow, and that the time allotted to the committee substitute may be yielded to Senators at this time who may wish to speak out of order today.

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

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Berry, one of its reading clerks, announced that the House insisted upon its amendment to the bill (S. 166) to designate the Stratified Primitive Area as a part of the Washakie Wilder-

ness, heretofore known as the South Absaroka Wilderness, Shoshone National Forest, in the State of Wyoming, and for other purposes, disagreed to by the Senate; agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. JOHNSON of California, Mr. UDALL, Mr. RONCALIO, Mr. KYL, and Mr. LLOYD were appointed managers on the part of the House at the conference.

The message also announced that the House insisted upon its amendments to the bill (S. 1893) to restore the golden eagle program to the Land and Water Conservation Fund Act, provide for an annual camping permit, and for other purposes, disagreed to by the Senate; agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. ASPINALL, Mr. TAYLOR, Mr. JOHNSON of California, Mr. SAYLOR, and Mr. SKUBITZ were appointed managers on the part of the House at the conference.

The message further announced that the House had agreed to the report of the committee on conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 12067) making appropriations for foreign assistance and related programs for the fiscal year ending June 30, 1972, and for other purposes; that the House receded from its disagreement to the amendments of the Senate numbered 5, 23, 27, and 40 to the bill and concurred therein, severally with an amendment, in which it requested the concurrence of the Senate.

QUORUM CALL

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

The PRESIDING OFFICER (Mr. STAFFORD). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

STAR PRINT OF AN AMENDMENT

Mr. CHILES. Mr. President, I ask unanimous consent for a star print of my amendment No. 894 to H.R. 1. This is required because of a misprint in the amendment.

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

ORDER OF BUSINESS

Mr. BYRD of West Virginia. Mr. President, I yield time on behalf of the distinguished majority leader to the able Senator from Wisconsin (Mr. PROXMIRE). How much time does the Senator require?

Mr. PROXMIRE. One minute.

Mr. BYRD of West Virginia. I yield 1 minute to the Senator from Wisconsin and then I will yield to the able Senator from Alaska (Mr. GRAVEL).

REMOVAL OF COSPONSORS FROM S. 2818

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the names of the Senator from South Dakota (Mr. MCGOVERN) and the Senator from Indiana (Mr. BAYH) be removed as cosponsors of S. 2818, amendment of the Federal Food, Drug, and Cosmetic Act.

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

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent, following recognition of the two leaders on tomorrow, that there be a period for the transaction of routine morning business, not to exceed 30 minutes, with statements therein limited to 3 minutes.

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

PROGRAM

Mr. BYRD of West Virginia. Mr. President, if no Senator wishes to speak further this afternoon, the program for tomorrow is as follows:

The Senate will convene at 10 a.m. After the two leaders have been recognized under the standing order, there will be a period for the transaction of routine morning business for not to exceed 30 minutes, with statements therein limited to 3 minutes.

I ask unanimous consent that, at the close of morning business tomorrow, the Chair lay before the Senate the unfinished business.

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

Mr. BYRD of West Virginia. Mr. President, the pending question at the time morning business is closed tomorrow and the unfinished business is laid before the Senate, will be on the adoption of the amendment by the Senator from Minnesota (Mr. MONDALE) as amended by the amendment of the Senator from Montana (Mr. MANSFIELD) and the Senator from Pennsylvania (Mr. SCOTT).

All time has expired on that amendment.

It should be stated that perfecting amendments to that amendment will still be in order. Whether such will be offered, I cannot say, but if such is offered, there would be a limitation of 2 hours on any such perfecting amendment.

So Senators are on notice that there will be rollcall votes tomorrow. There is certain to be a rollcall vote on the amendment of the Senator from Minnesota (Mr. MONDALE). If any perfecting amendment thereto is offered, I assume there will be a rollcall vote on such perfecting amendment. If such perfecting amendment is or is not adopted, it is my understanding that further perfecting amendments would still be in order.

I should like to ask the Chair if I am correct in that understanding?

The PRESIDING OFFICER (Mr. STEVENSON). The Senator's understanding is correct.

Mr. BYRD of West Virginia. I thank the distinguished Presiding Officer.

So, there will be rollcall votes tomorrow.

Senators are alerted to the fact that a busy day is in the offing.

ADJOURNMENT TO 10 A.M. TOMORROW

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 adjournament until 10 a.m. tomorrow.

The motion was agreed to; and at 5:08 p.m. the Senate adjourned until tomorrow, Friday, February 25, 1972, at 10 a.m.

HOUSE OF REPRESENTATIVES—*Thursday, February 24, 1972*

The House met at 12 o'clock.

Rev. Max E. Saar, Estonian Evangelical Lutheran Church, Bergen County, N.J., offered the following prayer:

Let us pray: Dear Heavenly Father, we give Thee thanks for the wonderful blessings Thou hast bestowed upon the people of the United States, whose representatives are gathered here.

Guide with Thy Holy Spirit our President and Congress in their efforts to preserve Thy most precious gifts—freedom and justice.

Make us mindful today, on Estonian Independence Day, of the sorrowful fact that Estonians, whose history goes back to the dawn of civilization, are still mourning the forceful loss of their independence and are suffering under a foreign power, oppressed by alien doctrine and religious persecution.

We beseech Thee, Creator of nations big and small, equally dear to Thee, restore freedom to all captive nations and give us strength to preserve this freedom for our and future generations. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington one of its clerks announced that the Senate insists upon its amendment to the bill (H.R. 1746) entitled "An act to further promote equal employment opportunities for American workers," disagreed to by the House; agrees to the conference asked by the House on the disagreeing votes of tne two Houses thereon, and appoints Mr. WILLIAMS, Mr. RANDOLPH, Mr. PELL, Mr.