SENATE—*Monday, October 2, 1972*

The Senate met at 9 a.m. and was called to order by Hon. ROBERT C. BYRD, a Senator from the State of West Virginia.

PRAYER

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

Eternal Father, we thank Thee for Thy boundless love and amazing grace which attends us even when we are least aware of Thy presence. We thank Thee for Thy presence in this place of prayer and work. Bestow Thy blessing upon all who labor here investing every task with divine meaning. Send us to our waiting tasks with fresh insights and new power. Spare us from sinful waste of time or careless haste of action. Help us wisely to engage our energies and prudently to use our time for the advancement of common objectives of lasting worth for all the people. Crown our efforts with accomplishments worthy of our heritage. And to Thee shall be all the praise and the glory forever. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The second assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., October 2, 1972.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. ROBERT C. BYRD, a Senator from the State of West Virginia, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

Mr. ROBERT C. BYRD 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 Saturday, September 30, 1972, be dispensed with.

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

WAIVER OF THE CALL OF THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the call of the legislative calendar, under rule VIII, be dispensed with.

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

THE $250 BILLION LIMIT ON NATIONAL BUDGET

Mr. MANSFIELD. Mr. President, there has been a good deal of discussion and some action, at least action of a sort, seeking to limit the national budget for the current fiscal year to $250 billion.

While the idea is commendable, I think that Congress should stop, look, and listen before it passes such a proposal, because to do so would give the President additional powers. The President has too much in the way of power already—and that would apply to any President.

Unfortunately, much of the power which he has acquired has been given to him on a silver platter by Congress. So that Congress is at fault. I would hope it would not go too far in giving too much authority to any President but retain, insofar as possible, the constitutional authority and responsibility which belongs to Congress.

Mr. President, I ask unanimous consent to have printed in the RECORD an editorial published in the Christian Science Monitor for September 30, 1972, entitled "Let Congress Wield the Ax."

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

LET CONGRESS WIELD THE AX

The desire of the House Ways and Means Committee to limit the national budget for the current fiscal year to $250 billion is certainly commendable, in view of the massive $25 to $30 billion deficit which has been forecast. But the means it proposes of achieving that ceiling—by handing over to the President unlimited authority to make whatever cuts he deems right and good to keep within the limit—is at least open to question.

Under the parliamentary form of government, as in Canada, Britain, and most European countries, the government (that is to say the political party in power) has the initial budgetmaking authority. In that system, the government works up a budget presentation, usually under the cloak of great secrecy, and then presents it to the Parliament. That body can make changes in the budget, but the primary research and weighing and balancing and juggling to determine who pays how much in taxes and how and where they are spent, is the government's responsibility. Parliament's basic role is to vote on it, yea or nay.

In the United States, however, Congress, which embodies both major parties, has the tax-raising and spending authority. Originally Congress through its various committees, did the initial and hard spadework of budget-writing—holding hearings, quizzing department heads, weighing priorities. In 1929 that job was given to the new Bureau congressional committees to review the budget is cumbersome, messy, plagued by open political grandstanding and not-so-open cloakroom lobbying. It cries for better, cleaner, more efficient methods.

Still, it is Congress which must justify the budget. It is Congress which must add, subtract or otherwise shape it into final form. And it is Congress which has to answer for how much is spent and collected. To hand the budget-cutting power over to the president in an election year, at a time when the debate over national priorities is at high heat, is an unprecedented departure from practice. The White House can hardly be expected to be blind to the political benefits or black marks it may reap in November when deciding what to cut or not to cut. To whom is the White House responsible when it makes crucial decisions on whether to make cuts, for example, in social versus military sectors of the budget?

Better that those responsible for the budget stick to their task, delaying adjournment if need be, and make the hard decisions for which they alone can be held accountable.

We do agree with the committee's action in voting to set up a joint committee to review the whole budgetmaking procedure. Volumes of past studies by distinguished students of government already exist neglected on the shelf which show the way toward a more rational budgetmaking system. They should be implemented. But present responsibilities ought not to be shirked under the cloak of promises of future improvement.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Does the distinguished Republican leader desire to be recognized?

Mr. SCOTT. Yes, Mr. President.

(The remarks that Mr. SCOTT made when he introduced S. 4050 at this point are printed in the Routine Morning Business section of the RECORD under Statements on Introduced Bills and Joint Resolutions.)

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the distinguished Senator from California (Mr. CRANSTON) is now recognized for not to exceed 15 minutes.

PRESIDENT NIXON, SENATOR McGOVERN, AND UNITED STATES-ISRAEL RELATIONS

Mr. CRANSTON. Mr. President, President Nixon's election year 1972 stance as the stanch defender of Israel is in striking contrast to the first 3 years of his administration.

Let us not forget those first 3 years.

They were marked by the infamous Rogers plan.

They were marked by incessant State Department pressure on Israel to make dangerously unrealistic concessions which she rightly felt would imperil her safety.

They were marked by stubborn refusals to believe Israel claims that the Russians and Egyptians were violating the cease-fire—claims the administration ashamedly admitted were valid after it was too late to do anything about them.

They were marked by dribbles of vital military aid which the administration begrudingly granted only under the steady hammering of the Congress.

They were years marked by overtly expressed fears by Israeli leader that they were being betrayed by an administration in Washington which they openly accused of doubledealing.

And all this time the Nixon administration, for its part, was berating the Israelis for being "intransigent."

The mutual distrust between our nations had so intensified over those first 3 years that Premier Meir felt impelled to make a personal mission to Washington to persuade Mr. Nixon to change his ways.

Let me ask a small question. Is not the fact that she was apparently successful, related, perchance to the fact that

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she met with the President in December 1971—just 1 short month away from the politically magic year of 1972?

Mrs. Meir reportedly responded to Mr. Nixon's request to "trust me" by saying "I'll trust you, but I'll watch you, too." If Mr. Nixon is reelected, Golda, I am afraid, will be in for 4 more years of watching. And I do not think she will like what she sees.

Mr. Nixon's timely switch from what he earlier called his evenhanded approach in the Middle East that made life so difficult for Israel, to his present assertively pro-Israel stance is in line with other election year Presidential switches—like reaching an arms agreement with the Soviet Union and reestablishing open relations with mainland China—switches which, by the way, I also approve.

But because Mr. Nixon's political oscillations are currently taking him through his good phase is no assurance that he will not regress after November 7 to his more accustomed role of the nuclear-rattling, heavy-hydrogen breathing cold warrior.

Mr. Nixon is an unreliable ally of Israel whose present actions appear to be based more upon political factors and out-of-date cold war considerations than by any deep commitment to Israel's permanent well-being and security. Mr. Nixon is an election year "Richard-come-lately" friend of Israel whose opportunistic passion may conveniently wane once the votes are counted.

If Mr. Nixon is reelected—and I stress the "if," for the election is not yet over—he will not again run for public office, so the political factor, even if it did not vanish totally, would become far less important for Richard Nixon than it was in the first 3 years of his first term.

In a strangely inverted way, the invetebrate cold war orientation of our President will, I believe, jeopardize strong, continued U.S. support of Israel if there is a second Nixon administration.

Mr. Nixon's new policy in the Middle East, apart from domestic politics, was closely linked to the Soviet's heavy-handed military and economic push into the area—especially the intensive Russian arms buildup in Egypt that got underway in 1970.

How important will Israel continue to be in Mr. Nixon's cold war scheme of things now that the Soviet Union is out of Egypt, at least militarily? Since Mr. Nixon is backing Israel not simply because she is a beleaguered sister-democracy with legitimate rights and needs but mostly because she is, for him, merely another anti-Communist bulwark on the Soviet perimeter, what will become of the intensity of Mr. Nixon's commitment to Israel if the Soviet presence in the Middle East continues to diminish?

Back in 1971, the administration held back on new Phantom purchases by Israel because, the State Department said, the Soviets were showing "restraint" in their arms shipments to Egypt. Now that the U.S.S.R. has militarily "restrained" itself out of Egypt altogether, would President Nixon match this, if he is reelected, with a total "restraint" of his own by cutting off arms to Israel once the election is over?

There are reasons why this could happen. Other anti-Israel pressures are at work in the Nixon administration, and they would be emboldened by the political security of a second term.

One of those pressures is the notorious pro-Arab bias of our State Department. This bias existed long before Mr. Nixon took office. But the so-called "Arabists" of Foggy Bottom have never before felt confident enough to dare surface as brazenly as they have under the benign direction of Secretary of State William P. Rogers—the same Mr. Rogers who is still entrenched in the department—despite the rumored demise of the Rogers Plan; the same Mr. Rogers who is out campaigning for Mr. Nixon's reelection with such vigor and belligerency.

Another pro-Arab pressure on Mr. Nixon is, of course, oil. The strings which big oil has wrapped around the State and Interior Departments in this big-business administration will once more be jerked tight in favor of Israeli's oil-rich Arab enemies if Mr. Nixon gets safely past November 7. An oil-oriented administration such as this could slickly exploit legitimate current concern over the energy crisis by arguing that steps must be taken to guarantee the uninterrupted flow of Middle East oil, and by asserting that such steps necessarily mean greater U.S. support for the Arabs and new concessions at the expense of Israel.

The energy crisis is real. The Middle East Institute just this past weekend devoted its session to discussing the problem. A House Foreign Affairs Subcommittee is currently conducting extensive hearings on the subject.

But the answer to the energy crisis is not more oil, and certainly not more Middle East oil. A significant part of the answer lies in alternate, nonpolluting sources of power, such as the properly controlled use of nuclear energy. But far from encouraging activities in that direction, the administration has instead encouraged even greater American reliance on oil and greater demands for more and more oil to satisfy the demand.

The next, almost predictable step is for the administration to equate the need for Middle East oil with the economic growth and national security of the United States.

When the administration reaches that point in the argument—I say to friends of Israel who are contemplating voting for Richard Nixon—Look out. The moment of betrayal will be at hand.

Mr. President, it is a fact that during the first 3 years of Richard Nixon's administration, it was a bipartisan group of Senators—Democrats and Republicans alike—who kept the pressures on the administration in behalf of Israel in her time of great need.

After the 1968 election, for example, President Nixon's emissary went on a tour of the Middle East and called for more "even handed" U.S. policies on his return. In April 1969, 70 Senators—including Senator McGovern and myself—released a statement warning against an imposed settlement in the Middle East.

Only a few months later, the administration refused to implement a grant to Israel for $20 million approved by the Congress. And then, in December 1969, the administration announced the so-called Rogers plan calling for virtually total Israeli withdrawal from territories occupied in the 6-day war of 1967.

To tighten the screws on Israel even further, President Nixon decided to hold up all major Israel arms requests, including Phantom jets.

In May 1970, and again in July, Senator McGovern joined a group of Senators, including myself, in letters to Secretary Rogers and President Nixon urging Phantom shipments and "recognized and secure borders" for Israel.

Finally, in August 1970, almost a year after Mrs. Meir had come to Washington requesting aid, the White House reluctantly approved the sale of only 18 Phantom jets.

Between September 1970 and November 1971, Senator McGovern was active in congressional efforts to light the fire under the administration. I was active in this effort, along with my colleague, Senator Tunney, as well as many other Democratic and Republican Members of the Senate. The Senate defied Nixon's wishes and voted $500 million in military credit for Israel, of which $250 million was for Phantoms. Ten members of the Senate Foreign Relations Committee urged Secretary Rogers to support Israel's request for grant supporting assistance, but the administration callously pretended that Israel did not need it. In fact, the White House press secretary referred to the Senate's action as "permissive." Mr. President, spokesmen for this administration crisscross this Nation's belaboring our country—and just about everybody in it—for being permissive. They never really explain who or what they are talking about. But in this case the administration spoke clearly. The Senate, they said, was being permissive—and should be criticized—for insisting on fuller aid to Israel. I and my Senate colleagues are proud to be accused of being permissive in wanting to send Israel the military and economic aid she must have to survive in security and peace. I say again: We are proud of it.

A speech by Secretary Rogers to the U.N. General Assembly in October 1971 set off more alarms in Jerusalem. Mrs. Meir replied:

> Mr. Rogers made it difficult to himself to render the good services he had no doubt intended. He erred greatly in some positions he expressed.

After a meeting between Secretary Rogers and Foreign Minister Eban in the same month, a reliable diplomatic source said that Mr. Rogers had made U.S. unwillingness to provide planes to Israel "unmistakably clear."

At that point, the only direct assistance that the administration had proposed was $56 million for food shipments.

Finally, early in 1972, at the start of an election year, the administration suddenly woke up to Israel's need. Limited shipments of aircraft artillery and other advanced military equipment began to flow. After a 6-month embargo, the administration agreed in principle to resume delivery of more Phantom jets and Skyhawk light-attack planes.

Mr. President, I again call attention to the fact that this occurred on the magic eve of the election of this year.

However, the White House is still holding onto as much leverage as possible. They are doing this by stretching out delivery dates. And unless present policies are changed, the actual arrival of the planes in Israel is likely to be dragged out over a number of years.

Mr. President, I ask unanimous consent that two members of my staff may be granted the privilege of the floor during this period preceding the morning business, Murray Flander and Ellen Frost.

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

Mr. CRANSTON. Mr. President, I reserve the remainder of my time.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. The order provides at this time for the recognition of the Senator from California (Mr. TUNNEY) for not to exceed 15 minutes.

Mr. SCOTT. Mr. President, I ask unanimous consent that my order to speak may precede the order of the Senator from California (Mr. TUNNEY), while we are waiting for his arrival. I would prefer to speak later but I am willing to do so now.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The Republican leader is recognized under the order for not to exceed 15 minutes.

THE RECORD IN THE MIDDLE EAST

Mr. SCOTT. Mr. President, I gather that the Senator is saying, in effect, that this administration has done more for peace in the Middle East but has done it so recently that perhaps it did not do as much as other administrations did earlier. Even that supposition is wrong, since aid to Israel began to increase very shortly after this administration took office, has increased steadily, and is now at the rate of more than 10 times as much assistance as ever given to this small and only democratic nation in the Middle East by any previous administration. How Senators who take the floor today to talk on this subject can get away from this fact I do not know.

Confucius once said to Duke Luig of Wei:

> If a man does not give thought to problems which are still distant, he will be worried by them when they get nearer.

That, I think, is a problem of the candidate of the opposition, because if he gave thought to these problems, it was hardly the kind of thought which he would like to give to them now.

For example, in 1957, candidate McGOVERN was one of only 61 Members of the House to vote against a military economic program to help counteract communism in the Middle East.

In 1970, candidate McGOVERN said, the United States should sell aircraft to Israel, but only after expressing "its—the United States—will that the aircraft sold to Israel should not be used for incursions" across the Suez. He said this would show the United States was seeking "some restraint on the part of Israel."

On July 20, 1970, he said, and this is from the CONGRESSIONAL RECORD:

> Israel must be prepared to yield much of the territory gained in that (1967) war.

On July 8, 1970, he said:

> Israel can't be given a "blank check" on the U.S. Treasury.

That is the record of the candidate for the opposition.

Moreover, a letter to the Philadelphia Bulletin of July 7, 1972, points out that before the candidate started campaigning it was reported in the New York Times of March 3, 1971, that—

> McGovern demanded Israel withdraw from occupied territories. He called on Israel to give back the Golan Heights and suggested it should be demilitarized.

This gentleman calls attention to the fact that Senator McGOVERN voted against the Defense Procurement Act of 1970, which authorized military loans to Israel for the purpose of vital military supplies.

Mr. President, I ask unanimous consent to have printed in the RECORD, at the end of my remarks, a column by John T. Roche on anti-Israel fears.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. (See exhibit 1.)

Mr. SCOTT. I wish to quote at this point from an article by Stewart Alsop. I ask unanimous consent to have printed in the RECORD at the end of my remarks the article by Mr. Alsop which was published in Newsweek of July 10, 1972.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. (See exhibit 2.)

Mr. SCOTT. Mr. President, the article is entitled "Why Is Israel for Nixon?" It points out the fact that on Saturday and Sunday, September 19 and 20, 1970, a Syrian force of 250 Soviet-made tanks poured across the border into Jordan. The article states there was no doubt about the object of the invasion. It was to dethrone Jordan's moderate King Hussein and replace him with a Fedayeen-dominated, pro-Soviet regime dedicated to the destruction of Israel.

On Monday, September 21, Israel's Ambassador got a call from the White House inquiring what the Israelis could do to halt the invasion and what they would be willing to do. From the conversation it was indicated by the State of Israel that it would help if the United States would make it clear to the Soviets that the United States would vigorously oppose any Soviet-sponsored counteraction, at the Suez Canal or elsewhere.

The article continues:

> President Nixon unhesitatingly made this commitment. It was then mutually agreed that, if the Syrian invading force crossed a line between Irbid and Amman, thus threatening the Jordanian capital, the Israelis would move.

As a result, this crisis was avoided; other crises involving most of the Sixth Fleet were avoided. The fact is that the United States has responded to keep the peace and to reduce tension wherever possible in the Middle East. That is why we hear some knowledgeable people in the state of Israel say that American deeds are much to be preferred to American candidates.

That, too, I think is why we find that the candidate of the opposition is not regarded as even a Johnny-come-lately on the State of Israel because his recent remarks must be weighed in light of the advice of Confucius to Duke Luig of Wei: He did not worry about the effect of his remarks when he was not a candidate and he must, therefore, be expected to worry about them now.

Last night I attended a magnificent concert marking the beginning of the celebration of the State of Israel at the Kennedy Center. The candidate for the opposition arrived at just about intermission. I was there throughout the concert. I think that has been the dilemma of the candidate: That where Israel is concerned the candidate arrives at the intermission. I was surprised he did not undertake to lead the orchestra. Others of us who had been at the concert all along are not likely to be impressed by late arrivals.

I am certainly not impressed by the fact that Senator McGOVERN wanted strongly to internationalize Jesusalem and neither, I think, is the State of Israel.

I am not impressed by the fact that Senator McGOVERN's campaign manager, Rick Stearns, has permitted use of his name in pro-Arab anti-Israel advertisements in newspapers and still remains as a trusted aide and confidant of Candidate McGOVERN.

I think it would be better really for those who are anxious to heap praise for their candidates would remember another ancient maxim and that is: "One should not speak of rope in a family where there has been a hanging." I would hope they would be somewhat mute on this subject of the record of Senator McGOVERN where Israel is concerned.

There is a man who wants to cut the 6th Fleet from 16 carriers to six, which would mean we could not keep carriers on station and on standby, ready to replace other carriers in the Mediterranean. I have served on a carrier in the 6th Fleet. I have been on the *Randolph* and I have visited the *Ticonderoga*; I have seen what they do there and I know what they do. I served in intelligence.

The State of Israel knows what they are there for, too. They are there to maintain peace in the Mediterranean. They are there to see that no nation, whether it be Russia or any other nation, will be able to regard the Mediterranean as its mare nostrum. It is not their sea; it is not our sea; it is not the sea of any nation. It should be a sea of peace, a sea of tranquillity. But it cannot be and will not be if the McGOVERN proposals to cut the very guts out of the Navy succeed.

Many people know that severe cutbacks of the 6th Fleet to a point of impotency would set anew the fires in that tinderbox of the Middle East.

I think that most people would rather see the United States strong and see the 6th Fleet prepared and ready to preserve peace, as it did at the time of the

Lebanon landing, or at least the standstill cease fire that has existed for 2 years. I believe that most people really know who stands up for and who are the friends of Israel. We are friends of Israel for a very important reason, not because it is Israel, not primarily for Israel, but because the defense of Israel is integral with the defense of the United States.

It is for this reason that we who understand the problem regard the security of the United States as interwined with the security of the State of Israel.

So let the Johnny-come-latelies try to brainwish the voters with some sort of reason why their earlier mishaps and misgivings should be forgiven. I think the memory of Americans and the memory of others interested in the Middle East is long enough to know that the man who wanted to neutralize Jerusalem, who wanted to gut the 6th Fleet, so that it could not function in the Middle Eastern situation, the man who wanted to withdraw our aid from Greece, so that we could not have a port there, the man who wanted to cut down our defense budget in this area, and who has not at any time realized the nature of our defense policies, has to be compared with the President of the United States, who has furnished more than 10 times the amount of aid ever furnished by any previous President.

So I recommend that Candidate McGovern go back and read Confucius, read his advice to Duke Ling of Wei, and realize—and be warned thereby—that what one has said earlier comes back, inevitably, to haunt him later. Recent friends are good to have, but long-time friends are better.

Mr. President, I ask unanimous consent to have printed in the Record a statement of Senator McGovern's record on the Middle East. It is lengthy and rather pitiful, because the longer it is, the thinner it is; and the thinner it is, the more transparent it is.

I ask unanimous consent that it be printed in the Record.

I reserve the remainder of my time.

The PRESIDING OFFICER (Mr. Robert C. Byrd). Without objection, it is so ordered.

The Senator from Pennsylvania has 1 minute remaining.

The material ordered to be printed in the Record is as follows:

Senator McGovern on the Middle East

"This is the fundamental reason for which the United States should sell aircraft to Israel. Such aircraft should not be made available for forays over Arab territory for the purpose of sustaining the limited but real war which has persisted since the Six-Day conflict in 1967."—McGovern in Cong. Record, July 20, 1970.

". . . Israel must be prepared to yield much of the territory gained in that (1967) war."—McGovern (ibid.)

"Israel can't be given a 'blank check' on the U.S. Treasury." July 8, 1970.

"In speaking of a peace settlement, McGovern has gone so far as to suggest to Israel that, 'Perhaps the solution is to internationalize the city of Jerusalem.' "—N.Y. Times, March 3, 1971.

Representative McGovern voted *against* the Eisenhower Doctrine which gave the President the right to use armed force if necessary to prevent *aggression* in the Middle East. The vote was 355–61 in the House, with Rep. McGovern among the 61 who voted nay.—January 30, 1957.

"I have supported every legislative effort to give military and economic assistance to Israel since coming to the Congress some 14 years ago."—May 28, 1972.

". . . the most effective guarantee of both the present ceasefire and permanent peace is the modern military deterrent of the Israeli armed force."—May 28, 1972.

As President, McGovern would support Israel if it is invaded. He said that he would send American troops if needed, but that there was "not a chance in 10,000 of that happening.—June 16, 1972, L.A. Times.

". . . Israel needs economic assistance."—August 28, 1972.

Exhibit 1

[From Philadelphia Bulletin, July 7, 1972]

Jewish Democrats and McGovern

(By John P. Roche)

Waltham, Mass.—By the time this column appears, Sen. George McGovern may have called on President Nixon to mine the harbor at Alexandria to prevent Soviet military shipments from reaching Egypt. Report after report indicates that he is highly suspect among the leaders of the American Jewish community—traditionally a pillar of the Democratic Party. In California, Hubert Humphrey hit him hard on his votes against aid to Israel; others have pointed out that his proposals for reducing the military budget would undermine our strength in the Middle East, as elsewhere.

Take, for example, his suggestion that the Navy's F–14 and the Air Force's F–15 fighters, now in prototype, he cancelled. At the moment the United States has nothing to match the Soviet Foxbat, Mig 23, and indeed a number of these planes have been violating Israeli air space with impunity. The Phantoms can't get to them, and besides the Phantoms were not designed for air-to-air combat—the F–14 and F–15 are designed precisely for air superiority. They are fighter planes in the classic sense.

his proposal on carriers

But even if the F–14 contract were not cancelled, there would be few places to park them if Senator McGovern's proposal—that we reduce our armada of aircraft carriers from 15 to 6—were implemented. In 1967, when the crisis erupted in the Middle East, the Sixth Fleet was in a position to exercise maximum influence, even though the bulk of our carriers was in the Pacific. President Nixon was able to exercise a similar cooling effect on the Syrians in the more recent confrontation with Jordan.

Senator McGovern has been flailing around on the subject, explaining in effect that some of his best friends are in the Middle Eastern division, Military-Industrial Complex, but somehow it just doesn't ring true. "In a real crisis," a leading Jewish Democrat (and contributor) told me, "McGovern would send a battalion of the Peace Corps, and then go to the UN wearing a yarmulke."

Then there is the interesting background of one of his closest associates, Richard Stearns, who headed up the McGovern delegate hunt in the nonprimary states. In an interview with the Christian Science Monitor, McGovern indicated that Stearns would play a vital role in his presidency. Other commentators have pointed out Stearns' affiliation with various anti-Israeli groups, the Cambridge Committee Calling for Respect and Humanity, and the Ad Hoc Committee on the Middle East.

contents of 1965 letter

Even more interesting is a letter he wrote on the stationery of the United States National Student Association on July 30, 1965:

It was addressed to one Rabbi Elmer Berger thanking him for addressing an Arab student group. "Your speech," he said, "made the largest single impact of any we heard, particularly among our Arab guests. It affirmed very graphically in their minds the distinction Arabs, I believe, have attempted to maintain between Zionism on one hand and the Jewish people on the other. Agreement with your position on Palestine, I think is 100 per cent."

Rabbi Berger is probably one of the most virulent anti-Zionists the Jewish community has ever produced. Jewish anti-Zionism is well within the protection of the First Amendment—a number of respected Jews are not Zionists. But Berger has not merely repudiated the Zionist position, he has—as the use of the code word "Palestine" in the above letter indicates—denied the very legitimacy of the State of Israel and adopted what is, in essence, a pro-Arab position.

Let me re-emphasize that there is nothing illegal about Richard Stearns' addiction to anti-Israeli causes. But it is the kind of eccentricity that legitimately upsets a number of Jewish Democrats, who wonder where where McGovern will turn, if elected, for counsel.

Exhibit 2

[From Newsweek Magazine, July 10, 1972]

Why Is Israel for Nixon?

(By Stewart Alsop)

Washington.—It has been reported that most of the Israeli leadership including Prime Minister Golda Meir, favors the re-election of President Nixon. This report has, of course, been denied. It is, of course, true.

It has also been reported that the pro-Nixon views of the Israeli leaders have been explicitly conveyed to important members of the U.S. Jewish community. This report has also been denied. It is also true.

The interesting question is: Why?

The best way to answer that question is to go back to September 1970. In that month, though very few Americans were aware of it, there occurred the most dangerous crisis of the Nixon Presidency. On Saturday and Sunday, Sept. 19 and 20, a Syrian force of 250 Soviet-made tanks poured across the border into Jordan.

There was no doubt at all that the invasion was masterminded by the Russians—Russian advisers controlled the Syrian Army down to battalion level, though the advisers prudently left the tank force at the border. There was no doubt, either, about the object of the invasion. It was to dethrone Jordan's moderate King Hussein, and replace him with a fedayeen-dominated, pro-Soviet regime dedicated to the destruction of Israel.

On Monday, Sept. 21, Israel's Ambassador Rabin got a call from the White House. What could the Israelis do to halt the invasion, and what would they be willing to do? Rabin replied that he thought he knew the answer to both questions, but that he would check to make sure, and call back.

deeds, not words

He did so shortly, with both answers. The Israelis were absolutely confident that their own forces, operating from the Golan Heights, could capture or destroy the entire Syrian invading force. As for the second question, the Israelis were entirely willing to take the risks involved, on condition only that the American Government make it clear to the Soviets that the U.S. would vigorously oppose any Soviet-sponsored counteraction, at the Suez Canal or elsewhere.

President Nixon unhesitatingly made this commitment. It was then mutually agreed that, if the Syrian invading force crossed a line between Irbid and Amman, thus threatening the Jordanian capital the Israelis would move.

At this point a nervous State Department urged immediate diplomatic approaches to Moscow, the major NATO powers, and Cairo. The President issued a stern order—absolutely no communication with Moscow or

any other capital. There would be, not words, but deeds.

One of the five U.S. divisions stationed in Germany was ordered on full alert, and so was the elite 82nd Airborne Division in the United States. Secret arrangements were made with the Greek Government to provide staging areas and base support in case of a move by U.S. troops.

A FLEET MOVES EAST

At the same time, the U.S. Sixth Fleet in the Mediterranean was heavily reinforced with aircraft carriers and their attendant task forces. The Sixth Fleet was rapidly built up from its normal on-station strength to no less than five carrier task forces. This very formidable naval force began to redeploy toward the eastern Mediterranean.

The eyes of Soviet intelligence, watching from Tangiers and Gibraltar, saw the ships funneling through the Straits. Ambassador Dobrynin being absent, Soviet minister counselor Vorontsov hurried round to the State Department. On White House orders, he was coolly informed that the Syrian invasion endangered world peace, and that if the Syrian tank force failed to turn back, the danger would become acute.

On Sept. 22, after a Jordanian counterattack, the lead tanks in the Syrian force made a 180-degree turn. Within the next few days, the whole Syrian invading force scuttled back across the border. Thus ended the most dangerous crisis of recent years. Like the Cuban missile crisis, it involved the risk of direct confrontation between the nuclear giants. But the decisions were made in total secrecy, and there was no public drama like President Kennedy's address to the nation. So most Americans were—and still are—blissfully unaware that an immensely dangerous crisis had taken place.

The Israeli leaders, of course, were very much aware of the crisis, and of how President Nixon had responded to it. That awareness largely explains Ambassador Rabin's recent undiplomatic statement on Israeli radio: "While we appreciate support in the form of words we are getting from one camp, we must prefer the support in the form of deeds we are getting from the other camp." Consider the lessons of the crisis, as they must appear through Israeli eyes, and it is not hard to see what Rabin had in mind.

The 1970 crisis underlined an unpleasant fact. Almost all the bases and staging areas that used to be open to American forces, in the 1958 Lebanon crisis, for example, are now closed—Turkey, Malta, Libya, Spain, Lebanon itself. The Italian ports might have been used, but only *in extremis*, without the permission and against the wishes of the Italian Government. "Greece is our last filling station," one policymaker has remarked. Senator McGovern would close the last filling station. He has said that he would immediately withdraw all aid from the present reactionary Greek regime. The Greeks would, of course, retaliate.

Under the McGovern defense program, there would be, not five, but two U.S. divisions, left in Europe, with only eight divisions at home. Moreover, McGovern plans to reduce the U.S. carrier task forces from fourteen to six. Only half the carriers are on station at any one time, so a President McGovern could not possibly put five task forces into the Mediterranean on short notice. Under the McGovern naval program, in fact, the Soviet Mediterranean fleet, already challenging the Sixth Fleet, would unquestionably become the dominant force in the Mediterranean. In such circumstances—as the Israelis are well aware—the United States would be capable of words, but precious few deeds.

THE ISSUE OF EXISTENCE

President Nixon certainly took a hair-raising risk in 1970, and it is at least debatable whether the risk was worth taking in the coldly calculated U.S. national interest. Mr. Nixon made an enormous commitment to Israel and gained no comparable commitment in return. But it does not require much perception to see why the Israelis would much prefer a re-elected President Nixon to a President McGovern.

The Israelis have one single-minded preoccupation—the continued existence of Israel. To that end, as Rabin said, American deeds are much to be preferred to American words. This understandable preoccupation may be one reason—and a not unimportant one—for the last-minute revolt against the nomination of George McGovern.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from California (Mr. TUNNEY) is recognized for not to exceed 15 minutes.

THE PRESIDENT AND THE MIDDLE EAST

Mr. TUNNEY. Mr. President, I regret very much the necessity of discussing this subject in a partisan manner. I could not help hearing, when I came into the Chamber, the words, articulate as always, of the distinguished minority leader. However, I think they are very unfair words as applied to the Senator from South Dakota (Mr. MCGOVERN).

Perhaps the distinguished minority leader is not aware of the fact that the very first vote that Representative MCGOVERN cast after he was elected to the House of Representatives, in January 1957, was against a $200 million appropriation of funds for Lebanon, funds which were designed to implement the Eisenhower doctrine. On the floor of the House of Representatives, Mr. MCGOVERN stated that the dollars would be spent for guns that would go to Lebanon, guns which would eventually not be used to fight Communists, but would be used to fight Israel.

It is clear that Senator MCGOVERN's stand in support of Israel is not the stand of a Johnny-come-lately, but the stand of a man who, in his first day of voting in the House of Representatives, saw the interests of Israel as consistent with the interests of the United States—and voted to support those interests.

At that point in time, the incumbent President was a part of an administration whose implementation of the Eisenhower doctrine would have given guns and munitions to Lebanon. It is obvious, as history has shown, that Senator MCGOVERN was right: such guns and munitions have been used against the State of Israel.

Mr. President, I must emphasize that I am deeply disturbed about the necessity of discussing in a partisan matter the questions which relate to the Middle East. For this should not be a partisan matter. It should not be necessary to respond politically to concerns which are shared by a cross section of the American people, Republicans, Democrats, and Independents alike.

But in the past 4 years the Middle East has been used cynically for domestic and partisan political purposes. Those who have done so have not served the cause of peace in the world. Those who have done so have not served the interests of the American people.

Yet, Mr. President, we in the Senate have watched as the so-called Israel issue has been tied to a variety of other American political concerns. In the foreign aid authorization and appropriation debates, for example, we have watched as the Nixon administration has attempted to blackmail the U.S. Congress into continued support of the war in Vietnam by tying it to American assistance to Israel.

An outdated and outmoded process forces the Congress to approve or reject, in one single package, funds for Vietnam and funds for Israel. To vote against one requires a vote against the other. And, to aggravate and intensify these problems, the Nixon administration, whenever it has had the opportunity, has suggested and sponsored amendments which would vastly increase assistance to Vietnam while at the same time increasing assistance to Israel.

The Nixon administration has said to this Congress which is working to achieve peace: Vote us hundreds of millions of additional dollars to make war in Vietnam and we will include tens of millions of dollars for Israel. If you do not vote the dollars for Vietnam, we will not request the dollars for Israel.

Fortunately, Mr. President, the Senate has in many instances refused to accept this blackmail.

The Senate twice resected the administration positions when it refused to increase funds to Vietnam while it retained funds to Israel. But those were difficult battles, battles in which the Nixon administration hotly opposed any attempt to distinguish aid to Vietnam from aid to Israel.

Yet the administration claims time and again that it is Israel's friend. What kind of a friend attempts to impose conditions upon assistance? What kind of friend attempts to increase assistance only if that increase is tied with strings—strings which do more to make assistance unpopular to the American public than to educate the public to the need for such assistance?

What kind of friend refuses to distinguish the legitimate needs of the State of Israel from the repressive and dictatorial government in Vietnam which has drained the lives and resources of this Nation?

As the saying goes, with friends like that, who needs enemies?

Mr. President, a number of Members of Congress have attempted time and again to distinguish Israel from Vietnam. We have attempted to demonstrate, both at home and abroad, that Israel deserves our support and assistance, while Vietnam does not; that Israel is a free and open society, while Vietnam is not; that Israel's very existence is jeopardized by the aggressive behavior of other countries, while Vietnam's is not; that Israel requires merely economic and military assistance, while Vietnam has drained American lives; and that aid to Israel is entirely consistent with deeply held American interests—interests such as the preservation of peace in the world, the protection of democratic societies against aggression, and the pursuit of a stable and just international order—while the military assistance which we keep pouring into Vietnam contravenes the same basic interests of the United States.

Yet, time and again, this administration has cynically linked Israel with Vietnam. It has implied that a "dove" on Vietnam must certainly be a "dove" on Israel as well; that a refusal to support America's misguided and tragic policies in Indochina somehow requires a retreat to isolationism in all other areas of the world; that only an advocate of increased aid to Vietnam could advocate aid to Israel. Such assertions only help create those conditions. The President can create, intentionally or not, a self-fulfilling prophecy.

Furthermore, the President's implications could not be further from the truth. It is high time to insist that this administration recognize that the United States must support Israel whether Israel is threatened by Russia or not. Israel must not be dragged by the great powers into the cold war. Her fate must not depend upon the whims of Soviet foreign policy, as President Nixon has allowed. She should not be protected only if the Soviets threaten her and left to her own devices if attacked by her neighbors.

Only a consistent and convincing policy will bring peace to the Middle East. Only an unswerving insistence upon the security and survival of all parties will lead to the reduction of tensions between Israel and her Arab neighbors.

But is that what we have seen over the past 4 years? No. We have seen support the year before the election but pressure—tough, insistent, pressure—upon Israel the 3 years before that.

I recognize full well that this administration has given Israel support; and I am very pleased that the administration has given more dollars to Israel than other administrations.

However, the attempt to create here in the United States a feeling or an attitude that the Republicans are doing more for Israel than the Democrats, or suggesting that if Senator MCGOVERN were elected President somehow aid to Israel would cease, is to my mind unconscionable.

The state of Israel needs the support of Republicans and Democrats alike, and I think that we can say fairly that here in the Senate and in Congress the support has been bipartisan. We have not in the Congress had a situation where the Republicans and the Democrats have made Israel a partisan issue. Both parties have supported Israel—because it is in America's interest, not to gain partisan points.

But the administration has acted otherwise.

I am very deeply concerned about reports I have received that at fund-raising activities around this country we have had administration spokesmen, spokesmen who are formulating foreign policy, come in and give their pitch just before the dollars are collected. The clear implication of such a pitch by a foreign policy spokesman is this: "If you contribute to the administration's reelection campaign, Israel will get the support that she needs." The further clear implication is that if the contributions are not forthcoming, and if Senator MCGOVERN is elected, Israel will be abandoned.

I must say that I am appalled by such reports from people who have attended those fund-raising gatherings. Such behavior by those who fashion our foreign policy is not consistent with the way we should be doing things in this country. We should not be keying American foreign policy into fund-raising affairs in which those who make the policy also make the pitch.

It is one thing for the President to make the pitch, or for a political personality, Senator or Representative, to do it. But it is another thing for the formulator of foreign policy to make the pitch. It is totally inconsistent with the traditions in this country, under which the officials of the State Department and the Defense Department, and the assistants to the President who are formulating our foreign policy, stay out of political activities.

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

Mr. TUNNEY. Yes, indeed.

Mr. CRANSTON. Does not the Senator think it is rather odd for Rick Stearns, a political organizer in the domestic campaign of Senator MCGOVERN, to be compared by the minority leader with the Secretary of State, who is conducting foreign policy for this administration and campaigning for the President?

Rick Stearns some time ago signed an editorial which the Foreign Minister of Israel did not approve of. On the other hand, we have high administration officials such as the Secretary of State taking stands on Israel which greatly perturb the leaders of Israel who are concerned about her safety. To hear the administration comparing the two is an example of rather odd matching of statuses, is it not?

Mr. TUNNEY. I could not agree more. The distinguished minority leader is, of course, a friend of Israel, and I must say it must be difficult for him to be placed in a position in which he must defend such a cynical use of power. The distinguished minority leader can speak for himself; I see him on his feet, but I cannot believe he would suggest that this is the way to run American foreign policy, or, I might add, the way to run American domestic politics.

Mr. SCOTT. Mr. President, will the distinguished Senator yield for a brief rejoinder?

Mr. TUNNEY. I yield.

Mr. SCOTT. Is either he or his colleague from California prepared to defend the position of Senator MCGOVERN in favor of internationalizing Jerusalem?

Mr. TUNNEY. I do not believe that Jerusalem should be internationalized. I recognize, however, that in any political campaign in which you have people running for public office, a variety of different views will be set forth. Although one newspaper reported that Senator MCGOVERN favored the internationalization of Jerusalem, he has stated clearly that he favors Israeli administration of that city, with international guarantees of open access to people of all faiths. In fact, he has urged Israel's capital city be Jerusalem. This, I might add, is quite contrary to the consistent position of the President.

Mr. SCOTT. Just a second question. Since the Senator is from the West, and Rick Stearns is the western coordinator under whose aegis, presumably, the Senator is working in this campaign, is he entirely comfortable with Rick Stearns, who has taken pro-Arab stances and is now a very important regional spokesman for Senator MCGOVERN?

Mr. TUNNEY. I would first answer that Rick Stearns is not involved in the formulation of MCGOVERN's foreign policy positions. Second, I would ask the distinguished minority leader if he favors the Rogers plan for the settlement of Mideast tensions.

Mr. SCOTT. Well, the Senator would have to first establish for me, first, that there is a Rogers plan, second, that it is being advocated by Rogers, third, that the President has ever adopted any such plan, and fourth, precisely what that plan was when it was initiated, and where it stands now.

We are getting very close to Halloween. The Rogers plan, so-called, is nothing in the world but another one of these ghosts summoned up to make people feel that there was at some time a position different from the President's present position, which is to give more aid to Israel than any other administration ever gave.

Mr. TUNNEY. I should point out to the minority leader that on December 9, 1969, Secretary Rogers announced his plan, which called for withdrawal from the Sinai Peninsula to the 1967 border and the relinquishment by Israel of sovereignty over Jersualem. It also called for the reestablishment of the previous unsuccessful guarantees of peace in the Mideast.

So ar as I know, the plan is still operative. I have heard nothing that would suggest that the plan was dead. As a matter of fact, the State Department, in the past week, has advised telephone callers that it was, indeed, still alive; and within the past 60 days Secretary Rogers, when asked if the program remains the policy of the adminstration, announced that it was. I quote the Secretary:

> We have been consistent.

The Rogers plan clearly exists and I ask the distinguished minority leader if he supports the Rogers plan.

The ACTING PRESIDENT pro tempore. The time of the junior Senator from California has expired.

Mr. CRANSTON. Mr. President, I would like to take the remaining minute of my time.

The ACTING PRESIDENT pro tempore. The Senator has 1 minute remaining.

Mr. CRANSTON. Mr. President, I wonder whether the Senator from Pennsylvania has suggested that there never was a Rogers plan. There most certainly was. Perhaps it has faded in the same sense that President Nixon's peace plan for Vietnam also seems to have faded away. Whenever an administration plan turns out to be a complete failure—whether in the Middle East or in Southeast Asia—the administration self-righteously, and belatedly, denies that the plan even existed. Much as it would

like to cover up its failures, the administration cannot rewrite history.

The Senator from Pennsylvania spoke of greater aid given to Israel in this election year. The test is not only the amount of aid but the need for that aid and the speed with which that need is met with massive Soviet Union intervention in the Middle East, Israel's needs became greater and more pressing than ever before. Yet the administration, far from speedily helping Israel meet its new threat dragged its feet, held back on sending Israel the Phantom jets it desperately needed, and hammered away at Israel to make perilous concessions—while at the same time making statements that encouraged the Egyptians to refuse to negotiate with Israel for a true and lasting peace.

The minority leader spoke of the late arrival of Senator McGovern at the symphony last night. What we are talking about this morning is the late arrival of President Nixon in the Middle East. That is more to the point. The defense of Israel is vital to the defense of the United States. The Senator from Pennsylvania, who has always been wise and sound and out in front on this issue, recognizes this. I only wish the President fully recognized it nearly as well.

The ACTING PRESIDENT pro tempore. The time of the Senator has expired.

Mr. SCOTT. I thank my friend, and at this time I ask to be recognized for the 1 minute remaining of my time.

The ACTING PRESIDENT pro tempore. The Senator is recognized for 1 minute.

Mr. SCOTT. I thank my friend for his generous remarks.

I note that a very few days ago we voted on the foreign aid authorization bill, which contained aid for Israel which the Senator refers to as marginal. Yet, that aid was $50 million. My amendment raised it to $85 million in "marginal aid," and I would not really regard that as marginal. I am sure the State of Israel does not regard it as marginal. To my mind, it was very important that that aid be assured.

The Senator from South Dakota, the candidate of the opposition, was not present, as usual, and did not vote. Once again he had a chance to show his interest in aid to Israel and did not appear because he would have had to face the dilemma, the dilemma stated by the Senator from California, and that is that if you vote for aid to Israel, somebody is going to think you are in favor of military aid somewhere else.

Most of us face those dilemmas. Most of us, as Senators, know we have dilemmas to face and come here and face them. The Senator from South Dakota merely talks about them. Again, that is the gap between promise and performance. He should have been here. He should have been here for the cloture vote on the consumer protection bill. He makes speeches, he delivers fireside chats, and he has television commercials in which he speaks about how his heart bleeds for the consumers. But when we needed four more votes just the other day, he was not here to vote on cloture; and I will venture that he probably will not be here to vote tomorrow on the next cloture petition, when we might need just one or two more votes.

The ACTING PRESIDENT pro tempore. The time of the Senator has expired.

Under the previous order, the Senator from Indiana (Mr. Bayh) is now recognized for a period not to exceed 15 minutes.

Mr. BAYH. Mr. President, I have listened with a great deal of interest to this colloquy. I consider the Senator from Pennsylvania a very dear friend, and we see eye to eye on many issues. In this capacity of defending the administration, however, I must say that I find great difficulty in following the usual succinct reasoning of his remarks.

A moment ago, we listened to a commingling of aid to Israel with consumer protection. I thought that perhaps we had opened a delicatessen selling bologna on both levels, because it is stretching awfully hard to criticize a presidential candidate out on the hustings by trying to tie consumer protection to votes on Israel.

The military foreign aid bill, as has been previously characterized, was an effort to give a small carrot of a few million dollars more to Israel for hundreds of millions of dollars more to some of the administration's favorite despots around the world.

It is most unfortunate that the effort, led by Senator Church, to strike out this additional foreign aid going to the dictators of the world and yet maintain the foreign assistance and credits to the State of Israel, was not supported by the administration. This was the key test: Do you want to send foreign assistance to one of the leading democracies of the world, and do you want to stand up and be counted on that when you have the chance, or do you want to cloak a small carrot with the rather unsavory scent of a multimillion dollar giveaway to military dictatorships?

What the Senator from Pennsylvania originally proposed was a tradeoff of $20 million more in aid to Israel at the expense of more than $225 million more to other nations. I found that an unacceptable tradeoff the first time around and I found it unacceptable again last week when it was offered. It was and is unacceptable not because of an additional $20 million to Israel. I believe that is a worthy expenditure, but to tie that to an unworthy expenditure more than 10 times as great is too much for this Senator. It may have been a neat legislative strategy and good politics but it was poor policy.

We are here on the eve of an election. And if an honest appraisal is to be made of how the Republicans and the Democrats in this body voted, I think it is only fair to say that there have been strong advocates for the State of Israel on both sides of the aisle. In fact, if the administration had given the same kind of unqualified support to the State of Israel that the Senator from Pennsylvania, the Senator from New York, and some of his other Republican colleagues have given, the Senator from Indiana would not now be on the floor of the Senate to set the record straight—a record of distortion and misrepresentation in which some people now try to lay the onus of lack of support for the State of Israel on the shoulders of the Senator from South Dakota, Senator McGovern. I wonder how the people of this country—indeed, the Members of this body—can have such a short memory as to what our middle east policy has been over the past 4 years. The Nixon administration's policy, it should be remembered, did not begin the other day when a newspaper column declared the Rogers plan dead. It gave birth to the Rogers plan in 1969.

The Rogers plan has been referred to by my two distinguished colleagues from California, so I will not dwell on that matter further. But how can anyone overlook the fact that during the early years of this administration there was an effort—a misconceived effort—starting with former Governor Scranton, on through to the Secretary of State's involvement, to try to establish a type of negotiating setup by which Israel was to be coerced into following a pattern established not between Israel and the Arabs, but established between the United States and Russia, or by the big four powers. We had fallen back to the mistakes of our mid-1950 policy, the fallacies of which merely put off war for 10 more years. We had forgotten that the only way you are going to get neighbors to live in peace is to have the neighbors themselves solve their differences. You cannot impose a permanent settlement, a lasting peace, unless the neighbors themselves, the participants in the disagreements, reach some sort of reconciliation of those disagreements.

Yet there was persistent pursuit of the policy of coercion. Israel was threatened by withholding of parts, by the withholding of Phantoms—even by the withholding of Skyhawks. Suddenly the message was, "Unless you are willing to go along, we will not provide you with the necessary hardware to protect your own freedoms." Then there were the unfortunate incidents following the cease-fire, in which Soviet and Egyptian violations of the Suez Canal cease-fire were met with what the Senator from Connecticut called "deafening silence," despite unequivocal Israeli photographic intelligence to show that the Russians and Egyptians had violated the clear terms of the cease-fire. The administration said nothing. It turned its head. It refused to recognize the existence of the violations.

All the while the Russians kept pouring in additional planes, missiles and tanks to the point where the balance of power was rapidly shifting in the Middle East. More important than the balance of power shifting in the Middle East, was the unfortunate misconception that this policy gave to the Russians in Moscow. I happen to be one who does not believe that the Russians are eager to play brinkmanship with the United States. I think they will push us a little and move to fill power vacuums to where they exist.

In the Middle East, I do not believe they are looking for a shooting war with

the United States. But during the early years of this administration the facts are that the inaction and unwillingness to stand up and be counted in defense of the State of Israel gave any thinker in Moscow, any planner in Moscow, anyone trying to determine what the United States position was in the Middle East, the clear impression that we were so involved with what was going on in South Vietnam that we had forgotten Israel and were not willing to live up to our long-standing commitment to provide Israel with the means of defending itself.

As a result, the Russians kept pushing, plowing additional jets and tanks and fighter pilots into that area. Yet the administration said nothing to the Russians that would give them the understanding they had better stop because the state of peace and the State of Israel in its continued existence was very important to the national interest of the United States, and we were not going to sit idly by and let this preponderance of military power destroy one of the few democracies in that part of the world. This could have been done so simply, without a great deal of huffing and puffing and White House press releases, and without any cold war rhetoric. The simple ingredient of conveying that message to the Russians would have been to have permitted a few U.S. Phantom jets appear silently on some of the military runways in the State of Israel. The Russian intelligence gathering satellites would have brought this to the attention of the Kremlin leaders and I am sure would have been a clear signal that the United States was interested and, "You had better back off. You had better slow down, Soviets, because the United States will not let you tip this balance of power to the point that the State of Israel is going to be destroyed."

Mr. President, I had the good fortune to be in Israel in Febuary of 1971, the visit timed on the first anniversary of the cease-fire date—its termination date. Of course, it was subsequently extended, but I remember talking to the Chief of Staff, General Bar-Lev, and I remember talking to Prime Minister Meier, and the things they were so desperately needing were a few Phantom jets and a few black boxes—sophisticated electronic equipment available in the United States. That is what they desperately wanted to help them defend themselves. They did not want American soldiers.

How can anybody compare Vietnam to the Middle East? The Israelis are able and willing to defend themselves. They are able and willing to buy most of the equipment. It is a totally different ball game. What they were pleading for at that time was the electronic equipment and the Phantom jets. What they got from the Nixon administration was delay.

If the administration had let that kind of equipment go to Israel, it is my judgment there would have been no Russian fighter planes there, no Russian pilots there, and no violations of the cease-fire because the Russians would have known in advance that we would not have tolerated this; yet the administration persisted—it persisted in opposition when the Senate authorized on September 1, 1970, a $500 million credit measure for military purchases by Israel. That was done by bipartisan support in the Senate over opposition by the administration. By bipartisan support, it should be pointed out to the Senator from Pennsylvania, and that that included the vote of the Senator from South Dakota (Mr. McGOVERN).

Again, in November 1971, the Senate voted a $500 million credit for Israel, $250 million specifically earmarked for Phantom jets. The Senator from South Dakota (Mr. McGOVERN) voted for that measure. The White House Press Secretary stated that the administration regarded this legislation as permissive—not mandatory.

Mr. President, Senator McGOVERN was one of the handful of Vietnam war critics who wrote the administration, early on, saying that there was a distinction between Vietnam and Israel and urged it to take the steps necessary to give the state of Israel the equipment it needs to defend itself. But during this long, tortuous period, when the Russians were trying to read what we really believed, to determine whether we were going to stand up and be counted on the Middle East, the administration did nothing.

As a result, in my judgment, the Russians had every reason to misinterpret our intentions to stand by the state of Israel.

Where was the administration when the chips were down, when a few Phantom jets and a courageous statement by the Secretary of State, and an unequivocal statement by the President could have deterred the Russians?

That is the question I think we need to ask now that the administration is running around all over the country proclaiming its friendship for Israel.

Where were you, Mr. President, when the Senate was voting to aid Israel in defense of its freedom? Where were you in 1969, in 1970 and in 1971?

Now, a matter that concerns me as much as the Middle East situation is the plight of those Soviet Jews who want to emigrate from Russia to Israel.

Recently, in New York, the President was asked his position on the most favored nations status for the Soviet Union if they continued to apply a tax of as high as $25,000 to $35,000 on human beings before they can get out of the country. He was typical as usual and fell back on the response that has a rather memorable ring to it when he said, You will just have to trust me. I am not going to tell you what my position is on that. I am not going to say to the Soviets, if you continue the tax on your citizens who want to emigrate to the state of Israel, a tax based on the caliber of the education those citizens received, then we are going to have to have second thoughts relative to treating you as all other nations are on the basis of trade, because you are not treating human beings as most other nations do.

Again the President was unwilling to stand up and be counted on this issue. Trust me, was the response. Well, we have been trusting him for 4 years to end the war in Vietnam and it has not ended.

I for one think that the very least the President of the United States should do is to give this country, if not the state of Israel, a clear picture of what his position is vis-a-vis the Russian Jewish immigration problem. Is he going to use the influence of this country to get the Russians to stop this tax on human suffering and human life, or is he again going to try to straddle the line in an election year?

I hope that he will join many of us in the Senate—Republicans and Democrats alike who find it abhorrent and inconsistent that the leader of the free world, a country that professes at least to be the leader of the free world, is unwilling to speak out unequivocally on this issue. The defense of freedom, both in this country and in Israel, is a 24 hour vigil.

It is not a vigil that can be kept only in close proximity to the opening of the ballot box, because unfortunately the defense of freedom related to the chronology of an election year is woefully inadequate as soon as the ballot box is closed. What then is the future of American aid to Israel after November 7?

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

The PRESIDING OFFICER. The Senator's time has expired.

Mr. ROBERT C. BYRD. Mr. President, does the Senator wish to have some time? I have some time remaining. Do either of the Senators wish additional time? I have some time remaining under my order.

Mr. CRANSTON. Mr. President, I would like to be recognized for 3 or 4 minutes.

The PRESIDING OFFICER. The Chair recognizes the Senator from West Virginia (Mr. ROBERT C. BYRD) for not to exceed 15 minutes under the previous order.

Mr. ROBERT C. BYRD. Mr. President, I yield 5 minutes to the Senator from California.

THE PRESIDENT, THE MIDDLE EAST, AND SOVIET JEWS

Mr. CRANSTON. Mr. President, the distinguished minority leader made reference to the occasional absences of the Senator from South Dakota. If the Senator from Pennsylvania will check the record, I am sure he will find any number of absences by Richard Nixon when he was a Member of the Senate, and before that when he was a Member of the other House—absences that greatly increased in number during election years.

But more important than comparing absences is comparing what lies in store for the Nation under 4 more years of Richard Nixon as contrasted with a new start under President McGOVERN. And far more important than an occasional missed vote is the decision of who is to lead this Nation over the next critical 4 years. The Congress has, alas, demonstrated time after time the relative lack of power that a single Senator possesses. He is, after all, only one in 100. The man with the power—the man who directs the military, economic and, perhaps most importantly, the moral power of our Nation is the President of the United States.

In my judgment, it is far more important to the future of the United States—

and the world—that GEORGE MCGOVERN become President of the United States than that he make any one vote or another on the Senate floor.

No matter how right Senator MCGOVERN is when he votes in the Senate far more important is how right the American people are on November 7 when they vote on the Presidency. Whatever Senator MCGOVERN can do by continuing his campaigning to help convince the American people to make the right decision, to vote MCGOVERN in and Nixon out will prove to be of far more lasting benefit than a single vote on the Senate floor this late in this sorry administration.

Mr. President, clearly GEORGE MCGOVERN could be of far greater assistance to Israel—and thereby of far greater assistance to the United States in its quest for peace—if he were as President of the United States than merely a single Senator voting on the Senate floor.

Mr. President, the Senator from Indiana mentioned the deplorable Soviet policy on Soviet Jews who wish to leave for Israel.

For some time now, Mr. President, I have devoted a great deal of my own time to weighing, considering, and appraising the wisdom of various possible American responses to the emigration tax imposed upon Jews and other minorities in the Soviet Union. I have discussed this vital issue with countless men and women both in the United States and in the Soviet Union, which I visited this last month.

This tax ranges from $5,000 to over $30,000 and is deliberately intended to be prohibitive. It is cruel and repressive.

I have come to the conclusion that mere social pressure is not enough. Protest is not enough. I have come to the conclusion that we must use our economic power to make our concern for Jewish hostages effective and to force the Russians to rescind this outrageous ransom fee. We must use that power where it hurts. And where it hurts right now is trade.

I am reluctant to advocate restrictions on international trade. The international exchange of goods improves economic conditions in all countries and helps to raise the standard of living of all citizens. In addition, I believe that trade builds cooperation among nations and wards off the curse of war. Clean records on payment and delivery contribute to a climate of trust and assurance. The mutual benefit harvested by a businesslike exchange of goods nourishes the ripening good will of the future.

It will help ease the tensions within the Soviet Union, which have worsened an already unpleasant situation in the Middle East, and which have contributed to the Soviet policy regarding Jews and other minorities. I believe that more open trade could help domestic as well as international tensions and lead to a day when Soviet policy will be more understanding of the spiritual as well as economic needs of its own people and the people of the world. The free flow of people and ideas gradually erodes mistaken barriers and brings fuller international understanding.

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

Mr. ROBERT C. BYRD. Mr. President, I yield 2 additional minutes to the Senator from California.

Mr. CRANSTON. Mr. President, prevailing against my preference for liberalized trade as a path toward relaxing world tensions is my concern for the suffering of more than 3 million Jews in the Soviet Union. Human values which are in immediate peril must take precedence now over the benefits that international trade bring in the long run.

In the past I have strongly supported nine major bills, resolutions, and letters selected by the National Center for Jewish Policy Studies as "matters of direct and clear Jewish interest." For example, I recently cosponsored legislation designed to give 30,000 visas to Soviet Jews wishing to come to the United States. I also joined in a successful drive to channel $85 million to Israel to help with the resettlement of Soviet Jews.

So with this kind of record, I have been particularly perturbed by the conditions that have impelled so many Soviet Jews to want to leave their homeland by the obstacles the Soviet Government has placed in the way of their leaving, and by this latest effort to impose a ransom on human beings.

The right to emigrate is specifically affirmed in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights. In 1963 a study of the freedom to emigrate, undertaken by a subcommission of the Commission on Human Rights, included information on the violation of Jewish rights in the Soviet Union. But the practice of requiring official permission to emigrate has not changed since the days of the czars. The Soviet leaders are proud of the changes which they have made since czarist days, but in this case they have perpetuated a czarist policy.

Soviet spokesmen have responded to the current flood of criticism of the emigration tax by dragging out the "brain drain" argument. On the surface, their concern over the loss of educated and talented people seems reasonable enough. But the truth is that Soviet Jews lose their jobs the moment they file an application to emigrate. In other words, their brains are effectively "drained" anyway. Once their talents are lost to the state, they join a pool of underemployed and restless people. From then on their lives are slow and suffocating.

I was gratified to notice that although the ratification of the emigration tax by the Supreme Soviet was scheduled for September 19, no action has yet taken place. Perhaps this is a signal that the Soviet Government may be willing to drop this odious price tag on its citizens—provided that we maintain economic pressure on Soviet officials to do so.

So in spite of my general preference for expanding trade with the Soviet Union, I will oppose granting special trade privileges to the Soviet Union—including most-favored-nation status—until this outrage is halted. I have accordingly cosponsored an amendment offered by Senator JACKSON which would deny most-favored-nation status, credits, or investment guarantees to any country imposing more than a nominal tax on emigration.

Mr. President, a very eloquent statement on this matter recently was made by 21 Nobel laureates, urging repeal of the Soviet head tax. I ask unanimous consent that the statement may be printed in the RECORD at this point.

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

STATEMENT

We are dismayed by reports that exorbitant head taxes are being imposed on Soviet citizens with a higher education who are seeking to exercise the fundamental right to leave their country.

It is painful to contemplate the massive violation of human rights implicit in this policy and its burdensome consequences for the scores of thousands of people who have openly expressed their desire to leave the USSR.

Although the decree affects all Soviet citizens, it is obviously directed primarily against Jews and inflicts a particular hardship on them. Thus, in addition to the policy's violation of intellectual freedom and individual rights—with the consequent loss to scholarship and to humanity—there enters into it also the element of anti-Jewish discrimination.

This is not only a matter of academic and intellectual freedom, or of discrimination against Jews; what is at issue is:

The right to an education.

The right to develop one's intellectual capacity to the fullest.

The right to pursue one's career where one chooses.

The right to leave one's country for reasons of career, family or religion.

To infringe upon these rights is to transform educated persons into indentured servants, and no civilized society has the moral right to do this.

The Soviet decree can only have a depressing effect on the possibility of expansion and enhancement of academic, cultural and scientific exchanges and contact between the peoples of the United States and the Soviet Union.

We, therefore, urge the Soviet authorities to rescind the head tax and to accept fully and without hindrance everyone's right to leave his country.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, if no other Senator wishes me to yield time, I am ready to relinquish the remainder of my time. Does any Senator wish me to yield to him?

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator yield to me briefly?

Mr. ROBERT C. BYRD. I yield 5 minutes to the Senator from Virginia.

Mr. HARRY F. BYRD, JR. I thank the Senator.

The PRESIDING OFFICER. The Senator is recognized.

REVENUE SHARING

Mr. HARRY F. BYRD, JR. Mr. President, one of the ablest edited newspapers in the State of Virginia is the Farmville Herald. Its editor and publisher is J. Barry Wall. I have known Mr. Wall for many years. He is a very close and dear friend.

More than that, however, the editorial column of the Farmville Herald is one which is read with a great deal of interest and enthusiasm by its readers. It is filled with good, sound commonsense.

In an editorial in the issue of Friday, September 29, 1972, captioned "Revenue Sharing," the Farmville Herald discusses in some detail the so-called revenue-sharing proposal which has passed both Houses of Congress, and which has been approved by the conference committee.

In discussing revenue sharing the Farmville Herald makes the assertion that the best news would be that Congress had adjourned and its Members returned home to have a chat with their constituents. The editorial states:

They need to hear some grass-roots talk. At the end of each session during the last hectic days Congressmen appear to go wild, passing phony bills and spending money they do not have, and as far as we can see have no way of getting, except to add tax or increase inflation through borrowing.

How very sound that is, Mr. President, I concur in that.

I say the best news the people of this country could have would be for this Congress to adjourn. It has been a reckless spending Congress. It has been a reckless spending Congress and the administration also has encouraged spending.

So from both the executive branch and the legislative branch during this campaign year we have had outrageous increases in the spending of tax money of the hard-working wage earners of our Nation. The revenue-sharing proposal is a new program piled on top of all the other programs. It was advocated by the executive branch of Government and approved by the Congress.

The country has a debt of $430 billion. It will have a deficit this year of $38 billion, and on top of that Congress has passed at the request of the administration a new program for $30 billion to be distributed over a 5-year period.

I say that this is reckless, that this country is in deep trouble financially. The people themselves are the ones who will be called upon to pay for the chaotic condition of the Federal Treasury.

Mr. President, I ask unanimous consent to have printed in the RECORD the editorial entitled "Revenue Sharing," which was published in the Farmville Herald under date of September 29, 1972.

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

REVENUE SHARING

The best news would be that Congress had adjourned and its members returned home to have a chat with their constituents. They need to hear some grass-roots talk. At the end of each session during the last hectic days congressmen appear to go wild, passing phony bills and spending money they do not have, and as far as we can see have no way of getting, except to add tax or increase inflation through borrowing.

The national debt now exceeding $420 billion has about reached its ultimate. Since 1954 only three years has shown a surplus, 1956, $1.6 billion; 1957, $1.7 billion, and 1960, $.8 billion. Deficits have risen from $3.1 in 1954 to $28.9 in 1972 and an estimated $37.8 billion in 1973. The 18-year deficit totals $211.3 billion.

As deficit spending increases so do interest debts, an increase from $6.4 billion in 1954 to $21.2 billion in 1972.

DEFICITS IN FEDERAL FUNDS AND INTEREST ON THE NATIONAL DEBT, 1954-73 INCLUSIVE

[In billions of dollars]

	Receipts	Outlays	Surplus (+) or deficit (−)	Debt interest
1954	62.8	65.9	−3.1	6.4
1955	58.1	62.3	−4.2	6.4
1956	65.4	63.8	+1.6	6.8
1957	68.8	67.1	+1.7	7.2
1958	66.6	69.7	−3.1	7.6
1959	65.8	77.0	−11.2	7.6
1960	75.7	74.9	+.8	9.2
1961	75.2	79.3	−4.1	9.0
1962	79.7	86.6	−6.9	9.1
1963	83.6	90.1	−6.5	9.9
1964	87.2	95.8	−8.6	10.7
1965	90.9	94.8	−3.9	11.4
1966	101.4	106.5	−5.1	12.0
1967	111.8	126.8	−15.0	13.4
1968	114.7	143.1	−28.4	14.6
1969	143.3	148.8	−5.5	16.6
1970	143.2	156.3	−13.1	19.3
1971	133.7	163.7	−30.0	20.8
1972	148.8	177.7	−28.9	21.2
1973 [1]	152.6	190.4	−37.8	22.7
20-year total	1,929.3	2,140.6	211.3	241.0

[1] Estimated figures.

Source: Office of Management and Budget and Treasury Department.

With a record of continual and constant deficit and debt increases, the Congress has passed a revenue-sharing program which will return to the states, and local governments $5.3 billion for the calendar year of 1972 (retroactive to January) and $6.3 billion in 1976. First payments are expected in October for the first half of 1972, with payments during the federal fiscal year July 1972–73 totaling well over $8 billion.

Regulations surrounding the revenue-sharing dollar require 33 cents to go to the states for spending as legislatures choose, with no strings attached. Sixty-seven cents go to the counties, cities and towns for spending on fire and police protection, sewage disposal, pollution control, other environmental services, public transportation, health, recreation, libraries, social services, budget planning. None are to be used to increase officials' pay. If this fund follows the pattern of so many other funds from the federal government it will be administered by a brand new group of bureaucrats, who will make their own regulations and issue edicts with force of law. What a boondoggle this will be!

Many cities have lobbyists in Washington to be sure they apply for and get all of the boondoggle available from the present federal agencies.

The City of New York has a full time lobbyist looking after the affairs of New York City. Others have lobbyists on a part time basis, at $12,000 a quarter. This gives some idea of the complexity of the bureaucracy and how big cities are able to be on the ground floor when there is money available. Knowing the right people at the right time is important.

With the states, cities, counties and towns poor, and Uncle Sam, the federal government, $420 billion in debt, there is but one place from which the funds may come, namely from the pockets of the taxpayers.

The middle income taxpayers are more sensitive to increase in taxes than any other group. High income taxpayers, of whom there are relatively few, are the targets of some critics, but the man in the middle income bracket collectively pays the tax bill, there are so many of then. Incidentally, they are the backbone of this nation and one of these days they will assert their power and begin to tell the Congress about economics in reality.

In the meantime everyone will try to get as much from the revenue sharing deal as possible. With "hat in hand" we run to Washington regardless of the known fact that we are running after our own money—what's left after the federal government has taken its cut. How foolish for how long can we be?

TRANSACTION OF ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will be a period for the transaction of routine morning business for not to exceed 15 minutes, with statements limited therein to 3 minutes.

THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate turn to the consideration of calendar Nos. 1184, 1188, 1190, and 1191.

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

RECLAMATION FEASIBILITY STUDIES

The bill (S. 3959) to authorize the Secretary of the Interior to engage in feasibility investigations of certain potential water resource developments was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 3959

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 hereby authorized to engage in feasibility studies of the following potential water resource developments:

1. Cache Creek project in Comanche, Cotton, Tillman, Jackson, and Kiowa Counties in southwestern Oklahoma.

2. Garrison Diversion Unit, M&I Water Facilities, Pick-Sloan Missouri Basin program, in central North Dakota.

3. Oahe Unit, M&I Water Facilities, Pick-Sloan Missouri Basin program in east-central South Dakota.

4. Three Forks Division, Pick-Sloan Missouri Basin program, in Gallatin and Madison Counties, northwest Montana.

5. Tucumcari Project in San Miguel County in east-central New Mexico.

6. Uncompahgre Project Improvement and Extension in Montrose and Delta Counties in the vicinity of Montrose and Delta, Colorado.

EXCHANGE OF CERTAIN FOREST LANDS

The bill (H.R. 10857) to authorize the Secretary of Agriculture to exchange certain national forest lands within the Carson and Santa Fe National Forests in the State of New Mexico for certain private lands within the Piedra Lumbre Grant, in the State of New Mexico, and for other purposes was considered, ordered to a third reading, read the third time, and passed.

GRANTS FOR ALLEN J. ELLENDER FELLOWSHIPS

The joint resolution (S.J. Res. 265) to provide grants for Allen J. Ellender fellowships to disadvantaged secondary

school students and their teachers to participate in a Washington public affairs program was considered, ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution, with its preamble, reads as follows:

Whereas Allen J. Ellender, a Senator from Louisiana and President pro tempore of the United States Senate, had a distinguished career in public service characterized by extraordinary energy and real concern for young people and the development of greater opportunities for active and responsible citizenship by young people; and

Whereas Senator Ellender provided valuable support and encouragement to the Close Up Foundation, a nonpartisan, nonprofit foundation promoting knowledge and understanding of the Federal Government among young people and their educators; and

Whereas it is a fitting and appropriate tribute to the beloved Senator Ellender to provide in his name an opportunity for participation, by students of limited economic means and by their teachers, in the program supported by the Close Up Foundation: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Commissioner of Education (hereinafter referred to as the "Commissioner") is authorized to make grants in accordance with the provisions of this joint resolution to the Close Up Foundation of Washington, District of Columbia, a nonpartisan, nonprofit foundation, for the purpose of assisting the Close Up Foundation in carrying out its program of increasing understanding of the Federal Government among secondary school students, their teachers, and the communities they represent.

(b) Grants received under this joint resolution shall be used only for financial assistance to economically disadvantaged students and their teachers who participate in the program described in subsection (a) of this section. Financial assistance received pursuant to this joint resolution by such students and teachers shall be known as Allen J. Ellender fellowships.

SEC. 2. (a) No grant under this joint resolution may be made except upon an application at such time, in such manner, and accompanied by such information as the Commissioner may reasonably require.

(b) Each such application shall contain provisions to assure—

(1) that not more than one thousand five hundred fellowship grants are made to economically disadvantaged secondary school students, and to secondary school teachers, in any fiscal year;

(2) that not more than one secondary school teacher in each such school participating in the program may receive a fellowship grant in any fiscal year; and

(3) the proper disbursement of the funds of the United States received under this joint resolution.

SEC. 3. (a) Payments under this joint resolution may be made in installments, in advance, or by way of reimbursement, with necessary adjustments on account of underpayment or overpayment.

(b) The Comptroller General of the United States or any of his duly authorized representatives shall have access for the purpose of audit and examination to any books, documents, papers, and records that are pertinent to any grant under this joint resolution.

SEC. 4. For the purpose of this joint resolution, the term "secondary school" means a day or residential school which provides secondary education, as determined under State law, except that it does not include any education beyond grade twelve.

SEC. 5. There are authorized to be appropriated not to exceed $500,000 for the fiscal year ending June 30, 1973, and for each of the two succeeding fiscal years to carry out the provisions of this joint resolution.

LASSEN VOLCANIC NATIONAL PARK, CALIF.

The Senate proceeded to consider the bill (S. 667) to designate certain lands in the Lassen Volcanic National Park in California as wilderness which had been reported from the Committee on Interior and Insular Affairs with amendments on page 1, line 6, after the word "about", strike out "seventy-three thousand three hundred and thirty-three acres and which are depicted on a map entitled "Recommended Wilderness, Lassen Volcanic National Park, California," numbered NP LV 9013 and dated August 1967," and insert "seventy-eight thousand nine hundred and eighty-two acres, and which are depicted on the map entitled "Recommended Wilderness, Lassen Volcanic National Park, California" numbered NP-LV-9013C and dated August 1972,";

On page 2, after line 6, strike out:

SEC. 2. The area designated by this Act as wilderness shall be administered by the Secretary of the Interior pursuant to the Act of August 25, 1916 (39 Stat. 535), as amended and supplemented, and the applicable provisions of the Wilderness Act.

And in lieu thereof, insert:

SEC. 2. As soon as practicable after this Act takes effect, a map of the wilderness area and a description of its boundaries shall be filed with the Interior and Insular Affairs Committee of the United States Senate and House of Representatives, and such map and description shall have the same force and effect as if included in this Act: *Provided, however,* That correction of clerical and typographical errors in such legal description and map may be made.

After line 19, insert a new section, as follows:

SEC. 3. The wilderness area designated by this Act shall be known as the "Lassen Volcanic Wilderness" and shall be administered by the Secretary of the Interior in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness areas, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act, and any reference to the Secretary of Agriculture shall be deemed to be a reference to the Secretary of the Interior.

And on page 3, after line 4, insert a new section, as follows:

SEC. 4. Section 1 of the Act of August 9, 1916 (39 Stat. 443; 16 U.S.C. 201) is amended by deleting the words "that the United States Reclamation Service may enter upon and utilize for flowage or other purposes any area within said park which may be necessary for the development and maintenance of a Government reclamation project" and the semicolon appearing thereafter.

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in accordance with section 3(c) of the Wilderness Act of September 3, 1964 (78 Stat. 890, 892; 16 U.S.C. 1132(c)), certain lands in the Lassen Volcanic National Park, which comprise about seventy-eight thousand nine hundred and eighty-two acres, and which are depicted on the map entitled "Recommended Wilderness, Lassen Volcanic National Park, California" numbered NP-LV-9013C and dated August 1972, are hereby designated as wilderness. The map and a description of the boundary of such lands shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior.

SEC. 2. As soon as practicable after this Act takes effect, a map of the wilderness area and a description of its boundaries shall be filed with the Interior and Insular Affairs Committee of the United States Senate and House of Representatives, and such map and description shall have the same force and effect as if included in this Act: *Provided, however,* That correction of clerical and typographical errors in such legal description and map may be made.

SEC. 3. The wilderness area designated by this Act shall be known as the "Lassen Volcanic Wilderness" and shall be administered by the Secretary of the Interior in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness areas, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act, and any reference to the Secretary of Agriculture shall be deemed to be a reference to the Secretary of the Interior.

SEC. 4. Section 1 of the Act of August 9, 1916 (39 Stat. 443; 16 U.S.C. 201) is amended by deleting the words "that the United States Reclamation Service may enter upon and utilize for flowage or other purposes any area within said park which may be necessary for the development and maintenance of a Government reclamation project" and the semicolon appearing thereafter.

The amendments were agreed to.

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

PETITIONS AND MEMORIAL

Petitions were laid before the Senate and referred as indicated:

By the ACTING PRESIDENT pro tempore (Mr. ROBERT C. BYRD):

A joint resolution of the Legislature of the State of New York; to the Committee on the Judiciary:

"JOINT RESOLUTION No. 7

"Joint resolution of the Legislature of the State of New York applying to the Congress of the United States of America to call a Constitutional Convention for the purpose of proposing an amendment to the Constitution of the United States relative to the use of public funds for secular education

"Whereas, The Legislature of the State of New York believes that an amendment to the Constitution of the United States will permit the several states to use more direct methods of financing secular education of children in non-public elementary and secondary schools and that Legislatures of the several states will pass resolutions applying to the Congress to call a convention for the purpose of proposing an amendment to the Constitution of the United States regarding financing secular education of children; and

"Whereas, Article V of the Constitution of the United States grants to the states the right to initiate constitutional change by applications from the Legislatures of two-thirds of the several states to the Congress, calling for a Constitutional Convention; and

"Whereas, The Legislature of the State of New York believes it to be best for the in-

terests of the people of the United States that such an amendment be adopted; now therefore, be it

"Resolved, That the Legislature of the State of New York respectfully applies to the Congress of the United States to call a Constitutional Convention for the sole and exclusive purpose of proposing the following amendment to the Constitution of the United States:

"'ARTICLE —

"SECTION 1. Nothing in this Constitution shall prohibit the United States, or any state or any political subdivision of any state from the expenditure of public funds for the support of secular education of children in non-public elementary and secondary schools. Provided, however, no such expenditure of public funds shall be made for such purpose where the non-public elementary or secondary school discriminates in its admission policies on the basis of race, creed, color or place of national origin or in the conduct of its instruction on the basis of race, color or place of national origin.

"SEC. 2. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the Legislatures of three-fourths of the several states within seven years from the date of its submission to the states.'

"And be it further

"Resolved, That if Congress shall have proposed an amendment to the Constitution identical with that contained in this resolution prior to June first, nineteen hundred seventy-three, this application for a convention shall no longer be of any force or effect; and be it further

"Resolved, That this application shall constitute a continuing application for such convention pursuant to Article V until the legislatures of two-thirds of the states shall have made like applications and such convention shall have been called by the Congress of the United States unless previously rescinded by the Legislature of the State of New York; and be it further

"Resolved, That certified copies of this resolution be presented to the President of the Senate and the Speaker of the House of Representatives of the United States and to the Legislatures of each of the several states attesting the adoption of this resolution by the Legislature of the State of New York."

A resolution adopted by the City Council of Elizabeth, New Jersey, praying for the enactment of legislation relating to problems of senior citizens; to the Committee on Government Operations.

A resolution adopted by the City Council of Campbell, Ohio, relating to the granting of a general amnesty to draft evaders, and calling for full prosecution of all draft evaders and deserters; to the Committee on the Judiciary.

The memorial of Linda A. Bennett, of Baltimore, Maryland, protesting against any increase in social security taxes; ordered to lie on the table.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MOSS from the Committee on Commerce, with amendments:

S. 2764. A bill to authorize the Secretary of the Interior to establish programs and regulations for the protection of the fishery resources of the United States, including the fresh water and marine fish cultural industries, against the dissemination of serious diseases of fish and shellfish (Rept. No. 92-1250).

By Mr. FULBRIGHT, from the Committee on Foreign Relations, without amendment and without recommendations:

S. 4022. A bill to provide for the participation of the United States in the International Exposition on the Environment to be held in Spokane, Washington, in 1974, and for other purposes (Rept. No. 92-1251) (together with minority views).

By Mr. HATFIELD, from the Committee on Interior and Insular Affairs, without amendment:

H.R. 6318. A bill to declare that certain federally owned lands shall be held by the United States in trust for the Burns Indian Colony, Oregon, and for other purposes (Rept. No. 92-1257).

By Mr. JACKSON, from the Committee on Interior and Insular Affairs, without amendment:

H.R. 13825. An act to extend the time for commencing actions on behalf of an Indian tribe, band, or group (Rept. No. 92-1253).

By Mr. JACKSON, from the Committee on Interior and Insular Affairs, with an amendment:

S. 666. A bill to designate certain lands in the Lava Beds National Monument in California as wilderness (Rept. No. 92-1252).

By Mr. STEVENSON, from the Committee on the District of Columbia, without amendment:

H.R. 13533. An act to amend the District of Columbia Redevelopment Act of 1945 to provide for the reimbursement of public utilities in the District of Columbia for certain costs resulting from urban renewal; to provide for reimbursement of public utilities in the District of Columbia for certain costs resulting from Federal-aid system programs; and to amend section 5 of the Act approved June 11, 1878 (providing a permanent government of the District of Columbia), and for other purposes (Rept. No. 92-1254).

By Mr. ROBERT C. BYRD for Mr. MCGEE, from the Committee on Post Office and Civil Service:

S. Res. 373. An original resolution to authorize David Minton, staff director and counsel of the Committee on Post Office and Civil Service, to appear as a witness in the case of the United States against Brewster, et al.

By Mr. CHURCH, from the Committee on Foreign Relations, with an amendment:

S.J. Res. 217. Joint resolution to create an Atlantic Union delegation (Rept. No. 92-1255).

By Mr. HARTKE, from the Committee on Veterans' Affairs, with an amendment:

H.R. 12674. An Act to amend title 38 of the United States Code in order to establish a National Cemetery System within the Veterans' Administration, and for other purposes (Rept. No. 92-1256).

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:

Kenneth Franzheim II, of Texas, now serving as Ambassador Extraordinary and Plenipotentiary to New Zealand, to Western Samoa, and to Fiji, to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary to the Kingdom of Tonga.

Mr. FULBRIGHT. Mr. President, I also report favorably sundry nominations in the diplomatic and foreign service which have previously appeared in the CONGRESSIONAL RECORD and, to save the expense of printing them on the Executive Calendar, I ask unanimous consent that they lie on the Secretary's desk for the information of Senators.

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

The nominations, ordered to lie on the desk, are as follows:

Karl E. Sommerlatte, of Florida, and sundry other persons, for appointment and promotion in the diplomatic and foreign service.

By Mr. FULBRIGHT, from the Committee on Foreign Relations, without reservation:

Executive T, 92d Congress, second session, Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation, signed at Montreal on September 23, 1971 (Exec. Rept. No. 92-34).

By Mr. PELL, from the Committee on Foreign Relations, without reservation:

Executive O, 92d Congress, second session, 11 amendments to the Convention for the Safety of Life at Sea, 1960 (Exec. Rept. No. 92-36); and

Executive P, 92d Congress, second session, Agreement Between the Government of the United States of America and the Government of the Federative Republic of Brazil concerning shrimp, together with an agreed minute and with a related exchange of notes concerning compensation, signed at Brasilia on May 9, 1972 (Exec. Rept. No. 92-37).

By Mr. PELL, from the Committee on Foreign Relations, with an understanding:

Executive C, 92d Congress, first session, Protocol to the International Convention for the Northwest Atlantic Fisheries Relating to Amendments to the Convention, dated October 6, 1970 (Exec. Rept. No. 92-35).

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. SCOTT (for himself and Mr. SCHWEIKER):

S. 4050. A bill to revise and simplify the Federal disaster relief program, to assure adequate funding for such program. and for other purposes. Referred by unanimous consent to the Committee on Banking and Housing.

By Mr. HRUSKA (by request):

S. 4051. A bill to amend sections 101 and 902 of the Federal Aviation Act of 1958 and chapter 2, title 18, United States Code, to implement the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation, and for other purposes. Referred to the Committee on the Judiciary.

By Mr. GURNEY:

S. 4052. A bill to authorize the Secretary of the Interior to sell reserved phosphate interests of the United States in lands located in the State of Florida to the record owners of the surface thereof. Referred to the Committee on Interior and Insular Affairs.

By Mr. MONDALE:

S. 4053. A bill for the relief of Leonardo Falcones. Referred to the Committee on the Judiciary.

By Mr. COTTON (by request for Mr. MCINTYRE):

S. 4054. A bill for the relief of Raymond Eldon Davis. Referred to the Committee on the Judiciary.

By Mr. STEVENSON:

S. 4055. A bill to authorize expenditures to correct or compensate for substantial defects in sections 203(b) and 221(d)(2) Federal Housing Administration mortgaged homes. Referred to the Committee on Banking, Housing and Urban Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SCOTT (for himself and Mr. SCHWEIKER):

S. 4050. A bill to revise and simplify the Federal disaster relief program, to assure adequate funding for such program,

and for other purposes. Referred by unanimous consent to the Committee on Banking and Housing.

Mr. SCOTT. Mr. President, I am today introducing the Disaster Relief Reform Act. It has been 3 months since the devastating floods brought on by Hurricane Agnes and we have witnessed the most massive Federal response in history. More than 30 agencies of Government have contributed in some way, either financially or materially, to the clean-up, fix-up effort in the Wyoming Valley and other hard-hit areas in Pennsylvania.

As evidence of the increasing role of the Federal Government, it should be observed here that the Federal Government has, on a dollar basis, contributed more than 10 times as much as State governments in this regard. If it be estimated on the basis of services rendered by agencies of the Government, then the Federal Government has contributed at least 15 times as much as the State governments.

Just 2 years ago, the Congress enacted a comprehensive disaster relief program. Basically it coordinated and consolidated many of the disaster activities which were then in operation. In addition, it provided for certain new Federal relief activities. However, Hurricane Agnes brought with it this Nation's most terrible civil disaster, and I must say that no one was fully prepared to meet it head-on. Since June, we have all learned a great deal. The bill I am now introducing seeks to correct some of the disaster relief programs' deficiencies.

First of all, my bill directs the Government's disaster relief coordinating agency, the Office of Emergency Preparedness, to make available at a single location in any disaster area sufficient personnel to provide to local citizens and public officials information concerning Federal disaster assistance in that area. OEP is also directed to assist local citizens and public officials in obtaining disaster assistance by providing advice and assistance to them in requesting or applying for disaster assistance. Furthermore, OEP will be charged with receiving from local citizens and public officials, applications and requests for disaster assistance and delivering such applications and requests to the appropriate agencies.

The reason for all these directives is quite simple—I like to call it one-stop help. People who need help fast should not have to jump from place to place in order to find it. There is entirely too much redtape and not enough action, especially during the startup phase of disaster relief operations. The situation in Pennsylvania now seems to be well in hand, but it should not have to take so long. In the future, these centralized activities ought to be operational from the start.

Second, my bill divests the Small Business Administration of certain responsibilities which it ought not to have such as providing homeowner loans to disaster victims. The Senate Banking Committee noted in its recent report on the disaster relief program that—

Testimony received during the Committee hearing indicated that particularly with regard to disaster relief loans to homeowners that SBA's responsibility in disasters often results in the agency's inability to efficiently handle its primary duty of assisting small business.

The report went on to say that the committee was prompted "to feel that the function of handling homeownership disaster loans might well be placed as the responsibility of an agency that has more expertise in that area." I could not agree more. We should not be asking the apple grower to start handling bananas, too. My bill, then, transfers the responsibility for homeowners disaster loans to the Department of Housing and Urban Development's Federal Housing Administration. In a similar vein, the responsibility for making loans to major business concerns will be transferred to the Department of Commerce's Economic Development Administration. In this way, each agency is free to assist in the areas in which it has the expertise. The Department of Agriculture's Farmers Home Administration will continue to assist farmers as is the case now.

Third, my bill authorizes virtually unlimited Federal financing when the appropriations level is insufficient. The Director of the OEP will be able to issue notes to the Secretary of the Treasury, in any amount, and the Secretary in turn will be required to purchase them. The Director of the OEP may then transfer the proceeds from the sale of the notes to any Government agency involved in the disaster relief effort, if that particular agency certifies that its appropriations are insufficient to do the required job. If we have learned one thing from Hurricane Agnes it is that the Federal response in terms of dollars as well as manpower must be sufficient and immediate. This does not mean, certainly, that the Federal Government will usurp or absorb those functions and responsibilities which traditionally rest with the States and local governments, such as collecting garbage on a daily and continuing basis. Quite the contrary. The Federal Government should undertake to provide all necessary and essential services as it now does in a disaster, and there should be no question as to the availability of funds. But the States and local governments must do their share as well and must not shirk or shrink from their responsibility.

In the aftermath of the June floods, I heard many complaints from Pennsylvanians that different Federal agencies were adopting widely different regulations for the granting of loans. For example, farmers were unable to get furniture replacement loans from the Farmers Home Administration, whereas those loans were available to other homeowners from the Small Business Administration. My bill will establish, for the first time, uniform criteria for the granting of loans to homeowners, small businessmen, and farmers. Each loan seeker will be given the same consideration with regard to losses on real and personal property, mortgage consolidation, working capital, and suspension of payments. However, farmers will continue to receive special consideration insofar as refinancing and crop losses are concerned.

Many aspects of the existing disaster relief program remain untouched by my bill, while other features will be made permanent. There will continue to be available 1-percent loans with a $5,000 forgiveness feature, although these loans to major business concerns will have no forgiveness. Obviously, a $5,000 forgiveness on a $3 million loan is rather inconsequential. I have already introduced legislation (S. 3971) to exclude from gross income amounts of disaster relief loans canceled pursuant to the laws now on the books. In addition, special disaster relief loans will continue to be made available to private nonprofit medical care facilities and educational institutions. The latter institutions were especially hard hit during the floods and they are often the least able to recover quickly.

The Senate Banking Committee correctly noted in its report "that previous attempts by Congress to establish a comprehensive disaster relief program have not been successful." With that in mind, the President was directed to report to the Congress, next January, "specific legislative proposals" aimed at a "comprehensive revision" of the existing disaster relief program. The bill I am offering today contains some provisions which certainly are worthy of consideration by the President during his own review. In the meantime, I intend to consult with him on this matter in order to give him the benefit of my views especially insofar as the situation in Pennsylvania is concerned.

Mr. President, I send the bill to the desk for appropriate reference. It is cosponsored by my distinguished colleague (Mr. SCHWEIKER). I ask unanimous consent to have the text of the Disaster Relief Reform Act printed in the RECORD.

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

S. 4050

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 "Disaster Relief Reform Act".

SEC. 2. (a) The Disaster Relief Act of 1970, as amended (42 U.S.C. 4401 et seq.) is amended as follows:

(1) After section 202, insert the following new section:

"FIELD ADMINISTRATION OF DISASTER ASSISTANCE

"SEC. 202A. The Director, acting through the Federal coordinating officer, shall issue such rules and regulations and take such actions as may be necessary to—

"(1) make available at a single location in any disaster area sufficient personnel to provide to local citizens and public officials information concerning Federal disaster assistance available in that area;

"(2) assist local citizens and public officials in obtaining disaster assistance by providing advice and assistance to them in requesting or applying for disaster assistance; and

"(3) receive from local citizens and public officials applications and requests for disaster assistance, and deliver such applications and requests to the appropriate agencies."

(2) After section 231, insert the following new sections:

"DISASTER LOANS TO INDIVIDUALS AND MAJOR BUSINESS CONCERNS

"SEC. 231A. The functions of the Small Business Administration with respect to disaster loans under section 7 (b) of the Small

Business Act, as amended (15 U.S.C. 636 (b)), are transferred as follows:

"(1) Any such function which relates to disaster loans to business concerns other than small-business concerns is transferred to the Secretary of Commerce, except that the provisions of such section 7 (b) relating to the cancellation of the principal of a disaster loan shall not apply to any loan made by the Secretary of Commerce.

"(2) Any such function which relates to disaster loans to persons other than business concerns is transferred to the Secretary of Housing and Urban Development."

(3) After section 255, insert the following new section:

"DISASTER RELIEF FUNDS

"SEC. 256. (a) To carry out the purpose of this Act, the Director is authorized to issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to surch terms and conditions, as may be prescribed by the Secretary of the Treasury. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury is authorized and directed to purchase any notes or other obligations issued hereunder and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, and the purposes for which securities may be issued under that Act are extended to include any purchase of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations which shall be treated as public debt transactions of the United States.

"(b) The Director may transfer the proceeds of any issue of notes or other obligations under subsection (a) to any Government agency for the purpose of assisting such agency in carrying out its functions under this Act, the disaster loan program under section 7(b) (1), (2), and (4) of the Small Business Act, section 328 of the Consolidated Farmers Home Administration Act of 1961, or section 4 of Public Law 92-385, approved August 16, 1972, except that no such transfer shall be made unless such agency certifies to the Director that funds appropriated to it for such purpose are not sufficient to carry out such functions."

Mr. SCOTT subsequently said: Mr. President, I ask unanimous consent that the bill I introduced previously today, S. 4050, be referred to the Committee on Banking, Housing, and Urban Affairs.

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

(b) Section 232 of such Act is amended by inserting "(a)" after "Sec. 232.", and by adding at the end thereof the following new subsection:

"(b) In the administration of section 328 of the Consolidated Farmers Home Administration Act of 1961, the Secretary of Agriculture shall, after consultation with the Administrator of the Small Business Administration and the Secretary of Housing and Urban Development, prescribe regulations which provide for—

"(1) the same coverage of loss, damage, or injury to real and personal property, and

"(2) the same terms and conditions with respect to mortgage consolidation, loans to provide working capital, and suspension of payments,

as are provided under section 7(b)(1), (2) and (4) of the Small Business Act, as amended (15 U.S.C. 636 (b))."

(c)(1) The second unnumbered paragraph of section 7(b) of the Small Business Act, as amended (15 U.S.C. 636 (b)), is amended by striking out "and prior to July 1, 1973," and by striking out "but prior to July 1, 1973".

(2) Section 328 of the Consolidated Farmers Home Administration Act of 1961, is amended by striking out "and prior to July 1, 1973," each place it appears therein.

By Mr. HRUSKA (by request):

S. 4051. A bill to amend section 101 and 902 of the Federal Aviation Act of 1958 and chapter 2, title 18, United States Code, to implement the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation, and for other purposes. Referred to the Committee on the Judiciary.

Mr. HRUSKA. Mr. President, I introduce today, by request, a bill to implement the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aircraft. The Convention was signed in Montreal on September 23, 1971, and was recently forwarded to the Senate for advice and consent, with the urging by President Nixon that it be given early and favorable consideration. I understand that the treaty itself is now being given serious consideration by the Senate Committee on Foreign Relations. Before the Convention can be given full effect, however, it will be necessary for the Congress to enact implementing legislation.

The Montreal Convention is a necessary sequel to the Hague Convention for the Suppression of Unlawful Seizure of Aircraft, which, as my colleagues will recall, was ratified in the fall of last year. The Hague Hijacking Convention was very significant in that it established a rule of law governing conduct by signatories for assuring the apprehension and punishment of hijackers. Each party to the Convention is required to prosecute hijackers found within its territory, regardless of where the piracy occurred, unless it extradites them. Legislation implementing that treaty—S. 2280—was passed by this body on September 21.

As I mentioned, the Montreal Convention is a companion to the Hague Convention. Whereas, the latter deals with aircraft hijackers, the former deals with individuals who commit related acts of terrorism against or on board aircraft, such as damaging or destroying an aircraft or performing an act of violence against a passenger. Also, like the Hague Convention, the treaty signed in Montreal is designed to impose the same strict requirements upon contracting states. That is, each contracting state is required to take into custody and either extradite or prosecute the saboteurs and terrorists who attack aircraft and passengers, regardless of where these terrible acts take place. The clear purpose is to eliminate safe havens for these international outlaws.

Because of the great importance of the Montreal Convention in our efforts to curb terrorism against international civil aviation, and because of the necessity to pass implementing legislation to give full effect to the treaty, I strongly urge my colleagues to devote their early attention to the bill I introduce today.

Mr. President, I ask unanimous consent that the transmittal letter from the Attorney General, the text of the bill, and a sumary of its provisions be printed in the RECORD.

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

S. 4051

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 31 of Title 18, United States Code, is amended by striking out the words "Civil Aeronautics Act of 1958" and inserting in lieu thereof the words "Federal Aviation Act of 1958," and by adding at the end thereof the following two paragraphs:

"In flight" means any time from the moment all the external doors of an aircraft are closed following embarkation until the moment when any such door is opened for disembarkation. In the case of a forced landing the flight shall be deemed to continue until competent authorities take over the responsibility for the aircraft and the persons and property aboard.

"In service" means any time from the beginning of pre-flight preparation of the aircraft by ground personnel or by the crew for a specific flight until twenty-four hours after landing; the period of service shall, in any event, extend for the entire period during which the aircraft is in flight.

SEC. 2. Section 32, Title 18, United States Code is amended to read as follows:

"Whoever willfully sets fire to, damages, destroys, disables, or interferes with the operation of, or makes unsuitable for use any civil aircraft used, operated, or employed in interstate, overseas, or foreign air commerce; or willfully places a destructive substance in, upon, or in proximity to any such aircraft which is likely to damage, destroy or disable any such aircraft, or any part or other material used, or intended to be used in connection with the operation of such aircraft; or willfully sets fire to, damages, destroys or disables any air navigation facility or interferes with the operation of such air navigation facility, if any such act is likely to endanger the safety of any such aircraft in flight; or

"Whoever with intent to damage, destroy, or disable any such aircraft, willfully sets fire to, damages, destroys, or disables or places a destructive substance in, upon, or in the proximity of any appliance or structure, ramp, landing area, property, machine, or apparatus, or any facility, or other material used, or intended to be used in connection with the operation, maintenance or loading or unloading or storage of any such aircraft if such act of violence or incapacitation is likely to endanger the safety of such aircraft in service; or

"Whoever communicates information, which he knows to be false, thereby endangering the safety of any such aircraft while in flight; or

"Whoever willfully attempts to do any of the aforesaid acts,

Shall be fined not more than $10,000 or imprisoned not more than twenty years, or both."

Section 3, Chapter 32, Title 18, United States Code is amended by adding a new section to read as follows:

"32A. Offenses in violation of the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation.

(a) Whoever commits an offense as defined in subsection (b) against or on board an aircraft registered in a state other than the United States and is afterwards found in this country—shall be fined not more than $10,000 or imprisoned not more than twenty years, or both."

(b) For purposes of this section, a person commits an "offense" when he willfully—

(1) performs an act of violence against a person on board an aircraft in flight if that act is likely to endanger the safety of that aircraft; or

(2) destroys an aircraft in service or causes damage to such an aircraft which renders it incapable of flight or which is likely to endanger its safety in flight; or

(3) places or causes to be placed on an aircraft in service, by any means whatsoever, a device or substance which is likely to destroy that aircraft, or to cause damage to it which renders it incapable of flight, or to cause damage to it which is likely to endanger its safety in flight; or

(4) attempts to commit, or is an accomplice of a person who commits or attempts to commit, an offense enumerated in this subsection.

(c) The provisions of this section shall become effective one day after fulfillment of the following conditions:

(1) the entry into force for the United States of the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed at Montreal, Canada, on 23 September 1971; and

(2) the publication in the Federal Register by or on behalf of the Secretary of State of a notice referring to this Act and stating that the Convention has entered, or will enter, into force for the United States on a date specified in that notice.

SEC. 4. Section 101(32) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1301 (32)), is amended to read as follows:

"(32) The term 'special aircraft jurisdiction of the United States' includes the following aircraft while in flight—

"(a) civil aircraft of the United States;

"(b) aircraft of the national defense forces of the United States;

"(c) any other aircraft within the United States;

"(d) any other aircraft outside the United States—

"(i) that has its next scheduled destination or last point of departure in the United States, if that aircraft next actually lands in the United States; or

"(ii) having 'an offense' as defined in the Convention for the Suppression of Unlawful Seizure of Aircraft, committed aboard, if that aircraft lands in the United States with the alleged offender still aboard; or

"(iii) regarding which an offense as defined in subsections (d) and (e) of Article I, section I of the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation is committed, provided the aircraft lands in the United States with an alleged offender still on board; and

"(e) other aircraft leased without crew to a lessee who has his principal place of business in the United States, or if none, who has his permanent residence in the United States.

For the purposes of this section, an aircraft is considered to be in flight from the moment when all the external doors are closed following embarkation until the moment when any such door is opened for disembarkation, or in the case of a forced landing, until the competent authorities take over the responsibility for the aircraft and for the persons and property aboard."

SEC. 5. Section 902(k) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1472 (k)), is amended by adding subsection (3) to the end thereof, to read as follows:

"(k)(3) Whoever while aboard an aircraft in the special aircraft jurisdiction of the United States commits an act which would be an offense under 18 U.S.C. 32 shall be punished as provided therein.

OFFICE OF THE ATTORNEY GENERAL,
Washington, D.C., Sept. 27, 1972.

The VICE PRESIDENT,
Washington, D.C.

DEAR MR. VICE PRESIDENT: Enclosed for your consideration and appropriate reference is a legislative proposal to implement the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation signed in Montreal, September 23, 1971, and for other purposes.

The proposal would amend existing Federal legislation dealing with offenses related to air piracy and the destruction of aircraft and aircraft facilities in order to bring our law into conformity with the requirements of the Convention.

The Convention requires, in Article 5, that each contracting state take such measures as may be necessary to establish jurisdiction over the offenses enumerated in Article 1 in specified instances. Article 1 proscribes certain acts, such as damaging or destroying aircraft or air navigation facilities, or committing violence against persons aboard aircraft, if the acts are likely to endanger the safety of the aircraft. In those cases where the signatories are required to establish jurisdiction, it is incumbent upon them to provide "severe penalties" for violations. (Article 3).

Section 1(a) of Article 5 requires that each contracting state establish jurisdiction "when the offense is committed in the territory of that state". To a great extent, our existing law already makes unlawful the offenses of Article 1, and the penalties are appropriately severe in most cases. Because of certain significant gaps, however, it is necessary to amend our law to achieve complete conformity. Therefore, the relevant statute—18 U.S.C. § 32, "Destruction of aircraft or aircraft facilities"—has been rewritten in section 2 of the legislation to reflect the changes necessitated by the Convention. Section 2 would also broaden the scope of 18 U.S.C. § 32, as well as make the language of the current statute more concise and clear.

Section 1(b) of Article 5 requires that each contracting state establish jurisdiction over the offenses when they are "committed against or on board an aircraft registered in that state". This is accomplished by the present definition of "special aircraft jurisdiction of the United States" which includes "civil aircraft of the United States". (Section 101 (32)(a) of the Federal Aviation Act of 1958, 49 U.S.C. 1301(32)(a)).

Each signatory is also obligated to establish jurisdiction "when the aircraft on board which the offense is committed lands in its territory with the alleged offender still on board". (Article 5, section 1(c)). This is accomplished in part in section 3 of the legislation which creates a new section 32A of title 18, United States Code. The new section prohibits the commission of an offense "against or on board an aircraft registered in a state other than the United States and [the alleged offender] is afterwards found in this country". An amendment to the definition of "special aircraft jurisdiction of the United States" found in section 4 of the legislation, brings our law into complete compliance with this requirement when viewed in conjunction with the new section 32A.

Section 1(d) of Article 5 requires each contracting state to establish jurisdiction over the offenses when committed "against or on board an aircraft leased without crew to a lessee who has his principal place of business or, if the lessee has no such place of business, his permanent residence, in that State". A further amendment to the definition of "special aircraft jurisdiction" has been added in section (4) to meet this obligation.

Lastly, Article 5, section 2, requires that each signatory establish its jurisdiction when "the alleged offender is present in its territory and it does not extradite him. . . ." The new section 32A, mentioned above, is also designed to cover this situation to the extent required by the Convention.

The proposed legislation is necessary to fully implement the Montreal Convention, which is very important in the international community's efforts to curb air piracy and related offenses. I therefore urge the early consideration and adoption of this proposed legislation.

The Office of Management and Budget has advised that enactment of this legislation is in accord with the Program of the President.

Sincerely,

RICHARD G. KLEINDIENST,
Attorney General.

ANALYSIS OF THE PROPOSED LEGISLATION TO IMPLEMENT THE CONVENTION FOR THE SUPPRESSION OF UNLAWFUL ACTS AGAINST THE SAFETY OF CIVIL AVIATION

Section 1 of the proposed legislation adds to 18 U.S.C. § 31 the definitions of "in flight" and "in service." These definitions are necessary because the terms are used in 18 U.S.C. § 32 as amended herein.

Section 2 amends 18 U.S.C. § 32, "Destruction of aircraft or aircraft facilities," in order to fully comply with Article 5, section 1(a) of the Convention which requires that each signatory establish jurisdiction over the Article 1 offenses when they are committed in the territory of that state. To a large extent domestic law already covers the offenses of Article 1, but several significant gaps exist which require amendments to section 32. (It should also be noted that the opportunity was taken to make the section more clear and concise. In this regard, it was not intended in any way to limit or lessen the scope of the proposed statute as compared to that of the current law.)

The first paragraph of section 2 of the proposed legislation essentially incorporates the first paragraph of current 18 U.S.C. § 32 as well as portions of the third and fourth paragraphs of the current statute insofar as the latter two paragraphs relate respectively to willfully placing a destructive substance in, upon, or in the proximity of any aircraft, or willfully setting fire to, damaging, destroying, disabling or interfering with the operation of an air navigation facility. However, it should be noted that the provisions which are being substituted for portions of the third and fourth paragraphs of the current law do not contain the requirement that the proscribed acts be committed with the intent to damage or disable the aircraft. Rather, the substituted provisions only require that the placing of the destructive substance be likely to damage or destroy any such aircraft, or any part, etc., or that the setting fire to, damaging, destroying or disabling of any air navigation facility be of such a nature that it is likely to endanger the safety of any such aircraft in flight. The omission of the abovementioned element of proof in the substituted provisions were necessary to avoid a requirement of proof for those offenses which would be greater than that required by the Montreal Convention. The phrase "any part or other material used or intended to be used in connection with the operation of such aircraft" is meant to include the various parts of an aircraft and any material including liquids and lubricants which might be damaged by a destructive substance. These materials are individually listed in the current statute.

Section 2's second paragraph essentially incorporates the second, third and fourth paragraphs of the current section 32 except for the provisions mentioned in the first paragraph of section 2. The phrase listing all of the various types of property including "other material used, or intended to be used in connection with the operation, maintenance or loading or unloading or storage of any such aircraft. . ." is meant to include all of the various types of property and material which are individually listed in the current statute.

Section 2's third paragraph replaces paragraph 2 of the current section 32 by adding passengers to the protected category of persons as required by Article 1, section 1(a) of the Montreal Convention. Since the conduct proscribed by this paragraph could

likely endanger the safety of the aircraft at times prior to and after the time that such aircraft is in flight, the jurisdictional base has been extended to cover not only those times when the aircraft is in flight but also the period of time while the aircraft is in service. Although paragraph 5 of the current 18 U.S.C. § 32 requires that the conduct be accompanied with an intent to damage, destroy, disable, or wreck any such aircraft, the substituted paragraph omits this element of proof because it would establish an offense requiring proof exceeding the requirements of the offense established by the Convention.

The fourth paragraph of proposed section 2 of this bill has been added to meet the requirements of Article 1, section 1(e) of the Convention. Currently, the only statutory provisions covering false information are 18 U.S.C. § 35(a) and (b) with regard to bomb hoaxes and 49 U.S.C. § 1472(m) with regard to hijacking hoaxes. However, neither of these provisions has a requirement of endangering the safety of an aircraft while in flight as does Article 1, section 1(e) of the Convention. That is, our current statutory language is broader than that of the Convention and could stand on its own in meeting the Convention's requirements. However, it was felt that to fully implement the Convention this Government should establish more severe sanctions for imparting false information when such imparting endangers the safety of the aircraft. Currently, 18 U.S.C. § 35(b) and 49 U.S.C. § 1472(m)(2) carry maximum jail terms of five years and fines of $5000, but do not require a showing of endangering the safety of the aircraft. Where this additional element is present, we believe it necessary to make the penalty associated with the activity more severe, which has been done by increasing the sanctions for such activities to a maximum of twenty years' imprisonment and a $10,000 fine.

The fifth paragraph of section 2 of this legislation is taken directly from the sixth paragraph of current 18 U.S.C. § 32.

The penalties for violation of the amended statute are the same as those provided in the current law.

Section 3 of the proposed legislation adds a new section 32A to Title 18 of the United States Code, and is designed to implement Article 5, section 1(c), in part, and Article 5, section 2. Article 5, section 1(c) requires each contracting state to establish jurisdiction over the offenses of Article 1 "when the aircraft on board which the offense is committed lands in its territory with the alleged offender still on board." Article 5, section 2 requires each contracting state to establish jurisdiction over the offenses listed in Article 1, sections 1(a), (b) and (c), and in Article 1, section 2 insofar as that section relates to offenses listed in sections 1(a), (b) and (c), "when the alleged offender is present in [the state's] territory and [the state] does not extradite . . ." Normally, of course, the United States would lack jurisdiction to try such individuals.

Jurisdiction is established in subsection (a) of section 32A over anyone who commits one of the offenses listed in subsection (b) on or against an aircraft registered outside of the United States and is afterwards found in this country.

Subsections (b)(1), (2) and (3) of section 32A enumerate the offenses of Article 1, section 1(a), (b) and (c) as required by Article 5, section 2. (It should be noted that Article 5, section 2 of the Convention does not require that the offense of sections 1(d) and 1(e) of article 1 be covered, so the obligations of Article 5, section 1(c) are met in the new section only to the extent of covering the offenses of Article 1, sections 1(a), (b) and (c). The offenses of Article 1, sections 1(d) and (e) are covered for the purposes of Article 5, section 1(c) in section 4 of the bill, which amends the special aircraft jurisdiction of the United States.) Subsection (b)(4) covering attempts to commit the proscribed acts, and also covering accomplices of those who attempt to commit these acts, is also required by Article 5, paragraph 2 of the Convention.

Section 4 of the legislation implements Article 5, sections 1(b), (c), in part, and (d) of the Convention. The former section requires each contracting state to establish jurisdiction over the offenses "when the offense is committed against or on board an aircraft registered in that state". This is accomplished by section 101(32) of the Federal Aviation Act of 1958 which defines the term "special aircraft jurisdiction of the United States" to include civil aircraft of the United States.

Concerning Article 5, section 1(c), to the extent that it is not implemented in the new section 32A discussed above, it is covered by subsection d(iii) of the amended definition of "special aircraft jurisdiction".

Likewise, the requirements of Article 5, section 1(d) are implemented in subsection (e) of the amended definition.

Section 5 of the legislation adds a new subsection to section 902(k) of the Federal Aviation Act of 1958, 49 U.S.C. § 1472(k). It makes punishable the offenses of 18 U.S.C. § 32 in situations where they are committed aboard an aircraft in the special aircraft jurisdiction of the United States.

By Mr. STEVENSON:

S. 4055. A bill to authorize expenditures to correct or compensate for substantial defects in sections 203(b) and 221(d)(2) Federal Housing Administration mortgaged homes. Referred to the Committee on Banking, Housing, and Urban Affairs.

Mr. STEVENSON. Mr. President, instead of passing the Housing and Urban Development Act of 1972, it appears that the House of Representatives is prepared to adopt a resolution simply extending present housing programs. It thus appears that many reforms included in the bill passed by the Senate will not become law this year.

Unsuspecting homeowners across the Nation, including many in my own city of Chicago, have been innocent victims of local HUD mismanagement and unscrupulous real estate practices. These families have purchased existing homes with FHA-insured mortgages only to find that the homes have serious structural defects and are in a deteriorating condition. FHA, not the purchaser, bears the clear responsibility for this situation since HUD regulations stipulate that FHA appraisers may not approve a house for an FHA mortgage unless it meets HUD's minimum property standards.

Under present law, families who have purchased subsidized housing under section 235 are entitled to reimbursement for structural defects if the defect was one that a proper inspection by the FHA appraiser could have disclosed. Tragically, purchasers of unsubsidized FHA-insured houses under Sections 203 and 221(d)(2)—some 70 percent of all HUD transactions—are not eligible for such compensation Equity and justice, as well as consistency, demand that they also be eligible for reimbursement necessitated by faulty government inspections.

Earlier in this session I introduced legislation to remedy this inequity and was hopeful it would be part of the Housing and Urban Development Act of 1972. Time is running out for this session, but today I introduce a bill which provides for reimbursement. I intend to bring this bill up as an amendment in the Senate Banking Housing and Urban Affairs Committee when it meets Tuesday morning to act upon the House-passed resolution.

All federally insured homeowners deserve the same reimbursement for defects ignored by HUD's appraisers in violation of its own minimum property standards. Thousands of purchasers wronged by the Federal Government have already waited too long for the Congress to act.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 4038

At the request of Mr. GRAVEL, the Senator from Utah (Mr. MOSS) was added as a cosponsor of S. 4038, a bill to establish a National Amateur Sports Foundation.

SENATE JOINT RESOLUTION 265

At the request of Mr. HUMPHREY, the Senator from Minnesota (Mr. MONDALE) was added as a cosponsor of Senate Joint Resolution 265, a joint resolution to provide grants for Allen J. Ellender fellowships to disadvantaged secondary school students and their teachers to participate in a Washington public affairs program.

SENATE CONCURRENT RESOLUTION 101—SUBMISSION OF A CONCURRENT RESOLUTION COMMENDING RECENTLY RETURNED PRISONERS OF WAR

(Referred to the Committee on Armed Services.)

Mr. HARTKE submitted the following concurrent resolution:

SENATE CONCURRENT RESOLUTION 101

Resolved by the Senate (the House of Representatives concurring), That Lt. (jg.) Norris Charles, Major Edward Elias, and Lt. (j.g.) Mark Gartley having served above and beyond the call of duty when forced to languish in an enemy prison camp are commended for their valiant service.

Resolved, That the Congress notes with pride the determination and perseverance that enabled these men to bear the tragedy and turmoil of a hostile enemy prison camp, and urges the country to listen to them, to honor them and to do whatever is necessary to obtain the release of all those imprisoned by the North Vietnamese and their allies, and end the tragic war in Southeast Asia.

SENATE RESOLUTION 373—ORIGINAL RESOLUTION REPORTED AUTHORIZING DAVID MINTON TO APPEAR AS A WITNESS

(Ordered to be placed on the calendar.)

Mr. ROBERT C. BYRD (for Mr. MCGEE), from the Committee on Post Office and Civil Service, reported the following resolution:

S. RES. 373

Whereas in the case of the United States of America against Daniel B. Brewster, et al. (criminal action numbered 1872-69), pending in the United States District Court for the District of Columbia, a subpena ad testificandum and duces tecum was issued by such court addressed to David Minton, staff

director and counsel of the Committee on Post Office and Civil Service, United States Senate, directing him to appear as a witness before that court at 9 ante meridian on October 30, 1972, and to bring with him certain minutes and records (including tabulations of votes) of executive sessions of that committee pertaining to the postage rate sections of H.R. 7977, Ninetieth Congress, first session, such material being in the possession and under the control of the Senate of the United States: Now, therefore, be it

Resolved, That by the privileges of the Senate of the United States no evidence in the possession and under the control of the Senate of the United States can, by the mandate of process of ordinary courts of justice, be taken from such possession or control but by its permission; be it further

Resolved, That by the privilege of the Senate and by rule XXX thereof, no Member or Senate employee is authorized to produce Senate documents, papers, or evidence but by order of the Senate, and information secured by Senate staff employees pursuant to their official duties as employees of the Senate may not be revealed without the consent of the Senate; be it further

Resolved, that when it appears by the order of the court or of the judge thereof, or of any legal officer charged with the administration of the orders of such court or judge, that testimony of an employee of the Senate is needful for use in any court of justice or before any judge or legal officer for the promotion of justice and that such testimony may involve documents, papers, or evidence related thereto under the control of or in the possession of the Senate, the Senate will take such order thereon as will promote the ends of justice consistently with the privileges and rights of the Senate; be it further

Resolved, That David Minton, staff director and counsel of the Committee on Post Office and Civil Service, be authorized to appear at the time and place and before the court named in such subpena, but shall not take with him any papers, documents, or evidence on file in his office, under his control, or in his possession as staff director and counsel of the Committee on Post Office and Civil Service; be it further

Resolved, That when the court determines (1) that any of the documents, papers, or evidence called for in such subpena have become part of the official transcripts of public proceedings of the Senate by virtue of their inclusion in the official minutes and official transcripts of such proceedings for dissemination to the public upon order of the Senate or pursuant to the rules of the Senate, and (2) that such documents, papers, and evidence are material and relevant to the issues pending before the court, then the court, through any of its officers or agents, shall have full permission to attend with all proper parties to the proceeding, and then always at a place under the orders and control of the Senate, and there to take copies of such documents, papers, and evidence in the possession or control of the said David Minton, excepting any other documents, papers, and evidence (including but not limited to, minutes and transcripts of executive sessions and any evidence of witnesses in respect thereto) which the court or other proper officials thereof shall desire as such matters are within the privileges of the Senate; be it further

Resolved, That, notwithstanding any other provision of this resolution, when the court finds that the voting records of the Committee on Post Office and Civil Service insofar as the reflect the votes cast on the postage rate sections of H.R. 7977, Ninetieth Congress, first session, by any member of that committee are material and relevant to the issues pending before the court, then the court, through any of its officers or agents, shall have full power to attend with all proper parties to the proceeding, and then always at a place under the orders and control of the Senate, and there to take copies of so much of such voting records as reflects the votes cast by such member; be it further

Resolved, That David Minton, staff director and counsel of the Committee on Post Office and Civil Service, in response to such subpena may testify to any matter determined by the court to be material and relevant for the purposes of identification of any document, paper, or evidence if such document, paper, or evidence has previously been made available to the general public, or if its disclosure is authorized by this resolution, but the said David Minton shall respectfully decline to testify concerning any and all other matters that may be based on his knowledge acquired by him in his official capacity either by reason of documents, papers, or evidence appearing in the files of the Committee on Post Office and Civil Service or by virtue of conversations or communications with any person or persons and he shall respectfully decline to testify concerning any matters within the privilege of the attorney-client relationship existing between said David Minton and the said committee or any of its members; and it further

Resolved, That a copy of this resolution be transmitted to such court as a respectful answer to such subpena.

DEPARTMENT OF LABOR AND HEALTH, EDUCATION, AND WELFARE AND RELATED AGENCIES APPROPRIATIONS, 1973—AMENDMENTS

AMENDMENT NO. 1667

(Ordered to be printed and to lie on the table.)

Mr. CASE submitted an amendment intended to be proposed by him to the bill (H.R. 16654) making appropriations for the Departments of Labor and Health, Education, and Welfare and related agencies for the fiscal year ending June 30, 1973, and for other purposes.

AMENDMENT NO. 1673

(Ordered to be printed and to lie on the table.)

Mr. HARTKE submitted an amendment intended to be proposed by him to the bill (H.R. 16654), supra.

CONSUMER PROTECTION ACT—AMENDMENTS

AMENDMENTS NOS. 1670 AND 1671

(Ordered to be printed and to lie on the table.)

Mr. HRUSKA submitted two amendments intended to be proposed by him to the bill (S. 3970), to establish a Council of Consumer Advisers in the Executive Office of the President, to establish an independent Consumer Protection Agency, and to authorize a program of grants in order to protect and serve the interests of consumers, and for other purposes.

AMENDMENT NO. 1672

(Ordered to be printed and to lie on the table.)

Mr. CHILES submitted an amendment intended to be proposed by him to the bill (S. 3970), supra.

SOCIAL SECURITY AMENDMENTS OF 1972—AMENDMENTS

AMENDMENT NO. 1674

(Ordered to be printed and to lie on the table.)

Mr. GRAVEL (for himself and Mr. STEVENS) submitted an amendment intended to be proposed by them jointly to the bill (H.R. 1) to amend the Social Security Act to increase benefits and improve eligibility and computation methods under the OASDI program, to make improvements in the medicare, medicaid, and maternal and child health programs with emphasis on improvements in their operating effectiveness, to replace the existing Federal-State public assistance programs with a Federal program of adult assistance and a Federal program of benefits to low-income families with children with incentives and requirements for employment and training to improve the capacity for employment of members of such families, and for other purposes.

AMENDMENT NO. 1675

(Ordered to be printed and to lie on the table.)

PASSING THROUGH THE FULL 20-PERCENT SOCIAL SECURITY INCOME

Mr. MONDALE. Mr. President, on Thursday, September 28, I introduced an amendment to the social security bill to guarantee that the elderly receive the full benefit of the 20-percent social security increase.

Part of this problem was solved on Friday, when the Senate accepted an amendment to do some of the things that my proposal would have accomplished. The amendment I am introducing today is meant to complete the work of protecting the 20-percent increase. It does this by preventing housing authorities from raising rents and the Department of Agriculture from cutting food stamp benefits as a result of the 20-percent increase.

We have all heard the terrible stories of how many of the poorest of our senior citizens are being cheated out of their long overdue social security raise. They are losing this raise because as their social security income goes up, other benefits—which they desperately need—are being reduced.

I am proud that I was a cosponsor of the 20-percent social security raise. I know that the Congress intended the full raise—every penny of it—to go to everyone receiving social security.

Because I think these elderly people should get every penny of this raise, I think our action to protect the raise should cover all other benefits. We should protect the elderly who receive food stamps, public housing benefits and veterans benefits, as well as those receiving old age assistance and medicaid. It is unjust and unfair that any of these other benefits should be reduced because of the 20-percent social security increase.

On Friday the Senate acted to meet the danger that old-age assistance and medicaid benefits would be lost as a result of the 20-percent increase. Senator CRANSTON's amendment, which was accepted by the distinguished Senator from Louisiana (Mr. LONG), will protect these types of benefits. Under the terms of the amendment, almost all social security beneficiaries in Minnesota will continue to get their old-age assistance benefits and will retain medicaid eligibility. This is very important.

But the Cranston amendment does not protect 15,000 elderly Minnesotans against an increase in public housing

rents. Only passage of the amendment I am offering today will do that.

I have received dozens of letters on this rent problem from senior citizens. It is callous and cruel that many of these elderly people have received notices of a rent increase in the mail even before they got their first social security check with the 20-percent increase.

There is also a major problem of the erosion of food stamp benefits. Approximately 40,000 Minnesotans could either lose eligibility for food stamps or find their food stamp benefits cut because of the 20 percent social security raise. For many of these people this could be a disaster. A large chunk of their small raise would be swallowed up immediately by the rampaging rise in food costs.

My colleague from Minnesota (Mr. HUMPHREY) raised this food stamp question on the floor of the Senate when the Cranston amendment was accepted. The amendment on this subject which we are offering today would take care of this problem. I hope it can be accepted immediately.

I also hope that my provision to protect veterans against a loss of their social security increase can be accepted.

Taken together the rent increase and the loss or erosion of food stamp eligibility and other benefits which may follow the 20 percent increase could make the whole 20 percent raise largely meaningless for many among the elderly. This must not be allowed to happen. My amendment completes the work of the Cranston amendment which was accepted on Thursday. It will guarantee full protection for the 20-percent increase. I urge that the whole of this package be approved by the Senate.

AMENDMENT NO. 1676

(Ordered to be printed and to lie on the table.)

Mr. STEVENS (for himself and Mr. GRAVEL) submitted an amendment intended to be proposed by them jointly to the bill (H.R. 1), supra.

ADDITIONAL COSPONSORS OF AMENDMENTS

AMENDMENTS NOS. 1617 AND 1618

At the request of Mr. HUMPHREY, the Senator from New Hampshire (Mr. MCINTYRE) was added as a cosponsor of amendments Nos. 1617 and 1618 intended to be proposed to the bill (H.R. 1), the Social Security Amendments of 1972.

AMENDMENT NO. 1668

At the request of Mr. ROTH, the Senator from Arizona (Mr. GOLDWATER), the Senator from Florida (Mr. GURNEY), the Senator from New York (Mr. BUCKLEY), and the Senator from Wyoming (Mr. HANSEN) were added as cosponsors of amendment No. 1668, intended to be proposed to the bill (H.R. 1), the Social Security Amendments of 1972.

AMENDMENT NO. 1669

At the request of Mr. RIBICOFF, the Senator from Wisconsin (Mr. NELSON), the Senator from Indiana (Mr. BAYH), the Senator from Missouri (Mr. EAGLETON), the Senator from Michigan (Mr. HART), the Senator from Indiana (Mr. HARTKE), the Senator from Iowa (Mr. HUGHES), the Senator from Minnesota (Mr. HUMPHREY), the Senator from New York (Mr. JAVITS), the Senator from Minnesota (Mr. MONDALE), the Senator from Utah (Mr. MOSS), the Senator from Illinois (Mr. STEVENSON), the Senator from New Jersey (Mr. WILLIAMS), the Senator from Rhode Island (Mr. PASTORE), and the Senator from New Jersey (Mr. CASE) were added as cosponsors of amendment No. 1669, intended to be proposed to the bill (H.R. 1), the Social Security Amendments of 1972.

ADDITIONAL STATEMENTS

DAVE DRUM AND KAMPGROUNDS OF AMERICA

Mr. MANSFIELD. Mr. President, the current issue of Life magazine contains an article about Dave Drum of Billings, Mont., who founded the oldest and largest chain of campgrounds in North America—Kampgrounds of America. To quote from the article by John Neary:

> It has always been David G. Drum's joyous affliction to be blessed with a vision that perceives the possibilities where most other folks see only problems. Dave Drum literally cannot help it; he is continuously assaulted by ideas that beset him at all hours.

Kampgrounds of America grew from Dave Drum's correct assessment that more Americans were speding their leisure time criss-crossing America on good interstate highways and that someone could provide, for a modest fee, campgrounds for them to stay in overnight. Since its founding in 1963, Kampgrounds of America has grown to include more campsites than either the National Park Service or the U.S. Forest Service, with a total of 492 franchised and 10 company owned campgrounds in the United States, Canada, and Mexico, with 76 more under construction and with franchise purchasers working on site preparations and financing for still another 657 campgrounds.

Mr. President, I ask unanimous consent that this article be printed at the conclusion of my remarks in the RECORD.

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

HOTELS WITH NO ROOMS ARE BOOMING

(By John Neary)

It has always been David G. Drum's joyous affliction to be blessed with a vision that perceives the possibilities where most other folks see only problems. Dave Drum literally cannot help it; he is continuously assaulted by ideas that beset him at all hours.

Like a man with a trick knee, Drum has grown accustomed to his affliction, half expecting every twinge, game for each arriving lurch in his life. Back in 1947, when the burly, garrulous ex-marine was 24, one of his hunches led him from his first job with an oil company into selling hearing aids and automobile-battery-restoring powders, which led him somehow into wholesaling hardware, and then into promoting steel buildings, and then into running a farm and garden center, from which he was inspired by the need for richer soils to start up an anhydrous ammonia fertilizer business; and then, in 1962, Dave Drum found himself part owner of a commercial campground on the banks of the Yellowstone River in Billings, Mont.

So it came as no great surprise to Drum one day that summer when, as he left the men's room of his campground, he was possessed of yet another idea—one which turned out to be one of the hottest, sweetest schemes in recent business history; the sprawling, profitable franchise corporation, Kampgrounds of America.

Drum was in the practice of visiting the camp every evening, not only to make certain that he and his partners were getting their share of the till, but also to learn what else the campers might want. And, Drum, believed, "People tell you the truth when they're standing in the men's room."

On this fortuitous evening he met a camper who described himself as "the All-American Nobody," a bookbinder who saved for 11 months every year to take a month off from a printshop in North Attleboro, Mass. and tour the West. Food costs were about the same on the road as at home, he told Drum, and he figured that by not smoking he canceled out the costs of gas and oil. But motels were costly. There were state and national parks with campsites, he admitted, "but they're always 40 miles off the highways and you have to drive all the way up to find out they're full—and then you have to drive all the way back to stay in some supermarket parking lot." Said the All-American Nobody: "One of the biggest needs this country has is good campgrounds all across the country." Drum was intrigued.

Whenever Drum was accosted by a nettlesome scheme, he always tried to get it under way instantly, promoting it to anybody who would listen. In sheer self-defense, Drum's family and friends had devised some tactics for coping with this walking barrage of propositions. For example, Bob Boorman, a certified public accountant with a distinct preference for black ink, who also happens to be Drum's brother-in-law, says, "I've heard so many of Dave's ideas—and he has hundreds of them, some good ones, some bad ones—that I always say, "No!" So Boorman listened as Drum propounded launching a national system of private, commercial campgrounds—and said "No."

At the time, there was scarcely any reason why Boorman should have said yes. Drum, after all, was proposing to provide a service for a clientele which did not yet really exist. Camping was then practiced (as it still is by devotees who would insist that what Drum proposed to sell is not really camping at all) largely for its own arcane and atavistic sake. It was pursued by hardy masochists who found some mystical catharsis in lugging their cumbersome canvas tents and heavy poles into the woods and getting rained on. Or camping was endured as an inescapable adjunct by adventurers who otherwise could not reach their favorite hunting, fishing or spelunking grounds. Public campgrounds existed mainly to accommodate pilgrims come to savor the scenic attractions within their environs; if wayfarers like the All-American Nobody were using them as open-air motels, officials pretended not to notice—and they certainly made little effort to provide either plumbing or supplies to help the campers on their way.

But there were subtle factors of change at work which Drum's radar had assayed: an unprecedented number of people—with money to spend and leisure time to spend it in—were finding that the nations interstate highway system now made lengthy cross-country car trips safer and more comfortable than they had ever been before. As those early travelers found their families growing and traffic on the interstates thickening, they saw rates at motels increasing. More and more of them began stuffing tents along with their suitcases in their car trunks.

For these people, navigating a transcontinental trajectory became at least as challenging as any stop-watched sports-car rally. With the help of a mileage table and hyperbolic directory to the then-limited camping

facilities, you targeted your destination for the coming night with a formula that evolved only through bitter experience. You learned to accept surprises with grace and humor: a long detour for a spot that claimed hot showers in the directory could end up with you shivering under a rusty pipe burbling water warmed only by the sun; or you might find yourself sharing the Adair, Iowa city park with a traveling circus, your tent pitched just out of trunk-reach of an amiable elephant, but downwind of his youthful, pungent bearded companion, a billygoat.

Although camping might have seemed synonymous with picturesque adventure, few campers really enjoyed taking potluck and a growing convoy of homely self-propelled motel rooms began rolling onto the highways. The fleet included everything from reincarnated hearses, converted school buses, pickups carrying overhanging cabooses on their backs, to mail trucks with bunks installed where the picture postcards used to ride. Now outfitted with a Coleman stove and a roll of toilet paper and free to roam where they wanted, the campers seemed ironically impelled by that herd instinct that causes yachtsmen with oceangoing craft to shun the open sea and raft up together in sheltered coves instead: the campers parked side by side in closely huddled clusters.

When Dave Drum saw them rolling into his little campground in Billings, what he saw were not "underprivileged gypsies," as his brother-in-law discerned them, but people with money to spend and few places to spend it. A camper like the All-American Nobody, Drum tried to tell Boorman, had to be greeted as a harbinger of a coming invasion that ought not only to be welcomed but charged a modest admission.

The company which grew out of that vision—Kampgrounds of America—is now the oldest and largest chain of commercial campgrounds in North America. It has more campsites than either the National Park Service or the U.S. Forest Service, with a total of 492 franchised and ten company-owned campgrounds in the United States, Canada and Mexico, with 76 more under construction and with franchise-purchasers working on site preparations and financing for still another 657 campgrounds. To get a franchise today costs $10,000 plus an annual $300; in addition KOA gets 8% of every campground registration fee.

Large or small, every KOA offers, at the minimum, free showers, coin laundries, a grocery store, sites equipped with water, sewerage and electrical hookups, a reservation service to secure another spot down the road and the reassurance of an employee living on the premises—none of which a motor camper can be certain of finding in public parks. Beyond their facilities, the single quality that seems, ironically, to be most responsible for the success of the KOA chain of campgrounds is what political science teacher George Alvergue, of Eugene, Oreg., recently called a predictability. Alvergue had stopped at the West Liberty, Iowa KOA because it was near a historic site (Herbert Hoover's birthplace). As he struggled with a jammed tent pole, he explained his fondness for KOA by saying, "Who wants to drive eight or ten miles off the highway—especially when you want to get an early start?"

The amenities and the cookie-cutter similarity of many KOAs may seem inimical to the romance of camping, but the fact is that while the 50 million or so Americans who motor-camp might like to think of themselves as adventurers, they really are just mobile consumers. The 3M National Advertising Co., a billboard giant that likes to peek now and then through the windshields of its nomadic audience, reported in a copyright 1971 study of 500 camping families that 54% of them preferred semimodern campgrounds, that 41% want to camp right smack alongside the interstate and that four miles from it as far as 59% are willing to detour for a site. At the same time, another study found, campers still like to regard themselves as near kin to the pioneers. Reported the Consumer Communications Co., in a study done for *Woodall's*, a camping journal: "The camper can see a camping trip as a true test of masculine competence, a place where the male assumes leadership of the family. On the other hand, all camping situations are carefully planned to avoid any major test of challenge and danger." The message for the leisure industry baron is clear, the report concluded: "Comfort items, such as air-conditioning, urban recreational items such as TV, stand out as the most wanted camping items . . . [but] must be positioned so as not to threaten the image that either camping or trailering involves challenge and the chance to grapple with 'nature.' "

The complaints one hears at KOA are mainly about the uniformity, the rumble of diesel trucks and the stark surroundings that mark so many campgrounds. "Is *this* all there is to camping?" Ruth Rinaolo wailed after surveying the Michigan City KOA. It had taken her nine years to persuade her husband, Joe, to leave Sparta, N.J., for a camping trip with her, and she had leaned heavily for arguments on evocations of her girlhood campouts in western Canada. Joe was unhappy, too: he had been led to expect scenic trails he could wander and found instead that "I paid $4 for a cow pasture." In another typical complaint, Emil Rothery of Shrub Oak, N.Y. leaned against a fence at a Wyoming KOA and said he felt KOA ought to "stop trying to squeeze so many people in." And, his wife Gertrude pleaded, "leave a tree."

KOAs range from small, bald homely places designed for overnight stops to big, relatively verdant, opulent places intended to attract tourists for lengthy vacations. When it is completed, the KOA near Picton on the rim of Lake Ontario, Canada will be the largest in the chain. "We run a complete vacation playground with everything," says Harvey Atkin, owner of this campground, "except you have to bring your own room. It's a resort hotel with no rooms." In time Atkin's KOA will offer a swimming pool, adult and teen lounges, nature trails, a mini-golf course, Ping Pong and pool tables, shuffleboard, a baseball diamond, horseshoe pits, color TV, hayrides, movies, corn roasts, bikes and mini-bikes, snowmobiling and sleigh rides (and storage for trailers) in the winter, and an airstrip for fly-in campers—most of them for an extra fee. "I look at the $4 registration fee as just the cover charge," says Atkin.

Dave Drum had no such luxurious visions back in 1962. But he did have his hunch. And as he searched for backing, he stuck to one of his staunch moral imperatives: "If you have to put in your own money, there's something wrong with the deal." At last he mentioned his scheme to one John Wallace, a local oil company executive and a friend of his brother-in-law Bob Boorman. Wallace not only bit; he offered to put up the $25,000 cash. Drum suggested they try to persuade Boorman to join them, on the ground that "Boorman keeps me out of jail and we're going to need somebody who can count." Together they prevailed and Boorman joined.

They left Wallace's proffered $25,000 untouched. "We never," Drum says happily, "put a dime in it." Instead, the three put in time, honing Drum's dream, refining the details—largely with the help of a bootlegged Holiday Inn franchise blank, which served as the template for their own franchise agreement. With a $1,000 loan from a local bank, they queried chambers of commerce in western towns, inquiring whether grounds were needed, and mailed questionnaires to several thousand families who had registered at Drum's campground, asking them what kind of camps they really wanted.

The company began its steep take-off in 1963 when, in response to an ad they ran seeking an appropriate sort of prefab building to be used as a central service building for campers, there came one Don Hammond, a supersalesman of prefab buildings. An energetic, persuasive fellow, Hammond impressed Drum, Boorman and Wallace as just the catalyst KOA needed. They offered him a partnership if he could sell 300 franchises: he did it in three years with the help of a partner.

Today, the firm not only has set 2,000 campgrounds as its goal, but also has purchased a recreational vehicle manufacturing firm to help its customers reach the campsite, and its own advertising and public relations agency to tell campers how to find the sites. KOA executives are carefully measuring the youth market, the "20-year-olds who are oriented to travel, but for whom the attractive and economic facilities haven't been developed," and are also researching the market for KOAs in Australia, Africa and Europe and the possibility of mid-city's campground and marinas. The company that Boorman's accountant colleagues once kidded him about ("Getting any nickels out of those picnic tables, Bob?") last year grossed $6,722,316 and turned a net profit of $594,908. Its second stock offering, 330,000 shares issued early this year, was bought at $29.75 a share.

KOA's position is now being challenged by the 50-odd other companies which have entered the campground business since KOA began—including hefty giants like Humble, Texaco and Gulf, and motel chains like Holiday and Ramada Inns. The Department of Interior predicts that by 1975 Americans will double their 1970 expenditure of $12 billion for camping equipment. Yet other observers of the fledgling leisure industry suspect that campground construction may turn out to be way ahead of long-term demand. Luxury campgrounds may offend campers' sense of frugality, they fear—or the entire movement may just dissipate, the way the bowling craze died off in the early 1960s, leaving a bunch of ghost campgrounds and bankrupt operations in its spectral wake.

Most KOA franchise owners speak confidently of the future of the "leisure industry." Ted Zieke, of Michigan City, Ind., who hopes to buy into the corporation which owns the KOA he manages, says, "Our biggest problem is how to expand." In West Liberty, Iowa, KOA owner Tom Brooke says that business is up 40% this year at the 23-acre, 74-site campground next to his motel and gas station. In Henderson, Nebr., Oscar Ott, a propane, fertilizer and irrigation supplier, has seen the KOA he owns with two partners move into the black in five years. In Chugwater, Wyo., however, John and Ruth Braunschweig, owners of the chain's first ranch camp, a very profitable business now, are making plans to turn their camp over to a manager and resume their cattle operations. "KOA is a great going thing now," says Mrs. Braunschweig, "but sometime travelers will think of something else and probably this camping bit will go out the window."

Dave Drum, meantime, is off on other adventures. Five years ago he stepped into the background of KOA, turning the presidency of the company over to 46-year-old Darrell Booth, a former Billings Chamber of Commerce manager. Drum dropped out of the day-to-day operation of KOA partly because he recognizes that "just because a guy is good for the 500-yard dash doesn't mean he's good for the mile," partly because he thinks "a good company functions better without some big old heavy grandma sitting over it saying, 'Now this is the way it is,' " but mainly because he rankles at being in an office all day. "I don't like sitting at a desk and waiting for the phone to ring—if you're at a desk, people are selling you something."

Plain and unvarnished as an old Levi jacket, his pale blue eyes alight with yet

more schemes, Drum continues to work hard. He does have an office in Billings, but the place looks more like a showroom for the cast western sculptures he collects than a place of business. Drum can spend only so long there—sprawled on a couch in a pearl-buttoned cowboy shirt, whipcord trouser cuffs rumpled in the tops of his half boots—before he has to get away in his little plane or in his Buick with the golf clubs in the trunk. Much of his time is spent overseeing his huge, semiautomated feedlot operation outside Billings, started with part of his proceeds from KOA. He describes his Montana Beef Fund as a business set up to attract investment capital from outside the state to buy cattle for fattening and sale to slaughterhouses. Another Drum operation, closely patterned on KOA, is a national chain of franchised children's clothing stores, and Drum keeps a hopeful eye on the shopping centers blossoming around the country.

He still has never camped in a KOA himself, having gotten his fill of bivouacking in the South Pacific where he won the Purple Heart in World War II. But he checks them out on vacation trips and regularly visits the local Billings campground, just as he did ten years ago, to eavesdrop on the customers and ask them what they think of his brand-new notion: "Some system of overnight accommodations for those who don't want to pay $28 to go into a motel and don't want to pull a trailer." Even though he hasn't figured out exactly what this system will be, he has a name for it: "The KOA-tel."

Drum says he intends to keep on living in Billings, up there near the rimrock, sitting out on the back porch with his wife (their three children are away at college), working over his ideas. Like the one he's tinkering with right now, just toying with, mind you, nothing serious—yet—about how to rig up a little collar on your fuel line that will prevent your car from ever running out of gas. The other night, you see, his car suddenly began to sputter, and it dawned on him that . . .

STEEP INCREASES IN SECOND-CLASS MAIL RATES

Mr. GOLDWATER. Mr. President, in recent months I have studied carefully the plight of the Nation's magazines in the face of massive postal rate increases. The magazines contend that postal rate increases that would aggregate 125 percent over a 5-year period would force many of them out of business.

As we all know, the Postal Service claims that steep increases are needed to cover the full costs of handling second-class mail, such as newspapers and magazines. In the past, the magazines have traditionally been benefited by mailing subsidies in the form of lower rates.

Mr. President, I fully recognize that the Postal Reorganization Act of 1970 converted the mail service from a Cabinet position into a semiautonomous corporation committed to becoming self-sufficient. However, I should like to point out that the Postal Service historically has been just what its name implies—a service to the American people. There is no reason to believe that the Post Office Department was established in the first place for the purpose of making a monetary profit or even maintaining a status of self-sufficiency.

I am inclined to believe that the American people and the cause of freedom of information would be better served if small magazines—those with circulations of 250,000 or less—were provided with protection against the cost of mail rate increases. I believe that the smaller magazines, regardless of their political philosophy, have a great deal to contribute to American opinion. I believe that that contribution is sufficient to warrant its protection in law against rates that might put these smaller magazines out of business.

LIVING COST, TAX RISE WORRY GEORGIA VOTERS

Mr. TALMADGE. Mr. President, the Atlanta Constitution recently sent a team of reporters about the State of Georgia to determine the major areas of concern among the people.

An article on the results of their survey indicates that inflation and the ever-increasing cost of living is a prime concern of the average citizen today.

In short, people are mad as hornets about the state of the economy and tired of having their hard earned pay eaten up by inflation and higher and higher taxes.

Taxpayers and working people in Georgia and across the Nation feel the pinch in their paychecks. And, they are understandably beginning to howl and vent their frustration at the ballot box.

Everyone in one way or another, suffers from inflation. But the punishment is especially severe from the average, middle-class wage earner, and on senior citizens who have to live on fixed incomes and who find it more and more difficult to make both ends meet.

It is the middleman and the average taxpayer who pays the taxes that keep our country and government running. He works. He pays his dues. He has a right to complain how his taxes are spent.

In short, the average worker is literally carrying most of the load for the country and supporting a government that has gotten so big and complex that it is no longer responsive to the will of the people.

This dismal state of the American economy and growing disenchantment of citizens can largely be attributed to runaway Federal spending over the last decades.

The Federal budget has been in the red to the tune of tens of billions of dollars for 37 of the past 43 years. We have tried to play policeman, banker, and Santa Claus for most of the rest of the world. We have pumped more than $200 billion abroad in foreign aid, including interest, since the end of World War II. The United States national debt is greater than the combined debt of all the other nations of the world.

The American people have every right to demand that the fiscal affairs of our Nation be put in good order. Year after year, mounting one multibillion-dollar deficit after another, the administration has been derelict in its duties.

No real effort has been made to restore our Nation to a balanced budget. To the contrary, the Federal Government has gone on and on spending money we do not have for programs we do not need.

Congress has likewise abdicated its fiscal responsibilities. Members of the House and Senate take the floor almost daily to deplore the state of the economy and to call for more restraint on Government programs.

That has amounted to little more than lipservice in an effort to placate irate taxpayers at home. Instead of cutting out all nonessential spending, Congress persists in devising new and bigger spending programs.

The American people expect more than just empty promises. They want positive steps taken to curb Federal spending.

The economic situation has become drastic.

Consequently, drastic action is going to be required to stop the Federal Government from going on year after year, sending itself and the taxpayers deeper and deeper into debt.

Unless Congress takes the initiative, and very soon, this country may find itself faced with an angry taxpayers' revolt.

Mr. President, I bring the Atlanta Constitution article to the attention of the Senate, for I believe it reflects the sentiment of a majority of people throughout America, 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:

LIVING COST, TAX RISE WORRY GEORGIA VOTERS

What's bugging Georgia voters? A team of Atlanta Constitution reporters—Bob Fort, Sam Hopkins and Nick Taylor—criss-crossed the state from one end to the other to find out. This is the second in a series of five reports on the results of their statewide canvass.

Concern is so great among Georgians about the rising cost of living and the increased tax burden that even preachers are taking their texts from other than Biblical sources.

"It's ridiculous!" declared the Rev. Gene Scott, a Methodist minister from Cordele.

"Taxes have gotten to the point where they're really bugging me," he said. "By the time you add up your federal tax, state tax, sales tax and property tax, it takes five months of your annual salary just to pay them all."

Another pastor, the Rev. Tommy Snell of Temple Church of God in Christ who also works at the Western Auto Store in Dublin said:

"Issues like taxes and inflation, those are the main things. A man and his family can't get ahead on a limited income."

He added, "Every time you get a little more money, things go up again and you're right there where you started."

One Atlantan interviewed in a statewide poll declared that "people everywhere, in Georgia and all over the country, are just fed up to here about high property taxes. Some of these politicans had better realize that something's got to give."

But aside from some black leaders, most Georgians refuse to point the finger of blame at the Nixon Administration for their economic plight. Instead, they emphasize that they feel it would be a lot worse if Sen. George McGovern became president.

The economic difficulties are felt by people on all levels. People with medium and higher incomes are bitter about the higher taxes.

"I got a $75 raise the other day," Columbus bank employe John Simpkins complained, "but after they'd taken everything out of it it amounted to $30 on my pay check."

Another Columbus resident—Mrs. Grace Owen, who works in a large department

store—said, "It's just a problem to live any more. It takes two to work to pay your bills."

Ralph M. Rutland, a 66-year-old bachelor, was sitting in front of the Happy Hollow Groceries and Meats store in Irwinton with his cast-enclosed broken leg propped on a chair.

"Everything's too high," he told a reporter. "Prices, that's the main argument. My sister runs this little ol' store, and every time she gets something in, it's up a penny or two. Meat's so high you can't touch it."

In Dublin, McGrath Keen, president of the Farmers and Merchants Bank, said food prices "are a concern to everyone. They continue to go up."

His secretary, Madelyn Thomas, chimed in, "Definitely! Meats go up a few cents every time I go to the grocery store, and that's three or four times a week."

H. Polk, owner of a produce store in Savannah, is worried about too much deficit financing. "It's getting worse," he said, "and it looks like there's no end to it—borrowing money to get more prosperity. . . .

"I think somebody could do something about it, but it might cause a depression. There ought to be some way we all might sacrifice to bring down the deficit—a little bit anyway."

Carolyn Yates, a 16-year-old waitress in Cordele who quit school "because they just don't teach anything anymore," has started finding out early about the economic facts of life.

"It seems like the cost of living is going up and the pay is going down," she said.

Automobile dealer Calvin E. McLendon of Perry feels there should have been price controls "way back yonder. In we keep jacking this side up and then jacking the other side up, there's no telling where it'll lead us."

He also feels that the billions of dollars this country is spending overseas is a major cause of the high taxes.

"We ought to be doing things like increasing the Social Security to look out for people's old age a little more," McLendon said.

But a much younger man, Macon advertising salesman Bill Saffold, disagreed with McLendon on one point.

"Social Security bugs me," he declared. "It's tearing people up, all that money they deduct from your salary. We put in all that money, and then you hear that they've got billions and billions of dollars in excess they're not using."

There were some differences of opinion about the severity of the domestic economy.

W. L. Watkins of Augusta said, "Inflation, economy and so forth, don't mean all that much in this area. The economy is good here, and I guess the only thing people might be worried about a little is rising prices."

And in Athens, Hank Johnson said that inflation "is certainly not an issue because the economy here is booming more than ever before. People aren't complaining that much about prices, and they can't see where Nixon has done that much wrong as far as the economy is concerned."

Most Georgians interviewed, although they may well be concerned about the cost of living, feel very strongly that things have a much better chance of getting better if President Nixon is re-elected than if Sen. George McGovern wins the November election.

"The economy is an issue," said weekly newspaper editor Charles Hamilton of Toccoa. "The people are worried about this. They're afraid of what might happen when you start giving people money. They're afraid of McGovern for this reason."

Over in northwest Georgia in Rome, a businessman commented, "The economy will be a strong issue, although our economy in this area is good. But let me tell you one thing. People around here are going to vote on overall images (of Nixon and McGovern), not on specific issues. But if there are any specific issues, I'd have to say the economy will be one of those."

Another Rome citizen, black furniture store operator James Wright, charged that the "politicians are covering up the real issues and hammering away on emotional things like busing. The real issues are things like getting this bad economy straightened out."

Mrs. Ima Rude, executive director of the Dawson Chamber of Commerce in South Georgia, doesn't think "anybody has the answer to the economic problem, but I don't think we can continue our current spending programs indefinitely."

"But still," she added, "you don't see people who are willing to give up the services they're getting, even though they all want their taxes cut. Frankly, I'd like to have my taxes cut, too. It sounds good when you talk about cutting taxes, but I certainly don't want to have them stop picking up my garbage if they do cut taxes."

John W. Vinson, pharmacist who runs his own drug store in Byron, thinks little businessmen like him are slowly getting squeezed out.

"It's really getting bad for small business and small industry," he said. "The big companies keep taking over everything, and we don't have much of a chance. And on top of that, the taxes keep getting higher."

One of the few outspoken black supporters of President Nixon in Georgia is Dr. Robert Wright, a member of the Metro Council in Columbus, who believes the rising taxes on property has become "critical."

"I certainly hope the (Republican) administration will take the lead to reduce the advalorem tax on home owners during the next four years," he said. "They've been taxed to the absolute limit to support local government."

Another black, Macon attorney William C. Randall, feels that the general economy and higher taxes have "gotten to the point where I can hardly afford to eat. Property taxes in Bibb County are unbelievable. And the service you get for your taxes is not on the same level."

Mrs. Isabelle Carter of Powersville is retired now after teaching school for 37 years.

"I'm afraid the way taxes are going we'll be unable to see daylight again," she said. "This world is just not a happy place for me to live anymore."

Still another point of view came from H. H. Farmer, 67, of Cordele.

"I don't have a worry in the world," he told a reporter. "I'm retired from the Ford Motor Co. here. My house is paid for. I've got a pension and Social Security and can make an extra $1,600 a year if I want to. And my wife makes $400 a month working."

McGOVERN AND EUROPE

Mr. CHURCH. Mr. President, the Washington Post of September 22 contains a perceptive article written by Stephen Rosenfeld, on the reaction of many Europeans to the presidential candidacy of GEORGE MCGOVERN.

The article is perceptive because it deals with the fear many Europeans seem to have of losing the American security umbrella which has sheltered them for so long.

It is an unfounded fear, for GEORGE MCGOVERN would hardly abandon Europe to the Soviets.

But, as Rosenfeld points out:

Europeans, the French partly excepted, have become accustomed to dependence on the United States; it spares them the costs and political difficulties of working effectively with each other. Mr. Nixon has offered Europe a poultice—continued American stewardship—which many Europeans find more attractive than the greater independence which the McGovern approach would mean.

Yet, President Nixon's is a policy outdated by the reality of present day European detente, not to mention European prosperity, which suggests that our allies shoulder a larger share of the defense burden. It is the reality of the present world that lies at the heart of GEORGE MCGOVERN's policy with respect to Europe.

As Rosenfeld notes:

That many Europeans should prefer the known and, for them, easy way of Richard Nixon is hardly surprising. To believe they could not adjust to a careful, comprehensive policy of the sort (suggested by Senator McGovern), libels Europeans as well as McGovern.

Mr. President, I ask unanimous consent that Mr. Rosenfeld's article be printed in the RECORD.

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

[From the Washington Post, Sept. 22, 1972]

NIXON'S THEIR ONE: EUROPEANS HASTY TO FEAR MCGOVERN

(By Stephen S. Rosenfeld)

The nervousness verging on incipient panic which George McGovern's candidacy has elicited among some of the United States' allies in Western Europe is striking, politically in respect to the American campaign and diplomatically in respect to American policy.

The ostensible basis of Europeans' feeling is, generally, the impression that McGovern is in the sway of an intemperate neo-isolationism and, specifically, that he will halve American troop levels in Europe (currently at 320,000) in three years, whether the Kremlin reduces its East European forces or not.

The Europeans could stomach Richard Nixon's unilateral devaluation of their economic assets a year ago last August. But they cannot accept what they expect from George McGovern: the unilateral devaluation of their physical security and of their psychological equilibrium. It is only their common expectation of the Democratic nominee's defeat that allows them to maintain any semblance of respectable composure at all.

To the President, West Europe's jitters are grist for his political mill, welcome evidence from a seemingly knowledgeable and impartial source of the competence of his diplomacy and the necessity for his reelection. So the latest "First Monday" published by the Republican National Committee devoted most of a page to jabs at McGovern by leading newspapers in Europe.

So in response McGovern sent Abram Chayes, a high-level advisor—if "advisor" is the right word for the experts trailing McGovern's campaign—to Europe earlier this month in order to retrieve the candidate's foreign policy views from the over-simplified sloganized form in which his political rivals and his own earlier expositions have fastened them on the public mind.

Chayes, a Harvard Law School professor who worked in the Kennedy State Department, was aware that Europe's judgments feed back into American opinion, especially into the small but influential and still mostly Europe-oriented foreign policy community in this country. Nor did it escape him that the controversy over McGovern's European policy touches the larger political issue of people's sense of his ability to deal with important Presidential affairs. It is a fact, and a damaging one to McGovern, that aside from his views, his "capacity to govern" has become a major question in the campaign.

In Britain, France, Germany and Belgium (NATO headquarters), Chayes sought to address the misgivings many Europeans have about McGovern—fears that the kind of

change in the status quo envisaged by McGovern, and perhaps even more the way of changing, would somehow unnerve Europe and embolden Moscow and lead over time to Soviet political ascendancy or, as it is sometimes called, the "neutralization" or "Finlandization" of Europe.

Chayes explained that although McGovern would not tie troop "redeployments" to matching Soviet cuts, as would the President, he would tie them to a continuing evaluation of the East-West balance. He insisted that Europe and the United States will inevitably and desireably remain intimate partners but that the movement towards detente and the new prosperity in Europe require the focus of their partnership to shift from the military to economic and political fields. It is the United States' recent relative neglect of Europe in those fields—a neglect which McGovern would repair—that makes the troop issue as unnecessarily conspicuous and granting as it is, he said.

Reasonable as these considerations may seem to some, it remains the case that Europe's anxieties are not of the sort to be easily removed by even the most persuasive Harvard law professor. Many Americans may wonder why the United States must carry a seemingly permanent security load for a region which not only appears less threatened than at any time in the last generation but which unquestionably is able to carry a larger share of its own security load.

But Europeans, the French partly excepted, have become accustomed to dependency on the United States: it spares them the costs and political difficulties of working effectively with each other. Mr. Nixon has offered Europe an alternative—continued American stewardship—which many Europeans find more attractive than the greater independence which the McGovern approach would mean.

Specifically, the Nixon policy looks to big East-West talks on everything and to smaller East-West talks on troop levels in which the principal decisions regarding European security would stay in the hands of Washington and Moscow. For many Europeans, the troop talks will be measured by the extent to which they limit and delay troop cuts.

The European attitude is fairly indicated by The Economist's report, entitled "It doesn't look any better," on the Chayes mission. "The heart of the matter," said the distinguished British weekly, is that McGovern's troop cuts would reduce to 1–4 days the period in which Europe could conduct a non-nuclear defense against Soviet attack. But surely the real "heart of the matter" is that a conventional Soviet land assault in Europe is inconceivable. That in a period of European detente and Sino-Soviet tension a paper like the Economist can conjure up such a scenario, and treat it as real, demonstrates how addicted Europe has become to American supervision of its security affairs.

I would argue that the whole development of postwar policy, to which Richard Nixon has contributed his significant part, has made it safe and feasible if not essential to weigh alternative detente strategies in Europe. That many Europeans should prefer the known and, for them, easy way of Richard Nixon is hardly surprising. To believe they could not adjust to a careful, comprehensive policy of the sort suggested, for instance, in yesterday's report of the McGovern Panel on National Security, libels Europeans as well as McGovern.

PENSION REFORM: A CONSTITUENT'S LETTER

Mr. SCHWEICKER. Mr. President, I urge that the Senate take up and pass S. 3598, the pension reform bill reported by the Committee on Labor and Public Welfare. I feel that action in this vital field of pension reform is long overdue, and I regret that the Committee on Finance has acted to gut the crucial reform provisions from S. 3598. The Subcommittee on Labor, on which I serve, has conducted an in-depth study of pension plans for the past 2½ years. The bill now pending on the Senate Calendar has been cosponsored by 15 of the full committee's 17 members. The people of Pennsylvania, not to mention the American people, are not going to stand for any more delay on this vital matter, because the public concern over pension plans extends not only to blue collar workers but to the white-collar sector as well.

Here, for example, is a letter I received recently from a man in Pennsylvania who himself works for the personnel department of a large company. To protect the confidentiality of his letter, I shall withhold his name, his hometown, and the type of company for which he works, but this is an actual letter that really gets to the gist of what the pension mess is all about.

This constituent happened to watch the excellent NBC television documentary, "Pensions: The Broken Promise," narrated by Edwin Newman, which was broadcast September 12, and which included excerpts from a July 17 hearing held by the Subcommittee on Labor on pension plan termination cases in Philadelphia. I had the honor of presiding at that hearing, and of appearing on the TV program.

Here is my constituent's reaction:

DEAR SENATOR SCHWEIKER: My wife and I were impressed with last night's TV special, "Pensions: The Broken Promise," as it speaks to a problem of which we are becoming increasingly aware and concerned.

We were pleased to see your involvement in the Senate Labor Committee hearings on pension plans. We were touched by the stories of those testifying as well as truck drivers and others on the TV program.

I am a manager in the Personnel Department of a large company, which has a fully funded pension plan. First let me say that even the personnel men cannot understand the pension plan booklet. Like so many others we basically have faith in a promise. I'm sure a fully funded plan is better than one that isn't.

What bothers me, however, is that the plan is non-contributory, so that I have no equity until that magic "vesting" point is reached. I have already worked 14 years for my company. Four more than the required number of years for a vested pension. But I am still several years away from the age I must be in order to have a vested pension.

The experience of recent layoffs combined with plans for reorganization predict that many more people at all levels will be let go. This probably includes me. If this happens within the next year as seems likely, I will have spent 15 years with one company without having accrued anything toward a pension, because I'll still be below the vesting age.

Edwin Newman hit it exactly. I'm another of those Americans who is doing what sociey expects—I work, and meet my obligations. I am told by my employer that I am earning a good pension for our retirement years. Yet if reorganization, layoff, or other things not my fault cause me to leave the company before vesting, I will have nothing. This fact of accruing nothing is also a large factor in keeping me from seeking to better myself with another company because I can't afford to throw away all these years of service.

Even if I survive 'till vesting, then I have to sit tight and hope the company survives.

I don't know what the answer to this problem is. I don't even know what all the questions are—I am sure it's complicated. My only conviction on it is that the great majority of Americans who work to provide for themselves need some pension *protection*. I hope you and your Senate colleagues will be able to find a way.

Sincerely,

(name withheld by Senator SCHWEIKER).

Mr. President, this letter tells in simple, straightforward, yet eloquent language just why American workers—white collar, as this constituent is, as well as blue collar—are looking to Congress for action on pension reform.

The points raised by my constituent's thoughtful letter are precisely some of the key points of S. 3598. But the version of S. 3598 favored by the Committee on Finance would hardly begin to answer this constituent's fears and concerns about the future of his pension. Only the version reported by our Labor and Public Welfare Committee would help in cases like this.

First, the man writes that at his company no one receives a vested pension until he or she has worked 10 years and reached a specific age. He fears that he might be laid off from this company before he attains that age, and thus will have nothing. Under S. 3598, a worker will get 30 percent of his pension vested after 8 years of service, regardless of whether or not he has reached a particular age. Each additional year he works after that, he will get an additional 10 percent until, after 15 years service, a worker will have a fully vested pension.

The Committee on Finance, however, would strike this vesting provision from S. 3598.

Second, the man writes that even after he acquires a vested right to a pension, he must hope the company survives until he is actually ready to retire and draw his pension. Under S. 3598, no worker who has acquired a pension right would have that worry because a national reinsurance plan would guarantee the payment of his vested pension in the event that the company itself does not survive.

But again, the Committee on Finance would strike this reinsurance provision from S. 3598.

What would the Committee on Finance leave for my constituent? Fortunately, it would leave the provision in title V of the bill that all pension plan participants are to be informed of their plan provisions in a way that the average participant can understand it. At least the Committee on Finance appears to be in favor of better, cleaner pension plan disclosure—even if they reject national standards for vesting, funding, reinsurance, and voluntary portability of pensions.

Mr. President, I hope that every Senator will read and reread this extraordinary letter from my constituent. And I hope that every Senator will stand up to help us pass S. 3598 in the form reported by the Labor and Public Welfare Committee. The battle for pension reform is long overdue, and it must begin here and now.

THE TERMS OF THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, so much has been said in reference to the Genocide Convention that I thought it would be helpful to explain, point by point, the terms of this convention.

The Genocide Convention contains 19 articles. Of these, the first nine are of a substantive character, and the remaining 10 are procedural in nature.

Article I carries into the convention the concept that genocide is a crime under international law. In this article the parties undertake to prevent and to punish the crime.

Article II specifies that any of the following five acts, if accompanied by the intent to destroy, in whole or in part, a national, ethnical, racial, or religious group, constitutes the crime of genocide:

First, killing members of the group.

Second, causing serious bodily or mental harm to members of the group.

Third, deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part.

Fourth, improving measures intended to prevent births within the group.

Fifth, forcibly transferring children of the group to another group.

This article, then, requires that there should be a specific intent to destroy a racial, religious, national, or ethnical group as such in whole or in part in order to constitute the crime of genocide.

Article III of the convention specifies that five acts involving genocide shall be punishable. These five genocidal acts are—

The crime of genocide itself; conspiring to commit genocide; direct and public incitement to commit genocide; attempt to commit genocide; and complicity in genocide. The parties agree in article IV to punish guilty persons, irrespective of their status.

In article V the parties undertake to enact, "in accordance with their respective constitutions," the legislation necessary to implement the provisions of the convention. The convention does not purport to require any party to enact such legislation otherwise than in accordance with the country's constitutional provisions.

Article VI makes it clear that any person charged with the commission of any of the five genocidal acts enumerated in article III shall be tried by a court of the state in whose territory the act was committed, or by such international penal tribunal as may have jurisdiction with respect to those States accepting such jurisdiction. Thus, genocidal acts committed on American territory would be tried only in American courts. No international tribunal is authorized to try anyone for the crime of genocide.

By article VII the parties agree to extradite, in accordance with their laws and treaties, persons accused of committing genocidal acts.

Article VIII recognizes the right of any party to call upon the organs of the United Nations for such action as may be appropriate under the charter for the prevention and suppression of genocidal acts.

Lastly, article IX provides that disputes between the parties relating to the interpretation, application, or fulfillment of the convention shall be submitted to the International Court of Justice, when any party to a dispute so requests. As I mentioned earlier, the remaining articles are procedural in nature.

Mr. President, I point out the specific language of the articles to familiarize Senators with the provisions of this convention. It is my hope that by clarifying the technicalities involved, Senators will better understand that this convention calls for nothing more than an international indictment against the practice of genocide. It defines the crime of genocide, and it obligates States to take measures to prevent and punish genocide within their respective territories. With this better understanding it is my hope that the U.S. Senate will ratify the Genocide Convention in the near future.

PENSION REFORM

Mr. MONDALE. Mr. President, as is becoming increasingly apparent, the issue of pension reform is a vital issue, affecting millions of Americans. The pension plan industry, with assets estimated to exceed $150 billion, has been the subject of intensive study. The Committee on Labor and Public Welfare on September 15, 1972, reported unanimously S. 3598, the Retirement Income Security for Employees Act of 1972—RISE—which would create minimum standards of vesting, funding, insurance, disclosure, and fiduciary conduct for pension plans.

I strongly concur in the views of the five members of the Committee on Finance who dissented from the committee's ill-considered action to strip the bill of its major provisions. As it is inevitable that this issue will be before the entire Senate before long, the findings of the Subcommittee on Labor should be of interest to all Members of Congress.

The latest issue of U.S. News & World Report, dated October 2, 1972, contains an article which contains some of the findings of the subcommittee regarding pension plan forfeitures, terminations, and funding. It also summarizes the major features of the bill.

Mr. President, I ask unanimous consent that the article, entitled "Tighter Rules for Private Pensions—The Outlook Now," be printed in the RECORD.

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

FINANCE—TIGHTER RULES FOR PRIVATE PENSIONS—THE OUTLOOK NOW

(Soon to come to a vote in the Senate: a bill for broad new guarantees to the more than 30 million Americans covered by private pension programs)

Now getting a big push in Congress are plans for pension reform that will mean important changes for all of the country's private retirement programs.

Chief thrust of a measure just approved by the Senate Labor Committee is toward tightening pension rules in three basic areas. These new rules, if enacted, would:

Make sure that more people, in the future, actually get pension benefits to which they are entitled.

Improve "vesting" provisions in most pension plans, by shortening the period over which an employe has to work before he is entitled to benefits.

Provide new safeguards for the cash piled up in pension-fund reserves, with insurance to cover benefits if a plan is ended before full funding is achieved.

The bill soon to reach the Senate floor is known as the Retirement Income Security for Employes Act, or RISE, for short.

The measure is a bipartisan one, sponsored by Republican Senator Jacob Javits, of New York, and Democratic Senator Harrison A. Williams, of New Jersey.

DEFERRRED ACTION

Supporters see no prospect that the bill will get final enactment this year. The full Senate still must debate it, and a Labor subcommittee in the House must wind up research and hearings on a similar bill.

However, legislative experts see a good chance of passage next year, particularly since 15 of the 17 members of the Senate Labor Committee are solidly behind the Javits-Williams proposals.

Over the past decade or so, Congress has seen a flood of bills introduced to regulate the thousands of private pension plans in force in the U.S., but none of the bills has managed to reach the floor of either chamber. Now, says one pension expert, "There are enough forces converging on the whole issue of pension reform to assure a legislative showdown next year."

An indication of the stakes involved in pension-plan revisions is given in the accompanying charts.

Private pension plans now hold close to 153 billion dollars in assets, and cover more than 30 million individuals. Last year, private plans of all types paid out nearly 8.6 billion dollars to about 5.1 million beneficiaries.

One aspect of the current pension-fund situation that has come in for increased scrutiny lately is the high percentage of assets invested in common stocks.

Until recent years, actuaries tended to advise that pension reserves be kept in traditionally conservative investments such as high-grade corporate bonds or U.S. Government securities. The theory was that a heavy concentration in common stocks was too risky, and that money put into equities might evaporate in a severe market shake-out.

In the past decade, however, a growing share of the assets of noninsured pension plans—those not managed by insurance companies—have been invested in the stock market.

In 1960, 43 per cent of the assets of noninsured plans were in common stocks. By 1965, that figure had risen to 55 per cent. In 1971, it had gone up to 68 per cent.

OTHER INVESTMENTS

Corporate and other bonds made up 39 per cent of pension-plan reserves in 1960. Now that sum is down to 21 per cent. In 1960, 7 per cent of pension assets were in U.S. Government bonds. Now they are down to 2 per cent.

The heavy emphasis on stocks has raised questions in two directions. One is whether pension funds, with their huge concentration of buying power, may not have undue influence on stock-market prices. Fund managers have the ability to buy or sell thousands of shares in one transaction. The other question is whether some of the billions in pension reserves might not be wiped out in a stock-market crash.

There is no indication that the pending pension-plan legislation would specify any top limits on pension-plan assets that could be invested in common stocks.

The Javits-Williams measure does provide for enforcement of carefully engineered standards aimed at correcting what the bill's supporters see as serious shortcomings in existing regulations.

One study, for example, indicates that 9 out of 10 workers in certain job categories may never get their expected retirement income. Most workers forfeit their pension rights because they leave their jobs or are discharged before qualifying for benefits under the plans' provisions. Also, some lose out when their employers shut down operations or merge with other companies without setting aside enough money to cover workers' pension claims.

A recent report by the Senate Labor Subcommittee took a detailed look at 11 terminated pension plans in various industries and geographic regions in which 22,580 people were affected. In addition, more than 115 other recent pension-plan terminations affecting 200,000 individuals were studied.

The Subcommittee's conclusions:

In nearly all cases, the employer shut down operations following a merger or acquisition, leaving many workers without jobs.

The average age of pension-plan participants when the plans were ended was high, limiting employment opportunities elsewhere and diminishing the workers' ability to qualify for pensions with subsequent employers.

Most participants in these plans had thought their benefits were guaranteed and had no inkling that benefits might be reduced or eliminated.

When their pension plans were suddenly ended, most participants could not get information about what pension rights, if any, remained for them.

INSUFFICIENT FUNDS

Hearings by the Labor Subcommittee uncovered the fact that, when the pension plans it studied were terminated, assets in those plans invariably were insufficient to pay all promised benefits.

Sometimes, the hearings indicated, employees who had been drawing benefits were cut off from any future benefits when a plan was terminated.

Although reasons for the underfunded condition of the terminated plans varied, the committee staff cited as one reason the effect of the recent stockmarket decline on pension funds with large holdings of common stock.

What are some of the key provisions of the Javits-Williams bill?

Under one major provision, a worker who stays on the job for eight years would build up a 30 per cent vested right to his pension benefits. Only three of the eight years would need to be continuous. For each year beyond eight, an additional 10 per cent would be vested. After 15 years of service, vesting would be complete.

The U.S. Secretary of Labor is given authority to decide whether to waive the vesting requirements, however, if he finds that a pension plan has provisions equally favorable. Officially pointed out that this means the Labor Secretary will be able to let the auto companies and many other large industrial firms continue their agreements with workers for full vesting after 10 years of service.

For workers now covered under private pension plans, there would be limited recognition of past service. Anyone in a plan who was 48 years old when the bill became effective would be credited for his service prior to the effective date.

An important section of the new measure is intended to bolster the financial stability of all private pension plans.

The bill would require full funding of every pension program over a 30-year period, and insurance to cover vested benefits if a plan were forced to terminate before full funding was achieved.

TRANSFER OF RIGHTS

Also provided is a voluntary system of "portability." This means that a worker who stays at one job long enough to acquire pension rights could carry those rights with him if he moved to another job also covered by a pension plan.

More stringent "fiduciary standards" under the plan would broaden reporting and disclosure requirements for trustees and administrators, and require that persons handling employe-benefit money deal with it exclusively in the interest of the beneficiaries.

Employers also would be required to give workers more details about the exact provisions of a pension plan and how the plan applies to each employee covered by it.

Present federal law is described by many authorities as "lax" so far as pension-plan regulation is concerned. The chief requirements now are that administrators report annually on the structure and operation of their funds.

Existing plans are not required to be either audited or insured against loss. By contrast, other big pools of money—notably banks and insurance companies—are closely regulated.

One federal official has pointed out that "private pension-plan funds constitute the largest sum of unregulated capital in the United States."

The measure now pending in Congress will go some distance toward bringing the billions in retirement funds under a new set of safeguards.

ADDRESS BY T. SGT. PAUL R. MEWBORN

Mr. GOLDWATER. Mr. President, recently it was my great pleasure to have been invited to address the graduates of the noncommissioned officer academy at Richards-Gebaur Air Force Base in Missouri. I have watched carefully and with great interest over the past several years as noncom training has undergone a decided change, a change I think, for the better.

Previously, the great stress was upon the particular skill or skills of the noncommissioned officer involved with no attention being paid to broadening the man's base of understanding. Today that has all changed and these noncommissioned officers attend these schools and study the economics, not only of the United States but of the world. They study the political implications of treaties and acts of governments; in short, they are taught to bring their thinking up to today on matters that concern not only them as members of the Air Force, but their wives, their families, and the people of our country.

At the particular meeting that I attended, T. Sgt. Paul R. Mewborn, 1989 Comm Sq—AFCS—Torrejon, Spain, AFB, who won the VFW World Affairs Award, gave this short speech. They are taught to keep their speeches short; in fact, one of the most interesting things I ever heard was from President Eisenhower who said:

If you can't get it on one page you haven't thought about it.

I think that is part of what goes into their instruction, so that they can be short, to the point, and get the message across to the people under them.

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

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

WHY TODAY'S NCO NEEDS TO STAY INFORMED

Gentlemen, if we were to take a survey this afternoon in the NCO Club or at a nearby shopping center, most of those queried would be able to identify the names "Trevino" or "Namath". Damned few would recognize "Arafat" or "Papadopoulos". Many would be able to find Indianapolis and Palm Springs on a map. How many could find Rangoon, Djakarta or Amman?

Our grandfathers didn't have a clue where Sarajevo was; our fathers could have cared less about the Sudentenland; and they died by the hundreds of thousands in two world wars, never knowing why.

People still live who say "Benito Mussolini was a great man. He made the trains run on time"; or "What was wrong with Hitler? He built the greatest highway system the world had ever seen"; or "Francisco Franco is a gentleman. He attends mass every Sunday."

Why should NCOs be concerned with world affairs? Well, first, because what's going on in the world around us can be hazardous to your health, and to that of your loved ones. With world tensions cycling up to a high point every few years, the actions of a Mideastern guerilla leader or the provisions of a wrinkled treaty could touch off Big Show Three. Many think that one will be the final section of three. Armageddon!

Secondly, in this age of military mobility, you can find yourself packing for points little known on short notice as part of an Air Force support commitment. If you would rather be taken by surprise, you have a mental problem.

Third, you supervise young troops who frequently have more formal education than you. They can respect your well-reasoned disagreement with their ideas. They cannot fully respect a leader who does not keep himself informed.

Fourth, you are franchised citizens of one of the world's great powers. How you vote can help alter the course of world affairs. I *beg* you to think about that one.

Gentlemen, the day of the hulking semiliterate topkick is gone. In a world that could blow up any minute, common sense dictates that we keep track of what's going on. Thank you.

THE LAVELLE AFFAIR'S RELATIONSHIP TO A VOLUNTEER ARMY

Mr. FULBRIGHT. Mr. President, one of the finest newspapers in my State, the Arkansas Democrat, published an excellent editorial on the Lavelle affair and its relationship to the proposal for a Volunteer Army.

I commend the editorial to the Senate and ask unanimous consent that it be printed in the RECORD.

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

THE LAVELLE LESSON

Those supporters of an all-volunteer army—and that includes both Mr. Nixon and George McGovern—ought to think deeply about the case of Lieut. Gen. John D. Lavelle and his private air war.

Plainly here is a case where the military establishment purposefully went around orders of the civilian leaders of our government. Testimony before the Senate Armed Services Committee showed that an Air Force unit in Thailand spent its days making more than 20 unauthorized bombing attacks on North Vietnam and its nights writing up phony reports to send to Washington.

General Lavelle, who is a highly-respected military officer, resented the fact that he could not destroy enemy supplies and equipment before they could be used against his fliers and other American soldiers. But the Defense Department rules in effect during that period (from November 1971 to March of this year) were that bombing could be carried out only in response to attack by North Vietnamese planes, missiles, antiaircraft bat-

teries, etc. General Lavelle's planes bombed some radar sites but they also struck at stockpiles, oil and truck depots and airfields.

The wisdom of the Defense Department's orders versus what General Lavelle did is not what concerns us here. The crucial point is that our historical concept of civilian control over the military is plainly not working. This fact became so evident during the hearings that reporters said that the committee, which usually is most sympathetic to the military, was visibly shaken, especially its chairman, Sen. John Stennis, D-Miss.

Now how did we find out about General Lavelle's private air war? A 23-year-old sergeant from Cedar Rapids, Iowa, who enlisted in the Air Force to avoid the draft, wrote a letter to his senator. Neither the military's elaborate chain-of-command nor the Pentagon's fail-safe measures alerted the civilian leaders to what was going on. In fact, without prejudicing the case, it is beginning to appear as though his military superiors acquiesced in what he was doing and made no attempt to expose him.

But this is not unusual. Recall how the American people found out about the tragic events at My Lai: From draftees who wrote to their Congressmen and eventually talked to newspapermen after their army tours were ended.

The point we are trying to make is how important it is to have civilian-soldiers mixed in among the regulars. As do the people in any profession, career soldiers have a tunnel view of their objective, which is victory. And also like other professionals, career soldiers have a tendency to protect each other's methods so long as their goal is the right one. Therefore, we have private air wars and the wiping out of villages and perhaps other gross violations of the United States' policy. If these things can happen with thousands of draftees and ROTC officers in the ranks, as they were at that time in Southeast Asia, just think what might have happened if all our fighting men had been career types, who knew that a letter to a Congressman or a tip to the press could finish their careers.

Citizen-soldiers serve an important function in a democracy. They keep the public in touch with what the military is doing, and they keep the military aware of the average American's aversion to militarism. There are many reasons to oppose an all-volunteer army, but preserving this interchange is certainly one of the most important ones.

AIRCRAFT NOISE

Mr. BOGGS. Mr. President, the Senate may take up later this week important leigslation that would establish a strong, new Federal program for the control of noise pollution. I voted for the bill in committee as I believe it creates a sound, effective program to quiet our cities and our machines.

When the Senate begins this discussion, much of the debate will center on the issue of controlling aircraft and airport noise.

While I support the version reported by the Committee on Public Works, I recognize that there are other viewpoints. In an effort to give Senators as much information as possible on this issue, I ask unanimous consent that an analysis, prepared by the Federal Aviation Administration, be printed in the RECORD.

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

NOISE—MAKING THE AIRPORT A GOOD NEIGHBOR

The Federal government has made a commitment to improve the quality of life. Part of this pledge, of course, is to reduce the noise generated by the nation's commercial jet aircraft and business jets. In the real world of implementing federal policies, the desire to reduce noise does not bring about immediate results. This was recognized in Public Law 90-411, passed in 1968. That mandate from Congress amended the Federal Aviation Act by authorizing the FAA to control both aircraft noise and sonic boom. However, it also directed that noise abatement and control be achieved within the bounds of technical practicability and economic reasonableness while not compromising safety.

The world of aviation is pluralistic. Government decisions, by the legislative and executive branches, are not made in a vacuum, but through a complicated process of consultation. The airports to which commercial airliners fly are governed by municipal authorities of varying structures. The airlines are private companies operating in a semi-regulated atmosphere under the eye of not only the FAA, but the Civil Aeronautics Board. The U.S. military uses civil aviation facilities and its needs are far different from those of commercial users. There are numerous aviation industry associations in Washington who represent their members by carrying on a constant dialogue with the government. Not only federal, but state and local funds, too, are invested in the aviation system. The public, at large, generates the fundamental need for expedient economical air transportation and is both the principal beneficiary of that service and the recipient of some of the undesirable by-products associated with the utilization of that service.

"Getting it all together" is a complicated task and takes cooperation.

Since Congress took action to deal with the threatening environmental crisis, the FAA has made strides to implement the authority it was granted in noise control. We reported our progress on noise control to the Senate in July 1971.

Since that time, the agency has aided industry in developing noise takeoff and landing procedures aimed at noise reduction and further operational measures are being planned. And, FAA has begun two major projects—a new method to describe aircraft noise, and a proposed regulation to set fleet noise levels for individual airlines to further improve the environment.

HISTORY OF NOISE POLLUTION CONTROL EFFORTS

Before describing the new programs, it is useful to capsulize the history of efforts in noise pollution control. In this way, recent progress may be viewed in perspective.

Although piston-powered planes are not noiseless, i.e., without annoying sound, the introduction of the commercial jet age in the late 1950s set the stage for the present dilemma.

There were efforts to reduce engine noise even then. But, although jet exhaust suppressors were installed on aircraft in 1956, sound levels were not effectively reduced.

In 1959, the Port of New York Authority, which operates the airports in the New York City-New Jersey metropolitan area, was the first local authority to establish a noise-monitoring system and place limits on aircraft noise levels. Because there were no *technical* methods available to aid in meeting these limits, operators modified their flight patterns to conform with the regulations.

In 1965, the White House sponsored a panel on jet aircraft noise. In 1966, the FAA created its own Office of Noise Abatement. But, with no statutory directive, the agency had few teeth to bare. It spearheaded the organization, development and implementation of a cooperative government/industry aviation noise management program, but could not regulate in this area.

The 1968 legislation gave FAA the authority it needed to put a lid on the escalation of noise. Armed with that authority, in November 1969, the agency, as its first major step, added Part 36 to the Federal Aviation Regulations to implement the public law by establishing noise standards for the certification of new turbojet aircraft, which limited the noise levels for given aircraft weights.

As an additional feature of the regulation, to insure that the growth of noise was in fact stopped, it was stipulated that no existing turbojets could be modified if the modification resulted in an increase in noise.

The results of the Part 36 regulation are well-known. Aircraft certificated under the regulation include the DC-10, L-1011, 747-200, F-28 and the Citation, which are substantially quieter than previous aircraft in their categories.

However, a less well-known fact is that almost 100 noise certification actions and modifications to older jet aircraft have been processed to prevent further escalation of noise.

Figure 1 illustrates the trend of aircraft sound levels. The chart reflects the area within each aircraft's noise footprint (the number of acres exposed to sound levels of 100 EPNdB or greater on one landing/takeoff cycle) based upon maximum gross weight for each aircraft. Note the dramatic improvement in the noise footprints associated with the aircraft certified under Part 36 regulations (8,600 acres for an early 707 jet transport down to 1,400 acres for a widebodied DC-10 or an L-1011). As more of these quieter aircraft enter the fleet, the noise impact on people will lessen. Not only are these individual footprints being reduced as a result of technological progress, but the widebodied aircraft's greater capacity results in greater productivity. That is, fewer trips are needed to carry the same numbers of passengers. This is reflected in the bar graphs adjacent to each footprint where the exposure is shown in terms of acres per available seat to account for the increased productivity. (Acres per seat serves as a proxy for a more complex expression which would involve the facts that two flights of a 707 fanjet carry about as many passengers as one 747-200 flight and that each 707 flight would impact about three times as many acres as one 747; therefore the 747-200 is 6 to 7 times better environmentally than the 707. This environmental implication is also reflected in the ratio of the acres per seat for these two aircraft).

In 1970, the Airport and Airway Development Act was passed. Procedures to ensure that airport projects are environmentally sound were made preconditions to federal planning and airport assistance funds. Thus the ability to forestall future problems evoked by airports vis-a-vis the surrounding communities was enhanced. Our goal is to contain clearly unacceptable noise levels within airport controlled boundaries. An example of an airport developed under this philosophy is the Dallas-Forth Worth Regional Airport, which will encompass 17,400 acres. By contrast, Los Angeles International Airport, one of the nation's busiest terminals, is built on 3,000 acres. Los Angeles has been selectively purchasing noise impacted property and adding to its acreage. In addition it has offered matching funds to noise impacted schools for soundproofing.

This goal can be met by purchasing sufficient land and exercising proper land use controls. This may not be easy, and it may be expensive when dealing with a new airport, but it is much more difficult and may be prohibitively expensive when dealing with existing airports. New aircraft are getting quieter which helps existing airports, but there has been a gnawing problem of what else can be done about the aircraft certificated prior to December 1969, about the airports built before 1970.

CURRENT MEASURES

The FAA's Office of Environmental Quality, established in January 1971, is moving to

curb the noise problems created in the past and impacting citizens and communities today.

This, of course, translates into doing something about the noise level's of today's jets, both commercial and business. It means changing some of the flight patterns and trying to change land use patterns in the vicinity of airports that are now incompatible with their neighbors.

The following discussion will outline current measures being taken to reduce the noise impact. You may ask whether the noise reduction efforts will bring meaningful relief? Or, whether the reductions are merely cosmetics applied to the image of the government and the industry, without being sufficiently large to mean anything to ensure that the answer to the former question is an unequivocal "yes"; to the latter an emphatic "no".

One program implemented last year is the "*keep* 'em High" project which, with the cooperation of the air traffic controllers, keep aircraft as high as possible for as long as possible, prior to landing. This minimizes the level of noise generated by them. This project supplemented the use of preferential runways and routings to minimize noise impact.

After a year of development, simulation and test, the airlines on August 1 implemented the use of standardized departures from airports throughout the country. This is the "*Get* 'em High Quicker" program. The new procedures that have been established get the aircraft higher above the ground earlier in the takeoff climb (Figure 2). We know that this new procedure provides some relief to communities close to airports (a maximum improvement of about 5 EPNdB).

Maximum noise reduction occurs in the first 3,000 feet, as shown in Figure 3 which reflects the sound signature of a 727 at takeoff power. It generates 123 EPNdB when 200 feet above the ground. As depicted in the chart, sound level on the ground goes down 23 EPNdB, as the aircraft climbs from 200 to 3,000 feet, and only an additional 6 EPNdB from 3,000 to 5,000 feet. The "Get 'em High Quicker" procedure permits an aircraft to arrive at 3,000 feet more rapidly. Therefore at 4 miles from brake release the 727 is a 3,000 feet using the new procedure rather than 2,000 feet using the old procedure (Figure 2) with lower sound levels such as shown in Figure 3.

The problem of reducing approach noise has been more knotty than reducing departure noise. With today's navigational equipment, operational deviations are difficult and preferential routings cannot be used for noise abatement. However, with the development of systems such as microwave instrument landing systems such flexibility will be possible.

Concurrently with the development, simulation and test of departure procedures, we were working on noise reduction procedures for approach. Six weeks after the new departure procedures were begun, the airlines instituted a new standard approach procedure that provides considerable relief to people on the ground in the approach area.

In this new procedure the aircraft operates with a lower landing flap setting when permissible and a lesser approach flap setting throughout the approach. By using a lesser flap setting, drag is reduced and a lower power setting is required to maintain a steady descent. This results in lower sound levels. Figure 4 shows three approaches by a 727 on a standard 3° glide slope beginning at 6 miles from runway touchdown. Some pilots have assumed landing flaps of 40° at this 6 mile point while others have used 30° flaps. In the new standard (bottom part of the figure), 25° approach flaps are used until the aircraft is descended to 1,000 feet (3 miles) where it transitions to 30° flaps by 2 miles. This results in up to 7 db less noise at 6 miles from runway touchdown with a reduction in noise evident at 3 miles. No improvement is evident closer in except when compared with those aircraft using 40° flaps. This procedure is not limited to the 727, and, in fact, greater noise reductions can be achieved by some of the noisier aircraft.

These improvements in noise reduction being realized through changes in operating procedures are being achieved through a cooperative effort by the FAA and the airlines. We made surveys which showed the lack of standardization and indicated the lower noise levels that could be achieved through various changes in procedures. For several months, my Office of Environmental Quality worked closely with the Air Transport Association Flight Operations Committee, whose members are chief pilots, to evaluate and test these techniques. Noise reduction does not necessarily require regulation, and may be achieved more expeditiously through cooperation, though it may need refinement later through regulation. To further achieve our goals, we are continuing our regulatory thrust in other areas.

This summer, the FAA proposed an amendment to Part 36 that would require new production aircraft of designs certificated prior to December 1969 to meet the Appendix C noise standards. Included would be transport aircraft such as the 707, 737, DC–9 and 727. Also included would be business jets such as the Learjet and the Gulfstream. The standard would apply to aircraft weighing more than 75,000 pounds as of July 1973 and a year later to aircraft weighing less than 75,000 pounds. The reason for the difference is that technical development of engines for small aircraft has been slower than for the larger aircraft. In addition, it is felt that the economic burden imposed on operators of business jets would be greater.

The fact that the Boeing Company required only 22 months to make the 747–200B comply with Part 36 (lowering sound levels while adding fuel capacity and range) suggested to FAA that such a proposal as described above is neither technologically impractical nor economically unreasonable. Manufacturers are working steadily on noise reduction projects which, unlike the 1950s, are now top priority. To sell aircraft, they have to compete on the basis of noise in addition to the more customary selling factors.

An advanced notice of proposed rulemaking still under consideration is the recommendation that those aircraft in the current fleet which do not meet Part 36 have their noise levels reduced through engine modifications (retrofit). A decision on this recommendation is due late this year, pending evaluation of flight test data results.

Our rulemaking schedule includes issuance of a notice of proposed rulemaking in the next few months that will involve Civil Aircraft Fleet Noise Level Requirements for air carriers. When we refer to a fleet noise level, we mean an expression of the average noise signature of an air carrier's fleet. By establishing this requirement with Part 36 as a reference level, the average noise levels will continue to be reduced.

Our determination to move ahead on the fleet noise reduction project is based on preliminary estimates of aircraft equipment plans which indicate that some carriers' fleet noise levels could increase between 1972 and 1976, despite the higher proportion of quieter, widebodied aircraft. This could happen if traffic increases faster than capacity, forcing an increase in the number of operations of narrow-body aircraft that more than makes up for noise reduction achieved though introduction of widebody aircraft in the fleet.

As currently being recommended by FAA, fleet noise level (FNL) requirements would be based on a standard reference applied equally to all carriers. However, each carrier's actual FNL value could differ because of their different aircraft types and the operational frequency of each aircraft type. As now planned, FNLs would be applicable as of 1 January 1976 to all scheduled air carriers operating turbojet aircraft. Certificate suspension could be the penalty for lack of compliance.

A rule based on fleet noise levels would provide an air carrier a set of alternative options that would allow him to choose how he would meet the level. These options could include retiring older noisier aircraft (some or all), replacing them with quieter more productive aircraft; reducing the frequency of operation of noisier aircraft; operating the noisier aircraft at lower weights; modifying the engines/nacelles of noisier aircraft (modification kits could be available as a result of the proposed rule for new production of previously certificated aircraft and as a result of our research efforts in association with the proposed retrofit rule). Based on an analysis of his fleet and his markets, an air carrier can choose the most efficient option or combination of options that complies with the assigned noise level.

Because we are dedicated to the goal of further reducing noise levels, and we have evidence that it is technologically feasible and economically reasonable to build aircraft with lower noise levels than prescribed by Part 36, we will be issuing a notice of proposed rulemaking in the next six months which will lower the noise standards in Part 36 for aircraft produced in the future (standards and production date to be determined).

In the preceding discussion, we have detailed the technological progress made in reducing noise, described recently implemented operational procedures which further reduce noise levels, and have discussed proposed rules that we are developing to assure a quieter environment for all of us. We also briefly mentioned that airport planning must consider environmental impacts (including noise) and that land use planning must consider noise.

We have recently discussed with the aviation community a new Aircraft Sound Description System which we plan on implementing. It contains the elements neecssary to depict aircraft noise exposure in the vicinity of an airport in terms that are readily understandable. What areas are exposed? How many acres are in these areas and what percentage of this acreage is on the airport? What is the duration of exposure in these areas? This method can

1. Describe technological progress;
2. Evaluate aircraft operating procedures;
3. Describe environmental impact.

It can also be used as a measure of progress towards attaining our goal of confining clearly unacceptable noise to within an area controlled by the airport.

PROF. RAYMOND J. SONTAG'S 75TH BIRTHDAY

Mr. TUNNEY. Mr. President, several generations of our Nation's students have been accorded a privilege and an experience whose meaning cannot be measured by any traditional standard. They have studied under Prof. Raymond James Sontag.

For close to 20 years at Princeton and for more than 30 years at the University of California, Dr. Sontag has enriched the education and the spirit of those students whose good fortune it was to study history with him.

He is recognized most widely as an educator and as a historian, for he has earned the praise of the best educators and historians of the 20th century. But I understand that those who know

him best admire him most because he is a kind and decent man—unquestionably able and wise, but, more important to his friends, a thoughtful, sensitive, and totally honest human being.

I understand that his skill as a professor cannot be understood properly unless one has seen him teach—that his undergraduate classes responded to his lectures with a deep respect that could not be conveyed even through their applause at the end of his lectures; that his most brilliant graduate students of several generations, now distinguished historians and public servants in their own right, refer proudly to the fact that they were once students of Dr. Sontag.

The Government also owes him a great debt. As chief of the German war documents project for the Department of State, and as an intelligence expert for the U.S. Government, he performed with the same brilliance that he displayed at Berkeley and at Princeton. It is small wonder that those who worked with him in Government have continued for many years to seek his counsel.

He is a rare man. I am aware of students who took his courses in the 1960's, Mr. President, because their fathers were inspired by him in the 1920's and the 1930's. He has proved that to teach is truly to touch posterity.

Deeply committed to his faith, Raymond Sontag has worked closely with Catholic clergy and laymen in a lifelong effort to provide leadership, guidance, and spiritual commitment to the most noble aspirations of his church.

I know that, in a time of crisis at Berkeley, while many disagreed with his calm and reasoned views, none could deny that he approached problems with a deep love for his university and affection for its students, combined with innate perception and wisdom tempered by long experience and a commitment, displayed over generations, for the rights and dignity of all men. Some men and women have disagreed with Dr. Sontag. All people respect him.

That deep sense of respect for him—combined with sincere affection—is shared by persons of all ages, from diverse backgrounds, and in all walks of life. And he has given of himself to them all.

Professor Sontag is 75 years old today, October 2, 1972. Accordingly, Mr. President, I take this moment to advise Senators, in a small and inadequate manner, that this great and good man is celebrating an important birthday. I am speaking for countless Californians and other Americans when I say to Prof. Raymond Sontag: "Happy birthday and thank you."

MONEY AND THE PRESIDENTIAL CAMPAIGN

Mr. CHURCH. Mr. President, we all know that money is an integral part of the campaign process. Unfortunately, it is too often the deciding factor.

A case in point is the present presidential campaign. We are witnessing an incumbent President with perhaps $50 million or more to spend running a virtual noncampaign in which he consistently refuses to get out and meet the people, except for a few token appearances. Meanwhile, the Democratic candidate, GEORGE MCGOVERN, works 20 hours a day, but lacks the financial resources to run the kind of campaign he needs.

A recent editorial in the Gazette-Record of St. Maries, Idaho, by its publisher, Robert Hammes, spoke to this issue:

Money is no problem for President Nixon. He has over $40 million for his campaign. Big business, big industry, big oil know that it's important to have contributed heavily.

I ask unanimous consent that the editorial be printed in the RECORD

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

IT'LL BE A NEW KIND OF ELECTION

There's always something new in each presidential election. This year the citizens of the country are going to see something completely different—a major party candidate running for a national office by campaigning in only a few states.

The signs are there and the symptoms are showing. Sometime early next month, Democratic Candidate George McGovern will be forced to announce that he will limit his campaign to 12–15 states. He will explain that there will be no nation-wide TV speeches or shows; there will be no newspaper or radio advertising campaign; there will be no TV spots; there will be no billboards; there will be no big campaign sweeps.

That's because there is no money.

And money is the name of the game.

The Democrats were broke when the year started; broke to the tune of $8 to $9 million dollars. They owed everybody from airlines to printers; telephone companies to landlords. The big TV fund drive just before the convention fell flat. The party still owes over $6 million. The direct mail fund drive, on which the McGovern forces relied, first ran into the Eagleton fiasco and then a much poorer response than anticipated.

So McGovern won't have TV because he hasn't the money to pay for it. He won't have newspaper or radio because the party's broke. He won't be able to travel because the Democrats still owe almost every airline around.

So he has no choice. The best he can do is work 20 hours a day in the states with the big electoral votes. That's the only chance he has—and it's mighty slim.

Money is no problem for President Nixon. He has over $40 million for his campaign. Big business, big industry, big oil know that it's important and have contributed heavily.

McGovern had counted on the money from little people. But they have apparently decided they don't care that much, so they're not giving.

Mr. Nixon, the most vulnerable incumbent since Herbert Hoover, apparently has it all locked up.

IN REMEMBRANCE OF JIM GILBERT

Mr. HATFIELD. Mr. President, recently, a good friend of mine, and a friend of higher education in Oregon for over half a century, died at the age of 95. Mr. Jim Gilbert was a much respected gentleman whose contributions to higher education in Oregon shall long be remembered.

Following his death, a warm editorial was published in his hometown paper, the Eugene Register Guard. It captures Jim Gilbert's spirit—the combination of a fine mind, a quick wit, and a genuine love for people in general and students in particular.

I ask unanimous consent that this warm tribute appear at the conclusion of my remarks.

The city of Eugene and the entire State of Oregon will miss the contributions of Jim Gilbert. In remembering him, however, we all look back on a university, a town, and a State made better by his many contributions.

We who were his friends will miss him as a person.

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

JIM GILBERT, ONE OF OREGON'S GIANTS

Many have been the greats in higher education in Oregon, but few have been giants. One who was a giant was James H. Gilbert, who died last week at 95. A 1903 graduate of the University of Oregon, he joined the faculty in 1907 and served as an economics professor and dean until his retirement in 1947.

He was a man of parts, both stern and witty. And he was a brilliant teacher. He had his passions—among them a hatred of cigarette smoking and an almost pathological feeling about punctuality. Nobody ever waited for him and he didn't want to wait for anybody else. Sometimes he'd lock the classroom door at the appointed time for the opening of class. Those who chose to be late just didn't get there at all.

His memory was phenomenal, even in his later years. He was a key figure in the frantic Zorn-Macpherson years, when the University of Oregon was almost condemned to death. Also in that period, he was an important consultant to legislative committees on taxation and assessment. In his prime, he was Oregon's leading tax expert.

In his spare time, this sometimes austere and forbidding man wrote limericks. In the wake of the Zorn-Macpherson years, William Jasper Kerr, who had been president of Oregon State, was installed as chancellor of the State System of Higher Education. He moved into the former president's house at the University of Oregon, now the faculty club. In a pun on Kerr's name, students referred to the edifice as the dog house. Chancellor Kerr's successor was Frederick M. Hunter.

Upon the selection of Chancellor Hunter, Jim Gilbert wrote:

For a chancellor the board looked around
Until Frederick M. Hunter they found.
It was right that they said
That the man should be Fred
For the hunter should follow the hound.

That was one of many limericks he wrote on the passing scene as he saw it over many busy years.

Not until a few years ago did he even begin to slow down. Until he was in his late 80s, he walked eight miles a day, striding along with ruddy cheeks at a pace that would leave younger men puffing. He was always a fine figure of a man, a real man.

He was probably the only member in the university's 96-year history to have been three times a dean. He was first dean of the College of Literature, Science and Arts. When science was taken away from the university more than 40 years ago, he became dean of the College of Social Science. When science was restored in 1942, he became the first dean of the College of Liberal Arts.

Jim Gilbert was a great guy to know and a great guy just to have around. Of such people are great universities made.

JUSTICE—A NEW VISION—ADDRESS BY SARGENT SHRIVER

Mr. HART. Mr. President, Sargent Shriver, the Democratic vice presidential candidate, spoke recently at Drake

University of the problems of achieving justice in our society. As he indicated, one of the greatest challenges we face is—

The challenge of confronting injustice—of making justice pervasive in a country of our size and complexity.

Mr. Shriver discusses a wide variety of Justice Department programs and policies and compares the record of the last 4 years with this goal.

It is a provocative speech, worth our close attention. I ask unanimous consent that it be printed in the RECORD.

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

JUSTICE—A NEW VISION

(By Sargent Shriver)

In his State of the Union Message in 1971, Richard Nixon presented proposals to reform our federal structure. He called his suggestions a new American Revolution.

Yet, the astounding thing about Mr. Nixon's plans was not what he sought to change, but what he left *unchanged*.

Unchanged were the Departments of Justice, Defense, State and Treasury. These four departments are the chief policy making centers in our government and the largest repositories of manpower and money. They are also the source of our major problems. It tells us a lot about Mr. Nixon's mind and philosophy that he kept these departments intact—not even recognizing the need to reform and change them.

I want to deal with each of these areas—Justice, Defense, State and Treasury and tell you how they *should* be changed to serve our nation—as they are not now doing. And tonight, I shall begin with Justice.

"Justice", Daniel Webster said, "is the greatest interest of man on earth". Our nation was conceived in justice. The American Revolution was a revolt against injustice. Our Constitution places the duty "to establish justice" even ahead of "domestic tranquility".

And so it should be. A Democratic nation's duty must be to secure justice for all its citizens. And when an Administration fails in this obligation, it does not deserve to govern.

Today, the quality of justice in this nation under Richard Nixon is lower than at any time in modern history.

The failure to provide justice is not just an abstraction. It has serious consequences. Justice reclasses creativity, spurs us to action and generates harmony. Injustice causes anger and frustration. Injustice festers and rankles. It makes life intolerable and bereft of dignity. Injustice breeds violence, sows the seeds of rebellion.

Today, I charge Richard Nixon for having failed the cause of justice in three major respects:

First, he has subverted justice by politicizing it.

Second, he has failed to expand justice and deliver it to the millions of our citizens who suffer injustice.

Third, he has failed to initiate and press for the needed reforms in the administration of justice.

I shall discuss those failures today and tell you also the vision that George McGovern and I have—to change Nixon's defeats for justice into American victories for justice.

The indictment of Richard Nixon's performance in the field of justice begins with his persistent politicization of justice.

A cardinal axiom of any system of justice is that it must be even handed. This is why the Goddess of Justice is pictured with balanced scales and a blindfold over her eyes. In a just society the rights secured by justice are not subject to the calculus of political bargaining.

But justice under Richard Nixon has not been even handed. It has been weighted in favor of the powerful special interests, and tipped on behalf of the political contributors:

An ITT, a Lockheed, a grain industrialist get favored treatment—but the small businessman does not.

A contribution from milk producers is received—and the donors receive higher milk supports.

Lawyers and lobbyists representing big business have ready access to the top officials of the Department—but lawyers providing legal services for the poor are threatened and brow-beaten by so high an office as the Vice-President of the United States.

This politicization of justice is destructive. It breeds cynicism and corruption. It destroys the citizen's faith in his government. It engenders lawlessness in others.

It is, of course, no wonder that justice has been politicized—for Nixon has chosen men of small legal stature and large political ambition to run his Department of Justice.

Once it was otherwise. When Robert Kennedy became Attorney General, he took his office as a sacred trust. He chose men to run it who were not politicians, but men of superb ability and passionate commitment to law—a Byron White, a Nick Katzenbach, a Burke Marshall, a Lou Oberdorfer, a John Douglas, a Bill Orrick, a Lee Loevinger, and others of similar caliber.

But John Mitchell made the Department of Justice Nixon's campaign headquarters. Six out of the seven top Department officials were politicians. And their caliber and morals were deficient.

They included:

A Deputy Attorney General who admitted that he received a bribe offer from one Robert Carson which he failed to report at the time—allegedly because he "did not recognize the offer as a bribe." This man is now Attorney General.

An Assistant Attorney General in charge of the sensitive Criminal Division who resigned under pressure when it was revealed that he was heavily in debt to the central figure in a major Texas bank scandal.

An Assistant Attorney General in charge of the Civil Division who is tied to the defendant in the Watergate burglary and bugging and is suspected of massive destruction of campaign financial records.

With such men at the helm of justice it is not surprising that politics courses through the Department. The examples abound—

An antitrust suit against the Warner-Lambert Corporation is suppressed contrary to staff recommendations. The head of the company is Elmer Bobst, Mr. Nixon's "adopted father."

Dubious price rulings favor Combined Insurance Company of Chicago. The head of that company, a friend of Mr. Nixon's, contributed about a half million dollars.

The dereliction of a U.S. Attorney in San Diego is ignored despite Mr. Kleindienst conceding that a shocking breach of trust had taken place.

In this kind of atmosphere even mine and job safety enforcement become subject to manipulation. The average fine for safety violations in the Nixon Administration is $30. Safety enforcers are tapped to head political campaigns.

In this way Nixon has subverted that very Department of our government which above all others should be free of taint, scrupulous in its fairness and dedicated to principle.

There is much more to deplore in the Department's conduct. The Department should not be politically dominated but it also should *not* be a Department:

Which recommends a Haynesworth and a Carswell to the Supreme Court, plus numerous others judged unqualified by the American Bar Association.

Whose recommendation for federal judgeships abound with mediocrities and worse.

Which engages in massive arrests of peaceful protestors without cause and in flagrant violation of individual rights.

Which fails to enjoin widespread violations of voters rights in Alabama and Mississippi.

Which condones political attempts to undercut legal services for the poor.

Which knowingly juggles crime statistics to claim decreases in crime at a time when crime has risen by more than 30%.

All of these are forms of injustice. All of these dishonor the very name the Department bears.

I have told you what the Department of Justice should *not* do. Let me tell you what it *should* do.

Our country and our people deserve a new and genuine Ministry of Justice. A ministry of justice which sees as its responsibility the expansion of justice for all of our citizenry, which perceives its task to confront injustice wherever it is found. I have a vision of a ministry of justice which opposes private lawlessness by a slum landlord, and official lawlessness by a General Lavelle, bombing cities against orders. I have a vision of a ministry which chooses civil rights and liberties over regressive tactics and suppression or dissent. A ministry in which the guaranty of justice to every American is regarded as a pervading continuing mission.

As I conceive the role of the Department, it should have two Deputy Attorneys General—one would be in charge of the traditional law enforcement activities. The other would head a *new* office charged with the duty of *expanding* justice for our citizens.

The *expansion* of justice encompasses many avenues.

It means, for example, that the Department's duty would be to seek out *new* means to confront the sources of injustice in our nation.

Health authorities spend huge sums to search for new discoveries to eradicate disease.

The Department of Defense spends $8.2 billion annually to develop new capacities of warfare.

Yet, when it comes to creating new methods of combating injustice our expenditures are frugal and minimal. To improve justice for our people we spend less than ½ of 1% of the amount spent to improve our capacity to kill our enemies . . . a mere $26 million dollars per annum.

I believe that there is an enormous potentional to improve our system of justice. A nation that can devise vehicles that travel faster than the speed of sound can devise means to speed trials. A nation which can launch communication satellites in space should be able to find ways to teach citizens their legal rights. A nation which can devise complex multimillion dollar computer systems should be able to devise systems to prevent arbitrary denials of benefits and cumbersome procedures when citizens seek to exercise their rights.

We are advocates of preventive medicine. But what of preventive justice? Why should we know so little about how criminal tendencies develop, about what stimulates acts of violence, about what causes recidivism. We are only at the frontiers of knowledge about preventive justice when we should be well within the gates.

The Department of Justice should be taking the lead in these endeavors. It should be encouraging scholarship and research. It should be the nation's *catalyst* in the quest for justice. This is part of what I mean by an expanding vision of justice.

Some time ago, I proposed the creation of a National Institute of Justice, devoted to the improvement of our entire legal system, the coordination of legal research and long range planning, needed revision of our system of

legal education, the reform of criminal and correctional systems, the development of new techniques in neighborhood courts, citizen mediation panels, arbitration techniques and other methods of bringing justice close to the people. I shall not elaborate on the proposal here, but it is gratifying that the concept of such an Institute of Justice has now been endorsed by Chief Justice Burger and the Executive Director of the American Bar Association. What is distressing as a lawyer and as a citizen is that none of this innovation stems from the present Department of Justice.

Another role for this branch of the Department of Justice would be the obligation to deal with *official* injustice.

We know of such injustice—agencies arrogant with power, failing to protect the public interest, neglecting to carry out the law, callously submerging citizens in delay and mind-boggling red-tape.

We have all seen such injustice—agencies summarily evicting families from housing, cutting off medicare, denying claims, barring citizens from voting, refusing children free lunches, removing students from schools, and many more.

Sometimes the injustice comes from high quarters—a Ronald Reagan cutting off services to the poor, a John Bell Williams exonerating murder at Jackson State, a Claude Kirk usurping police functions in Florida.

Such official injustice is the most frustrating of all—because when officials themselves disregard the law, private citizens are often left hopeless, able to turn to no one.

As Sir Thomas More reminds us, If the guardians of the law break down the trees of the law, where will we find sanctuary then.—What is left but a Wasteland?

Now, such official injustice is confronted only by private citizens, courageous young legal services lawyers and public interest advocates such as Ralph Nader. These men and women have won many battles against injustice. They have won the right to vote for Spanish-speaking people; the right to counsel for indigent accused; the right to a hearing before a landlord's eviction, and many more.

But why were those actions not brought by the government itself? The Department of Justice should have been the first to ferret out these injustices and to initiate remedial action.

This, too, is part of expanding justice. When government itself roots out injustice in its midst, it renews faith in the rule of law and makes people feel that they have a stake in the institution of law. What better way of strengthening America!

Another role in expanding justice would be in the private sector. It is vital to have justice mean safe streets and safe parks. But justice also means safe food and safe drugs, safe housing and safe appliances, safe job sites and safe air and water.

Why shouldn't the Department of Justice act to stop the slumlords who victimize our children and the merchants who pass off shoddy wares? They, too, rob their victims—even if they don't appear in the crime statistics.

Why shouldn't the Department of Justice act to stop those who rob our air of its sweetness and our water of its purity and our landscapes of their beauty? They, too, rob us of our possessions—even if these robberies do not appear in the crime statistics.

Why shouldn't the Department of Justice act to apprehend the false advertisers, the purveyors of phony drugs, the manufacturer of built-in obsolescence, the sellers of bad insurance. They, too, victimize the people—even if the victims don't appear in the crime statistics.

In my concept of expanding justice we would also address ourselves to institutions where today courts and lawyers rarely wander,—but where injustice often walks. The hospitals and institutions for the mentally retarded where patients are neglected or maltreated or experimented on, the schools where children are abused. We must also find ways to establish justice within these closed systems which affect our daily lives. Here, too, a ministry of justice can innovate and lead.

In the more talked about and traditional areas of the Department's work, there is also no bold vision of justice.

The greatest deterrence to crime is justice that is *speedy*. The criminal court is the central, crucial institution in obtaining that objective. Yet, virtually everywhere we find a shortage of judges, of prosecutors, and of accessory help for them both; we see hopelessly inadequate court facilities in almost all urban communities and in many others. We find larger and larger dockets and heavier and heavier backlogs. Congestion and undermanning force prosecutors to take emergency measures to reduce the dockets. Guilty pleas and reduced or even suspended sentences are sought on an almost desperation basis; plea bargaining, reduced charges, and dropped cases become the practice. And courts try to hear an inordinate amount of cases in one day in "assembly-line" justice. Such a system is not designed to further justice or promote respect for the law.

Yet, the Department of Justice has done virtually nothing to remedy these deplorable conditions. It neither leads others nor innovates on its own. It expends its efforts on dubious measures such as preventive detention and no-knock authority, when it should be focusing on securing speedy trials, on training fair and efficient prosecutors, and defenders, on equipping courtrooms and obtaining sufficient and able judges so that justice will be meted out surely and quickly. This would do more to reduce crime than all of Mr. Nixon's tough rhetoric.

We know, too, that crime is greatest among our youth and in our ghettos. Almost 40% of arrests are for persons under 18. Some 70% of persons convicted under 20 years of age are rearrested within 5 years.

But why should such statistics surprise anyone? Our neglect in this area has been unconscionable.

Throughout our country, we still jail first time offenders with hardened criminals. Our juvenile detention homes are obsolete, crowded, and understaffed; often they become schools in criminal practice rather than institutions where rehabilitation can take place. We release offenders without aiding them to get jobs, or caring about the effect on them and their families of having to seek employment with a prison record.

Our jails are arachaic, lacking facilities to teach gainful work, and destructive of the human spirit. Their doors have become turnstiles for the return of recidivists.

Who better than the Department of Justice can take the lead in reforming our jails, in obtaining funds to train gang workers, in reforming our juvenile offender procedures. But these are enterprises which require vision and will. And in our present leaders of the Department we have neither.

I should mention here a truth which seems to be fundamental but which the present Department has shamefully glossed.

There are many reasons why young people turn to crime which do not lend themselves to hasty simplification. But not the least of them is a failure "in the opportunity structure,"—the disillusioning experience of discovering as they grow up that the promise of decent housing, good schools, and attractive job opportunities apply to most Americans but not them.

Some time ago, a television interviewer talked with some youngsters in the District of Columbia, young and bitter perhaps but at a stage when their future was still in balance, as it would not be for long. The question temporarily unresolved was whether theirs would be a life of crime or a life of obedience to law as part of the general community. And as so many, their message was clear—they could be brought away from crime; the price was only a decent job at a decent wage. A first order of our business, then, must be—as it is with George McGovern—to create jobs. But even more. A job is not a job,—not a job—not a job—unless it, too, is vested with justice; justice in conditions of employment, in treatment within the job, in opportunity for advancement. In such a society the young and disadvantaged will have less incentive to become law breakers and more incentive to to become contributors and participants in our communities.

I want to speak finally, of the *delivery* of justice to our people. Health services are meaningless unless they can be delivered. Consumer goods are valueless unless they can be distributed to customers, so it is with justice. Rights are empty unless they can be enforced. There is no justice unless it is available and felt by the people.

When I was head of OEO we made encouraging advances in providing legal services for the poor. We began to show the poor that the law was not a vehicle of the establishment, for the establishment, by the establishment. That equal justice was not just an epigram chiseled on the facade of the Supreme Court Building, but a force to be felt and a right to be enjoyed in one's daily life.

Much of that program is in jeopardy now because of undermining by Spiro Agnew. And this Department of Justice silently condones these vicious attempts to destroy the Legal Services Program. I assure you that when George McGovern is President, the Department of Justice will *champion* the cause of legal services to the poor.

And not only the poor. Millions of Americans in low and middle income America cannot afford the high cost of legal services today. Yet their need for such services is great and the injustices they suffer for lack of them are many. We need to establish group legal services, new types of legal insurance, neighborhood offices, and many other means of bringing the instruments of justice to the masses of our people. The Justice Department I see would pioneer and lead here, not sit by supinely and do nothing.

Justice should be an exciting idea and a fruitful reality. I believe a whole new spirit of justice can infuse the work of our government. I believe *our* Justice Department would be one for whom men and women would again be proud to work.

The challenge of confronting injustice—of making justice pervasive in a country of our size and perplexity is perhaps the greatest challenge of our time. Nixon and Agnew have shown no sensitivity to that challenge, no capacity to understand it, no will or ability to meet it. But for George McGovern and me, it is a challenge which we eagerly accept and which we will meet.

It was Albert Camus who said: "I should like to be able to love justice and still love my country."

That is the goal we pursue!

EXECUTIVE PRIVILEGE: ITS DUBIOUS CONSTITUTIONALITY

Mr. ERVIN. Mr. President, an article written recently by Prof. Arthur Selwyn Miller, of the George Washington University National Law Center, who is a consultant to the Subcommittee on Separation of Powers, begins with the concise and extremely accurate statement, "Secrecy is a hallmark of bureaucracy."

Professor Miller uses this appropriate declaration to begin a thorough and very

readable survey of the doctrine of executive privilege, the often-invoked legal justification for secrecy in the executive branch of our Federal Government.

His article, entitled "Executive Privilege: Its Dubious Constitutionality," appeared in the summer 1972 issue of the Bureaucrat at page 136.

Executive privilege is an issue which has bothered many of us during the past several years. Just a few months ago the Nixon administration invoked the doctrine in an attempt to keep Mr. Peter Flanigan, a member of the White House staff, from testifying during hearings on the nomination of Richard G. Kleindienst to be Attorney General conducted by the Committee on the Judiciary.

Mr. Flanigan eventually testified about his knowledge of the settlement of an antitrust suit against the International Telephone & Telegraph Co. However, had the Senate not been able to delay the Kleindienst confirmation, the Committee on the Judiciary may never have had the opportunity to see what light Mr. Flanigan could shed on the ITT affair.

The events surrounding the Kleindienst nomination tended to emphasize the relative weakness of the Congress to compel the Executive to supply information that it needs to carry on its legislative functions. Absent a club to hold over the Executive's head, the Congress must rely on the whims of the reigning administration, be it Republican or Democrat, to supply it with information.

In his article, Professor Miller points out the lack of remedies readily available to the Congress, and he suggests that the time has arrived when the Congress should "submit to the judiciary the delicate task of adjusting the balances between Congress and the President." But he cautions that "it would be better for such controversies to be settled short of litigation."

Professor Miller, as a professional consultant to the Judiciary Subcommittee on Separation of Powers, of which I am honored to serve as chairman, assisted the subcommittee in preparing for hearings on the doctrine of executive privilege during 1971 and was instrumental in the work that resulted in the subcommittee's favorably reporting to the full Committee on the Judiciary S. 1125, and amendments, the executive privilege bill introduced by the distinguished Senator from Arkansas (Mr. FULBRIGHT).

Mr. President, Professor Miller's article is worthy of being read by everyone concerned about the indiscriminate use of executive privilege, and I ask unanimous consent that it be printed in the RECORD.

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

"EXECUTIVE PRIVILEGE": ITS DUBIOUS CONSTITUTIONALITY

(By Arthur Selwyn Miller)

Secrecy is a hallmark of bureaucracy.

Max Weber did not list it as characteristic of organizational behavior, but there can be little doubt that, despite avid assertions about an open society, those who man America's public (and private, be it noted) bureaucracies prefer to keep their affairs hidden from outside view—from the public, from other agencies, from the courts, from Congress. This article develops one facet of the secrecy syndrome of American bureaucracy—the doctrine of "executive privilege," by which the Executive can prevent both Congress and the courts from having access to internal documents and to testimony from public administrators privy to facts considered important by the legislature and judiciary. This doctrine is based on a concept of "inherent" executive power, there is nothing in the Constitution (or any statute) that provides for it.

The Executive, however, is not the only branch of government that asserts a power to keep some of its internal operations secret. Both Congress and the courts are equally culpable. Chief Justice Warren Burger gave apt expression to the judiciary's propensity for secrecy in his dissenting opinion in the Pentagon Papers Case (June 1971):

With respect to the question of inherent power of the Executive to classify papers, records and documents as secret, or otherwise unavailable for public exposure, and to secure aid of the courts for enforcement, there may be an analogy with respect to this Court. No statute gives this Court express power to establish and enforce the utmost security measures for the secrecy of our deliberations and records. Yet I have little doubt as to the inherent power of the Court to protect the confidentiality of its internal operations by whatever judicial measures may be required.

In like manner, Congress can, and often does, act in "executive session" in committee matters; and the law provides no way for a litigant to obtain information about matters internal to the operation of Congress.

So, too, with the "private governments" of the American polity: the corporations, unions, veterans legions, farmers group, churches, and many important units of a social order dominated by pluralistic social groups. Each is considered to be "private" in American legal mythology; at times even, as with the corporation, equated with the natural person, having few duties of disclosure beyond those occasionally imposed by statute (e.g., in securities matters and some labor activities). It is probably easier to obtain information—and more of it—from the federal bureaucracy than it is from the private governments of our society, and certainly easier than wresting information about certain internal operations of Congress and the courts.

This is not to defend executive privilege, but merely to put it into context. For that matter, other privileges are protected by law—for example, the attorney-client, doctor-patient, and husband-wife relationships and communications. Moreover, the news media, while asserting a right to get information from government, at the same time maintain that they must protect their sources. Secrecy is no monopoly of the public administration.

Another factor about executive privilege is the slow but steady aggrandizement of power in the Executive and the public administrator generally. Whatever the intention of the framers of the Constitution, there can be little doubt that today the bureaucracy is well on the way toward becoming triumphant. Congress, dominant, as Woodrow Wilson said, during the 19th century, has now lost direction and is frantically searching for a role in modern government. Having delegated huge chunks of governing power to the agencies and departments, and having allowed the President to assert many examples of inherent executive power, Congress now often finds itself with at most a veto—usually not exercised—over presidentially proposed policies. In this massive constitutional change, the courts too, not excluding that very special tribunal, the Supreme Court of the United States, rate less in power and in ultimate importance in the governing scheme.

Still another factor is the institutional capability of the Executive to garner and store information which far outweighs that of Congress. One critical problem, not yet faced with any rigor, is how to increase the manner in which Congress can handle larger amounts of data. As presently constituted, Congress has neither the staff nor the personal expertise requisite to handling reams of complicated information about many public policy matters. Heretofore reliance has been placed upon the bureaucracy to furnish Congress with the necessary flow of facts and evaluations. However, the use of executive privilege at times prevents Congress from obtaining data considered necessary to fulfillment of the legislative function.

TWO RECENT EXAMPLES

Executive privilege is not a recent invention. For more than a century Congress and the President have been engaged in a brushfire war bottomed on irreconcilable claims to constitutional power. Executive discretion to withhold information is pitted against an asserted absolute congressional power to demand it. But even with that history, and even though this nation is notoriously litigious (as de Tocqueville maintained, most political questions tend to be judicialized), there is no definite Supreme Court decision on the problem. It remains a continuing sore point, as the following recent examples illustrate:

—In March 1972 the Director of the United States Information Agency refused to supply certain documents to the Senate Foreign Relations Committee on the ground that they were "planning or working documents subject to subsequent discussion and final approval." The decision was based on a presidential memorandum which ironically reiterated Administration policy "to withhold information only in the most compelling circumstances and only after a rigorous inquiry into the actual need for its exercise." In net, the USIA drew a curtain of secrecy over some of its activities; in a twist that might have been worthy of Orwell, an *information* agency kept important information from Congress.

—In April 1972, at the height of the senatorial investigation of the ITT matter and the confirmation of Richard Kleindienst to be Attorney General, executive privilege was again invoked to keep Peter Flanigan, a White House functionary, from testifying. Flanigan was privy to important facts concerning the "consent decree" which permitted ITT's merger with the Hartford Insurance Company. In a letter to the Senate from another White House functionary, nothing was said about "compelling circumstances" or a "rigorous inquiry into the actual need" for the exercise or executive privilege. The refusal was based on the idea that confidential advisors to the President should not testify before Congress. That, however, took no cognizance of the facts that Flanigan, on the public record, dealt only with the Assistant Attorney General (Richard McLaren) to obtain the services of a financial consultant from the New York banking community to evaluate the merger, and that the President was said to have no knowledge about (and took no part in any aspect of) the consent decree negotiations. (In the end, Flanigan testified under special ground rules which set rigid limits to senatorial inquiry and preserved the White House's claim to executive privilege.)

Both examples of executive privilege raise grave questions of propriety. It is difficult to see how either can be justified. They are not unique, but serve as illustrations of the problem.

CONSTITUTIONAL JUSTIFICATION

Speaking broadly, the doctrine of executive privilege is grounded in view of inherent power in the Chief Executive, a power not

expressly set out in the Constitution, but one asserted (successfully) through time. As such, it is, in Lord Bryce's terminology, an example of the "practical" sovereign, as compared with the "legal" sovereign, in action. A second level of justification is that exercise of the privilege is necessary to protect the public interest (or the national interest)—as determined by the President. At best, it is an unresolved constitutional question. Others, such as Senator J. W. Fulbright, characterize it as a "custom," not a legal or constitutional principle, "a survival of the royalist principle that "the king can do no wrong."

William Rogers, as Attorney General in 1958, went so far as to maintain that "Congress cannot, under the Constitution, compel heads of departments, by law, to give up papers and information; regardless of the public interest involved, and the President is the judge of that interest." And further:

"By the Constitution, the President is vested with certain political powers. He may use his own discretion in executing those powers. He is accountable only to his country and his political character, and to his own conscience. . . . Questions which the Constitution and laws leave to the Executive, or which are in their nature political, are not for the courts to decide, and there is no power in the courts to control the President's discretion or decision, with respect to such questions. Because of the intimate relation between the President and the heads of department, the same rule applies to them."

To be charitable, that statement begs the question of constitutional power and lawful authority to withhold information. It gives no reasons, but is merely a conclusion. It is a bald assertion of raw Executive power.

At the very least, the Constitution establishes a system of shared power over public policies, or, as Richard Neustadt put it, "separate institutions sharing power." Separation of powers" is something of a misnomer; the term suggests a division among governmental powers. Neustadt's characterization is more accurate.

Once that minor but important point is seen, then the question of furnishing information to Congress from the bureaucracy takes on a different perspective. For the sharing of power implies access—full access—to all information relevant to making and administering public policy. It is impossible to perceive how Congress can perform its constitutional mission of formulating broad governmental policies, and its newer mission of oversight over the administration of those policies, unless it is privy to all of the pertinent facts.

There is, moreover, a long history upholding the congressional power of investigation, noted by the Senate Committee on the Judiciary in 1954 in these terms: "A legislative committee of inquiry vested with power to summon witnesses and compel the production of records and papers is an institution rivaling most legislative institutions in the antiquity of its origin. Its roots lie deep in the British Parliament. . . ." Similarly, the Supreme Court in 1927 stated that "The power of inquiry—with power to enforce it—is an essential and appropriate auxiliary to the legislative function. It was so regarded and employed in American legislatures before the Constitution was framed and ratified."

It is often said, by spokesmen for the Executive, that the privilege is necessary, for otherwise the President would not get the benefit of advice given without fear of publicity. But that argument attempts to prove too much. What is there about the presidency or the bureaucracy that cannot be entrusted to the elected representatives of the people in the Congress? It is also urged by apologists for the Executive, such as columnist William S. White, that to permit the Senate to call Peter Flanigan and require him to testify would mean that there would be nothing confidential in the White House. Again, however, that tries to prove too much. White is conjuring up horrible possibilities that will never occur in the real world.

As for the "inherent" power of the Executive to keep its records and personnel secret, Chief Justice Burger surely is wrong (in his statement quoted above) on the record of past Supreme Court cases. The leading decision is the *Steel Seizure Case* (1952), in which the Court invalidated President Truman's temporary seizure of the steel industry during a labor dispute. Because of the Korean "war," the Department of Justice maintained that the Chief Executive had emergency (inherent) powers to take over the mills. But the Court did not agree; in the course of the several opinions rendered by the justices, the notion of inherent executive power was soundly repudiated.

Nevertheless, there appear to be some limitations on congressional power of inquiry. It does not, the Supreme Court said in 1959, embrace matters which are within the "exclusive province" of the Executive Branch. But who is to determine that province? At the present, the Executive asserts that power. Congressional remedies, if any, are clumsy. Impeachment is about the sole means that could be employed; but that, as Jefferson said, is a "bungling" way of operating.

On the other hand, Congress itself should not be able to draw the line between permissible secrecy and a requirement to testify or produce documents. As Madison once said, neither branch—legislative or executive—has the "superior right of settling the boundaries between their respective powers"; a thought echoed in 1941 by Justice Robert H. Jackson: "Some arbiter is almost indispensable when power . . . is also balanced between different branches, as the legislative and the executive. . . . Each unit cannot be left to judge the limits of its own power."

SEARCH FOR A REMEDY

The remedy, then, if remedy there be, is to submit to the judiciary the delicate task of adjusting the balances between Congress and the President. Even the Fulbright proposal which would allow executive privilege only if it were directly asserted by the President, would not obviate the need—or desirability—of judicial determination. It is a task that would of course submerge the courts, particularly the Supreme Court, deeply into controversies that are in final analysis political in nature. The contrary argument is that the Court should keep its hands off; that it should leave the decision in particular cases of executive privilege to the operation of the political processes—presumably because the disputes are not susceptible of judicial control and also because it would politicize the bench.

The argument will not wash. The judiciary since the beginnings of the republic, has been immersed in controversy—in, that is to say, politics." Nothing is more controversial than race relations in America, yet the courts did not hesitate to intervene. So, too, with apportionment of legislatures, with school prayers, with a host of issues that in other countries would never have been case before judges for resolution.

Technical problems of "standing"—of having the requisite status to get into court—are, after all, merely judge-made rules of abstinence; rules that can easily be eliminated given a command from Congress. There is no valid reason why a congressional committee should not be permitted to get into court. The issue is "justifiable," in that it involves problems where there is an obvious clash of opposing interests. Hence, there can be little doubt about the capacity of courts to rule in these areas. After all, a Supreme Court willing to say whether Adam Clayton Powell was rightfully deprived of his status in the House of Representatives—thus intervening deeply into the legislative process—should not hesitate to umpire a dispute between Congress and the President.

Of course, it would be better for such controversies to be settled short of litigation. A lawsuit is a traumatic experience, particularly so when grave constitutional issues are involved. But there are times and executive privilege seems to be one of them, when the normal methods of dispute settlement in the polity simply do not operate effectively; at those times resort to the extraordinary process of adjudication must be made.

However, should Congress decide that the issue should be resolved in the courts, then it is obvious that it must be able to employ its own lawyer to represent it. The Attorney General is the "President's lawyer"; he takes a partisan position, similar to that of a lawyer-client relationship in any other milieu. Congress cannot rely upon the Department of Justice. In the many conflicts between the two political branches of government, reliance must at some time be placed upon the law, that is, upon advice of counsel. Executive privilege is only one of the confrontations. It points up clearly the need for "Congress' lawyer," for the creation of a special counsel for Congress—a small office of top-flight lawyers who would be called upon to represent Congress in the courts. There is precedent for such a development; for example, in Adam Clayton Powell's suit against Speaker John McCormack, the House of Representatives retained a lawyer from New York. The suggestion here is to institutionalize that procedure.

The arguments against limitation of the use of executive privilege tend, in final analysis, to be "political" or "policy" rather than "legal" or "constitutional." They include the need for flexibility of response and rapidity of action if the urgent tasks of government are to be accomplished. No doubt there are times when secrecy is necessary, when even Congress should not be cognizant of internal administrative matters. But the norm should be otherwise. Without knowledge, there can be no accountability of those who exercise power within the public administration.

Accountability is a fundamental principle of American constitutionalism. Those who wield power should, in theory and also in practice, "answer in another place" for their actions. They should be required not only to disclose the facts; they should have to give reasoned explanations of their decisions. To the argument that secrecy is necessary, it is enough to remember Milton's warning that necessity is the tyrant's plea.

This is not to suggest that government officers are evil or that they routinely deceive Congress or that they want to be (or in fact are) tyrannical. That they do deceive at times is well known. The "credibility gaps" that have become evident in recent years are euphemisms for lying. But lies, as bad as they are, are not the main problem. Officials can and do err when they pursue policies that, as the Pentagon Papers revealed, were not hammered out on the anvil of public discussion and that, in retrospect at least, display a pattern of grievous error. Professor Charles Reich of the Yale Law School put the point in somewhat different terms. "Evil now comes about," he said, "not necessarily when people violate what they understand to be their duty, but, more and more often, when they are consciously doing what is expected of them."

CONCLUSION

Getting a judicial determination does not necessarily mean that Congress will prevail. The Supreme Court has always been reluctant to put restraints upon the President. But what would be accomplished is resolution of a continuing point of controversy. It is better to know where we stand, what the law is, than to remain in uncertainty.

The command of the Constitution is clearly toward enabling Congress to share the deci-

sional power in government. This argues for outlawing, or at least greatly restricting the use of executive privilege. Should that be done, however, Congress will have to take parallel steps to improve its institutional capability of receiving and absorbing large amounts of data. Congressional staffs, as matters now stand, are too engaged in other work to take on added responsibilities. Congress, accordingly, should pay early attention to creating new institutions that would evaluate the flow of information from the Executive. Congressional oversight is or will be a charade unless such a step is taken—and soon. Unhappily, however, there is little evidence of thinking along those lines.

The net result, if one were to forecast the future, will be an even greater diminution of the role of power of Congress, the analogue of increased Executive power. A resolute congressional unwillingness to modernize, to get into the 20th century, will only mean that the nameless and faceless bureaucrats of the "administrative state" will continue to be the locus of effective power in the American constitutional order. We may not like it, but more and more it appears that we are stuck with it.

A final observation: If, as Milton said, necessity is the plea of tyrants, it should be carefully noted that the argument of necessity in many instances is based on secrecy. Opening up government, exposing the facts to public gaze as well as to Congress, may well result in a marked diminution of such actions as, say the Gulf of Tonkin fiasco. What seemed so "necessary" then—all but two members of Congress voted for it—on sober afterthought appears at best to be a gross mistake—and perhaps even intentional misrepresentation. Had there been full and candid *public* disclosure of all the facts, would the vote have gone the same way? Publicity can well be a cleansing factor. Good government is open government—and open government is likely to be good (or better) government.

THREAT BY GOVERNMENT BUREAUCRACY TO FREEDOM OF PRESS AND OF BROADCASTING

Mr. FANNIN. Mr. President, the publisher of the Arizona Republic and Phoenix Gazette has written an excellent editorial warning of the threat by Government bureaucracy to freedom of the press and freedom of broadcasting.

In this editorial, which appeared Sunday on page 1 of the Republic, Eugene C. Pulliam points out that powerful Government officials are using their authority to force unwise and unwanted policy on broadcasters. The ridiculous concept of "counter-advertising" is one of the tools being used.

It is apparent that there is a narrow-minded, elitist philosophy in the Washington bureaucracy. There are officials here who believe that they know what is best for the Nation, and that they will jam their philosophy down the people's throat whether the people like it or not.

Mr. President, I am deeply concerned about this tendency to set up Federal bureaucracy after bureaucracy which dictates to business and to our everyday way of life for everyone.

The consumer protection bill that we have been debating is another law which would give high officials here the power to dictate what consumer goods will or will not be available to Americans. This trend to bureaucratic dictatorship seems to be accelerating and I am very disturbed about the consequences. Our freedom is in jeopardy.

Mr. President, I ask unanimous consent that Mr. Pulliam's editorial be printed in the RECORD.

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

WE CAN'T TOLERATE GOVERNMENT CONTROL OF TV

Unless the Congress of the United States decisive action to halt it, the total takeover of U.S. radio and television by the government will be finalized within the next few years. There will be but one radio and TV system. It will be operated, censored, programmed—in short, completely dominated—by an elite group of Washington bureaucrats.

Television cannot fight this battle alone because it has one hand tied already by severe governmental restrictions and the power to put TV completely out of business. So it is up to the newspapers to lead this fight and to make every American realize that his own individual freedom is in danger as it never has been before. Do we want a dictatorship of TV or do we want to preserve our system of free enterprise in the communications industry?

A spate of government rulings is eroding the economic base of American journalism. The American communications industry is struggling for its very survival in a web of government regulations. None of these regulations is a decree. None has ever been presented to Congress. Nevertheless they have the full force and effect of law.

In a recent ruling by the District of Columbia Court of Appeals the judge's decision said that commercials for big automobiles can be answered by anti-big automobile advertising lambasting the big ones for creating pollution; and the station to which the complaint is made must carry the "anti" comment free of charge, giving it the same amount of time as was used in the paid advertisement of the big car. The same court ruled that no TV station can refuse to accept free controversial advertising. These rulings are part of the so-called "fairness doctrine."

The Federal Communications Commission is now deliberating a plan to require all TV outlets to spend two hours a day broadcasting programs, specifically for children, without charge. It is obvious that if this idea is put into effect there will be virtually no limit to the demands of special interests insisting on free TV time.

Pressure groups are demanding that licenses be taken away from stations that don't match up with their ideological position. Nation's Business reports that "petitions to deny license renewals are being filed with the FCC in behalf of Negroes, Mexican Americans, Puerto Ricans, Indians, Orientals, Gay Liberation, Women's Lib and various other groups and causes." Nation's Business predicted that TV probably is a dying industry because of FCC restrictions.

The results of all this will be the destruction of the American system of television. It will automatically pave the way for government operation of all TV and radio stations. This is exactly what the bureaucrats in Washington are hell-bent on accomplishing.

Dean Burch is chairman of the Federal Communications Commission. He believes in the Constitution and free enterprise but is outvoted by the holdover members of the Commission who have become ambitious bureaucrats.

One member of the FCC has suggested that the media be made legally liable for alleged harmful effects from the use of products advertised on a TV station. It was suggested that the same rule should apply to newspapers, should there be any harmful effects from the use of products advertised by them.

Probably the most inconsistent of all FCC rulings is that which concerns cigarette advertising. The Federal government spends between 600 and 800 million dollars a year to promote and sell tobacco. It subsidizes tobacco growers to the tune of at least 400 million dollars a year. Yet the government prohibits the advertising on TV of cigarettes. If tobacco is harmful, then the growth and manufacture of tobacco should be prohibited by law. But so long as the government itself encourages the growth and development and sale of tobacco, it certainly has no business telling manufacturers and TV stations they cannot advertise tobacco. This is only one more instance of how powerful the Washington bureaucrats have become.

The so-called "fairness doctrine" has nothing whatever to do with fairness, but it has everything to do with the power of government to harass people whose opinions the bureaucrats don't like.

Compounding the problem of bureaucratic bias is the history of "public broadcasting" which operates by virtue of millions of dollars of taxpayers' money but which regularly tends to favor the radical, the socialist, the activist element in this country. President Nixon has wisely vetoed a request for a large increase for "public broadcasting," but this is only a partial answer. The real issue here is that the taxpayer should not be obliged to subsidize any sort of one-sided opinion. The "public broadcasting" system to which you listen is financed by government subsidies. Hundreds of programs have been broadcast which not only assailed the administration but were actually anti-American in content. Yet you, the taxpayers, are paying the bill for this.

To be sure there are thousands of capable, honest and dedicated men and women in government service, but they are dominated by the ambitious bureaucratic leaders who can make life miserable for any one of them who opposes the bureaucratic line. These men and women cannot be fired, but they can be shunted from department to department and be passed over for promotion. Consequently they remain silent and "go along."

Concerned Americans who oppose government ownership of the communications system should demand corrective action by Congresss. All efforts to impose government controls on American TV and the American press should be resisted. There is absolutely no excuse for anti-business and anti-freedom bureaucrats to be allowed to use the medium of "public broadcasting"—paid for by the public—as a weapon to destroy TV and the free press. One of the wisest of American statesmen long ago said, "Government is always the enemy of the people, never the friend."

What is happening to TV and the American press is chilling proof that property rights and human rights cannot be separated and that where bureaucrats control the first they have the power to destroy the second.

If freedom and liberty are to survive in this country the Federal bureaucrats must be deprived of their self-assumed power over the economy. The Congress should deny bureaucrats the right of tenure which gives them a lifetime job. They never run for office. They are never elected. They never can be fired—even by the President of the United States—except for moral misconduct. Every country which has ever succumbed to the dictates of a Federal bureaucracy has either perished or been taken over by tyrannical dictators.

What can you do? You can write your candidate for Congress immediately and ask him to pledge himself to vote against any further intrusion by the FCC into the American economy. Under no circumstances should the rules and regulations of the FCC be given the force of law without the consent of Congress.

The American people must understand

that their individual freedom—and especially their right of free expression, which is the fundamental right of all liberty—is at stake and only affirmative action by the Congress will stop the bureaucrats.

The United States is the greatest and best country in the world and she is the greatest and the best only because she is free.

Eugene C. Pulliam, Publisher, Phoenix Republic and Gazette, Indianapolis Star and News.

(NOTE.—Mr. Pulliam has no financial interest directly or indirectly in any TV or radio station or system.)

"CHALLENGE OF THE FUTURE"—ADDRESS BY BRENT W. JORGESON

Mr. GAMBRELL. Mr. President, this past April I spoke to the National Technology Week Conference at Georgia Tech in Atlanta. During this time I met a very capable young man named Mr. Brent Jorgeson who was coordinator of the conference and president of the Georgia Tech Student Center.

I enjoyed very much meeting Brent and was fortunate in having him work for me in my campaign this past summer. At the beginning of the conference this young man made some opening remarks which I thought had great merit and I would like to bring them to the attention of the Senate. I feel this speech demonstrates the forward thinking and promising leadership that we may look for in our leaders of tomorrow. I ask unanimous consent that it be printed in the RECORD.

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

CHALLENGE OF THE FUTURE

(An address by Student Center President Brent W. Jorgeson at Georgia Tech's National Technology Week Conference, April 14, 1972)

The late Senator Robert Kennedy once said, "the future is not to be looked at as something that is given us by those who came before, but rather, it is something that we make for ourselves and those who will follow."

"Future" is one of the biggest words in the English language. It implies everything will ever happen from here to eternity. And because the future is so vast, so massive, and so broad in its possibilities, so important to everything alive or yet to be born, it signifies a challenge and a responsibility to us all. This challenge comes in many forms:

The technological challenge-of creating a society where the advent of new technology brings about a corresponding increase in social responsibility.

The educational challenge-of creating an educational system where people are taught how to learn what will be known instead of what is already known.

The challenge of government—of maintaining a system of government that is responsive to the needs of the people.

The challenge of business—of maintaining a society where business exists to serve people and not one where people exist to serve business and the challenge of leaving the world just a little bit better than we fond it.

In view of these great challenges, it is appropriate that Tech's leaders in business and industry have gathered here with student leaders from Georgia Tech and around the country to discuss these challenges of the future under the theme "management for tomorrow." This theme has been one that has allowed us to cover many of the problems that we face now, and will be facing in the future. But let's not label these situations as problems, let's look at them in a more positive light and call them opportunities.

It's by looking at situations in a positive light that we are able to get something done. You, as Georgia Tech's "captains of industry" should know the effects of thinking positively. After all, thinking positively is one of the characteristics that you had to have to rise to the admirable position that you now assume. You know some people tend to think of why things cannot be done, but let us think of how things can be done.

So, assuming that we view the future as a challenge, as an opportunity, and as a responsibility, let's look at some of the areas which offer us the greatest challenge. These interrelated areas are technology, education, government, and business.

Let's begin with the technological challenge-of creating a society where the advent of new technology brings about a corresponding increase in social responsibility.

Many people blame technology for the problems that we have today. The problem of technology, according to Dr. Peter Drucker in his book *The Age of Discontinuity*, is that, "technology, as a creature of man, is capable of good or evil as is its creator. The blame does not lie on technology itself but as its *human* maker and user."

Two years ago, the concern for this anti-technology attitude prompted the idea among Tech students for a technology week program—a forum where leading students, faculty, administrators, corporate executives, and government officials could gather to discuss the construction uses of technology. We here at Georgia Tech decided that we wanted people to view technology not as the source of our problems, but rather as the solution to our problems. This program, in its second year, remains the only student initiated program of its kind in the country.

The concern for this anti-technology attitude has become a concern for industry and government alike. Georgia Tech alumnus Dr. Edward David, who serves as science advisor to President Nixon and director of the White House office of Science and Technology, was quoted in a recent issue of *Business Week* as saying, "society is losing its courage to experiment. If this anti-technology attitude persists, our society will become dull, stodgy, and altogether stagnant."

One thing we must ascertain is that those who are making decisions pertaining to technology are making their decisions based on fact and not on the basis of emotions, pressure, or publicity. The Congress has recognized the need for more factual information on technological programs and, under the sponsorship of Congressman John Davis of Georgia, it has created its own "office of technological assessment" to make certain that its members are able to make their decisions based on factual information.

So in adopting a policy on technology, let's adopt one that says we need more and better technology and not less. The Nixon administration and the last session of Congress have seen this need for more and better technology and have authorized and appropriated $700 million in the coming fiscal year for research and development. Most of this work will be done under the new "technological opportunities program" which seeks to focus R&D efforts of our nation's critical needs.

While we continue to talk about more and better technology, let's emphasize the word better when we refer to technology. The same nuclear technology that makes hydrogen bombs can make clean electricity. The same medical technology that develops germ warfare agents can be directed at finding a cure for cancer. The same transportation technology that develops an SST for a few people can develop an urban rapid transit system for the masses of the people.

Along with this line of thinking, let's continue to think of the masses and not of the few. The billion dollars invested in the SST would save a few people, a few hours, a few times a year on trips to and from Europe. But the same billion dollars and the same technology invested in an urban rapid transit system would save hundreds of thousands of people a few hours, every working day of the year, on trips to and from work.

Furthermore, in the future we must strive to better coordinate related areas of technology such as aid and ground transportation. It's a shame, that of the seven hours it takes to go from downtown Los Angeles to downtown Atlanta, two hours of it is spent in the traffic jams at either end.

Charles Reich, in his best seller, The Greening of America, seems to have identified the role that technology should play in the future of our society. He states that, "We must create a culture that knows how and where to use technology, a culture that uses technology in pursuit of values that are derived from human sources."

Our next great challenge is in the area of education—the challenge of creating an educational system where people are taught how to learn what will be known in the future, instead of what is already known. When one considers the fact that the half-life of a technical education is only seven years, it is easy to see why we must teach people not just what to learn, but how to learn.

One of the country's leading educational innovators, Dr. Leon Lessinger who is now at Georgia State University, has noted that, "if the current rate of increase in the cost of education continues, by the year 2050 it would consume the entire gross national product." Certainly, then, this area of education must be one of great concern to us all.

There is always hope though, and the new field of educational engineering is making great headway in improving and measuring teaching effectiveness and pupil learning. But the most fundamental change needed in the field of education is to hold educators accountable for their work. This would not be at all atypical from the rest of society. If a worker in a factory, for example, doesn't produce his required number of units, he may be fired. If you don't produce a profit for your division or your company you will most certainly be fired. If a politician does not produce legislation beneficial to his constituency he may be defeated in the next election. If a minister is not effective in conveying his mission to his congregation he may be released.

Well then, it stands to reason that if the members of all the other elements or our society are held accountable for what they are paid for, then educators should equally be held accountable for educating their students.

So let's not allow such things as tenure to continue to serve as a crutch for teaching ineffectiveness. Let's keep tenure for its intended purpose of assuring academic freedom. But at the same time we give our educators academic freedom, let's also give them academic responsibility.

We now come to the challenge of government—of maintaining a system of government that is responsive to the needs of the people. This begins with getting, and keeping, people in government who are concerned about people, and who will be conscientious about doing the best possible job for them. Former Secretary of the Interior Walter Hickel, speaking here at technology week last year said, "What government needs is not people who want a job, but rather what it needs is people who want to get a job done. Government, just like anything itself is only as good as the people who run it. We must make sure that those who are in office are those who understand our country, and not just those that think they own the country.

We have a problem in our country, in that

it sometimes seems that those who have an attitude of passive indifference are being surpassed by those who have an attitude of active concern.

I think we all need to start paying more attention and getting more involved, however, so that the silent majority does not lose out to the vocal minority.

A lot of people these days are knocking our system of government. I think once they have traveled to other countries they will see how lucky they really are in living under our present system of government. But to these people who don't like what's going on in the system, I say don't try to change the system, just try to change the people who run it. For if they ever succeeded in changing the system, they might not ever be able to change the people who would be running a new system.

Let's now move on to our final challenge—the challenge of business—to maintain a society where business exists to serve people and not one where people exist to serve business.

We have seen that as businesses in our Nation have prospered, so have all of our other institutions. We have seen the technological breakthroughs, the medical wonders, the educational innovations, the social programs, the high standard of living that we now enjoy—all of this came about because of business, and not in spite of business. Free enterprise is what has made our Nation the greatest nation on earth. And if we are going to stay number one, we are all going to have to do our part to make peoples' jobs as meaningful as possible. Work needs to be more than a source of income, it needs to be a source of personal satisfaction. There seems to be a trend along this line in our country as we have seen that General Motors intends to make work on its production lines more meaningful.

The American system of capitalism is ever refuting the Marxist theory that capitalism involves exploiting its worker in jobs that have no satisfaction to begin with.

In his book "Sometimes a Great Nation," Ken Kersey speaks about work as it should be. "Work should be integrated with nature and with life, satisfying and adventurous, full of expression of man's being."

Let's all work toward this goal of making work as meaningful and as satisfying as possible. And when we do this let's make sure that we all get our fair share—no more and no less. And when we are distributing the increasing "shares" of our prosperity, let's make sure that increased renumeration comes only with increased productivity or increased responsibility.

When we come down to the final analysis, I think our Nation will continue to need men like you, Georgia Tech's leaders in business and industry, to move our Nation forward.

We need more people who will seek out new ideas and better ways of doing things.

We need more people who will seek out and accept responsibility.

We need more people who will be concerned about the institutions and the society which surrounds them.

The fact that you have come back to Georgia Tech to share and discuss your opinions on "management for tomorrow" is symbolic of the concern for our future that we know you share.

We here at Tech are proud of you, we're proud to have you wearing the name "Georgia Tech" wherever you go. I challenge you all to be more active in Georgia Tech and its various programs. I hope you've enjoyed this conference as much as those of us who worked on it. But in the final analysis it is Georgia Tech alumni who made it possible. It is concern by members of the National Alumni Advisory Board and the benevolency of the John and Mary Franklin Foundation that brought technology week into reality. Maybe 20 years from now there will still be a program like technology week. And when the invitation committee chooses 275 alumni out of 40,000 to come back to Georgia Tech, I only hope that my name makes the list as a "Tech leader in business and industry."

"WHAT IS A REAL MAN?—WHAT IS A REAL WOMAN?"

Mr. SAXBE. Mr. President, on Sunday, September 18, 1972, Charles Osgood, of CBS News, broadcast a commentary entitled, "What is a Real Man?—What is a Real Woman?" The sincerity of his comments left me deeply moved. I was impressed by his ability to recognize the real worth of a human being. I do not ever remember a better description of the dehumanizing standards that some people use to degrade the existence of others. Until this message is understood by those who control the destinies of others, viable solutions to our domestic and foreign problems will always elude us.

I commend this commentary to the Senate and ask unanimous consent that it be printed in the RECORD.

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

PROFILE

I'm Charles Osgood, CBS News, reporting on the CBS Radio Network.

Helene, a young friend of mine, has been assigned a theme in English composition class. She can take her choice: "What is a real man?" of if she wishes, "What is a real woman?" Seems the instructor has some strong ideas on those subjects. Helene says she doesn't know which choice to make. "I could go the women's lib route," she says, "but I don't think he'd like that. I started in on that one once in a class, and it didn't go over too well." So, what is a real man, and what is a real woman? "As opposed to what?" I asked. "I don't know, as opposed to unreal men and women I suppose. Got any ideas?"

Yes, it just so happens I do. Let's start with the assumption that reality is that which is, as opposed to that which somebody would like or something which is imagined or idealized. Let's assume that all human beings who are alive, therefore, are real human beings, which can be divided into two categories: real men and real women. A man who exists is a real man. His reality is in no way lessened by his race, his nationality, political affiliation, financial status, religious persuasion or personal proclivities. All men are real men. All women are real women.

The first thing you do if you want to destroy somebody is to rob him of his humanity. If you can persuade yourself that someone is a gook and therefore not a real person, you can kill him rather more easily, burn down his home, separate him from his family. If you can persuade yourself that someone is not really a person but a spade, a wasp, a kike, a wop, a mick, a fag, a dike, and therefore not a real man or woman, you can more easily hate and hurt him.

People who go around making rules, setting standards that other people are supposed to meet in order to qualify as real, are real pains in the neck—and worse, they are real threats to the rest of us. They use their own definitions of real and unreal to filter out unpleasant facts. To them, things like crime, drugs, decay, pollution, slums, et cetera, are not the real America. In the same way, they can look at a man and say he is not a real man because he doesn't give a hang about pro football and would rather chase butterflies than a golf ball; or they can look at a woman and say she is not a real woman because she drives a cab, or would rather change the world than change diapers.

To say that someone is not a real man or woman is to say that they are something less, and therefore not entitled to the same consideration that real people are. Therefore, Helene, contained within the questions "What is a real man, what is a real woman" are the seeds of discrimination and of murders, big and little. Each of us has his own reality, and nobody has the right to limit or qualify that—not even English composition instructors. And now this message.

This has been Profile. I'm Charles Osgood, CBS News.

AVIATION SAFETY

Mr. HARTKE. Mr. President, last summer I received a letter asking me why it was not possible for a Member of the U.S. Senate to receive a copy of a Federal Aviation Agency report, referred to as the Ryther report. Upon inquiring of the FAA, I discovered that the report had been commissioned by the Agency and performed by several senior FAA employees.

I also discovered that many of the recommendations of the report proved embarrassing to the Agency. It was for that reason that the Agency refused to publicize the report and subjected its prime author to a series of harassing activities.

Mr. President, recently the author of the Ryther report testified before the Subcommittee on Manpower of the House Committee on Post Office and Civil Service. During the course of his testimony, he described the lengths to which the FAA went to suppress his report and to discredit him as an individual. I ask unanimous consent that the substance of his testimony and two articles on the same subject be printed in the RECORD.

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

STATEMENT OF PHILIP I. RYTHER

Mr. Chairman and Members of the Subcommittee:

I am Philip I. Ryther of McLean, Va. Prior to my retirement from Federal Service in December, 1970, I was the Chief of the Evaluation Division of the Federal Aviation Administration—a subordinate agency of the Department of Transportation. In that position I was responsible for the evaluation of all aspects of civil aviation in the United States which are vested in the FAA by the Federal Aviation Act of 1958 and other statutes. I was a grade GS-16 and had a small but highly competent staff of aviation experts assigned to my Division.

During my 26 years of Federal Service I worked two years for the Veterans Administration, 12 years for the Department of Defense as well as 12 years for FAA. Before and during breaks in my government service I also held executive and other responsible jobs in three large U.S. corporations.

Mr. Chairman, I come before your subcommittee not as a particular expert on the merits or shortcomings of the high sounding principles embodied in the Nixon Administration sponsored bill H.R. 3807 but more as an "Exhibit" of how things work in the real life we live in. High level administration witnesses have bombarded the subcommittee with all of the "right" and "pretty" words—they have said it will permit the Executive Department to "streamline"—"to modernize"—"greater flexbility"—"provide the individual with greater incen-

tive." Who in the world can quarrel with these "American as apple pie" pleadings. I for one however have great trouble distinguishing between their "apple pie" and their "Madison Avenue tactics".

As a boy on the farm in Minnesota I remember clearly listening to the "radio" and hearing the voice of the late Governor Alfred E. Smith of New York and his repeated urging of Americans to "look at the record".

Here is the record of my last months in the Federal Service.

In late 1969 the Deputy Administrator of FAA directed me and my staff of five experts to make a searching evaluation of safety regulations and practices related to all phases of Civil Aviation in the nation. He said he wanted us to cover Aircraft Manufacturing, Maintenance Practices, Operations, Crew Proficiency and Training as well as the regulatory role of the government. He asked me if I could do the job by March 31, 1970. I told him I thought we could. We completed the work two days ahead of schedule. The man that gave us the job was a Lyndon Johnson appointee and unfortunately before we finished our work he was gone. An executive from the aviation industry replaced him. The report described many extremely serious safety problems and included recommendations for the elimination of many operating and regulatory hazardous practices.

Months passed and no effective action was taken on our recommendations. In fact the report was buried and I was told to discuss it with no one and if I did I would be subject to severe disciplinary action. After several hundred more lives had been lost in aviation accidents, I asked the Administrator of FAA if I might discuss the matter with him—he declined to see me or discuss the subject. However, the new Deputy Administrator called me in and gave me hell for attempting to discuss the matter with the Administrator. The Deputy even wrote me a letter and said he didn't consider the matter urgent enough to push it as I had and that I better never do such a thing again.

Several of our recommendations dealt directly with serious hazards involved with "charter" flight operations. About three months after the new Deputy Administrator wrote me that he was not impressed with the urgency of our recommendations a charter flight crashed in Colorado killing 31 including many members of the Wichita State University football team. A month later another charter crashed in West Virginia killing 75 including nearly the entire Marshall University football team. Approximately 3,000 have been killed in civil aviation accidents since I submitted my report which was characterized by the Deputy Administrator as not urgent.

I am told that only last month there was a failure of vital traffic control equipment on the busy New York to Miami airway. I have been informed the traffic controllers had previously pleaded with FAA management that they not be forced to use the equipment. In this incident there was an "Airways Blackout" lasting 6½ minutes with dozens of passenger and other aircraft involved. After this harrowing experience I am told the traffic controllers have now declined to use the inferior equipment and are improvising in some other way to move the traffic.

Shortly after I received the Deputy's "no urgency letter" I was called in by the Associate Administrator for Manpower of FAA and told I ought to retire and enjoy life. He also said he understood I had some outside income and asked me if that was true. I told him I would prefer not to discuss my personal affairs. He then told me not to play games with him because for a phone call he could have access to my personal income tax returns. I didn't challenge him because I knew that only a few months before he had been an Assistant Commissioner of the Internal Revenue Service. I did however decline his retirement suggestions. A few days later I was called in again by the same man and told I was being given one more chance to retire. I wasn't eligible for an annuity so again I declined and in the same meeting I was presented with 11 pages of charges against me. The charges stated that I would be removed from government service at the end of 15 days. I will not include the 11 pages of charges in this statement but will be glad to furnish a copy to the subcommittee if you desire. Near the end of the 15 days the same man called me in again and asked my permission for him to withdraw the charges because he had found a way to get my annuity approved and that I would be spared having to defend myself against the charges. He presented me with a retirement request letter to sign which included a false statement to the effect that no charges were pending or contemplated against me. I took the letter, unsigned, to the Director of the Bureau of Retirement of the Civil Service Commission. He was aware of my case and had tentatively approved my retirement but had at no time been told anything by FAA officials about the charges. I showed him a copy of the 11 pages whereupon he said all bets were off with respect to his previous agreement with FAA to approve my early retirement.

For reasons best known to the officials of FAA all charges against me were dropped. It has always seemed strange to me that a fellow could be eleven pages bad one day and no pages bad the next.

I believe the subcommittee will understand that by this time I had been through quite a bit so after repeated urgings by my doctor because I had developed high blood pressure from this episode, I voluntarily retired in December 1970.

This is a very brief review of my experience as it may be relevant to the matter before the subcommittee at this time. Doubleday Publishing Company of New York will issue a comprehensive report this summer dealing with aviation safety in the United States and the management of the Federal Aviation Administration.

Incidentally the Civil Service Commission reviewed the handling of my case by FAA and six months after I was retired directed the FAA to retroactively increase my salary during the last year of my service, increased my annuity accordingly and raised my government life insurance for the benefit of my family. It was a pleasure to get FAA's check.

The other day one member of this subcommittee asked a witness what a career government executive has for protection since H.R. 3807 provides for little or no appeal rights. The witness stated that each executive would be dependent upon the ethics and integrity of department and agency appointing officials. I suppose my statement to the subcommittee today reflects the level of my confidence in the subject of ethics and integrity as worthy guarantees of fair play.

Last November, almost a year after I retired, a high official on the President's staff invited me to the White House for a conference. The man worked in the office of H. R. Haldermann, assistant to the President. He told me the purpose of the meeting was to talk this whole thing through. I didn't understand what that meant but I did accept. For an hour and a half I listened to a lot of beautiful rhetoric about "looking to the future" and how "everyone was interested in improving aviation safety." He volunteered that I would hear further from him. Having heard no more I wrote Mr. Haldermann a note on January 7 and asked how they were making out. On January 22 I received a reply from Mr. John Dean, III, counsel to the President, stating I would hear from the Department of Transportation in the near future. More than three months have passed and I have heard nothing.

We hear a constant din these days from many segments of our population to the effect that they have lost confidence—not in our form of government—but in the lack of candor and forthrightness with which the government is being managed. In my opinion passage of the bill before this subcommittee will add fuel to the fire of lost confidence.

I urge that H.R. 3807 be rejected.

I will try to answer any questions the subcommittee may have.

[From the Evening Star, May 10, 1972]

FORMER AIDE TELLS OF FAA PRESSURE TO RETIRE

(By Joseph Young)

A Federal Aviation Administration career official has told the House Civil Service Manpower subcommittee he was pressured to retire after the agency ignored his proposals for greater air safety.

He said his ideas might have prevented the loss of hundreds or even thousands of lives in air disasters.

Philip I. Ryther, who was chief of the FAA's evaluation division, cited his experience in urging the House unit not to approve the administration-sponsored bill to make it easier for the government to get rid of federal careerists in supergrade jobs.

Ryther related this story to the subcommittee:

In late 1969 he and his group were directed to make a searching evaluation of civil aviation safety regulations and practices. The study was made and recommendations prepared. However, the official who gave the order for the study was a Johnson appointee, He left the FAA just about the time the project was completed.

Months passed and no effective action was taken on the recommendations. Feeling that action was urgent, Ryther tried to see the FAA administrator, but was refused permission. The deputy administrator called him in and gave him "hell" for trying to discuss the matter with the administrator. Ryther was sent a letter warning him not to try to contact the administrator again.

FAA officials told Ryther that they were not impressed with the urgency of his group's recommendations for measures to reduce air accidents.

Several of the proposals deal directly with serious hazards involved with charter flight operations.

About three months after Ryther was told there was no urgency about the recommendations a charter flight crashed in Colorado killing 31, including many members of the Wichita State University football team. A month later another chartered plane crashed in West Virginia killing 75, including nearly the entire Marshall University football team.

Shortly after he received the warning letter, he was summoned by an FAA official and told he ought to retire "and enjoy life." The official said he understood Ryther had some outside income that would enable him to live comfortably in retirement.

When Ryther declined to retire or to discuss his financial situation, the official said he could gain access to Ryther's personal income tax returns, Ryther testified.

After Ryther refused to retire, the FAA filed 11 charges against him in a move to pressure him to retire.

Ryther still refused. Subsequently, all 11 charge against him were dropped.

The strain of fighting FAA's moves finally undermined Ryther's health. After repeated urgings of his doctor, who discovered he had high blood pressure, Ryther retired voluntarily in December 1970.

The Civil Service Commission reviewed FAA's handling of the case and directed FAA to increase Ryther's salary retroactively for the last year of his service, which also resulted in increasing his retirement annuity and government life insurance. "It was a pleasure to get FAA's check," Ryther noted wryly.

Thus ended Ryther's testimony. For the record, he served 26 years in government, 12 years with Defense, 12 years with FAA and 2 years with Veterans Administration. Before and during breaks in his government service he held executive jobs with three large corporations.

Asked to comment on the testimony, an FAA spokesman said Ryther's recommendation had not been acted on because they were incomplete and unacceptable.

Further, some of the correction actions proposed by Ryther already had been taken or were in the process of being adopted, the FAA spokesman said. He also asserted Ryther's recommendation would not have prevented the two charter accidents.

Ryther's experiences in FAA and the subject of aviation safety will be discussed in a book he has written with Stephen Aug of The Star and will be published this summer by Doubleday.

[From The Nation, May 22, 1972]

THE TIMID FAA: HOW SAFE ARE THE AIRWAVES?

(By Thomas De Baggio)

(NOTE.—Mr. De Baggio is editor of Consumer Newsweek, a Washington, D.C., newsletter.)

WASHINGTON.—They must believe in miracles at the Federal Aviation Administration. This dependence on the Almighty has the advantage of putting the agency closer to the planes and pilots for which it is responsible, and also explains why it is so often found on its knees. It might also explain what others consider the FAA's remarkable luck. For, according to the evidence of secret FAA documents, Congressional committees and airline crews, it is luck, not alertness and vigor, that has saved the nation's guardian of aviation safety from public disgrace.

But visitors to the much ballyhooed international transportation exposition, sponsored by the Transportation Department at Dulles International Airport, will not get a glimpse of the FAA's dogeared prayer books, which have served to protect the nation from air tragedies at least as effectively as have the agency's rules and regulations. What they will see between May 27 and June 4 is the sparkling glory of new technology. Behind its gleaming surface and heady promise is "skulduggery" more extensive than several ITT scandals, according to Philip I. Ryther, former chief of evaluation for the FAA.

Ryther, a graying block of a man with twelve years' experience at the FAA, was appointed in 1969 to lead a special team of agency evaluators. The 29-page document that resulted from their work was so critical and far-reaching that it immediately became a national secret and continues to be so to this day. It calls for the complete overhaul of the FAA. Ryther's persistence on behalf of the report was rewarded with the suggestion that he retire or be fired. He resisted both for nearly nine months and then retired. But FAA influence continued in his life. He wrote a book about his experiences at the agency; it is to be published by Doubleday in July as *Who's Watching the Airways?* Before Ryther had a chance to correct the galley proofs of it, the White House was appealing to the publisher to suppress it, threatening expensive lawsuits if it did not.

Between his retirement and the White House threats, Ryther was scheduled to testify before the Senate Aviation Subcommittee. The subcommittee's staff was so excited by the information he gave them that they asked him to prepare questions for the Senators to ask witnesses, as well as to appear himself. But action at a secret subcommittee session squelched his appearance entirely, and the questions weren't asked.

What the White House, the FAA and Congress have worked together to suppress is only part of the story of the large-scale aviation safety failure, but in itself it is harrowing. Last year, the National Transportation Safety Board estimates, 1,525 individuals were killed in 4,694 plane wrecks. Most of these deaths—1,322—occurred in what the FAA refers to as general aviation, the flying done by private pilots. The remainder took place on scheduled and nonscheduled airline flights. In a report last September, the Department of Transportation's assistant secretary for safety and consumer affairs noted that a surprisingly high number of general aviation wrecks occurred on training flights, with the instructor present. Between 1966 and 1969, 19 per cent of the general aviation wrecks were on training flights and one out of every three of them involved instructors as well as student pilots.

More than a year and a half earlier, Ryther had zeroed in on the FAA weakness responsible for this state of affairs with a bluntness characteristic of his evaluation of the agency: "FAA is tolerating an unsafe condition in the area of general aviation pilot training," he warned, adding that it was "a condition which, unless corrected soon, will contribute to a further deterioration of safety." He concluded: "Many general aviation pilots . . . are a menace to themselves and others."

Here are some of the weaknesses pointed out in the Ryther and Transportation Department reports:

¶Basic license requirements have changed little since 1938, but in some instances standards were lowered as flying became more complex.

Of the 5,000 flight schools in the country, less than half the FAA-approved. Fewer than 10 per cent of the nation's are trained in approved schools.

The FAA cannot stop a flight school from operating, no matter how poor the instruction.

Flight instructors are recertified every two years, but the examination does not necessarily include a flight check.

Pilot training is inadequate. The initial flight test fails to examine fully the student's ability under emergency or rough-weather conditions.

Once a flyer is licensed, he need pass only a medical examination periodically to keep his license, even if he fails to maintain his proficiency.

When the General Accounting Office looked into what limited data was available, its investigators found that roughly 80 per cent of the general aviation crackups were caused by pilot error. The same April 1970 report said that in 1967, 42 per cent of the pilots who wrecked their planes had fifty hours or less flight time. FAA requires only forty hours for a license.

In the face of this serious criticism of pilot training requirements, the FAA began to move. But the agency has yet to reach the jet age and some feel that even horse and buggy speeds may be too fast for its creaky machinery. Ryther noted that it took a full 325 days for the agency to process a simple, noncontroversial rule which required no public hearings. A full two years after Ryther submitted his report, the agency set forth a broad-scale revision of pilot training and certification rules in order to upgrade them. The *Federal Register* notice of March 23 which announced the proposed changes allowed 120 days for comments before closing the docket; that is twice the time most agencies allot for such purposes.

There is no telling when the final rules will become effective—if they ever do. For as Ryther noted, "Proposed rules are dropped because of industry political pressure." And, he elaborated in an interview, the general aviation pilots' lobby, which though little known, is one of the most powerful in Washington. What other group could count between 200 and 300 Congressmen among its membership?

While it was a major point of the Ryther report, his criticism of the agency's failure to require pilot training up to the level of proficiency was not the only fault he found with the FAA's safety record. He discovered that FAA rules were subject to "many different interpretations" and many were not "specific enough to be enforced."

The FAA is responsible for qualifying not only the more than 500,000 pilots in the United States but also the more than 100,000 mechanics who work on the planes. Some 1,400 inspectors are assigned to this job, half of them being spread over the huge general aviation field. Since the vast majority of general aviation wrecks are attributed to "pilot error," Ryther said, "it would then seem appropriate that surveillance of airman training should be placed high on the inspector's list of priorities. However, under present practice he is unable to do this. Approximately 50 per cent of his time is spent in administrative and nonsafety related tasks." He added: "A very small part of his time is spent in assuring that pilots are being adequately trained and properly tested."

Ryther discovered that inspectors were frustrated by the practically nonexistent safety standards for operators of noncertified commercial air carriers which specialize in charter flights. "Qualifications of crews and mechanics employed by many of these operators are marginal," he contended in the report. "Some inspectors have resorted to appealing to the better judgment of 'customers' in attempting to dissuade them from doing business with operators who they feel operate in a potentially hazardous manner." Ryther contends today that had his warnings in this area been heeded immediately ("The administrator could have made the necessary changes with a stroke of the pen") the crash six months later that obliterated the Wichita State football team might have been prevented.

Lack of rigorous training standards for flight personnel on giant airliners has recently been charged by Ralph Nader's Aviation Consumer Action Project, headed by K. G. J. Pillai. In March the group, citing a deterioration in standards, petitioned the FAA to improve recurrent training for flight engineers. In 1967, flight engineers at Pan American received seventy-one hours of ground training yearly, Pillai said. The following year it was reduced to twenty-four hours. The flight engineers' association protested that thirty-five hours was a necessary minimum, but the Air Transport Association, speaking for the nation's scheduled airlines, won the battle. The FAA set a twenty-five hour minimum. In 1970 the FAA capitulated further with approval for Pan American to reduce its training to eighteen hours.

"Flight engineers admit that at least nine accidents that occurred in Pan American's operations since 1968 are clearly attributable to crew failures," Pillai said. "In these accidents hundreds of passengers and crew members were killed or seriously injured. Despite this horrendous loss of human lives, the FAA did not take steps to improve the quality of training for crew members."

The federal government initially became involved in aviation in 1926. Under legislation passed that year, the Commerce Department was authorized to "foster" aviation. This meant licensing pilots, certifying the airworthiness of airplanes and monitoring air safety, duties that were performed under the immediate supervision of the Aeronautics branch, which became the Bureau of Air Commerce in 1934. With the passage of the Civil Aeronautics Act of 1938, President Franklin Roosevelt reorganized the government's aviation control into two separate units, establishing the framework for the organization as it exists today. A Civil Aeronautics Board was set up to regulate the economic facets of aviation and a Civil Aeronautics Authority continued in the Commerce Department as a pilot licensing and safety agency. The Federal Aviation Act of

1958 brought into being an independent Federal Aviation Agency. In 1967, with a slight adjustment in name, it became part of the new Department of Transportation.

Such a dry accounting of the FAA's growth omits all its pitiful human qualities. That flavor was aptly summed up in a 1970 report by the House Government Operations Committee: "The FAA simply does not move forward," it concluded, and then added mournfully: "All too often in the past, progress has been the result of tragedy."

Like much of the Washington bureaucracy, the FAA is the victim of legislative schizophrenia. It was born of a compromise between the public interest and the aviation industry. The FAA is charged with regulating the industry and at the same time promoting it, and the two duties are incompatible.

Ryther did more than suggest that this was at the core of the FAA's failure. "Too much credence has been placed in the past on that part of the Federal Aviation Act that specifies we should 'foster aviation,' " he wrote. "Many proposed rule changes are met with the hue and cry that they will retard the advancement of aviation. FAA should adopt a strong regulation that any advancement to safety is a definite advancement of aviation."

The House Commerce Committee, in its 1957 report on the legislation which created the FAA, made it clear that "any tendency by government agencies to proceed with caution in promulgating or enforcing regulations to promote safety must be avoided at all costs, even at the risk of being charged with undue harshness." John H. Shaffer, whose prime qualification for the job as head of the FAA appears to have been his ability to gather money for Richard Nixon's Presidential campaign, quoted the House committee's words approvingly in testimony December 9, 1969, before the Senate Administrative Practices Subcommittee shortly after he took office. But later in his testimony, when asked why National Transportation Safety Board recommendations were infrequently followed, he made clearer his understanding of the law: "The recommendations of the NTSB must be considered in the light of our basic duty to strike a balance between maintaining an acceptable level of safety in aviation and not imposing an undue burden on any segment of the public, including the aviation industry."

Ryther noted in a recent interview that twenty-one out of twenty-three top FAA officials, excluding the political appointees, had never had a job outside FAA. Some had come to the agency as high school dropouts; nineteen of the twenty-three had no college diploma. Nineteen of these top-management officials had worked together for twenty-five years or more. "They dominate the agency completely." Ryther declared. "This fraternity makes up the most bigoted, ingrown,, fearful group of men that you could possibly put together. They are scared to death of being found out."

No other regulatory agency delegates so much important safety work to individuals who have financial interests that conflict with their work. The FAA, for instance, requires that each year more than 133,000 general aviation aircraft be inspected for airworthiness. These inspections are made for a fee by an individual mechanic and, says Ryther, are sometimes illegally performed without looking at the aircraft. In much the same way, general aviation pilots are licensed to fly by individuals delegated to examine their qualifications. These examiners are often air carrier operators and aircraft dealers, both of whom may have a financial stake in whether the individual gets a pilot's license.

Airworthiness inspections are made of airliners before they takeoff. Delegates of the FAA administrator, paid by the airlines, perform the task. There have been cases where aircraft inspectors refused to O.K. a plane and then faced threats from their employers if they did not sign them off. One mechanic working for Air West, according to Reuben Robertson, a Ralph Nader lieutenant, reported such an incident to the FAA. He was suspended from his job for insubordination and told if it happened again he would be fired.

Airworthiness is a ticklish subject with the FAA. The agency frequently issues airworthiness directives, which are published in the Federal Register. Airplane defects are noted and the agency requires scheduled maintenance to replace parts that can cause structural weaknesses or engine or landing gear malfunctions. It gives the appearance that the FAA is a tough regulator, but the impression is false, according to a former FAA lawyer who wrote his share of the documents. Most of the time, he says, the FAA doesn't discover the defects through its inspection system at all. The manufacturer spots them and sends out "service bulletins" of its own—with a copy to the FAA. This is picked up and long after airplane owners have been notified by the manufacturer, the FAA directive is published.

Violations of such airworthiness directives, or failure to do required maintenance, can land an airline in deep trouble—or so the law states. But accommodations are reached easily. Ryther says it is common knowledge that no airline is fined more than $1,000 for an infraction—no matter how serious. Others confirm this. One former FAA attorney remembers a case he worked on in which charges were brought that could have cost the airline $40,000 in fines. Failure to perform maintenance was discovered when the airliner limped into an airport on an emergency landing and an FAA inspector discovered the violations. The airline was able to negotiate the $40,000 in fines down to a $400 payment for a violation—not of government regulations—but of the airline's own procedures.

The airworthiness of planes on the assembly lines is also affirmed by an employee of the manufacturer whose authority is delegated by the FAA. Agency inspectors check the manufacturers, but Ryther found that this surveillance was too infrequent "to assure compliance with airworthiness regulations." He added: "The time that elapses between surveillance efforts invites relaxation of the quality control efforts of the companies."

Currently the most controversial of the FAA's delegated authorities is that given to doctors. Some 2,187 private physicians are designated by the FAA as Aviation Medical Examiners. They give the 60,000 commercial pilots in the nation their required physicals at least once a year. A pilot must pass this test to keep his license.

But the system is not working well, according to FAA air surgeon, Dr. Peter V. Siegel. He says the pilots have learned where to go for quickie approval from doctors who process them on an assembly line basis. Some twenty-three doctors performed 18,000 examinations in 1971; one doctor alone examined 3,000 pilots. Many doctors with reputation for "easy" examinations are never bothered by the FAA, despite the fact that some pilots with disqualifying heart disease, mental illness and addiction problems are never reported. The FAA terminates only about twelve doctors a year and knowingly allows others to continue despite the hazard the pilots present.

The FAA would like to turn the medical examining job over to the airlines, but the airlines don't relish the expense involved in setting up such a medical program. And the pilots who now pay the doctors for the examination don't like the idea of their bosses controlling the physical examination. The pilots remember their 1948 strike against National Airlines. After it was over, National forced pilots to pass a physical performed by company-paid doctors. Those who refused were fired. Twenty-one of the pilots most active in the strike were terminated because they couldn't pass the company "physicals."

While nobody is happy with the current medieval setup, there is some evidence that the FAA and some of the airlines have benefited from its manipulation. The FAA, while allowing some medical examiners to doctor their reports rather than the pilots, has cracked down on other medical examiners. One such doctor is Emil Taxay, who was appointed an FAA medical examiner in 1961. For nine years he practiced aviation medicine and checked pilots. He got a reputation as a tough doctor. Consequently, his fees didn't amount to much from pilots because few came to him. Court papers show that Taxay was earning $1,250 a year when the FAA took his appointment away from him on March 30, 1970. The reason for his termination was never clearly explained and Dr. Taxay has since sought through the courts to force the FAA to convene a hearing to justify its stand. However, the FAA did admit that the revocation of his appointment was connected with testimony he gave to the National Transportation Safety Board. FAA did not appreciate the doctor's voluntary appearance as an expert witness for several pilots who had lost their flying licenses because of medical problems.

Another case now in the courts hints at how the airlines can manipulate the system to get rid of a pilot. Carl R. Duncan has been a pilot for National Airlines since 1956. He is known as a stickler for safety rules and has reported violations by other National pilots. In May 1968, the FAA denied him medical certification. A deposition filed in federal court last fall indicates that an FAA inspector, after talking to Duncan on the phone, launched an extensive investigation because he thought the pilot was crazy. But Duncan's lawyer, Robert D. Powell, hints at darker motives behind the investigation and believes a National official tried to get rid of the pilot for personal reasons. Collusion between the FAA and the airlines in pilot ousters is not unusual, says Powell.

The FAA was beaten back in the Duncan case by the National Transportation Safety Board, which overruled the agency after a hearing. Powell says this is the second time Duncan has had trouble over his license because of a head injury sustained in a car wreck in 1960. A panel of five doctors reinstated his medical certificate in 1962, but the two doctors who voted aaginst him in that case have played an important role in the more recent case. One is now the FAA's deputy air surgeon; the other was the prime government medical witness against him in the 1969 case. Duncan's suit against the FAA is pending.

While a few conscientious pilots and doctors must fight for their licenses, medical requirements are waived for others. A former FAA lawyer notes that special exemptions are sometimes granted to relatives of powerful Washington political figures. In one instance, he said, a relative of then President Johnson was given a pilot's license, despite the fact that medically he was not qualified. Another relative of then Vice President Hubert Humphrey received similar treatment although he, too, suffered from a heart ailment that should have disqualified him.

Although such occurrences are rare, FAA's rules on who can fly are sometimes surprising. Among the more than 700,000 pilots in the nation are 4,005 with only one eye (749 of them pilot airliners). And that one eye need only furnish "pretty good vision," according to the FAA. The federal government has barred one-eyed persons from driving trucks and busses since 1940 because their limited vision is a threat to highway safety.

But the cause of a crash is not always the

pilot or the plane. The airport is also one of aviation's hazards. Four of the eight airliners that crashed last year did so during landings, according to the National Transportation Safety Board which investigates airplane wrecks. By the FAA's most recent reckoning, there are more than 12,000 aircraft landing facilities in the United States. This includes everything that an airplane, helicopter or other aircraft might conceivably use. When only the airports with paved runways are considered, the total drops to 4,176. Runways are lighted at only 3,759 locations. Some 531 airports received scheduled airline service.

While the airplanes, pilots and mechanics must meet certain FAA standards, airports escape certification. Airline pilots recommended in 1946 that airports be forced to meet certification standards. A special advisory committee recommended federal certification of airports in 1952. For its 1970 report on the FAA, the GAO auditors checked the agency's inspection reports of thirty-two airports. The FAA, said the investigators, had uncovered 1,026 safety deficiencies at these airports including runway obstructions, inadequate fire protection and poor lighting.

Congress in 1970 stuck a provision into the Airport and Airway Development Act that required the FAA to certify airports. The agency was given two years to draw up standards, but last year Congress extended the implementation date to May 1973. Even the provisions of the act which made federal funds available for airport improvement have not been enough to spur some airports. In 1971, the Air Line Pilots Association (ALPA) graded 488 airports—those with daily scheduled service—on crash fire and rescue equipment. The pilots found that 25 per cent of the airports had no such equipment at all. Fifteen of these 129 airports served jets. More startling still was the finding that only 25 per cent of the nation's airports had, for the aircraft using the facility, equipment that the FAA and the National Fire Protection Association suggested was adequate. Some of the airports with less than adequate fire protection included Boston's Logan Airport, Chicago's Midway, and airports at Dallas, Pittsburgh, Jacksonville, Minneapolis and Las Vegas.

Fire protection is a key safety feature in a crash because it is the fire and smoke that often cause fatalities. Last June when a Convair 580 crashed during a bad weather approach to New Haven's Tweed Airport, the NTSB found that twenty fatalities were caused by fire and smoke, not by impact. With such circumstances in mind Kelly Rueck, an airline stewardess and ALPA official, commented: "From the stewardess' viewpoint . . . she often wonders what would happen in case an emergency did occur. Even worse, she wonders if her passengers have any idea how badly the cards are stacked against them if anything goes wrong." As a result of repeated tragedies, the FAA recently required structural changes that would lessen the probability of fire hazards from fuel spillage in a crash.

The New Haven crash, like others at airports, might have been been prevented if the latest instrument landing devices had been installed. Instrument landing systems, visual approach slope indicators and runway end identification lights are three of the components most needed at airports, according to the airline pilots. Nearly 60 per cent of the nation's 530 airports were without instrument landing systems last year by the pilots' count. The FAA said in 1955 that the instrument landing system was necessary airport equipment. However, visual approach slope indicators and runway end identification lights are rarer. Only about 4 per cent of the nation's runways are so equipped. These landing aids, while rare, are only part of the complex electronic web that is part of the FAA's safety mechanism—air traffic control.

The government first got into air traffic control in 1936 when the Bureau of Air Commerce took over three en route traffic control centers in Newark, Chicago and Cleveland. Predictably, the centers which formed the nucleus of what have become twenty-one strategically placed airway guides were developed by the fledgling airline industry of that era for its own protection.

Although the system has changed dramatically over the years with the addition of control towers, radar and computers, its purpose has remained basically the same. It is designed to give pilots and ground controllers position information to keep airplanes on course and aid in preventing midair collisions. The FAA likes to keep up with modern terminology, even if it lags far behind in other areas, and refers to the present complex of equipment as the National Airspace System.

But the system has a serious, basic flaw that contributes to the more than four midair collisions narrowly avoided each day. "Over a period of many years," the House Government Operations Committee noted in a report last March, "the public has been led to believe that the nation's air traffic control system watches over all aircraft in the air, protecting the traveler from the danger of midair collisions. In fact, the nation does not have an air traffic control system. We have two air traffic control systems." These two systems, as imperfect as is each by itself, together lay the groundwork for tragedy because they are not necessarily compatible.

Most of the 133,000 general aviation aircraft operate under visual flight regulations (VFR). The 23,000 commercial and military airplanes operate under instrument flight regulations (IFR). As its name implies the visual rules are simply "see and be seen." Cockpit vision is often limited and atmospheric conditions sometimes contribute to poor visibility. At the speeds of today's aircraft, even perfect visibility might not be good enough to avoid collision, but the problem is complicated by the fact that pilots flying under instrument rules are not likely to be looking for another aircraft in their path. The FAA's "eyeball philosophy," as Capt. John J. O'Donnell, head of the Air Line Pilots Association, calls it, "should have gone out in the early 1940s."

Air traffic controllers have their work cut out for them keeping the two types of aircraft away from each other. "In areas of light and moderate VFR traffic, controllers provide advisory information to IFR aircraft about the location of VFR aircraft that might be operating nearby," the House committee noted. "In congested areas, where advisory information of this kind is most needed, the number of VFR aircraft on the controllers' radar scopes is often so large as to overwhelm their ability to warn IFR traffic of VFR that might become a collision threat."

Under such conditions it is clear why the committee is so insistent that a collision avoidance device be carried on each airplane. But the FAA has completely abdicated its safety role in this field, too. After active participation in an airborne collision avoidance system during the 1950s, the committee said, the FHA downgraded its own efforts and let the Air Transport Association take over.

Although the FAA has just about thrown in the towel on the project, the House committee maintains, "we have collision avoidance technology almost within our grasp, but the economic considerations may halt or delay system implementation even after the technical problems that remain have been solved." If the system is to be effective, all aircraft must carry the collision avoidance mechanism. The cost now projected is prohibitive for most general aviation aircraft. However, airline officials, in the words of the 1970 House committee report, "in despair over the inadequacy of the air traffic control picture, hope through the use of this [anti-collision] equipment to at least avoid midair collision with other airliners."

The FAA has developed a ten-year plan to upgrade airports, its foundation being a trust fund set up by the Airport and Airway Development Act of 1970 and financed by user taxes similar to those that support the Highway Trust Fund. Grants are made on a sharing basis, but many communities argue that the fifty-fifty arrangement stipulated in the law is too great a burden for their airports. A proposal is now before Congress to increase the federal share. About $230 million will be spent under the airport aid program this year. Although it is seen as a step forward in improving airport safety, the plan has been criticized. "The length of time now planned by your agency for the installation of landing aids is so inadequate that it can only invite more accidents," ALPA told the FAA's Shaffer last fall. "We believe that your agency has not been attuned to the increasingly dangerous airport environment that airline pilots must endure on a daily basis."

Somewhat more restrained was a report last December from the House Government Operations Committee. "The FAA continues to operate under arbitrary funding guidelines of the Office of Management and Budget that portend only the most tragic consequences," the committee said. It added, however, that the agency itself had failed in the past to anticipate the increased air traffic. The House committee estimated that $1.8 billion would be needed for improvements.

The air traveling public, ignorant of the despair expressed by industry, Congress and the pilots, and the potential for tragedy lurking behind accident figures that show only .097 fatalities per 100,000 airliner hours flown (the figure is 2.47 for general aviation), gets more worked up about airline hijackers. But airliner hijacking, while a real problem, is dwarfed by the basic considerations of air safety. Since 1930, the number of successful hijackings on a worldwide basis has been less than 300; during the same period, slightly more than 100 hijackings have been successfully carried out in the United States. Yet since 1961 there have been 774 airline crashes—117 of them causing fatalities that have killed 2,818. And these figures do not include the 55,308 general aviation crashes during the same time, nor the 12,470 deaths they caused.

As a result of FAA laxity and slowness in the past, the real problems are only now coming into view. By 1983 there is expected to be an 80 per cent increase in the number of pilots; a 31 per cent increase in the number of airliners; a growth of 60 per cent in general aviation. The advances in air travel are outstripping the government's feeble attempts to police it. As the traffic problem in the skies becomes more acute, the failures of the government will be increasingly difficult to hide.

Hard as it may be to close the gap quickly, it will never be done unless the FAA is rejuvenated in a major reorganization. Philip Ryther has his own recommendations. He confided them to President Nixon a year ago but got no positive response. He asked the President to fire the seven top men at FAA. Ryther feels that fresh faces and approaches at the FAA would put an end to the passive neglect he found of air safety, the dominance of the air industry over policy matters and the schizophrenia that has split the agency between its duties of fostering aviation and making it safe.

If changes are not made quickly, all the fancy public relations in the world will not be able to turn the FAA's past failures into a future hope. A timid guardian of the skies will become recognized for what it is—the major obstacle to air safety.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is concluded.

SOCIAL SECURITY AMENDMENTS OF 1972

The PRESIDING OFFICER. Under the previous order the Chair lays before the Senate H.R. 1, which the clerk will report.

The assistant legislative clerk read the bill by title, as follows:

A bill (H.R. 1) to amend the Social Security Act, to make improvements in the Medicare and Medicaid programs, to replace the existing Federal-State Public Assistance programs, and for other purposes.

The PRESIDING OFFICER. The pending question is amendment No. 1663.

Mr. RIBICOFF. Mr. President, I send to the desk amendments to amendment No. 1663 of the Senator from Virginia, and ask that they be stated.

The PRESIDING OFFICER. The amendments to the amendent will be stated.

The assistant legislative clerk proceeded to read the amendments.

Mr. RIBICOFF. Mr. President, I ask unanimous consent that further reading of the amendments may be dispensed with.

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

The amendments read as follows:

In lieu of the language proposed to be inserted by the Roth-Byrd-Spong amendment, insert the following:

TITLE IV—FAMILY PROGRAMS

ESTABLISHMENT OF OPPORTUNITIES FOR FAMILIES

PROGRAM AND FAMILY ASSISTANCE PLAN

SEC. 401. The Social Security Act is amended by adding at the end thereof (after the new title added by section 301 of this Act) the following new title:

"TITLE XXI—OPPORTUNITIES FOR FAMILIES PROGRAM AND FAMILY ASSISTANCE PLAN

"GOAL STATEMENT; APPROPRIATIONS

"SEC. 2101. (1) The Congress hereby establishes a national goal of assuring all citizens, through work or assistance, in this decade, an income adequate to sustain a decent level of life and to eliminate poverty among our people.

"(2) Therefore, in order to achieve this goal by—

"(A) providing for members of needy families with children the manpower services, training, employment, child care, family planning, and related services which are necessary to train them, prepare them for employment, and otherwise assist them in securing and retaining regular employment and having the opportunity for advancement in employment, to the end that such families will be restored to self-supporting, independent, and useful roles in their communities, and

"(B) providing a basic level of financial assistance throughout the Nation to needy families with children in a manner which will encourage work, training, and self-support, improve family life, and enhance personal dignity,

there are authorized to be appropriated for each of the five fiscal years in the period beginning July 1, 1973, and ending June 30, 1978, sums sufficient to carry out this title.

"BASIC ELIGIBILITY FOR BENEFITS

"SEC. 2102. Every family which is determined under part C to be eligible on the basis of its income and resources shall, upon registration for manpower services, training, and employment by any of its members who are available for employment (as determined under section 2111) and in accordance with and subject to the other provisions of this title, be paid benefits by the Secretary of Labor under part A, or, if such family has no members who are registered for such services, training, and employment, shall be paid benefits by the Secretary of Health, Education, and Welfare under part B.

"PART A—OPPORTUNITIES FOR FAMILIES PROGRAM

"REGISTRATION OF FAMILY MEMBERS FOR MANPOWER SERVICES, TRAINING, AND EMPLOYMENT

"SEC. 2111. (a) Every individual who is determined by the Secretary of Health, Education, and Welfare to be a member of an eligible family and to be available for employment shall register with the Secretary of Labor for manpower services, training, and employment.

"(b) Any individual shall be considered to be available for employment for purposes of this titles unless he is determined by the Secretary of Health, Education, and Welfare to be—

"(1) unable to engage in work or training by reason of illness, incapacity, or advanced age;

"(2) the relative of a child under the age of six who is caring for such child;

"(3) the caretaker of a child, if the spouse of such caretaker or another adult relative is in the home and not excluded by paragraph (1), (2), (4), or (5) of this subsection (unless such spouse or relative has failed to register as required by subsection (a), or to accept services or employment or participate in training as required by subsection (c));

"(4) a child who is under the age of sixteen or meets the requirements of section 2155(b)(2); or

"(5) one whose presence in the home on a substantially continuous basis is required because of the illness or incapacity of another member of the household.

An individual described in paragraph (2), (3), (4), or (5) who would, but for the preceding sentence, be required to register pursuant to subsection (a), may, if he wishes, register as provided in such subsection, and upon so registering he shall, until he notifies the Secretary of Labor that he no longer wishes to remain registered, be considered as available for employment for purposes of this title.

"(c)(1) Every individual who is registered as required by subsection (a) shall participate in manpower services or training, and accept and continue to participate in employment in which he is able to engage, except where food cause exists for failure to participate in such services or training or to accept and continue to participate in such employment, as provided by the Secretary of Labor.

"(2) No individual shall be required by paragraph (1) to accept employment if—

"(A) the position offered is vacant due directly to a strike, a lockout, or other labor dispute;

"(B) the wages, hours, or other terms or conditions of the work offered are contrary to or less than those prescribed by applicable Federal, State, or local law or are less favorable to the individual than those prevailing for similar work in the locality, or the wages for the work offered are at an hourly rate of less than the minimum wage specified in section 6(a)(1) of the Fair Labor Standards Act of 1938;

"(C) as a condition of being employed the individual would be required to join a company union or to resign from or refrain from joining any bona fide labor organization; or

"(D) the individual has the demonstrated capacity, through other available training or employment opportunities, of securing work available to him that would better enable him to achieve self-sufficiency, or to accept or participate in employment or training if—

"(E) appropriate standards for health, safety, and other conditions applicable to the performance of such employment or training have not been established or are not maintained or such acceptance or participation would endanger the individual's health or safety;

"(F) the employment or training is so remote from the individual's residence that acceptance or participation would constitute a hardship; or

"(G) child care services meeting the standards prescribed under section 2134(a)(1), needed by the individual in order for him to accept or participate in employment or training, are unavailable or remote from his place of residence.

"CHILD CARE AND OTHER SUPPORTIVE SERVICES

"SEC. 2112. (a)(1) The Secretary of Labor shall make provision for the furnishing of child care services in such cases and for so long as he deems appropriate (subject to section 2179) for individuals who are currently registered pursuant to section 2111(a) or referred pursuant to section 2117(a) (or who have been so registered or referred within such period or periods of time as the Secretary of Labor may prescribe) and who need child care services in order to accept or continue to participate in manpower services, training, or employment, or vocational rehabilitation services.

"(2) In making provision for the furnishing of child care services under this subsection, the Secretary of Labor shall, in accordance with standards established pursuant to section 2134(a), but in no case less comprehensive than the 1968 Federal interagency day care requirements, arrange for or purchase, from whatever sources may be available, all such necessary child care services, including necessary transportation. Where available, services provided through facilities developed by the Secretary of Health, Education, and Welfare shall be utilized on a priority basis.

"(3) In cases where child care services in facilities developed by the Secretary of Health, Education, and Welfare are not available, and such services will not be available within such time as he and the Secretary of Labor may agree upon, the Secretary of Labor may provide such services (A) by grants to public or nonprofit private agencies or contracts with public or private agencies or other persons, through such public or private facilities as may be available and appropriate (except that no such funds may be used for the construction of facilities (as defined in section 2134(b)(2)), and (B) through the assurance of such services from other appropriate sources. In addition to other grants or contracts made under clause (A) of the preceding sentence, grants or contracts under such clause may be made to or with any agency which is designated by the appropriate elected or appointed official or officials in such area and which demonstrates a capacity to work effectively with the manpower agency in such area (including for the stationing of personnel with the manpower team in appropriate cases). To the extent appropriate, such care for children attending school which is provided on a group or institutional basis shall be provided through arrangements with the appropriate local educational agency.

"(4) The Secretary of Labor may require individuals receiving child care services made available under paragraph (2) or provided under paragraph (3) to pay (in accordance with the schedule or schedules prescribed under section 2134(a)) for part or all of the cost thereof, and may require (as a condition of benefits under this part) that individuals receiving child care services otherwise furnished pursuant to provision made by him under paragraph (1) shall pay for the cost of such services if such cost will be excludable under section 2153(b)(3).

"(5) In order to promote, in a manner

consistent with the purposes of this title, the effective provision of child care services, the Secretary of Labor shall assure the close cooperation of the manpower agency with the providers of child care srevices and shall, through the utilization of training programs and in cooperation with the Secretary of Health, Education, and Welfare, prepare persons registered pursuant to section 2111 for employment in child care facilities.

"(6) The Secretary of Labor shall regularly report to the Secretary of Health, Education, and Welfare concerning the amount and location of the child care services which he has had to provide (and expects to have to provide) under paragraph (3) because such services were not (or will not be) available under paragraph (2).

"(7) Of the amount appropriated to enable the Secretary of Labor to carry out his responsibilities under this subsection for any fiscal year, not less than 50 percent shall be expended by the Secretary of Labor in accordance with a formula under which the expenditures made in any State shall bear the same ratio to the total of such expenditures in all the States as the number of mothers registered under section 211 in such State bears to the total number of mothers so registered in all the States.

"(b)(1) The Secretary of Labor shall make provision for the furnishing of the health, vocational rehabilitation, counseling, social, and other supportive services (including physical examinations and minor medical services) which he determines under regulations to be necessary to permit an individual who has registered pursuant to section 2111(a) to undertake or continue manpower training or employment under this part and shall take all necessary steps to assure that such services are made available, on a priority basis, to any individual who is a mother or a pregnant woman and is under nineteen years of ago (whether for the purpose of allowing her to participate in programs under this part or to continue to meet the requirements, other than age, of section 2155(b)(2).

"(2) In addition, the Secretary of Labor shall make provision for the offering, to all appropriate members of families which include one or more individuals registered pursuant to section 2111(a), of family planning services, the acceptance of which by any such member shall be voluntary on the part of such member and shall not be a prerequisite to eligibility for or receipt of benefits under this part or otherwise affect the amount of such benefits.

"(3) Services furnished under this subsection shall be provided in close cooperation with manpower training and employment services provided under this part. In providing services under this subsection the Secretary of Labor, to the maximum extent feasible, shall assure that such services are provided in such manner, through such means, and using suth authority available under any other Act (subject to all duties and responsibilities thereunder) as will make maximum use of existing facilities, programs, and agencies, and shall regularly report to the Secretary of Health, Education, and Welfare on the extent to which he has been, and expects in the coming year to be, able to so provide services.

"(4) Of the sum authorized by section 2101 to be appropriated for the fiscal year ending June 30, 1974, not more than $100,000,000 shall be appropriated to the Secretary of Labor to enable him to carry out his responsibilities under paragraph (1) of this subsection.

"PAYMENTS OF BENEFITS

"SEC. 2113. Every eligible family (other than a family meeting the conditions for payment of benefits under section 2131) shall, in accordance with and subject to the other provisions of this title, be paid benefits by the Secretary of Labor as provided in part C.

"OPERATION OF MANPOWER SERVICES, TRAINING, AND EMPLOYMENT PROGRAMS

"SEC. 2114. (a) The Secretary of Labor shall develop, for each individual registered pursuant to section 2111(a), an employability plan describing the manpower services, training, and employment which the individual needs in order to enable him to become self-supporting and secure and retain employment and opportunities for advancement. Employability plans under this subsection shall be developed in accordance with priorities prescribed by the Secretary of Labor.

"(b) The Secretary of Labor shall establish manpower services, training, and employment programs for individuals registered pursuant to section 2111(a), and shall, through such programs, provide or assure the provision of manpower services, training, and employment necessary to prepare such individuals for and place them in regular employment, including—

"(1) any of such services, training, and employment which the Secretary of Labor is authorized to provide under any other Act;

"(2) counseling, testing, coaching, program orientation, institutional and on-the-job training, work experience, upgrading, job development, job placement, and followup services required to assist in securing and retaining employment and opportunities for advancement;

"(3) relocation assistance, including grants, loans, and the furnishing of such services as will aid an involuntarily unemployed individual who desires to relocate to do so in an area where there is assurance of regular employment; and

"(4) public service employment programs.

"(c)(1) For the purpose of subsection (b)(4), a 'public service employment program' is a program designed to provide employment as described in paragraph (2) for individuals who (during the period of such employment) are not otherwise able to obtain employment or to be effectively placed in training programs. Such a program shall provide employment relating to such fields as health, social service, environmental protection, education, urban and rural development and redevelopment, welfare, recreation, criminal justice, public facilities, and public safety or any other field which would benefit the community, the State, or the United States as a whole, by improving physical, social, or economic conditions.

"(2) The Secretary of Labor shall provide for the development of public service employment programs through grants to or contracts with any public or nonprofit private agency or organization. Such programs shall be designed with a view toward—

"(A) providing for development of employability through actual work experience; and

"(B) enabling individuals employed under public service employment programs to move into regular public or private employment.

"(3) Before making any grant or entering into any contract for a public service employment program under this subsection, the Secretary of Labor must receive assurances that—

"(A) appropriate standards for health, safety, and other conditions applicable to the performance of work and training have been established and will be maintained;

"(B) available employment opportunities will be increased and the program will not result in a reduction in the employment and labor costs of any employer or in the displacement of persons currently employed, including partial displacement resulting from a reduction in hours of work or wages, or employment benefits;

"(C) the conditions of work, training, education, and employment are reasonable in the light of such factors as the type of work, the geographic region, and the proficiency of the participants;

"(D) appropriate workmen's compensation protection is provided to all participants; and

"(E) the employability of participants will be increased.

"(4) Wages paid to an individual participating in a public service employment program shall be equal to the highest of—

"(A) the prevailing rate of wages in the same labor market area for persons employed in similar public occupations;

"(B) the applicable minimum wage rate prescribed by Federal, State, or local law; or

"(C) the minimum wage specified in section 6(a)(1) of the Fair Labor Standards Act of 1938.

"(5) The Secretary of Labor shall periodically review the employment record of each individual participating in a public service employment program. On the basis of that record and any other information he may require, the Secretary of Labor shall determine the feasibility of placing such individual in regular employment or in on-the-job institutions, or other training.

"(6) The Secretary of Labor shall make payments for not more than the first three years of an individual's employment in any public service employment program. Payments during the first year of such individual's employment shall not exceed 100 percent of the cost of providing such employment to such individual during such first year, payments during the second year of such individual's employment shall not exceed 75 percent of the cost of providing such employment to such individual during such second year, and payments during the third year of such individual's employment shall not exceed 66⅔ percent of the cost of providing such employment to such individual during such third year.

"(d) In order to assure an adequate supply of information concerning opportunities for employment by States, their political subdivisions, or by private employers, any such employer receiving Federal assistance, through a grant-in-aid or contract under this title or any other provision of law, shall provide the Secretary of Labor with complete, up-to-date listings of all employment vacancies that such employer may have in positions or programs wholly or partially supported through such Federal assistance. The fulfillment of this requirement shall be a condition for receiving such assistance.

"(e) The Secretary of Labor shall enter into agreements with the heads of other Federal agencies administering grant-in-aid programs to establish annual and multiyear goals for the employment of members of families receiving benefits under this title in employment wholly or partially supported through such Federal assistance. For the purposes of carrying out these agreements Federal agencies may provide, notwithstanding any other provision of law, that the establishment of such goals shall be a condition for receiving such assistance.

"(f) Of the sums authorized by section 2101 to be appropriated for the fiscal year ending June 30, 1974—

"(1) not more than $540,000,000 shall be appropriated to the Secretary of Labor to enable him to carry out his responsibilities under subsections (a) and (b) (except subsection (b)(4)) of this section, and under section 2115, and

"(2) not more than $1,200,000,000 shall be appropriated to the Secretary of Labor for the public service employment program under subsection (b)(4) of this section.

"EQUAL EMPLOYMENT OPPORTUNITIES

"SEC. 2115. (a) (1) The Secretary of Labor shall, in the administration of part A, periodically and regularly consult with representatives of employers in the private and public sectors of the economy and with representatives of families and individuals who are receiving or are eligible to receive manpower services, training, and employment under this Act.

"(2) The Secretary of Labor shall take all

necessary steps to terminate discriminatory practices of public and private employers and thereby make employment opportunities available to needy individuals. To this end, the Secretary shall assure that all participants in this program are treated without discrimination on the basis of race, religion, sex, or national origin, and for this purpose shall establish detailed equal opportunity reporting requirements with respect to all activities under this part affecting recipients of benefits hereunder, including job referrals, salary levels and placements, and on the nature of job listings made available under the program. The Secretary of Labor shall report to the Congress at least annually on the steps he has taken under this section and the results he has achieved.

"(b) Of the sums authorized by section 2101 to be appropriated for the fiscal year ending June 30, 1974, not more than $10,000,000 shall be appropriated to the Secretary of Labor to enable him to carry out his responsibilities under this section.

"ALLOWANCES FOR INDIVIDUALS PARTICIPATING IN TRAINING

"SEC. 2116. (a)(1) The Secretary of Labor shall pay to each individual who is a member of an eligible family and who is participating in manpower training under this part an incentive allowance of $30 per month. If one or more members of a family are receiving training for which training allowances are payable under section 203 of the Manpower Development and Training Act and meet the other requirements under such section (except subsection (1)(1) thereof) for the receipt of allowances which would be in excess of the sum of such family's benefit under this part and any supplementary payment to such family under section 2156, the Secretary of Labor shall determine the total of the incentive allowances per month for such members to be paid under this section, after giving consideration to the amount of training allowances being paid to others participating in the same training, but such amount shall not exceed (A) the amount of such excess or, if lower, the amount of the excess of the training allowances which would be payable under such section 203 as in effect on January 1, 1971, over the sum of such family's benefit under this part and any such supplementary payment, and shall in no event be less than (B) $30 for each such member.

"(2) The Secretary of Labor shall also pay, to any member of an eligible family participating in manpower training under this part, allowances for transportation and other costs to such member which are reasonably necessary to and directly related to such member's participation in training.

"(b) In such cases as the Secretary of Labor may prescribe, the allowances required to be paid to an individual under this section may be paid, in whole or in part, from funds available under any other Act for allowances under any manpower training program in which such individual is participating. Any allowances so paid shall be deemed, for purposes of section 2153(b)(6), to be allowances under this section.

"(c) Subsection (a) shall not apply to any member of an eligible family who is receiving wages under a program of the Secretary of Labor or who is participating in manpower training which has the purpose of obtaining for him an undergraduate or graduate degree at a college or university.

"UTILIZATION OF OTHER PROGRAMS

"SEC. 2117. In providing the manpower training and employment services and opportunities required by this part the Secretary of Labor, to the maximum extent feasible, shall assure that such services and opportunities are provided in such manner, through such means, and using all of such authority available to him under any other Act (and subject to all duties and responsibilities thereunder) as will further the establishment of an integrated and comprehensive manpower training program involving all sectors of the economy and all levels of government. The Secretary of Labor shall also take such actions as may be necessary to insure that individuals who are eligible under this part are given priority for participation in other Federal or federally assisted programs which are designed to promote employability, or to provide employment opportunities.

"REHABILITATION SERVICES FOR INCAPACITATED FAMILY MEMBERS

"SEC. 2118. (a) In the case of any individual who is a member of a family receiving benefits under this part and who is not required to register pursuant to section 2111(a) solely because of his incapacity under section 2111(b)(1), the Secretary of Labor shall make provision for referral of such individual to the appropriate State agency administering the State plan for vocational rehabilitation services approved under the Vocational Rehabilitation Act, and (except in such cases as he may determine) for a review not less often than quarterly of such individual's incapacity and his need for and utilization of the rehabilitation services made available to him under such plan.

"(b) Every individual with respect to whom the Secretary of Labor is required to make provision for referral under subsection (a) shall accept such rehabilitation services as are made available to him under the State plan for vocational rehabilitation services approved under the Vocational Rehabilitation Act, except where good cause exists for failure to accept such services; and the Secretary of Labor is authorized to pay to the State agency administering or supervising the administration of such State plan the costs incurred in the provision of such services to such individuals.

"(c)(1) The Secretary of Labor shall pay to each family member with respect to whom the Secretary of Labor is required to make provision for referral under subsection (a) and who is receiving vocational rehabilitation services pursuant to such provision an incentive allowance of $30 per month.

"(2) The Secretary of Labor shall also pay, to any member of an eligible family with respect to whom the Secretary of Labor is required to make provision for referral under subsection (a) and who is receiving vocational rehabilitation services pursuant to such provision, allowances for transportation and other costs to such member which are necessary to and directly related to such member's participation in such services.

"EVALUATION AND RESEARCH; REPORTS

"SEC. 2119. (a)(1) The Secretary of Labor shall provide for the continuing evaluation of the program conducted under this part and of activities conducted under part C and D insofar as they involve or are related to such program, including the effectiveness of such program in achieving its goals and its impact on other related programs. The Secretary of Labor may conduct research regarding, and demonstrations of, ways to improve the effectiveness of the program conducted under this part, and in so doing may waive any requirement or limitation imposed by or pursuant to this title to the extent he deems appropriate. The Secretary of Labor may, for these purposes, contract for evaluations of and research regarding such program. Specifically, the report shall contain information relevant to determining the need for additional training and employment opportunities, including the number of individuals—

"(A) who registered during the year;

"(B) for whom employability plans were developed during the year;

"(C) who were placed in training under this title during the year;

"(D) who completed training under this title during the year;

"(E) who were placed in jobs during the year and of that number, the number who were placed in jobs for which they were trained under this title;

"(F) the number of persons placed in public service employment during the year; and

"(G) the number of persons enrolled in manpower programs, other than those funded under this title.

"(2) Of the sums authorized by section 2101 to be appropriated for any fiscal year, in addition to amounts otherwise available therefor, not more than $10,000,000 shall be appropriated for purposes of paragraph (1).

"(b) The Secretary of Labor shall, in conducting the activities provided for in subsection (a)(1), utilize the data collection, processing, and retrieval system established for use in the operation and administration of the program under this part.

"(c) The Secretary of Labor shall make an annual report to the President and the Congress on the operation and administration of the program under this part, including an evaluation thereof in carrying out the purpose of this title and recommendations with respect thereto.

"PART B—FAMILY ASSISTANCE PLAN

"PAYMENT OF BENEFITS

"SEC. 2131. Every eligible family in which there is no member available for employment who has registered pursuant to section 2111 shall, in accordance with and subject to the other provisions of this title, be paid benefits by the Secretary of Health, Education, and Welfare as provided in part C.

"REHABILITATION SERVICES FOR INCAPACITATED FAMILY MEMBERS

"SEC. 2132.(a) In the case of any individual who is a member of a family receiving benefits under this part and who is not required to register pursuant to section 2111 (a) solely because of his incapacity under section 2111 (b) (1), the Secretary of Health, Education, and Welfare shall make provision for referral of such individual to the appropriate State agency administering or supervising the administration of the State plan for vocational rehabilitation services approved under the Vocational Rehabilitation Act, and (except in such cases as he may determine) for a review not less often than quarterly of such individual's incapacity and his need for and utilization of the rehabilitation services made available to him under such plan. An individual who is not required to register pursuant to section 2111 (a) because he meets the description of paragraphs (2), (3), (4), or (5) of section 2111 (b) and who is also incapacitated within the meaning of paragraph (1) of such section may, if he wishes, request the Secretary of Health, Education, and Welfare to refer him to such State agency, and such individual shall, until he notifies the Secretary of Health, Education, and Welfare that he wishes to withdraw his request, be considered an individual with respect to whom the Secretary of Health, Education, and Welfare is required to make provision for referral under this subsection.

"(b) Every individual with respect to whom the Secretary of Health, Education, and Welfare is required to make provision for referral under subsection (a) shall accept such rehabilitation services as are made available to him under the State plan for vocational rehabilitation services approved under the Vocational Rehabilitation Act, except where good cause exists for failure to accept such services; and the Secretary of Health, Education, and Welfare is authorized to pay to the State agency administering or supervising the administration of such State plan the costs incurred in the provision of such services to such individuals.

"(c)(1) The Secretary of Health, Education, and Welfare shall pay to each family member with respect to whom the Secretary of Health, Education, and Welfare is required

to make provision for referral under subsection (a) and who is receiving vocational rehabilitation services pursuant to such provision an incentive allowance of $30 per month.

"(2) The Secretary of Health, Education, and Welfare shall also pay, to any member of an eligible family with respect to whom the Secretary of Health, Education, and Welfare is required to make provision for referal under subsection (a) and who is receiving vocational rehabilitation services pursuant to such provision, allowances for transportation and other costs to such member which are reasonably necessary to and directly related to such member's participation in such services.

"CHILD CARE AND OTHER SUPPORTIVE SERVICES

"SEC. 2133. (a) (1) The Secretary of Health, Education, and Welfare shall make provision for the furnishing of child care services in such cases and for so long as he deems appropriate (subject to section 2178) for individuals who are currently referred pursuant to section 2132(a) for vocational rehabilitation (or who have been so referred within such periods or periods of time as the Secretary of Health, Education, and Welfare may prescribe) and who need child care services in order to be able to participate in the vocational rehabilitation program.

"(2) In making provision for the furnishing of child care services under this subsection, the Secretary of Health, Education, and Welfare shall arrange for the purchase, from whatever sources may be available, all such necessary child care services, including necessary transportation, placing priority on the use of facilities developed pursuant to section 2134.

"(3) Where child care services cannot as a practical matter be made available in facilities developed pursuant to section 2134, the Secretary of Health, Education, and Welfare may provide such services, by grants to public or nonprofit private agencies or contracts with public or private agencies or other persons, through such public or private facilities as may be available and appropriate (except that no such funds may be used for the construction of facilities (as defined in section 2134(b)(2)). In addition to other grants be or contracts made under the preceding sentence, grants or contracts under such sentence may be made to or with an agency which is designated by the appropriate elected or appointed official or officials in such area and which demonstrates a capacity to work effectively with the manpower agency in such area (including provision for the stationing of personnel with the manpower team in appropriate cases.) To the extent appropriate, such care for children attending school which is provided on a group or institutional basis shall be provided through arrangements with the appropriate local educational agency.

"(4) The Secretary of Health, Education, and Welfare may require individuals receiving child care services made available under paragraph (2) or provided under paragraph (3) to pay (in accordance with the schedule or schedules prescribed under section 2134 (a)) for part or all of the cost thereof, and may require (as a condition of benefits under this part) that individuals receiving child care services otherwise furnished pursuant to provision made by him under paragraph (1) shall pay for the cost of such services if such cost will be excludable under section 2153(b)(3).

"(b) In addition, the Secretary of Health, Education, and Welfare shall make provision for the offering, to all appropriate members of families receiving benefits under this part, of family planning services, the acceptance of which by any such member shall be voluntary on the part of such member and shall not be a prerequisite to eligibility for or receipt of benefits under this part or otherwise affect the amount of such benefits.

"STANDARDS FOR CHILD CARE; DEVELOPMENT OF FACILITIES

"SEC. 2134. (a) In order to promote the effective provision of child care services, the Secretary of Health, Education, and Welfare shall (1) establish, with the concurrence of the Secretary of Labor, standards assuring the quality of child care services provided under this title (including child care to which section 2153(b)(3) applies), (2) prescribe such schedule or schedules as may be appropriate for determining the extent to which families are to be required (in the light of their ability) to pay the costs of child care for which provision is made under section 2112 (a)(1) or section 2133(a)(1), and (3) coordinate the provision of child care services under this title with other child care and social service programs which are available.

"(b)(1) The Secretary of Health, Education, and Welfare, taking into account the requirement of section 2112(a)(7), is authorized to provide for (and pay part or all of the cost of) the construction of facilities, through grants to or contracts made with public or private nonprofit agencies or organizations, in or through which child care services are to be provided under this title.

"(2) For purposes of this subsection, the term 'construction' means acquisition, alteration, remodeling, or renovation of facilities, and includes, where the Secretary finds it is not feasible to use or adapt existing facilities for use for the provision of child care, construction (including acquisition of land therefor) of facilities for such care.

"(3) If within twenty years of the completion of any construction for which Federal funds have been paid under this subsection—

"(A) the owner of the facility shall cease to be a public or nonprofit private agency or organization, or

"(B) the facility shall cease to be used for the purposes for which it was constructed, unless the Secretary determines in accordance with regulations that there is good cause for releasing the owner of the facility from the obligation to do so.

the United States shall be entitled to recover from the owner of the facility an amount which bears to the then value of the facility (or so much thereof as constituted an approved project or projects) the same ratio as the amount of such Federal funds bore to the cost of construction of the facility financed with the aid of such funds. Such value shall be determined by agreement of the parties or by action brought in the United States district court for the district in which the facility is situated.

"(4) All laborers and mechanics employed by contractors or subcontractors on all construction projects assisted under this subsection 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. 276(a)-276(a)-5). The Secretary of Labor shall have with respect to the labor standards specified in this subsection the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176) and section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276(c)).

"(5) Of the sums authorized by section 2101 to be appropriated for any fiscal year, not more than $100,000,000 shall be appropriated for purposes of the provisions of this subsection.

"(c) The Secretary of Health, Education, and Welfare is authorized to make grants to any public or nonprofit private agency or organization, and contracts with any public or private agency or organization, for part or all of the cost of planning; establishment of new child care facilities or improvement of existing child care facilities, and operating costs (for periods not in excess of 24 months or for such longer periods as the Secretary finds necessary to insure continued operation) of such new or improved facilities; evaluation; training of personnel, especially the training of individuals receiving benefits pursuant to part A and registered pursuant to section 2111; technical assistance; and research or demonstration projects to determine more effective methods of providing any such care.

"(d)(1) The Secretary of Health, Education, and Welfare shall, directly or through grant or contract and on a continuing basis, evaluate the child care services provided with assistance under section 2112, 2133, of this section, or in facilities constructed with assistance under this section, to assure that such services comply with the quality standards established under subsection (a) and to review the adequacy of such standards in light of the needs and particular circumstances of the children (and their families) receiving such services.

"(2) Of the sums authorized by section 2101 to be appropriated for any fiscal year, not more than $25,000,000 shall be appropriated for purposes of the provisions of this subsection.

"EVALUATION AND RESEARCH; REPORTS

"SEC. 2135. (a)(1) The Secretary of Health, Education, and Welfare shall provide for the continuing evaluation of the program conducted under this part and of activities conducted under parts C and D insofar as they involve or are related to such program, including the effectiveness of such program in achieving its goals and its impact on other related programs. The Secretary of Health, Education, and Welfare may conduct research regarding, and demonstrations of, ways to improve the effectiveness of the program conducted under this part, and in so doing may waive any requirement or limitation imposed by or pursuant to this title to the extent he deems appropriate. The Secretary of Health, Education, and Welfare may, for these purposes, contract for evaluations of and research regarding such program.

"(2) Of the sums authorized by section 2101 to be appropriated for any fiscal year and in addition to funds otherwise available therefore, not more than $10,000,000 shall be appropriated for purposes of paragraph (1).

"(b) The Secretary shall, in conducting the activities provided for in subsection (a)(1), utilize the data collection, processing, and retrieval system established for use in the operation and administration of the program under this part.

"(c) The Secretary of Health, Education, and Welfare shall make an annual report to the President and the Congress on the operation and administration of the program under this part, including an evaluation thereof in carrying out the purposes of this title and recommendations with respect thereto.

"PART C—DETERMINATION OF BENEFITS

"DETERMINATIONS; REGULATIONS

"SEC. 2151. Except as otherwise specifically provided in this title, detterminations under this part and part D shall be made—

"(1) by the Secretary of Labor with respect to benefits payable under part A and families claiming or receiving such benefits (and the term 'Secretary' means the Secretary of Labor when used in this part and part D with respect to such benefits and families), and

"(2) by the Secretary of Health, Education, and Welfare with respect to benefits payable under part B and families claiming or receiving such benefits (and the term 'Secretary' means the Secretary of Health, Education, and Welfare when used in this part and part D with respect to such benefits and families);

but in either case such determinations shall be made under and in accordance with regulations which shall be prescribed by the Secretary of Health, Education, and Welfare

with the concurrence of the Secretary of Labor and which shall be designed to assure that such determinations will be made uniformly by the two Secretaries, so that to the maximum extent feasible any such determination made by either such Secretary (including any interpretation of law or application of fact made by either such Secretary as a basis for such a determination) will be the same as the determination which would be made by the other such Secretary on the same facts and under the same circumstances.

"ELIGIBILITY FOR AND AMOUNT OF BENEFITS

"Definition of Eligible Family

"SEC. 2152. (a) Each family (as defined in section 2155)—

"(1) whose income, other than income excluded pursuant to section 2153(b), is at a rate of not more than—

"(A) $900 per year for each of the first two members of the family, plus

"(B) $400 per year for each of the next three members, plus

"(C) $300 per year for each of the next two members, plus

"(D) $200 per year for the next member, plus

"(E) $100 per year for each additional member, and

"(2) whose resources, other than resources excluded pursuant to section 2154, are not more than $1,500,

shall be an eligible family for purposes of this title.

"Amount of Benefits

"(b) The benefit for a family under part A or part B shall be payable at the rate—

"(1) $900 per year for each of the first two members of the family, plus

"(2) $400 per year for each of the next three members, plus

"(3) $300 per year for each of the next two members, plus

"(4) $200 per year for the next member, plus

"(5) $100 per year for each additional member, reduced by the amount of income, not excluded pursuant to section 2153(b), of the members of the family.

"Exclusion of Certain Family Members

"(c) The amount of benefits which is payable to a family as determined in accordance with subsection (b) shall with respect to each family member (whether or not taken into account under subsection (b) in determining such amount) who is available for employment and fails to register as required by section 2111(a), or fails to accept manpower services or accept or continue in employment or participate in training as required by section 2111(c), or refuses to accept or continue to participate in rehabilitation services as required by section 2117 (b) or 2132(b), be reduced by—

"(1) $900 per year in the case of each of the first two such members,

"(2) $400 per year in the case of each of the next three such members,

"(3) $300 per year in the case of the next two such members,

"(4) $200 per year in the case of the next such member, and

"(5) $100 per year in the case of each additional such member,

or by proportionately smaller amounts for shorter periods.

"Period for Determination of Benefits

"(d)(1) The amount of benefits payable shall be determined in any month for the preceding month on the basis of the Secretary's determination of the family's income in such preceding month and any income which the Secretary determines pursuant to paragraph (2) should be treated as if it had been received in such preceding month.

"(2)(A) The Secretary shall prescribe the cases in which and the extent to which income received in one month shall be treated as if it were received in the month for which a determination is made pursuant to paragraph (1), and in any case in which he prescribes that income shall be so treated, he shall also prescribe the extent to which the provisions of section 2153(b) shall apply to such income.

"(B) In any case in which the Secretary determines that a family member receives income on a regular or predictable basis during a calendar year but in amounts which vary from month to month during such year, he shall treat the total amount of the annual income of such a member which is received on such basis as if one-twelfth of such total amount had been received in each month of such year and the provisions of section 2153 (b) shall be applied in like manner.

"(C) Notwithstanding any other provision of this paragraph, the Secretary shall only apply subparagraph (A) with respect to any month to—

"(i) the income of an individual who is not incapacitated and who was a member of the family both at the time the income was received and in the month for which the determination is made;

(ii) any family which received benefits under this title in any of the sixty months preceding such month (while the same individual was the head of the household in the month in which the benefits were previously received and in the month for which the determination is made) and in which, in any of the months for which it received benefits and in the month for which the determination is made, the head of the household was available for employment (as defined in section 2111(b)); and

"(iii) income received in one of the eleven months immediately preceding such month.

The Secretary may make an exception to any of the types of cases he prescribes pursuant to paragraph (A) where he finds that failure to do so would clearly be against equity or good conscience or would work extreme hardship on the family.

"(3) For purposes of paragraph (2), income not excluded under section 2153(b) with respect to the month for which a determination is made shall be considered first, to reduce the amounts described in subsection (b); if benefits are payable thereafter, they shall be reduced by applying income not so excluded with respect to the first preceding month, then with respect to the second such month, and so on through the eleventh such month, in that order. In the case of a family which did not receive benefits in each of the eleven preceding months, the Secretary may estimate (in the absence of satisfactory evidence) any amount which is needed for the determination of benefits under paragraph (2).

"(4) For purposes of this subsection an application shall be considered to have been filed on the first day of the month in which it was actually filed.

"Study of the Problems of the Long-Term Poor

"(e)(1) The Secretary shall conduct a study of a representative number of families who have been paid benefits under this title for 24 consecutive months in order to determine the causes of the problems of the long-term poor.

"(2) The Secretary shall also conduct a study of the desirability of including married couples without children and single individuals who are not members of families under the programs operated pursuant to this title and include in his report his findings on matters such as the effectiveness of such programs for such couples and individuals and the feasibility and cost of so expanding the programs.

"(3)(A) The Secretary shall also conduct a study or studies of the effects of the provision of section 2153(b)(3) upon families described in part A, and in particular shall study the effect of excluding from earned income, for purposes of determining eligibility for and amount of benefits under this title (including payments under section 2156), one-half, one-third, or other percentages of such income, in lieu of excluding two-fifths of such income, and shall include in his report his findings on the effectiveness of excluding such alternative amounts of earned income upon the effectiveness of the program in assisting families to become economically self-sufficient, and upon the costs of the program.

"(4) The Secretary shall include, in his second annual report to the Congress pursuant to section 2135(c), his findings and recommendations in regard to each of the matters upon which he has conducted studies pursuant to this subsection.

"(5) Of the sums authorized by section 2101 to be appropriated for the fiscal years ending June 30, 1974, June 30, 1975, and June 30, 1976, not more than $1,000,000, in the aggregate, shall be appropriated for purposes of this subsection except that amounts of benefits payable by reason of excluding, in connection with a study under paragraph (3), amounts of earned income in excess of the amount which would be excluded pursuant to section 2153(b)(3), shall not be subject to the limitation of this paragraph.

"Special Limits on Gross Income

"(f) The Secretary may prescribe the circumstances under which, consistently with the purposes of this title, the gross income from a trade or business (including farming) will be considered sufficiently large to make such family ineligible for such benefits. For purposes of this subsection, the term 'gross income' has the same meaning as when used in chapter 1 of the Internal Revenue Code of 1954.

"Certain Individuals Ineligible

"(g) Notwithstanding subsection (a), no individual shall be considered a member of a family for purposes of determining the amount of such family's benefits if, after notice by the Secretary that it is likely that such individual is eligible for any payments of the type enumerated in section 2153(a)(2)(A), such individual fails within 30 days to take all appropriate steps (including acceptance of any employment offered under any of the conditions specified in subparagraphs (A) through (D) of section 2111(c)(2)) to apply for and (if eligible) obtain any such payments and the benefits payable with respect to such family shall be reduced by reason of such individual's failure in the same fashion as that prescribed in subsection (c).

"Puerto Rico, the Virgin Islands, and Guam

"(h) For special provisions applicable to Puerto Rico, the Virgin Islands, and Guam, see section 1108(e).

"INCOME

"Meaning of Income

"SEC. 2153. (a) For purposes of this part, income means both earned income and unearned income; and—

"(1) earned income means only—

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

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

"(2) unearned income means all other income, including support and maintenance furnished in cash or otherwise and including—

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

"(B) prizes and awards;

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

"(D) gifts (cash or otherwise), support and alimony payments, and inheritances, except that gifts or inheritances received by a family member in a form not readily convertible to cash (as determined in accordance with criteria prescribed by the Secretary) may, at the option of such family member, be considered as resources for purposes of this title; and

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

"Exclusions From Income

"(b) In determining the income of a family there shall be excluded (in the same order as the numbered paragraphs of this subsection)—

"(1) subject to limitations (as to amount or otherwise) prescribed by the Secretary, the earned income of each child in the family who is, as determined by the Secretary under regulations, a student regularly attending a school, college, or university, or a course of vocational or technical training designed to prepare him for gainful employment;

"(2)(A) the total unearned income of all members of a family in a calendar quarter which, as determined in accordance with criteria prescribed by the Secretary, is received too infrequently or irregularly to be included, if such income so received does not exceed $60 in such quarter, and (B) the total earned income of all members of a family in a calendar quarter which, as determined in accordance with such criteria, is received too infrequently or irregularly to be included, if such income so received does not exceed $30 in such quarter;

"(3) the first $720 per year (or proportionately smaller amounts for shorter periods) of the total of earned income of all members of the family plus two-fifths of the remainder thereof;

"(4) an amount of earned income of a member of the family equal to all, or such part (and according to such schedule) as the Secretary may prescribe, of the cost incurred by such member for child care which the Secretary deems necessary to securing or continuing in manpower training, vocational rehabilitation, employment, or self-employment;

"(5) an amount of earned income which in accordance with a scheduled prescribed by the Secretary which takes into consideration only the family's total earned income which is not excluded by other paragraphs of this subsection and the number of members in the family, in order to take appropriate account of Federal taxes which are withheld from or must be paid on such earned income;

"(6) subject to section 2156, any assistance (except veterans' pensions paid by the United States) which is based on need and furnished by any State or political subdivision of a State or any Federal or other public agency (including relocation assistance under section 2114(b)(3)), or by any private agency or organization exempt from taxation under section 501(b) of the Internal Revenue Code of 1954 as an organization described in section 501(c) (3) or (4) of such Code;

"(7)(A) allowances under section 2115(a), 2117(c), or 2132(c);

"(B) allowances of the types described in such sections which are paid by a State or political subdivision thereof to a member of a family receiving benefits under this title, to the extent that such allowances do not exceed $30 per month;

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

"(9) home produce of a member of the family utilized for its own consumption;

"(10) one-third of any payments received for the support of children who are family members, or as alimony paid to family members; and

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

"(12) any amounts paid to or on behalf of a member of the family because of or to be used for meeting the health care costs of such member.

Notwithstanding any other provision of this part, the total amount which may be excluded under paragraph (4) in determining the income of any family for any year shall not exceed the lesser of—

"(i) $2,000 plus $200 for each child who is a family member in excess of three such children, or

"(ii) $3,000,

or a proportionately smaller amount for a shorter period.

"RESOURCES

"Exclusions From Resources

"SEC. 2154. (a) In determining the resources of a family there shall be excluded—

"(1) the home, to the extent that its value does not exceed such amount as the Secretary determines to be reasonable;

"(2) household goods and personal effects, to the extent that their total value does not exceed such amount as the Secretary determines to be reasonable; and

"(3) other property which, as determined in accordance with and subject to limitations prescribed by the Secretary, is so essential to the family's means of self-support or to the self-care of a member of such family as to warrant its exclusion.

In determining the resources of a family an insurance policy shall be taken into account only to the extent of its cash surrender value; except that if the total face value of all life insurance policies on any person is $1,500 or less, no part of the value of any such policy shall be taken into account.

"Disposition of Resources

"(b) The Secretary shall prescribe the period or periods of time within which, and the manner in which, various kinds of property must be disposed of in order not to be included in determining a family's eligibility for benefits. Any portion of the family's benefits paid for any such period shall be conditioned upon such disposal.

"MEANING OF FAMILY AND CHILD

"Meaning of Family

"SEC. 2155. (a) Two or more individuals—

"(1) who are related by blood, marriage, or adoption,

"(2) who are living in a place of residence maintained by one or more of them as his or their own home, or who live together as a family although not in a fixed or permanent place of residence,

"(3) all of whom are residents of the United States, and at least one of whom is either (A) a citizen or (B) an alien lawfully admitted for permanent residence, or lawfully present in the United States pursuant to section 212(d)(5) of the Immigration and Nationality Act of 1952, as amended (8 U.S.C. 1182(d)(5)), and

"(4) at least one of whom is a child who is in the care of or dependent upon another of such individuals,

shall be regarded as a family for purposes of this title and part A of title IV. A parent (of a child living in a place of residence referred to in paragraph (2)), or a spouse of such a parent, who is determined by the Secretary to be temporarily absent from such place of residence for the purpose of engaging in or seeking employment or self-employment (including military service) shall nevertheless be considered (for purposes of paragraph (2)) to be living in such place of residence. Notwithstanding any other provision of this title—

"(A) no two or more individuals in any household shall be considered a family for purposes of this title if the individual who is the head of such household attends a college or university on a full-time basis (other than such an individual who is a student as part of an employability plan developed by the Secretary of Labor pursuant to section 2114(a)); and

"(B) no individual shall (except as provided in the preceding sentence) be considered a member of a family for any of the purposes of this title with respect to any month during all of which such individual is outside the United States; and for purposes of this clause after an individual has been outside the United States for any period of 30 consecutive days, he shall be treated as remaining outside the United States until he has been in the United States for a period of 30 consecutive days.

"Meaning of Child

"(b) For purposes of this title, the term 'child' means an individual who is neither married nor (as determined by the Secretary) the head of a household, and who is (1) under the age of eighteen, or (2) under the age of twenty-two and (as determined by the Secretary) a student regularly attending a school, college, or university, or a course of vocational or technical training designed to prepare him for gainful employment.

"Income and Resources or Noncontributing Individual

"(c) For purposes of determining eligibility for and the amount of benefits for any family there shall be excluded the income and resources of any individual, other than a parent of a child, or a spouse of a parent, who is a family member, which, as determined in accordance with criteria prescribed by the Secretary, is not available to other members of the family; and for such purposes such individual—

"(1) in the case of a child, shall be regarded as a member of the family for purposes of determining the family's eligibility for such benefits but not for purposes of determining the amount of such benefits, and

"(2) in any other case, shall not be considered a member of the family for any purpose.

"United States

"(d) For purposes of this title, the term 'United States', when used in a geographical sense, means the States and the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, and Guam.

"Recipients of Assistance for the Aged, Blind, and Disabled Ineligible

"(e) If an individual is receiving benefits under title XX, then, for the period for which such benefits are received, such individual shall not be regarded as a member of a family for purposes of determining the amount of the benefits of the family under this title and his income and resources shall not be counted as income and resources of a family under this title.

"STATE SUPPLEMENTATION

"SEC. 2156. (a) If, in any State, the amount which a family of a given size with no other income would receive as benefits under this title, is less than the adjusted payment level applicable to a family of the same size under the plan of such State approved under part A of title IV, for January 1971 or the month prior to the month of enactment of this title, such State shall make a supplementary payment to each family described in subsection (c)(2)(D). The amount of such supple-

mentary payment shall be computed as prescribed in subsection (b)(1).

"(b)(1) The amount of the supplementary payment made pursuant to subsection (a) shall not be less than the difference between—

"(A) the adjusted payment level applicable to such family for January 1971 or, if higher, the month preceding the month of enactment of this title under the State plan approved under part A of title IV, and

"(B)(i) the benefits, if any, paid to such family under this title, plus (ii) any income not excluded under section 2153(b) in determining such benefits (or which would not be excluded if the provisions of such section were applicable to such income).

"(2) For the purposes of this section, the 'adjusted payment level' under the State plan approved under part A of title IV with respect to any month means the amount of the money payment which a family (of a given size) with no other income would have received under such State plan plus—

"(A) the bonus value of food stamps available to a family (of the same size) in such State for such month, as defined in paragraph (3), and

"(B) at the option in the State, a payment level modification, as defined in paragraph (4).

"(3) For purposes of this section, the term 'bonus value of food stamps available to a family' of a given size with respect to any month means—

"(A) the face value of the coupon allotment which would have been provided to a family (of the same size) under the Food Stamp Act of 1964 for such month, reduced by

"(B) the charge which such family would have paid for such coupon allotment.

if the income of such family, for purposes of determining the charge it would have paid for its coupon allotment, had been equal to the adjusted payment level under the State plan (including any payment level modification with respect to the plan adopted pursuant to paragraph (2) (but not including any amount under this paragraph)). The total face value of food stamps and the cost thereof in any month shall be determined in accordance with rules prescribed by the Secretary of Agriculture in effect for such month.

"(4) For purposes of this section, a 'payment level modification' with respect to any State plan approved under part A of title IV means that amount by which a State which for January 1971 made money payments under such plan to families with no other income which were less than 100 per centum of its standard of need could have increased such money payments without increasing (if it reduced its standard of need under such plan so that such increased money payments equaled 100 per centum of such standard of need) the non-Federal share of expenditures as aid for such month (as defined in paragraph (5)) under the plan of such State approved under such part A.

"(5) For purposes of this section, the 'non-Federal share of expenditures as aid' for any specified period under the plan of a State approved under part A of title IV is the difference between—

"(A) the total expenditures in such period under such plan for aid (excluding emergency assistance under section 406(c)(1)(A) of this Act, foster care under section 408 of this Act, and expenditures authorized under section 1119 of this Act for repairing the home of an individual who was receiving aid under such plan (as such sections were in effect prior to the enactment of this title)), and

"(B) the total of the amounts determined under section 403 and section 1118 of this Act, and under section 9 of the Act of April 19, 1950, for such State with respect to such expenditures in such period.

"(c)(1) Each State which is required by subsection (a) to make supplementary payments shall enter into an agreement which satisfies paragraph (2) and which may, at the option of the State, provide that the Secretary will, on behalf of such State, make such supplementary payments to all families described in paragraph (2)(D) (or to all such families and to any other families specified by the State who are or, but for their income or resources, would be eligible for benefits under this title).

"(2) Any agreement between the Secretary and a State entered into pursuant to paragraph (1) shall specify the level of payment up to which families will be supplemented and shall provide that—

"(A) in determining the eligibility of any family for supplementary payments on the basis of the income of the family, all the provisions of section 2153(b) will apply, except that, with respect to any quarter, if benefits are paid to such family for such quarter under this title, such benefits will not be excluded from income in applying paragraph (5) of such section,

"(B) the determination of the amount of supplementary payments for which a family is eligible will be made without regard to any reduction in benefits under this title by reason of the application of section 2151 (c) or (g), and

"(C) in the case of any family whose benefits under this title have been reduced, by reason of the application of section 2151 (c) or (g), the supplementary payments for which such family is eligible will be reduced by an amount which bears the same ratio to such payments as such reduction bears such benefits (if they had not been so reduced),

"(D) such payments will be made to all families residing in the State who are receiving, or would, but for their income or resources, be eligible to receive benefits under this title, except that the State may, at its option, exclude—

"(i) families in which both parents of the child or children are present, neither parent is incapacitated, and the male parent is not unemployed, or

"(ii) if families in which both parents of the child or children are present, neither parent is incapacitated, and the male parent is employed would not have been eligible for payment under part A of title IV as in effect prior to the enactment of this title, such families and families described in clause (i), and if the agreement provides that the Secretary will, on behalf of the State, make the supplementary payments to families receiving benefits under this title, shall also provide—

"(E) such other rules with respect to eligibility for or amount of the supplementary payments, and such procedural or other general administrative provisions, as the Secretary finds necessary to achieve efficient and effective administration of both the program which he conducts under this title and the State supplementation.

"(d) Any State which has entered into an agreement with the Secretary under this subsection which provides that the Secretary will, on behalf of the State, make the supplementary payments required by subsection (a), shall, subject to section 503 of the Social Security Amendments of 1971, at such times and in such installments as may be agreed upon between the Secretary and such State, pay to the Secretary an amount equal to the expenditures made by the Secretary as such supplementary payments.

"(e) If any State, which is required by subsection (a) to make supplementary payments, does not make such payments in accordance with the provisions of subsections (b) and (c), or fails to make payments to the Secretary in accordance with subsection (d), the Secretary shall make such supplementary payments and, for this purpose, may withhold such amounts otherwise due such State under section 1903 as are necessary, in addition to the amounts, if any, such State is expending for supplementary payments, so that payments may be made in the amount prescribed in subsection (b) to all families described in subsection (c)(2)(D).

"PART D—PROCEDURAL AND GENERAL PROVISIONS

"PAYMENTS AND PROCEDURES

"Payment of Benefits

"SEC. 2171. (a)(1) Benefits under this title shall be paid at such time or times and in such installments as will best effectuate the purposes of this title, but in no event will such benefits be paid less often than monthly.

"(2)(A) Payment of the benefit of any family may be made to any one or more members of the family, or, if the Secretary finds, after reasonable notice and opportunity for hearing (which shall be held in the same manner and subject to the same conditions as a hearing under subsection (c)(1) and (2)) to the family member or members to whom the benefits are (or, but for this provision, would be) paid, that such member or members have such inability to manage funds that making payment to such member or members would be contrary to the welfare of the child or children in such family, he may make payment to any person (including an appropriate public or private agency) who is interested in or concerned with the welfare of the family. The Secretary shall investigate each case in which he has reason to believe that a family receiving payments under this title is unable to manage such payments in accordance with its best interest.

"(B) If the Secretary makes payment under subparagraph (A) to a person who is not a member of the family, he shall review his finding under the preceding sentence periodically to determine whether the conditions justifying such finding still exist, and, if they do not, he shall discontinue making payments to any person who is not a member of the family. If it appears to the Secretary that such conditions are likely to continue beyond a period specified by him, he shall take any steps he may find appropriate to protect the welfare of the child or children in the family.

"(C) No part of the benefits of any family may be paid to any member of such family who has failed to register as required by section 2111(a), or who fails to accept services or employment or participate in training as required by section 2111(c), or who refuses to accept rehabilitation services as required by section 2117(b) or section 2132(b); and the Secretary may, if he deems it appropriate, provide for the payment of such benefits during the period of such failure to any person (including an appropriate public or private agency) who is interested in or concerned with the welfare of the family, without making the finding required by subparagraph (A).

"(3) The Secretary may establish ranges of incomes within which a single amount of benefits under this title shall apply.

"(4) The Secretary may make, to any family initially applying for benefits under this title which is presumptively eligible for such benefits and which is faced with financial emergency, a cash advance against such benefits in an amount not exceeding $100, or the amount of the benefits, with respect to a period of one month, for which such family is presumptively eligible, which is greater.

"Overpayments and Underpayments

"(b) Whenever the Secretary finds that more or less than the correct amount of benefits has been paid with respect to any family, proper adjustment or recovery shall, subject to the succeeding provisions of this subsection, be made by appropriate adjustments in future payments to the family under part A or part B or by recovery from or payment to any one or more of the individuals who

are or were members thereof. The Secretary shall make such provision as he finds appropriate in the case of payment of more than the correct amount of benefits with respect to a family with a view to avoiding penalizing members of the family who were without fault in connection with the overpayment, if adjustment or recovery on account of such overpayment in such case would defeat the purposes of this title, or be against equity or good conscience, or (because of the small amount involved) impede efficient or effective administration of this title.

"Hearings and Review

"(c)(1) The Secretary shall provide reasonable notice and opportunity for a hearing to any individual who is or claims to be a member of a family and is in disagreement with any determination under this title with respect to—

"(A) eligibility of the family for benefits, the number of members of the family, or the amount of the family's benefits, or

"(B) the refusal of such individual to register for or participate or continue to participate in manpower services, training, or employment, or to accept employment or rehabilitation services,

if such individual requests a hearing on the matter in disagreement within thirty days after notice of such determination is mailed or otherwise given, except that the Secretary may extend the time for requesting a hearing if he finds that good cause exists therefor.

"(2) Determination on the basis of such hearing shall be made within ninety days after the individual requests the hearing as provided in paragraph (1), or within thirty days following the final day of the hearing, whichever is sooner.

"(3) The final determination of the Secretary after a hearing under paragraph (1) shall be subject to judicial review as provided in section 205(g) to the same extent as the Secretary's final determination under section 205.

"Procedures; Prohibition of Assignments; Representation of Claimants

"(d)(1) The provisions of section 207, section 206(a) (other than the fifth and sixth sentences thereof), and subsections (a), (d), (e), and (f) of section 205 shall apply with respect to this part to the same extent as they apply in the case of title II.

"(2) To the extent the Secretary finds it will promote the achievement of the objectives of this part, qualified persons may be appointed to serve as hearing examiners in hearings under subsection (c) without meeting the specific standards prescribed for hearing examiners by or under subchapter II of chapter 5 of title 5, United States Code.

"Applications and Furnishing of Information by Families

"(e)(1) The Secretary shall prescribe such requirements in the case of families or members thereof for the filing of applications, the suspension or termination of benefits, the furnishing of other data and material, and the reporting of events and changes in circumstances, as may be necessary to determine eligibility for and amount of family assistance benefits. A determination of the eligibility for and amount of benefits payable to any family shall be made, and notice of such determination provided to such family, within 30 days after application therefor has been filed in accordance with such requirements.

"(2) Each family who received benefits under part A or part B in a quarter shall be required, not later than 30 days after the close of such quarter, to submit a report to the Secretary containing such information and in such form as he may prescribe in order to enable him to determine eligibility for and the amount of the benefits payable to such family with respect to such quarter as provided in section 2152(d).

"(3) In order to encourage prompt reporting of events and changes in circumstances relative to eligiblity for or amount of family assistance benefits, and more accurate estimates of expected income or expenses by members of families for purposes of such eligibility and amount of benefits, the Secretary shall prescribe the cases in which and the extent to which failure to so report or delay in so reporting shall result in a reasonable penalty.

"Furnishing of Information by Other Agencies

"(f) The head of any Federal agency shall provide such information as the Secretary needs for purposes of determining eligibility for or amount of benefits, or verifying other information with respect thereto.

"PENALTIES FOR FRAUD

"SEC. 2172. Whoever—

"(1) knowingly and willfully makes or causes to be made any false statement or representation of a material fact in any application for any benefit under this title,

"(2) at any time knowingly and willfully makes or causes to be made any false statement or representation of a material fact for use in determining rights to any such benefit,

"(3) having knowledge of the occurrence of any event affecting (A) his initial or continued right to any such benefit, or (B) the initial or continued right to any such benefit of any other individual in whose behalf he has applied for or is receiving such benefit, conceals or fails to disclose such event with an intent fraudulently to secure such benefit either in a greater amount or quantity than is due or when no such benefit is authorized, or

"(4) having made application to receive any such benefit for the use and benefit of another and having received it, knowingly and willfully converts such benefit or any part thereof to a use other than for the use and benefit of such other person,

shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than $1,000 or imprisoned for not more than one year, or both.

"ADMINISTRATION

"SEC. 2173. The Secretary of Health, Education, and Welfare and the Secretary of Labor may each perform any of his functions under this title (or section 1124) directly through arrangements with each other or with other Federal agencies, or by contract with public or private agencies providing for payment in advance or by way of reimbursement, and in such installments, as he may deem necessary.

"ADVANCE FUNDING

"SEC. 2174. (a) For the purpose of affording adequate notice of funding available under this title, appropriations for grants, contracts, or other payments under part A and part B (other than benefits under section 2113 or 2131) are authorized to be included in an appropriation Act for the fiscal year preceding the fiscal year for which they are available for obligation.

"(b) In order to effect a transition to the advance funding method of timing appropriation action, subsection (a) shall apply notwithstanding that its initial application will result in 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.

"OBLIGATION OF DESERTING PARENTS

"SEC. 2175. In any case where an individual is separated from his spouse or has deserted or abondoned his spouse or his child or children and such spouse or any such child (during the period of such separation, desertion, or abandonment) is a member of a family which receives (as a consequence of such separation, abandonment, or desertion and during such period as the Secretary may specify) benefits under this title, such individual shall be obligated to the United States in an amount equal to—

"(1) the total amount of the benefits paid to such family during such period with respect to such spouse and child or children, reduced by

"(2) any amount actually paid by such individual to or for the support and maintenance of such spouse or child or children during such period, if and to the extent that such amount is excluded in determining the amount of such benefits;

except that in any case where an order for the support and maintenance of such spouse or any such child has been issued by a court of competent jurisdiction, the obligation of such individual under this subsection (with respect to such spouse or child) for any period shall not exceed the amount specified in such order less any amount actually paid by such individual (to or for the support and maintenance of such spouse or child) during such period. The amount due the United States under such obligation shall be collected (to the extent that the claim of the United States therefor is not paid by such individual or otherwise satisfied), in such manner as may be specified by the Secretary from any amounts otherwise due him or becoming due him at any time from any officer or agency of the United States or under any Federal program. Amounts collected under the preceding sentence shall be deposited in the Treasury as miscellaneous receipts.

"REPORTS OF IMPROPER CARE OR CUSTODY OF CHILDREN

"SEC. 2176. Whenever the Secretary, in the performance of his functions under this title, obtains or comes into possession of information which indicates or gives him reason to believe that any child is being or has been subjected to neglect, abuse, exploitation, or other improper care or custody, he shall so advise the appropriate State or local child welfare agency and the head of the Federal department or agency (if such department or agency is not the Department of which the Secretary is head) which is most directly concerned with or exercises primary Federal jurisdiction over factual situations of the type involved.

"ESTABLISHMENT OF LOCAL COMMITTEES TO EVALUATE EFFECTIVENESS OF MANPOWER AND TRAINING PROGRAMS

"SEC. 2177. (a) The Secretary of Health, Education, and Welfare and the Secretary of Labor (in this section referred to as the 'Secretaries') shall jointly establish or designate such local advisory committees throughout the United States as may be necessary or appropriate to assist them in evaluating the effectiveness of the training and employment programs under this title, together with related child care, family planning, and other services, in helping needy families to become self-supporting and in otherwise achieving the objectives of this title. Each such local committee shall perform its functions within an area specified by the Secretaries at the time of its establishment or designation; but at least one such committee shall be established or designated in every State.

"(b) Each local advisory committee established or designated under subsection (a) shall, as specified by the Secretaries, consist of persons representative of labor, business, the general public, recipients of benefits under this title, and units of local government (including Indian tribal organizations, where appropriate) not directly involved in administering employment and training programs under this title, and shall have a chairman elected by the committee from among its members. Members of each local committee shall be selected in such manner,

and serve for such terms, as may be specified by the Secretaries.

"(c) Each local advisory committee established or designated under subsection (a) shall submit to the Secretaries at regular intervals a report on the effectiveness of the programs and services referred to in subsection (a) in the area within which it performs its functions, together with its recommendations for improving such effectiveness and such additional information as the Secretaries may request in connection with such programs and services.

"(d) The Secretaries shall provide each local advisory committee established or designated under subsection (a) with the funds necessary for the reasonable expenses of its members in the performance of its functions. There are authorized to be appropriated such sums as may be necessary to carry out this subsection.

"INITIAL AUTHORIZATION FOR APPROPRIATIONS FOR CHILD CARE SERVICES

"SEC. 2178. Of the sums authorized by section 2101 to be appropriated for the fiscal year ending June 30, 1974, not more than $1,500,000,000 in the aggregate shall be appropriated to the Secretary of Labor to enable him to carry out his responsibilities under section 2112(a) and to the Secretary of Health, Education, and Welfare to enable him to carry out his responsibilities under sections 2133(a) and 2134(ac)."

CONFORMING AMENDMENTS RELATING TO ASSISTANCE FOR NEEDY FAMILIES WITH CHILDREN

SEC. 402. (a) The heading of title IV of the Social Security Act is amended to read as follows:

"TITLE IV—GRANTS TO STATES FOR FAMILY AND CHILD-WELFARE SERVICES"

(b) The heading of part A of title IV of such Act is amended to read as follows:

"PART A—SERVICES TO NEEDY FAMILIES WITH CHILDREN".

(c) Section 401 of such Act is amended—

(1) by striking out "financial assistance and", and "dependent" each place it appears, in the first sentence; and

(2) by striking out "aid and" in the second sentence.

(d)(1) Section 402(a) of such Act is amended—

(A) by striking out "AID AND" in the heading;

(B) by striking out "aid and" in the matter preceding clause (1);

(C) by striking out "with respect to services" in clause (1) (as amended by section 522(b) of this Act);

(D) by striking out "aid to families with dependent children" in clause (4) and inserting in lieu thereof "services to needy families with children";

(E)(i) by striking out "recipients and other persons" in clause (5)(B) and inserting in lieu thereof "persons", and

(ii) by striking out "providing services to applicants and recipients" in such clause and inserting in lieu thereof "providing services under the plan";

(F) by striking out clauses (7) and (8);

(G)(i) by striking out "applicants or recipients" in clause (9) and inserting in lieu thereof "persons seeking or receiving services under the plan"; and

(ii) by striking out "aid to families with dependent children" in such clause and inserting in lieu thereof "the plan";

(H) by striking out clauses (10), (11), and (12);

(I)(i) by striking out "section 406(d)" in clause (14) and inserting in lieu thereof "section 405(d)",

(ii) by striking out "for children and relatives receiving aid to families with dependent children and appropriate individuals (living in the same home) whose needs are taken into account in making the determination under clause (7)" in such clause (as amended by section 524(a) of this Act) and inserting in lieu thereof "for members of a family receiving assistance to needy families with children and individuals who would have been eligible to receive aid to families with dependent children under the State plan (approved under this part) as in effect prior to the enactment of title XXI", and

(iii) by striking out "such children, relatives, and individuals" each place it appears in such clause (as so amended) and inserting in lieu thereof "such members and individuals";

(J) by striking out clause (15) and inserting in lieu thereof the following: "(15) provide (A) for the development of a program, for appropriate members of such families and such other individuals, for preventing or reducing the incidence of births out of wedlock and otherwise strengthening family life, and for implementing such program by assuring that in all appropriate cases family planning services are offered to them, but acceptance of family planning services provided under the plan shall be voluntary on the part of such members and individuals and shall not be a prerequisite to eligibility for or the receipt of any other service under the plan; and (B) to the extent that services provided under this clause or clause (8) are furnished by the staff of the State agency or the local agency administering the State plan in each of the political subdivisions of the State, for the establishment of a single organizational unit in such State or local agency, as the case may be, responsible for the furnishing of such services;"

(K) by striking out "aid" in clause (16) and inserting in lieu thereof "assistance to needy families with children";

(L)(i) by striking out "aid to families with dependent children" in clause (17)(A)(i) and inserting in lieu thereof "assistance to needy families with children",

(ii) by striking out "aid" in clause (17)(A)(ii) and inserting in lieu thereof "assistance", and

(iii) by striking out "aid" in clause (17)(A)(iii) (as added by section 525(a) of this Act) and inserting in lieu thereof "assistance";

(M) by striking out "clause (17)(A)" in clause (18) and inserting in lieu thereof "clause (11)(A)";

(N) by striking out clause (19);

(O) by striking out clause (20);

(P)(i) by striking out "aid is being provided under the State plan" in clause (21)(A) (as amended by section 525(b) of this Act) and inserting in lieu thereof "assistance to needy families with children or foster care under the State plan is being provided", and

(ii) by striking out "section 410" in clause (21)(C) and inserting in lieu thereof "section 407";

(Q) by striking out "aid is being provided under the plan of such other State" in each place it appears in clause (2) (as amended by section 525(e) of this Act) and inserting in lieu thereof "assistance to needy families with children or foster care payments are being provided in such other State"; and

(R) by striking out "and (23)" and all that follows and inserting in lieu thereof "and (23) provide that, to the extent services under the plan are furnished by the staff of the State or local agency administering the plan in any political subdivision of the State, such staff will be located in organizational units (up to such organizational levels as the Secretary may prescribe) which are separate and distinct from the units within such agencies responsible for determining eligibility for any form of cash assistance paid on a regularly recurring basis or for performing any functions directly related thereto, subject to any exceptions which, in accordance with standards prescribed in regulations, the Secretary may permit when he deems it necessary in order to ensure the effective administration of the plan."

(2) Clauses (5), (6), (9), (13), (14), (15), (16), (17), (18), (21), (22), and (23) of section 402(a) of such Act, as amended by paragraph (1) of this subsection, are redesignated as clauses (4) through (15), respectively.

(e) Section 402(b) of such Act is amended to read as follows:

"(b) The Secretary shall approve any plan which fulfills the conditions specified in subsection (a), except that he shall not approve any plan which imposes, as a condition of eligibility for services or foster care payments under it, any residence requirement which denies services or foster care payments with respect to any individual residing in the State."

(f) Section 402 of such Act is further amended by striking out subsection (c), and by striking out subsection (d) (as added by section 523(b) of this Act).

(g)(1) Section 403(a) of such Act is amended—

(A) by striking out "aid and" in the matter preceding paragraph (1);

(B) by striking out paragraph (1);

(C) by striking out paragraph (2);

(D)(i) by striking out "in the case of any State," in the matter preceding subparagraph (A) in paragraph (3),

(ii) by striking out "child or relative who is receiving aid under the plan, or to any other individual (living in the same home as such relative and child) whose needs are taken into account in making the determination under clause (7) of such section" in clause (i) of subparagraph (A) of such paragraph and inserting in lieu thereof "member of a family receiving assistance to needy families with children",

(iii) by striking out "child or relative who is applying for aid to families with dependent children or" in clause (ii) of subparagraph (A) of such paragraph and inserting in lieu thereof "member of a family",

(iv) by striking out "likely to become an applicant for or recipient of such aid" in clause (ii) of subparagraph (A) of such paragraph and inserting in lieu thereof "likely to become eligible to receive such assistance",

(v) by striking out "(17), (18), (21), and (22)" in clause (iv) of subparagraph (A) of such paragraph (as adde by section 527(a) of this Act) and inserting in lieu thereof "(11), (12), (13), and (14)", and

(vi) by striking out "(14) and (15)" each place it appears in subparagraph (A) of such paragraph and inserting in lieu thereof "(8) and (9)";

(E) by striking out all that follows "permitted" in the last sentence of such paragraph and inserting in lieu thereof "by the Secretary; and";

(F) by striking out "in the case of any State," in the matter preceding subparagraph (A) in paragraph (5);

(G) by striking out "section 406(e)" each place it appears in paragraph (5) and inserting in lieu thereof "section 405(e)"; and

(H) by striking out the sentences following paragraph (5).

(2) Paragraphs (3) and (5) of section 403(a) of such Act, as amended by paragraph (1) of this subsection, are redesignated as paragraphs (2) and (3), respectively.

(h) Section 403(b) of such Act is amended—

(1) by striking out "(B) records showing the number of dependent children in the State, and (C)" in paragraph (1) and inserting in lieu thereof "and (B)"; and

(2) by striking out "(A)" in paragraph (2), and by striking out ", and (B)" and all that follows in such paragraph down through "under the State plan".

(i) Section 404 of such Act is amended—

(1) by striking out "(a) In the case of any State plan for aid and services" and inserting in lieu thereof "In the case of any State plan for services";

(2) by striking out clause (1) and inserting in lieu thereof the following:

"(1) that the plan no longer complies with the provisions of section 402; or"; and

(3) by striking out subsection (b).

(j) Section 405 of such Act is repealed.

(k) Section 406 of such Act is redesignated as section 405, and as so redesignated is amended—

(1) by striking out subsections (a), (b), and (c) and inserting in lieu thereof the following:

"(a) The term 'child' means a child as defined in section 2155(b).

"(b) The term 'needy families with children' means families who are eligible for benefits under part A or part B of title XXI, other than families in which both parents of the child or children are present, neither parent is incapacitated, and the male parent is not unemployed and, for purposes of title XIX, shall also include, as a member of such family, any child receiving foster care in the home of such family pursuant to placement in such home by a public or nonprofit private child-placement or child-care agency.

"(c) The term 'assistance to needy families with children' means benefits under part A or part B of title XXI, paid to needy families with children as defined in subsection (b)."; and

(2) (A) by striking out "living with any of the relatives specified in subsection (a)(1) in a place of residence maintained by one or more of such relatives as his or their own home" in paragraph (1) of subsection (e) and inserting in lieu thereof "a member of a family (as defined in section 2155(a))",

(B) by striking out "because such child or relative refused" in such paragraph and inserting in lieu thereof "because such child or another member of such family refused", and

(C) by striking out "the household in which he is living" in subparagraph (A) of such paragraph and inserting in lieu thereof "such family".

(l) Section 407 of such Act is repealed.

(m) Section 408 of such Act is repealed.

(n) Section 409 of such Act is repealed.

(o) Section 410 of such Act is redesignated as section 406 and subsection (a) of such section (as so redesignated) is amended by striking out "section 402(a)(21)" and inserting in lieu thereof "section 402(a)(14)".

(p)(1) Section 422(a)(1)(A) of such Act is amended by striking out "section 402(a)(15)" and inserting in lieu thereof "section 402(a)(9)".

(2) Section 422(a)(1)(B) of such Act is amended—

(A) by striking out "provided for dependent children" and inserting in lieu thereof "provided with respect to needy families with children", and

(B) by striking out "such children and their families" and inserting in lieu thereof "such families and children".

(q) Part C of title IV of such Act is repealed.

(r) References in any law, regulation, State plan, or other document to any provision of part A of title IV of the Social Security Act which is redesignated by this section shall to the extent appropriate (from and after the effective date of the amendments made by this section) be considered to be references to such provision as so redesignated.

TITLE V—MISCELLANEOUS

PART A—EFFECTIVE DATES AND GENERAL PROVISIONS

EFFECTIVE DATE FOR TITLES III AND IV

SEC. 601. The amendments and repeals made by titles III and IV of this Act and by this part and parts B and E of this title shall become effective (and section 9 of the Act of April 19, 1950 (25 U.S.C. 639), is repealed effective) on January 1, 1974, except as otherwise specifically indicated, and except that—

(1) sections 2133 and 2134 of the Social Security Act, as added by section 401 of this Act, shall be effective upon the enactment of this Act,

(2) nothing in this Act or the amendments made thereby shall be construed to authorize any Federal payments under title XXI of the Social Security Act, as added by this Act, with respect to any family in which both parents of the child or children are present and neither parent is incapacitated—

(A) for any period prior to July 1, 1974; or

(B) for any period after July 1, 1974, if either House of the Congress, at any time after December 31, 1973, and before March 31, 1974, passes a resolution stating in substance that the Congress does not favor the making of such Federal payments; and

(3) appropriations for administrative expenses incurred during the fiscal years ending June 30, 1973, and June 30, 1974, in developing the staff and facilities necessary to place in operation the programs established by titles XX and XXI of the Social Security Act, as added by this Act, may be included in an appropriation Act for such fiscal year.

PROHIBITION AGAINST PARTICIPATING IN FOOD STAMP OR SURPLUS COMMODITIES PROGRAM BY RECIPIENTS OF PAYMENTS UNDER FAMILY AND ADULT ASSISTANCE PROGRAMS

SEC. 602. (a) Section 3(e) of the Food Stamp Act of 1964 is amended by adding at the end thereof the following new sentence: "No person who is determined to be an eligible individual or eligible spouse under section 2011(a) of the Social Security Act, and no member of a family which is determined to be an eligible family under section 2152(a) of such Act, shall be considered to be a member of a household or an elderly person for the purposes of this Act."

(b) Section 3(h) of such Act, is amended to read as follows:

"(h) The term 'State agency', with respect to any State, means the agency of State government which is designated by the Secretary for purposes of carrying out this Act in such State, or, if and to the extent that the Secretary so elects, the Federal agency administering title XX or XXI of the Social Security Act in such State."

(c) Section 10(c) of such Act is amended by striking out the first sentence.

(d) Clause (2) of the second sentence of section 10(e) of such Act is amended by striking out "used by them in the certification of applicants for benefits under the federally aided public assistance programs" and inserting in lieu thereof the following: "prescribed by the Secretary in the regulations issued pursuant to this Act".

(e) Section 10(e) of such Act is further amended by striking out the third sentence.

(f) Section 14 of such Act is amended by striking out subsection (e).

(g) Section 416 of the Act of October 31, 1949, is amended by adding at the end thereof the following new sentence: "No person who is determined to be an eligible individual or eligible spouse under section 2011(a) of the Social Security Act, and no member of a family which is determned to be an eligible family under section 2152(a) of such Act, shall be eligible to participate in any program conducted under this section (other than nonprofit child feeding programs or programs under which commodities are distributed on an emergency or temporary basis and eligibility for participation therein is not based upon the income or resources of the individual or family)."

(h)(1) Except as provided in paragraph (2), the amendments made by this section shall take effect on January 1, 1974.

(2) The Secretary of Health, Education, and Welfare may by regulation provide that the amendments made by subsection (a) and (g)—

(A) shall not apply with respect to individuals and families in any State until the expiration of such period of time (not exceeding 30 days) after December 31, 1973, as he finds necessary to avoid the interruption of such individuals' and families' income in the transition from the programs of assistance under prior law to the programs of assistance under title XX or XXI of the Social Security Act (as added by this Act); and

(B) shall not apply (in such cases as he may specify) with respect to individuals and families first becoming eligible for benefits under title XX or XXI of the Social Security Act after December 31, 1973, until the expiration of such period of time (not exceeding 30 days) after the first day of such eligibility as he finds necessary to avoid the interruption of such individuals' and families' income.

(3) In any case where the Secretary postpones the application of the amendment made by subsection (a) for a period of time as provided in subparagraph (A) or (B) of paragraph (2), each individual or family with respect to whom the postponement applies (and who had been certified to receive a coupon allotment under the Food Stamp Act of 1964, or who had been found eligible to participate in any program conducted under the Act of October 31, 1949, for the month immediately preceding the first day of such period) shall be authorized to purchase during such period the same coupon allotment (at the same charge therefor) or to receive for such period the same amount of food commodities which such individual or family had been certified to receive for such month immediately preceding the first day of such period.

LIMITATION ON FISCAL LIABILITY OF STATES FOR STATE SUPPLEMENT

SEC. 603. (a) The amount payable to the Secretary by a State for any fiscal year pursuant to its agreement under section 2156 of the Social Security Act shall not exceed the non-Federal share of expenditures as aid for quarters in the calendar year 1971 under the plan of the State approved under part A of title IV of the Social Security Act (as defined in section 2156(b)(5) of such Act, as amended by this Act).

(b) Subsection (a) shall only apply with respect to that portion of the supplementary payments made by the Secretary on behalf of the State in any fiscal year which are required to be made pursuant to section 2156.

SPECIAL PROVISIONS FOR PUERTO RICO, THE VIRGIN ISLANDS, AND GUAM

SEC. 604. (a) Section 1108 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(e)(1) In applying the provisions of—

"(A) subsections (a), (b), and (e)(1) of section 2011,

"(B) subsections (a)(2)(D) and (b)(2) of section 2012,

"(C) subsection (a) of section 2013.

"(D) subsections (a), (b), and (c) of section 2152,

"(E) subsections (a)(2)(C) and (b)(2) of section 2153, and the last sentence of subsection (b) of such section, and

"(F) the last sentence of section 2154(a), with respect to Puerto Rico, the Virgin Islands, or Guam, the dollar amounts to be used shall, instead of the figures specified in such provisions, be dollar amounts bearing the same ratio to the figures so specified as the per capita incomes of Puerto Rico, the Virgin Islands, and Guam, respectively, bear to the per capita income of that one of the States which has the lowest per capita income; except that in no case may the amounts so used exceed the figures so specified.

"(2)(A) The amounts to be used under such sections in Puerto Rico, the Virgin Islands, and Guam shall be promulgated by the Secretary between July 1 and September 30 of each odd-numbered year, on the basis

of the average per capita income of each State for the most recent calendar year for which satisfactory data are available from the Department of Commerce. Such promulgation shall be effective for each of the two fiscal years in the period beginning July 1 next succeeding such promulgation.

"'(B) The term 'State', for purposes of subparagraph (A) only, means the fifty States and the District of Columbia.

"(3) If the amounts which would otherwise be promulgated for any fiscal year for any of the three States referred to in paragraph (1) would be lower than the amounts promulgated for such State for the immediately preceding period, the amounts for such fiscal year shall be increased to the extent of the difference; and the amounts so increased shall be the amounts promulgated for such year."

(b)(1) The Secretary shall make the promulgation described in section 1108(e)(2) of the Social Security Act, as amended by subsection (a), between January 1 and March 31, 1973, which promulgation shall be effective for the fiscal year beginning July 1, 1973.

(2) This subsection shall become effective upon enactment.

(c)(1) Section 248(b) of the Social Security Amendments of 1967 (Public Law 90-248) is repealed.

(2) The amendment made by this subsection shall apply to expenditures made in quarters following the quarter in which this subsection is enacted.

(d)(1) Section 1108(a) of the Social Security Act is amended by—

(A) striking out "and each fiscal year thereafter" in clause (1)(E) thereof and inserting the following new subclause immediately below such clause (1)(E):

"(F) $30,000,000 with respect to the fiscal year 1973 and each fiscal year thereafter;" and

(B) striking out "and each fiscal year thereafter" in clause (2)(E) thereof and inserting the following new subclause immediately below such clause (2)(E):

"(F) $1,300,000 with respect to the fiscal year 1973 and each fiscal year thereafter;"

(2) Section 1108(b) of such Act is repealed.

(3) The amendments made by this subsection shall become effective upon enactment.

DETERMINATIONS OF MEDICAID ELIGIBILITY

SEC. 605. Title XI of the Social Security Act (as amended by sections 221(a) and 241 of this Act) is amended by adding at the end thereof the following new section:

"DETERMINATIONS OF MEDICAID ELIGIBILITY

"SEC. 1124. The Secretary of Health, Education, and Welfare may enter into an agreement with any State which wishes to do so under which he (or the Secretary of Labor with respect to individuals eligible for benefits under part A of title XXI) will determine eligibility for medical assistance in any or all cases under such State's medical assistance in any or all cases under such State's plan approved under title XIX. Any such agreement shall provide for payment by the State, for use by the Secretary in carrying out the agreement, of an amount equal to one-half of the cost of carrying out the agreement, but in computing such cost with respect to individuals eligible for benefits under title XX or under part A or part B of title XXI the Secretary shall include only those costs which are additional to the costs incurred in carrying out such title or such part."

ASSISTANT SECRETARY OF LABOR FOR THE OPPORTUNITIES FOR FAMILIES PROGRAM AND CHANGE IN THE EXECUTIVE SCHEDULE—COMMISSIONER OF SOCIAL SECURITY

SEC. 606. (a)(1) There shall be in the Department of Labor an Assistant Secretary for the Opportunities for Families Program, who shall be appointed by the President by and with the advice and consent of the Senate and shall be the principal officer of the Department in carrying out the functions, powers, and duties vested in the Secretary of Labor by part A of title XXI of the Social Security Act (and by parts C and D of such title with respect to the families and benefits to which part A of such title relates), including the making of grants, contracts, agreements, and arrangements, the provision of child care services, the adjudication of claims, and the discharge of all other authority vested in the Secretary by such parts. The Assistant Secretary for the Opportunities for Families Program shall have sole responsibility within the Department of Labor, subject to the supervision and direction of the Secretary of Labor, for the administration of the program established by part A of such title.

(2) Section 2 of the Act of April 17, 1946 (29 U.S.C. 553), is amended—

(A) by striking out "five" in the first sentence and inserting in lieu thereof "six"; and

(B) by inserting before the period at the end of the last sentence the following: ", and one shall be the Assistant Secretary of Labor for the Opportunities for Families Program".

(3) Paragraph (20) of section 5313 of title 5, United States Code, is amended by striking out "(5)" and inserting in lieu thereof "(6)".

(b)(1) Section 5316 of title 5, United States Code (relating to positions at level V of the Executive Schedule), is amended by striking out:

"(51) Commissioner of Social Security, Department of Health, Education, and Welfare.".

(2) Section 5315 of title 5, United States Code relating to positions at level IV of the Executive Schedule), is amended by adding at the end thereof the following:

"(96) Commissioner of Social Security, Department of Health, Education, and Welfare.".

(3) The amendments made by the preceding provisions of this section shall take effect on the first day of the first pay period of the Commissioner of Social Security, Department of Health, Education, and Welfare, which commences on or after the first day of the month which follows the month in which this Act is enacted.

TRANSITIONAL ADMINISTRATIVE PROVISIONS

SEC. 607. (a) In order for a State to be eligible for any payments pursuant to title IV, V, XVI, or XIX of the Social Security Act with respect to expenditures for any quarter in the fiscal year ending June 30, 1973, and for the purpose of providing an orderly transition from State to Federal administration of assistance programs for adults and families with children, such State shall enter into agreements with the Secretary of Health, Education, and Welfare and the Secretary of Labor under which the State agencies responsible for administering or for supervising the administration of the plans approved under titles I, X, XIV, and XVI and part A of title IV of the Social Security Act will, on behalf of the Secretaries, administer all or such part or parts of the programs established by sections 301 and 401 of this Act (other than the manpower services, training, employment, and child care provisions of the program established by part A of title XXI of the Social Security Act as added by section 401 of this Act), during such portion of the fiscal year ending June 30, 1973, as may be provided in such agreements; except that no such agreement shall apply, in the administration of the program established by section 401 of this Act, with respect to any family in which both parents are present, neither parent is incapacitated, and the male parent is not unemployed.

Federal Employment of Certain State and Local Employees

Employee eligibility for appointment

(b)(1)(A) During the period described in subparagraph (C) of this paragraph, a department or agency of the United States may appoint to perform its authorized functions under this Act any individual described in subparagraph (B) of this paragraph to a position in the competitive service of the United States, without regard to the provisions of title 5, United States Code, otherwise governing such appointment, except that an appointment to a position in grade GS-16, GS-17, or GS-18 shall not be made without the approval of the Civil Service Commission. Except as this subsection may otherwise provide, an appointment hereunder shall be subject to regulations of the Civil Service Commission pertaining to the appointment of incumbents of positions brought into the competitive service.

(B) An individual is eligible for appointment under subparagraph (A) if, within the ninety-day period preceding the date of that appointment—

(i) he was an employee of a State or any political subdivision of a State who was compensated in whole or in part from sums paid under title I, X, XIV, or XIX, or part A of title IV, of the Social Security Act, or under an agreement entered into in accordance with subsection (a); and

(ii) he was the incumbent of a position all or a major part of the duties of which (I) were directly related to determining on behalf of the State or political subdivision the eligibility of persons for assistance payments from sums paid to the State under such provisions of the Social Security Act or such agreement, or directly related to the making of such assistance payments (other than medical assistance payments) or (II) were in support of such determinations or the making of such assistance payments (other than medical assistance payments) and the department or agency making the appointment finds that the individual was or will be separated from employment with the State or political subdivision, or has suffered or will suffer a loss or reduction of pay or grade in that employment, because of the enactment of this Act.

An individual who meets the requirements of the preceding sentence because he is or was the incumbent of a position all or a major part of the duties of which are directly related to, or in support of, the determination of eligibility of persons for medical assistance payments shall, notwithstanding the preceding sentence, be ineligible for appointment under subparagraph (A) unless, prior to his appointment, the State by which he is or was employed has entered into an agreement with the Secretary of Health, Education, and Welfare under section 1124 of the Social Security Act (as added by section 505 of this Act).

(C) An individual shall also be eligible for appointment under subparagraph (A) if, within the ninety-day period preceding the date of that appointment, he was an employee of a State or any political subdivision of a State and was the incumbent of a position all or the major part of the duties of which were related to determining eligibility for—

(i) food stamps made available under the Food Stamp Act of 1964, or

(ii) assistance payments to individuals under the program of assistance and services to Cuban refugees operated pursuant to the Migration and Refugee Assistance Act of 1962 (22 U.S.C. 2601, et seq.).

(D)(i) In the case of an individual described in subparagraph (B), the period referred to in subparagraph (A) shall begin with the date of enactment of this Act and end, except as provided by clause (ii) of this subparagraph, with the close of the ninetieth day after the amendments and repeals to which section 501 is applicable become effective with respect to the program or part of a program in which the individual is employed.

(ii) In the case of an individual who is employed in a program or part of a program administered by a State under an agreement

entered into under subsection (a), the period established by clause (i) shall end with the close of the ninetieth day after the date upon which the agreement expires.

(E) The Civil Service Commission may extend any period established by this paragraph (1) insofar as necessary to complete the transition for which subsection (a) provides.

(F) An individual appointed under subparagraph (A) who is required by that appointment to change his place of employment may be paid, in accordance with regulations of the appointing agency prescribing criteria for payment, such as travel, transportation, and related expenses and allowances (or any portion thereof) as would be provided under subchapter II of chapter 57 of title 5, United States Code, in the case of an employee of the United States transferred in the interest of the Government.

Conditions of appointment in special cases

(2)(A) Except as provided by subparagraph (B) of this paragraph, an individual appointed under paragraph (1) (hereinafter in this subsection referred to as the "appointee") may receive, at such time as Civil Service Commission regulations may provide, a career or career-conditional appointment to the competitive service without regard to the duration of his service immediately prior to his appointment if, on the last day of his employment described in paragraph (1)(B) prior to that appointment, he held a status comparable to that of a career or career-conditional employee under a merit system of a State or political subdivision of a State.

(B) An individual who is not a citizen of the United States may be appointed under paragraph (1) and retained without competitive status for not more than 5 years if, prior to his appointment, he has filed a petition for naturalization under section 334 of the Immigration and Nationality Act. If he acquires citizenship within the 5-year period, he shall thereafter become eligible to acquire competitive status subject to applicable Civil Service Commission regulations.

Compensation of appointees

(3)(A)(i) Notwithstanding section 5333 of title 5, United States Code (pertaining to new appointments) and section 5334 of title 5, United States Code (pertaining to pay on change of position), the basic pay of an appointee shall be at that rate of the grade of his position, or of a prevailing wage schedule if applicable, which is equal to his rate of compensation from a State or political subdivision of a State on the last day of the employment described in paragraph (1)(B) prior to his appointment under paragraph (1), or, if there is no such rate, at that rate which exceeds his former rate by the least amount.

(ii) If there is no rate within the grade of his position, or under a prevailing wage schedule if applicable, which equals or exceeds his former rate, he shall receive basic pay at his former rate (but not to exceed the rate for GS-18 as limited by 5 U.S.C. 5308) for a period of 2 years from the date of his appointment, subject to conditions equivalent to those set forth in clauses (A), (B), and (C) of section 5337(a) of title 5, United States Code. If such equivalent conditions continue to obtain at the end of that 2-year period, the rate of basic pay of the appointee shall be reduced to the maximum rate prescribed for the grade of his position by section 5332 of title 5, United States Code, or by the prevailing wage schedule applicable to it.

(B) The period of service required for an appointee to qualify for the benefits of section 5335 of title 5, United States Code (pertaining to periodic step-increases), or for comparable benefits under an applicable prevailing wage schedule, shall be computed from the date of his appointment under paragraph (1).

Credit for prior service

(4) In determining the length of an appointee's service to be credited for purposes of Civil Service Commission regulations pertaining to career tenure, probationary period, rate of annual leave accrual, group life or health insurance, and retention credit in reductions-in-force, credit shall be given for service with the State or political subdivision of the State by which the appointee was employed on the last day of his employment described in paragraph (1)(B) prior to his appointment under paragraph (1).

Sick leave

(5)(A) Subject to subparagraph (B) of this paragraph, an appointee shall be credited with sick leave equal to the balance of sick leave outstanding, in the service of the State or political subdivision by which the appointee was employed, on the last day of his employment described in paragraph (1)(B) prior to his appointment under paragraph (1), except if he has been compensated for that sick leave, or if it has been applied so as to increase the actuarial value of any vested interest of the employee in a retirement system of that State or political subdivision.

Sick leave credited under subparagraph (A) shall not be credited as unused sick leave for purpose of section 8339(m) of title 5, United States Code (pertaining to computation of annuity), and shall be available for use as sick leave by an appointee only after he has exhausted any accruals of sick leave under section 6307 of title 5, United States Code. An appointee who is separated from the Federal civil service with a balance of sick leave credited under subparagraph (A) shall not, during any subsequent period of Federal civil service employment, be recredited with any portion of that balance.

Retirement annuity

(6) The annuity, computed under subsection (a), (b), (c), or (d) of section 8339 of title 5, United States Code, of an appointee eligible thereof shall be increased by $10 for each full month of service credited for retirement annuity purposes, by the State or political subdivision by which the appointee was employed, on the last day of his employment described in paragraph (1)(B) prior to his appointment under paragraph (1), except if (A) the appointee has qualified for or is eligible to qualify for an annuity or other payment on account of retirement (for reasons of age or disability) from such State or political subdivision in consideration of such service, or (B) the appointee is credited for retirement annuity purposes, by such State or political subdivision, with less than 24 full months of such service. The term "annuity" as used in the remainder of section 8339, and the other sections of chapter 83 of title 5, United States Code, to apply to the annuity of an appointee entitled to the increased annuity provided by the preceding sentence, or that of his survivors, shall be deemed to describe an annuity as so increased.

STATE SUPPLEMENTARY PAYMENTS DURING TRANSITIONAL PERIOD

SEC. 608 (a) In order to be eligible for any payments pursuant to title IV, V, XVI, or XIX of the Social Security Act with respect to expenditures for any quarter beginning after December 31, 1973, and for the purpose of assuring that needy families will not suffer an automatic reduction in their aid by reason of the enactment of this Act, any State which as of January 1, 1974, does not have in effect agreements entered into pursuant to section 2156 of the Social Security Act which either specifies the payment levels thereunder or are federally administered shall, for each month beginning with January 1974 and continuing until the close of June 1973 or until the State (whether before or after the close of December 1974) enters into (and has in effect) an agreement pursuant to such section which specifies such levels or is so administered, or otherwise takes affirmative action to the contrary on the basis of legislation (other than legislation which prevents the State from entering into such agreement), make supplementary payments meeting the requirements of such sections to each family which is eligible for benefits until title XXI of such benefits and such supplementary Act, to such extent and in such amounts as may be necessary to assure that the total of such benefits and such supplementary payments is at least equal to—

(1) the amount of the aid which would be payable to such family under the plan of such State approved under part A of title (as so in effect) had continued in effect in June 1971, or if the State by affirmative action modifies such plan after June 1971 and before January 1974, as in effect after such modification becomes effective, if such plan (as so in effect) had continued in effect through such month after December 1973, plus

(2) the bonus value of the food stamps which were provided (or were available) to such family under the Food Stamp Act of 1964 for June 1971 or for the month in which a modification referred to in paragraph (1) becomes effective.

For purposes of this subsection, an agreement entered into pursuant to section 2156 of the Social Security Act is federally administered if it provides that the Secretary of Health, Education, and Welfare will, on behalf of the State, make the supplementary payments under such agreement to families eligible therefor.

(b) Supplementary payments made as provided in subsection (a) shall be considered as assistance excludable from income under section 2154(b)(6).

PRETESTING AND EVALUATION

SEC. 609. (a)(1) For the purpose of developing the most effective, economical, and efficient administration of the Opportunities for Families Program established by the amendments made by section 401, the Secretary of Health, Education, and Welfare and the Secretary of Labor shall jointly conduct programs of pretests and evaluations of the Opportunities for Families Program in accordance wtih the succeeding provisions of this section.

(2) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

(b)(1) The Secretary of Health, Education, and Welfare, after consultation with the Secretary of Labor, shall establish pretest programs under which payments will be made to families, as defined in section 2155(a) of the Social Security Act, as amended by this Act, under the conditions and in the amounts that would be applicable to such families under title XXI of the Social Security Act (as so amended). Any such program may be established in any one or more States or political subdivisions of a State. In the case of any such program, such families shall include and be limited to families (as defined in such section 2155(e))—

parent is incapacitated or

(B) which have previously participated in such program under this subsection and in which the father is present and is not incapacitated, and the members of which would be eligible for payments under title XXI of such Act (as so amended).

(2) The Secretary of Health, Education, and Welfare may, in the case of a State in which he intends to establish a program under this subsection and whose State plan approved under part A of title IV of the Social Security Act provides aid to families with dependent children in which the father is unemployed, enter into an agreement with such State which will specify the circumstances, if any, and conditions under which payments will be made to such families un-

der such plan notwithstanding the conduct of such program. To the extent that any action (or failure to take action) by such State or a political subdivision thereof is specified under the agreement, such action (or inaction) shall not constitute noncompliance with any requirement of part A of title IV of the Social Security Act, or with its State plan approved thereunder.

(3) In any program established under paragraph (1), the Secretary of Labor shall, after consultation with the Secretary of Health, Education, and Welfare, provide or assure the provision of any manpower services, training, or employment programs, or child care, family planning, or supportive services, as authorized to be established or provided by title XXI of the Social Security Act, as amended by this Act.

(4) The Secretary of Health, Education, and Welfare and the Secretary of Labor may carry out their functions under paragraphs (1) and (3) directly or through contracts with (A) the State or local agency administering, in the political subdivision or subdivisions involved, a State plan approved under part A of title IV of the Social Security Act, or (B) any other public (Federal or non-Federal) or private agency.

(c) In determining the States or political subdivisions to which programs under subsection (b) will apply, the Secretary of Health, Education, and Welfare and the Secretary of Labor shall consider the relative effectiveness of a program in that location in achieving the purposes of this section.

(d)(1) If a program is established under subsection (b) in any political subdivision of a State which makes payments under its State plan approved under part A of title IV of the Social Security Act with respect to families with dependent children in which the father is unemployed, the State shall pay to the Secretary, for each quarter of a calendar year in which such program is conducted, an amount equal to the average quarterly non-Federal share of such payments (as defined in paragraph (2)) made in such political subdivision for the second, third, fourth, and fifth quarters immediately preceding the quarter in which such program is initiated.

(2) For purposes of this section, the term "non-Federal share of payments with respect to families with dependent children in which the father is unemployed", in the case of any State, means the defference between—

(A) expenditures under the State's plan approved under part A of tittle IV of the Social Security Act as aid to such families and

(B) the amount determined under section 403 or section 1118 of of such Act and under section 9 of the Act of April 19, 1950, for such State with respect to such expenditures.

(3) The Secretary of Health, Education, and Welfare may reduce any amount due a State under such section 403 or such section 9 by the amount such State is required by paragraph (1) to pay him.

(e)(1) The sums appropriated pursuant to subsection (a) shall also be available to enable the Secretary of Health, Education, and Welfare and the Secretary of Labor to evaluate, directly or by grant or contract, the programs carried on pursuant to subsection (b).

(2) The Secretary of Health, Education, and Welfare and the Secretary of Labor shall jointly submit to the President and the Congress, before December 31, 1973, a report of their evaluations under this subsection. Such report shall include a description of the extent to which such programs were successful in achieving the purposes of title XXI with respect to families included in such programs, including details as to changes in income of such individuals, the numbers of such families applying for benefits, employment experience of eligible family members, an analysis of administrative experience under such programs, and any other data and material which they may consider appropriate and of assistance in implementing the provisions of such title.

(f) In the administration of thest programs under this section, the Secretary of Health, Education, and Welfare and the Secretary of Labor shall provide safeguards which restrict the use or disclosure of information identifying participants in such programs to purposes directly connected with the administration of such programs.

FACILITIES AND EQUIPMENT

Exemption From Certain Provisions of the Economy Act During the Implementation of Title XX and XXI

SEC. 610. (a) Section 322 of the Act of June 30, 1932 (47 Stat. 412), shall not apply to any lease made by the General Services Administration within three years after the date of enactment of this Act for the purpose of acquiring space for any Federal department or agency in connection with the implementation or administration of title XXI of the Social Security Act, as amended by this Act.

AUTHORITY TO ACQUIRE TEMPORARY FACILITIES

(b) In addition to any other authority the Administrator of General Services may have, he is authorized, for a period of three years after the date of enactment of this Act, to enter into agreements, upon such terms and conditions as he deems to be in the interest of the United States, to acquire, by purchase, lease (with or without an option in the Government to purchase), or deferred payment purchase contract, personal property consisting of movable, modular, or prefabricated structures, buildings, facilities, or similar property to be placed on Government-owned or leased land for the purpose of providing space for any Federal department or agency in connection with the implementation or administration of title XXI of the Social Security Act, as amended by this Act. No such lease agreement or deferred payment purchase contract shall bind the Government for a period in excess of ten years. All such deferred payment purchase contracts shall provide that title to the property shall vest in the United States at or before the expiration of the purchase contract term, and that any installment payment made under the contract shall be applied to the contract price, including any interest specified therein.

ACCOUNTABILITY FOR EQUIPMENT AND OTHER PROPERTY PURCHASED UNDER CERTAIN SOCIAL SECURITY ACT PROGRAMS

(c) The Secretary may, in such cases and subject to such conditions as he determines appropriate, waive any obligation that would otherwise exist to account to the United States for equipment or other property purchased in whole or in part with Federal funds made available under section 3, 403, 1003, 1403, or 1603 of the Social Security Act because of the provisions of this Act amending part A of title IV of the Social Security Act to delete the provisions therein pertaining to money payments.

COST-OF-LIVING ADJUSTMENT OF BENEFITS UNDER TITLE XXI OF THE SOCIAL SECURITY ACT

SEC. 610A. (a) In accordance with the succeeding provisions of this section, the Secretary of Health, Education, and Welfare shall adjust the amounts prescribed for determining eligibility for and the amount of benefits payable to families under title XXI of the Social Security Act in order to compensate for annual increases in the cost of living.

(b)(1) Between July 1 and September 30 of each calendar year, beginning with 1974, the Secretary shall increase the dollar amounts prescribed in subsections (a)(1) and (b)(1) of section 2152 of the Social Security Act (as added by this Act) by the percentage by which the average level of the price index for the months in the calendar quarter beginning April 1 of such year exceeds the average level of the price index for months in 1973, and such amounts, as so increased, shall be the amounts employed in carrying out such subsections in months in the following calendar year.

(2) As used in this subsection, the term "price index" means the Consumer Price Index (all items—United States city average) published monthly by the Bureau of Labor Statistics.

(c) The amounts prescribed in section 2152(c) of such Act (as so added) shall be similarly increased for months in each year (and, as so increased shall be the amounts employed in carrying out section 2152(g) for months in such year).

(d) In the case of any State which is required to make supplementary payments to families pursuant to section 2156 of the Social Security Act (as added by this Act), the adjusted payment level (as defined in subsection (b)(2) of such section) applicable to a family of a given size, shall, in the case of any calendar year, be increased by the same dollar amount as amounts in subsections (a)(1) and (b)(1) of section 2152 of such Act (as so added) with respect to a family of the same size are increased pursuant to subsection (b) for such year, and the adjusted payment level (as so increased) shall be in effect for purposes of carrying out section 2156 of such Act (as so added) for months in such year.

PART B—NEW SOCIAL SERVICES PROVISIONS

ADOPTION AND FOSTER CARE SERVICES UNDER CHILD-WELFARE SERVICES PROGRAM

SEC. 611. Effective July 1, 1973, part B of title IV of the Social Security Act is amended by adding at the end thereof the following new section:

"ADOPTION AND FOSTER CARE SERVICES

"SEC. 427. (a) For purposes of this section—

"(1) the term 'foster care services', with respect to any State, means—

"(A) payments for foster care (including medical care not available under the State's plan approved under title XIX or under any other health program within the State) of a child for whom a public agency has responsibility, made to any agency, institution, or person providing such care, but only if such foster care meets standards prescribed by the Secretary, and

"(B) services and administrative activities consistent with such standards as the Secretary may provide, related to the foster care of children, such as finding, evaluating, and licensing foster homes and institutions, and providing services to enable a child to remain in or return to his own home; and

"(2) the term 'adoption services' means—

"(A) services and administrative activities, consistent with such standards as the Secretary may prescribe, related to adoptions, including activities related to judicial proceedings, determinations of the amounts of the payments described in subparagraph (B), location of homes, and all activities related to placement, adoption, and post-adoption services, with respect to any child, and

"(B) payments (subject to such limitations as the Secretary may by regulation prescribe) to a person or persons adopting a child who is physically or mentally handicapped and who, for that reason, may be difficult to place for adoption, based on the financial ability of such person or persons to meet the medical and other remedial needs of such child.

"(b) In the case of any State which is eligible for payments under section 422, the Secretary shall, from the amounts allotted therefor, make payments to such State in an amount equal to 75 per centum of any expenditures for adoption services or foster care services.

"(c) There are authorized to be appropriated, in addition to sums appropriated for purposes of this section pursuant to section 421, for grants to States for adoption services and foster care services, $275,000,000 for the fiscal year ending June 30, 1974, the sum of $300,000,000 for the fiscal year ending June 30, 1975, and the sum of $320,000,000 for the fiscal year ending June 30, 1976, and each fiscal year thereafter.

"(d) From the sum appropriated pursuant to subsection (c), for any fiscal year, there shall be allotted to each State an amount which bears the same ratio to such sum as the number of children under age 21 in such State bears to the number of such children in all the States.

"(e) Notwithstanding the provisions of this section, the allotment to any State for any calendar quarter beginning on or after July 1, 1973, will be reduced by an amount equal to any reduction in expenditure of State funds for child welfare services under part B of title IV in that quarter below the average State expenditure under this part for the four quarters in the fiscal year ending June 30, 1972."

PART C—PUBLIC ASSISTANCE AMENDMENTS EFFECTIVE IMMEDIATELY

ADDITIONAL REMEDIES FOR STATE NONCOMPLIANCE

SEC. 621. (a) Section 1116 of the Social Security Act is amended by adding at the end thereof the following new subsections:

"(e) In any case in which the Secretary determines that a State has failed in a substantial number of cases—

"(1) to make payments as required by title I, X, XIV, XVI, or XIX or part A of this title IV, or

"(2) to make payments in the amount prescribed under the appropriate State plan (which complies with the conditions for approval under such title or part), he may require the State to make retroactive payment to all persons affected by such failure in order to assure, to the maximum extent possible, that with respect to each such person the sum of the aid or assistance actually received during the period in which such failure occurred plus such retroactive payments are equal to the amount of aid or assistance he would have received for such period had such failure not occurred, but such payments shall not be required with respect to any period prior to the date of the enactment of the Social Security Amendments of 1971. Expenditures for such retroactive payments shall be considered to have been made under the State plan approved under such title or part for purposes of determining the amount of the Federal payment with respect to such plan. In any case in which the Secretary does add such a requirement for retroactive payments pursuant to the preceding provisions of this subsection, the State shall disregard the amount of such retroactive payments for purposes of determining the amount of aid or assistance payable to such persons after such failure has been corrected. The Secretary may prescribe such methods of administration as he finds necessary to carry out a requirement for retroactive payments imposed under this subsection and such requirement and methods shall be deemed necessary for the proper and efficient operation of the plan under which such failure occurred.

"(f) In any case in which the Secretary has found, in accordance with the procedures of title I, X, XIV, XVI, or XIX, or part A of title IV, that in the administration of the State plan approved under such title or part there is a failure to comply substantially with any provision which is required by such title or part to be included in such plan, the Secretary may prescribe such methods of administration as he finds appropriate to correct such administrative noncompliance within a reasonable period of time, and upon obtaining assurances satisfactory to him that such methods will be undertaken (including a timetable for implementation of such methods which specifies a date by which there will no longer exist such administrative noncompliance), he may, instead of withholding payments under the title or part with respect to which such failure occurred, continue to make payments (in accordance with such title or part) to such State with respect to expenditures under such plan (for so long as he remains satisfied that the timetable is being substantially followed).

"(g) If the Secretary has reason to believe that a State plan which he has approved under title I, X, XIV, XVI, or XIX, or part A of title IV, no longer complies with all requirements of such title or part, or that in the administration of such plan there is a failure to comply substantially with any such requirements, the Secretary may (in addition to or instead of withholding payments under such title or part) request the Attorney General to bring suit to enforce such requirements."

(b) The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

STATEWIDENESS NOT REQUIRED FOR SERVICES

SEC. 622. (a) Section 2(a) of the Social Security Act is amended by inserting "except to the extent permitted by the Secretary with respect to services," before "provide" at the beginning of paragraph (1).

(b) Section 402(a) of such Act is amended by inserting "except to the extent permitted by the Secretary with respect to services," before "provide" at the beginning of clause (1).

(c) Section 1002(a) of such Act is amended by inserting "except to the extent permitted by the Secretary with respect to services," before "provide" at the beginning of clause (1).

(d) Section 1402(a) of such Act is amended by inserting "except to the extent permitted by the Secretary with respect to services," "provide" at the beginning of clause (1).

(e) Section 1602(a) of such Act is amended by inserting "except to the extent permitted by the Secretary with respect to services," before "provide" at the beginning of paragraph (1).

(f) The amendments made by this section shall take effect on the date of the enactment of this Act.

INDIVIDUAL PROGRAMS FOR FAMILY SERVICES NOT REQUIRED

SEC. 624. (a) Section 402(a)(14) of the Social Security Act is amended—

(1) by striking out "a program for";

(2) by striking out "for each child and relative who receives aid to families with dependent children, and each appropriate individual (living in the same home as a relative and child whose needs are taken into account in making the determination under clause (7))" and inserting in lieu thereof "for children and relatives receiving aid to families with dependent children and appropriate individuals (living in the same home) whose needs are taken into account in making the determination under clause (7)"; and

(3) by striking out "such child, relative, and individual" each place it appears and inserting in lieu thereof "such children, relatives, and individuals".

(b) The amendments made by subsection (a) shall take effect on the date of the enactment of this Act, or, in the case of any State, on such later date (not after January 1, 1974) as may be specified in the modification made in the State's plan approved under section 402 of the Social Security Act to carry out such amendments.

ENFORCEMENT OF SUPPORT ORDERS AGAINST CERTAIN SPOUSES OF PARENTS OF DEPENDENT CHILDREN

SEC. 625. (a) Section 402(a)(17) of the Social Security Act is amended—

(1) by striking out "and" at the end of clause (i), and

(2) by adding after clause (ii) the following new clause:

"(iii) in the case of any parent (of a child referred to in clause (ii) receiving such aid who has been deserted or abandoned by his or her spouse, to secure support for such parent from such spouse (or from any other person legally liable for such support) utilizing any reciprocal arrangements adopted with other States to obtain or enforce court orders for support, and".

(b) Section 402(a)(21) of such Act is amended—

(1) by striking out "each parent" in clause (A) and inserting in lieu thereof "each person who is the parent",

(2) by inserting "or is the spouse of the parent of such a child or children" after "under the State plan" in clause (A),

(3) by inserting "or such parent" after "such child or children" in clause (A)(i), and

(4) by striking out "such parent" each place it appears in clause (b) and inserting in lieu thereof "such person".

(c) Section 402(a)(22) of such Act is amended—

(1) by striking out "a parent" each place it appears and inserting in lieu thereof "a person",

(2) by striking out "a child or children of such parent" each place it appears and inserting in lieu thereof "the spouse or a child or children of such person", and

(3) by striking out "against such parent" and inserting in lieu thereof "against such person".

(d) The amendments made by this section shall take effect on the date of the enactment of this Act, or, in the case of any State, on such later date (not after January 1, 1974) as may be specified in the modification made in the State's plan approved under section 402 of the Social Security Act to carry out such amendments.

SEPARATION OF SOCIAL SERVICES AND CASH ASSISTANCE PAYMENTS

SEC. 626. Title XI of the Social Security Act (as amended by sections 221(a), 241, 505, and 512 of this Act) is amended by adding at the end thereof the following new section:

"SEPARATION OF SOCIAL SERVICES AND CASH ASSISTANCE PAYMENTS

"SEC. 1125. Each State, in the administration of its State plans approved under section 2, 402, 1002, 1402, or 1602, shall develop and submit to the Secretary on or before January 1, 1972, a proposal (1) providing that, to the extent services under any such State plan are furnished by the staff of the State or local agency administering such plan in any political subdivision of such State, such staff will be located, by July 1, 1972, in organizational units (up to such organizational levels as the Secretary may prescribe) which are separate and distinct from the units within such agencies responsible for determining eligibility for any form of cash assistance paid on a regularly recurring basis or for performing any functions directly related thereto, but subject to any exceptions which, in accordance with standards prescribed in regulations, the Secretary may permit when he deems it necessary in order to insure the efficient administration of such plan, and (2) indicating the steps to be taken and the methods to be followed in carrying out the proposal."

INCREASE IN REIMBURSEMENT TO STATES FOR COSTS OF ESTABLISHING PATERNITY AND LOCATING AND SECURING SUPPORT FROM PARENTS

SEC. 627. (a) Section 403 (a) (3) (A) of the Social Security Act is amended by striking out "or" at the end of clause (ii), by striking out "; plus" at the end of clause (iii) and inserting in lieu thereof ", or", and by inserting after clause (iii) the following new clause:

"(iv) the cost of carrying out the requirements of clauses (17), (18), (21), and (22) of section 402 (a); plus".

(b) The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

FISCAL RELIEF FOR STATES

SEC. 628. Title XI of the Social Security Act (as amended by sections 221(a), 241, 505, 512, and 526 of this Act) is further amended by adding at the end thereof the following new section:

FISCAL RELIEF FOR STATES

"SEC. 1126. (a) The Secretary shall, subject to subsection (c), pay to any State which has a State plan approved under title I, X, XIV, or XVI, or part A of title IV, of this Act, for each quarter beginning after June 30, 1971, in addition to the amounts (if any) otherwise payable to such State under such titles, such part, section 1118, and section 9 of the Act of April 19, 1950, on account of expenditures as cash assistance, an amount equal to the excess (if any) of—

"(1) an amount equal to the lesser of—

"(A) the non-Federal share of the expenditures, under the State plans approved under such title or such part A (as the case may be), as cash assistance for such quarter (not counting any part of such expenditures which is in excess of the amount of the expenditures which would have been made as cash assistance under such plans if such plans had remained as they were in effect for January 1971, or

"(B) an amount equal to 120 per centum of the amount referred to in clause (2), over

"(2) an amount equal to 100 per centum of the non-Federal share of the total average quarterly expenditures, under such plans, as cash assistance during the 4-quarter period ending December 31, 1970.

"(b) For purposes of subsection (a), the non-Federal share of expenditures for any quarter under State plans approved under title I, X, XIV, or XVI, or part A of title IV, of this Act as cash assistance, referred to in subsection (a)(1), means the excess of—

"(1) the total expenditure for such quarter under such plans as (A) old-age assistance, (B) aid to the blind, (C) aid to the disabled, (D) aid to the aged, blind, or disabled, and (E) aid to families with dependent children, over

"(2) the amounts determined for such quarter for such State with respect to such expenditures under sections 3, 1003, 1403, 1603, 403, and 1118 of this Act and (in the case of a plan approved under title I or X or part A of title IV) under section 9 of the Act of April 19, 1950.

"(c) No payment under this section shall be made for any quarter to any State on account of expenditures, as cash assistance, under a State plan of such State if the standards, under any plan of such State approved under title I, X, XIV, or XVI, or part A of title IV, for determining eligibility for, or the amount of, cash assistance to individuals under such plan have been so changed as to be less favorable, to all (or any substantial class or category) of the applicants for or recipients of such assistance under the plan, than the standards provided for such purpose under such plan as in effect for January 1971, or, if more favorable to any such applicants or recipients, for any month after January 1971, and prior to the month in which this section is enacted."

PAYMENT UNDER AFDC PROGRAM FOR NONRECURRING SPECIAL NEEDS

SEC. 629. (a) Section 406(b) of the Social Security Act is amended by striking out "and includes" and inserting in lieu thereof "and, in the case of nonrecurring special needs (as determined in accordance with regulations prescribed by the Secretary) which involve a cost of $50 or more, includes a payment with respect to a dependent child (and the relative with whom he is living) which is made directly to the person furnishing the food, living accommodations, or other goods, services, or items necessary to meet such needs. Such term also includes".

(b) The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

PART D—LIBERALIZATION OF INCOME TAX TREATMENT OF CHILD CARE EXPENSES AND RETIREMENT INCOME

LIBERALIZATION OF CHILD CARE DEDUCTION

Increase in Dollar Limits

SEC. 631. (a) Paragraph (1) of section 214 (b) of the Internal Revenue Code of 1954 (relating to expenses for care of certain dependents) is amended to read as follows:

"(1) DOLLAR LIMIT.—

"(A) Except as provided in subparagraphs (B) and (C), the deduction under subsection (a) shall not exceed $750 for any taxable year.

"(B) The $750 limit of subparagraph (A) shall be increased (to an amount not above $1,125) by the amount of expenses incurred by the taxpayer for any period during which the taxpayer had 2 dependents.

"(C) The dollar limits of subparagraphs (A) and (B) shall be increased (to an amount not above $1,500) by the amount of expenses incurred by the taxpayer for any period during which the taxpayer had 3 or more dependents."

Liberalization of Income Test for Working Wives and Husbands With Incapacitated Wives

(b) Paragraph (2)(B) of section 214(b) of such Code is amended by striking out "$6,000" and inserting in lieu thereof "$12,000".

Effective Date

(c) The amendments made by this section shall apply to taxable years beginning after December 31, 1971.

LIBERALIZATION OF RETIREMENT INCOME CREDIT

In General

SEC. 632. (a) Section 37 of the Internal Revenue Code of 1954 (relating to retirement income) is amended to read as follows:

"SEC. 37. CREDIT FOR THE ELDERLY.

"(a) GENERAL RULE.—In the case of an individual—

"(1) who has attained the age of 65 before the close of the taxable year, or

"(2) who has not attained the age of 65 before the close of the taxable year but who has public retirement system pension income for the taxable year,

there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 15 percent of such individual's section 37 amount for such taxable year.

"(b) SECTION 37 AMOUNT.—For purposes of subsection (a)—

"(1) IN GENERAL.—An individual's section 37 amount for the taxable year is the applicable initial amount determined under paragraph (2), reduced as provided in paragraph (3).

"(2) INITIAL AMOUNT.—The initial amount is—

"(A) $2,500 in the case of a single individual,

"(B) $2,500 in the case of a joint return where only one spouse is eligible for the credit under this section,

"(C) $3,750 in the case of a joint return where both spouses are eligible for the credit under this section, or

"(D) $1,875 in the case of a married individual filing a separate return.

"(3) REDUCTION.—Except as provided in paragraphs (4) and (5)(B), the reduction under this paragraph in the case of any individual is—

"(A) any amount received by such individual as a pension or annuity—

"(i) under title II of the Social Security Act,

"(ii) under the Railroad Retirement Act of 1935 or 1937, or

"(iii) otherwise excluded from gross income, plus

"(B) in the case of any individual who has not attained age 72 before the close of the taxable year—

"(i) except as provided in clause (ii), one-half the amount of earned income received by such individual in the taxable year in excess of $2,000, or

"(ii) if such individual has not attained age 62 before the close of the taxable year, and if such individual (or his spouse under age 62) is eligible for a credit by reason of subsection (a)(2), any amount of earned income in excess of $1,000 received by such individual in the taxable year.

"(4) SPECIAL RULES FOR DETERMINING THE REDUCTION PROVIDED IN PARAGRAPH (3).—

"(A) JOINT RETURNS.—In the case of a joint return, the reduction under paragraph (3) shall be the aggregate of the amounts resulting from applying paragraph (3) separately to each spouse.

"(B) SEPARATE RETURNS OF MARRIED INDIVIDUALS.—In the case of a separate return of a married individual, paragraph (3)(B)(i) shall be applied by substituting '$1,000' for '$2,000', and paragraph (3)(B)(ii) shall be applied by substituting '$500' for '$1,000'.

"(C) NO REDUCTION FOR CERTAIN AMOUNTS EXCLUDED FROM GROSS INCOME.—No reduction shall be made under paragraph (3)(A) for any amount excluded from gross income under section 72 (relating to annuities), 101 (relating to life insurance proceeds), 104 (relating to compensation for injuries or sickness), 105 (relating to amounts received under accident and health plans), 402 (relating to taxability of beneficiary of employees' trust), or 403 (relating to taxation of employee annuities).

"(5) SPECIAL RULES FOR INDIVIDUAL ELIGIBLE UNDER SUBSECTION (a)(2).—

"(A) Except as provided in subparagraph (B), the section 37 amount of an individual who is eligible for a credit by reason of subsection (a)(2) shall not exceed such individual's public retirement system pension income for the taxable year.

"(B) In the case of a joint return where one spouse is eligible by reason of subsection (a)(1) and the other spouse is eligible by reason of subsection (a)(2), subparagraph (A) shall not apply but there shall be an additional reduction under paragraph (3) in an amount equal to the excess (if any) of $1,250 over the amount of the public retirement system pension income of the spouse who is eligible by reason of subsection (a)(2).

"(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) EARNED INCOME.—The term 'earned income' has the meaning assigned to such term in section 911 (b), except that such term does not include any amount received as a pension or annuity. The determination of whether earned income is the earned income of the husband or the earned income of the wife shall be made without regard to community property laws.

"(2) MARITAL STATUS.—Marital status shall be determined under section 153.

"(3) JOINT RETURN.—The term 'joint return' means the joint return of a husband and wife made under section 6013.

"(4) PUBLIC RETIREMENT SYSTEM PENSION INCOME.—An individual's public retirement system pension income for the taxable year is his income from pensions and annuities under a public retirement system for personal services performed by him or his spouse, to the extent included in gross income without reference to this section, but only to the extent such income does not represent compensation for personal services rendered during the taxable year. The amount of such income taken into account with respect to any individual for any taxable year shall not exceed $2,500. For purposes of this paragraph, the term 'public retirement system' means a pension, annuity,

retirement, or similar fund or system established by the United States, a State, a possession of the United States, any political subdivision of any of the foregoing, or the District of Columbia.

"(d) NONRESIDENT ALIEN INELIGIBLE FOR CREDIT.—No credit shall be allowed under this section to any nonresident alien."

Technical Amendments

(b)(1) Section 904 of the Internal Revenue Code of 1954 (relating to limitation on foreign tax credit) is amended by redesignating subsection (g) as subsection (h), and by inserting after subsection (f) the following new subsection:

"(g) COORDINATION WITH CREDIT FOR THE ELDERLY.—In the case of an individual, for purposes of subsection (a) the tax against which the credit is taken is such tax reduced by the amount of the credit (if any) for the taxable year allowable under section 37 (relating to credit for the elderly)."

(2) Section 6014(a) of such Code (relating to tax not computed by taxpayer) is amended by striking out the last sentence thereof.

(3) Section 6014(b) of such Code is amended—

(A) by striking out paragraph (4),

(B) by redesignating paragraph (5) as paragraph (4), and

(C) by inserting "or" at the end of paragraph (3).

(4) Sections 46(a)(3)(C), 56(a)(2)(A)(ii), and 56(c)(1)(B) of such Code are each amended by striking out "retirement income" and inserting in lieu thereof "credit for the elderly".

(5) The table of sections for subpart A of part IV of subchapter A of chapter 1 of such Code is amended by striking out the item relating to section 37 and inserting in lieu thereof the following:

"Sec 37 Credit for the elderly."

Effective Date

(c) The amendments made by this section shall apply to taxable years beginning after December 31, 1971.

PART E—MISCELLANEOUS CONFORMING AMENDMENTS

CONFORMING AMENDMENT TO SECTION 228(d)

SEC. 641. Section 228(d)(1) of the Social Security Act is amended by striking out "receives aid or assistance in the form of money payments in such month under a State plan approved under title I, X, XIV, or XVI, or part A of title IV" and inserting in lieu thereof "receives payments with respect to such month pursuant to title XX or part A or part B of title XXI".

CONFORMING AMENDMENTS TO TITLE XI

SEC. 642. Title XI of the Social Security Act is amended—

(1)(A) by striking out "I,", "X,", and "XIV," in section 1101(a)(1),

(B) by striking out "and XIX" in such section and inserting in lieu thereof "XIX, XX, and XXI", and

(C) by inserting "(and when used in part C or D of title XXI)" after "requires" in section 1101(a)(6);

(2) by striking out "I, X, XIV, XVI," in section 1106(c)(1)(A) and inserting in lieu thereof "XVI";

(3)(A) by striking out "and each fiscal year thereafter" in paragraphs (1)(E), (2)(E), and (3)(E) of section 1108(a), and

(B) by striking out section 1108(b);

(4) by striking out the text of section 1109 and inserting in lieu thereof the following:

"SEC. 1109. Any amount which is disregarded in determining the eligibility for and amount of payments to any individual pursuant to title XX or any family pursuant to part A or B of title XXI, shall not be taken into consideration in determining the eligibility for or amount of such payments to any other individual or family under such title XX or part A or B of title XXI.";

(5) by striking out "title I, X, XIV, and XVI, and part A of title IV" in section 1111 and inserting in lieu thereof "title XX or part A or B of title XXI";

(6)(A) by striking out "I, X, XIV, XVI," in the matter preceding clause (a) in section 1115, and inserting in lieu thereof "XVI",

(B) by striking out "of section 2, 402, 1002, 1402, 1602, or 1902" in clause (a) of such section and inserting in lieu thereof "of section 402, 1602, or 1902,", and

(C) by striking out "under section 3, 403, 1003, 1403, 1603, or 1903" in clause (b) of such section and inserting in lieu thereof "under section 403, 1603, or 1903,";

(7)(A) by striking out "I, X, XIV, XVI," in subsections (a)(1), (b), and (d) of section 1116 and inserting in lieu thereof "XVI",

(B) by striking out "under section 4, 404, 1004, 1404, 1604," in subsection (a)(3) of such section and inserting in lieu thereof "under section 404, 1604,",

(C) by striking out "I, X, XIV, XVI, or XIX or part A of title IV" in subsection (e) of such section (as added by section 521 of this Act) and inserting in lieu thereof "XIX",

(D) by striking out "I, X, XIV, XVI," in subsection (f) of such section (as so added) and inserting in lieu thereof "XVI", and

(E) by striking out "I, X, XIV, XVI," in subsection (g) of such section (as so added) and inserting in lieu thereof "XVI";

(8) by repealing section 1118;

(9)(A) by striking out "aid or assistance, other than medical assistance to the aged, under a State plan approved under title I, X, XIV, or XVI, or part A of title IV" in section 1119 and inserting in lieu thereof "services under a State plan approved under part A of title IV or under title XVI", and

(B) by striking out "under section 3(a), 403(a), 1003(a), 1403(a), or 1603(a)" in such section and inserting in lieu thereof "under section 403(a) or 1603(a)";

(10) by repealing section 1125 (as added by section 526 of this Act); and

(11)(A) by striking out "section 3(a)(4) and (5), 403(a)(3), 1003(a)(3) and (4), 1403(a)(3) and (4), or 1603(a)(4) and (5)" in subsection (a) of section 1130 and inserting in lieu thereof "section 403(a)(2) or 1603(a)(1) and (2),"

(B) by striking out "(other than the services provided pursuant to section 402(a)(19)(G))" in such subsection,

(C) by striking out "(as defined in section 408)" and "(as defined in such section)" paragraph (2)(E) of such subsection, and

(D) by striking out "aid or assistance (under State plans approved under titles I, X, XIV, XVI, or part A of title IV)" in the portion of such subsection which follows paragraph (2) and inserting in lieu thereof "benefits under title XX or XXI" and by striking out "aid or assistance" and inserting "benefits" in lieu thereof in such portion of such subsection.

CONFORMING AMENDMENTS TO TITLE XVIII

SEC. 643. (a) Section 1843 of the Social Security Act is amended by striking out subsections (a) and (b) and inserting in lieu thereof the following:

"(a) Subject to section 1902(e), the Secretary at the request of any State shall, notwithstanding the repeal of titles I, X, and XIV by section 303 of the Social Security Amendments of 1971 and the amendments made to title XVI and part A of title IV by sections 302 and 402 of such amendments, continue in effect the agreement entered into under this section with such State insofar as it includes individuals who are eligible to receive benefits under title XX or XXI or are otherwise eligible to receive medical assistance under the plan of such State approved under title XIX.

"(b) The provisions of subsection (h)(2) of this section as in effect before the effective date of the repeal and amendments referred to in subsection (a) shall continue to apply with respect to the individuals included in any such agreement after such date."

(b) Section 1843(c) of such Act is amended by striking out the semicolon and all that follows and inserting in lieu thereof a period.

(c) Section 1843(d)(3) of such Act is amended to read as follows:

"(3) his coverage period attributable to the agreement with the State under this section shall end on the last day of any month in which he is determined by the State agency to have become ineligible for medical assistance."

(d) Section 1843(f) of such Act is amended—

(1) by striking out "receiving money payments under the plan of a State approved under title I, X, XIV, or XVI or part A of title IV, or";

(2) by striking out "if the agreement entered into under this section so provides,";

(3) by striking out "I, XVI, or"; and

(4) by striking out "individuals receiving money payments under plans of the State approved under titles I, X, XIV, and XVI, and part A of title IV, and".

(e) Section 1843 of such Act is further amended by striking out subsections (g) and (h).

CONFORMING AMENDMENTS TO TITLE XIX

SEC. 644. Title XIX of the Social Security Act is amended—

(1) by striking out "families with dependent children" in clause (1) of the first sentence of section 1901 and inserting in lieu thereof "needy families with children", and by striking out "permanently and totally" in such clause;

(2) by striking out ", except that the determination of eligibility for medical assistance under the plan shall be made by the State or local agency administering the State plan approved under title I or XVI (insofar as it relates to the aged)" in section 1902(a)(5);

(3) by striking out "effective July 1, 1969," in section 1902(a)(11)(B);

(4) by striking out section 1902(a)(13)(B) and inserting in lieu thereof the following:

"(B) in the case of individuals described in paragraph (10) with respect to whom medical assistance must be made available, for the inclusion of at least the care and services listed in clauses (1) through (5) of section 1905(a), and";

(5)(A) by striking out "receiving aid or assistance under a State plan approved under title I, X, XIV, or XVI, or part A of title IV, or who meet the income and resources requirement of the one of such State plans which is appropriate" in the matter in section 1902(a)(14)(A) (as amended by section 208(a) of this Act) which precedes clause (i) and inserting in lieu thereof "receiving assistance to needy families with children as defined in section 405b) or assistance for the aged, blind, and disabled under title XX, or who meet the income and resources requirements for such assistance", and

(B) by striking out "who are not receiving aid or assistance under any such State plan and who do not meet the income and resources requirements of the one of such State plans which is appropriate" in the matter in section 1902(a)(14)(B) which precedes clause (i) and inserting in lieu thereof "who are not receiving assistance to needy families with children as defined in section 405(b) or assistance for the aged, blind, and disabled under title XX and who do not meet the income and resources rquirements for such assistance";

(6)(A) by striking out "who are not receiving aid or assistance under the State's plan approved under title I, X, XIV, or XVI, or part A of title IV", in the portion of section 1902(a)(17) which precedes clause (A) and inserting in lieu thereof "other than those described in paragraph (10) with re-

spect to whom medical assistance must be made available,", and

(B) by striking out "or is blind or permanently and totally disabled" in clause (D) of such section;

(7) by striking out "or is blind or permanently and totally disabled" in section 1902 (a)(18);

(8) by striking out "section 3(a)(4)(A) (i) and (ii) or section 1603(a)(4)(A) (i) and (ii)" in section 1902(a)(20)(C) and inserting in lieu thereof "section 1603(a)(1) (A) and (B)";

(9) by striking out "effective July 1, 1969," in sections 1902(a)(24) and 1902(a)(26);

(10) by striking out "(after December 31, 1969)" in section 1902(a)(28)(F)(i);

(11) by striking out the last sentence of section 1902(a);

(12) by striking out section 1902(b)(2) and inserting in lieu thereof the following:

"(2) any age requirement which excludes any individual who has not attained age 22 and is or would, but for the provisions of section 2155(b)(2), be a member of a family eligible for assistance to needy families with children as defined in section 405(b); or";

(13) by striking out section 1902(c);

(14)(A) by striking out "and section 1117" and ", beginning with the quarter commencing January 1, 1966" in the matter preceding clause (1) of section 1903(a), and

(B) by striking out "money payments under a State plan approved under title I, X, XIV, or XVI, or part A of title IV" in clause (1) of such section and inserting in lieu thereof "assistance to needy families with children as defined in section 405(b) or assistance for the aged, blind, and disabled under title XX,";

(15) by striking out section 1903(c);

(16) effective July 1, 1973, by striking out "each of the plans of such State approved under titles I, X, XIV, XVI, and XIX" in section 1903(j)(2) (as added by section 225 of this Act) and inserting in lieu thereof "the State plan";

(17) by striking out "has been so changed that it" in section 1904(1);

(18)(A) by striking out "not receiving aid or assistance under the State's plan approved under title I, X, XIV, or XVI, or part A of title IV, who are—" in the matter preceding clause (i) in section 1905(a) and inserting in lieu thereof "who are not receiving assistance to needy families with children as defined in section 405(b) or assistance for the aged, blind, and disabled under title XX, who are—",

(B) by striking out clause (ii) of such section and inserting in lieu thereof the following:

"(ii) members of a family, as described in section 2155(a), except a family in which both parents of the child or children are present, neither parent is incapacitated, and the male parent is not unemployed,",

(C) by striking out clauses (iv) and (v) of such section and inserting in lieu thereof the following:

"(iv) blind as defined in section 2014(a)(2),

"(v) disabled as defined in section 2014 (a)(3), or",

(D) by striking out "aid or assistance under State plans approved under title I, X, XIV, or XVI" in clause (vi) of such section and inserting in lieu thereof "benefits under title XX", and

(E) by striking out "aid or assistance furnished to such individual (under a State plan approved under title I, X, XIV, or XVI), and such person is determined, under such a State plan," in the second sentence of section 1905(a) and inserting in lieu thereof "benefits paid to such individual under title XX, and such person is determined"; and

(19) by striking out the semicolon and everything that follows in the second sentence of section 1905(b) and inserting in lieu thereof a period.

EFFECTIVE DATE OF CERTAIN PROVISIONS

SEC. 650. Notwithstanding any other provision of this Act, sections 410 and 411, parts B, C, D, and E of title IV, and title V of this Act shall be effective at such time as the Congress may determine in subsequent legislation.

On page 8, line 18, strike out "402" and insert in lieu thereof "410".

On page 10, line 21, strike out "403" and insert in lieu thereof "411".

Mr. RIBICOFF. Mr. President, I ask unanimous consent that the amendments be considered en bloc.

Mr. LONG. Mr. President, reserving the right to object, I am not sure I want to object, but I would like to familiarize myself with the amendments prior to that time.

Mr. RIBICOFF. This is the basic Ribicoff proposal I spoke of last week. It is my amendment No. 1614, which I intended to call up today. It is being put in as a substitute to the amendment offered by the Senator from Virginia, and this will join the issue of the entire welfare proposal in title 4.

Mr. LONG. I must object for the record, but I believe in due course after I study the amendments I will be willing to agree to the consent request. I simply want to reserve my rights at this point.

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

The PRESIDING OFFICER. Objection is heard.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that the order of the quorum call be rescinded.

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

Mr. HARRY F. BYRD, JR. Mr. President, following my earlier colloquy with the distinguished Senator from Utah (Mr. BENNETT), I modify my amendment to H.R. 1 to permit a test of the House version of the family assistance plan as well as the version in the Ribicoff amendment.

I send to the desk a modification of my amendment, and ask that it be so modified.

The PRESIDING OFFICER. The amendment will be so modified.

The modifications are as follows:

1. Section 401(a)(1) as added by the amendment is modified to read:

(1) The term "family assistance test program" means (A) a program patterned after that contained in title IV of H.R. 1, 92d Congress, 1st session, as passed by the House of Representatives, or (B) a program patterned after that contained in amendment No. 1614, 92d Congress, 2d session, introduced in the Senate on September 28, 1972,

2. Section 401(b)(1) as added by the amendment is modified so that the last sentence thereof reads as follows:

One of such programs shall be a family assistance test program as defined in subsection (a)(1)(A) of this section, one of such programs shall be the family assistance program defined in subsection (a)(1)(B) of this section, and two of such programs shall be workfare test programs.

The PRESIDING OFFICER. The question is on agreeing to the amendments of the Senator from Connecticut, as modified.

Mr. HARRY F. BYRD, JR. 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. HARRY F. BYRD, JR. 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. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that the amendment as notified which is the pending business, submitted by the Senator from Virginia this past Saturday be withdrawn and in its place there be substituted a similar amendment to be offered by the distinguished Senator from Delaware (Mr. ROTH) that the Senator from Virginia has cosponsored.

Mr. RIBICOFF. Mr. President, reserving the right to object—and I shall not object—would the distinguished Senator from Virginia also include in his unanimous consent request that my substitute proposal for the Senator from Virginia's become the substitute proposal for the amendment of the Senator from Delaware, so that we can have the same chronology as now pertains?

Mr. HARRY F. BYRD, JR. Yes. I include that as a part of my unanimous consent request. I may say that the proposal which will be offered by the Senator from Delaware is virtually identical, I might say it is identical, to my own amendment. It is identical in principle and virtually identical in language to the one I offered, Saturday. I merely want to make it the Roth-Byrd amendment, rather than the Byrd-Roth amendment.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. RIBICOFF. Mr. President, one more request. I ask unanimous consent that my amendments to the substitute amendment be considered en bloc.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. RIBICOFF. Now can we get back on the track?

Mr. ROBERT C. BYRD. Mr. President, may I ask the distinguished Senators whether or not in their opinions there will be a disposition of the substitute, or both the substitute and the amendment in the first degree, today?

Mr. LONG. Mr. President, it is impossible to say at this point. We will simply have to see how the debate goes, and see if the Senate seems to be ready to vote before the day is over.

Mr. PASTORE. Mr. President, reserving the right to object, it is my understanding that there cannot be a vote on this amendment or the substitute today. I was wondering, inasmuch as we have the Defense appropriation bill, if we could not have a discussion on this amendment for a reasonable time and then, if it is not culminated by that time, we ought to go on to the Defense appropriation bill.

Mr. LONG. We are not asking unanimous consent to vote or not to vote. It seems to me we just ought to debate the amendment and the substitute for the amendment, and after we have debated for a while, we can see whether the Senate appears to be in a mood to vote on

this issue, and if not we will go to the Defense bill.

Mr. PASTORE. That is exactly the point I am making. I thought I had made it very clear. But I hope we will not dilly-dally here all day without accomplishing anything. There is not going to be a vote on it today, and here we are: We have the Defense bill that is ready to move, and I was wondering if we cannot get going on the things where we can get results.

Mr. LONG. Frankly, Mr. President, I hope we can vote on this amendment today, but we will have to wait and see.

Mr. PASTORE. I do, too.

Mr. LONG. First, though, the Senator wants to discuss his amendment.

Mr. PASTORE. But I hope we will find out about 1 o'clock, and not at 6 o'clock this evening.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. RIBICOFF. I yield.

Mr. ROBERT C. BYRD. Mr. President, I think both Senators have put their finger on the point here that I wanted to develop. If it is possible to vote on the substitute and the amendment in the first degree today, I would hope that we could do so. I realize we will not know that until there has been some debate. But once debate has been completed on those two amendments, possibly we can vote on them today. That is my understanding. If not, it may be possible, I would hope, to reach an agreement today to vote on those two amendments at a certain hour tomorrow. I would hope that would be the case. I know that Senators at the moment are not ready to respond to that, and I am not stating it as a question at this time; but I would hope that it could be developed later.

Mr. RIBICOFF. Mr. President, may I respond to the distinguished assistant majority leader and the distinguished Senator from Rhode Island?

I think we are approaching the moment of truth on welfare reform. We have been with it for 3 years. I do not see in this body great interest in welfare reform, nor do I see great interest in welfare reform in the executive branch. My feeling is that the Senate has made up its mind as to what it wants to do.

I doubt whether we are going to be able to get enough people on this floor to listen, or enough Senators to become involved to discuss this amendment with the completeness it deserves. I think the point made by the distinguished Senator from Rhode Island is well taken. I would suggest for consideration by the chairman of the Finance Committee, the Senator from Delaware, the Senator from Virginia, and the Senator from Utah that we discuss this amendment and welfare reform as far as we can go today; it will be in the RECORD; I would hope that Senators who are not here during the day will have an opportunity to look at the RECORD and read the debate tomorrow morning; and I would foresee a strong possibility of reaching an agreement sometime to vote by mid-Tuesday afternoon on the various proposals. At that stage, I would say the voting should go comparatively rapidly.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. RIBICOFF. I yield.

Mr. ROBERT C. BYRD. Do I understand the Senator to say he hopes an agreement will be reached today?

Mr. RIBICOFF. Today.

Mr. ROBERT C. BYRD. To vote tomorrow?

Mr. RIBICOFF. To vote tomorrow. I think that would be better for the Senate and better for the country, because, as I say, I am a realist, and when I look around this floor, I realize the complications. I regret to say I believe most Senators are going to vote on the issue viscerally instead of intellectually.

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

Mr. RIBICOFF. I yield.

Mr. PASTORE. I want to compliment the Senator from Connecticut. He has never indulged in dilatory practices on this floor. I know he has a very earnest amendment; in fact, I believe I voted for it last time, and I shall vote for it again. I think most of us are familiar with it, and he is quite right.

What I was trying to obviate was the idea that there would just be discussion today. Any time that word gets out, you know what happens on the floor. The absenteeism is almost staggering.

I would hope Senators would get the impression that those of us who come here at 9 o'clock on Monday morning and leave here at 8 o'clock on Friday night ought to be considered, too.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. RIBICOFF. I yield.

Mr. ROBERT C. BYRD. I wonder if it would be a reasonable request that no later than 1 p.m. today—and it could be much earlier, depending on whether or not Senators wish to talk on the pending question—the pending business be laid aside and the Senate proceed to the consideration of the defense appropriation bill.

Mr. HARRY F. BYRD, JR. Mr. President, reserving the right to object, this is a vitally important piece of legislation. There are billions of dollars involved. It is a very complicated piece of legislation, and a very technical piece of legislation. I am just wondering whether the Senate wants to, in a matter of 2 hours and 10 minutes, cease debate on a matter of this magnitude and go on to something else.

Mr. BENNETT. For today only.

Mr. PASTORE. For today only.

Mr. HARRY F. BYRD, JR. But then I assume we would want to devote a great deal of time tomorrow to debate. If Senators do not want to do that, we will be getting this down to a piece of major legislation, passed twice by the House, considered by the Senate Finance Committee in 1970, 1971, and 1972, and brought here to the Senate floor with the idea of just a very brief debate.

If that is what the Senate wants to do, I do not think I shall object, but I just want to point out that I think we are dealing pretty cavalierly with a very important subject.

Mr. ROBERT C. BYRD. Mr. President, who has the floor?

Mr. RIBICOFF. I am pleased to yield to the distinguished Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, may I say that if my request is acceded to, we would go on to the Defense appropriation bill no later than 1 o'clock today, or possibly earlier, and at some point toward the end of the day, if Senators wished to again debate the now pending question, they would have the opportunity to do so, even if the Senate had to stay in session late for them to debate the question, without any votes, of course.

Mr. HARRY F. BYRD, JR. Mr. President, if the Senator will yield, we are on this question now. The Senator from Virginia wants to discuss it.

Mr. ROBERT C. BYRD. And may do so.

Mr. HARRY F. BYRD, JR. I want adequate time to discuss it.

Mr. ROBERT C. BYRD. How much time would the Senator like?

Mr. HARRY F. BYRD, JR. I probably will not use it, but I would like to have an hour.

Mr. PASTORE. Mr. President, will the Senator yield? There is no criticism of the Senator from Virginia.

Mr. HARRY F. BYRD, JR. I did not take it as criticism.

Mr. PASTORE. Well, I mean he got a little heated up, which he usually does not do. Something rubbed him the wrong way.

But that is apart from the question. We are here, and we want to listen to what he has to say. The Senator is absolutely right; this is an important question. But he will recall that we all stayed here Saturday afternoon on the Defense bill, and we stayed and we stayed and we stayed. Then something happened, and around 4 o'clock we were sent home. That was the pending business. That has been taken off, and we have come back to H.R. 1, which is fine. I am not finding any fault. All I am saying is that we should begin to think in terms of getting our work done.

Mr. HARRY F. BYRD, JR. That is exactly what the Senator from Virginia was suggesting, that we stay on this bill and try to get it handled.

Mr. PASTORE. We have been on this bill for 2 weeks, and we have not reached the other end of the tunnel. I think we have been at the Rubicon here for a couple of months, but nobody has ever crossed it, and I am trying to cross the Rubicon; that is all.

Mr. HARRY F. BYRD, JR. The bill just came in 2 days ago.

Mr. RIBICOFF. Mr. President, may I say to my distinguished colleague, for whom I have the highest respect, that, frankly, we have on the floor today just about the Senators who are interested in one phase or another of welfare reform. I wish 100 Members of the Senate were interested in welfare reform. But, unfortunately, from 3 years of experience, living with this matter and working with it, the Senators on the floor today represent the interest of the U.S. Senate in what happens to 25 million people.

What has happened is that welfare

reform has become another code word in America. It was busing, now it is welfare, and the Senate of the United States and the administration are taking a powder. They are afraid to discuss this issue. It is an issue that everybody wants to hide under the sheets.

What I am saying is that I would hope that we would be debating this important issue for one solid week. But as I look around the Chamber, I do not hear any speeches, any discussion, beyond the Senators who are on the floor today.

So far as I am concerned, I am ready to vote at any time. But I would not deny a moment of time to the concerned Senators, with different philosophies, who have worked so hard on welfare reform.

I have the highest respect for the Senator from Virginia, for the chairman, for the ranking minority member, for the Senator from Arizona, and for the Senator from Delaware, all of whom have worked hard on different phases of this program.

But we can add it up, I say to the distinguished Senator from Rhode Island: We have the Senator from Virginia for an hour, the Senator from Delaware for an hour, and I have another three-quarters of an hour. I can answer questions, if anyone has them. I suppose the distinguished chairman has an hour. The distinguished Senator from Utah might have an hour. And that is it. And yet we are talking about the future of 25 million people.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. RIBICOFF. I yield.

Mr. ROBERT C. BYRD. Mr. President, my request was not made with any desire to deny any Senator an opportunity to speak at whatever length he wishes to speak.

I ask unanimous consent that, at no later than 2 p.m. today, the pending bill be set aside and that the Senate proceed to the consideration of the Defense appropriation bill, the time to be equally divided between the Senator from Louisiana, the manager of the bill——

Mr. HARRY F. BYRD, JR. I did not think we were going to have a time limitation.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the pending bill be set aside no later than 2 p.m. today and that the Senate proceed then to the consideration of the Defense appropriation bill.

Mr. McCLELLAN. Mr. President, reserving the right to object, can the Senator make it definitely at 2 p.m., so that we will know?

Mr. ROBERT C. BYRD. No, because the debate might peter out earlier, as they say in West Virginia, and it could then come to a close and the bill laid aside.

Mr. McCLELLAN. So we all have to sit around and wait for something to peter out that may not peter out?

Mr. ROBERT C. BYRD. No. If we made it precisely at 2 p.m. and it petered out by 12:30, we would then have to sit around and wait an hour and a half.

Mr. McCLELLAN. I will be amenable.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia? The Chair hears none, and it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, at the request of the distinguished junior Senator from Virginia (Mr. SPONG) that he, Mr. SPONG, be added as a cosponsor of the amendment jointly sponsored by the distinguished Senator from Delaware (Mr. ROTH) and the distinguished Senator from Virginia (Mr. HARRY F. BYRD, JR.)

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

The PRESIDING OFFICER. Would the Senator from Delaware send his amendment to the desk?

Mr. ROTH. Yes.

The amendment reads as follows:

Beginning on page 689, line 11, strike out through page 769, line 11, and insert in lieu thereof the following.

TITLE V—PROGRAMS FOR FAMILIES WITH CHILDREN

PART A—TESTING OF ALTERNATIVE PROPOSALS FOR ASSISTANCE TO FAMILIES WITH DEPENDENT CHILDREN

AUTHORIZATION FOR CONDUCT OF TEST PROGRAMS

SEC. 401. (a) For purposes of this part—

(1) The term "family assistance tests" means (A) the programs contained in title IV of H.R. 1, 92d Congress, 1st Session, as passed by the House of Representatives, or (B) the program referred to in clause (A) as amended by amendment No. 1614, 92d Congress, 2d Session, introduced in the Senate on September 28, 1972,

(2) the term "workfare test program" means the program contained in parts A and B title IV of H.R. 1, 92d Congres, 2d Session, as reported to the Senate by the Committee on Finance on September 26, 1972, and

(3) the term "family" means a family with children.

(b) (1) The Secretary of Health, Education, and Welfare (hereinafter in this section referred to as the "Secretary") is authorized, effective January 1, 1973, to plan for and conduct, in accordance with the provisions of this section, not more than three test programs. One of such programs shall be the family assistance test program defined in subsection (a) (1) (A) of this section, one of such programs shall be the family assistance program defined in subsection (a) (1) (B) of this section, and one of such programs shall be the workfare test program.

(2) Whenever the workfare test program is commenced, there shall commence, on the same date as such program, both family assistance test programs. Except as may otherwise be authorized by the Congress, no test program under this section shall be conducted for a period of less than 24 months or more than 48 months, and to the maximum extent practical each such test program shall be conducted for the same length of time.

(3) Any such test program shall be conducted only in and with respect to an area which consists of one or more States, one or more political subdivisions of a State, or part of a political subdivision of a State, and shall be applicable to all the individuals who are residents of the State or the area of the State in and with respect to which such program is conducted.

(4) During any period for which any such test program is in effect in any State or in any area of a State, individuals residing in such State or the area of the State in which such program is in effect shall not be eligible for aid or assistance under any State plan or program for which the State receives Federal financial assistance under part A of title IV of the Social Security Act.

(5) The Secretary, in determining the areas in which test programs under this section shall be conducted, shall select areas with a view to assuring—

(A) that the number of participants in any program will (to the maximum extent practicable (be equal to the number of participants in any other such program; and

(B) that the area in which any family assistance test program is conducted shall be comparable (in terms of size and composition of population, of average per capita income, rate of unemployment, and other relevant criteria) to an area in which a workfare test program is conducted.

(c) (1) No test program under this section shall be conducted in any State (or any area thereof) unless such State shall have entered into an agreement with the Secretary under which the State agrees—

(A) to participate in the costs of such test program; and

(B) to cooperate with the Secretary in the conduct of such program.

(2) Under any such agreement, no State shall be required to expend, with respect to any test program conducted within such State (or any area thereof), amounts greater than the amounts which would have been expended with respect to such State or area thereof (as the case may be), during the period that such test program is in effect, under the State plan of such State approved under part A of title IV of the Social Security Act. For purposes of determining the amount any State would have expended under such a plan during the period that any such test program is in effect within such State (or any area thereof), it shall be assumed that the rate of State expenditure (from non-Federal funds) under such plan would be equal to the average rate of State expenditure (from non-Federal funds) under such plan for the 12-month period immediately preceding the commencement of such test program.

(d) (1) The Secretary shall, upon completion of any plans for and prior to the commencement of any test program under this section, submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a complete and detailed description of such program and shall invite and give consideration to the comments and suggestions of such committees with respect to such program.

(2) During the period that test programs are in operation under this section, the Secretary shall from time to time (but not less frequently than once during any 6-month period) submit to the Congress a report on such programs. Each such report shall contain full and complete information and data with respect to such programs and the operation thereof, together with such recommendations and comments of the Secretary with respect to such programs as he deems desirable.

(3) At the earliest practicable date after the termination of all test programs authorized to be conducted by this section, the Secretary shall submit to the Congress a full and complete report on such programs and their operation together with (A) the Secretary's evaluation of such programs and such comments or recommendations of the Secretary with respect to such programs as he deems desirable and (B) his recommendations (if any) for legislation to revise or replace the provisions of part A of title IV of the Social Security Act.

(e) (1) The Secretary shall—

(A) in the planning of any test program under this section; or

(B) in assembling information, statistics, or other materials, to be contained in any report to Congress under this section;

consult with, and seek the advice and assistance of, the General Accounting Office and the General Accounting Office shall consult with the Secretary and furnish such advice and assistance to him upon request of the

Secretary or at such times as the Comptroller General deems desirable.

(2) The operations of any test program conducted under this section shall be reviewed by the General Accounting Office, and the books, records, and other documents pertaining to any such program or its operation shall be available to the General Accounting Office at all reasonable times for purposes of audit, review, or inspection. The books, records, and documents of each such program shall be audited by the General Accounting Office from time to time (but not less frequently than once each year).

(3) During the period that test programs are in operation under this section, the Comptroller General shall from time to time (but not less frequently than once during any 6-month period) submit to the Congress a report on such programs which shall contain full and complete information and data with respect to such programs and the operation thereof, together with such recommendations and comments of the Comptroller General with respect to such programs as he deems desirable.

(4) At the earliest practicable date after the termination of all test programs authorized to be conducted by this section, the Comptroller General shall submit to the Congress a full and complete report on such programs and their operation together with his evaluation of, and comments and recommendations (if any), with respect to such programs.

(f) In the admiration of test programs under this section, the Secretary shall provide safeguards which restrict the use or disclosure of information identifying participants in such programs to purposes directly connected with the administration of such programs (except that nothing in this subsection shall be construed to prohibit the furnishing of records or information concerning participants in such programs to the Committee on Finance of the Senate or the Committee on Ways and Means of the House of Representatives).

(g) For the purpose of enabling the Secretary to formulate operational plans and to conduct test programs under this section, there are hereby authorized to be appropriated for each fiscal year such sums as may be necessary.

(h) Nothing in this Act shall be construed as a commitment, on the part of the Congress, to enact (at any future time) legislation to establish, on a permanent basis, any program tested pursuant to this section or any similar program.

PART B—EMPLOYMENT WITH WAGE SUPPLEMENT

SEC. 420. The Social Security Act is amended by adding after title XIX thereof the following new title:

On page 769, line 12, strike out "subpart 2" and insert in lieu thereof "title XX".

On page 769, line 15, and on page 771, line 19, strike out "2030" and insert in lieu thereof "2001."

On page 769, lines 16 and 21, on page 770, line 5, and on page 771, line 21, strike out "2071" and insert in lieu thereof "2003".

On page 770, line 11 and lines 21 and 22, and on page 771, lines 5, 6, and 11, strike out "Work Administration" and insert in lieu thereof "Secretary".

On page 770, lines 12 and 23, strike out "it" and insert in lieu thereof "him".

On page 771, line 13, strike out "2031" and insert in lieu thereof "2002".

Beginning on page 772, line 3, strike out through page 797, line 25, and insert in lieu thereof the following:

"DEFINITIONS

"SEC. 2003. For purposes of this title—

"(a) The term "Secretary" means the Secretary of Labor.

"(b) The term 'regular employment' means any employment provided by a private or public employer.

"(c) The term 'United States', when used in a geographic sense, means the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, and Guam.

On page 799, line 18, strike out "Work Administration" and insert in lieu thereof "Secretary":

Beginning on page 800, line 8, strike out through page 803, line 23.

On pages 804 through 827, strike out "402(h)" each itme it appears and insert in lieu thereof "402(a)(26)".

On page 823, srike out lines 5 through 11 and insert in lieu thereof "to such State or political subdivision from amounts which would otherwise represent the Federal share of assistance to the family of the absent parent."

Beginning on page 825, line 11, strike out through page 826, line 3.

On page 829, between lines 2 and 3, insert the following:

AMENDMENTS TO PART A OF TITLE IV

SEC. 430A. (a) Section 402(a)(8)(A) of the Social Security Act is amended—

(1) by striking out "and" at the end of clause (i);

(2) by striking out the semicolon at the end of clause (ii) and inserting in lieu thereof a comma; and

(3) by adding at the end of clause (ii) the following new clause:

"(iii) $20 per month, with respect to the dependent child (or children), relative with whom the child (or children) is living, and other individual (living in the same home as such child (or children)) whose needs are taken into account in making such determination, of all income derived from support payments collected pursuant to part D; and".

(b) Section 402(a)(9) is amended to read as follows: "(9) provide safeguards which permit the use of disclosure of information concerning applicants or recipients only to (A) public officials who required such information in connection with their official duties, or (B) other persons for purposes directly connected with the administration of aid to families with dependent children;".

(c) Section 402(a)(10) is amended by inserting immediately before "be furnished" the following: ", subject to paragraphs (24) and (26),".

(d) Section 402(a)(1) is amended to read as follows: "(11) provide for prompt notice (including the transmittal of all relevant information) to the Attorney General of the United States (or the appropriate State official or agency (if any) designated by him pursuant to part (D)) of the furnishing of aid to families with dependent children with respect to a child who has been deserted or abandoned by a parent (including a child born out of wedlock without regard to whether the paternity of such child has been established);".

(e) Section 402(a) is further amended—

(1) by striking out "and" at the end of paragraph (22); and

(2) by striking out the period at the end of paragraph (23) and inserting in lieu thereof a semicolon and the following: "(24) provide (A) that, as a condition of eligibility under the plan, each applicant for a recipient of aid shall furnish to the State agency his social security account number (or numbers, if he has more than one such number), and (B) that such State agency shall utilize such account numbers, in addition to any other means of identification it may determine to employ, in the administration of such plan; (25) contain such provisions pertaining to determining paternity and securing support and locating absent parents as are prescribed by the Attorney General of the United States in order to enable him to comply with the requirements of part D; and (26) provide that, as a condition of eligibility for aid, each applicant or recipient respect will be required—

"(A) to assign to the United States any rights to support from any other person he may have (i) in his own behalf or in behalf of any other family member for whom he is applying for or receiving aid, and (ii) which have accrued at the time such assignment is executed, and which will accrue during the period ending with the third month following the month in which he (or such other family members) last received aid under the plan or within such later month as may be determined under section 455(b), and

"(B) to cooperate with the Attorney General or the State or local agency he has delegated under section 454, (i) in establishing the paternity of a child born out of wedlock with respect to whom aid is claimed, and (ii) in obtaining support payments for herself and for a child with respect to whom such aid is claimed, or in obtaining any other payments or property due herself or such child."

(f) Sections 402(a) (17), (18), (21), and (22), and section 410 of such Act are repealed.

(g) The amendments made by this section shall become effective on January 1, 1973.

On page 829, line 1, strike out "(d)" and insert in lieu thereof "(e)".

On page 830, lines 19 to 21, strike out "as a division of the Work Administration (established under title XX of this Act)".

On page 833, line 3, strike out "the Work Administration" and insert in lieu thereof "recipients of assistance under title IV of this Act, and persons who have been or are likely to become applicants for or recipients of such aid,".

On page 834, line 17, strike out "title XX" and insert in lieu thereof "part A of title IV".

On page 836, lines 1 and 2, strike out ", in addition to the powers it has as a division of the Work Administration."

On page 837, strike out line 19 and insert in lieu thereof "persons receiving assistance under part A of title IV".

On page 851, strike out lines 17, 18, and 19.

On page 851, line 20, strike out "(b)" and insert in lieu thereof "Sec. 2114(a)".

On page 852, line 4, strike out "(c)" and insert in lieu thereof "(b)".

ORDER FOR RECOGNITION OF SENATORS WEICKER, BROOKE, BUCKLEY, BOGGS, AND ROTH TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, on tomorrow, after the 2 leaders have been recognized under the standing order, the following Senators be recognized, each for not to exceed 15 minutes, and in the order stated:

Senators WEICKER, BROOKE, BUCKLEY, BOGGS, and ROTH.

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

QUORUM CALL

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

SOCIAL SECURITY AMENDMENTS OF 1972

The Senate continued with the consideration of the bill (H.R. 1) to amend the Social Security Act, to make improvements in the medicare and medicaid programs, to replace the existing Federal-State public assistance programs, and for other purposes.

Mr. RIBICOFF. Mr. President, I ask unanimous consent that Mr. Sidney Johnson, a member of the staff of the Committee on Labor and Public Welfare, be permitted the privilege of the floor during consideration of H.R. 1.

Mr. ROBERT C. BYRD. Will the Senator please repeat that? What committee was that?

Mr. RIBICOFF. The Committee on Labor and Public Welfare. We would like to have Mr. Johnson here, on behalf of the Senator from Minnesota (Mr. MONDALE) during discussion of the child care provisions in title I.

Mr. ROBERT C. BYRD. Is this just for that?

Mr. RIBICOFF. During consideration of title I.

Mr. ROBERT C. BYRD. Just for today?

Mr. RIBICOFF. This was requested by the Senator from Minnesota (Mr. MONDALE).

Mr. ROBERT C. BYRD. I have no objection.

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

Mr. HANSEN. I ask unanimous consent that my staff member, Mrs. Marilyn Koester be permitted on the floor during debate and voting on H.R. 1.

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

Mr. RIBICOFF. Mr. President, today I am calling up my welfare reform proposal as a substitute for Senator HARRY BYRD's pilot project proposal now pending before the Senate.

I fully agree with the distinguished Senator from Virginia that innovative programs should not be implemented on a nationwide basis until they are tested on an experimental basis.

But the proposal of the distinguished Senator from Virginia would leave the present welfare system intact for 2 to 4 years while different programs are being tried out. Allowing the present welfare system to continue for that length of time is intolerable. The present welfare system is bankrupting State and local governments and is not helping the truly needy.

We can all agree that we must help those who are unable to work. Millions of young children and their mothers, together with the blind, the disabled, and the elderly need help and they need it now. Pilot programs relating to those able to work will tell us nothing more about those who cannot work. Delaying reform for this part of the welfare system would be indefensible.

Therefore, under my proposal the program for unemployables would commence on January 1, 1974 and much of the existing cumbersome and inefficient welfare structure in this country would be swept away at long last.

The area where experimentation is needed is in the new area of Federal aid to the working poor. This is the question that has troubled many Americans and hamstrung our attempts at welfare reform. Scare stories have circulated about millions of new people added to the welfare rolls—suggesting that millions of bums and freeloaders will be milking the Government and the taxpayer of money. It is time to face this issue squarely.

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator from Connecticut yield at that point?

Mr. RIBICOFF. I yield.

Mr. HARRY F. BYRD, JR. I do not like to interrupt the Senator but I should like to clarify one point. The Senator from Connecticut mentioned the blind and disabled. They are in a different section. They would not be affected by my proposal.

Mr. RIBICOFF. That is correct, but I think that what we must make sure of is, when we are talking about piloting out, we are piloting out the phases of welfare that have been proposed by the distinguished Senator from Louisiana (Mr. LONG) and myself and the administration. The pilots would deal with the so-called working poor which is a new category. Keeping in mind that there are now 14 million people on the welfare rolls, we must make sure in the process that we are doing whatever we can to alleviate their problems and working whatever welfare reform we can on the system that now exists.

This is what troubles me.

Under all three proposals for welfare reform—the Finance Committee's, H.R. 1 and mine—there is a separation of employables from unemployables. Since the Finance Committee bill and my proposal essentially agree on who is unemployable—aged, ill, incapacitated persons and mothers with preschool children—our proposals for unemployables would cover the same numbers of people—about 10 million persons. These people essentially are present AFDC recipients who numbered 10.6 million people—7.7 million children and 2.9 million adults—in calendar 1971. The President's plan, mainly because it requires mothers with children over age 3 rather than 6 to work, would cover about 9 million people under FAP.

All three proposals would also assist those already working or able to work, but only mine would test this concept out before full national implementation. In any event, since these people would be working and receiving benefits they should not be characterized as on welfare. They are workers receiving additional assistance while they worked.

While it is clear by now that these millions of people receiving benefits should be characterized as workers rather than on welfare, it is also clear that we are all talking about helping millions of additional people. Such programs should be tried out first. And that is why I have proposed to pilot out the OFF program. If it does not work we can stop it from going into effect.

Therefore my new welfare reform amendment—No. 1614—provides for pilots to be carried out by the Secretaries of Health, Education, and Welfare and Labor. They would be designed to test out the basic features of the opportunities for families program which provides income supplements to the working poor.

Under the provision of amendment 1614 the Secretaries of HEW and Labor would establish pilot projects immediately upon enactment.

They would be required to report their findings to Congress and the President by December 31, 1973. Congress would then have until the end of March—90 days—to disapprove the OFF program. If either House of Congress passed a resolution stating that Congress does not favor the making of such payments, the OFF program would not be implemented. Absent congressional disapproval, however, the OFF program would go into effect on July 1, 1974. Such a trigger mechanism is similar to the congressional veto power contained in the Legislative Reorganization Act of 1946.

It is time for Congress to take a hard look at just what is being proposed in this opportunities for families program. It is designed to assure that it is always more profitable to work than to remain on welfare.

Under present law there is an incentive to remain on welfare rather than go to work. This is because the low-income family headed by the father is not eligible for assistance if he is working full time but is poor.

Thus a family on welfare knows that if a member of the family goes to work it will lose all its welfare benefits. Under the present system, then, going to work often provides less income than welfare.

OFF is designed to end that problem which is a key element in the present welfare mess.

INADEQUACIES OF THE FINANCE COMMITTEE BILL

The Finance Committee bill separates the employables from the unemployables. There is a remarkable similarity between the definitions of the Finance Committee bill and mine as to who is considered unemployable. Basically the elderly, ill, incapacitated and their caretakers would be eligible for AFDC under the committee bill and FAP under my proposal.

The Finance Committee proposal retains the existing, widely discredited State AFDC programs for mothers with young children, and adds on top of it another program for families with an overlapping jumble of wage subsidies, social security tax rebates, work disincentives and subpoverty wage programs.

Rather than coordinate and improve the operation of our welfare program, the committee proposal compounds the lack of coordination by scattering new programs throughout the Federal Government. The new workfare programs would be administered by the Departments of Health, Education, and Welfare, Treasury and a new Federal Work Administration in addition to the 1152 administrative units at the State and local level which already handle the AFDC program.

ADMINISTRATION OF THE PROGRAM

The committee proposal would create an administrative nightmare—a welfare bureaucracy of gigantic proportions. Un-

der the present AFDC system which would continue under the Finance Committee plan some 86,000 persons are employed in State and local governments to administer payments. Under present law the figure is projected to reach 100,000 by the end of calendar 1973.

The committee would add to this huge system a Work Administration which, according to the Finance Committee report (p. 350):

> Will also use 150,000 participants in the guaranteed employment program to perform administrative tasks.

The Works Administration would have to establish new local offices across the country. Additional thousands of employees would have to be employed in the Internal Revenue Service because it is that agency which administers the 10% work bonus. Under my proposal with its centralized network, uniform procedures and economies of scale, the manpower estimate is around 80,000—6,000 less than under present law.

For those unable to work, the Finance Committee would retain the AFDC system with all its flaws. But a guaranteed annual income concept is included in the committee proposal. Instead of receiving matching grants each State would receive a bloc grant. States would be required to provide a benefit level of $2,400 for a family of four, $2,000 for a family of three and $1,600 for a family of two. States with benefit levels below these levels would simply be required not to reduce payments below present levels. Thus southern States could continue to pay families $700 and $800 a year.

For those able to work a three-part system would be established. First, a Work Administration to administer a wage subsidy would be established. Second, a 10-percent work bonus under IRS direction would be created and thirdly, a guaranteed job program at very low wages would be created.

WAGE SUBSIDY

A wage subsidy would be paid by the newly created Work Administration equaling three-fourths of the difference between a low wage in private industry and the minimum wage. Thus, if the minimum wage is $1.60, an employee making $1.20 would get an additional 30 cents in wages, which is three-fourths of the difference between $1.20 and $1.60. The language of the committee bill always refers to three-fourths of the minimum wage. Yet, the committee report indicates that the bill would pay three-fourths of the difference between $1.50 and $2 an hour. They are making the assumption that the Federal minimum wage is $2. If the Federal minimum wage were actually $2 an hour, the employee making $1.50 an hour would get approximately 38 cents additionally from the Government. In either case such a subsidy would encourage employers to pay low wages since they could expect the Federal Government to pick up the cost of higher wages.

One strange thing about this provision is that there would be no subsidies provided to wages that were less than three-quarters of the minimum wage. Thus the lowest income members of the working poor would not be aided by this provision.

10-PERCENT PAYMENT

Participants referred to private sector jobs would receive an additional subsidy of 10 percent of wages covered by social security. This payment, made by the Internal Revenue Service, would only apply to the base hourly wage, not to the wage subsidy portion of hourly income. This payment would be phased out as income rises above the poverty line at a 25-percent rate, dampening any incentives to move above the poverty line. Thus the breakeven point for this provision—that is, that point of income where no more benefits are available—is $5,600. This provision alone could make at least 20 million people eligible for the "work" bonus. The breakeven point of $5,600 is about the same as the breakeven point under my original proposal—amendment 559—which received no sympathy from my colleagues on the Finance Committee.

Such a proposal rewards a family with $4,000 of earnings twice as much as a family with $2,000 and thus provides the least to those with the greatest need.

Administratively this proposal would involve the keeping of a huge volume of records and the maintenance and transfer of records between IRS, the Work Administration, and perhaps other agencies. Millions of tax records would become a part of the welfare maze.

The wage subsidy and the work bonus would be lumped on top of each other.

Thus a worker making $1.20 would first receive a 30-cent wage subsidy to make up three-quarters of the difference between his earnings—$1.20—and the minimum wage—$1.60. Then an additional 10-percent "bonus" computed on the base wage of $1.20—12 cents in this case—the employee's total hourly wage would then be $1.20 plus 30 cents plus 12 cents or $1.62.

This seems like a cumbersome and inefficient way to get to the minimum wage. It would be easier and less costly from an administrative viewpoint to just require all jobs to pay the minimum wage or at least combine the wage subsidy and the work bonus into one larger subsidy.

While I share the view of the committee that it is desirable to relieve the poor of the burden of paying social security taxes—I have publicly supported a social security rebate to impoverished working Americans—I cannot accept the committee proposal since it is part and parcel of an unworkable and inequitable overall plan.

The legislation I have developed would provide relief from both social security and income taxes through the earnings disregard feature. That is, in determining what is income for the purposes of computing the welfare payment, my proposal disregards the first $720 of income, 40 percent of additional income, and amounts paid for social security and income taxes.

May I say to the distinguished chairman of the Committee on Finance that I think the most imaginative and constructive part of his suggestion is a rebate of social security taxes. He and I have no disagreement. I am sure both of us could easily work out a proposal where we could assure that those on welfare and the working poor would be rebated the social security taxes they pay. This is the least we could do. I hope before this legislation is finished, no matter what course it takes, that our distinguished chairman and I can work out this particular proposal because it is constructive. I commend him for his thoughts and ideas.

GUARANTEED JOB OPPORTUNITY

The third provision of the Finance Committee bill would establish a new Federal bureaucracy—the Work Administration—to create very low-wage jobs.

The Work Administration would attempt to provide job placement, job development, employability plans and manpower training. All employable adults registering for welfare would be required to become employees of the Work Administration as a condition of receiving assistance. The Work Administration would attempt to place registrants in private jobs.

Those not so placed in "regular" jobs would become direct employees of the Work Administration at $1.20 an hour, far less than either the poverty line or the Federal minimum wage. These employees would receive no wage subsidy or 10 percent supplement. In fact, the Work Administration employees would be in limbo between Federal and private employment—ineligible for social security, unemployment compensation or workmen's compensation.

The people placed in these guaranteed jobs would only be allowed to work up to a maximum of 32 hours a week at a wage rate of $1.20 an hour. That works out to a weekly wage of $38.40 or $1,920 a year. This is less than half the poverty level. Even if the jobs paid $1.50 an hour—three-quarters of a possible new minimum wage—the weekly wage would only be $48 or $2,400 a year. This is $1,600 less than the poverty level.

It intrigues me, Mr. President, when one considers the conservative cast of the Committee on Finance, to contemplate that they would set up this Government corporation with the responsibility over 1 million people; it is a bureaucracy of such magnitude we cannot contemplate it.

Furthermore, I cannot imagine how anyone, industry or labor, could countenance a work pool of some 1 million people. It would completely shatter the wage structure we have built over a period of years. To think that this Work Administration then would be farming out in a subservient position to employers who are looking for labor would be almost equivalent to slave labor. It is impossible for me to contemplate how conservative, liberal, or moderate Members of this body could countenance such a system as that. It would completely shatter the wage structure in America.

What are we going to do if a person of moderate means wants to hire a maid? She is going to apply to the Work Administration to send in a maid for $1.20 an hour—I am going to pay and the Government is going to subsidize the wealthier members of our society.

I can imagine the horror that would prevail in this country to think that the

more affluent members of our society could get domestic maids from this Work Administration pool to work in the homes of the more affluent, to be subsidized at a rate of 30 cents an hour by the Federal Government, to ease the work on the daily basis of housewives of America. It is a shocking thing to contemplate that this country would go back to the indentured employee.

It is shocking to contemplate that under the committee bill sweatshops would arise, people paying substandard wages would arise, industries would flee from the sections of the country that paid decent living wages; employers who want to avoid the minimum wage law of the State or the Nation would go into areas where there would be large pools of labor and get labor for $1.20 an hour.

Frankly, anybody that cannot pay the minimum wage has no right to even be in business in America today.

These direct Work Administration employees would be required to perform "useful work which can contribute to the betterment of the community." For mothers with younger children, training to improve the quality of life—improve homemaking, beautifying apartments, acquiring consumer skills—would be provided. The Work Administration would also provide temporary employment with reimbursement to the Work Administration. In effect, the Federal Government would be maintaining a subpoverty wage manpower pool at the disposal of the business community.

The concepts embodied in the Work Administration are confused and often erroneous. While the basic idea of making the Federal Government the employer of last resort is a sound one, the down-grading of public service jobs relative to private sector employment is unfortunate. The emphasis on providing "incentives" for workers to move into "regular" private employment by paying Work Administration employees only $1.20 an hour is misplaced at best.

A major problem with the committee's proposal is that the private sector does not have sufficient jobs. In fact, over 5 million Americans are unemployed. Thus, even with extraordinary motivation, a Work Administration employee cannot escape his $1.20-an-hour job if there are no other jobs. He is doomed to remain at a menial $1.20-an-hour salary—$1,500 below a poverty-level wage on an annual basis. And the Work Administration by paying only $1 an hour for those in manpower training, is discouraging rather than encouraging participants to upgrade their skills and increase their income.

Rather than discouraging public service employment, we should be fostering it. It has been estimated that State and local government could utilize as many as 4 million people in public service activities of all kinds—conservation, education, health, consumer protection, recreation, sanitation, criminal justice, child care. It should be obvious to all that our inner cities are decaying, our air and water getting dirtier and our public services becoming increasingly unable to meet the challenge of providing us with the manner of existence we as Americans desire.

Public service jobs should provide workers with at least a poverty-level wage, In this way we can both fight poverty and improve our communities.

The proposal that I submitted, that I thought had been worked out with the administration, consists of two facets: aid to those unable to work; and aid to the working poor including a preliminary pilot program of this concept.

ASSISTANCE FOR THOSE WHO CANNOT WORK

This category includes children under 16, mothers with children under age 6, the elderly, ill or incapacitated, or their caretakers, caretakers of a child where the father or other adult relative in the home is working or registered for training, the caretakers of a child where suitable day care is unavailable, and unemployed, male-headed families for whom jobs are unavailable.

PAYMENT LEVEL

Those unable to work will be assured a basic Federal payment to a family of four of $2,600. The payment will increase as the cost of living rises.

MAINTENANCE OF BENEFITS

In those States where payment levels exceed $2,600, States would be required to make supplemental payments to assure that no recipient receives a smaller payment than he or she receives under the present law. To alleviate the harmful effects of State welfare cutbacks of the last few years, the States would be required to supplement up to the higher of their January 1971 level or any higher previous or subsequent level.

STATE FISCAL RELIEF

Under the provisions of my amendment, every State would receive substantial fiscal relief. Under present law States receive matching funds from the Federal Government ranging from 50 percent to 83 percent of a State's costs. Under my proposal the Federal Government will pay 100 percent of the first $2,600 of cost.

If we are talking about relief to States or revenue sharing, there could not be a more important, significant revenue-sharing proposal than for the Federal Government to pick up the first $2,600 of welfare costs of the States. Almost one-half of the total number of States would find themselves out of the welfare business when it came to actual costs.

In addition, while my amendment requires a State with a higher payment level to make supplements, the States would be "held harmless" from additional costs once their payments reached the levels for calendar year 1971.

Total savings to State and local governments in the first fiscal year will amount to $2.8 billion compared to $2.4 billion under H.R. 1 and $2.3 billion under the committee proposal. Fiscal relief would also be provided on an emergency interim basis. The States would receive $1 billion in fiscal relief in the interval before the new welfare program takes effect.

In other words, every State in the Nation has been begging for relief from its welfare costs, and since this program would not go into effect until January 1, 1974, provision is made for relief to the States in the interim period. The total emergency relief proposal is $1.2 billion.

I ask unanimous consent at this point in the RECORD to insert a table of interim relief to all States.

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

EMERGENCY FISCAL RELIEF UNDER THE RIBICOFF-ADMINISTRATION AGREEMENT

This provision provides that once a state reaches its calendar 1971 AFDC cost levels, the federal government will assume all cost rises up to 20% above fiscal 1971 levels. States would receive regular matching funds for cost rises above that level. As a condition of fiscal relief states would have to maintain payment levels at the January 1971 level.

This program is an interim measure pending the effective date of FAP. Retrospective fiscal relief in fiscal 1972 and 1973 would amount to $1.2 billion as follows:

	1972	*1973*
Alabama	$5.9	$5.9
Alaska	1.5	1.7
Arizona	1.7	2.3
Arkansas	2.6	3.0
California	98.6	167.4
Colorado	4.1	8.0
Connecticut	9.7	9.7
Delaware	1.3	1.3
District of Columbia	5.3	5.3
Florida	6.6	6.6
Georgia	8.2	8.2
Hawaii	2.9	2.9
Idaho	.6	1.0
Illinois	40.7	40.7
Indiana	5.3	5.3
Iowa	1.7	4.9
Kansas	2.4	5.2
Kentucky	2.9	5.3
Louisiana	.0	8.7
Maine	2.5	2.5
Maryland	9.8	9.8
Massachusetts	33.1	33.1
Michigan	34.7	34.7
Minnesota	8.5	10.3
Mississippi	2.9	2.9
Missouri	6.1	10.2
Montana	.2	.5
Nebraska	2.2	2.2
Nevada	.2	.6
New Hampshire	1.3	1.7
New Jersey	24.0	30.6
New Mexico	.4	1.0
New York	78.3	127.4
North Carolina	6.0	6.0
North Dakota	.6	.6
Ohio	21.1	21.1
Oklahoma	8.0	8.0
Oregon	2.6	4.8
Pennsylvania	38.1	47.5
Rhode Island	3.8	3.8
South Carolina	1.5	1.5
South Dakota	1.0	1.0
Tennessee	2.0	3.9
Texas	2.7	15.0
Utah	1.7	1.7
Vermont	1.3	1.3
Virginia	6.0	6.0
Washington	1.1	7.3
West Virginia	2.6	2.6
Wisconsin	8.7	8.7
Guam	.4	.4
Puerto Rico	.1	.1
Virgin Islands	.0	1.6
Total	515.6	704.5

(Figures are in millions of dollars and may not add due to rounding.)

Source: Senate Finance Committee.

4. UNIFORM STANDARDS AND PROCEDURES

Mr. RIBICOFF. Mr. President, national, uniform benefit levels, eligibility rules, and Federal administration would be established by the Ribicoff-administration agreement.

Procedures of the original Ribicoff amendment to assure fairness, including right to counsel, written opinions in welfare adjudication, elimination of punitive and cumbersome reporting and checking procedures are also included as are protection of employee rights, elimination of State residency requirements and determination of eligibility based on current need.

5. CHILD CARE

The proposal I introduce today provides $1.5 billion for the creation of child-care services and $100 million for the construction of child-care facilities to assist working mothers.

Mothers with children under age 6 are exempt from the work requirements. Mothers with children over age 6 would register for work only if adequate day care were available and close to their place of residence or employment. Adequate day care is defined to mean child care services no less comprehensive than those provided for by the 1968 Federal interagency day care requirements.

B. ASSISTANCE TO THOSE ABLE TO WORK: A PILOT PROGRAM

The most innovative portion of our welfare reform proposal is the opportunities for families—OFF—program. It would provide income supplements to those people who work but still have low incomes to insure that it is always financially more profitable to work than simply receive welfare. Such a proposal would also remove the incentive for fathers to leave their families.

In addition, one of the basic tenets of this proposal is that all those who are able to work should be required to do so. Every able-bodied applicant who applies for welfare, including those already on welfare, would have to register for employment or training with the Department of Labor.

I know this is one of the provisions that the distinguished Senator from Wisconsin (Mr. NELSON), who is now occupying the Chair, is concerned with.

The only exemption from this requirement would be for those responsible for the care of aged, ill, or incapacitated family members or children under age 6. Failure to report for work or training would result in a loss of benefits unless the recipient could show that jobs or day care were unavailable.

Those deemed employable would immediately be referred to suitable employment paying at least the federal minimum wage. If no jobs were available the Department of Labor would develop employability plans and provide the necessary job training. In addition, in recognition of the fact that the private job market does not have sufficient jobs available for all those able to work, my proposal creates 300,000 meaningful public service jobs in the first year of the program.

Because of the innovative nature of the OFF program, my amendment would require that aid to the working poor be tried out on a limited basis to test out its structure and theories. It is time to try out on a pilot basis any new major social program before committing the resources of the Federal Government to total implementation.

We need to know more about the effect of various earnings disregards on those who work as well as the effect of OFF on work habits, and families. We also need to study the possibility of covering single people and childless couples under the OFF program and to develop appropriate administrative procedures.

Upon completion of the pilot programs and an evaluation of its results, the full OFF program would be implemented unless either House of Congress objected within 90 days.

Full implementation of the OFF program would ensure that those able to work would always find it more profitable to do so rather than to rely solely on public assistance.

All of us can find parts of this program we would change or vary to some extent. However, I firmly believe that this entire proposal makes a significant step forward in our fight to eliminate poverty in this country and I urge the Senate to adopt it.

Mr. President, I ask unanimous consent to have printed in the RECORD at this point various tables, explanations, and questions and answers to clarify and explain many of the different facets of the three proposals now before the Senate.

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

PROGRAMS FOR THOSE UNABLE TO WORK

ELIGIBILITY

Ribicoff-administration agreement

1. Elderly, ill or incapacitated.
2. Mother or other relative caring for a child under age 6.
3. Caretaker of an ill or disabled family member.
4. Child under 16, or a student.
5. Mother or other female caretaker of a child where father or other adult male in the home is registered or has accepted work/training.
6. Family headed by mother too remote from employment program.
7. Caretaker of a child where adequate day care services (i.e., meeting 1968 Federal Interagency Day Care Requirements) are unavailable or remote.

Finance

1. Same as Ribicoff.
2. Same as Ribicoff.
3. Same as Ribicoff.
4. Child living with neither parent, together with his caretaker relatives.
5. Family headed by incapacitated father where mother is not home or is caring for father.
6. Same.

Generally, the AFDC law is followed, limiting eligibility to needy families containing at least one child under 18 who is living at home and has been deprived of support because of the death, absence from home or incapacity of a parent.

President

1. Same as Ribicoff.
2. Mother or other relative caring for a child over age 3.
3. Same as Ribicoff.
4. Same as Ribicoff.
5. Same as Ribicoff.

PAYMENT LEVEL

Ribicoff

$2600 plus mandatory state supplementation plus escalator based on rises in cost of living.

Finance committee

States cannot reduce AFDC payment levels below $1600 for two-member family, $2000 for three member family and $2400 for four-member family. If payment levels are already below these levels, no reduction in payments is allowed.

President

$2400 plus incentives for states to make supplemented payments.

ADMINISTRATION

Ribicoff

National uniform administration, payments eligibility standards and other rules. Efficiency through centralized computer process at a national level.

Finance committee

Retention of AFDC state system with 54 different jurisdictions and 1152 local administrative units independent of each other. Continued split of authority between federal and state guidelines.

Guaranteed job to be provided at ¾ of the minimum wage for 32 hours a week. Thus the wage is $38.40 a week under present minimum wage law. This comes to $1920 per year—less than half the poverty level. If the minimum wage law changed to $2.00, the worker in a guaranteed job would get $1.50 an hour—only $2400 a year or $1600 less than the poverty level.

If an employer pays $1.20 per hour (¾ of the minimum wage) the government will provide a subsidy to raise the wage ¾ of the rest of the way to the minimum wage. In this case ¾ of the difference is 30¢. So the employee would get an additional 30¢ from the government, making his $1.50. Note that the Committee is assuming that a $2.00 minimum wage is in effect for its purposes.

Such workers would not even be eligible for the 10% work bonus or the wage subsidy.

President

Same as Ribicoff.

FULL-YEAR COSTS, PAYMENTS AND SERVICES: 1 FISCAL YEAR

[In billions of dollars]

	Current law	H.R. 1	Ribicoff-administration agreement	Finance Committee Bill
Payments to families	5.3	6.2	7.2	[1] 6.7
Payments to adults	2.4	4.6	4.6	4.2
Payments for food stamps	2.9	.2	.1	1.8
Hold-harmless; fiscal relief		1.1	.8	
Subtotal: Payments	10.6	12.1	12.7	12.7
Child care	.6	.9	.9	.8
Training	.3	.5	.5	
Public jobs		.8	1.2	4.1
New employment service		.1	.1	
Administration	.6	1.1	1.1	1.3
Support services				.7
Subtotal: Related and support activities	1.5	3.4	3.8	6.9
Impact on other programs		—.1	—.1	—.1
Grand total	12.1	15.4	16.4	19.5

[1] Includes: wage subsidy, 1.9; 10 percent rebate, 1.1; residual AFDC, 3.7; total, 6.7.

ELIGIBLES

Ribicoff

FAP—10 million.
OFF—14 million.

Finance Committee

AFDC—10 million.
Workfare—20 million.

President

FAP—9 million.
OFF—10 million.

CHRONOLOGY OF RIBICOFF BILL

FAP goes into effect January 1, 1974.

OFF—Immediately upon enactment, the Secretaries of HEW and Labor shall establish pretest programs. A report shall be issued to Congress and the President by December 31, 1973 on the success or failure of the program and the relevant findings.

The OFF program automatically triggers into effect on July 1, 1974 unless either House of Congress between January 1974 and March 31, 1974 passes a resolution stating in substance that the Congress does not favor the making of such payments.

QUESTION

Wouldn't the Ribicoff-Administration welfare proposal create a giant welfare bureaucracy?

RESPONSE

No.

1. Current—86,000

To pay benefits to the present caseload, state and local governments employ an estimated 86,000 people. This is compared to a total of 203,000 welfare agency personnel assigned to both payments and services.

2. Projected Under Existing Law—100,000

By the end of calendar 1973, it is projected that the number of employees needed to administer assistance payments alone under the payment system will rise to approximately 100,000.

3. H. R. 1 and Ribicoff Estimate—80,000

Our preliminary manpower estimate for H.R. 1 is 80,000 even though there will be one-third more cases under H.R. 1.

This is 6,000 less than current staffing, attributable to economies of scale achievable with more productive methods under new uniform federal claims and payments procedures.

4. Finance Committee Bill—150,000

According to page 550 of the Finance Committee report: "The Work Administration will also use 150,000 participants in the guaranteed employment program to perform administrative tasks." The Work Administration would be headed by a three-man board appointed by the President. New local offices would have to be established across the country to administer the program. This is in addition to the 86,000 employees under present law and the IRS personnel.

Under my proposal the present facilities of local HEW and Labor branches would be used.

5. Conclusion

We believe federal administration is a means, not only of modernizing and consolidating, but it also offers us an opportunity to achieve management efficiencies in an area in which staffing (50% federally funded) has risen very rapidly.

QUESTION

Does the Ribicoff bill have provisions to assure against fraud and other forms of abuse.

RESPONSE

Yes. While the proposal assures recipients of due process, right to counsel, hearings, written opinions and all the protections of the Administrative Procedure Act it is careful to assure that the system is run efficiently.

New Applicant

When the new applicant applies in the local office for assistance, he is pre-screened for the services needed. He is given a complete interview, fills out an application and presents any evidence he may have as to his need. He is eligible for any emergency payment if necessary. And the initial payment is determined.

Since the system will be run on a national computer set-up, the national master file will be screened. This will prevent the present mess in which people can apply for benefits in many different jurisdictions.

The national office will make a 100% review of key items on the application and a computer check run through the Social Security Administration and the Internal Revenue Service will determine if the applicant's stated earnings are correct. This information is quickly relayed via computer to the local office where payment is made.

Continuing Beneficiary

Beneficiary:

(1) Beneficiary required to report major changes in income immediately.

(2) Beneficiary required to file a full report quarterly.

Local Office:

(1) Receives and checks change reports and quarterly reports.

(2) Conducts sample investigations on a spot-audit basis.

(3) Analyzes status of applicants who have been on the welfare rolls for two years or more to determine the causes of the plight of the long-term poor.

National Office:

(1) Checks on earnings and other benefits received.

(2) Screens national file for duplicates.

(3) Requests quarterly reports and sample investigations.

(4) Compiles statistics.

(5) Adjusts payment if necessary.

QUESTION

Senator Long suggests that welfare reform has to start by separating employables from unemployables and affording different treatment to each group, especially providing "work, training, child care, and any other service needed."

RESPONSE

This idea is basic in any welfare reform plan. The current welfare reform bill would separate families with as few as one employable member into a program separate from that for families with no employable members. The program for families with unemployable members would principally be administered by the Labor Department so that the main emphasis will be on job training, employable services, and job placement. Job training will be expanded, including public service jobs program—to provide on-the-job training in useful work when not enough regular jobs are available; child care will be expanded to enable parents to work; and the Labor Department will upgrade employment services provided to assistance beneficiaries.

QUESTION

Does the Ribicoff bill have penalties to assure that rules are being complied with?

RESPONSE

Yes.

(1) All employables are required to register for work and training and to accept suitable jobs. Refusal to comply with this requirement results in the loss of benefits to that member of the family who refuses to comply.

(2) A deserting parent would be civilly liable to the federal government for support and maintenance. The Ribicoff proposal also permits amounts due the federal government to be deducted from any benefits due the deserting parent under any federal program.

(3) Makes interstate flight to avoid parental responsibilities a misdemeanor punishable by a fine up to $1000, one year, or both.

(4) Consistent with equity and good conscience any overpayments made could be recovered by the government.

(5) Penalty for fraud-making any knowing and willful false statements or representation of a material fact in application or receipt of benefits or failing to disclose knowledge of his own or other person's fraud is a misdemeanor—fine of $1,000, one year, or both.

QUESTION

Senator Long says that if a person is employable he should not draw a welfare check, but should work or be trained for work.

RESPONSE

I agree with Senator Long in principle, but find major obstacles to putting this principle into practice: first, lack of enough jobs for the employables to take; second, lack of sufficient skills among the employables to take jobs that are available; third, the lack of sufficient training capacity to upgrade all employables at once (and the great expense of building up such training capacity); and fourth, the lack of sufficient child care capacity to take care of the children of employables and the near impossibility of creating such capacity at one fell swoop. Even if all these obstacles could be overcome and all employable recipients could be put in job training or in jobs, this in itself would not assure their families of income adequate to meet their basic needs. Under my plan, placement efforts will be stepped-up, training programs will expand, child care capacity will increase, and incentive payments will be made to encourage continued work effort.

Under my proposal 300,000 public service jobs payable at the minimum wage level would be made available in the first year.

QUESTION

Senator Long states that under his bill the Labor Department decides who is "employable" and who "unemployable."

RESPONSE

My plan provides that HEW and Labor will jointly develop regulations for operating the new welfare system. Under jointly developed regulations, local federal offices would determine who must register for employment training services, and placement, in accordance with the law, which provides very specific and limited exemptions (basically the aged, children, disabled persons, and mothers of small children). The registration will be with the Labor Department which will then decide who is ready for immediate job placement and who needs training or other services. There is very little basic difference between this approach and Senator Long's.

Both the Finance Committee version and my own plan recognize that there are some people who are employable and some who are not.

Under both bills the categories of those exempt from work requirements are similar:

Ribicoff

(1) Elderly, ill or incapacitated.

(2) Mother or other relative caring for a child under age 6.

(3) Caretaker of an ill or disabled family member.

(4) Child under 16, or a student.

(5) Mother or other female caretaker of a child where father or other adult made in the home is registered or has accepted work/training.

(6) Family headed by mother too remote from employment program.

(7) Caretaker of a child where adequate day care services (i.e., meeting 1968 Federal Interagency Day Care Requirements) are unavailable or remote.

Long

(1) Same as Ribicoff.

(2) Same as Ribicoff.

(3) Same as Ribicoff.

(4) Child living with neither parent, together with his caretaker relatives.

(5) Family headed by incapacitated father where mother is not in home or is caring for father.

(6) Same as Ribicoff.

In both bills exempt individuals may voluntarily register. Past studies indicate that some 80% of people such as welfare mothers with small children will want to work.

QUESTION

Senator Long says that the Family Assistance Plan increases costs and caseloads just as the present system does and that a family assistance system will be easy to get into and hard to get out of.

RESPONSE

The best way to get people off welfare and into jobs is obviously to get them jobs and train and encourage them to work. In order to encourage work, my welfare reform plan would permit recipients to work and keep a part of their earnings. It would also allow a male-headed family in which the father works full-time to receive supplemental assistance, if his income is small enough. This removes the strong economic incentive in the present system for fathers to desert their families in order to qualify them for welfare.

It is true that because of the damage done by the present system, the cure for it will be costly to begin with, but as fewer families are broken up to go on welfare, and more people return to work, long-run welfare costs will be reduced.

As for being easy to get on, the new welfare system would be very tightly administered, following the successful methods used in social security programs, and it will be *easy*, rather than hard, to get off because of the work incentives in the program. My whole reform program is based on the fundamental principle of encouraging a return to work.

QUESTION

Senator Long charges that FAP includes a "guaranteed annual" income which adds to the welfare problem rather than reforming it.

RESPONSE

To be eligible to receive assistance under the new programs, applicants would be *required* to register for work training and placement, and would be *required* to accept training and jobs or required to accept vocational rehabilitation if appropriate. In other words, anyone who is able to work but refuses to do so would be guaranteed exactly *nothing*. The so-called working poor are not guaranteed anything either. Many working poor families would become *eligible* for the program, but it should be kept in mind that most working poor families will receive only an income supplement, not a full assistance payment, and that many such families' payments will be very small.

Senator Long's bill does provide a guaranteed income in that it requires that states do not reduce their AFDC payments below $1600 for a two-member family, $2000 for a three-member family and $2400 for a four-member family.

States with payment levels below these levels would not reduce at all.

DESCRIPTION OF FAP-OFF INTERRELATIONSHIP AND EXAMPLES OF EARNINGS DISREGARD

Under present law there is an incentive to remain on welfare rather than go to work. This is because the low-income family headed by the father is not eligible for AFDC if he is working full-time. On the other hand, the family headed by a female is eligible for assistance whether she is working full-time, part-time, or not at all. (This results from 1967 amendments which created a feature like OFF under females heading a family could work and retain a part of their earnings under a monthly earnings disregard of $30 plus ⅓ of remaining income).

The OFF program for the working poor is really an extension of the $30 plus ⅓ program. It provides that in both male and female-headed families a participant in the program can go to work and not be entirely cut off from welfare. Thus it simply adds to present law a provision that a male-headed family in which the father works full-time and is poor should receive supplemental assistance. Its purpose then is to assure that a beneficiary is always better by working than by simply receiving public assistance.

If determined eligible for FAP, a recipient would be entitled to the assistance payment provisions which provide $2600 a year for a family of four with no employable member.

If eligible for OFF, an applicant would be provided with a job and income supplements or if already working, an income supplement. Under the OFF plan, the recipient would be able to continue working and receive benefits—benefits phased out gradually as earnings increased, thereby preventing a "notch" problem in which benefits terminate abruptly upon going to work. Benefits would be determined by disregarding a portion of income earned. Under my proposal the first $720 of earned income (representing work-related expenses) would be disregarded and an additional 40% of income would be ignored.

EXAMPLES OF BENEFITS PAYABLE UNDER THE $2,600 PROPOSAL

Example A: Family of 4 earning $1,000:

Earnings	$1,000
Disregard	−720
	280
Disregard 40% of remaining income	−112
Countable income in determining benefits	168

Amount needed to reach $2,600=$2,432=OFF payment

To compute the payment needed to reach the $2,600 level you deduct the countable income ($168) from $2,600.

Total Income=Earnings $1,000, plus OFF $2,432=$3,432.

Example B: Family of 4 earning $2,000:

Earnings	$2,000
Disregard	−720
	1,280
Disregard 40 percent of remaining income	−512
Countable income in determining benefits	768

Amount needed to reach $2,600=$1,832=OFF payment.

Total Income (Earnings $2,000+OFF $1,832)=$3,832.

Example C: Family of 4 earning $2,600:

Earnings	$2,600
Disregard	−720
	1,880
Disregard 40 percent of remaining income	−752
Countable income in determining benefits	1,128

Amount needed to reach $2,600=$1,472=OFF payment.

Total Income (Earnings $2,600+OFF $1,472)=$4,072.

Example D: Family of Four Earning $3,000:

Earnings	$3,000
Disregard	−720
	2,280
Disregard 40% of Remaining Income	−912
Countable Earnings in determining benefits	1,368

Amount needed to reach $2,600=$1,232=OFF Payment.

Total Income (Earnings $3,000+OFF $1,232)=$4,232.

Example E: Family of Four Earning $4,000:

Earnings	$4,000
Disregard	−720
	3,280
Disregard 40% of remaining income	−1,312
Countable earnings in determining benefits	1,968

Amount needed to reach $2,600=$632=OFF Payment.

Total income (Earnings $4,000+OFF $632)=$4,632.

Example F: Family of Four Earning $5,055:

Earnings	$5,055
Disregard	−720
	4,335
Disregard 40% of remaining income	−1,734
Countable earnings in determining benefits	2,600

Amount needed to reach $2,600=0=OFF Payment.

Total Income (earnings $5,055+OFF $0)=$5,055.

Thus $5,055 is the breakeven point at which families would receive no benefits.

DAY CARE UNDER THE FINANCE COMMITTEE BILL

A Bureau of Child Care is established as part of Title IV in Senator Long's workfare proposal. It contains the following provisions:

1. A BROAD ELIGIBILITY

While it places priority on child care needs of low income individuals working under the provisions of this bill, it is also available to non-welfare recipients and seeks to meet, to the extent feasible "the needs of the nation for child care services." The Committee report states that this Bureau of Child Care has "the goal of making child care services available throughout the nation to the extent that they are needed and not supplied under other programs."

2. STANDARDS

Its emphasis on custody is clear from the way in which the adult-child ratios are defined. Under the Mondale Comprehensive bill, limits are set on the *maximum* number of children per adult. This bill sets limits on the *minimum* number of children per adult. For example, the Mondale Comprehensive bill would require that for three year olds in a day care center, there be no more than a 5 to 1 child-adult ratio. In the same case, the Long bill would require *no less* than a 10 to 1 ratio. And that is just the minimum. The Long bill gives the director the authority to define this ratio so there could be 15 to 1, 20 to 1, or worse. Last year you introduced an amendment to the Mondale bill which required that day care standards be no less than the 1968 Federal InterAgency Day Care Requirements. Since this bill provides much lower standards than the requirements, it would seem to be at odds with our position.

3. PARENT PARTICIPATION

Parent participation is limited to a requirement that parents be given the opportunity to meet from "time to time", the staff, and observe, from time to time, the children receiving care in a facility. Nothing about parent participation in decision making, policy formation, choice of curriculum, etc. is provided.

4. DELIVERY SYSTEM

The Bureau of Child Care is part of a newly created Work Administration—separate from any existing Department. It has the authority to purchase or provide child care in any way it wishes. No role is assured for states or localities. This has been a major issue in the child care battle of last year. The

Bureau offices would be established in all major cities and simply purchase services from whoever it wished (including profit makers) or provide them itself.

5. FEE SCHEDULE

The bill provides that some kind of graduated fee schedule be established by the director but gives no hint of up to what level the services will be free or how fast the fees will rise. Under the provisions of Senator Long's original Child Care Corporation the understanding was the program would be totally financed by fees imposed on the participants—those least able to afford them.

6. DEVELOPMENTAL PROGRAMS

It would be permissible to place children in developmental programs such as Head Start, "if the parents of such children agree", but many other kinds of custodial care are authorized, including the opportunity to according to the Committee report "use facilities of low quality . . . . with the understanding that the facilities will be promptly improved."

7. LICENSING

Any facility in which the child care services are provided by the Bureau "shall not be subject to any health, fire, safety, sanitary or other requirements imposed by states or localities" on the grounds that this bill contains some vague requirements in these areas and state and local requirements are unnecessarily rigid.

8. AUTHORITY

$800 million is authorized for FY 73, with such funds as necessary in succeeding years and the authority to sell up to $50 million a year in revenue bonds beginning in 1975.

9. NATIONAL ADVISORY COUNCIL

Establishes National Advisory Councils including Secretary of HEW, HUD and Labor, welfare workers and consumers provided that not more than one individual represent welfare recipients.

10. MODEL PROGRAMS

Contains a provision providing up to $400,000 a year to each state to develop model child care, whatever that means.

11. LACK OF COORDINATION AMONG DAY CARE PROGRAMS

The Bureau of Child Care, which is virtually identical to Senator Long's Child Care Corporation, would not draw together the many child care services now funded and operated by federal and state governments. It would just add one more program on top of a system which is now confused. In hearings before the Finance Committee last September on child care, Elliot Richardson strongly opposed the provisions of the Child Care Corporation. Senator Mondale, in testimony before the Committee, also opposed the concept of the Child Care Corporation. He pointed out that the Child Care Corporation provisions ran directly counter to the 1970 White House Conference on Children which selected as their number one priority the provision of "comprehensive family oriented child development programs including health services, day care and early childhood education." All of the major child care organizations.

[From the Washington Post, Oct. 1, 1972]

THE SENATE VOTES ON WELFARE REFORM

Over thee years ago, President Nixon made a welfare reform proposal to which he appeared fully committed and which we believed had many good features. The President's plan put a federal floor under the incomes of families with children and extended assistance for the first time to the working poor. Although we thought the federal minimum was to low and objected to some coercive features of the bill, we believed it represented a major step in the right direction—a step toward a fair national system that would protect those who could not work and provide incentives for those who could.

This week in the hectic atmosphere of an election campaign, the Senate must act on that proposal—or what is left of it. The senators are now faced with three choices. The first is the administration-backed bill which passed the House as H.R. 1 but failed to get a serious hearing in the ultra-conservative Senate Finance Committee. In our opinion, this bill is now far less desirable than President Nixon's original proposal. Indeed, it is a travesty on the intentions he expressed three years ago. The bill would still put a federal floor under welfare benefits ($2,400 a year for a family of four), but would, in effect, tax the earnings of the poor at confiscatory rates and provide no guarantee or even encouragement to states to maintain benefits above the meager federal minimums. It seems likely that passage of this bill would both lower the amounts that welfare families were forced to live on in many states, and make it even less attractive for them to increase their earnings than under present laws. We believe the Senate should reject it.

A second version, supported by Senator Ribicoff seems to us to preserve the sound features of the President's original proposal and to avoid some of its more serious pitfalls. The Ribicoff version would given recipients only slightly more money ($2,600 for a family of four which still seems to us too low), but it would require states that now pay more than that to maintain their benefits and would provide more safeguards for recipients against being forced into exploitative jobs without adequate provision for the care of their children. This version was actually worked out by Senator Ribicoff in collaboration with Secretary Richardson of HEW, but the President has refused to support it. The President's intransigence appears to indicate that he finds more political advantage in blaming the opposition for not passing his bill than in working for a constructive solution—along lines originally proposed by him—that would improve the lives of millions of people.

Finally, there is Senator Long's version supported by a majority of the Senate Finance Committee, but officially opposed by the administration. The Long bill is an extraordinarily complex amalgam of a good idea with some dangerously coercive features bordering on slave labor for the poor. The good idea is creating public service jobs for people who are now forced onto welfare because they cannot find employment. We support the general concept of public service job creation with enthusiasm. Indeed, we do not see how even stringent "work requirements" can result in employment for the poor if no jobs are available. Unfortunately, however, the jobs that would be created under the Long bill would be at substandard wages. Moreover, all welfare benefits would be abolished for families headed by an able-bodied adult, except women with children under six. This kind of coercion seems to us demoralizing and very close to publicly approved servitude.

We hope that despite the lateness of the hour and the administration's unconstructive attitude, the Senate will pass the Ribicoff version of welfare reform. If it does not, perhaps some sort of a test program—which several senators have proposed—would be better than nothing. We would urge the senators, however, to view with great skepticism any attempt to work out a last-minute compromise between the administration and Senator Long. Job creation for the poor is a sound idea, but the Long bill is so complex and fraught with dangers for the poor that the probability of hastily turning it into a constructive piece of welfare legislation seems to us virtually zero.

Mr. RIBICOFF. Mr. President, I yield the floor.

Mr. HARRY F. BYRD, JR. Mr. President, I think it is very important that there be a reform, a change, in the present welfare system. It is outdated, it is being mishandled, it is being badly administered, and I favor a change in the present program.

But, Mr. President, in considering changing the present program, it is important that Congress be sure that it is going to something better, and not to something worse, something more expensive, something less desirable.

I want to recap for just a moment the situation in which the Senate finds itself.

Three different programs have been considered by Congress. First is the one known as H.R. 1, which has passed the House of Representatives twice. That program has been under consideration by the Senate Committee on Finance in 1970, 1971, and 1972. The committee refused to approve that program, even though it is an administration measure.

One of its chief architects was Dr. Moynihan, Special Counsel to the President, who made this statement in regard to the family assistance plan, the H.R. 1 proposal:

> This bill provides a minimum income to every family, united or not, working or not, deserving or not.

I invite the attention of the Senators to page 1950 of the committee hearings.

The second proposal is the one offered by the able and distinguished Senator from Connecticut (Mr. RIBICOFF). It is similar in nature to H.R. 1. It is a more expensive, expanded version of H.R. 1.

The third proposal is the one developed by the committee and supported by a majority of the members of the Committee on Finance, and known as the workfare proposal.

Of the three plans, it seems to me that the concept of the third plan; namely, workfare, is the concept which the American people want. This provides a marked contrast to the other two plans with regard to work incentives and with regard to whether the principle of a guaranteed annual income should be written into law.

The workfare program does not provide for a guaranteed annual income; it does provide for guaranteed job opportunities. That is the direction it seems to me we ought to go in revising our welfare laws.

The aspect of the workfare plan I am not totally in accord with is its cost. I feel that we do not have an adequate estimate as to the cost of that program.

Certainly it would be less expensive than the program offered by the distinguished Senator from Connecticut, and would be no more expensive, than that provided by H.R. 1. Nevertheless, I am not satisfied as to the accuracy of the estimates of what that program could cost.

What would the first two programs do to the welfare rolls? I call attention, in the CONGRESSIONAL RECORD of September 30, 1972, at page 33017, to a statement by the distinguished chairman

of the Committee on Finance, the senior Senator from Louisiana (Mr. LONG), in which he says that the number of people who would be on the welfare rolls if we went to the $3,000 provided in Ribicoff Amendment No. 559 would be 40 million persons on the welfare rolls. If we went to the Harris proposal—that is another plan that has been floating around—which is $4,000 a year, the poverty level, then 81 million people would be on the welfare rolls.

Then there is another plan floating around called the McGovern proposal, for $6,500; and, according to the chairman of the Senate Finance Committee, if that proposal were enacted 104 million persons would go on the welfare rolls.

So, with the exception of the workfare plan, all of the plans that are being considered provide for a substantial increase in the number of individuals drawing public assistance.

Under H.R. 1, the House-passed proposal and the proposal backed by the Secretary of Health, Education, and Welfare, Mr. Richardson, it was testified that the number of welfare recipients would double. At that point, there were about 12 million persons on welfare, and under the H.R. 1 proposal the number would go to 24 or 25 million persons.

What the American people need to ponder and need to understand, as I see it, is that all of the proposals with the exception of the committee workfare proposal provide for a very substantial increase in the number of individuals drawing public assistance.

To my way of thinking, that is going in the wrong direction.

To my way of thinking, what we want to do is get people off of the welfare rolls and into jobs.

I have found it impossible to support H.R. 1, even though it has passed the House twice and even though it has the strong support of the administration. Before giving my reasons, let me quote three words from the sponsor of this legislation in his official testimony before the Committee on Finance. In that official testimony, Secretary Richardson termed his welfare proposal "revolutionary and expensive."

Mr. President, I hope that Congress will heed those words. Those are not the words of the senior Senator from Virginia. Those are not the words of one who is opposed to H.R. 1, the administration-backed plan. Those are the words of the Secretary of Health, Education, and Welfare, the chief sponsor of the proposed legislation.

He terms it revolutionary and expensive. Most certainly, that proposal is revolutionary and expensive. Those are about the only three words of all the testimony given by the distinguished Secretary of Health, Education, and Welfare with which the senior Senator from Virginia can fully agree.

I cannot support that proposal, and what I say in regard to that proposal applies in the main to the Ribicoff proposal.

I cannot support that proposal because it is lacking in work incentives, because it would write into law the principle of a guaranteed annual income, because it would cost at least $5 billion more than the present program. I cannot support that program because 80,000 new Federal employees would be required to administer it. Above that, I cannot support that revolutionary and expensive program because it would add millions of people to the public assistance rolls.

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

Mr. HARRY F. BYRD, JR. I yield.

Mr. RIBICOFF. When the distinguished Senator talks about 80,000 new employees, are these not basically substitute employees for those who are operating the welfare system in 1,154 jurisdictions? In other words, we have some 86,0000 people now engaged in administering welfare throughout the Nation. Under my proposal, the 80,000 would not be added to the 86,000 but would be a substitute for the 86,000. So that if my proposal were adopted and we nationalized welfare under a Federal system, the total number of employees would be 80,000 as against the 86,000 now administering welfare throughout the Nation. In many cases the new Federal employees will simply be existing State employees transferred to Federal employment. Incidentally, all of the accrued rights such as pensions would be preserved.

Mr. HARRY F. BRYD, JR. I was speaking specifically of H.R. 1. The Senator is correct that under H.R. 1 many of those 80,000 presumably would be those who are now handling a State program. But the point I am suggesting is that there would be 80,000 new Federal employees.

I am concerned about the fact that the Department of Health, Education, and Welfare is so gigantic now—it has 102,000 to 110,000 employees—that it cannot effectively administer the welfare program now. For that reason, I am very much opposed to 80,000 new employees being put on the Federal rolls to handle the welfare program. I would prefer that they continue—such portion of them as there are—on the State's payroll, rather than on the Federal payroll.

Mr. RIBICOFF. I just wanted the record to be straight.

As I understand the objection of the distinguished Senator from Virginia, he objects to these employees being shifted from State, county, and local administration to Federal administration. But in the total, overall number of employees, there will not be 80,000 new employees on top of the 86,000.

Mr. HARRY F. BYRD, JR. There will be new Federal employees. There would be less persons—I do not know about the precise figure—employed by State and local communities. But there would be 80,000 more Federal employees.

Mr. RIBICOFF. Since the distinguished Senator has stressed the number of new Federal employees under H.R. 1 and my proposal, I wonder how the Senator from Virginia feels about the committee proposal for a Works Administration.

I read from page 550 of the Finance Committee report:

> The Work Administration will also use 150,000 participants in the guaranteed employment program to perform administrative tasks.

So, in addition to the 86,000 people now involved in welfare, the Finance Committee says that their proposal will take an additonal 150,000. Additional thousands of personnel would be needed by the IRS to administer the work bonus. Would the Senator comment on that phase of the committee proposal?

Mr. HARRY F. BYRD, JR. That was a part of my reservation in regard to the committee plan. It ties in with my reservation as to what the plan will cost. I have not come to the pilot tests that the amendment offered by the Senator from Delaware and myself calls for, but that is an additional reason why I think the workfare program should be piloted out before being put into effect nationwide, just as I think there should be a pilot project and pilot tests of the so-called Ribicoff proposal and the H.R. 1 proposal.

My proposal is that before putting any of these into effect nationwide—because they are new programs, they are gigantic programs, they are expensive programs, all of them—we ought to know what we are doing and ought to have a pilot test. That is the reason why the Senator from Delaware and I have presented the proposal for pilot projects.

Mr. RIBICOFF. I should like to comment to the distinguished Senator that at least he has been consistent throughout the 3 years of consideration and discussion of this entire program. From its inception, the Senator from Virginia has been against the policy and the philosophy and the theories and the details of H.R. 1 and all substitutes to that program. At least, he is one of the few consistent members of the Committee on Finance; and he was not taken in by this new "work administration" program, with its many pitfalls.

I understand what the Senator from Virginia is trying to achieve with the assistance of the distinguished Senator from Delaware. The Senator from Virginia may recall that in September 1970, in the Finance Committee, I proposed that we pilot this whole thing out, similar to the philosophy and thinking of the Senator from Virginia and the Senator from Delaware.

Mr. HARRY F. BYRD, JR. If the Senator will yield at that point, I might say that, so far as the Senator from Virginia is concerned, he got this idea from the able Senator from Connecticut, who first suggested that to the committee; and the Senator from Connecticut suggested it to the President of the United States at a meeting some of us attended with him in San Clemente, in September 1970.

Mr. RIBICOFF. This is the irony of the situation we are in now. I had felt that the entire committee, by December 1970, was more than willing to have a pilot program go into effect to try out the administration thinking. The administration at that time vigorously and vehemently opposed piloting out these programs. If the program had been piloted out on January 1, 1971, we would now be in a position to have all the information available and to determine whether the proposals worked or did not work. I worked in combination with the administration over the intervening 2 years, and we finally came forth with the amendment that I put in the other

day, and is now pending as a substitute for the Roth-Byrd proposal, only to find that the administration has changed its mind. After 2 years of work in trying to find a solution, I find myself alone and completely bereft of administration support.

As I look back on the 3 years it would have been much better for all of us on the Finance Committee not to have accommodated ourselves to the importunities of the administration but instead to have insisted on the floor of the Senate that the programs be piloted. In December, 1970, we could have probably had a unanimous vote in this body to pilot out the program, this brings me to a thought that I wonder whether the distinguished Senator from Virginia might agree with; from now on, when HEW comes before the Finance Committee with any proposal, should not view it with great skepticism because it has proven over the past 3 years, the way HEW has handled the entire problem of welfare has been unreliable and that we must be skeptical and question the bona fides, the knowledge, and the intentions of the Department of Health, Education, and Welfare.

Mr. HARRY F. BYRD, JR. Mr. President, I concur in the statement made by the distinguished Senator from Connecticut who himself served with such great distinction and ability as Secretary of HEW some 10 years ago. I find it very difficult and time consuming to draw out from the witnesses, or from Secretary Richardson, the needed information.

I think that this might be a good time to quote several sentences in the committee hearings dealing with the cost of the new program.

I refer to page 114 of the committee hearings in which I invited the attention of the committee and the Secretary to page 2 of his statement that day

Now, Mr. Secretary, on page 2 of your statement you say that during the decade of the sixties, the AFDC rolls increased by 4.4 million people, a 147 percent increase. Then you say further in the year following the President's initial call for welfare reform, in August, 1969, the rolls increased an additional 50 percent.

So over a 10-year period the rolls increased by 147 percent, but over a 1-year period they increased by an additional 50 percent.

Incidentally, that was subsequently corrected where, instead of a year from August 1969 it was 18 months from August 1969 that the rolls increased by 50 percent.

So the Secretary says in a 10-year period the rolls increased by 147 percent but he says in an 18-month period beginning August 1969 they increased by 50 percent.

So I say that there is something the matter with the administration of this law by the Department of Health, Education, and Welfare. It has been lax in handling it. They do not seem to have any interest in holding down the welfare rolls. I cannot see any evidence that they have such an interest. The welfare rolls by the Secretary's own testimony increased 50 percent in 18 months; beginning August 1969.

I submit that it can be held down if those administering the laws both here in Washington and in the States will make an effort to hold down the welfare rolls. I think a great many of those people are placed on welfare rolls for political purposes.

Today's New York Times, in column 8 on page 1, states that a dramatic decrease in welfare case load persons and expenditures for July is to be announced by the Human Resources Administration.

That is good news. Finally the people themselves, the taxpayers, are waking up to the fact that the politicians and the administrators have been squandering and wasting their money and putting people on welfare rolls who have no right to be there and, in many cases, as has been brought out a number of times by the Senator from Louisiana (Mr. LONG) where the same person has drawn four, five, or six welfare checks. So I think it is very important that the administrators tighten up on the administration of the laws. It is good to know that New York State at long last is beginning to do this.

I want to bring out two other points in that regard.

Speaking now of H.R. 1, on page 287 of the committee hearings, a question by me to Secretary Richardson:

Senator BYRD. So we have established the costs for fiscal 1972 at $10 billion for welfare plus $3.4 billion for medicaid.

Secretary RICHARDSON. Yes.

Now, I refer the Senate to page 225 of the committee hearings:

Secretary BYRD. What will be the total costs of the welfare programs, the Federal share, for fiscal year 1973. That is, total costs.

Secretary RICHARDSON. The total cost is, as I said, $14.9 billion, the cost of H.R. 1. Table one of the report of the Committee on Ways and Means on H.R. 1. gives these figures, and they are also reproduced in the Senate Finance Committee print "Welfare Programs for Families" in chart 7.

Senator BYRD. Let me ask you this question to be sure I understand your response. The total cost of the welfare program, the Federal share, plus the cost of medicaid, the two items together, will total $19.4 billion for the Federal Government. Is that correct?

Secretary RICHARDSON. Yes it is.

Mr. President, what those pages of this committee hearing bring out is this, that on page 287 the welfare cost for fiscal year 1972 leaving out medicaid, was established at $10 billion and then on page 225, the welfare costs for fiscal year 1973, leaving out medicaid, if we go to H.R. 1 and accept that proposal, would be $14.9 billion. That is a 49-percent increase in 1 year if the proposal of HEW were adopted.

The able Senator from Connecticut mentioned the fact that more than 2 years ago the Senate Committee on Finance was favorable to a pilot project to test the merits or demerits of H.R. 1.

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

Mr. HARRY F. BYRD, JR. Mr. President, I am glad to yield to the distinguished Senator from Arizona.

Mr. FANNIN. Mr. President, I am glad that the Senator from Virginia has taken the position that he has. I support it completely.

I want to bring out that when we refer to a pilot program, I refer back to the former Senator from Delaware, Mr. Williams, who very ably worked in this legislation for a pilot program and then for writing the legislation.

I ask the distinguished Senator from Virginia if it is his idea of a pilot program that we should determine from the pilot program the proper way in which to write the legislation.

Mr. HARRY F. BYRD, JR. Yes, the Senator is correct. It seems to me that before we embark on a nationwide program, which everyone will agree, I think, is revolutionary and expensive, that we ought to have a pilot project, the result of which could advise the Congress what legislation would be needed and what should be included in the legislation to make it the most effective type possible for the recipients, those needy people who deserve and ought to have welfare, and also the best way to protect the taxpayers.

Mr. FANNIN. Mr. President, I wholeheartedly agree with the distinguished Senator from Virginia. I ask the distinguished Senator from Connecticut if it is not true that at the time he offered his recommendation of a pilot program, it was his intention to have the legislation rewritten and approved, and then they would come back to the legislation after the pilot program had been tested, and we would then make changes. We would write the legislation before we had our experience with the pilot program and would not be waiting for the results of the pilot program before going forward with the legislation.

Mr. RIBICOFF. No. My original proposal was for a pilot program before writing the legislation. In discussions with the administration, I was importuned zealously to try to come to the opposite position—to oppose any pilots. Compromise and have a pilot program and have it go into effect unless their plan was rejected by Congress.

What I want to point out is that in the original contemplation and discussion with former Senator Williams—who opposed the legislation deeply, sincerely, and strongly—he had agreed with me and was very sympathetic to the approach to have purely a pilot program first.

I had argued long and hard with various representatives of this administration that they ought to accept this approach because it became very apparent to me in 1970 that this body would not under any circumstances go along with welfare reform. Therefore, since they would not go along with it, we were losing valuable time and that what we should do was to have a pilot program since the chairman of the Finance Committee and the ranking minority member of the committee at that time, former Senator Williams, would go along with it, and former Senator Williams assured me that as far as he was concerned he would be willing to give a blank check to HEW for the authorization they would want for a full fledged pilot program in different sections of the country. If my original position had been adopted, we would be in a position now—knowing the results of the

pilots and ready to enact a meaningful reform proposal.

It was and is a deep source of regret to me now that at that time I did not follow my better judgment and refuse to listen to the demands of the administration and stay with the distinguished chairman of the committee and former Senator John Williams, and write our own pilot program for legislation irrespective of the administration.

That is why it is such a disillusioning experience, after having worked for 3 years to try to find a basis of compromise and adjustment with the administration, to suddenly find that the rug is pulled out from under us.

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

Mr. FANNIN. I will in a moment.

I think the record will show, certainly to my knowledge, that the distinguished Senator from Connecticut did not offer a pilot program before the Senate other than the one that would have a test program. Is that not correct?

Mr. RIBICOFF. That is absolutely correct. However, the Senator, having been in Government for a long time, is certainly not under any illusion that that is now it worked out. I did not offer it, because I was working with the administration that I trusted, and I must confess that my trust was misplaced.

I had urged this matter upon the administration during this period of time. I had discussed this with our distinguished chairman, and I am sure that he will be willing to tell the Senate that this is the case and will confirm it. And I also discussed it with former Senator Williams of Delaware, for whom I had the highest respect, although we disagreed philosophically on many issues.

I had discussed this time and time again with him. We had come to an agreement between ourselves, the Senator from Louisiana, the Senator from Delaware, and myself. And I had urged upon the administration that if they would accede to such a program, it could be achieved. They practically begged me not to do this, but to stay with their program. They said this would kill their program. They said that next year would be a different year and they would be able to achieve reform.

I agreed, contrary to my better judgment, I must confess. And I am sure that the distinguished chairman of the committee will confirm the statements I make, because I kept him completely informed on what was going on. He knew that we were trying to work this out. And I know that we told the administration in no uncertain terms that the only way we could get H.R. 1 passed would be through a pure pilot program basis. And I regret that that plan was not adopted.

Mr. FANNIN. All I am trying to establish, and I think the RECORD will show this, is that former Senator Williams explained on the floor of the Senate that he was willing to allow any amount of money that would be necessary, $2 billion or whatever the amount was that would be necessary.

Mr. RIBICOFF. We talked about $500 million at that time.

Mr. FANNIN. He said he was perfectly willing to go forward. However, he was deeply disappointed when this did not take place. He had the support, as I remember it, of every committee member on this side of the aisle as far as the Finance Committee was concerned. This was something that he was very desirous of placing into effect.

When the legislation came to the floor, the Senator from Connecticut will remember that it contained a test program, but with a stipulation that it would go ahead and be improved and changes made, which would be very difficult to bring about if those changes were necessary.

Mr. RIBICOFF. That is absolutely correct. But I am giving the Senator the background on how this took place. There is no question in my mind that this was being fought on the other side constantly. The great irony was to have the Senator from Connecticut, a Democrat, carry the banner for a Republican administration, because the administration could not find a Republican to carry the ball for them, until toward the end, in a legislative maneuver, I was able to enlist the minority leader, the Senator from Pennsylvania (Mr. SCOTT), who joined with me at that time. The administration could not find a Republican member of the Committee on Finance. I was carrying on this battle for the administration as if I were the spokesman for the administration—and I was the spokesman for the administration for 3 years. The only voice that kept H.R. 1 alive in the Senate was the Senator from Connecticut because I felt deeply that the President was on the right track.

I felt this was an innovative program he had given to Congress and the American people. I had many conferences with Mr. Moynihan, Mr. Finch, Mr. Richardson, and Mr. Veneman.

For 3 years two members of my personal staff, not the staff of the Committee on Finance, have worked full time on welfare legislation. They had little time for anything else. I refer to Taggart Adams, who worked for me until the end of 1970 and is now assistant U.S. attorney for New York, and Jeff Peterson, my special assistant who is now on the floor with me. They know more about welfare than anyone else in the Nation. Jeff has spent the better part of the last 2 years working on this legislation. Between them they spent 3 years working on this legislation with people all over the country. No stone was left unturned as Mr. Peterson and Mr. Adams developed ideas and sought suggestions from people in every facet of the welfare field.

If the distinguished Senator from Virginia is interested in cost, as his father before him was, I think he would be very interested in asking the question: How much money has HEW spent in 3 years tooling up for H.R. 1, what has been the advice of their staff working at HEW on H.R. 1, and how much money has been spent working this out? I think he would be shocked at how much money has gone down the drain on a measure they have not wholeheartedly supported.

Mr. HARRY F. BYRD, JR. I think that is an excellent question. I will prepare a letter today for Mr. Richardson, have it in the RECORD tomorrow, and get it to his office. I hope we will have a forthright answer.

Mr. RIBICOFF. I think the Senator will be shocked.

Mr. FANNIN. I remind the Senator that he was not the only one who attended the meeting at the western White House. He was working with Senator Bennett. He will recall at the time the workfare program started with that meeting in California. It was discussed and that is where the first idea of the workfare program was finally brought to the surface. He will rceall this was something that was considered and that now it is under consideration, and if we had had the test program that the distinguished Senator from Delaware, then Senator John Williams had insisted upon, we would be further along today.

Mr. RIBICOFF. No question about that. I think the 100 men and women on this floor must contemplate the irony of how we have gone around this circle at the expense of energy and time of the Committee on Finance, the hours spent by members of the Committee on Finance, the hours every member spends, the commitment of our staff, as well as the committee staff. Fabulous amounts of money have been used, because HEW has tooled up on the basis of this program going through. They have a welfare structure ready to put into effect. When the history of this is written it will be an interesting story of, "Who killed Cock Robin?"

Mr. HARRY F. BYRD, JR. Mr. President, I think the Senator from Arizona has raised an important point. If we are going to have a pilot program and test these programs, the purpose of the test should be to inform Congress and to furnish information to Congress on which Congress can subsequently act.

I would be as strongly opposed now as I was 2 years ago to say to HEW, "You can have these pilot projects and put them into effect if, in your judgment, they turn out satisfactorily." I do not think that is the way to do it.

As the Senator from Arizona developed today, many of those who favor the pilot program want it to go into effect automatically. That would be like another Gulf of Tonkin resolution, giving unspecified power to the executive branch. I think it would be a grave error; it would be foolhardy. I cannot imagine Congress doing something like that, saying in effect: "Here are three programs. After you test them, take the one you prefer and do not bother us with them." We will get into more of a welfare mess if Congress has no more interest in protecting the taxpayers than that.

That is not the proposal offered by the distinguished Senator from Delaware, and it is not the proposal the Senator from Arizona proposed.

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

Mr. HARRY F. BYRD, JR. I yield.

Mr. ROTH. I would like to point out that in the Roth-Byrd amendment it very explicitly states that this legislation is not to be construed as a commitment on the

part of Congress to establish any particular plan. The basic purpose of my amendment is to test the various approaches so that Congress can then intelligently determine what the best approach is.

Of course, we have three different proposals before us: the so-called Ribicoff proposal, H.R. 1, and the workfare plan of the Committee on Finance. To me it would be completely inconsistent to try to give authority to the executive branch to put any one of the plans into effect. Instead, what will happen is that both HEW and GAO will report on a regular basis to the Ways and Means Committee in the House and the Committee on Finance in the Senate on, one, how they intend to test, and, two, every 6 months the results of the tests up to that time.

I strongly agree with those who said that the executive branch should be required to come back here and make recommendations based on these tests, and that is the time when Congress should decide what is the soundest approach.

I might also point out that the junior Senator from Delaware was a Member of the House of Representatives when this legislation was first considered. In April 1970 he proposed in the House that the President's program should be tested. It was my feeling at that time that the existing tests were inadequate and that Congress should authorize a major pilot program before taking any definitive action. I so proposed on the floor of the House.

I agree that we find ourselves not much further along the road at this time despite the need for welfare reform. I believe the need for testing is as great today as it was in 1970.

Perhaps one advantage is that we do have three approaches; the Ribicoff approach which differs from H.R. 1 in detail and we have the workfare program which very substantially differs from H.R. 1. So we have the advantage of testing three different approaches. I think this is sound, but as I stated earlier, it would be a mistake to let the executive branch have the authority to establish any one of the three plans without returning to Congress. After all, sound testing may show it desirable to adopt a combination of ideas from these plans or some of them.

Mr. HARRY F. BYRD, JR. I certainly agree with the able Senator from Delaware. I cannot conceive, frankly, how the House of Representatives twice passed H.R. 1. It is just unbelievable to me that the House could have passed that legislation.

I want at this time to pay tribute to the members of the Senate Finance Committee. Had it not been for the members of that committee, this legislation probably would have been enacted several years ago, and as a result of that, the welfare costs would have skyrocketed and it would have doubled the number of people drawing public assistance.

The able chairman of the committee and the ranking Republican member of the committee, the Senator from Utah (Mr. BENNETT) both were convinced, and their colleagues on the committee subsequently became convinced, that a workfare program could be developed and could be brought to the floor of the Senate. The committee did just that.

I favor the concept of the workfare program. I think it is the appropriate concept for the Congress to consider. As I said earlier, there are some aspect of it that I have some doubts about. I am not completely clear as to the cost. For that reason, I think that it, along with the other two programs, should undergo a pilot test, prior to being put into execution.

I think the best argument for the proposal of the Senator from Delaware (Mr. ROTH) has been given by the Secretary of Health, Education, and Welfare himself. The best argument was in three words which were his official words in his original statement to the Finance Committee, that this proposal is "revolutionary and expensive."

Is it not logical that before the Congress embarks on a program which its chief proponent says is "revolutionary and expensive," we should know more about it, we should know how it is going to work in practice, we should have the benefit of a test, and then let Congress decide which aspects of it will be helpful and which aspects should not be approved.

The American people are very sensible, intelligent people. Besides that, they are very compassionate people.

The American people want to help those in need, and every Member of the Senate wants to help those in need; but I think that the American people have seen such abuses of the welfare programs throughout our Nation that they expect the Congress to take some action to correct those.

So far as the Senator from Virginia is concerned, I favor welfare reform. But I want to emphasize that the proposals before us are not welfare reform. At least two of the three proposals are welfare expansion, doubling the number of people drawing public assistance. I do not call that welfare reform.

Somewhere along the line some consideration has got to be given to the wage earners of this Nation, those who, by the sweat of their brow, earn the taxes to pay for what we in Congress spend.

H.R. 1 is a proposal lacking in work incentive, very costly, $5 billion more than the present program. It would substantially increase the number of people drawing public assistance, and it would write into law the principle of a guaranteed annual income. Once you write that principle into law, then it is Katie-bar-the-door. There is no stopping then.

The able senior Senator from Louisiana (Mr. LONG), chairman of the committee, put into the RECORD Saturday figures that I think the American people should acquaint themselves with.

I refer to page 33017 of the CONGRESSIONAL RECORD of September 30, 1972, in which the Senator from Louisiana points out that if we approve the $3,000 proposed in the Ribicoff Amendment No. 559, there would be 40 million people on welfare.

If we went to the proposal of the Senator from Oklahoma (Mr. HARRIS), which is $4,000, the poverty level, there would be 81 million people on welfare. If we went to the proposal of the Senator from South Dakota (Mr. MCGOVERN) for $6,500, there would be 104 million people on welfare.

Of course, when we deal with any of those figures, whether it be 40 million or 81 million or 104 million, it is utterly fantastic and could not be supported by the Federal Treasury or by the taxpayers of this Nation.

So I think the more the people understand these proposals—that is why I want to see some discussion of this matter in the Congress—the more the American people understand H.R. 1, the more the American people understand what a guaranteed annual income means over a period of time, the more determined they will be that there shall be no such program.

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

Mr. HARRY F. BYRD, JR. I yield.

Mr. LONG. The Senator well knows that it takes a certain amount of political courage for a Senator to risk being misunderstood by even opposing the family assistance plan as advocated by the President of the United States. People are led to believe that if a Republican President would recommend it, it must mean it is somewhat moderate or conservative in nature. So with a Republican President recommending it, the public would be led to think that it could not have the dire results that some of us fear.

I was perhaps the strongest welfare advocate in the Senate, advocating more welfare benefits than any Member in this body, at the time President Nixon served as a Senator.

My views have not changed with regard to the problem, but I would point out that when we increase the number of people on welfare from 15 million even to 26 million, which would result from the family assistance plan being enacted, we add 11 million more people to the welfare rolls.

If Senators are afraid now to vote against ever-increasing welfare expenditures and against expanding welfare rolls, they will be far more fearful and much more subject to intimidation when there are 26 million people on those rolls than when there are 15 million.

Furthermore, no one can logically argue that we should guarantee an annual income to people and then advocate a level of income which would be below the poverty level. That is almost axiomatic—so much so that the Senator from Connecticut has advocated proposals that would move the guarantee on up to the poverty level. Even the administration, in its press coverage in initiating H.R. 1, apologized, in effect for the low level of benefits and said that in due course it ought to go up to the poverty level, which would be $4,000, and that the only reason they were not advocating that was that to do so would greatly increase the cost, as indeed it would.

Now, S. 2747, introduced by the Senator from Oklahoma (Mr. HARRIS) embodies that position, which has compelling logic; that is, that if we are going to have a guaranteed income, we

ought to guarantee people an amount equal to the poverty level. That is the Harris bill, and this is the official HEW estimate for the number of people we would then have on the welfare rolls: 81 million.

If Senators have difficulty mustering the political courage to vote against something they think is unsound when we have 15 million people on the welfare rolls, how much more difficult are they going to find it to vote against an unsound proposal to increase welfare benefits when we have 81 million on the welfare rolls? I would venture to say it would be virtual political suicide, unless an overwhelming taxpayer revolt should sweep the country, to vote out all those who had taken us that far down the road.

I would assume, if Congress had gone that far, Senators would feel constrained to go along with it as the pressure rolls along. The Senator knows how constituents react: they tend to look at the one vote most important to them and ignore all the others. And a Senator would hardly wish to have 81 million people against him.

Then we have the proposal of the National Welfare Rights Organization, the bill introduced by the Senator from South Dakota (Mr. MCGOVERN), S. 2372. The estimate on that is that it would put 104 million people on the welfare rolls.

That is the position that mustered the votes of one-third of the Democratic National Convention at Miami. So a Senator can see how, when we have all these pressure groups being built up, that we would have enormous numbers of working poor who would want to be on the welfare rolls.

I say we can help them most, as we do in this bill, by providing what amounts to tax relief for them, by helping them increase their income in the most dignified possible way by in effect refunding some of the taxes collected on their behalf, or by providing some type of tax incentives for these poor people, or incentives to bring their income up if they are in a low paying job. Those are ways that preserve the dignity of the people. But as the Senator from Virginia well knows, those who organized the National Welfare Rights Group and those associated with them feel that the way to solve the problem is to make the low-income working persons a part of the welfare group and put them all under the same program.

I can tell the Senator—and I am positive I am right about this—that low-income working persons would prefer that we help them in a way that would preserve their dignity, by giving them what amounts to a tax cut, raising the minimum wage, or providing some supplement or some subsidy to add to what they can earn, and not by putting them on the welfare and then reducing their payments as they increase their work effort.

There is no doubt in my mind that that would tend to set up the wrong incentives. I am not saying this just about the Ribicoff amendment; the same is true of the family assistance plan, and that is one of the things wrong about the welfare system now which we ought to be changing rather than doing more of it. It would give them the incentive, in taking a job, for example, as is happening today in too many cases, for saying, "I will take the job if you pay me in cash, with no records kept." This can happen in rural areas, and in urban areas also, that when one seeks to find an employee to work on a short-term basis, he is frequently confronted with the proposition to pay in cash, with no records kept, for the simple reason that the person is drawing welfare money and does not want a reduction in his welfare check.

Whether you have a welfare system on the basis that they lose 67 cents out of every dollar they earn, or whether you use the Ribicoff feature of a reduction of 60 cents on each dollar they earn, there will still be an enormous pressure upon people not to report their earnings, and the pressure will be on the employers to go along with the sort of arrangement where they hire these people and pay them in cash without reporting the earnings.

To make the enforcement of such a program effective, we might need a million investigators. And then the people will complain that the welfare workers are coming around harassing them; and they will be insulting the welfare workers and the social workers because they do not want them to find out about their earnings, knowing that if they do, 60 percent of what they earn will be taken away from them.

I say it is far better to follow the approach of just giving them back their social security tax money. Then low-income working persons will be getting as much through this social security tax refund mechanism as they would have been getting if they had the welfare benefits. Is it not a far better approach to give a working man the equivalent of a tax cut to increase his income, rather than to put him on welfare, when he wants to be proud and self-reliant?

Mr. HARRY F. BYRD, JR. I think it is, and I think it is also better to guarantee job opportunities than it is to guarantee an annual income to individuals whether they work or whether they refuse to work.

Mr. LONG. Well, at least if you guarantee the job opportunity you solve one problem, and that is a problem that is becoming altogether too prevalent, at least in Louisiana: that people get on the rolls more times than once. At least you know, if you guarantee him an employment opportunity, he cannot be working on two jobs at two places at the same time. That is something you cannot say with any certainty or any assurance when you are talking about just a check.

We would like to think of everyone as being completely honest, but when we make it so easy for people to get on those rolls, and it becomes so prevalent, and the accepted thing, where it is no longer a matter that a person feels reticent to apply for, but is led to believe it is his right, a right that everyone is entitled to, to draw this income without working, and a right not to work and to live on the taxpayer without working, once you establish that right in the minds of people and it becomes prevalent, I fear for the future of this country, because at some point we are going to have to find the power to turn it around and make it head the other way, with tens of millions of people, perhaps 70 or 80 million people, conducting marches and protests here in the Nation's Capital to try to keep us from bringing this thing back under control. If we cannot do that, it just means an end to this form of Government, because that is the only way we will ever get back out of that trap. When we have more people on the taking down end and being supported by the Government than we have supporting the Government, when we get to that point, the only way I see ever to get out of the trap is for the whole Government to come down like a house of cards and start over again.

Mr. HARRY F. BYRD, JR. And if we write into law the principle of a guaranteed annual income, as the Senator from Louisiana has pointed out, how can we, as a matter of principle and as a matter of conscience, make the figure less than the poverty level?

If we are going to write into law that the American Government has the obligation to provide a guaranteed annual income, then it seems to me we cannot appropriately make it less than the poverty level. If we put it at the poverty level as it is today, as the Senator from Louisiana has pointed out, it would put 81 million persons on the public assistance rolls.

Mr. LONG. Those assumptions, of course, do not take into account what people do when they react to a program such as this. For example, those assumptions are based on what people are earning now. But they do not take into account what happens when these enormous subsidies are placed on not marrying.

For example, the problem that exists in many areas is not so much that a father being encouraged to leave his family so they can go on the welfare rolls. The problem is that the family units are not forming in the first place. The children are being born out of wedlock. We are paying welfare money to bring that about, and it would be much worse if we were to adopt the family assistance plan or the Ribicoff amendment.

For example, here is an illustration that I am going to give later, and I have given illustrations such as this before. If a mother in New York City has 3 children today and she is not married to the father of those children—she sees him from time to time; he could spend every night in the apartment and get by with it, without being married—if the father is earning $7,000, the mother can be receiving $4,000 in welfare payments, plus $1,100 in public housing benefits, plus $900 value for medicaid, which means a gross family income of $13,000.

Suppose the father marries the mother. Then all they get is the $7,000 that the father can earn. That is how it would work under the Ribicoff amendment as well. That means that they get a $6,000 cash advantage for not marrying.

So the Government is subsidizing ille-

gitimacy and is giving a tremendous bonus to people for not marrying, and for children being born out of wedlock.

That would be continued under this plan, except that more money would be paid for not marrying. For example, in the State of Louisiana, where payments would be lower because they are lower today, a father earning $5,000 could be seeing the mother of his three children, who is drawing $2,600 in welfare, as often as he wished. The value of the medicaid benefits would be $250, or a total cash income, cash plus benefits, worth $7,850. If he married the mother, they would not get the $2,600 and would not get the $250. So in Louisiana, under this plan, the bonus for not marrying would be $2,850, more than a 50-percent increase in income for not marrying.

As this thing moves on up and you bring the level up, you would wind up having more people on the taking down end than you would have on the putting up end, and that does not even begin to take into account all the people who would decline to marry because it would be so lucrative to have the children born out of wedlock.

So when we take those human factors into account, we are not talking about having less people but perhaps twice as many people on the taking down end as would be on the putting up end. How long could Government support that kind of abuse?

Frankly, I say to the Senator that when we get to where we have 70 million people on the welfare rolls, someone will have to have the courage to try to turn the whole thing around; and I suspect that there would be virtually a revolution in this country if one tried to do it. The only way that could be restored, where the Government could be solvent and could stay in operation, would be for the whole government to come down. Of course, that is something the Senator and I would like to avoid.

I came here as an old share-the-wealth man, and I am still for the share-the-wealth idea. If I could cast the deciding vote for it, I would be happy to do so, to establish everybody with his own home, his own automobile, furniture, some conveniences, and a lot of other things, and tax those best able to pay in order to do it.

But that would just be a one-shot proposition; and after the Nation was over the shock of it, things would tend to settle back to normal. However, under the pending proposal, things would keep getting worse and worse, until the Government simply came to an end.

I do not relish the position of looking like a reactionary, a conservative. I want to do everything that can be done to help the poor; but I want to do it in ways in which they will be helped to help themselves, and ways in which they will be encouraged to do the right things, the things that are good for them and for society. I do not want to do it in ways that encourage them to do all the wrong things.

I regret to say that when I first read of the family assistance plan, I thought I could support it enthusiastically. I went down and told the President what I have told the Senator on other occasions, that I thought just one little thing ought to be straightened out about it: These people ought to be paid for working rather than for not working. That is the one thing we never could get straightened out, and that is what threatens to destroy this country if we enact H.R. 1 as suggested or if we adopt the Ribicoff amendment, which takes us a few steps on down the road farther than H.R. 1 would take us. That is what I find so upsetting, to such an extent that I would be willing to vote for something that cost as much as the Senator is talking about, provided it could be said that that was going to be the end of it and that was going to turn us around and head us in the other direction.

Can the Senator tell us how anybody can expect to put this guaranteed income into effect and expect to keep it under the poverty level?

Mr. HARRY F. BYRD, JR. It cannot be done. It will be a political football in every campaign. Every candidate will say, "It's now $3,000. You elect me, and I'll make it $3,600." His opponent will say, "$4,000." In the next campaign, they will start from that point and go on.

Mr. LONG. The last time I heard the National Welfare Rights Organization testify on the bill, directly and explicitly directing their testimony to H.R. 1, they were asking us to vote the bill down. Why? Because they said it did not pay enough. It is going to put another 11 million people on the welfare rolls. That would be all right with them. But they were against the bill even though it would cost approximately $5 billion more than the present law.

Mr. HARRY F. BYRD, JR. Last year, their slogan was "$5,400 or Fight." This year, they have gone up to $6,500—in just 1 year.

Mr. LONG. When they came here and testified at a hearing, they were asking me to vote the bill down, to defeat it, because it did not pay enough.

How anyone can expect to put this guaranteed income approach into effect for these families and have control of it thereafter, I cannot understand it, when even the people who would benefit from it start out by saying it is not enough, and the people who sponsor it say it is not enough and apologize for the low figure.

How can you hope to hold the cost down when you start on that basis and when you build this great power structure? Those who want to build the National Welfare Rights Organization would like to have more members, and they would like to include all the low-income working persons in their movement. These working people are a different sort from those persons who have never worked at all.

The working persons are reluctant to participate in some arrangement whereby they would become a part of the welfare crowd, yet that is what is being sought by this legislation, to make them, against their will and their better judgment, a part of the welfare crowd.

Has the Senator been requested by any working poor man to vote for this, so that he can be added to the welfare rolls?

Mr. HARRY F. BYRD, JR. No, but I have tested out the sentiment in the State of Virginia quite a bit. I cannot say that Virginia is necessarily typical of the entire United States, but I find that sentiment in Virginia is strongly opposed to the principle of a guaranteed annual income.

The people of Virginia are sensible and sound-thinking people and they know what that would lead to.

I think that the best comment on this legislation other than Secretary Richardson's assertion that it is revolutionary and expensive—which is certainly an accurate statement—is another accurate statement by Dr. Moynihan, one of the chief architects:

> The bill provides a minimum income to every family, united or not, working or not, deserving or not.

Here is a man who favors it. He is the foremost advocate, he and Secretary Richardson.

Mr. LONG. Mr. President, did I understand the Senator from Virginia correctly to say that the Secretary of Health, Education, and Welfare said this would provide a guaranteed income, deserving or not?

Mr. HARRY F. BYRD, JR. No, not the Secretary of Health, Education, and Welfare but Dr. Moynihan.

Mr. LONG. Dr. Moynihan.

Mr. HARRY F. BYRD, JR. Dr. Moynihan, who lobbied this thing from the White House. He was one of the chief proponents of it.

Here is what he said, and I read it again: It appears on page 1950 of the committee hearings:

> The bill provides a minimum income to every family, united or not, working or not, deserving or not.

That is Dr. Moynihan's appraisal of his own bill and I concur in that appraisal.

Mr. LONG. I have here a table on the House bill prepared by the Department of HEW. According to this table, in Louisiana, where they have estimated the number of recipients for 1973 at 473,000, that that number is to be increased to 823,000. Imagine that. Our State has about 3,800,000 people in it which has on occasion been referred to as the welfare State because we have a liberal welfare program there, and sometimes the people in the State refer to Louisiana as a welfare State because we have so many liberal welfare benefits, which members of my family have sponsored and I have worked on. We have advocated and been more liberal on welfare proposals than almost any other State in the Union—at one time we had more people on old-age assistance rolls than in New York, even though New York has several times the population Louisiana has.

Yet I am not aware that any of these 400,000 proposed additional beneficiaries are asking to be put on the welfare rolls. I assume the majority of them are the working poor.

I subscribe to the idea that low-income working persons are being taxed too heavily and I would like to help them, but I would much prefer to give them Louisiana's share of that money through what is in effect a tax reduction.

Mr. HARRY F. BYRD, JR. We are not

going to get tax reduction or help the working poor by increasing the cost of government by the tremendous figure it would have to be increased by.

Mr. LONG. So far as low-income working persons are concerned, they might as well get ready, because they are going to be in for a big tax increase if a program like this amendment goes into effect. The Senator knows that as well as I do.

Mr. HARRY F. BYRD, JR. It is bound to be.

Mr. LONG. We cannot continue to burden the Government with deficits, especially the one it has now, and then add $70 billion to it. But that is where we are headed if we undertake to have a guaranteed income for not working.

I completely subscribe to the Senator's position that we cannot afford to start this Nation down that path. I am not so upset about the cost as I am about the fact that we are heading in the wrong direction.

Mr. HARRY F. BYRD, JR. It would be absolutely in the wrong direction.

Mr. LONG. And that when we head down that path, we may not be able to get it turned around and head in the right direction. It might be irreversible until such time as the whole Government goes under.

Mr. HARRY F. BYRD, JR. That is why we should be aware of what is going on, whether it be the H.R. 1 program, the Ribicoff program, the Harris program, or the McGovern program. Any of those programs are tremendously costly. I sort of think of along this line, that H.R. 1 says we will give a Chevrolet to everybody; then the Ribicoff proposal would say, "No, we have got to do better than that, we will give them a Buick"; and then the Harris program comes along and says, "No, we have got to do better than that, we will give them a Cadillac"; and then the McGovern program comes along and says, "No, that is not good enough, we must give them a Rolls Royce."

Mr. RIBICOFF. What does Senator LONG want to give them?

Mr. HARRY F. BYRD, JR. He can speak for himself.

Mr. LONG. I want to give them a job. [Laughter.]

Mr. RIBICOFF. I am curious, because Senator LONG's proposal is not only more expensive than my proposal as modified, and not only more expensive than the Nixon proposal, but it also includes many more people than either the Nixon or the Ribicoff proposals. So, as I listen to these great giveaways that everyone is being charged with, I am curious: What is the distinguished chairman giving away?

Mr. LONG. Will the Senator from Virginia yield at that point?

Mr. HARRY F. BYRD, JR. I yield.

Mr. LONG. When the Senator says my proposition would cost more than what he has proposed, he is using the HEW figures. The Senator knows, as I do, that when HEW came up with its estimate of what the original family assistance plan would cost for the guaranteed income scheme, they asked Robert Myers, the best regarded actuary that has served in HEW, in my judgment, and in the judgment of the business community who should know about it, as to what he thought it would cost. He estimated $3 billion more than they estimated. They were estimating about $5 billion, and it looked to him, he said, as through it would cost $8 billion. In other words, they estimated it on the low side, even though their best actuary thought the cost estimate was too low. Frankly, every welfare administratator I discussed it with told me that was a low estimate, which is what we certainly could expect from HEW.

Then they took what we suggested in terms of a work program and estimated that $3 billion on the high side. The committee proceeded to hire the very same man, Robert Myers, and he gave us his estimate. His estimate at the time was $4.3 billion for workfare, billions less than the HEW estimate. We know how HEW always puts their costs low when they want to sell us a program.

When they first brought in the social services fiasco, they said it would cost $40 million a year, and it wound up threatening to cost over $4 billion a year, or 100 times what they estimated it would cost. When they brought in the medicaid program, they said it would cost $200 million a year, and it is costing over $3 billion, about 15 times what the estimated cost was.

Mr. HARRY F. BYRD, JR. $4.5 billion, according to Secretary Richardson's own testimony.

Mr. LONG. Which puts it about 22 times what the estimate was that it would cost. So we know how, in that Department, they have a way of putting a low cost estimate on something that they are for, and they put a ridiculously high cost estimate on something they are against. And with medicaid, they estimate the cost to be 1 to 15. And with the social services program, they underestimated that 1 to 100. We can take that into account and study it. The man we thought would be the best man to study it and give us an estimate estimated the cost at $2 billion less than the Ribicoff proposal.

Mr. HARRY F. BYRD, JR. Mr. President, the HEW estimates have proven at times to be highly inaccurate in the past. I know of no reason why we should accept their figures on this proposal. The Senate Finance Committee thought it would be wise and appropriate to go outside of the Government and get an expert to analyze it and give us an estimate.

I am frankly not clear in my mind what this program would cost. That was one reason that I wanted to pilot it out before I supported it, even though I support the committee concept.

Mr. RIBICOFF. Mr. President, if the Senator will yield, I am sure that contained in the figures cited by the distinguished chairman of the committee are other factors.

Mr. LONG. Mr. President, I am looking at an estimate that has to do with amendment No. 1614, the $2,600 level. And our estimate is $6.8 billion more than present law.

We estimate that the committee proposal would be $4.3 billion more than present law. In both cases we are not estimating the cost for the aged, the blind, and the disabled. We are only looking at the cost for families.

Mr. RIBICOFF. Mr. President, I think for the purpose of the record, whether right or wrong, I should read at this time the full year cost of payment of services. These figures have been supplied by HEW. Under the current law, it is $12.1 billion. H.R. 1 is $15.4 billion.

Under my proposal of $2,600, it is $16.4 billion. And may I point out that it includes public service jobs.

Under the Finance Committee proposal, it would be $19.5 billion.

We should also have some figures on the President's proposal, which contemplates 19 million people involved. My proposal contemplates 24 billion people involved.

Then the conservative Finance Committee proposal includes 30 million people.

Mr. President, I think for the purpose of the record that we ought to have those figures in the RECORD at this time. And I ask unanimous consent that the full year cost for payments of services compiled by HEW be printed at this point in the RECORD.

Mr. HARRY F. BYRD, JR. Mr. President, before the Senator from Connecticut sends those figures to the desk, would he withhold that so that I could query him about one or two matters?

Mr. RIBICOFF. Yes. However, I think it should be pointed out, too, that on our program 14 million are people who are actually working today. They are people who are not on welfare. These people are trying to keep body and soul together, whether they are receiving $2,000 or $2,200. They are not on welfare. These are people who are working, and I am trying to bring them in to make sure they are not worse off working than they would be on welfare.

Mr. HARRY F. BYRD, JR. Mr. President, after I have yielded to the Senator from Louisiana, I would like to query the Senator from Connecticut about this matter, because these figures seem different than the figures that Secretary Richardson put in the RECORD.

Mr. LONG. Mr. President, I am sure the figures the Senator refers to make the same mistake with regard to the Ribicoff proposal that they do with regard to ours. HEW estimates that though they are giving the money away for nothing, yet a great number of people will not come in and ask for it. But as far as our workfare program is concerned, they proceed to give estimates that would claim that when people are offered opportunities to take Government jobs, everybody who is eligible will come in and ask for a low-paying Government job. They assume that people will break the doors down to ask for those jobs.

How ridiculous can we get? Can we get so ridiculous as to assume that if we are going to give someone $2,400 for doing nothing and mail him a check every month, that great numbers of people will not apply—however, if we ask them to work for the $2,400, although all over the country there are jobs that pay more and they do not take them, nevertheless everyone eligible will come charging in

here to take a job and that even those who have jobs will quit those jobs to go to work for the Government?

What kind of sense does that make? They say that everyone will come in to work for the Government, but they will not take the money if we just mail them a check for doing nothing.

Mr. RIBICOFF. Mr. President, in view of what the chairman has stated, I think he has great responsibility, as do all Senators who serve on the Finance Committe. We constantly come before the Senate with proposals based on estimates and figures that are supplied by HEW. If the figures supplied by HEW are inaccurate, then we on the Finance Committee are begging our colleagues and the country to proceed to pass legislation based on inaccurate figures. That is a travesty on our responsibility as Senators.

How do we overcome this situation if we cannot rely upon a department of the executive branch? How do we make up our minds whether to pass the legislation if we do not know the basis upon which we ourselves are acting and asking our colleagues to follow our recommendations.

Mr. HARRY F. BYRD, JR. Mr. President, I think the Senator from Connecticut raises a good point. Let us get at the figures he mentioned a moment ago. Would the Senator give us the date of the letter or memorandum that he has?

Mr. RIBICOFF. The figures here were obtained within the last 4 weeks. They were obtained by my assistant, Mr. Jeff Peterson in consultation with the staff of HEW.

Mr. HARRY F. BYRD, JR. They deal with fiscal 1973?

Mr. RIBICOFF. Fiscal 1974, because the plan does not go into effect until then. We are dealing with figures that go into effect, as the Senator will recall, on January 1, 1974.

Mr. HARRY F. BYRD, JR. Mr. President, would the Senator give the figure for the cost of H.R. 1?

Mr. RIBICOFF. The cost of H.R. 1 is $15.4 billion.

Mr. HARRY F. BYRD, JR. That is for fiscal 1974?

Mr. RIBICOFF. That is for fiscal 1974.

Mr. HARRY F. BYRD, JR. Mr. President, does that include medicaid?

Mr. RIBICOFF. It does not. May I read what it includes. It includes payments to families, $6.2 billion; payments to adults, $4.6 billion; payments for food stamps, $2.2 billion; hold harmless fiscal relief, $1.1 billion; child care, $0.9 billion; training, $0.5 billion; training proposed, $0.8 billion; new service jobs, $0.1 billion; administration, $1.1 billion; impact of other programs, minus $1.1 billion; for a grand total of $16.4 billion.

Mr. HARRY F. BYRD, JR. That is the total cost of welfare under H.R. 1?

Mr. RIBICOFF. Under current law, the total cost would be $12.1 billion, under the current law as it now stands.

Mr. HARRY F. BYRD, JR. Under the current law, on page 287 of the committee report, the Secretary gives the cost for fiscal year 1972 at $10 billion for welfare, plus $3.4 billion for medicaid.

Mr. RIBICOFF. I would say that this is 1972. That would be almost another 2 years. And we know that the welfare rolls have gone up astronomically. This is to be done in 1974. My hunch is that for 1974, we will probably find that welfare costs will exceed $12.1 billion if it keeps going up the way it has in the last 2 years.

Mr. HARRY F. BYRD, JR. Mr. President, if the Department of HEW does not tighten up and do the job it is supposed to do, and if it is not willing to check out these matters and do a little about some of these welfare situations, costs will certainly go up.

Mr. LONG. Mr. President, if the Senator will yield, the Senator in his estimate has included the cost for the aged, the blind, and the disabled.

In order to compare the Ribicoff amendment with the committee proposal, the amount for the aged, blind, and disabled should be subtracted from that figure and then it would put the two on a comparable basis.

I would point out that the Senator from Connecticut himself felt we should not take these HEW estimates because of our disappointment on medicaid, social services, and things of that sort. He suggested we employ a competent actuary, and I am sure he would agree that Robert Myers is as good an actuary as anyone in the Senate might suggest.

The Senator will see at pages 561 through 579 of the committee report the estimate of Robert Myers, hired by the Committee on Finance, on the basis of which he estimated HEW's of their own proposal was altogether too low by about $2 billion and that their estimate of the committee proposal was on the high side by even more.

I do not see any point in burdening the RECORD, but I would urge the Senate to look at those figures. They appear in the committee report at page 561 and the pages thereafter.

Mr. RIBICOFF. I wish to respond to one point my distinguished chairman raised. He raises the question about the adult categories. He is correct, but if we eliminate payments to adults they would have to be eliminated across the board. H.R. 1 would have $4.6 billion deducted, my proposal would have $4.6 billion deducted, and the Finance Committee bill would have deducted $4.2 billion. That would be about equal all the way across the board and that would be a subtract from the set of overall figures.

But the chairman is correct that during discussions in the Committee on Finance the chairman and I see eye to eye on many things and in many things on the floor of the Senate.

I raise this question with our chairman because we have this delay and we are going to be forced to come to grips with it when we come back in the next Congress. If we have figures none of us can rely on, if we ask for information that none of us receive, and if we are asked to make judgments and those judgments are to be relied on, we have a duty to make sure our sources are independent.

Mr. HARRY F. BYRD, JR. Is that not why the Committee on Finance, under the leadership of the Senator from Louisiana (Mr. LONG), went outside of Government to get an expert who would be objective to give us an estimate of what the program would cost? That is why we went outside of Government.

Mr. RIBICOFF. What is going to be necessary in the future for all of us—and I think the chairman will recognize—the recommendation came from me originally—in another amendment of mine to H.R. 1—to get an independent expert such as GAO to analyze the cost of legislative proposals. If we are going to be faced with this in health reform proposals and trade proposals, when we sit down in committee we should have a confrontation, whether in public or in private session, between the department actuaries and our independent actuaries so that we can come to an independent conclusion.

As the chairman realizes, as well as the Senator from Virginia, I have the highest regard and respect for every member of the Committee on Finance, even though I may disagree with them philosophically. We are all trying to do the best job we can within the scope of our differing philosophies. But we should be able to approach the problem with an accurate set of figures and statistics. Otherwise, we are operating in the dark in trying to discuss matters or come to a definitive conclusion.

Mr. HARRY F. BYRD, JR. I think the Senator is correct and I feel that the evidence over a period of years is that one cannot rely too heavily on the estimate submitted by the Department of HEW on programs they want Congress to enact, in the same way we cannot rely too heavily in the Committee on Armed Services on estimates submitted by the Department of Defense.

Mr. RIBICOFF. Which leads me to believe that we have a very definite responsibility to have an agency under control of the legislative branch that can compete with the Office of Management and Budget and the different departments—to ride herd for us on the figures we get. And the GAO, which is the agency of this body, should be given the authority, staff, and the auditors and accountants made available to the chairman and members of our respective committees to give us the facts and figures, as analyzed by them, the executive branch. Otherwise we are flying blind with very expensive and important programs and unable to make the judgments which we have a responsibility to make.

Mr. HARRY F. BYRD, JR. Regardless of what the precise figures may be, I think all of us will agree that H.R. 1 is what its chief opponent, Secretary Richardson, declared it to be: Revolutionary and expensive.

I think all of us will agree, including the able author, that the Ribicoff amendment also is an expensive program.

Mr. RIBICOFF. It is, and also the Long proposal is an expensive program. At least the Senator from Virginia has something that neither the chairman nor I have, in that he is consistently against all of them. The only person who is consistent is the Senator from Virginia.

Mr. HARRY F. BYRD, JR. I am consistent against——

Mr. RIBICOFF. All of them.

Mr. HARRY F. BYRD, JR. I am consistent against the high cost of programs and against a Government-guaranteed annual income. I am consistent against programs which, in my judgment, are too costly for the American people.

I am not against welfare reform. I am not against welfare for those people who need it.

I am against programs which this body consistently passes and which the House passes, and that the administration recommends, huge and new spending programs, because in many cases—I am not speaking of the Senator from Connecticut in this case—but in many cases it seems good politics to do so.

I favor the concept of the Long proposal, and if I can get my mind clear as to the cost of it I would support it, but because I cannot get my mind clear on the cost, I think it should be pilot tested, the same as I feel about the Richardson program and the expanded HEW program advocated by the Senator from Connecticut.

Mr. RIBICOFF. I wonder if I may ask the Senator from Louisiana and the Senator from Virginia a question. Do the Senator from Louisiana and the Senator from Virginia have any idea what the administration's game plan is? They always use game plans down at the White House. What is it for this legislation, H.R. 1, and for welfare reform?

I know what my game plan is. As far as I am concerned, if the administration believes that if my proposal, which I had come to an understanding on with the administration, fails that I will then vote for H.R. 1, I want to tell my colleagues that they could not be more mistaken. I think their program is so bad and so defective that if the program I have advocated, after months of work with the administration, does not pass in this body and a substitute is then put onto the Senator from Virginia's amendment encompassing H.R. 1, I will vote against H.R. 1, as the administration contemplates in title IV, and try to use whatever influence I may have on this floor to have other Senators vote against H.R. 1.

So if the administration's game plan is to let the Ribicoff proposal be defeated and then feel that the supporters of the Ribicoff proposal will then support title IV as in House-passed H.R. 1, I think they are sadly mistaken. If that is their game plan, I want to announce now that that does not happen to be mine.

Mr. HARRY F. BYRD, JR. Mr. President, I hope the Senate will have an opportunity to vote on the Ribicoff proposal, which is now the pending business. I personally will vote against it, but I hope the Senate will have the opportunity to express itself—and then, from what I read in the newspapers, the distinguished minority leader (Mr. SCOTT) will offer an amendment in the nature of a substitute for the amendment offered by the Senator from Delaware (Mr. ROTH) and myself, namely, H.R. 1.

I hope that is done so that the Senate can express itself on both of these proposals.

I want to see how many Senators here really believe this country should embark on the principle of a guaranteed annual income. I want to see how many Senators will vote for H.R. 1 which Dr. Moynihan, one of the chief architects and one of the strongest proponents of this proposal—sums up in these words:

> This bill provides a minimum income to every family, united or not, working or not, deserving or not.

I would like to see the Senate have an opportunity to vote on H.R. 1. Let each Member of the Senate record himself "yea" or "nay" as to whether he wants a program that provides a "minimum income to every family, united or not, working or not, deserving or not."

We will have an opportunity to vote on the proposal offered by the Senator from Connecticut, which is an expanded form, in my judgment, of H.R. 1, and I hope we shall have an opportunity to vote on H.R. 1.

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

Mr. HARRY F. BYRD, JR. I yield.

Mr. LONG. I just want to clear up some of the talk on this matter. I think it is important to point out that when the committee employed Mr. Myers to make this study, he gave us a memorandum, to which I have referred—and I would urge Senators to look at it—which indicated that, basically, where he found fault with the administration is that they failed to do what they have repeatedly failed to do when they want something enacted by Congress—to take into account how people react when the law is changed. For example, when they gave us an estimate that was wrong by 15 to 1—an estimate of $200 million for medicaid which next year will cost $4.5 billion—they assumed that the States, even though the law provided for Federal matching, anywhere from 50 to 83 percent, would not put up any more money, that they would continue to put up the same amount of money that they had been putting up.

Anyone in his right mind would assume that if the Federal Government was going to pay half the cost, a State would shift money from some programs where it was not getting Federal matching money to a program that was. The administration did the same thing with reference to social services. They assumed that where there was a 3-to-1 Federal matching, the States would not put up that money and that they would not shut down programs so that they could get those 3-to-1 matching funds, as they did with social services. The result was that the program ended up much more expensive than it was estimated it would.

In this case they assumed that under the family assistance plan, when so many people would be made eligible, many of those people would fail to ask for the money, even though they would be eligible, and that they would not change their way of doing business. Let us assume that a family would get $2,600 for doing nothing and that the man would have his income drastically reduced if he went to work so that, let us say, after the first $60 monthly he would lose 67 cents of every dollar he made off his welfare check. For example, under H.R. 1 the way it passed the House, if a man worked half time in many States he would have more income than if he worked full time. The administration assumed he would not change his ways when he could make more money working half time than if he worked full time. They did not take into account human tendencies. The administration made the same mistake in the case of medicaid and social services.

When they looked at the program in which a person would be offered a low-paying job, the administration assumed that everybody eligible would come in and get work, even though there are want ads for jobs in the community paying more than that. They assumed that people would ask for Government jobs even though the people had to quit the jobs they had. They assumed that people would quit a job if they would make 5 cents more on a Government job than on the job they had.

It just shows that for anything the Department of Health, Education, and Welfare wants adopted, they put a low estimate on it. If they do not want it adopted, they will put a high estimate on it. That is the most irresponsible Department in Government in that respect.

I read from Robert Myers' memorandum to the Finance Committee, reprinted on page 563 of the committee report on the bill:

> In summary, I believe that the HEW estimates for FAP are significant understatements of cost, despite the assertions that they are "conservative." On the very surface, it is just not reasonable that such an expansion of the number of welfare recipients will result in so little an increase in cost.

This estimate is that it would cost $2 billion more than the HEW estimate. He also estimated that the HEW workfare cost estimate is on the high side.

Mr. HARRY F. BYRD, JR. Mr. President, following the suggestion of the able Senator from Connecticut, I have drafted a letter to the Secretary of Health, Education, and Welfare, and I would appreciate it if the Senator from Connecticut would listen as I read this, to see if it is in line with the suggestion he threw out earlier:

> MY DEAR MR. SECRETARY: I would be most appreciative if you would provide me, at the earliest possible time, with the following information: 1, the amount of expenditures in FY 1970, 1971, and 1972 in support of and in anticipation of the passage of the Family Assistance Program.

Mr. RIBICOFF. And would the Senator add the OFF program as well?

Mr. HARRY F. BYRD, JR. I beg the Senator's pardon?

Mr. RIBICOFF. Opportunity for families. That should be in there, too.

Mr. HARRY F. BYRD, JR. And opportunity for families.

> 2. The number of employees in each year whose duties are in support of and in anticipation of the passage of the Family Assistance Program.

Mr. RIBICOFF. And OFF.

Mr. HARRY F. BYRD, JR. And:

> 3. The number of employees at this date whose duties are in support of and in antici-

pation of the passage of the Family Assistance Program, and the payroll cost of those employees on a monthly basis.

Mr. RIBICOFF. And OFF.

Mr. HARRY F. BYRD, JR. Including OFF.

Mr. RIBICOFF. Including OFF in each one of the three categories.

I would say a similar letter should also go to the Secretary of Labor, because, as the Senator realizes, the Labor Department is deeply involved in welfare reform, and they, too, have had a considerable staff working on these programs. So a letter should go to the Secretary of HEW, and a similar letter to the Secretary of Labor.

Mr. HARRY F. BYRD, JR. The Senator from Virginia will endeavor to have a letter hand-delivered to the Secretary of HEW and the Secretary of Labor today, with the hope that a prompt reply could be received for the consideration of the Senate. I do hope we would not have the length of time involved in getting this information that the able Senator from Connecticut encountered in trying to get some information on the number of programs a few months ago; as I recall, it took some 4 to 6 months, was it not?

Mr. RIBICOFF. As the Senator knows, they have never really given the Committee on Finance a priority listing. I think we were interested in getting a priority listing as to how they figured, themselves, what the order of priority of that list was, which they have never given to us, and I want to say to the Senator from Virginia that I wish him a lot of luck in getting replies to those letters.

Mr. HARRY F. BYRD, JR. I appreciate the comment of the Senator from Connecticut. We will have this hand-delivered today, and I shall attempt to keep the Senate advised as to progress.

Mr. President, I want to conclude my remarks today in opposing the amendment offered by the distinguished Senator from Connecticut (Mr. RIBICOFF) that is the pending business.

I support the amendment offered by the distinguished Senator from Delaware (Mr. ROTH). It seems to me that it is a sound proposal. What it does is say that before any of these three new programs that have been suggested will be put into effect, pilot tests should be run by the Department of Health, Education, and Welfare, and then HEW shall report back to Congress the results of those tests, and Congress at that point would be in a position to make a decision as to which direction it wanted to go.

In connection with the pending amendment—the one offered by the Senator from Connecticut—I want to read into the record again the statement by Dr. Moynihan in his support of H.R. 1. The Ribicoff proposal, while not identical, is similar in nature. The Ribicoff proposal is, I think it would be fair to say, an expanded and more costly version of H.R. 1.

Mr. RIBICOFF. Mr. President, if the Senator will yield, I hope he is not attributing to me or assuming the adoption by me of the words of Dr. Moynihan.

Mr. HARRY F. BYRD, JR. No, I most certainly do not.

Mr. RIBICOFF. I just want to make that clear. I can make my own arguments why I think my proposal is good, but that does not necessarily mean that my proposal is the Moynihan proposal, or the Moynihan philosophy.

Mr. HARRY F. BYRD, JR. No, I do not wish to imply that and do not imply that. The Moynihan statement is in reference to H.R. 1, and this is what Dr. Moynihan, one of the chief architects of the proposal and one of the foremost advocates of H.R. 1, said about it:

> The bill provides a minimum income to every family, united or not, working or not, deserving or not.

That is Dr. Moynihan's statement in arguing in behalf of the family assistance plan, H.R. 1.

The other very pertinent comment or official statement that I want to conclude with is the three words which Secretary of Health, Education, and Welfare Elliot Richardson used to describe H.R. 1, the family assistance plan. He said that this plan is "revolutionary and expensive."

Mr. President, it is revolutionary. It is expensive. I agree thoroughly with that comment by the Secretary of Health, Education, and Welfare, that H.R. 1 is "revolutionary and expensive." That is why I think that before Congress goes into a new program which its author terms "revolutionary and expensive," we should follow the suggestion and adopt the amendment offered by the distinguished Senator from Delaware and cosponsored by the senior Senator from Virginia, to have pilot projects on the three major pieces of legislation in the welfare field; namely, H.R. 1, the Ribicoff proposal, and the Finance Committee proposal dealing with workfare—a proposal that seeks, instead of a guaranteed annual income, guaranteed job opportunities.

I commend the able and distinguished Senator from Delaware, and am happy to join with him as cosponsor of this proposal.

Mr. LONG. Mr. President, I might be able to somewhat abbreviate the speech I was planning to make on this subject if it would accommodate the Senator from Delaware. May I ask the Senator how much time he thinks he will require?

Mr. ROTH. Five minutes, or I could even take less if the Senator wishes.

Mr. LONG. Then I will yield the floor, so that the Senator can make his speech at this time.

Mr. ROTH. I thank the distinguished chairman of the Finance Committee.

Mr. President, I would further like to modify the so-called Roth-Byrd amendment by adding the following:

> At the end of section 401(h) as added by the amendment, add the following new subsection:
>
> "(i) Section 204(c)(2) of the Social Security Amendments of 1967 is repealed."

Mr. President, I think it would be worthwhile at this time——

The PRESIDING OFFICER (Mr. HUGHES). Is the Senator so modifying his own amendment?

Mr. ROTH. That is correct.

The PRESIDING OFFICER. The Senator has a right to modify his amendment.

Mr. ROTH. Mr. President, as I said, I think it would be worthwhile at this time to review for the benefit of the Senate the Roth-Byrd amendment to H.R. 1. I think the discussion today has shown more clearly than almost anything else a lack of information as to how any of the three proposals would actually work. The proposals of H.R. 1 and the so-called Ribicoff proposal, as well as the Finance Committee proposal, all believe that they are the answer to the welfare mess. Speaking for myself, I can say that I think reform is necessary. But what does concern me is that we do not go off on a new direction without some better information as to how we are proceeding.

For that reason, the Roth-Byrd amendment would call for a pilot test of the three welfare reform proposals—H.R. 1, title IV, as passed by the House; AFDC and workfare as reported by the Finance Committee; and amendment 1614 to H.R. 1, as offered by Senator RIBICOFF—as a compromise with the administration—last Thursday, September 28.

Each of these proposals would be tested for 2 or more years in demographically representative and meaningful areas of the country in order to gain practical knowledge of the ways in which these efforts will effect the current tragic situation of welfare.

Before the tests commenced, the administration would be required to submit its plans to the Finance and Ways and Means Committees, and after their initiation, reports by the administration and the GAO would be submitted to Congress every 6 months. These are temporary measures though, and at the end of the test period, final reports would be sent to Congress for consideration of some new permanent legislation.

I have also included the authorizations for the 10 percent work bonus, tightened legislation on child support, and liberalized child care language as adopted by the Finance Committee. Unlike the welfare and workfare test portions of this measure, these last three will become permanent statutes, if passed by Congress and signed by the President.

It seems to me that the current welfare problems need major improvements, but without better knowledge of actual reform effects, the Congress is faced with the dilemma of choosing between several very different proposals. Statistically significant tests of the three major bills would help the Congress gain valuable insight into the most effective ways to improve our deteriorating welfare system.

Mr. President, I ask unanimous consent that my entire amendment as modified be printed in the RECORD.

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

AMENDMENT No. 1668

Beginning on page 689, line 11, strike out through page 769, line 11, and insert in lieu thereof the following:

"TITLE IV—PROGRAMS FOR FAMILIES WITH CHILDREN

"PART A—TESTING OF ALTERNATIVE PROPOSALS FOR ASSISTANCE TO FAMILIES WITH DEPENDENT CHILDREN

"AUTHORIZATION FOR CONDUCT OF TEST PROGRAMS

"SEC. 401. (a) For purposes of this part—

"(1) The term 'family assistance tests' means (A) the programs contained in title IV of H.R. 1, 92d Congress, 1st Session, as passed by the House of Representatives, or (B) the program referred to in clause (A) as amended by amendment No. 1669, 92d Congress, 2d Session, introduced in the Senate on October 2, 1972.

"(2) the term 'workfare test program' means the program contained in parts A and B, title IV of H.R. 1, 92d Congress, 2d Session, as reported to the Senate by the Committee on Finance on September 26, 1972, and

"(3) the term 'family' means a family with children.

(b) (1) The Secretary of Health, Education, and Welfare (hereinafter in this section referred to as the "Secretary") is authorized, effective January 1, 1973, to plan for and conduct, in accordance with the provisions of this section, not more than three test programs. One of such programs shall be the family assistance test program defined in subsection (a) (1) (A) of this section, one of such programs shall be the family assistance program defined in subsection (a) (1) (B) of this section, and one of such programs shall be the workfare test program.

"(2) Whenever the workfare test program is commenced, there shall commence, on the same date as such program, both family assistance test programs. Except as may otherwise be authorized by the Congress, no test program under this section shall be conducted for a period of less than 24 months or more than 48 months, and to the maximum extent practical each such test program shall be conducted for the same length of time.

"(3) Any such test program shall be conducted only in and with respect to an area which consists of one or more States, one or more political subdivisions of a State, or part of a political subdivision of a State, and shall be applicable to all the individuals who are residents of the State or the area of the State in and with respect to which such program is conducted.

"(4) During any period for which any such test program is in effect in any State or in any area of a State, individuals residing in such State or the area of the State in which such program is in effect shall not be eligible for aid or assistance under any State plan or program for which the State receives Federal financial assistance under part A of title IV of the Social Security Act.

"(5) The Secretary, in determining the areas in which test programs under this section shall be conducted, shall select areas with a view to assuring—

"(A) that the number of participants in any such program will (to the maximum extent practicable) be equal to the number of participants in any other such program; and

"(B) that the area in which any family assistance test program is conducted shall be comparable (in terms of size and composition of population, of average per capita income, rate of unemployment, and other relevant criteria) to an area in which a workfare test program is conducted.

"(c) (1) No test program under this section shall be conducted in any State (or any area thereof) unless such State shall have entered into an agreement with the Secretary under which the State agrees—

"(A) to participate in the costs of such test program; and

"(B) to cooperate with the Secretary in the conduct of such program.

"(2) Under any such agreement, no State shall be required to expend, with respect to any test program conducted within such State (or any area thereof), amounts greater than the amounts which would have been expended with respect to such State or area thereof (as the case may be), during the period that such test program is in effect, under the State plan of such State approved under part A of title IV of the Social Security Act. For purposes of determining the amount any State would have expended under such a plan during the period that any such test program is in effect within such State (or any area thereof), it shall be assumed that the rate of State expenditure (from non-Federal funds) under such plan would be equal to the average rate of State expenditure (from non-Federal funds) under such plan for the 12-month period immediately preceding the commencement of such test program.

"(d) (1) The Secretary shall, upon completion of any plans for and prior to the commencement of any test program under this section, submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a complete and detailed description of such program and shall invite and give consideration to the comments and suggestions of such committees with respect to such program.

"(2) During the period that test programs are in operation under this section, the Secretary shall from time to time (but not less frequently than once during any 6-month period) submit to the Congress a report on such programs. Each such report shall contain full and complete information and data with respect to such programs and the operation thereof, together with such recommendations and comments of the Secretary with respect to such programs as he deems desirable.

"(3) At the earliest practicable date after the termination of all test programs authorized to be conducted by this section, the Secretary shall submit to the Congress a full and complete report on such programs and their operation together with (A) the Secretary's evaluation of such programs and such comments or recommendations of the Secretary with respect to such programs as he deems desirable and (B) his recommendations (if any) for legislation to revise or replace the provisions of part A of title IV of the Social Security Act.

"(e) (1) The Secretary shall—

"(A) in the planning of any test program under this section; or

"(B) in assembling information, statistics, or other materials, to be contained in any report to Congress under this section;

consult with, and seek the advice and assistance of, the General Accounting Office and the General Accounting Office shall consult with the Secretary and furnish such advice and assistance to him upon request of the Secretary or at such times as the Comptroller General deems desirable.

"(2) The operations of any test program conducted under this section shall be reviewed by the General Accounting Office, and the books, records, and other documents pertaining to any such program or its operation shall be available to the General Accounting Office at all reasonable times for purposes of audit, review, or inspection. The books, records, and documents of each such program shall be audited by the General Accounting Office from time to time (but not less frequently than once each year).

"(3) During the period that test programs are in operation under this section, the Comptroller General shall from time to time (but not less frequently than once during any 6-month period) submit to the Congress a report on such programs which shall contain full and complete information and data with respect to such programs and the operation thereof, together with such recommendations and comments of the Comptroller General with respect to such programs as he deems desirable.

"(4) At the earliest practicable date after the termination of all test programs authorized to be conducted by this section, the Comptroller General shall submit to the Congress a full and complete report on such programs and their operation together with his evaluation of, and comments and recommendations (if any), with respect to such programs.

"(f) In the administration of test programs under this section, the Secretary shall provide safeguards which restrict the use of disclosure of information identifying participants in such programs to purposes directly connected with the administration of such programs (except that nothing in this subsection shall be construed to prohibit the furnishing of records or information concerning participants in such programs to the Committee on Finance of the Senate or the Committee on Ways and Means of the House of Representatives).

"(g) For the purpose of enabling the Secretary to formulate operational plans and to conduct test programs under this section, there are hereby authorized to be appropriated for each fiscal year $200,000,000.

"(h) Nothing in this Act shall be construed as a commitment, on the part of the Congress, to enact (at any future time) legislation to establish, on a permanent basis, any program tested pursuant to this section or any similar program.

"(i) Section 204(c) (2) of the Social Security Amendments of 1967 is repealed.

"PART B—EMPLOYMENT WITH WAGE SUPPLEMENT

"SEC. 420. The Social Security Act is amended by adding after title XIX thereof the following new title:"

On page 769, line 12, strike out "SUBPART 2" and insert in lieu thereof "TITLE XX".

On page 769, line 15, and on page 771, line 19, strike out "2030" and insert in lieu thereof "2001".

On page 769, lines 16 and 21, on page 770, line 5, and on page 771, line 21, strike out "2071" and insert in lieu thereof "2003".

On page 770, line 11 and lines 21 and 22, and on page 771, lines 5, 6, and 11, strike out "Work Administration and insert in lieu thereof "Secretary".

On page 770, lines 12 and 23, strike out "it" and insert in lieu thereof "him".

On page 771, line 13, strike out "2031" and insert in lieu thereof "2002".

Beginning on page 772, line 3, strike out through page 791, line 25, and insert in lieu thereof the following:

"DEFINITIONS

"SEC. 2003. For purposes of this title—

"(a) The term 'Secretary' means the Secretary of Labor.

"(b) The term 'regular employment' means any employment provided by a private or public employer.

"(c) The term 'United States', when used in a geographic sense, means the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, and Guam."

On page 799, line 18, strike out "Work Administration" and insert in lieu thereof "Secretary".

Beginning on page 800, line 8, strike out through page 803, line 23.

On pages 804 through 827, strike out "402 (h)" each time it appears and insert in lieu thereof "402(a) (26)". On page 823, strike out lines 5 through 11 and insert in lieu thereof "to such State or political subdivision from amounts which would otherwise represent the Federal share of assistance to the family of the absent parent."

Beginning on page 825, line 11, strike out through page 826, line 3.

On page 829, between lines 2 and 3, insert the following:

"AMENDMENTS TO PART A OF TITLE IV

"SEC. 430A. (a) Section 402(a)(8)(A) of the Social Security Act is amended—

"(1) by striking out 'and' at the end of clause (i);

"(2) by striking out the semicolon at the end of clause (ii) and inserting in lieu thereof a comma; and

"(3) by adding at the end of clause (ii) the following new clause:

"'(iii) $20 per month, with respect to the dependent child (or children), relative with whom the child (or children) is living, and other individual (living in the same home as such child (or children)) whose needs are taken into account in making such determination, of all income derived from support payments collected pursuant to part D; and'.

"(b) Section 402(a)(9) is amended to read as follows: '(9) provide safeguards which permit the use or disclosure of information concerning applicants or recipients only to (A) public officials who required such information in connection with their official duties, or (B) other persons for purposes directly connected with the administration of aid to families with dependent children.'.

"(c) Section 402(a)(10) is amended by inserting immediately before 'be furnished' the following: ', subject to paragraphs (24) and (26),'.

"(d) Section 402(a)(11) is amended to read as follows: '(11) provide for prompt notice (including the transmittal of all relevant information) to the Attorney General of the United States (or the appropriate State official or agency (if any) designated by him pursuant to part (D)) of the furnishing of aid to families with dependent children with respect to a child who has been deserted or abandoned by a parent (including a child born out of wedlock without regard to whether the paternity of such child has been established);'.

"(e) Section 402(a) is further amended—

"(1) by striking out 'and' at the end of paragraph (22); and

"(2) by striking out the period at the end of paragraph (23) and inserting in lieu thereof a semicolon and the following: '(24) provide (A) that, as a condition of eligibility under the plan, each applicant for or recipient of aid shall furnish to the State agency his social security account number (or numbers, if he has more than one such number), and (B) that such State agency shall utilize such account numbers, in addition to any other means of identification it may determine to employ, in the administration of such plan; (25) contain such provisions pertaining to determining paternity and securing support and locating absent parents as are prescribed by the Attorney General of the United States in order to enable him to comply with the requirements of part D; and (26) provide that, as a condition of eligibility for aid, each applicant or recipient will be required—

"'(A) to assign to the United States any rights to support from any other person he may have (i) in his own behalf or in behalf of any other family member for whom he is applying for or receiving aid, and (ii) which have accrued at the time such assignment is executed, and which will accrue during the period ending with the third month following the month in which he (or such other family members) last received aid under the plan or within such later month as may be determined under section 455(b), and

"'(B) to cooperate with the Attorney General or the State or local agency he has delegated under section 454, (i) in establishing the paternity of a child born out of wedlock with respect to whom aid is claimed, and (ii) in obtaining support payments for herself and for a child with respect to whom such aid is claimed, or in obtaining any other payments or property due herself or such child'.

"(f) Section 402(a) (17), (18), (21), and (22), and section 410 of such Act are repealed.

"(g) The amendments made by this section shall become effective on January 1, 1973."

On page 829, line 1, strike out "(d)" and insert in lieu thereof "(e)".

On page 830, lines 19 to 21, strike out "as a division of the Work Administration (established under title XX of this Act".

On page 833, line 3, strike out "the Work Administration" and insert in lieu thereof "recipients of assistance under title IV of this Act, and persons who have been or are likely to become applicants for or recipients of such aid,".

On page 834, line 17, strike out "title XX" and insert in lieu thereof "part A of title IV".

On page 836, lines 1 and 2, strike out ", in addition to the powers it has as a division of the Work Administration,".

On page 837, strike out line 19 and insert in lieu thereof "persons receiving assistance under part A of title IV".

On page 851, strike out lines 17, 18, and 19.

On page 851, line 20, strike out "(b)" and insert in lieu thereof "Sec. 2114(a)".

On page 852, line 4, strike out "(c)" and insert in lieu thereof "(b)".

Mr. LONG. Mr. President, I think that down through the years there have been many times when the Senator from Louisiana probably could be regarded as in favor of higher welfare benefits than any other Member of this body. I have been something of a welfare advocate as long as I have been in public life, and I will continue to be, so long as we have a program which helps people in ways that encourage them to help themselves, particularly so long as the program would encourage people to do the right things and discourage them from doing the wrong things.

I am concerned about the cost of this bill; but with regard to this phase of it—the family assistance plan, the workfare plan, the Ribicoff substitute—it is far more important to me that we be headed in the right direction. I have no doubt that if we depart in the wrong direction, particularly if we depart in the area of a guaranteed income for doing absolutely nothing, for able-bodied people who should be encouraged to take a job and go to work, it will be a long time before we will ever get the welfare program back under control.

For that reason, Mr. President, I have become extremely concerned about the problems that have grown up in the welfare program, and even more so about the fact that the administration proposal as well as the Ribicoff suggestion, which is an expanded view of the guaranteed income concept, move us in the wrong direction. It would tend to bring the program into even worse disrepute than it is at the present time, and in the long run it is something that we will have to reverse, if we can. Otherwise, I believe it would continue to grow until it would bring the entire Government to an end, and that might happen sooner than anyone can estimate.

I note, for example, that in Louisiana, even under the family assistance plan, which is the most modest of the guaranteed income plans, according to HEW estimates the number of welfare recipients would be increased from 473,000 to 823,000, an increase of 350,000.

Insofar as one would seek to provide assistance for low-income working persons, it is far more dignified and it is work-oriented to give them the sort of advantage that was provided by the work bonus for which we voted the other day, or to provide the wage supplement that the committee recommended for those working in low-paying jobs. This way we increase the income of people in a way that is work-related, but encourage people to take a job and keep a job, and for which a father, in order to claim the benefit, must claim his own children, admit that those are his children, and to accept the responsibility for helping to support those children.

Unfortunately, under the family assistance plan, as would be the case under the Ribicoff amendment, it would be to the enormous cash advantage of the father—and would be even more so in the future—for him to decline to marry the mother of his children and to decline to admit paternity of his children. That is the one big element of the welfare riddle that those who advocate the guaranteed annual income simply have not been able to come to grips with; because when you face up to it, you recognize that the guaranteed annual income scheme simply will not work. It will not work because it provides a tremendous cash advantage for a father to deny paternity of his own children, to make himself unavailable for the support of his offspring, and to remain outside the bounds of a legal marriage.

We have struggled with this problem, and we have concluded that the answer to it is to increase the income of a man who comes forth and says that he has a family to support and faces his duty and responsibility. The difference is that they would be benefited by giving them what amounts to a tax refund, which, with regard to a great number of them, would cause them to have more income than they would have under the family assistance plan or the Ribicoff amendment. But they would be helped in ways that would encourage them to do the right things instead of the wrong things.

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

Mr. LONG. I yield.

Mr. PASTORE. I agree with everything the Senator from Louisiana has said. I am curious to ask him this question, however: Let us assume that the man about whom the Senator is talking, the man who disclaims his family and disclaims his children, is not attracted by this. What happens?

Mr. LONG. I am not sure I understand.

Mr. PASTORE. I will be more explicit.

The complaint is being made that some women are having illegitimate children—not one, sometimes many. In some instances, they do not even know who the father is. I am not saying that that is the rule; that may be the exception. But it is the predicate for the question I am asking. I understand that the Senator said that the bill that was reported by the committee means you are making it attractive enough for a man to take a

job which will be more remunerative than if he took social welfare. Let us assume he happens to be a person——

The PRESIDING OFFICER (Mr. HUGHES). Under the previous order——

Mr. PASTORE. May I have 1 more minute——

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the time be extended for 5 minutes.

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

Mr. PASTORE. Let us assume he happens to be the kind of individual that does not want to work at all and does not claim paternity for his children, what happens to the children? I am curious to know that.

Mr. LONG. The answer would be that the family would be eligible for welfare benefits as long as there is a child 6 years or younger in the household, on the theory that a mother is entitled to be in the home with the young child who needs care. The bill would then say that when the child goes to school and the mother's presence is not necessary in the home to look after the child, the mother would be expected to take a job, and the committee bill would provide the job that would assure her as much money——

Mr. PASTORE. Are we talking about a widow, or a married woman who has a husband that is able to work?

Mr. LONG. I assume we are talking about a situation where the mother has been deserted or she is a single woman who had children, but whom the father never married in the first place. It is rarely a widow we are talking about, because she has social security available to her. In many cases it is a mother who has never married.

Mr. PASTORE. This whole thing started out as an AFDC proposition. When I was Governor of my State, when this program was first initiated, its purpose was to allow a widowed mother who had a number of children to stay home and take care of the household so that the children could be brought up in respectable fashion.

Now the argument is being made here that we are expecting that a widow—I am talking about a legitimate widow, not some girl running around with every Tom, Dick, and Harry and having illegitimate children—not talking about a woman living with a man not her husband—I am talking about a legitimate widow. The Senator says he will make it attractive so that a woman who has four children and whose husband is dead, for that woman to go out to work rather than to stay at home and take care of her children. If the children go to school from 9 until 2 and the mother works until 5 or so, who would take care of the children? That is where the dilemma is, as against some other girl who never married at all and has four children, but whose father will not admit their paternity. We have quite a problem here on that. I realize that is where the abuses sometimes lie. When we try to do something about it the question arises, what about the children, how do we take care of them? We must not allow the kids to go hungry, and I agree with that, of course.

Now we are talking about a common-law marriage, where the man has never married the woman, and for some reason he leaves the house every time the social worker comes along so that the social worker does not know there is a man in the house.

Is that the man we are trying to get a job for?

Personally, the way the Senior Senator from Rhode Island feels, every man that will not support his own children, would be put in jail.

Mr. LONG. First, referring to the widow where the father has died, the widow is eligible for social security. That is not our problem.

Mr. PASTORE. That is a legitimate case.

Mr. LONG. That is a case for social security. With regard to the AFDC case load, we find these proportions: Where the father is dead, roughly 4.3 percent; where the father is incapacitated, 9.8 percent; that is not our problem.

Mr. PASTORE. I would say so. That is right.

Mr. LONG. There is the program for the disabled when the father is incapacitated, and we take care of that. That is supported at a generous level. Then we have some cases where the father is unemployed, and that is 6 percent; of the caseload; 76.2 percent of the cases are cases where the father is absent from the home: 14 percent divorced; legally separated, roughly 3 percent; separation without a court order, 13 percent; deserted, 15 percent; not married 28 percent; in prison, 2 percent; for other reasons 1.2 percent.

Mr. PASTORE. Are we trying to find a job for all those fellows that ran away from their wives and children? We are not talking about them, I hope. Those are the ones that should be in jail.

Mr. LONG. We certainly have some provisions in present law for the States to pursue those fellows and make them support their children, but those provisions are not working very well. We have cases where the mother will not tell who the father is or cooperate in any way with us.

Mr. PASTORE. That is my question. Let us assume that she does not tell us what happens——

Mr. LONG. If she says, "I don't know who," then during the time her children are in school, she is expected to do some work. She is expected to earn $2,400 instead of having $2,400 given to her for doing nothing. But we propose to subsidize the jobs in private employment.

The Senator referred to school hours being between 9 and 2. My impression was that it is 9 to 3, more or less, at least that is what it is in Louisiana and in most other States. We would expect, during the time the children were in school, to provide for the welfare of the child, or the children, if it is in the plural, and that the mother would, in turn, do something for the benefit of society in return for what she is to be paid. We would like to see her take the best job possible, say as a nurse's aide, or keeping the place safe, or helping to report any violations of the law in her area, or helping in child care, or helping in a child care center, or looking after the children of a working mother, so that that mother does not need to take a job.

Mr. PASTORE. All right. Now we get to the $64 question. What if she refuses to take a job? What happens to the four children?

Mr. LONG. Then we would pay somebody else to provide for the children.

Mr. PASTORE. Does the bill provide that?

Mr. LONG. It does.

Mr. PASTORE. What would you do, take the children away from her? Then have every church after you.

Mr. LONG. We would try to do it through a protective payment. In an extreme case, we would have to provide for foster care, as we do now.

Mr. PASTORE. What do you call an extreme case?

Mr. LONG. Cases where a mother is abusing the child or simply not taking care of it.

Mr. PASTORE. That has nothing to do with children taken care of under a court order. I am talking about a woman who refuses to take a job. I am talking about what happens then. Do we cut off the money? Do we not cut off the money, or do we still give her the money?

Mr. LONG. We would not pay the money to her if she was offered a job and she said no.

Mr. PASTORE. To whom would you pay it then?

Mr. LONG. To some relative or someone in the immediate vicinity; perhaps the fellow who owns the corner grocery store, or a nextdoor neighbor, or who lives in the same apartment building, to provide that money for the children, if they need it.

We are entitled to assume, Senator, with regard to some of these people who do not want any job——

Mr. PASTORE. I realize that.

Mr. LONG. That they have an income from somewhere else. Some of these people have a man coming around every night, sleeping in the same bed——

Mr. PASTORE. I know that.

Mr. LONG. We are entitled to assume that if these people do not want to work or take a job, it is likely they are getting income from somewhere else. For example, in Louisiana, we had a 50-percent increase in the welfare load when the court struck down the man in the house rule. I know that the man in the house rule can be abused, but I am also aware of the fact that if there is a man in the house, and if he has a job and he is able to support his family, that man should be made to support that family. Look at how it works out the other way around. Here is an example I have given before, since it illustrates the point. In New York City right now if a father is earning $7,000 a year, and if he is not married to the mother, he can be spending every night in the same house with the mother, and the mother can be receiving $4,000 roughly in cash, $1,100 in public housing benefits, $900 in medicaid benefits—and that is the average value of medicaid to a person.

Mr. President, I yield myself 2 additional minutes.

There is a combined value of $13,000. If we assume that father marries that mother, he will get only the $7,000 he earns. So, there is a $6,000 cash advantage to that family to continue this relationship.

And there is no way that we can get ourselves out of that trap. There is no way that we can prevent them from beating the system in that fashion unless we ask someone to go to work.

If we do not do so, the mother has a more certain source of income than she would otherwise. Their combined income would be $13,000 under the law as it is today, if they are to live out of wedlock, compared to an income of only $7,000 if they are married. So we set the stage for the father refusing to marry the mother.

Incidentally, Mr. Moynihan, the architect of this program, told us individually that the problem is not that the father is leaving the mother so that the family can go on welfare, but the problem is that he is not marrying her because they can have almost twice the income by not marrying and by not assuming the obligations of a legal marriage.

As long as we have a system that is as advantageous as it is and allows people to have twice as much income by not marrying because they are then eligible for welfare, then we will have the fathers not marrying these mothers.

Mr. PASTORE. Mr. President, I wish the Senator a lot of luck. Anyone who does not have the nobility to marry the woman with whom he has had children certainly does not have the nobility to do anything else. And I do not think it will work out.

Mr. LONG. Mr. President, we would provide that mother with local assistance from both U.S. attorneys and district attorneys to help obtain support money from that father. We would make it unlawful for a father to abandon his family to the welfare rolls. However, as long as we make it profitable for them so that they will have twice the income, that leaves us in the situation that we are in today.

Mr. PASTORE. The Senator from Louisiana is now cooking with gas. That has been a laxity on the part of law enforcement. There has been a laxity on the part of authorities in getting after the mothers and fathers. We could cut down the expense of this program tremendously if we could enforce the law and make it work.

Mr. MONTOYA. Mr. President, it is with a great deal of pride and accomplishment that I rise today to commend the distinguished chairman and the members of the Finance Committee for their diligence and determination in reporting out this comprehensive reform bill. I know personally that many long hours were spent in developing language which would result in meaningful reforms and not empty promises. The committee deserves the thanks of the Senate and of the country for their efforts.

Mr. President, title II of H.R. 1, as amended by the Senate Finance Committee, contains provisions which provide certain kinds of outpatient drugs for 20 million elderly citizens now eligible for medicare benefits. The Members of this body know that since 1965 I have strived to have this concept enacted into law. The inclusion of this proposal in H.R. 1 is gratifying to me and my sincere thanks are extended to the Finance Committee. I was also pleased to see the Senate overwhelmingly approve the maintenance drugs amendment by a vote of 54 to 0 on September 30, 1972.

We in the Congress are well aware of the economic plight of our senior citizens. The often-cited figures show that more than 4.7 million older Americans fall below the poverty line; one out of every four of these elder citizens lives in poverty. Of these unfortunate older Americans living alone, six out of every 10 were classified as poor or near poor; and nearly five of eight women 65 or older and living alone are classified as poor or near poor.

We know that while the average income of all family heads is about $7,500, families headed by individuals 65 or older must survive on incomes of $3,600. One must remember that with these resources, food, shelter, clothing, and other necessities must be met.

The figures are startling, Mr. President, yet even more alarming is the fact that prescription drugs now represent the largest single health expenditure that the aged must meet from their own resources, some 20 percent of their personal health expenditures. The conclusion is obvious, Mr. President. The cost of medication has a severe impact on the meager resources of our older Americans.

The relationship of the economic position of our elderly citizens to their ability to provide themselves with adequate health care was best described by the Task Force on Prescription Drugs when it said:

> Requirements for appropriate drug therapy by the elderly are very great, far greater in fact than any other group, and that many elderly men and women are now unable to meet these needs with their limited incomes, savings or present insurance coverage. Their inability to afford the drugs they require may well be reflected in needless sickness and disability, unemployability, and costly hospitalization which could have been prevented by adequate out-of-hospital treatment.

The concept for an outpatient drug program is by no means a novel suggestion, Mr. President. Since 1965, similar proposals have come before the Senate and each time, this body has felt that the concept was in need of further study.

A program for out-patient drugs has been studied and restudied with the last task force report being issued in 1969 by the so-called Dunlap committee. This task force sought and received the advice, guidance, support, and criticism of more than 160 nongovernmental experts representing clinical medicine, pharmacology, pharmacy, medical and pharmacy teachers, professional health organizations, drug manufacturers, drug distributors, health insurance executives, and representatives from other fields. After these extensive consultations, it concluded:

> In order to improve the access of the elderly to high quality care, and to protect them wherever possible against high drug expenses which they may be unable to meet, there is a need for an out-of-hospital drug insurance program under Medicare.

The task force further concluded that such a program would be both "economically and medically feasible and should be instituted." These, Mr. President, were the conclusions reached by the task force created by Secretary of Health, Education, and Welfare, Robert Finch.

Several recommendations were made by the Dunlop committee with respect to certain features that should be contained in any out-patient drug program. These included: financing the program under part A of title XVIII of the Social Security Act—medicare program—so that an individual would pay for his drug insurance during his working years, rather than later when his income is sharply reduced due to retirement; inclusion of a copayment feature of at least $1 for each prescription to remind the beneficiary that he is sharing in the cost of the program and to prevent abuses; creation of a formulary committee composed of persons of recognized standing in the fields of medicine, pharmacy, and pharmacology to select the drugs to be covered. The formulary would be available to physicians and pharmacies and would provide a list of these qualified drugs, arranged alphabetically by their established, or generic, names, as well as—

An indexed listing of the trade or other names by which these drugs are known, together with the maximum allowable cost for various quantities, strengths, or dosage forms;

Supplemental lists arranged by diagnostic, therapeutic, or other classifications; and

Information which promotes—under professional supervision—the safe and effective use of these drugs.

The beneficiary simply goes to the participating pharmacy of his choice. If the drug prescribed for him is listed in the formulary, he pays the pharmacist $1 to fill the prescription. If the prescribed drug is not listed in the formulary, he pays for it the same way he does now—out of his own pocket. Finally, pharmacist and other vendors, rather than beneficiaries, would be reimbursed based upon practice in the locality by type of outlet added to the acquisition cost of the drug product.

Mr. President, the prescription drug program which I introduced as S. 936 contained most of these productive changes recommended by the many years of study and deliberation. The committee version of this proposal also retains a majority of the task force's suggestions and also makes further modifications so as to make the legislation more economically feasible.

Specifically, the committee has provisions which limit the coverage under the act to so-called "maintenance drugs," or drugs generally associated with chronic illnesses. This modification will reduce the anticipated cost of the program to $700 million thus making it more accept-

able to many who, while favoring the concept, were forced to vote against the program on fiscal grounds. Mr. President, I am not opposed to this change. In fact, I welcome it, for I consider it to be essential if the program is to be approved. Once in operation, it will be easy to determine if expansion is needed and if expansion is economically feasible.

Now, Mr. President, I do not take credit for the provisions of the drug program as contained in H.R. 1. In point of fact, credit must duly be given to the distinguished chairman of the Finance Committee, Senator LONG, whose similar proposal was before the committee, and Senator HARTKE, whose version of this legislation contained the "maintenance drugs" limitation which made the concept more acceptable. The drug program now in H.R. 1 is, in fact, a combination of all these proposals and credit must thus be given to all of the members of the Finance Committee on both sides of the aisle for their efforts in combining all of these suggestions into a workable and economically feasible drug program.

As a result of their courageous and diligent efforts, 20 million of our elderly citizens who buy nearly 25 percent of the 1.7 billion prescriptions filled annually in the United States will have access to the kind of health care which they need and which they deserve. Mr. President, the battle has been long and hard fought. I am pleased to have played a small part in its success. I urge members of the committee to hold steadfast to any efforts to delete this much-needed program when H.R. 1 is sent to a House-Senate conference.

MESSAGES FROM THE PRESIDENT—APPROVAL OF BILLS

Messages in writing from the President of the United States were communicated to the Senate by Mr. Leonard, one of his secretaries, and he announced that on September 29, 1972, the President had approved and signed S. 2478, an act to provide for the disposition of funds to pay a judgment in favor of the Shoshone-Bannock Tribes of Indians of the Fort Hall Reservation, Idaho, as representatives of the Lemhi Tribe, in Indian Claims Commission docket numbered 326–I, and for other purposes; and S. 2575, an act for the relief of William John West; and on September 30, 1972, the President had approved and signed S. 3442, an act to amend the Public Health Service Act to extend and revise the program of assistance under that act for the control and prevention of communicable diseases.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer (Mr. TUNNEY) laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of Senate proceedings.)

MESSAGE FROM THE HOUSE—ENROLLED BILLS SIGNED

A message from the House of Representatives by Mr. Hackney, one of its reading clerks, announced that the Speaker had affixed his signature to the following enrolled bills:

S. 345. An act to authorize the sale and exchange of certain lands on the Coeur d' Alene Indian Reservation, and for other purposes; and

H.R. 14537. An act to amend section 703 (b) of title 10, United States Code, to extend the authority to grant a special thirty-day leave for members of the uniformed services who voluntarily extend their tours of duty in hostile fire areas.

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

The message also announced that the House had passed without amendment the following Senate bills:

S. 722. An act to declare that certain federally owned lands shall be held by the United States in trust for the Stockbridge Munsee Indian Community, Wisconsin;

S. 2441. An act to authorize the Secretary of the Interior to conduct a study to determine the feasibility and desirability of protecting and preserving the Great Dismal Swamp and the Dismal Swamp Canal; and

S. 3129. An act to authorize the establishment of the Longfellow National Historic Site in Cambridge, Mass., and for other purposes.

DEPARTMENT OF DEFENSE APPROPRIATIONS, 1973

The PRESIDING OFFICER (Mr. WEICKER). Under the previous order, the Chair lays before the Senate the pending business which the clerk will report.

The assistant legislative clerk read as follows:

Calendar No. 1186, H.R. 16593, a bill making appropriations for the Department of Defense for the fiscal year ending June 30, 1973, and for other purposes.

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The question is on agreeing to Amendment No. 1666. On this amendment the time is under the control of the Senator from Wisconsin (Mr. PROXMIRE) and the Senator from Arkansas (Mr. MCCLELLAN).

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum and I ask unanimous consent that the time not be charged against either side.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays were ordered.

Mr. PROXMIRE. Mr. President, I yield myself 10 minutes.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized for 10 minutes.

Mr. PROXMIRE. Mr. President, the pending amendment would knock out about $60 million from the bill—$32 million of Army funds, $6.65 million from Navy O. & M. funds, $1.3 million from the Marine Corps funds, and $20 million from the Air Force funds. It would knock out funds that were provided in the bill to provide for extended civilianization of KP. In other words, it would delete funds to hire civilians to do the jobs which traditionally, until 2 or 3 years ago, the military did for themselves.

What is the present situation? First of all, the KP has nothing to do with the preparation of food. It has to do only with the serving of food and the cleaning up afterwards. This amendment does not affect food preparation.

Second, at the present time the Marine Corps has no civilian KP. They do their own. The Army has a test program. Otherwise they do their own. And in the Navy and the Air Force, present programs provide for about 90 percent of the KP to be done by civilians.

The military services now want to universalize this.

This would not provide for civilian KP for men in combat. It would not provide for civilian KP for men when they first come in for training, for the first 6 or 8 weeks.

Mr. ERVIN. Mr. President, will the Senator yield for a question?

Mr. PROXMIRE. I yield for a question.

Mr. ERVIN. Mr. President, I served in the Army in the First World War. We were in an area on one occasion in which the shelling from the Germans was such that we could not have food brought to us in the daytime. So the men had to bring up food during the nighttime. And, of course, the men who cooked the food for us and the men who brought us the food under the cover of darkness were soldiers.

If the Army has its way and we abolish military KP and have civilians prepare and serve the food to the soldiers, who in the world is going to bring food to combat soldiers in the middle of the night under shelling when that is the only time the food can safely be brought to them?

Mr. PROXMIRE. Mr. President, the Senator from North Carolina makes a good point. I understand that under combat conditions KP would not be civilianized. That service would be conducted as it always has been in the past, by the military. In basic training, that goes on the basis that when men are stationed in posts around the country under peaceful conditions, KP would be provided by civilians.

This is one of the ironies. I can understand why we would like to provide for men in combat. However, in relatively peacetime conditions at Army posts, a man should do as much as his mother or wife would do and take care of things and clean up afterward.

Mr. ERVIN. Mr. President, if military cooks are only going to cook in combat, they will be relatively inexperienced in cooking. And we would have soldiers with dispepsia or something.

Mr. PROXMIRE. This would not affect the cooking or preparation of food. That

would be taken care of by mess sergeants, as it has always been done. This would be in cleaning up and waiting on the tables and washing the dishes afterward.

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

Mr. PROXMIRE. I yield.

Mr. PASTORE. Is this not a function ordinarily performed by very small minority groups, people who would be classified in the area of the poor?

Mr. PROXMIRE. This is a function ordinarily performed by people in the military. The Senator from North Carolina said it was his experience in World War I and it was my experience in World War II.

Mr. PASTORE. We discovered in committee that that was only in the case of war. Today we have millions of poor people and if they are driven out of these jobs—and most of them are blacks—then you would put them on welfare rolls. That is what we were just talking about. We are trying to alter welfare to give people jobs.

Mr. PROXMIRE. Mr. President, I do not yield further.

Mr. PASTORE. I will await my turn.

Mr. PROXMIRE. This is no way to take care of minority groups. Many people say it is a demeaning business.

Mr. PASTORE. I did not say that.

Mr. PROXMIRE. If we cannot provide these people with jobs, other than cleaning up after the military, whether they are blacks, Chicanos, or whatever they may be, there is something wrong with our system.

Mr. ERVIN. Mr. President, will the Senator yield for one more question?

Mr. PROXMIRE. Very well. I yield.

Mr. ERVIN. If the Army is to be maintained for the purpose of giving civilians jobs, would it not be in order to hire a civilian to clean and carry the soldier's rifle until he has to fire it at the enemy and another civilian to operate some kind of cart, like those carts used on golf courses, to carry his pack and his other equipment for him when he goes on a hike? I think it a grave mistake to use the Army, whose function it is to defend our country, as a make-work organization for civilians.

Mr. PROXMIRE. Yes; you could "WPAize" the Army and provide make-work jobs, but this is not the way the military should operate.

My amendment would provide for the orderly discontinuance of this program and do what the House does, and what the Subcommittee on Defense Appropriations recommended. It would phase out the present KP program in an orderly way.

Mr. President, I wish to make two other points.

Soldiers in combat will continue to do their own KP in any event. Men aboard fighting ships will continue to do their own KP, but this program, unless my amendment were agreed to, would provide that while men in combat do KP, those behind the lines would have their KP done for them, with the exception of those in basic training. That is how ridiculous this program is.

What about the arguments? Let us study them squarely.

The Committee on Appropriations states that those who favor civilianizing KP say that "Performing KP is beneath the dignity of the enlisted man today." That is an amazing argument. Every housewife does KP; she does it three times a day. Most husbands do KP. Most Senators do KP, including this one. Most people in this country do KP. There is no reason why men in the services cannot do that. We all do it. If that is beneath the dignity of Americans, then this country is further down the road to ruin than this Senator believes.

Tell the taxpayer in Milwaukee or the steamfitter in Los Angeles or the housewife in New York that KP is below the dignity of men in the military today. Tell that to the ex-serviceman. Tell that to the combat marine.

And tell that housewife and taxpayer as she cooks her meals and serves her food and washes the dishes that her tax money and the tax money of her husband are going to be used to provide civilian KP's for the men in the military.

Why should the taxpayers pay for servants for the noncombat troops?

NOT MORE EFFICIENT

Next, we are told it is more efficient and would save money. I doubt that.

That presumes that no serviceman will have any free time. That presumes that the military will keep him busy, full time, 8 hours a day.

Mr. President, how do you explain the fact that we need $60 million more in this bill if it will save money paying this bill? If it will save money, we should be taking money out.

The problem in the military today is that they do not have enough to do. They have idle time and idle hands. That is one of the basic reasons for the drug problem.

If it is going to save money, why is that not reflected in the appropriations bill? The committee report states:

> The request of the services for military personnel do not reflect any identifiable savings or reduction in military personnel resulting from this (civilian KP) program.

There are no savings through civilianizing KP.

I wish to make one further point. Those who do KP in the service are usually those with disciplinary problems. Surely the new Army will have disciplinary problems. People are bound to be late and get into trouble. Why should they not continue to be used for KP as a means of working off their disciplinary action?

I did KP when I was in the Army because I made mistakes. Almost everyone who served as a noncommissioned officer or in the enlisted ranks has done it when casual, minor infractions came about.

Now, the big argument is that it will mean jobs. That is what we will hear. That is what the telephone calls are about. The lobbyists have been at work hot and heavy.

Already I have gotten a number of calls asking me to vote against the Proxmire-Cooper amendment, although I am author of the amendment; that is how far it has gone. I have had four or five labor organizations call me and minority groups call me. We should face the situation. Are we going to use the military as a gigantic WPA project? When a weapon does not work, costs too much, and fails to meet its requirements, someone cries, "Do not cut it; jobs are at stake."

Now, we hear, "Do not let the GI's serve food or take out the garbage. Jobs are at stake." Those who argue that should take the money in this bill and build pyramids. That would make as much sense. Having GI's behind the lines free from KP, while those in combat have to do their own makes no sense at all. It makes no more sense than spending money to dig holes and fill them in. It makes no sense to the housewife and taxpayer that money is paid out so that their sons do not have to do KP in the service.

They had to do KP at home. But it is beneath their dignity in the service, so the advocates tell us. Military men should continue to do their own KP. Why should the taxpayers who do their own KP at home, pay for KP to be done for servicemen in the military.

Why should the combat GI do KP, but his behind-the-lines staff or supply soldier have his KP done by civilians?

Why should a sailor on a destroyer in the Pacific or on an aircraft carrier in the Mediterranean do his KP, while his shore-based buddy on the Riviera or in San Francisco Bay have his KP done by civilians?

The services say it will cost them more money if they do not civilianize KP. But there are no savings shown in the bill as a result of the military services having KP done by civilians. I think that is a one-way argument. The fact is while saying they will save money, they are asking for $60 million more.

Furthermore, KP is done by two groups—those who have disciplinary problems and those who are not busy. No one can tell me that the new Army will not have disciplinary problems and that in the new Army everyone will be busy everyday and all the time. We know that is not true. If ever a frill—that is it.

I ask the question, what kind of a namby pamby military are we going to have where they do not have to get their hands dirty and they do not have to do KP? The combat troops will, but the supply sergeants will not.

Tell the American taxpayer as he is washing his dishes that it is beneath the dignity of enlisted men—some of whom may be his own sons—to do KP.

Let us save some money and keep the military fit.

Mr. McCLELLAN. Mr. President, I yield 5 minutes to the distinguished Senator from Rhode Island.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. PASTORE. Mr. President, I think the Senator from Wisconsin put his finger on an important element of why this amendment should be defeated. He said he received a telegram from the minority groups. That is the point the Senator from Rhode Island was making.

What are we up against here? Already we have said we are going to discontinue the draft. We are going to discontinue the draft because we want a Volunteer Army. The trouble with the draft has been we are always drafting more men than we need. The result was that they had to keep the young man who was an accountant or a lawyer busy picking up butts and painting flagpoles and sometimes just doing menial work that was absolutely unnecessary because we had to keep them busy.

We went to a Volunteer Army, and the reason we went to a Volunteer Army is that we are going to do away with the draft, and we are going to do away with the draft because we feel we can cut down the number of men under arms, and we want these men, if they are to volunteer as soldiers, to be soldiers, not to wait on tables, not to wash pots and pans, not to wash out latrines, not to scrub floors. We are not talking about when they go on bivouac. We are not talking about in time of war. Everybody understands that. There is a misconception here. The Senator from North Carolina said, "How about the cooks?" The cooks are not included in this. Everybody admits that.

This is a program that has been in existence for a long time. Here we are going to tell the sailor in Rhode Island who has not been washing somebody else's pots and pans, "Beginning tomorrow, you are going to do it." What is going to happen? When his term is up, he is going to quit, because he did not join the Navy to wash pots and pans.

Yes; I do KP. I do my own. But I do not do the Senator's KP, and that is what this is all about.

In my State this program has been in existence for 7 years. We have 600 people. Most of them come from the disadvantaged. We are talking about making jobs. Senator McGovern is going around the country saying, "If they cannot get jobs, the Government will give them jobs." Here is one way a man can keep his job. Are we going to put them out on the streets?

If a soldier does not have to wash a pan, he will do soldiering work. That is what we are talking about—costs, keeping down the costs by keeping down the number of men under arms. If we are going to have a Volunteer Army, this becomes necessary in time of peace. In time of war, we are going to have to go back to the draft and go back to the old way of doing things.

This program has worked well. I have telegrams. Yes; they come from the labor unions. Who do we expect to talk for these people? We do not expect the chamber of commerce to be talking for them. We do not expect the National Association of Manufacturers to be talking for them. As a matter of fact, I doubt very much that even the White House would be talking for them.

The point is, these are the disadvantaged. If 600 people are thrown out of work in Rhode Island, they will have to go on relief. We are talking about getting jobs and living in respect and dignity. That is what we are talking about. These are people who do not have skills. That is the reason why they take the jobs. They would rather have jobs than be on relief. If we embark on a new program, and cut out a program which has already been in existence, we can see how demoralizing it will be. How are we going to get the people to volunteer when the Army runs ads saying, "Join the Army and go to Hawaii. Join the Army and go to California," and then put them to washing somebody else's pots and pans and washing somebody else's toilet? That is what we are talking about, and these are the jobs we are talking about.

When some Senators say, "Well, if you do away with all the jobs, look at the money you will save for the taxpayer," that is pure nonsense. This does not cost that much as against $74 billion that we spend for defense. If Senators want to cut it down, cut it somewhere else. Cut it out of other programs. We will save more money when a young man who has volunteered is allowed to work as a soldier. It is like expecting Senators to come up here and use the vacuum cleaner on the floor just because we walk on it. We are being paid $42,500, and we are not expected to do that. We are expected to come here and pass some good laws and not repeal the good ones, and I hope we do not repeal this provision.

Mr. PROXMIRE. Mr. President, I yield 3 minutes to the Senator from Kentucky (Mr. Cooper).

Mr. COOPER. Mr. President, I was glad to join the Senator from Wisconsin (Mr. Proxmire) in sponsoring his amendment. I may say that in reading the report, when I came across the word "civilianization," I recognized it as another one of those strange words that we see develop in our Government. I looked at it very closely. Then I found it referred to establishing a policy or continuing a policy respecting the abolition of KP in the military services.

I take issue directly with the argument made by the Senator from Rhode Island, Senator Pastore. He is interested in the employment of private persons, those he says would be on welfare but for "civilianization." Actually, such an argument should be directed to the debate we have been having for the past few days on the welfare and work bills, about those who cannot get jobs and those who are not working because they will not take jobs. We are not talking about welfare. We are talking about the military services, their proper development, and its relation to pots and pans and KP in the Army, and not about welfare.

If we intend to have—and must have—an effective military service, our policy must build that military service. There are many unpleasant jobs in the military services which all have experienced—pots and pans, KP, picking up trash around the barracks. Someone has said that corporals and sergeants were really the first environmentalists in our land against solid waste, These duties teach men to work together. They teach men to do necessary and dirty jobs, even in peacetime, and to inculcate discipline. Taking down a pistol and cleaning a rifle are not the most pleasant and easiest jobs, but they do teach men to work together, so that if combat ever comes—and we hope and pray it will not—they will be ready and know how to work together. As Senator Ervin pointed out, what are they going to do when they are in combat or on maneuvers or in difficult terrain and the army of KP does not follow them?

I remember reading that during the Civil War people called sutters followed the armies and provided them with provisions.

I have received letters and telegrams, and I have talked to nice ladies, not addressing the excellence of the military service, making it a tough and faithful military service for the protection of the country in case of war, but talking about providing work for several thousand who might be on welfare. I want to suggest that there are thousands of housewives all over this country who are looking for help in their housework, and they cannot get that kind of help.

I want us to toughen up our Armed Forces so that it can be an effective military force for our country to deter war, or in case of war, and not be continually loaded down with frills, as is happening every year.

I urge support of the amendment, in which I have joined with the Senator from Wisconsin.

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

Mr. McCLELLAN. I yield 5 minutes to the Senator from Texas.

Mr. BENTSEN. Mr. President, as chairman of the Subcommittee on a Volunteer Army of the Armed Services Committee, I am extremely concerned with whether or not we are going to be able to fulfill our quotas by a Volunteer Army next June 30 or whether we are going to be right back here on this floor deciding whether to extend the draft.

I wonder whether it is just rhetoric when we talk about an All-Volunteer Army or whether we are ready to put into effect things necessary to make it work.

I think there is a serious question whether we are going to be able to proceed next June 30 without an extension of the draft.

Mr. President, the civilianization of KP is one of the most promising and readily attainable programs to be included in our efforts to achieve an all-volunteer military force. The Navy and Air Force have both made extensive use of contract KP for a number of years and have both achieved significant manpower reductions as a result. Let me make that point clear. All three branches of the service have already established contract KP programs at nearly all of their nonbasic training installations in the United States.

If we kill this program, we will not only be eliminating a program that is important to the future of an all-volunteer force but will be likewise faced with the need for an immediate increase in military manpower levels.

As chairman of the Subcommittee on the All-Volunteer Force of the Senate Armed Services Committee, I have heard time and again from top Defense Department officials and from lowest rank GI's that the performance of such nonmission duties as KP is one of the major stumbling blocks in the road toward an all-volunteer force. It is essential that the Senate view carefully the details of

this civilianization program and that every Member understand the effect of killing this program. I feel there are some persuasive arguments in favor of civilianization and I would like to share a few of them with you now.

The simple fact is that KP duties can be performed both more economically and effectively by civilian contractors than by part-time military personnel. The average cost per year of an enlisted man performing KP is about $8,300 as compared to about $5,000 for the contract personnel who would do the same job. In addition, civilian personnel are hired and trained solely for the purpose of performing these KP duties. The military man, on the other hand, is assigned KP on an irregular basis without any relationship to his regular service duties. As a result, military personnel views KP as an unprofessional duty to be performed in as little time and with as little concern as possible.

So on both counts—cost and effectiveness—civilian KP comes out ahead.

Some have criticized this civilianization program as making life too easy for the military man and they feel that a little drudgery such as KP somehow makes a man a better soldier. Mr. President, I simply cannot buy that line of argument.

The purpose of this civilianization program is not to make military life a bed of roses at the taxpayer's expense but rather it is to eliminate a nonessential requirement from the enlisted man's duties and to free his time for more career-related endeavors. As we move toward an all-volunteer force, the training and educational requirements for all military personnel will increase. The time spent by an enlisted man scouring a garbage can or cleaning a grease trap could be much better spent pursuing additional training or education.

The civilianization of KP represents a logical step in the modernization of our Armed Forces. The Armed Forces of today require sophisticated equipment and trained personnel that were not even thought of 20 years ago. We want to train the modern soldier to meet the needs of the modern Army and KP simply does not fit that need.

Finally, Mr. President, I think we are faced with the question of whether or not we really intend to treat all levels of our military personnel as professionals and achieve an all-volunteer force or whether we intend to cling to the past and place unreasonable burdens on our military men that destroy any hope of reaching an all-volunteer force. If we are serious about a professional military force then we cannot be blind to the basic requirements for attracting top-level personnel. I know of no company competing for personnel that requires its employees, as a condition of employment, to peel potatoes in the company cafeteria or clean pots and pans back in the kitchen. Particularly when the company can get the same job done better for less through outside contract services.

Mr. President, I think this amendment is a test of our genuine commitment to the concept of an all-volunteer military force. It raises the question of whether we are serious about our intentions to achieve an all-volunteer force and whether we are willing to back the programs which are necessary to implement the rhetoric concerning an All-Volunteer Army.

Mr. President, recently a member of my staff visited several military installations which are participating in the new Volunteer Army project and visited with these new men who have chosen the military for their careers. His conversations with these young men illustrate better than anything I can say the need to carry on this civilianization program. To a man, these Volunteers emphasized that one of the principal improvements that had attracted them to the Army as a career was the elimination of such nonprofessional requirements as KP and the commitment made by the Army to train them and treat them as skilled professionals. Their enlistment in the military is a statement of faith in their country and in the concept of a volunteer force. We are called on here to show a similar commitment and to give this volunteer force the chance that it deserves.

We were speaking earlier of the welfare program in this country. Yet we have, under the KP program, civilians employed — low-income people — who, if they did not have these jobs, might well be on the welfare rolls. So if we discharge the civilians, we will have a situation that is going to cost the taxpayers more money. We are going to increase the welfare rolls, and we are going to do the job on a less efficient and more expensive basis.

This amendment is the test of our commitment, of our support for the Volunteer Army. And I think that the Senate has made that commitment. I think the Senate believes in it. This amendment would be turning back the clock, and would make the task immeasurably more difficult. I hope that the Senate, in its wisdom, will defeat the amendment.

Mr. McCLELLAN. Mr. President, I yield 3 minutes to the distinguished Senator from South Carolina.

Mr. THURMOND. Mr. President, I rise in opposition to the Proxmire amendment.

I have talked with Gen. George Blanchard, who is very much interested in this program, and he is convinced that the Army can handle the matter more economically by civilianization of kitchen police duties. I believe the figures submitted by the Senator from Texas show that civilianization will cost less. These figures reveal that it costs about $8,300 per soldier when performed by uniformed personnel whereas for $5,500 the same job can be handled by civilian KP's.

So according to those figures it will cost more if we allow the soldiers, who we are now paying more, to perform that function.

But aside from that, men and women entering service now have a different attitude toward the military. They go into it as a profession, and if they go into it as a profession they do not want to have to perform KP. Here are men who are experts in artillery, experts in handling tanks, experts in handling modern weapons of all kinds. Are we going to let them take the time to go out and do KP, when we can get someone who has fringe training or can accept a fringe salary to do it?

Mr. President, this is an irritant to these trained military people. If we are going to have an all-volunteer armed service, then it has to be held up as a profession. We have got to attract people. We cannot do that when we have something going on that is an irritant to the soldier; and, in my judgment, it would be a mistake if we do not civilianize the mess duties.

I have also talked with a number of sergeants and also Pfc.'s who would actually be performing the KP duty. The sergeants say, "Of course, our men can do it, and they will do it," but they are also telling me, "We can give our country better service and you can get more for your money if you civilianize the KP."

Mr. President, I am convinced that any way you look at it, from the standpoint of getting more volunteers if we want a Volunteer Army, from the standpoint of irritants to the soldiers, from the standpoint of improved food service to the soldier, from the standpoint of the cost, or from any angle you look at it, to my way of thinking, it is better if we civilianize the KP and give the services the status they ought to have as a profession, make their members proud of their profession, and not enlist them to do KP work.

Mr. President, I ask unanimous consent to have a statement by the distinguished Senator from Colorado printed in the RECORD.

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

STATEMENT BY SENATOR ALLOTT

I believe full civilianization of KP services is essential for three basic reasons:

(1) If we are to move to an all-volunteer military force we must make the military attractive. Civilianization of KP furthers this goal.

(2) In places where this program is in progress it means jobs, we cannot deprive these people of their jobs at a time we are trying to lower our Nation's unemployment. What are these people to do?

(3) By engaging the employment of civilians on our bases we are involving the community. This promotes and enhances good will in communities in which military bases are located.

For these sound reasons alone the Senate should defeat the amendment of the Senator from Wisconsin (Mr. Proxmire).

The PRESIDING OFFICER. Who yields time? Is all remaining time yielded back?

Mr. McCLELLAN. Mr. President, I have no further requests for time. Therefore, if there is no further request for time, I would like to yield myself about 2 minutes. Then, I assume, the Senator from Wisconsin would like to conclude.

Mr. President, I occupy a position in which I almost find myself persuaded in both directions. As I recall, in the subcommittee we voted unanimously to strike the kitchen police provision from

the Senate bill. There may have been one or two votes in opposition to it; as I recall, however, the vote was unanimous.

Thereafter, when the matter came before the full committee, there were those who served on the subcommittee who changed their position and, on a rollcall vote in the full committee, the result was substantially in favor of civilianization of KP.

Mr. PROXMIRE. As I recall, 14 to 9.

Mr. McCLELLAN. The vote was 14 to 9.

So, as chairman of the subcommittee, having reported the bill to the full committee with a vote on my part sustaining the majority of the subcommittee, I voted accordingly in the full committee.

However, in view of the action of the full committee in overruling the subcommittee, I think I shall vote against the amendment. Although there may be exceptions, I feel that I should generally follow the action of the full committee unless there is some fundamental principle involved to which I could not with good conscience subscribe.

I think there have been exaggerated statements made here with respect to the great benefit that is supposed to come about as a result of this change. The argument that weighs heavily in determining how I shall vote is the fact that this practice has been followed for a number of years in the Navy and Air Force and is now being initiated in the Army.

On reflection, I think if we are going to make this a real issue and are going to discontinue this service which has been provided for a short time in the Army, we should also discontinue it for the other services. We should be consistent about it. Therefore, I think we should give notice, in a sense, that this vote today perhaps does not settle the issue. I believe it should receive further study. I am not sure that the next time I shall not vote according to my original conviction about it, and that is to do away with this practice in all the services.

I am not fully convinced in that respect, nor am I persuaded that we are going to save any money by hiring civilians to perform full time what someone in the service does occasionally and who is paid $8,000 a year for his military work. He would do on a part-time basis what somebody would be hired to do full time at approximately $5,000 a year. The argument that civilianization will save money does not stand up. I do not think there is a saving in it. It will be an added expenditure.

I know that conditions have changed, that we are living in a changing society, and that changes are occurring in the Defense Establishment. It may be that in order to secure and maintain a Volunteer Army, this concession is necessary. It may be that it would prove a persuasive fringe benefit, so to speak, that an enlistee might treasure, so that he might be more willing to volunteer if he felt that he did not have to perform this menial service.

On the other hand, I am also persuaded that performing a little menial service may do him some good, just as it has done for many of us who have had that experience in the past. I do not think it is degrading.

If some people are going to be hired to do this job who otherwise would be on relief, it should be remembered that many of these volunteers are people who possibly would be on relief if they did not volunteer for military service. I think that argument cuts both ways.

If it is our purpose to provide this kind of service to all branches of the service with any thought of saving money, I think we are pursuing an illusion. I do not think it will save anything.

If I vote against this amendment today, I shall do so with some misgivings, because, fundamentally, I am persuaded that the better policy might be to let the regular military forces themselves provide for this responsibility instead of hiring special people to do it. They perform this function when they are out in the field anyway. Rather ironically, this service is being provided where there are modern barracks, modern conveniences, electrical equipment—almost everything to make the job easy.

I hear some discussion about cleaning latrines. Not much effort is involved in this duty in these modern establishments. They have the same accommodation that one has in his home and that we have in the Capitol. So that does not appeal to me as a valid argument, either.

However, if this is the price we have to pay to secure and to maintain a Volunteer Army, then I might be willing to pay that price. Again, I think this matter needs further study, and I hesitate to vote either way. In voting against this amendment, I do so for two reasons: First, it is the sentiment and the judgment of the full committee. Second, the two other services provide this function on a civilian basis, and I do not think it is fair to let the Navy and the Air Force provide a civilian service and not permit the Army to have it. I think there is inequity that should be corrected, and therefore the whole subject needs further consideration.

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

Mr. McCLELLAN. I yield.

Mr. FULBRIGHT. I was going to ask the Senator to elaborate, because it occurs to me that the only real excuse for this is the prospect of having a professional Army and doing away with the draft. That matter, as the Senator knows, has been before the Senate; we have had votes on it. Up to now, I have taken a position which I believe was the same as the position taken by the chairman of the Committee on Armed Services, of being against the abolition of the draft.

Mr. McCLELLAN. I am not the chairman of that committee but I have taken the same position.

Mr. FULBRIGHT. That being so, I felt that I could not vote for it.

The only excuse I could see for it was that if we were going to move to a professional Army and have no more draft, then I suppose it would not be suitable to expect those people to cook. You would have professional cooks as you have professional maids, and everything else. But so long as we have a draft Army, a citizens' Army, as we always have had, which I still favor, I do not see how I would be justified in voting for this proposal, especially in light of the chairman's view that it would not save any money.

Mr. McCLELLAN. I do not think it will.

Mr. FULBRIGHT. I agree completely with the chairman. That argument has been advanced, however, as one of the excuses for the proposal. I feel that I would not vote for this amendment, and I am glad to see the chairman is not very certain, either.

Mr. McCLELLAN. I have been very candid about my view about the matter.

I point out, further, that if we strike it from the Army appropriation, we do an injustice to the other services. I think the matter needs an overall study, and the same treatment should be applied to all services.

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

Mr. McCLELLAN. I yield 3 minutes to the Senator.

Mr. YOUNG. Mr. President, as the ranking minority member of the Appropriations Committee and the Subcommittee on Defense Appropriations, I find myself in much the same position as the chairman (Mr. McCLELLAN).

This is not an issue that is all black or all white. A pretty good case can be made on both sides.

I feel that there is a considerable difference between an enlisted man of today and one of 15, 20 or 40 years ago. In the modern, mechanized, highly complicated Army of today, we have people who are more educated and who are higher salaried. When we pay these bigger salaries, it is much cheaper to hire someone to do the KP work than it is to have the higher salaried persons do it. We require more educated people in the Army now than ever before.

I find myself in the same position as the chairman. It is not easy to disagree with the committee that has studied this question for a long time, and to disagree with my earlier vote to eliminate KP. I now find myself in the position of supporting the committee.

Mr. STAFFORD. Mr. President, for some reason this year, the program to civilianize KP in the armed services has been surrounded by misunderstanding and misconception as it has moved through the appropriation process. I would like to summarize for the Senate 14 arguments which favor the continuation of a program begun 3 years ago in the Air Force, last year in the Navy, and now this year in the Army. It is my strong belief that the elimination of KP would be in the best interests of the armed services and the Nation. It would save us money; it would improve the quality and quantity of manpower in the all-volunteer environment; it would increase effectiveness and professionalism in the services; and it would serve useful employment purposes domestically.

COST

A vote to restore the funds means that total budgetary costs will eventually decrease. Now the services must not only pay a highly competitve wage to first-termers, but they must pay the costs of training, feeding, clothing, and housing these young men to do a job which should be done by a civilian at a cheaper total cost.

A vote to restore the funds is fully consistent with the President's budget request and overall defense program. These funds were spelled out in the original budget request and approved by OMB and the President as an integral part of professionalizing the Armed Forces.

A vote to restore the funds means eventual reduced costs. Because every study shows that reenlistment is lower because of the displeasure with KP and other menial work, the services must then spend additional funds in recruiting and training new individuals for the military.

QUANTITY AND QUALITY OF MANPOWER

A vote to restore the funds should not be predicated on the Administration's failure to spell out which military positions would be terminated under a full civilianization program. Apparently, reducing the forces from 3.5 million men to 2.3 million (and possibly lower) is not sufficient. Would the Appropriations Committee have Defense name the specific few thousand men out of that 1.2 million man reduction that would make up for the full cost of this program?

A vote to restore funds means that the services will be in a better position to attract the quality men it is seeking. By forcing recruits to do excessive menial work, we are insuring that bright, energetic men will not join the service. So much has been said about assuring the proper quality of men, but civilization of KP is one program which will help assure that the services attract that quality.

EFFECTIVENESS AND PROFESSIONALISM

A vote to restore the funds means that our armed forces will be more effective. Currently, the training of units is regularly interpreted by the certain absence of one or two individuals from each working team. With a program of civilianization, each unit will stay together, work together and train together to operate together.

A vote to restore the funds means that our armed forces will be more effective. Now each member loses valuable time from training or advancing his education while doing irrelevant, menial, nonproductive details.

A vote to restore the funds does not mean that GI's will not be doing their own policing. Barracks and unit areas will still be, and are expected to remain, a part of the unit's policing duty. All cleaning that is required for these areas will still be a part of the daily chores of the servicemen. What is covered here is the requirement that a soldier leave his unit area and his unit for a day or part of a day to go elsewhere on base—to a common area—and clean.

A vote to restore the funds means increased professionalism for the armed services. This program makes the military job a professional one where an individual's talents are used to the fullest in the work he has chosen—it makes him a soldier.

A vote to restore funds will increase morale among the first-termers. The Congress has never retrained itself when it comes to giving the services the tools they need in order to maintain morale among the higher grades—an excessively costly retirement system or generous veterans' benefits. But, how about the man who is presently serving his country at the lower levels. Is he not entitled to lead a dignified, professional life?

A vote to restore funds will eliminate the single most noted irritant in first-term military life. Every study, both inside and outside the services have shown KP and other menial chores to be the greatest single draw-back of military service.

ALL-VOLUNTEER FORCE

A vote to restore the funds will mean that the Army did not break its word to the young recruits and potential recruits who are impressed with the modernization of our armed services. To revert back to the old system now will take much of the momentum out of modernization of the forces and deal a severe blow to progress towards an All-Volunteer Force.

A vote to restore funds is a demonstration that the Congress is willing to give an end-to-the-draft a chance to prove itself. While a small investment, the ramifications for the success of the all-volunteer force are broad. The public ought to be shown that Congress is either behind the President's program to end the draft or against it. Elimination of this request by the President is just such a measure. There has yet to be an up or down vote on a program to end the draft. Let us see who will stand up for an end to the draft or who will attempt to scuttle it through the appropriations process.

EMPLOYMENT

The Air Force has civilianized approximately 99 percent of its KP functions, the Navy some 60 percent, and the Army 46 percent through fiscal year 1972. All of these civilians would lose their jobs were this program discontinued. DOD-wide KP and nonservice related menial tasks—janitorial, for instance—provide employment for some 50,000 individuals across the country. About 85 percent of these jobs are held by minority group members. There are some $22 million worth of contracts to minority owned and operated businesses.

Most of these individuals are the least employable in our society and loss of employment would certainly mean a return to the welfare roles, thus saving the country little in the way of real dollars.

Furthermore, there are many of these jobs which are part time and held by service dependents to supplement their income. Denying this employment may make it difficult for the servicemen whose dependents these are to stay in the service.

Mr. President, I urge defeat of the amendment to strike funds from this program.

Mr. HOLLINGS. Mr. President, I did not support the civilianization of KP duty before the Appropriations Committee. The Defense Department in its presentation for civilianization of KP glamorized this as a new project to make the volunteer Army succeed, saying overall it would cost $156 million. I was not about to launch out upon a new $156 million expenditure when apparently we had expended that amount for the military and the dishes were being done by those we were already paying in the military. Since opposition appeared and the bill is now presented on the floor, the Defense Department presents new facts. For one thing, the Air Force civilianized their KP in 1952 and it has been civilianized at the airbase in my hometown since 1957. The Navy civilianized their KP in 1962 which is approximately the time it was done at the Charleston Naval Shipyard. Accordingly, this has been the established practice in the Air Force and the Navy in my area and the question is not whether it shall commence but rather whether the Army will be granted the same treatment as the Air Force and the Navy. The Department of Defense further assures us that KP will be required in recruit training, in regular combat areas. I see no chance of rolling back and getting the Air Force and the Navy to begin doing the dishes again and I am not going to discriminate against the Army. Therefore, I will vote against the Proxmire amendment to strike.

Mr. PROXMIRE. Mr. President, let us make clear what the situation is.

At the present time, the Marine Corps has no civilian KP. The bill without my amendment would provide them with civilian KP. The Army has a test program, a modest program, and the bill without my amendment would provide that they would be on their way to a full civilian KP. The Navy and Air Force have had a rather comprehensive KP program.

My amendment would knock it all out and treat everybody alike, and it would provide that the military would have to clean up their own mess.

Two possible arguments have been made: One is that it is necessary, in order to have a volunteer army. We have more educated people coming in and more higher salaried people coming in, that is true. The present Army requires a higher degree of technological skill. So does our whole economy. So does our whole society. The fact is, even though we have better educated people and more highly skilled people coming in, it should not be beneath their dignity to clean up, to wash the pots and pans, and do the things everyone does for himself these days. Very few people have servants.

The fact that a man has to do occasional KP is not the kind of thing that will keep him from volunteering.

The argument is made that this will save money. I have heard many arguments in the 15 years I have served in the Senate, but this is the first time I have heard anyone argue that we will save money by appropriating an additional $60 million.

My amendment would take $60 million plus out of the bill. In doing that, it will eliminate the KP program. People on the other side of this issue say that by taking the $60 million plus out of the appropriation, we will appropriate less, but it will cost more. That does not make any sense. If that is the case, why do we not reduce the program by providing for the civilianization of KP, by providing for a lower manpower level? Obviously, it will cost more money to bring civilians into a job that military men should do for themselves.

I hope very much that this amendment will be agreed to.

I am happy to yield back the remainder of my time as I understand the opponents have used up all their time. Is that correct?

The PRESIDING OFFICER. That is correct.

Mr. PROXMIRE. Have the yeas and nays been ordered?

The PRESIDING OFFICER. The yeas and nays have been ordered.

Mr. PROXMIRE. I thank the Chair.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Mr. Richard N. Perle may have the privilege of the floor during consideration of the defense appropriation bill today.

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

The PRESIDING OFFICER. All time on this amendment has now been yielded back.

The question is on agreeing to the amendment of the Senator from Wisconsin, No. 1666.

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT F. BYRD. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Louisiana (Mrs. EDWARDS), the Senator from Oklahoma (Mr. HARRIS), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Montana (Mr. METCALF), the Senator from Alabama (Mr. SPARKMAN), and the Senator from Virginia (Mr. SPONG) are necessarily absent.

I further announce that the Senator from Wyoming (Mr. MCGEE) is absent on official business.

I further announce that, if present and voting, the Senator from Virginia (Mr. SPONG) would vote "nay."

Mr. SCOTT. I announce that the Senators from Colorado (Mr. ALLOTT and Mr. DOMINICK), the Senator from Tennessee (Mr. BAKER), the Senator from Nebraska (Mr. CURTIS), the Senator from Michigan (Mr. GRIFFIN), the Senator from New York (Mr. JAVITS), the Senator from Iowa (Mr. MILLER), the Senator from Ohio (Mr. TAFT), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

If present and voting, the Senator from Colorado (Mr. ALLOTT), the Senator from Tennessee (Mr. BAKER), the Senator from Nebraska (Mr. CURTIS), the Senator from New York (Mr. JAVITS), the Senator from Iowa (Mr. MILLER), and the Senator from Texas (Mr. TOWER) would each vote "nay."

The result was announced—yeas 11, nays 69, as follows:

[No. 492 Leg.]

YEAS—11

Bayh	Fulbright	Proxmire
Burdick	Kennedy	Stevenson
Cooper	Mansfield	Weicker
Ervin	Nelson	

NAYS—69

Aiken	Bellmon	Bible
Allen	Bennett	Boggs
Beall	Bentsen	Brock
Brooke	Hart	Pearson
Buckley	Hartke	Pell
Byrd, Harry F., Jr.	Hatfield	Percy
Byrd, Robert C.	Hollings	Randolph
Cannon	Hruska	Ribicoff
Case	Hughes	Roth
Chiles	Humphrey	Saxbe
Church	Inouye	Schweiker
Cook	Jackson	Scott
Cotton	Jordan, N.C.	Smith
Cranston	Jordan, Idaho	Stafford
Dole	Long	Stennis
Eagleton	Magnuson	Stevens
Fannin	Mathias	Symington
Fong	McClellan	Talmadge
Gambrell	Mondale	Thurmond
Goldwater	Montoya	Tunney
Gravel	Moss	Williams
Gurney	Muskie	Young
Hansen	Packwood	
	Pastore	

NOT VOTING—20

Allott	Griffin	Miller
Anderson	Harris	Mundt
Baker	Javits	Sparkman
Curtis	McGee	Spong
Dominick	McGovern	Taft
Eastland	McIntyre	Tower
Edwards	Metcalf	

So Mr. PROXMIRE's amendment (No. 1666) was rejected.

TIME LIMITATION AGREEMENT ON MILITARY CONSTRUCTION APPROPRIATION BILL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as H.R. 16754, the military construction appropriation bill, is laid before the Senate, there be a time limitation of 1 hour on the bill, to be equally divided between and controlled by the Senator from Montana (Mr. MANSFIELD) and the Senator from Massachusetts (Mr. BROOKE); that time on any amendment be limited to 30 minutes; that time on any amendment in the second degree, debatable motion, or appeal be limited to 20 minutes; and that the agreement be in the usual form.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia? The Chair hears none, and it is so ordered.

DEPARTMENT OF DEFENSE APPROPRIATIONS, 1973

The Senate continued with the consideration of the bill (H.R. 16593) making appropriations for the Department of Defense for the fiscal year ending June 30, 1973, and for other purposes.

The PRESIDING OFFICER (Mr. WEICKER). The bill is open to further amendment. Who yields time?

AMENDMENT NO. 1665

Mr. PROXMIRE. Mr. President, I call up my amendment No. 1665 on behalf of myself and my colleague, Senator NELSON.

The PRESIDING OFFICER. The clerk will report the amendment.

The second assistant legislative clerk read as follows:

H.R. 16593

At the appropriate place in the bill insert a new section as follows:

SEC. . None of the funds appropriated by this Act may be expended for the purpose of conducting aerial bombing in or over Vietnam, Laos, or Cambodia by United States military forces and that the total appropriations provided in this Act are hereby reduced by $2,000,000,000.

Mr. MANSFIELD. Mr. President, will the Senator yield to me without any time being allotted against anyone, if there is any time to be allotted?

Mr. PROXMIRE. Mr. President, I yield to the distinguished majority leader.

Mr. MANSFIELD. Mr. President, under the terms of the agreement made Saturday last, it was stated that there would be 1 hour on all amendments and ½ hour on amendments, motions, and appeals, but that the time limitation which was agreed to did not apply to end-the-war amendments or cuts-across-the-board amendments.

This seems to be a combination of both an end-the-war amendment, because if you stop the bombing you, in effect, end the war, and a $2 billion slash is across the board. So I raise the question now only in the hope it might be possible with 79 or 80 Senators present. I ask that there be considered the possibility of a time agreement on this amendment.

Does the chairman of the committee or the distinguished ranking Republican member, or the distinguished Republican leader have any comments or suggestions to make on this proposal?

Mr. SCOTT. Mr. President, if the Senator will yield, I think just for the sake of the record it should be clear it does fall within the category of a so-called end-the-war amendment, and being across the board, therefore, would not ordinarily be included in the previous unanimous-consent agreements or discussions about them. I have no objection to a time agreement being worked out if it is satisfactory to the distinguished ranking member of the committee on this side and the distinguished chairman.

I think it is only fair to serve notice there may be a motion to table—a motion to table is reserved.

Mr. MANSFIELD. I understand.

Mr. SCOTT. So that it is a matter to shorten debate. Senators are here. Unless there is objection on this side, if the distinguished majority leader wants to try to reach an agreement I am willing. I speak only for myself.

Mr. MANSFIELD. Mr. President, does the distinguished chairman of the committee or the ranking Republican member have any suggestions?

Mr. MCCLELLAN. Mr. President, may I say I have no idea how many Senators may want to speak on this issue. I have not been advised whether it will be a long debate or a short debate. I do not think it is something you want to settle in 1 hour's time on either side.

My original thought was—and I throw this out as a suggestion at the moment—will we have more people here tomorrow when we approach the time for a vote? I have no objection to voting this afternoon, if the distinguished Senator from Wisconsin wants to agree to a vote this afternoon. That would depend on how the minority may feel about it. I think it is probably something that they will want to debate, but if they do not, I am ready to vote now.

Mr. MANSFIELD. Does the distinguished Senator from North Dakota wish to make a suggestion?

Mr. YOUNG. I would think we can

vote this afternoon unless someone may want to debate it at some length. This is a familiar issue to all Senators. We have been talking about this war for the last year, and for many years before.

Mr. MANSFIELD. That is correct.

Mr. YOUNG. I think everyone knows how he will vote. I am willing to vote at any time this afternoon.

Mr. SCOTT. Mr. President, I have checked as far as I could on this side. As far as we are concerned this has been debated over and over so many times, for so many weeks and months, I do not see any need for much debate. I think we should terminate debate as soon as we can, perhaps by a motion to table.

Mr. PROXMIRE. I agree with what has been expressed. I am willing to vote with 1 hour's debate for a side.

But I think the Senator from Maryland (Mr. MATHIAS) has pointed out that any end-the-war amendment should not be limited. I would like to give him the courtesy of expressing his views on a time limitation agreement. I am willing now to agree to a time limitation, whatever time the leader suggests.

Mr. SCOTT. The distinguished Senator from Maryland is here.

Mr. PROXMIRE. I did not see him.

Mr. SCOTT. We will defer to his views and if he has no comment I guess we will let the debate go on.

Mr. McCLELLAN. Mr. President, I make this suggestion on any limitation of time. I would certainly insist it be done without any amendments to the pending amendment. I do not know what might be offered. But on an up and down vote, I have no objection to a limitation of time. But I do not want to have amendments offered that really should be debated. I would not want to be in a box like that.

Mr. MANSFIELD. I understand the Senator's feelings. I think what the Senator said is most appropriate and fair. I have heard of no amendments to the pending Proxmire amendment.

Any agreement entered into would be on the basis of the Proxmire amendment, on the basis of that amendment.

Mr. McCLELLAN. That would be my desire. I think on that basis we can reach a definite understanding.

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

Mr. MANSFIELD. I am delighted to yield to the Senator from Maryland.

Mr. MATHIAS. My only reservation was that we should act at a time when we have a large number of Senators present.

Mr. MANSFIELD. We have them; the best in a week.

Mr. MATHIAS. We have them. As long as there is reasonable opportunity to discuss the issue I have no objection.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that a vote occur on the pending amendment at the hour of 4:30 p.m., and that the vote be on the Proxmire amendment, as is.

Mr. SCOTT. Or on any motion to table.

Mr. MANSFIELD. That includes that, yes.

The PRESIDING OFFICER. Does the majority leader include in his request the right to table?

Mr. SCOTT. I understand the distinguished majority leader has already indicated his request includes the right of any Senator to move to table just prior to the expiration of that time.

The PRESIDING OFFICER. Under those circumstances, is there objection?

Mr. FULBRIGHT. Reserving the right to object, I want to be sure I have 10 minutes.

Mr. PROXMIRE. Yes, indeed.

Mr. STEVENS. How about the yeas and nays.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana?

Mr. McCLELLAN. I do not object, but I want to understand what is before us.

Mr. MANSFIELD. I ask unanimous consent that the vote occur at 4 o'clock rather than 4:30 p.m.

Several Senators. No, no, no.

Mr. MANSFIELD. Then, 4:30 stands.

Mr. HART. Mr. President, reserving the right to object, is there any indication as to how many Senators would intend to speak? I would like 5 minutes. I wonder if 1 hour would accommodate us.

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

Mr. MANSFIELD. I yield.

Mr. PROXMIRE. The Senator from Arkansas wants 10 minutes, the Senator from Massachusetts wants 10 minutes, the Senator from Michigan wants 5 minutes, which would make 25 minutes. I would like 10 minutes. If we have 45 minutes on a side that would accommodate me.

Mr. MANSFIELD. Very well. That would bring it up to 5 o'clock. I change my request accordingly.

Mr. McCLELLAN. Mr. President, reserving the right to object, does the Senator's unanimous-consent request preclude any amendments being presented to the Proxmire amendment?

Mr. MANSFIELD. Yes, but not a tabling motion.

Mr. McCLELLAN. But amendments could not be offered to it; that would not be in order.

Mr. MANSFIELD. That is correct.

The PRESIDING OFFICER. As the Chair understands the request of the Senator from Montana, it is that the vote on the Proxmire amendment shall occur at the hour of 5 p.m., with the right to make a motion to table reserved. Is that the request?

Mr. MANSFIELD. Yes.

The PRESIDING OFFICER. And no other amendments would be in order.

Mr. MANSFIELD. Except the motion to table.

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

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the time be equally divided between the distinguished Senator from Arkansas (Mr. McCLELLAN), the manager of the bill, and the distinguished Senator from Wisconsin (Mr. PROXMIRE).

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

Several Senators requested the yeas and nays.

The yeas and nays were ordered.

WHY FUNDS IN THIS BILL SHOULD NOT BE USED FOR BOMBING

WHAT THE AMENDMENT DOES

Mr. PROXMIRE. Mr. President, my amendment limits the funds in the defense appropriation bill by preventing any of them to be expended for the purpose of conducting aerial bombing in Indochina that is North and South Vietnam, Laos, and Cambodia.

It cuts $2 billion from this appropriation to reflect the savings from stopping the bombing.

WHY THE AMENDMENT SHOULD PASS

We have now dropped 7 million tons of bombs on Indochina. This is three and a half times all the bombs dropped in World War II. It is 7 times the number dropped on Korea.

Of the 7 million tons—more than half, or at least 3.6 million tons were dropped on South Vietnam.

WRONG AND INEFFECTIVE

There are two things wrong with the bombing. First, it is wrong, immoral, and senseless. Second, it does not work, has not worked, and will not work in the future.

Our B-52's are now flying some 3,000 missions a month. Last week there were 300 a day on most days. Our tactical fighter bombers fly 15,000 sorties a month.

We are now doing what is called "mass carpet bombing," which is a euphemism for "bombing them back to the stone age."

Tens of thousands of civilians have died, hundreds of thousands have been wounded, and millions have been made homeless, both by the war and as a result of actions by both sides, and especially by the bombing.

THE WAR GOES ON

But the bombing has not worked. The war goes on and on and on. After 7 years and three and a half times the amount of bombs dropped in World War II, the fighting continues.

Back in 1967 we were urged to bomb—to "put the pressure on the enemy." We did it, and the war goes on.

We should have known this. We should have learned from the past.

The Strategic Bombing Survey after World War II told us that "the attacks did not so reduce German war production as to have a decisive effect on the outcome of the war."

The Jason report in the Pentagon papers told us that the bombing:

First, did not reduce the ability of the North to fight;

Second, did not raise the morale of the South permanently; and

Third, did not weaken the will of the North to fight.

Yet the bombing goes on and on and on.

The enemy has not cried "Uncle." He is not hurting enough to bring the war to a close.

We have "unleashed" the military, and the war goes on.

It is a hard lesson to learn but bombing has not and will not end the war. All it has done is to give the United States a terrible black eye in the opinion of the world.

What is the point of pouring out $2 billion in a useless, senseless bombing of a primitive economy which does not have enough military or industrial targets to justify half the bombing we are doing.

WHAT BENEFIT FOR AMERICAN TAXPAYER?

What does the American taxpayer get for this $2 billion expenditure? Does this little North Vietnam with its wagon and wheelbarrow economy constitute a threat to the United States of America? Where? In this hemisphere? In the Pacific?

Mr. President, our Government has reached a detente with what we used to call Red China—Communist China. Our President's visit paved the way to admission of Communist China to the United Nations. The administration's policies have just resulted in a new era of cooperation between the two great powers of Asia: Japan and Red China. We are discussing trade with China and a huge sale of wheat to help the Communist Chinese, just as we concluded a sale to the Russians. All this may or may not be wise.

But, Mr. President, if we are so unconcerned about any Asiatic threat from Communist China that we work and trade and cooperate with them, why are we unleashing the most powerful bombing attack on little North Vietnam the world has ever seen?

COMMUNIST CHINA MAY BE REAL THREAT?

Someday, somehow, in some way Communist China could indeed constitute a threat to our interests in the Pacific. It could conceivably sometime in the future, in concert with the Japanese, virtually exclude American influence in Asia.

Communist China does indeed constitute at least a potential, distant military threat.

But how does little North Vietnam, with one-fourth of 1 percent of the population of Communist China, with about one-tenth of 1 percent of American economic strength threaten us?

Let me repeat that, Mr. President. North Vietnam has less than one-tenth of 1 percent of our American economic production. In other words, about one one-thousandths of our economic production. It has no Navy to speak of, a pitiful little Air Force, not even the suggestion of a whisper of a dream for any nuclear power.

Now how can this little dwarf of a fifth-rate country constitute the kind of a threat to our interests in the Pacific, in Asia, or anywhere else in the world that justified our spending $2 billion of the taxpayers' money in a wasteful, useless, aimless waste to endless bombing?

COMMUNIST CHINA BENEFITS FROM BOMBING

For a moment forget the morality of the bombing, forget the deep embitterment and hatred the bombing is driving into the souls of people throughout the world. For a moment assume what the facts clearly deny—assume that it is having great military success, what is the purpose of it? What can it possibly accomplish? Does it in any way reduce the power of Communist China now or in the future? Of course not.

If North Vietnam is blasted to kingdom come, Communist China wins in two ways:

First. An independent little country that has resisted China for a thousand years is eliminated and a power vacuum is created on the southern border of China.

Second. A record of inhumanity perpetrated by the United States of America against the yellow man; that is, the most powerful aerial bombardment in world history, and this is just what the U.S. bombing of Vietnam is, is riveting into the consciousness of Asians for generations the planned, premeditated cruelty of the United States of America.

We hope and pray we may live at peace with Communist China and the other Asian nations, but if in the future we face the Chinese in a Pacific war, the record of our endless bombing of Vietnam could serve as an immensely valuable rallying point for the Communist Chinese to appeal to all Asian nations against this country.

So again I ask, What do we get for this terrible waste of $2 billion except a vast strengthening of our potential adversary in the Far East?

The bombing makes no sense from a moral standpoint, from a military standpoint, or from a foreign policy standpoint. It is a total waste of $2 billion.

I reserve the remainder of my time.

Mr. McCLELLAN. Mr. President. I yield 5 minutes to the distinguished Senator from South Carolina (Mr. THURMOND).

Mr. THURMOND. Mr. President, amendment 1665 would limit the funds in the defense bill from being used by the United States for the purpose of conducting aerial bombing in or over Vietnam, Laos, or Cambodia, and I understand this includes South Vietnam.

Adoption of this amendment by the Senate would be a serious blow to all of the progress we have made in Vietnam in the past few years. Further, it would damage or possibly scuttle the current hopes for a negotiated settlement in Vietnam and the return of American prisoners of war.

Mr. President, to place this amendment in its proper perspective, it is necessary to go back to this time 4 years ago. About 1 week before the 1968 presidential election President Johnson terminated the bombing of North Vietnam based upon certain understandings with the Communists.

This bombing restriction was honored by President Nixon for 3 years when only protective reaction strikes in southern North Vietnam were allowed. These strikes were limited despite a huge Communist buildup culminating in the March 30 invasion of South Vietnam by regular North Vietnamese divisions supported by tanks and heavy artillery. This aggressive act was a clear violation of the agreement with Hanoi, and President Nixon responded properly by allowing U.S. aircraft to strike military targets throughout the North.

Thus, we can see that the present bombing was a defensive act by the United States to protect our own remaining forces in South Vietnam. In fact, Mr. President, the military situation became so serious it was also necessary for the President to order the mining of North Vietnam's harbors.

Since the resumption of bombing the North Vietnamese have done nothing to justify changing this policy. Anytime they wish the bombing to stop, they can order their divisions back into their own territory.

This would be a small concession, but the power-mad warlords in Hanoi refuse to give up even 1 yard of South Vietnam's land which they have taken at great loss of human life.

Mr. President, this is the background for the present policy of hitting military targets in North Vietnam. This bombing has helped slow the North Vietnamese offensive. Also, it has saved the lives of thousands of civilians and soldiers in South Vietnam who have faced the brutal attacks of the North Vietnamese forces since the March 30 invasion.

There are other good reasons for the bombing to continue. For instance, if the bombing stopped, this would permit the Communists to send more troops and supplies into the sanctuaries from which they would renew the bloodshed in the South.

Also, a removal of the bombing pressure could result in military attacks by the Communists which would endanger the few remaining U.S. military personnel in the South.

Finally, the peace efforts undertaken by President Nixon aimed at obtaining the release of our prisoners and reaching a negotiated settlement would be weakened.

Mr. President, the bombing is about the only lever this country has to make the North Vietnamese see the light and sue for peace.

If the Senate desires to stop the bombing, the most effective way would be to pass a unanimous resolution calling upon the Communists to withdraw their divisions from South Vietnam. Such a resolution would serve the cause of peace and help hasten the end to this bloody conflict in Indochina.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, will the Senator from Wisconsin yield?

Mr. PROXMIRE. Mr. President, I yield the Senator from Massachusetts such time as he may require.

Mr. KENNEDY. Mr. President, I rise to support the amendment of the Senator from Wisconsin. One of the tragedies we are faced with today is that we really do not know what the cost of this war is in terms of the civilian population of Indochina, particularly to the North Vietnamese. This was brought into critical relief last week in hearings before the Judiciary Subcommittee on Refugees. We had representatives of the State Department and the Defense Department appear before the committee, and we asked the representatives——

Mr. PROXMIRE. Mr. President, will the Senator yield very briefly?

Mr. KENNEDY. I yield.

Mr. PROXMIRE. Is it not also true that we do not know the cost of the bombings to South Vietnam, and that we have dropped more bombs on South Vietnam than North Vietnam?

Mr. KENNEDY. The Senator is correct. We have tried to develop material

on the number of civilian casualties and damage to the civilian population of all of Indochina, and we have been able to develop to some extent the materials on that particular question for South Vietnam, Laos, and Cambodia.

One of the bitter ironies of this whole debate is that the administration is prepared to plan and to set a time definite for the halting of humanitarian aid and medical supplies to the civilian population of South Vietnam, but is refusing to set a time definite for the withdrawal of American troops and military aid. They have set the time for the end of humanitarian dollars, and it is next year; that is when we will have the end of direct refugee support and assistance for the people of the South. But we see an absolute refusal to set a time limitation on the implementation of the war or military dollars.

But to get back for a moment to the impact of the war on the North Vietnamese, on the civilian population—the women, children, and innocents in North Vietnam—we found that the State Department and the Defense Department could give us with precision the number of bridges knocked out, the number of trucks on the Ho Chi Minh trails knocked out, the POL's knocked out, how many strikes were made on particular bridges, where napalm was dropped, or where antipersonnel bombs were dropped. But when I asked them if they could tell us how many churches were destroyed, or how many hospitals had been destroyed—which is not difficult to tell from the kind of photo reconnaissance we have—when I asked how many hospitals have been destroyed in North Vietnam during the increased air war over North Vietnam, the response that came from administration officials was that these are nonmilitary targets, and that if there was any destruction to those targets, it was incidental to destroying some military objective; because we do not intend to hit them, we do not hit them.

Yet, Mr. President, when we presented to administration officials a list which was developed by the committee, listing the various facilities, the various churches, housing projects, hospitals, and all the rest, and indicated the location, the date reportedly struck, whom they were observed by, and the nature of the observation, and challenged the administration to make a public response, no response was forthcoming.

We have pictures taken which show enormous damage to hospitals, schools, and all the rest, and I say that the administration ought to be prepared, if the situation is as they suggest it is, to show that the kind of damage that has been done to North Vietnamese civilians and civilian installations is really incidental, they ought to be able to rebut this by producing photographs that show it is not true. I think the best way to rebut the North Vietnamese propaganda about American bombardment destroying schools and hospitals is by releasing and showing photographs taken of the schools and hospitals of North Vietnam which show those schools still standing, those dikes untouched, and all the rest. But this they are apparently unprepared to do.

I ask unanimous consent to have printed in the RECORD an exchange of correspondence with the general counsel of the Defense Department about the rules of engagement, the kinds of military policies we are pursuing in Indochina, and the response we eventually received from Mr. J. Fred Buzhardt. In the final paragraph of his letter he points out:

> The correct rule of international law which has applied in the past and continued to apply to the conduct of our military operations in Southeast Asia is that "the loss of life and damage to property must not be out of proportion to the military advantage to be gained."

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

GENERAL COUNSEL OF THE
DEPARTMENT OF DEFENSE,
Washington, D.C., September 22, 1972.

Hon. EDWARD M. KENNEDY,
Chairman, Subcommittee on Refugees, Committee on the Judiciary, U.S. Senate, Washington, D.C.

DEAR SENATOR KENNEDY: The Secretary of Defense has asked that I respond to your letter of 19 August 1972 pertaining to the Subcommittee on Refugee's inquiry into war-related civilian problems in Indochina.

The Rules of Engagement are highly sensitive documents which set the criteria and specify in detail the permissible offensive and defensive actions which US forces may undertake under any given set of circumstances. They are very closely controlled because of their obvious and inestimable value to the enemy. To expose the rules governing the conduct of combat operation is to risk jeopardizing the lives of US personnel charged with the responsibility for conducting those operations and would otherwise be detrimental to national security.

The President and the Secretary of Defense have repeatedly stated that our attacks upon North Vietnamese targets are and have been limited to military objectives. Any damage done to civilian areas adjacent to these targets is unintended and results not from any action on our part, but from the Government of North Vietnam's refusal to live in peace with her neighbors. A public listing of specific targets would permit the enemy to either move or better protect those targets and would result in the loss of American lives and make the destruction of these targets more difficult.

With regard to the allegations made by Mr. Clark and the enemy's strident assertions that we have a concerted and intentional campaign of bombing the dike system, the following appears appropriate. Several Congressional Committees including the Senate Foreign Relations Committee have been thoroughly briefed on this subject. The few dikes that have been hit are immediately adjacent to readily identified military-associated targets. The observable damage is minor and no major dike has been breached or functionally damaged. It further appears that even the minor collateral damage could be repaired in less than a week without the employment of machinery of any kind. The enemy has intentionally placed anti-aircraft sites, supply depots and essential lines of communication upon the dike system in an effort to immunize these military functions.

In fact, severe floods occurred last year in North Vietnam in the absence of bombing, whereas the high water season has now virtually passed without significant flooding.

Major General Pauly will accompany Ambassador Sullivan to the Subcommittee's hearing on 28 September 1972. If, at that time, the Committee wishes to inquire further and is prepared to go into executive session, General Pauly will be prepared to provide, on a classified basis, additional information.

In earlier inquiries, you had requested a complete glossary of terms which have been used officially and unofficially to describe American or American supported military activities in Indochina. In response to your request, you were provided with a copy of MACV Directive 525-13, "Rules of Engagement for the Employment of Fire Power in the Republic of Vietnam." To the best of our knowledge, this contains a complete glossary of terms which are used officially. As to unofficial terms, we have never compiled, or attempted to compile, a listing of Southeast Asia lexicon. If you would care to submit a listing of such unofficial terms in which you are interested, we will be glad to provide you with an opinion, to the extent we can obtain adequate information upon which to base an opinion, as to the prevalent usage of such terms.

With respect to your request for a copy of the full text of the "Report of the Department of Army Review of the Preliminary Investigation into the My Lai Incident," commonly referred to as the "Peers Report", I would again suggest that this is an investigative report not subject to the requirements for public disclosure under the Freedom of Information Act. As you may be aware, the demand for disclosure of the so-called Peers Report was litigated in the case of *Aspin* v. *The Department of Defense*, et. al., Civil Action No. 632-72, U.S. District Court for the District of Columbia. The court ruled that this report was not subject to the requirement for public disclosure.

We have previously provided you with statistics on U.S. military air operations in Southeast Asia, as will appear from the charts to which you were previously referred, which appear at pages 9069 *et seq*, of the hearings of the Armed Services Committee of the House of Representatives on H. Res. 918 held on April 18, 1972. The latest available update of this releasable material is as follows:

"Allied air munitions expenditures in Southeast Asia are released on a monthly basis. Compilation time results in lag time of approximately 15 days following end of month. Preliminary figures are usually available by the 15th of each month."

Annual tonnage figures since 1966:

1966	496,319
1967	932,119
1968	1,437,370
1969	1,387,259
1970	977,446

Monthly tonnages for 1971–72:

	1971	*1972*
January	70,792	56,790
February	66,510	67,536
March	92,191	70,694
April	85,000	91,670
May	76,463	105,729
June	60,863	112,460
July	49,196	99,066
August	51,171	98,182
September	51,177	
October	47,315	
November	50,644	
December	61,838	

U.S. Strike Sorties in South Vietnam are released daily by the U.S. Military Assistance Command Vietnam in its daily press communique. These same communiques are made available to the press corps by the DoD in Washington. Audited U.S. strike sortie figures in South Vietnam are also available for public release on a monthly basis.

Since the resumption of bombing over

North Vietnam in early April in response to the North Vietnamese invasion of the RVN, MACV is also reporting approximate strike sortie figures over North Vietnam in its daily press communiques.

U.S. AIR STRIKE SORTIES FOR 1972

	Republic of Vietnam	North Vietnam
January	416	
February	1,856	
March	1,088	
April	12,267	[1] 1,550
May	14,855	[1] 7,650
June	11,764	[1] 10,380
July	11,528	[1] 8,195
August	([2])	[1] 7,225

[1] Approximately.
[2] Not available.

As I am sure you are aware, the Department of Defense has no personnel on the ground in the combat areas in Laos, Cambodia or North Vietnam and, consequently, has no reliable basis to make estimates of the casualties of the conflict. As we have previously reported, our attacks upon enemy targets are and have been limited to military objectives. Any damage done to civilian areas adjacent to these targets are unintended.

The Department of Defense, represented in this opinion by the Offices of General Counsel, and the Judge Advocates General of the Army, Navy and Air Force, does not accept the resolutions adopted by the Institut de Droit International at its Session at Edinburgh, 1969, as an accurate statement of international law relating to armed conflict.

The law between States applicable to armed conflict reflects the willingness of States to accept legal restraints on their conduct or the weapons to be used in such conflicts. A substantial body of the laws of armed conflict is to be found in the widely accepted Hague Conventions of 1907 and the Geneva Conventions of 1949, and in customary international law (i.e. rules that are accepted as law in the practices of States in armed conflict). Particular emphasis for present purposes must be accorded the Annex to Hague Convention #IV of 1907, referred to as the Regulations Respecting the Laws and Customs of War on Land.

A summary of the laws of armed conflict, in the broadest terms, reveals certain general principles including the following:

(a) That the right of the parties to a conflict to adopt means of injuring the enemy is not unlimited;

(b) That it is prohibited to launch attacks against the civilian population as such; and

(c) That a distinction must be made at all times between persons taking part in the hostilities and members of the civilian population to the effect that the civilians be spared as much as possible.

These general principles were recognized in a resolution unanimously adopted by the United Nations General Assembly in its Resolution dated 13 January 1969 (Resolution 2444 (XXIII). We regard them as declaratory of existing customary international law.

The principle in (a) restates the humanitarian principle codified in Article 22 of the Hague Regulations. The principle in (b) is to be found in the universally accepted customary international law of armed conflict to the effect that attacking forces are to refrain from making civilians as such the object of armed attack. They are not, however, restrained from attacking military targets necessary to attain a military objective even though there is a risk of incidental casualties or damage to civilian objects or property situated in the vicinity of a legitimate military target.

The principle in (c) addresses primarily the Party exercising control over members of the civilian population. This principle recognizes the interdependence of the civilian community with the overall war effort of a modern society. But its application enjoins the party controlling the population to use its best efforts to distinguish or separate its military forces and war making activities from members of the civilian population to the maximum extent feasible so that civilian casualties and damage to civilian objects, incidental to attacks on military objectives, will be minimized as much as possible.

In the application of the laws of war, it is important that there be a general understanding in the world community as to what shall be legitimate military objectives which may be attacked by air bombardment under the limitations imposed by treaty or by customary international law. Attempts to limit the effects of attacks in an unrealistic manner, by definition or otherwise, solely to the essential war making potential of enemy States have not been successful. For example, such attempts as the 1923 Hague Rules of Air Warfare, proposed by an International Commission of Jurists, and the 1956 ICRC *Draft Rules for the Limitation of the Dangers Incurred by the Civilian Population in Time of War* were not accepted by States and therefore do not reflect the laws of war either as customary international law or as adopted by treaty.

However, by way of acceptance analogy, reference can be made to the Hague Convention No. IX of 1907 concerning Bombardment by Naval Forces in Time of War. Articles 1 and 2 of that Treaty would, *prima facie*, be applicable to air warfare as well as to naval bombardment, providing, in part, that bombardment of "undefended ports, towns, villages, dwellings, or buildings is forbidden," but that:

"Military works, military or naval establishments, depots of arms or war materiel, workshops, or plant which could be utilized for the needs of the hostile fleet or army, and the ships of war in the harbor are not, however, included in this prohibition," and the commander of an attacking force "incurs no responsibility for any unavoidable damage which may be caused by a bombardment under such circumstances."

An additional example of a customary rule of international law, applicable by analogy to air warfare, appears in Article 8 of the Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict of May 14, 1954. Under that Article the Contracting Parties recognize that points vulnerable to armed attack in the event of armed conflict include "any large industrial center or . . . any important military objective constituting a vulnerable point, such as, for example, an aerodrome, broadcasting station, establishment engaged upon work of national defense, a port or railway station of relative importance or a main line of communication."

The test applicable from the customary international law, restated in the Hague Cultural Property Convention, is that the war making potential of such facilities to a party to the conflict may outweigh their importance to the civilian economy and deny them immunity from attack.

Turning to the deficiencies in the Resolutions of the Institut de Droit International, and with the foregoing in view, it cannot be said that Paragraph 2, which refers to legal restraints that there must be an "immediate" military advantage, reflects the law of armed conflict that has been adopted in the practices of States. Moreover, the purported legal restraints in paragraphs 7 and 8 on weapons *per se* and on the use of weapons do not accurately reflect the existing laws of armed conflict nor can they find support in the practices of States from which that law might be said to be emerging.

The existing laws of armed conflict do not prohibit the use of weapons whose destructive force cannot be limited to a specific military objective. The use of such weapons is not proscribed when their use is necessarily required against a military target of sufficient importance to outweigh inevitable, but regrettable, incidental casualties to civilians and destruction of civilian objects.

The major preambular paragraph of the Resolution proclaiming that recourse to force is prohibited in international relations is incorrect, and is inconsistent with the United Nations Charter as well.

As in other branches of international law, the law applicable to armed conflict develops only to the extent that Governments are willing to accept new binding restraints. In the search for such a consensus which is now in progress by the International Committee of the Red Cross as well as by the United Nations, resolutions such as those of the Institute of International Law form a valuable basis for discussion and consideration. But, as indicated here, it cannot be said that all of the provisions of these resolutions reflect the practice of States under the belief that international law demands such practice.

These, like many similar statements, ignore the variable factors of military necessity. Real protection of civilians and the civilian population in time of armed conflict will come from realistic restraints, widely accepted and practiced by the world community, reflecting in their formulation informed analyses of military and political strategies, tactics and technology.

With reference to your inquiry concerning the rules of engagement governing American military activity in Indochina, you are advised that rules of engagement are directives issued by competent military authority which delineate the circumstances and limitations under which United States Forces will initiate and/or continue combat engagement with the enemy.

These rules are the subject of constant review and command emphasis. They are changed from time to time to conform to changing situations and the demands of military necessity. One critical and unchanging factor is their conformity to existing international law as reflected in the Hague Conventions of 1907 and the Geneva Conventions of 1949, as well as with the principles of customary international law of which UNGA Resolution 2444 (XXIII) is deemed to be a correct restatement.

The draft proposals prepared by the International Committee of the Red Cross were submitted for consideration and are presently being considered in the on-going process of debate, discussion and conference which has taken place in two major conferences of governmental legal experts in Geneva in 1971 and 1972 and by a separate panel of independent experts in 1970. The positions of the United States delegations to these conferences take into account the position of other governments as they are presented.

The fragmentary information relayed through you by Mr. Clark from the North Vietnamese purporting to identify locations where collateral damage is alleged to have been done to other than military targets is generally too vague and imprecise to facilitate a meaningful search of records of air operations in North Vietnam. For example, the "map" provided by the North Vietnamese through Mr. Clark to you is in fact no more than a free-hand sketch, with the alleged damage areas shown by splotches measuring about 10 kilometers across. It is indicated in the letter from Mr. Clark to you, we note, that he has provided to you so far only partial data in his possession. Under these circumstances, particularly in view of the patently propagandistic character of the allegations by the North Vietnamese with

reference to bombing of dikes, as noted above, it would appear to serve no useful purpose on the basis of such fragmentary data to further pursue an extended study of photography, which for military security reasons, would mostly not be releasable to the public even if identified.

I would like to reiterate that it is recognized by all states that they may not lawfully use their weapons against civilian population or civilians as such, but there is no rule of international law that restrains them from using weapons against enemy armed forces or military targets. The correct rule of international law which has applied in the past and continued to apply to the conduct of our military operations in Southeast Asia is that "the loss of life and damage to property must not be out of proportion to the military advantage to be gained." A review of the operating authorities and rules of engagements for all of our forces in Southeast Asia, in air as well as ground and sea operations, by my office reveals that not only are such operations in conformity with this basic rule, but that in addition, extensive constraints are imposed to avoid if at all possible the infliction of casualties on noncombatants and the destruction of property other than that related to the military operations in carrying out military objectives.

Sincerely,

J. FRED BUZHARDT.

AUGUST 19, 1972.

Hon. MELVIN R. LAIRD,
Secretary of Defense,
Department of Defense,
Washington, D.C.

DEAR MR. SECRETARY: As you probably know, the Subcommittee on Refugees resumed last week its public inquiry into war-related civilian problems in Indochina, focusing its attention on conditions within North Vietnam.

In connection with the record of these hearings, and as a follow-up to my letters of May 3, June 26, and August 9, I would like to request the current rules of engagement governing air activities and naval gunfire in North Vietnam, and a series of aerial photographs of civilian populated areas allegedly subject to American air strikes. It would be helpful if these photographs could include shots of specific locations in or near these areas, both before and after the date they have been reportedly hit. It would also be helpful for the Department to identify what military targets were in, or near, these civilian populated areas. Hopefully, materials forwarded to the Subcommittee will include photographs of the sites listed in the testimony submitted to the Subcommittee by the Honorable Ramsey Clark, a copy of which I have attached to this letter, and of the following:

1. *Haiphong City*—photos taken prior and subsequent to the April 15–16, 1972, bombing raids on Haiphong, particularly the Ngo Quyen district, the central market place (hit on July 31st), and the so-called Vietnamese-Czechoslovak Friendship Hospital. Western observers also report that a housing and school complex consisting of three four-story apartment buildings and one two-story senior high school, located 2½ kilometers east of the harbor area, was struck three times on April 16, 1972: at 2:15 a.m., 9:00 a.m., and 4:00 p.m. Is this information, submitted to the Subcommittee, correct, and what military targets were in the area?

2. *Nam Dinh*—photos prior to May 23rd and subsequent to June 23rd showing the central city area, specifically the hospital, and the Chung Dang Ling secondary school.

3. *Han Gai*—photos before and after June 7th–9th, showing the Ha Long quarter.

4. *Hanoi*—reports to the Subcommittee report heavy bomb damage since April 16th to such civilian installations as the Bach Mai hospital (hit on June 27th); the Truong Dinh workers housing apartments (hit on June 27th); and civilian housing on Ming Khai Street (hit on July 4th).

Your assistance in this matter is greatly appreciated.

Sincerely,

EDWARD M. KENNEDY,
Chairman, Subcommittee on Refugees.

WASHINGTON, D.C.

Hon. EDWARD M. KENNEDY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR KENNEDY: As I testified before your Subcommittee on August 15, I visited North Vietnam between July 29 and August 11, 1972. During this period, I traveled over 1200 kilometers between cities and provinces and many more miles within those places. I visited six provinces, five major cities, and numerous villages, towns and dike sites.

Bomb damage to what appeared to be purely civilian targets was extensive. I personally observed schools, hospitals, churches, residential quarters of cities and whole villages, dike sections and water control facilities which had been damaged or destroyed by bombing. I also visited children and old people in hospitals who stated they had been wounded by bombing, and talked with other civilians who described losing members of their families because of bombing raids.

The bombing of civilian targets in North Vietnam must be a subject of great concern to every American. It is intolerable that a rich, powerful, technologically advanced nation should bomb villages, hospitals and dikes killing women and children in a poor, undeveloped country simply because it has the power. It is incredible that we should do so when we are withdrawing ground troops and say we are "winding down" the war. The implications for the future are ominous.

It is imperative that this controversy over whether we deliberately bomb civilians be resolved in a way which will give the American people the facts and let them judge for themselves.

For this reason, I am attaching a partial list of structures and areas which I personally observed to have been bombed. I include here but a few of the more striking examples of what I saw. Of course, the Department of Defense knows what targets it intends to hit and what targets it does hit. If the Department of Defense will disclose the facts as to these places I list, I can send a full list of what I observed in North Vietnam at a later date. Extensive aerial photo reconnaissance is made of North Vietnam and often planes on bombing missions photograph as they bomb. I hope you will be able to obtain aerial reconnaissance photographs from the Department of Defense of the bombed places listed here. Ideally, every existing photo of each target would be obtained. The most important are those taken on the day of the bombing, then the days before and finally the days after.

The disclosure of such aerial reconnaissance photographs to the American people is clearly an essential step to open, informed consideration of our bombing policy in Vietnam and its effects on the civilian population. Citizens of a free democratic society are entitled to such data. Indeed, our system cannot work without an informed public.

Of this list, the most critical set of targets are the dikes because they sustain the agriculture of the people and retain waters that could drown hundreds of thousands. I am therefore appending a list of dike sections which have reportedly been bombed, some of which I saw and some which I did not see.

In view of the world-wide controversy over the bombing of the dikes, Administration officials should produce aerial reconnaissance photographs of these specific dike sections, taken both before and after they were reportedly struck. Their failure to do so will imply to many a fear of the truth on their part. I include here a United States Army map to aid in identifying these dike sections more precisely.

You will recall I showed two small bombs to your Committee. The bomb I called a penetrating bomb was given to me by the Mayor of Haiphong. He said it was found after an attack on his City on June 26 in Lach Tray Street where much damage was done. The round bomb I described as an anti-personnel bomb was given to me by the Mayor of Hanoi. He said only that it was dropped on the southern part of his city on June 8, 1972. I would be interested in the legal justification by the Department of Defense for dropping such bombs outside of combat zones and military encampments if it concedes these bombs were dropped as described.

I hope you can secure an early response from the Department of Defense. If the American people and the Congress are to have a say in determining this country's policies, they must have the facts.

Thank you for your efforts on behalf of peace and humanity.

Sincerely,

RAMSEY CLARK.

Mr. KENNEDY. Mr. President, that is a part of the administration's statement of policy, that the loss of life and damage to property must not be out of proportion to the military advantage to be gained.

Mr. President, how do we know what the loss of life is when they refuse to provide the kind of information that would indicate to us the damage to civilian areas in North Vietnam? We ought to be able to have that material, and then let the American people make a judgment as to how effective this bombing of the North is, and what its human costs are.

Finally, Mr. President, I am mindful, as I am sure the Senator from Wisconsin is, of the analysis that was done on the whole bombing policy in the Kissinger memorandum of 1969, and where, in that memorandum, they outlined the reasons for the bombing policy as follows:

PURPOSES OF THE BOMBING: WHAT THE KISSINGER MEMO OF 1969 SAYS

1. The Kissinger memorandum drew together a list of all the reasons cited during the Johnson Administration as to the purpose and affect of bombing North Vietnam. Principal reasons cited, and the degree of success achieved, included the following; (quotes are from the 1969 Kissinger memo):

PURPOSE

Destroy the war-making potential and materiel coming South.

RESULT

Never succeeded in significantly halting the flow Southward: "The North Vietnamese have continually increased the volume of supplies moving into the southern provinces."

PURPOSE

Make the "cost" of the war too high, and greater than the input.

RESULT

"While air strikes destroyed about $770 million worth of capital stock, military facilities, and current production (as of 1969),

North Vietnam received about $3,000 million worth of foreign economic and military aid from Communist bloc countries. Thus in terms of total economic and military resources available to support the war, North Vietnam is better off today than it was in 1965."

PURPOSE

Cripple the transport system.

RESULT

"Despite heavy damage to the transport network throughout the bombing, effective countermeasures kept the system operable."

PURPOSE

Divert manpower.

RESULT

"Extra manpower demands induced by the bombing brought about some tightening of the over-all manpower availabilities, but never reached proportions significant enough to limit Hanoi's support of the war."

PURPOSE

Destroy the economy.

RESULT

"The bombing was having a cumulative impact on the economy, resulting in the appearance of widespread black market activity . . . growing shortages in consumer goods and foodstuffs persistent agricultural shortfalls. . . . A general tightening of the belt." But while North Vietnam's economy was severely disrupted and its economic growth, it did not destroy its economic capacity to continue the war.

PURPOSE

Harm morale in the North.

RESULT

"The bombing imposed severe hardships on the people by the constant threat to life, by the disruption of personal routines and by the dispersal of industry and evacuation of urban centers. . . . However, the regime was quite successful in using the bombing threat as an instrument to mobilize people behind the . . . war effort."

SUMMARY CONCLUSION OF ONE MEMO TO KISSINGER:

The North Vietnamese surprised many observers, and confounded many predictions, by holding the North together and simultaneously sending ever-increasing amounts of supplies and personnel into the South during 3½ years of bombing (as of 1969). It is clear that the bombing campaign, as conducted, did not live up to the expectations of many of its proponents. With this experience in mind, there is little reason to believe that new bombing will accomplish what previous bombings failed to do, unless it is conducted with much greater intensity and readiness to defy criticism and risk of escalation.

Mr. President, I think the burden is on the administration, in requesting these funds for war from Congress, that they be able to present to Congress and the American people conclusive evidence that this bombing policy has really been an effective policy and, in addition to being an effective policy, that its advantage in military terms outweighs the damage to the civilian population. I challenge them to produce that evidence. I do not believe it can be produced, and I think the amendment of the Senator from Wisconsin is well-founded and should be agreed to.

I ask unanimous consent, Mr. President, that material prepared by the subcommittee staff on the civilian areas—the hospitals, schools, housing projects, churches—bombed in North Vietnam, and the identification of them, be printed in the RECORD. I think it might be interesting, because here is the documentation, and I believe it would be useful and helpful for Senators who are interested in this problem to have an opportunity to examine the matter.

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

LIST OF CIVILIAN DAMAGE WITNESSED IN NORTH VIETNAM, AS COMPILED FROM TESTIMONY AND REPORTS TO THE JUDICIARY SUBCOMMITTEE ON REFUGEES

Place	Location	Date reportedly struck	Observed by	Observations
CITY AREAS				
Ha Ly District	Haiphong City	July 31, 1972	Ramsey Clark	Acres of destruction to residences, business area, hundreds allegedly killed.
Truong Chinh Workers	Hanoi City	June 27, 1972	Ramsey Clark, John Sullivan	Total destruction of large housing development and damage to nearby school.
Lac Vun secondary high school	Haiphong City	Apr. 16, 1972; 2:20 a.m.	Paul Mayer, William Zimmerman	2 buildings totally demolished.
Lac Vun suburb housing project	do	Apr. 16, 1972	do	Several 2-3 story buildings (apartments) totally demolished.
Hang Sat St.	Nam Dinh City	May 23, 1972; 12:05 a.m.	do	Several blocks of small workers' houses in total ruin.
Hang Dong St.	do	do	do	Several blocks of small workers' houses in total ruin (ruins still smoking from day before); also high school.
Textile factory	do	do	do	Roof damaged, etc.
Guest house	do	do	do	Roof damaged, windows broken; also several unexploded "perforating bomblets" in ground near building.
Gia Lam suburb	Hanoi City		do	Outdoor motion picture hit (Peoples' Theatre)—unexploded bomb. Residential area near bridge, ruins of buildings and several huge bomb craters.
Minh Khai St.	do	July 4, 1972	George A. Perera, John Sullivan	One bomb crater seen, 33 homes damaged; told 1 dead, 4 hurt.
Textile workers homes	do	Mar. 8, 1972	do	Moderate to extensive damage told 4 dead, 15 hurt.
Nam Dinh City	80 kilometers south of Hanoi	Many times in 1972	do	Damage and destruction to hospital, school, cultural center, bakery, textile factory, homes, etc, city largely evacuated.
Hang Tien St.	Nam Dinh City	May 23, 1972	Jane Fonda	3 families killed, 3 homes destroyed.
Hoang Va Tung St.	do	June 20, 1972	do	Many homes destroyed, blast bombs used.
Cultural complex (children's center, workers and people's cultural center and large pagoda).	do	May 23, June 11, June 20, 1972	do	Destroyed completely, 2,000 pound bomb used.
HOSPITALS				
Thanh Hoa Hospital	Approximately 6 kilometers from Thanh Hoa City.	Apr. 27, 1972 (0850); Dec. 26, 1971.	Ramsey Clark, Banning Garrett	6 buildings demolished; others extensively damaged. Facility out of operation.
Vinh Phong Leprosarium	Near Vu Van village	July 31, 1972	Ramsey Clark	Administration building and medical treatment facility destroyed; barracks-like housing for patients damaged.
Bach Mai	On highway to Ninh Binh, 6 kilometers south of center of Hanoi City.	June 27, 1972 (0900)	Ramsey Clark, Jane Fonda	Large crater in a courtyard destruction; of 1 wing of hospital; damage to other wings and adjacent buildings.
Vietnamese-Czech Friendship Hospital	Haiphong City	Apr. 16, 1972 (0900)	William Zimmerman, Paul Mayer	Surgical ward and operating room hit.
Ky Dong Hospital	do	do	do	Fragmentation bombs used.
University of Hanoi Medical School Clinic	Outskirts of Hanoi		do	Various clinic buildings leveled.
Soviet-Vietnam Friendship Hospital	1 kilometer from center of Hanoi		Jane Fonda	Large part of hospital hit.
Main hospital	Nam Dinh City	June 20, 1972	do	Pediatric ward, first aid center and medical supply ward destroyed.
Number One Hospital	Nam Dinh		George A. Perera	Almost total destruction; no longer in use; identified as large general hospital.
CHURCHES				
3 churches near Vu Van	Within 2 kilometers of Vu Van village in Thai Binh Province.	July 31, 1972	Ramsey Clark	All badly damaged from bombing.
Along Route No. 1	50 kilometers south of Hanoi		George A. Perera	2 or 3 churches seen within a kilometer of road which appeared extensively damaged.

Place	Location	Date reportedly struck	Observed by	Observations
SCHOOLS				
3 in Haiphong	Haiphong City	July 12, 1972	Ramsey Clark	Destroyed.
1 in Hanoi	Hanoi City	May (?), 1972	do	2-story building, extensively damaged, unusable.
Vu Van secondary school	Vu Van village	July 31, 1972	do	6 classrooms destroyed; other classrooms damaged.
Senior high school	Haiphong	Apr. 16, 1972	William Zimmerman	Destroyed.
Polytechnique institute	Hanoi		Jane Fonda, George A. Perera	Parts destroyed; windows broken.
Thiang Dang Ling secondary school	Nam Dinh City	May 23, 1972	do	School destroyed; surrounding houses destroyed; many people wounded.
VILLAGES				
Phuc Loc	Approximately 7 kilometers east southeast of Haiphong City.	Apr. 16, 1972 (0230)	Ramsey Clark, William Zimmerman	142 bomb craters, much destruction in village.
Thieu Hoa	Approximately 25 kilometers from Thanh Hoa City.	Apr. 13, 1972 (0245)	Ramsey Clark	Total destruction of Xan Ai; damage to remainder of village; allegedly 23 killed, 33 wounded.
Vu Van	Approximately 6 kilometers southwest from Thai Binh.	July 31, 1972	do	Homes, school, dike hit. 3 churches nearby badly damaged.
Bao Ngu	20 kilometers from Nam Dinh	May 12, 1972 (1200)	William Zimmerman, Paul Mayer	Demolition and fragmentation bombs used.
Phu Ly			Jane Fonda, George A. Perera	Town of 6,000 totally flattened; anti-personnel bombs used; entire hydraulic system destroyed.
Nam Sach		July 11, 1972	Jane Fonda	8 bombs dropped; many houses destroyed; 2 people killed.
DIKES				
Lan sluice and gates	Approximately 25 km. east southeast of Thai Binh City within several kilometers of sea.	May 19, 24; June 15; July 2, 8, 11, 12; Aug. 4.	Ramsey Clark	Extensive damage to adjacent diking, concrete base, destruction of lifts, housing, gates, superstructure.
Vu Dong dike	Approximately 10 km. south of Thai Binh City.	July 20, 1972	Ramsey Clark, Jane Fonda	Extensive damage to dike, 28 bomb craters on and near dike, adjacent huts destroyed.
Nam Sach dike	40 km. eaxt of Hanoi	July 9, 11, 1972	do	Extensive damage visible though largely repaired by Aug. 6. Severed in two on July 9. This is the dike location which the French newspaper reporter Jean Thoraval says he saw attacked.
Nam Dinh dike	Nam Dinh	June 18, 1972	Jane Fonda, George A. Perera	Repairs in progress on 1 primary dike adjacent to Re River; 2 alleged craters seen in secondary dike; road nearby but not on dike.

[From the New York Times, Oct. 2, 1972]

THE NONWHITE WAR

(By Herbert Mitgang)

WASHINGTON.—There is one human matter that is virtually unmentionable in the official American pronouncements about the Vietnam war. It concerns the casualties and refugees—practically none of whom are white—caused by present bombing policies over allied, enemy and neutral countries in Indochina.

Repeatedly, the Administration has emphasized that the war was inherited and that a half-million ground troops have been withdrawn from South Vietnam. True enough, but a big omission here is that, because of expansion of the war theater with Air and Navy units and their deep infrastructure, there are still a half-million Americans supporting Vietnam hostilities across the wide Pacific command.

President Nixon's declaration that there will be only 27,000 Americans in South Vietnam by Dec. 1 is more than a concealment of the actual military manpower engaged in the war. It plays down the risks run daily by carrier pilots off the Gulf of Tonkin and fighter pilots taking off from Thailand bases against Soviet MIG's and missiles; and it withholds their role from public attention.

But the greatest omission of all concerns the nonwhite people on the receiving end of the terror falling from the skies. Watching Senator Kennedy's subcommittee on Refugees attempt to extract the facts from Administration spokesmen is a despairing sight. A few days ago, in the old Senate Office Building, he asked: Why is it easy for you to tell us how many bridges have been destroyed in North Vietnam and the precise number of trucks hit along the Ho Chi Minh Trail but not how many hospitals, schools, churches and other civilian installations have been hit by our bombs? The evasive response by an Assistant Secretary of State was that these were not deliberate military targets but only "regrettable by-products" of the violence of warfare.

Nevertheless, the subcommittee on Refugees has been able to assemble the human cost of the expanded Vietnam war. Sources include church, medical and voluntary groups, United Nations agencies, the General Accounting Office and field observers reporting to the subcommitee's counsel, Dale S. De Haan, plus whatever information is made available by the Government's intelligence and military groups—which do not have civilian refugees and casualties high on their lists of concern.

The "regrettable by-products" include these statistics: In the last two years about 400,000 people have been killed throughout Indochina—a frightening number that is an actual "bloodbath," as distinct from the theoretical one predicted by President Nixon in the event that American support was withdrawn from the Thieu Government. Since the North Vietnamese do not divulge their casualties, the real figures could well exceed this estimate.

The people displaced from their homes by the war's continuation in the last two years include: 1,850,000 South Vietnam refugees; 2,000,000 Cambodian refugees; 250,000 Laotian refugees and an unknown number of North Vietnamese. South Vietnam has suffered the most; the Refugees subcommittee estimates that the total number of refugees since the war began is 8,000,000, almost one-half of the South Vietnamese population.

The military and civilian dead, wounded and displaced throughout Indochina will only be known when the war finally ends. In the meantime, there is little preparation by the United States to alleviate the suffering of the nonwhite people whose governments have been supported and whose bases have been used as airstrips to launch new casualties, new refugees among the civilian populations. Efforts to pay for the suffering, as distinct from the armaments, have been cut in Administration budgets.

Based on hospital records, about one-fourth of the wounded civilians in South Vietnam are children under 12. Most of the South Vietnamese doctors go into military service, leaving hospitals understaffed. Some hospitals have been destroyed, others no longer function. And the wounded and refugees still run at the rate of several thousand every day the war goes on. They run to Saigon's side when North Vietnam's shells burst and run again when American bombs fall. But the Senate subcommittee's analysts report a new development in recent months: Hundreds of thousands in the northern provinces chose to remain under North Vietnamese rule and did not "vote with their feet" for Saigon.

Bombing from on high, obeying the call of the sensors and unloosing the smart bombs, American fliers fortunately are sustaining few casualties. The same cannot be said for the nonwhite civilian populations of Indochina, about whom the American public does not hear in its Presidential bulletins.

[From the Washington Post, Sept. 27, 1972]

INSIDE NORTH VIETNAM: FACTORY CENTER SURVIVES BOMBINGS

(NOTE.—This is one of a series of articles by Richard Dudman, chief Washington correspondent of the St. Louis Post-Dispatch, who has just returned from two weeks in North Vietnam.)

The ruined city of Namdinh is an object lesson in how not to destroy an enemy industrial center.

American bombs have wrecked most of the city, once the third largest in North Vietnam, not only the big textile mill that supposedly was the principal target but also commercial shops, schools, houses, apartment buildings, most of the civic center and parts of a 300-bed hospital.

But the mill continues to operate, at least on a reduced scale. So do the shops, the schools and the hospital.

All have been moved out into the villages and hamlets and along the city roads of the surrounding countryside, together with most of the city's population.

The U.S. bombing policy has brought pain and misery to many civilian bystanders in and around Namdinh and has provided an anti-American show-place to which the North Vietnamese take foreign visitors.

But it has been a substantial failure in its apparent chief objective, to halt the operation of the textile industry there. In a dispersed and largely bomb-proof fashion, the industrial community continues to operate. Even the passenger train to and from Hanoi

continues to run, slipping in and out of the bombed-out Namdinh station after nightfall.

Namdinh, built under the French in 1900, lies in the midst of the rice paddies of the Red River delta, 45 miles southeast of Hanoi in Namha province. Its normal population of 120,000 now is 90 per cent evacuated, officials said.

The factory was designated a military target in the Johnson administration and again in the Nixon administration. North Vietnamese officials said its 13,000 workers produced canvas, poplin, blankets as well as sheeting, tablecloths, silk goods and cotton material for civilian clothing. Canvas is needed for covers for the guns and supply trucks moving down the Ho Chi Minh trail and across the Demilitarized Zone into South Vietnam. Poplin is needed for military uniforms. All armies need blankets.

U.S. bombers did a thorough job on the factory. The five-story main building was gutted, with gaping holes in its roof and brick walls. Some of the floors had collapsed Wreckage of nearby sheet metal factory sheds was torn and twisted among the rubble of what used to be brick walls.

Shattered textile machinery could be seen in the wreckage of what officials said had been a vocational school for training textile workers.

Within a block or two of the factory, officials pointed out the wreckage of what they said had been a municipal cultural center, a workers' club, an open-air bandstand, a Buddhist pagoda, an exhibition hall, a post office and a library. They said those buildings were destroyed by bombing attacks May 13, June 11 and June 20 of this year.

A three-story building several blocks away, described as part of a workers' housing project, was wrecked by a bomb which they said hit it July 28 of this year.

Farther from the factory, at a distance of perhaps half a mile, stood the remains of the hospital. Two buildings described as the pediatrics department were wrecked, one of them apparently by a direct hit. Officials said it was struck by one of 10 bombs dropped on the area June 20.

"The staff and the patients had already been evacuated two days before the bombs hit," a member of a 20-man hospital militia unit said. The group, armed with rifles, was all that had remained behind.

"We went into the shelter when we heard the planes. No one was injured," he said.

The nearest antiaircraft artillery had been outside the hospital grounds, he said. None could be seen inside the compound.

The chief of the foreign affairs bureau of the provincial administrative committee, Tran Hung, said that the factory and the city had been bombed 40 times in the Johnson administration, starting June 8, 1965.

"After Johnson stopped, we began to rebuild," he said. "But we were always on guard and did not concentrate all the machinery back in the factory.

"On May 6, 1972, Nixon sent his planes to attack the city of Namdinh as well as the factory. Since then they have attacked the city on 20 different days. On only three of those days were the attacks against the factory."

He said that the city was 60 per cent destroyed by the Johnson bombing, partly rebuilt, and then 70 per cent destroyed by the Nixon bombing campaign.

"Nixon is crueler," Hung said. "In only four months he has caused more destruction and suffering than Johnson did in four years."

A drive through the battered city showed the 70 per cent figure for destruction to be a reasonable estimate. Although total casualties appeared to have been relatively light, whole areas were levelled. Many buildings still standing had cracked walls and boarded-up broken windows.

Across the street from where one bomb had destroyed a house, a man and his niece stood in the doorway of their damaged home. She said that a bomb struck last June 20. Most of the neighborhood already had been evacuated, and only seven persons were injured, she said. She said that she continued to work in the silk department of the mill. Her uncle is a construction worker.

Under the ruins of another building, three clerks operated a makeshife basement store, their rifles hung on the wall behind them among a display of washpans. The sparse stock included cotton yard goods, rationed and unrationed, fountain pens, plastic shower slippers, candles and toiletries.

Another underground establishment was a one-chair barber shop. The barber said a shave and a haircut was 40 XU (12 cents).

Many of the wrecked buildings were stripped of rubble. Salvaged bricks were stacked along the street ready for rebuilding. Ten-inch iron pipe was laid out along the streets—ready for installation whenever the bombing halted, an official said.

Later, he conducted a tour of the paddy land where nearly 95 per cent of the province's 1,750,000 population lives even in normal times.

Evacuated shops from the provincial capital lined the road for five miles out of the city, taking up almost every square inch of the narrow strip beneath a line of trees between the pavement and the flooded rice fields.

Signs of the mud and grass huts identified many bicycle repair shops, many tailor shops, barber shops, opticians, a locksmith, some photographic studios, a sewing machine repair shop, a dentist, a watch repair shop, a dog meat market, and, logically enough, a sign shop.

Crowds of people in and around the shops seemed confident that the strung-out community was no longer much of a bomb target. The road-side one-man bomb shelters appeared unused, and many had been washed half full of mud.

The tour included a visit, to the village of Trucchinh, six miles southeast of Namdinh. The chairman of the village administrative committee, Tran Van Chinh, showed where he said a dike had been bombed on July 6 and repaired by hand by 2,000 villagers working for two days.

He disputed President Nixon's boast that he could destroy North Vietnam's dike system in a week if he wanted to. He contended that the earthworks could be repaired as fast as they were hit if the rivers were not too high. Flood stage this year was said to be the lowest in six years.

The chairman showed off banners for record rice production, an award named for a Communist victory at Apbac in South Vietnam in 1963. He said that the village militia, armed with a heavy machine gun, rifles, hand guns, grenades, scimitars and spears, had shot down one U.S. plane in 1967 and another on Aug. 24 of this year.

The village of 8,000 was a quiet, peaceful place, except for several hundred little boys who raced ahead of the visitors and peered into the windows at every stop. The chairman showed off a pig farm, proud of its high production, cleanliness and absence of flies. In the late afternoon, buffalo boys perched on the backs of water buffaloes and wearing blue plastic rain capes against the frequent showers, brought the animals in from the fields along the dikes.

One section of the evacuated textile mill was operating in a series of one-story thatch-roofed buildings in another village in the area. Officials asked that its location not be reported and prohibited photographs, since "Nixon hasn't been able to find it."

At one of the wooden looms, a woman worker held her 5-month-old baby with one arm while running the machine with the other hand on a seven-hour shift. An older daughter stood behind her to hold the baby part of the time and operate the machine when it was time for her mother to nurse the baby.

The 400 employees were making patterned Turkish towelling. If they had time for that, it seemed probable that other sections of the dispersed mill were making more essential fabrics.

The Namdinh hospital had been converted into a mobile hospital and was quartered temporarily in peasant houses in another village. Its location also was secret.

"Our staff of eight doctors, three assistant doctors and 18 nurses can look after 60 bombing victims at one time," said Dr. Nguyen Tich Y the medical director. "We rely on the peasants to carry the wounded on stretchers and do the cooking and washing. It takes only two of our hospital workers to wash the medical linen."

Dr. Y said that the staff and patients had been evacuated from Namdinh on two hours' notice two days before the hospital was bombed. In the short time, they removed all the patients, much equipment, and even french doors and flagstones, which had been installed in the village houses to provide daylight and clean flooring.

The PRESIDING OFFICER. Who yields time?

Mr. McCLELLAN. Mr. President, I have a request for time, but I do not see the Senator here at the moment. Will someone send for the Senator from North Dakota?

Mr. President, I yield myself 1 minute until the distinguished Senator from North Dakota (Mr. YOUNG) arrives.

Mr. President, the pending amendment would cut off all funds included in this bill to support bombing operations in North Vietnam, Laos, and Cambodia. In my opinion, this amendment would, if adopted, do grave damage to our national interests in Southeast Asia, and I urge the Senate to reject it.

Every American whom I know, both in private life and in Government, yearns for an end to the years of conflict in Southeast Asia. We are all looking, searching, and even struggling to reach a solution to the complex problems this war presents. We should not, however, let our intense desire to solve this great national problem cause us to act precipitately and do something contrary to our best interests.

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

Mr. McCLELLAN. I yield myself 1 additional minute.

In commenting on this amendment last Saturday, I stated:

> This war can end any day the enemy will agree to a cease fire.

This is the basic fact that we must keep in mind during the consideration of this amendment.

The PRESIDING OFFICER. Who yields time?

Mr. STEVENSON. Mr. President, will the Senator from Wisconsin yield for a question?

Mr. PROXMIRE. Yes. I yield myself 2 minutes.

Mr. STEVENSON. I agree with the Senator from Wisconsin that the bombing is barbaric and does not work. All the evidence at this painful point in our history indicates that, far from breaking

the back of the enemy, it only redoubles the determination of the enemy to fight on against the United States and against its vassal in South Vietnam. The bombing also heaps the contempt of the world on the United States.

I want to ask the Senator from Wisconsin whether the effect of the amendment would be to end bombing in direct support of friendly ground forces in Indochina. I believe the Senator would agree that we do bear some responsibility for the plight of ground forces in Indochina. We have armed them; we have Americanized the war. Many of them, from time to time, find themselves in desperate military situations.

If the effect of the amendment is to prohibit the expenditure of funds even for such missions in direct support of American forces as well as friendly forces in South Vietnam, Laos, and Cambodia, I wonder whether the Senator would consider a modification to——

Mr. PROXMIRE. May I say to the Senator from Illinois that this is a very limited amendment. It provides that aerial bombardment by U.S. forces in North Vietnam, South Vietnam, Laos, and Cambodia will stop. However, it does not eliminate more than $4 billion or the $6.3 billion we are now spending as the incremental cost to us of the Vietnam war. We provide for more than $2 billion of free world forces assistance. We continue to help South Vietnam and our friendly forces in Laos, Cambodia, and Thailand.

Of course, they have a million-man army, with their own air force, with their own ground forces. It is one of the most formidable armies—at least, in terms of equipment and manpower—in the world. So they would be able to continue to protect themselves and protect our troop evacuation.

Furthermore, we provide close support—strafing, and so forth—for their troops. We would simply stop the aerial bombardment.

It seems to me that this amendment is sufficiently limited so that in the event the South Vietnamese have the will to resist, they certainly ought to be able to do it.

May I just add that the testimony before our Subcommittee on Foreign Operations by the Secretary of State earlier this year was to the effect that we are providing four times as much assistance to South Vietnam as Russia and China are providing to North Vietnam. Not even 1 pound of bombs in aerial bombardment has been dropped by either the Russians or the Chinese.

It seems to me, on the basis of everything we have done for South Vietnam—the Senator from Illinois knows it as well as the Senator from Wisconsin—the tremendous sacrifice we have made, the great advantage we have given South Vietnam, if they cannot pull it out now, with the assistance we would continue to give them if this amendment were adopted, then the situation really is hopeless for them.

Mr. STEVENSON. I should like to pursue the question with the Senator. He has said, if I understand him correctly, that the effect of the amendment would not be to interfere with ground support actions by the Vietnamese, nor with such missions by American aircraft. If that is the case, would the Senate agree to the addition of a provision to make it explicit in the amendment, simply providing an exception that appropriations can continue to be used for the direct support of American and friendly ground forces?

Mr. PROXMIRE. The yeas and nays have been ordered on this amendment. There is no way by which the amendment can be modified without unanimous consent. I would doubt very much that unanimous consent would be given.

Furthermore, I do not think it is necessary, because there have been previous appropriations which are available to the President for troop support.

The PRESIDING OFFICER. Who yields time?

Mr. PROXMIRE. I yield 5 minutes to the Senator from Michigan.

Mr. HART. Mr. President, normally, we ask leave to have printed in the RECORD material we think is useful and informative for ourselves and those who follow the proceedings of Congress. Over the past weekend I read a rather brief article. Perhaps reading it in the quiet of a farm sitting room made it more powerful than it will strike any Member of the Senate who hears it read in this Chamber. Nonetheless, it struck me forcefully. It is in direct comment on the amendment of the Senator from Wisconsin, an amendment for which I rise to voice support. I should like to read the article. It is published in the New Yorker magazine, under "The Talk of the Town." Incidentally, a publication among few which consistently, month in and month out, year in and year out, so far as I am aware, has never gone to press without at least one reminder to its readers that this war is hurtful and wrong.

The issue of September 23, 1972, puts it this way:

A Harris poll published last week showed that fifty-five per cent of the American people are in favor of our bombing Vietnam. Thirty-two per cent are against it. The others do not know what they think. In short, it appears that the majority of the people in our country believe it is right, or necessary, for us to go on killing the Vietnamese people—North Vietnamese and South Vietnamese alike—because, according to the poll, "it is important that South Vietnam not fall into the control of the Communists." No matter that Russia and China, giants among nations, long ago fell into the control of the Communists, and that it is now our government's policy not only to coexist with Russia and China but to attempt to establish friendly relations with them. What matters is not to let this tiny, once obscure semination become Communist. So, in a stupor, with scarcely a thought, we drop our thousands of pounds of explosives every day, and wipe out those nameless, faceless, distant creatures who in our bleary minds are not quite human beings. And it is not our President who is doing the killing, it is not our bomber crews, it is we the American people. We are the ones—the fifty-five per cent who say yes and the rest who say so little—who keep the bombs falling. Now that our ground troops are withdrawn our casualty rate is down to almost nothing, now that the lives that are being lost in ground combat are Vietnamese lives (why die if we can pay someone else to do our dying for us?), we blithely take to the air. Just in case we might still have qualms about the bombing, our government tells us, over and over, why we do it. We seek, the government tells us, some geopolitical advantage in Vietnam; *that* is why we are bombing. We, the most powerful nation in the world, waging a strange, vertical war against one of the world's least powerful nations, seek a balance of power; *that* is why we are bombing. By killing and maiming our friends in South Vietnam, by ravaging their land, by destroying their society, we seek to convince our friends in Europe and the Middle East that they can count on us to stand by them; *that* is why we are bombing. We seek to impress our potential enemies with our might and courage by recklessly spending Vietnamese lives in a fratricidal struggle that could not go on without us and by carrying out air attacks on people who cannot defend themselves or retaliate; *that* is why we are bombing. We are bombing them in Hanoi so that we won't have to fight them in the streets of San Francisco: we seek a generation of peace. We are fighting a token war now so that we won't have to fight the real power, the ultimate war, later: we seek survival. We draw closer to Russia and China, but we must stop Communism in Vietnam, for it is there that our national security lies, and we seek national security. *That* is why we are bombing. Why are we bombing Vietnam? As we put off the one day that might bring our prisoners of war home, we seek the return of our prisoners of war. *That* is why. We seek prestige. We seek respect. We seek credibility. We seek honor. *That* is why. And in the course of all this seeking, all this bombing, our souls have withered. Day by day, we are turning into monsters. For a hundred reasons, and for no reason whatever, we are blowing men, women, and children to bits with our bombs, and we can't feel a thing.

Mr. President, that is from the Talk of the Town in the New Yorker magazine. I suspect that most Americans, if they heard that, whether or not in the 55 percent who thought they wanted to go on with the bombing, would say was a rather harsh indictment, which may be true. In any event, an awful lot of people who read the New Yorker cannot do a blessed thing about it. There are people who have written us, and then came down to Washington to see us, marched on Congress, and then marched on the Pentagon, who have gone to jail for doing it, and despair of ever correcting it. They are resigned, apparently, to the inevitability of once again funding the bombing. They cannot do much about it. A few, in utter despair, refuse to pay their taxes—at least they will not contribute to them.

We in the Senate, more than most of the people in this country, can do something about it.

The Proxmire amendment gives us an opportunity to do something about it.

I hope very much that we will accept the opportunity and stop that killing, for all of these reasons, none of which any more make any sense.

Stop it.

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

Mr. PROXMIRE. I yield.

Mr. SYMINGTON. I would ask the distinguished Senator from Wisconsin (Mr. PROXMIRE) a question, but before doing so, would mention the fact to the best of my knowledge I have voted for every end-the-war amendment to come before Congress.

This one worries me, because we still have thousands of Americans in Vietnam

and hundreds of Americans in Laos and Cambodia. In addition, there are our prisoners of war. We are told we have taken out all our combat troops.

Would the Senator from Wisconsin consider the possibility of saying this money could not be spent for bombing at a date certain, for example, 90 days from now, or any practicable date, so we get back to the idea of ending the war on the basis of a date certain?

Mr. PROXMIRE. That may be an excellent amendment—maybe a better amendment than I have, but as I have indicated, there is no way I can modify the amendment without unanimous consent and I doubt very much that there is any prospect of getting that.

What the Senator from Missouri could do would be to offer an amendment after this one, to reflect that view, and I will be happy to support it. I am not sure, however, that even that kind of amendment would not be subject to a point of order because I found, in conferring with the Parliamentarian, that it is extremely hard to draft an amendment on this appropriation bill without it being subject to a point of order except by the simple limitation of funds for this particular purpose.

Mr. SYMINGTON. My apprehension is that we still have many thousand Americans over there, in all three services. We are told we have taken out all our combat troops——

Mr. PROXMIRE. On that point, I would say that we do have a great preponderance of naval strength, that we do have a great preponderance of artillery power, and great fire power vastly superior. This amendment does not proscribe other funds from being appropriated. There are funds in this particular bill. It seems to me that there are difficulties and limitations and problems involved in such an amendment and this is the best we could do under the circumstances.

Mr. SYMINGTON. Let me assure the able Senator from Wisconsin that I fully sympathize with his thinking and desire in this matter and hope it can be discussed in the Senate, if necessary every day.

I also read the article in the New Yorker magazine read by the distinguished Senator from Michigan (Mr. HART). It is pertinent. My apprehension is we are told that we have taken out our combat ground troops, and ships, of course, cannot go on the land. We have more Americans in Laos than the people have ever been told about, and the same thing may be true of Cambodia. We have thousands of people in Vietnam, even though they are not combat troops.

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

Mr. PROXMIRE. Mr. President, I do not have much time, but I would be happy to yield to the Senator from Maine.

Mr. MUSKIE. Mr. President, I want to make an observation in response to the distinguished Senator from Missouri. I understand his reservations and doubts. Similar reservations and doubts prompted me about a year ago to vote against a stop-the-bombing amendment introduced by the Senator from Alaska (Mr. GRAVEL). However, I resolved those doubts in this way. First of all, I am moved by the considerations that the Senator from Michigan, referring to the New Yorker article, so eloquently stated.

The PRESIDING OFFICER (Mr. HANSEN). The Senator's time has expired.

Mr. PROXMIRE. Mr. President, has all my time expired?

The PRESIDING OFFICER. The Senator from Wisconsin is already 1 minute over on his time.

Mr. PROXMIRE. Mr. President, has all my time on the bill been used up?

The PRESIDING OFFICER. The Senator has 15 minutes remaining.

Mr. PROXMIRE. Mr. President, I yield 1 additional minute to the Senator from Maine.

Mr. MUSKIE. Second, Mr. President, I say that no vote we take today will stop the bombing tomorrow. We have an opportunity in the Senate to indicate our revulsion against this continued bombing. If we act affirmatively today, there would be ample opportunity to make a response to the Senate initiative to protect our troops and to do whatever is necessary to bring them home.

The presence of our troops there has been used as an excuse for continued bombing now for 8 years. It was 8 years ago, in another presidential year, that those bombings began. They have been continued ever since for the same reasons that are now implicit in the opposition to the Proxmire amendment.

[Applause in the gallery.]

Mr. President, I, for one, am going to join the Senator from Wisconsin, the Senator fom Massachusetts, and the Senator from Missouri in opposing the continuation of the murderous bombing in Vietnam.

Mr. PROXMIRE. Mr. President, I thank the Senator for having given a better answer than I could have made.

Mr. McCLELLAN. Mr. President, I yield 5 minutes to the Senator from North Dakota.

Mr. YOUNG. Mr. President, it would have been nice to have heard many of the kind of speeches that have been given today, 8 or 10 years ago, when we got involved in this war. I am not one who favored this war.

I ask unanimous consent that my views expressed in the CONGRESSIONAL RECORD on June 16, 1971, be printed at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. YOUNG. Mr. President, I spoke out against this war as far back as 1954. So, I do not speak out as one who favored this war. How we got involved in the war is now a moot question. We did get involved in it. At one time our casualties were as high as 550 a week and the cost was as high as $28 billion a year. Casualties are now down very low. I think that about 2 weeks ago there were not any casualties that week.

Many cities in South Vietnam have now been completely destroyed by invasion from the north. Millions of South Vietnamese were killed, crippled, and made homeless. That destruction is not mentioned here today.

We went over there under a previous administration and talked the South Vietnamese into fighting this war.

At that time Secretary of Defense McNamara told them we could win this war in a matter of a few months. In fact, he made a speech on the streets of Saigon and urged them to an extra effort to fight the war, because he thought we could win the war by Christmas time.

We did not tell those in South Vietnam who are now suffering heavy casualties that when we turned this war over to them, we would stop our support as far as bombing is concerned. If it had not been for that bombing support, the South Vietnamese would not have been able to stand up against the North Vietnamese with their new tanks, mortars, rockets and all the other modern equipment furnished them by the Russians and Chinese. They would have lost the war by now.

Mr. President, after all the blood and money that we have spent there, now at a time when the North Vietnamese are hurting and we are negotiating a settlement for the return of our soldiers and when a return of our soldiers is a real possibility, I do not think that we ought to be telling the South Vietnamese or the North Vietnamese that we are going to quit bombing and no longer going to help them in this war.

Mr. President, I do not believe that now, after we have spent a lot of blood and money over there, we should take away from the South Vietnamese the last defense we are giving them. It would be disastrous.

EXHIBIT 1.

SENATOR YOUNG'S POSITION ON VIETNAM WAR, 1954 TO 1971

(Speech of Hon. MILTON R. YOUNG, of North Dakota in the Senate of the United States, June 16, 1971)

Mr. President, no one in the U.S. Senate has been more opposed to the war in Vietnam than I. I thoroughly disagree with those who have claimed this is the right war in the right place. It is the wrong war in the wrong place. This has been my position from the beginning.

All but two Members of the U.S. Senate voted for the Tonkin Gulf resolution. I was one of those who voted for it. That resolution was considered by almost every Member of the Senate to only authorize President Johnson to take retaliatory action against the North Vietnamese who had previously attacked our destroyers in the Tonkin Gulf. It was no more an authorization to take us into a major war than was the Quemoy-Matsu resolution affecting those islands off the coast of Communist China.

Mr. President, I have a long record of opposing this war. As far back as April 27, 1954, in a press release to more than 50,000 North Dakotans, and carried by most of the press in North Dakota as well as Washington, I stated:

"We must count our foreign policy as a failure if nine years after World War II we cannot find enough people among the teeming millions of the Far East willing to fight the battle against Communist aggression. . . . I am unalterably opposed to sending our troops to another 'Hell hole' on the Continent of Asia. (This was when the French were losing their war in Indochina.)"

Eleven years later, on March 24, 1965, in a news release with the same coverage, I stated:

"It would be courting disaster to become

involved in a jungle war with the hordes of Asiatic Communists in this, the most militarily untenable area in the entire world for us to fight."

I cite these quotes, and more to follow, to indicate that, unlike many of the doves of today who once thought this war was a great idea, I always thought, and still do, that our involvement in this war was one of the great tragedies of our time.

I doubt if there was any period in history when our foreign policymakers and some of our military leaders used worse judgment. Former Secretary of Defense McNamara under President Johnson, as well as a few military men associated with him, actually thought we could win this war in a matter of a few months just using American troops and without making any attempt to train and equip the South Vietnamese so they could fight their own war.

In another news release I said on June 30, 1965:

"After all, it is the Vietnamese people who will have to win this war . . . We will have to fight Communism for many years to come. The problem is so serious and the struggle so desperate that we simply cannot afford to dissipate our strength in areas such as Vietnam or the emerging nations in the jungle area of Africa."

I think most people have at long last come to the conclusion that if this war ever was to be won in Vietnam and Southeast Asia it would have to be won on the ground in the jungles. No war we have fought in the past 50 years involved more vicious ground fighting.

After we become involved in this war against my many protestations, I supported the President of the United States in his efforts to fight this war to a successful conclusion. For far too many years the policy of the Government of the United States was to try and win this war alone without the Vietnamese. Only in recent years—in fact, since the Nixon administration—has there been a real effort to train and equip the South Vietnamese to fight their own war. They have come a long way in building a strong military force and many of their divisions can be rated as good fighting units. They still face a very difficult military situation. The North Vietnamese main army is still virtually intact and they have more than 110,000 crack troops in Laos. Most authorities, I believe, will agree that the North Vietnamese are the best and toughest jungle fighters in Asia.

With all of the training and equipment we have provided the South Vietnamese and with the more than 1 million men they have under arms, they are now in a position to hold most if not all of their country if we were to withdraw. This is a very different situation than if we had withdrawn 2 or 3 years ago. Thus a bloodbath such as occurred when the Communists took over North Vietnam has been prevented. The Nixon Administration's policy has, to a considerable extent, been successful.

How to vote with respect to several of the amendments now pending in the Senate designed to terminate this war in one way or another involves some of the toughest decisions I have ever had to make. After all the blood and money we have spent in South Vietnam, I had hoped that we could salvage something out of this war and end it in a way we could live with in the years to come. In a large measure President Nixon's policy has accomplished this. His Vietnamization of the war has in a very large measure been successful and they are now in a strong position to defend themselves.

Mr. President, because of President Nixon's policy to deescalate this war our combat losses now have reached the lowest level in more than 4 years. They are still too high. What concerns me most, however, is the escalation of drug addiction among our troops in South Vietnam. It is reliably estimated that 35,000 to 40,000 of our troops are using drugs, and mostly heroin, and many of them have already become addicts. There is practically no return for a heroin addict—probably not more than 5 percent are able to shake this curse. I would rather have a son or grandson serving in South Vietnam be a combat fatality than to return a heroin addict to live the rest of his life with all the torture and misery that an addict must endure.

This situation is not going to get better in South Vietnam. Heroin is as easily obtained by our servicemen in Vietnam as is candy here in the United States. It is much purer and more powerful than anything obtainable here. The same is true of marihuana. Dope pushers in Vietnam even resort to such devilish practices as inserting a few heroin-loaded cigarettes in a package of regular brand cigarettes available on the market. Because of this, many of our Government officials, especially in the Embassy, are prohibited from buying cigarettes any place except in the Embassy compound. The South Vietnamese Government has done nothing to decrease the availability of heroin.

The people of South Vietnam have many, many fine qualities. They are a good-natured people and very intelligent. One of the most difficult problems we face in Vietnam, however, is that graft and corruption among their leaders is an accepted way of life. This has been a fact of life for centuries in Southeast Asia.

It is with great reluctance and after long, thoughtful, and prayerful considerations that I have decided to vote for one or more of the amendments now pending which could with all of their undesirable features hasten the end of this war.

President Nixon is to be commended for all he has done to bring our troops back from this unfortunate war and for the great strides he has made in training and equipping the South Vietnamese to fight their own war. While the main Army of North Vietnam is virtually intact and, even though they have at least 110,000 troops in Laos—soldiers who are the best jungle fighters in Asia—I still believe that the South Vietnamese in the past 2 years through President Nixon's efforts of Vietnamization are now in a position to hold most if not all of their country, even though we withdraw. There will be no bloodbath in South Vietnam such as occurred in North Vietnam when the Communists took over.

With the ever-increasing opposition to this war by our people, President Nixon or any other President would find it difficult if not impossible to accomplish more in bringing this war to an honorable conclusion. This has been a very difficult decision for me. One of the major reasons for my action at this time is the alarming increased drug use and addiction among our troops in Southeast Asia.

Mr. President, I ask unanimous consent to have inserted in the RECORD a recent news release of mine and other documents indicating my opposition to our becoming involved in a war in Southeast Asia dating as far back as 1954.

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

ADDITIONAL QUOTES FROM NEWS RELEASES OF SENATOR MILTON R. YOUNG

January 26, 1966. "It is entirely possible that our forces will have to be expanded to 500,000 or possibly even more, depending on how deeply involved Communist China may become in this war. (This was at a time when we had 200,000 troops in Vietnam.) . . . There is probably no place in the world where the Communists have more advantages and we more disadvantages. This is one of the reasons why I was opposed to becoming involved in this jungle war. We must oppose the spread of Communist aggression, but I have always strongly felt that, with our limited manpower and financial resources, we should be more selective as to whom we help and where we fight the Communists. I have expressed my views through these newsletters and even in a personal visit with President Johnson early last year.

"I am very much opposed to the President's request for $3.25 billion more than Congress provided last year for the Great Society Programs. Sacrifices will have to be made if we are to successfully prosecute this war and not have run-away inflation or excessive new taxes."

April 13, 1966. "Those who advocate that we must seek out and fight Communists in every rathole in the world should consider what importance it may have to our own national security, the cost involved, and our limited manpower and economic resources."

February 7, 1968. "Our role in trying to police the entire world is getting us more deeply and seriously involved, and particularly in Southeast Asia and Korea . . . Our military force there is one of the best the United States has ever put on a battlefield. They are doing a superb job under impossible circumstances. As important as the bombing is, this war will have to be won on the ground in the jungles of South Vietnam. Our peace offensive has not been as aggressive or as effective as our military efforts. While I was strongly opposed to our involvement in this war, I am not one who believes we can just walk away from it."

[From the Minot Daily News, Sept. 27, 1967]

JOHNSON "BRAINWASHED"

WASHINGTON, (AP)—Republican Sen. Thruston B. Morton said today President Johnson was "brainwashed" by U.S. military and defense industry leaders into believing the United States could achieve a military solution to the Vietnam war.

The former Republican national chairman said Johnson in turn "brainwashed" the American people during the 1964 presidential campaign by saying the Southeast Asian war should be fought by Asians.

The Kentucky senator, regarded as a foreign policy spokesman for GOP Senate moderates, leveled his strongest attack to date on administration Vietnam policies at the organizational meeting of Business Executives Move for Vietnam Peace.

He continued a slashing Republican attack on Johnson's policies that touched off an uproar in the Senate Tuesday.

The Business Executives Move for Vietnam Peace claims a membership that includes business leaders from 44 states.

Noting that former President Dwight D. Eisenhower warned before leaving office in 1961 of the growing power of a "military-industrial complex," Morton added: "I believe that President Johnson was brainwashed by this power center as early as 1961 when, as vice president, he ventured to Saigon on a fact-finding mission."

Morton said he originally backed Johnson's escalation of U.S. troop involvement in the war. But today he said, "I have grave doubts that any military action, then or now, would have decisively influenced the conflict."

Contending a political solution in South Vietnam may already be out of reach, Morton called for a unilateral reduction of the U.S. military involvement, if necessary, to halt the fighting.

Morton's assertion that a political victory may be out of reach in Vietnam was echoed independently by Sen. Milton R. Young, R-N.D., a member of the select committee which oversees the operation of the Central Intelligence Agency.

"There is no possibility of etablishing a sound, strong and responsible central government in South Vietnam in the foresee-

able future, "Young said in a report to his constituents.

Young said "corruption is an accepted way of life there," and added that American officials "can be expected as they have in the past to tolerate this dishonesty and corruption."

He said "these top American officials do a pretty good job of defending everything in Vietnam, including rigged elections."

NEWS RELEASE OF SENATOR MILTON R. YOUNG, MAY 18, 1971

Limiting the power of the President to take us into major wars without a declaration of war by Congress is long overdue. I strongly support a proposal now pending in the Senate which would sharply limit our involvement in such wars in the future. The President has had almost unlimited authority in this respect since our nation was founded, but it was only in recent years that it was used to take us into two major wars—Korea and Vietnam.

As the greatest nation in the free world, we do have a responsibility to try and prevent major conflicts in other areas of the world. We do not have the capability, however, to be the policeman for the whole world. President Nixon has wisely initiated a new policy—that of helping nations with financial and military assistance but without involving our troops. This more limited role of the United States is long overdue. Secretary of State William Rogers—the best Secretary of State in my time—is desperately trying to prevent another war in the Middle East and without committing U.S. military forces. Our involvement in a Middle East war would be even more far-reaching and potentially disastrous than Southeast Asia. Among other things, we would be directly involved in a confrontation with Russia.

For most of my life I have been a strong isolationist and, in a large measure, I still am. We just have to reduce our military expenditures. I strongly support legislation to sharply decrease our military forces in Europe and elsewhere. We have over 525,000 servicemen and their dependents in Europe now. This, and a sizable over-all reduction in our military personnel, would sharply decrease our defense expenditures and make more money available to modernize our military forces and to meet some of our more urgent needs at home. We can have an adequate defense with a smaller but more modern Army.

Even with a major war on our hands we are decreasing the percentage of our tax dollars for defense purposes, while Russia continues to increase their military expenditures. In many categories Russia is now militarily superior to the United States. They have always had a much larger Army. This is an area in which we cannot compete. They have built a large, strictly modern Navy since World War II, while much of ours is becoming obsolete. For the first time in their history they have a powerful fleet in the Mediterranean with bases in Egypt. They have more submarines and are building nuclear submarines at a much faster rate than we are. They continue to increase their number of intercontinental nuclear missiles. The nuclear warheads on their ICBM's (SS-9) are 25 megatons (the equivalent of more than 25 million tons of TNT). Our newest missiles (multiple warheads), which we believe are more accurate and effective, only carry about one-eighth of the Soviet megatonnage.

Russia has also made great advances in air power. They flew the first supersonic commercial aircraft (SST) in the world and will soon put it into commercial operation. Their new Foxbat fighter plane, some of which are now deployed in Egypt, is the hottest fighter in the world today. It flies faster and higher than anything we will have until our new F-14's are available, hopefully in three years.

When we faced a showdown with Russia in Berlin in 1948, Russia backed down only because of our military superiority. When President Kennedy forced a showdown with Russia on their deployment of intermediate range nuclear missiles in Cuba, Russia backed down again only because of our superiority. Russia may well force a similar showdown in the Middle East. It is questionable whether Russia would back down again. They are at least close to being as strong militarily as we are. Certainly if the present trend of Russia's accelerated buildup and our decrease in the development of new modern weapons continues, they will be a mightier nation than we are in the near future. That would be disastrous for us and the rest of the free world. We would be subjected to every conceivable blackmail and humiliation which is a major part of Communist strategy.

I am not a militarist, but I always believed in having the most modern military equipment. That is not inconsistent with my strong opposition to the war in Southeast Asia and in our involvement in other very possible wars in other areas of the world.

Mr. SCOTT. Mr. President, will the Senator from Arkansas yield me 8 minutes?

Mr. McCLELLAN. Mr. President, I yield 8 minutes to the Senator from Pennsylvania.

EXCUSATIO BELLI EORUM

Mr. SCOTT. Mr. President, the most famous of the Sherlock Holmes stories, I suppose, is the one where Sherlock Holmes asked Watson, "What of the watchdog in the night?" Watson did not know. And Sherlock Holmes said that the fault of the watchdog was that the dog did not bark.

There is one voice which is not here today. There is one voice which is silent in this Chamber. There is one voice which was heard recently, the voice of the leader of the opposition party, who explained his decision not to be here to vote on the last so-called end-the-war amendment by saying that Congress cannot end the war and that, therefore, it was not necessary for him to be here.

He must have made the same judgment today. I might say that I agree with him. I have been saying all along that Congress cannot end the war. This is a war that began 8 years or more ago. It has come down from over 500 casualties a week to none or one a week. It has come down from a cost of $28 billion a year to $6 billion a year or less.

The war is nearly ended as far as American involvement is concerned.

I have pointed out over and over again that when Senators offer these bootless, useless, so-called end-the-war amendments, they are merely trying to ride the emotion of some of those people in the country, who are quite rightly saying, "Let us end the killing." However, that implies that the rest of the Americans do not share that sentiment. Of course we do. We all do. We all want to end the killing.

We all pray that this Nation and the people of the world may enjoy peace.

The Senator from Wisconsin says that there is no reason for not taking his amendment seriously, because they would always find the money somewhere else and keep right on supporting the bombing activity.

Then we have the party champion saying that he does not have to be here because the end-the-war amendments do not mean anything.

Moreover, this amendment in no way protects the POW's. This amendment has no relationship to the proposals contained in some of the other amendments.

Then we hear the plea which is a cri de coeur, and that cry from the heart is to stop the killings. "Is it necessary to go on killing?" asks the New Yorker, that magazine of prime entertainment in this country, as a spokesman for foreign policy and expert analysis. It repeats what nearly everyone else would like to know. Is it necessary to go on killing?

I submit that this is a self-serving declaration rather than one responsive to the issues, because it could, indeed, apply to World War II. And I ask whether anyone got up on the floor of the Senate then to ask, "Is it necessary to go on killing the Germans and the Japanese?" Everybody would have preferred to have it over with.

Did anyone get up on the floor during the Korean war, and say, "Is it necessary to go on killing the North Koreans and Chinese?" They make a distinction between the two and say that some wars are moral and some are not. But all war is immoral. War is a last resort. It should not be necessary to go on killing except where someone makes it necessary.

Now, who is making it necessary? Mr. President, you never learn from those who propose the end-of-the-war amendments. You could not ascertain who is making the killing necessary. Oh, these noble Romans; not one of them rises to condemn the aggressor. They do not rise to say the killing is necessary because once before when we stopped the bombing Hanoi came down with three divisions, across the demilitarized zone, into Laos, Cambodia, and South Vietnam, and killed everybody they could find, military and civilian alike. They killed refugees, refugees who were trying to vote with their feet and get out, refugees who always go South rather than North, which should be some indication of where they lay the blame.

Is it necessary to go on killing?

None of these noble Romans rise to say the killing results from the aggression of a ruthless, determined, zealous enemy, dedicated to dispose of as many of their people as they can find to kill on the field of battle or helpless in their homes. That is why there is killing.

Is it necessary to go on killing? Not for 1 minute if this war can be ended, and we, the United States, have proposed honest and decent means to end this war.

They could discuss the President's proposal: An immediate cease-fire. Nobody among the noble Romans gets up and pleads for a cease-fire. That is the way to stop the killing. If the guns are silent people do not die from the guns. If the rockets do not fire people do not have their flesh torn and their bodies scattered by the horrors of war. That is the way to end the killing.

Is it necessary to go on killing? No; not if the North will accept the cease-fire, together with the exchange of prisoners of war.

It is not only some Senators whose

hearts bleed for the prisoners of war, but all Members of the Senate.

The withdrawal of all forces within 4 months—if that were accompanied by peace that would stop the killing. A new, internationally supervised election in Vietnam with the President of South Vietnam resigning 1 month before the election—these proposals would stop the killing.

But for heaven's sake, in the name of that holy justice which should guide and direct deliberation of us all, let us here condemn the aggressor, let us here condemn the guilty, let us shift the weight on the scales of justice to the bloody hand of the killer, and not the defender. Let us have an end to this kind of posturing that says, "Because I offer an amendment to end the war, all who do not vote for my amendment must want the war to continue." What pious nonsense that is. There is no good in it.

If this war is to be ended it can be ended in two ways: Direct negotiations at Paris, which are going on, and quite seriously, or on the field of battle.

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

Mr. SCOTT. May I have 1 additional minute?

Mr. McCLELLAN. I yield 1 minute to the Senator from Pennsylvania.

Mr. SCOTT. Either way is an honorable way. Either way respects the wish of all persons of good will to end this war. Either way respects the fact that the South no less than the North is entitled to an honorable way toward a decent, fair, and mutually acceptable solution. That is the way to end the war.

But, Mr. President, you do not end it, even in the absence of your leader who found another field of combat, and leaves it to other field marshals.

You do not end it on the floor of the Senate in a resolution that says we want to end the war because we want to stop the killing. America wants to stop the war; the Senate and the House want to stop the war; and we should stop it through the only means available to us, through supporting the President in his efforts to end it.

Mr. President, this amendment should be defeated.

Mr. COOPER. Mr. President, will the Senator yield to me for 5 minutes?

Mr. McCLELLAN. I yield 2 minutes to the Senator from Kentucky.

Mr. COOPER. Mr. President, I remember several years ago, and I think I was the first one, or at least among the first ones, to urge cessation of the bombing of North Vietnam, with the hope and belief that it would bring about negotiations. It did not and they never came until recently between Dr. Kissinger and the North Vietnamese.

I have to agree with my colleague, the Senator from Pennsylvania, that there is a silence in this land on the part of those who protest the war. I must say, and I do not want to be too political about the war, the candidate for the Democratic Party, the antiprotesters who sit in our galleries and applaud, the demonstrators never mention the fact this war could end immediately if the North Vietnamese would agree to it.

I have offered and voted for a number of end-the-war amendments. I finally stopped doing so because I thought they were illusory, always with some condition, which meant that even under their terms they would direct the continuance of the war.

I do not believe the amendment before us will end the war and I do not think it has anything to do with ending the war. The President has the authority constitutionally to protect the troops and no statutory amendment can prohibit his authority. I believe that only the President can end the war.

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

Mr. COOPER. Will the Senator yield to me for 1 additional minute?

Mr. McCLELLAN. I yield 1 minute.

Mr. COOPER. I have been worrying about how to vote. I shall vote for the amendment even though the fault is with the North Vietnamese. I vote for the amendment to express my feeling that I deplore this bombing and killing on both sides and I must say this as a human being. That is my only statement.

The PRESIDING OFFICER. Who yields time?

Mr. PROXMIRE. Mr. President, how much time is remaining on both sides?

The PRESIDING OFFICER. The Senator from Wisconsin has 12 minutes remaining and the Senator from Arkansas has 21 minutes remaining.

Mr. PROXMIRE. Mr. President, I would like to reserve 4 minutes for the majority leader and 8 minutes for the Senator from Arkansas. I yield 8 minutes to the Senator from Arkansas.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. FULBRIGHT. Mr. President, I sympathize with the position of the Senator from Kentucky and the Senator from Pennsylvania. Of course, the war would end if the North Vietnamese would surrender. It would have ended long ago if they would have surrendered. They are not disposed to surrender because it is their country they are fighting for.

The Senator from Pennsylvania, I think, is not quite in as good form as usual. He protesteth too much. He is usually appealing to us for bipartisanship and not making partisanship out of these debates.

Today he takes the occasion to very slyly condemn Senator McGOVERN, who is not here.

I agree with him that this is not going to end the war. In the first place, it has not the votes. This Senate time and again has demonstrated it is in support of the President's policy. I regret that. The Senate, and Congress as a whole, has become recently the mouthpiece of the Executive, and no longer finds itself capable in the field of foreign policy, and asserting its influence in any respect, whether it be on amendments of this kind or on appropriations for making the war, or elsewhere. I recognize this was not likely to succeed because I cannot recall any vote that has carried in this body against the wishes of the administration, and particularly the Pentagon.

Nevertheless, it is worthy and I approve of the Senator from Wisconsin offering this amendment in the hope that the discussions which it precipitates, including that of the Senator from Pennsylvania, will open the eyes of the people of this country.

After all, during the past several years, when I was asked, "Why cannot the Senate stop the war? Why can it not influence the policy?" even before this administration came into power, "The ultimate power," I always said, "was an election."

We have an election coming up. We know what the polls indicate. It may be that the great majority of the people of this country believe in and support the concept of victory and to make the North Vietnamese surrender, as the Senator from Kentucky just suggested. Maybe they will have to surrender.

It was not too long ago that one of the candidates for public office in this country suggested that we "bomb them into the Stone Age," he suggested with nuclear weapons. At that time, when our people were a little more sensitive to matters of this kind, that suggestion was ridiculed. Now we find ourselves actually bombing them into the Stone Age, and that people approve that apparently. I think that is regrettable.

I think that is a good reflection upon the sensitivity of this country, upon the degree of civilization which we have achieved. But it is there. I only say a word in the history of this matter. This body has made some valiant efforts to influence our foreign policy, going back some 7 or 8 years. I think one of the turning points is in the attitude toward the Communist world which arose from hearings which began in this body, and there was widespread discussion of it.

The President's policy, in the last year at least, evidenced by his travel to Moscow and to Peking, has changed with regard to the question of living with, coexisting with, the Communist world. It seems to me this is a very significant change, and how the administration can reconcile the continuation of this war against a small Communist country when it has changed its attitude toward a great Communist country is beyond my comprehension. If there is any reason for continuing it, other than pride and vanity, I do not know what it is.

In any case, as we have seen this progress, the acceptance of what we are doing in Vietnam has become greater than it was a year ago, or 2 years ago. I suppose people become accustomed to anything, even to the killing of other human beings, and it no longer offends them and it does not affect them.

I think the Senator from Wisconsin does a great service in simply advising the country again that this killing goes on and that we ought to consider a change in our policy to stop it. I do not think it is going to stop it simply by bombing them. Nothing indicates that. There is much evidence that it will not. What will change will be a compromise very much on the basis of the principles accepted in 1954 when the French settled their argument, their war, with the Vietnamese in a very short time and on very civilized and decent principles.

I ask unanimous consent to have printed at the end of my remarks two articles bearing upon this subject, one of them called "The Kissinger Mystery," by Anthony Lewis, and an article entitled "The Nonwhite War," by Herbert Mitgang, which appeared in this morning's New York Times.

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

(See exhibit 1.)

Mr. FULBRIGHT. Mr. President, the significance of the Kissinger article is that it again traces the change in the situation since the administration in which Mr. Kissinger plays such an important part came into power. At that time, almost immediately after President Nixon took office, I had occasion to discuss the matter with him, in the presence of Mr. Kissinger. They assured me that it would be a matter of only a few months until the war was ended; they had no idea of carrying it on. They recognized its significance. They recognized its significance to the country as a whole, not only what it was doing to us, but also the physical reality.

We must remember that President Johnson had retired from public life. Most people, including myself, believed that the principal reason was that he sensed that at that time the people did not approve of the war which was then in progress, and which he had done so much to escalate.

Today, nearly 4 years after that, it still goes on. Only its character has changed. It has changed in the transfer of our men, manpower, and upon the high seas, but we are still engaged in a search for victory in a war that has become completely discredited. I do not think there is any validity whatever to the reasons given by the Senator from Pennsylvania for the pursuing of this war. That is the most superficial attitude I think we could have—that the North Vietnamese are responsible for the killing. They are in their own country. Of course they are involved, and of course they have been involved, in a civil war for many years, but the intruder clearly is the United States, just as it was the French, both foreign, white, alien countries intervening to try to determine the course of events and who rules Vietnam.

EXHIBIT 1

THE KISSINGER MYSTERY

(By Anthony Lewis)

In Richard Nixon's Washington, Henry Kissinger stands out like Kilimanjaro on an arid plain. He is a man of broad intellect in a narrow and anti-intellectual world, a self-confident man with a sense of humor among the defensive and the humorless.

His accomplishments assure him a place in the history of American foreign policy. His clear vision of great-power relationships, however flawed by inadequate economic interest or understanding, has begun to make possible a new realism in American dealings with China and the Soviet Union. And he has done an extraordinary amount of the work himself: advice to the President, administration, negotiation.

All this makes Kissinger a fascinating figure, not least to the liberal intellectuals otherwise alienated from Washington. But with them more than curiosity is involved. There is pain, and disappointment, and mystery: How can a man as sensitive and intelligent as Kissinger have let our Government say nothing for months while its Pakistani allies raped and slaughtered the people of Bengal? How, above all, can he justify the continuing American destruction of Indochina?

The mystery is explored in a new book, "Kissinger: The Uses of Power." It is by David Landau, who developed his interest at Harvard College before graduation last June. Landau is misled into a little parlor psychoanalysis, perhaps an irresistible temptation with this subject. But he comes back to solid ground in his exploration of the problem to which he wisely devoted half the book: Vietnam.

When Kissinger left Cambridge in 1969, he assured friends that he would have the United States out of that war in months. When his Harvard colleagues came to see him in protest at the invasion of Cambodia in April, 1970, he told them to come back in a year—"you will find your concerns are unwarranted." That confidence about ending the war is a repeated theme. On what was it based?

Kissinger believed in 1969—and made no secret of his view—that Vietnam had proved to be a poor place for the exercise of American power. He understood that the United States could not "win" over a tenacious nationalist force. He thought the U.S. should get out, preserving its credibility as a world power merely by obtaining an assurance from the Communists of a "decent interval" before they took over in Saigon.

The trouble with that theory was that it took too little account of recent Vietnamese history. Twice before the Communists had been offered a deal and believed it: in 1946 when France promised a Vietnam under their leadership, in 1954 at Geneva. Both times they were betrayed.

It has always been unlikely that the Communists would believe another unsupported promise to keep hands off Vietnam, least of all from a President whose rhetoric seems constantly to escalate the American interest in a non-Communist Saigon. That is why Hanoi has sought formal agreement with the U.S. on the political future of Vietnam—as an assurance against renewed intervention.

When the Kissinger negotiating theory did not work, the United States turned to threat and to force. And so today the man who was a skeptic about America's involvement in Vietnam serves an Administration which has intensified the involvement and the destruction, paying an ever more terrible price for whatever end is reached.

How did it happen? Landau suggests that Kissinger had "an obsession with U.S. credibility" that obscured his original understanding of realities in Vietnam, and a deep fear of reaction from the right in the U.S. Landau may overestimate Kissinger's ability to influence the President on this issue. And there is the factor of time: As Kissinger said when he went to Washington, he probably had only two years until his ability to innovate faded and he found himself defending policy.

Still, the questions about Henry Kissinger remain: If all he wanted was that facade of a "decent interval" in Vietnam, how could he keep working for a Government that killed so many people for such a shadowy cause? And if the aim was really to crush Hanoi into submission, how could he of all people support such an old misconception?

It is as if there were a gap in his intellect or character. One person who has known Kissinger says that in his focus on the application of power in the world: He fails to understand that foreign policy has moral consequences—for one's self as for others. Another puts it more bluntly: "He does not care enough about killing people."

A year ago Kissinger told some reporters: "What we are doing now with China is so great, so historic, that the word 'Vietnam' will be only a footnote when it is written in history." His tragedy, and ours, is that he was wrong. The United States has been more deeply affected by the disaster of Vietnam, and will be, than by any other contemporary event. Kissinger must know that, and accordingly must yearn for a settlement as much as anyone. The alternative is to believe that a brutal, unending use of force to make one small country conform is Henry Kissinger's *Pax Americana*.

THE NONWHITE WAR

(By Herbert Mitgang)

WASHINGTON.—There is one human matter that is virtually unmentionable in the official American pronouncements about the Vietnam war. It concerns the casualties and refugees—practically none of whom are white—caused by present bombing policies over allied, enemy and neutral countries in Indochina.

Repeatedly, the Administration has emphasized that the war was inherited and that a half-million ground troops have been withdrawn from South Vietnam. True enough, but a big omission here is that, because of expansion of the war theater with Air and Navy units and their deep infrastructure, there are still a half-million Americans supporting Vietnam hostilities across the wide Pacific command.

President Nixon's declaration that there will only be 27,000 Americans in South Vietnam by Dec. 1 is more than a concealment of the actual military manpower engaged in the war. It plays down the risks run daily by carrier pilots off the Gulf of Tonkin and fighter pilots taking off from Thailand bases against Soviet MIG's and missiles; and it withholds their role from public attention.

But the greatest omission of all concerns the nonwhite people on the receiving end of the terror falling from the skies. Watching Senator Kennedy's Subcommittee on Refugees attempt to extract the facts from Administration spokesmen is a despairing sight. A few days ago, in the old Senate Office Building, he asked: Why is it easy for you to tell us how many bridges have been destroyed in North Vietnam and the precise number of trucks hit along the Ho Chi Minh Trail but not how many hospitals, schools, churches and other civilian installations have been hit by our bombs? The evasive response by an Assistant Secretary of State was that these were not deliberate military targets but only "regrettable by-products" of the violence of warfare.

Nevertheless, the subcommittee on Refugees has been able to assemble the human cost of the expanded Vietnam war. Sources include church, medical and voluntary groups, United Nations agencies, the General Accounting Office and field observers reporting to the subcommittee's counsel, Dale S. De Haan, plus whatever information is made available by the Government's intelligence and military groups—which do not have civilian refugees and casualties high on their lists of concern.

The "regrettable by-products" include these these statistics: In the last two years about 400,000 people have been killed throughout Indochina—a frightening number that is an actual "bloodbath," as distinct from the theoretical one predicted by President Nixon in the event that American support was withdrawn from the Thieu Government. Since the North Vietnamese do not divulge their casualties, the real figures could well exceed this estimate.

The people displaced from their homes by the war's continuation in the last two years include: 1,850,000 South Vietnam refugees; 2,000,000 Cambodian refugees; 250,000 Laotian refugees and an unknown number of North Vietnamese. South Vietnam has suf-

fered the most; the Refugees subcommittee estimates that the total number of refugees since the war began is 8,000,000, almost one-half of the South Vietnamese population.

The military and civilian dead, wounded and displaced throughout Indochina will only be known when the war finally ends. In the meantime, there is little preparation by the United States to alleviate the suffering of the nonwhite people whose governments have been supported and whose bases have been used as airstrips to launch new casualties, new refugees among the civilian populations. Efforts to pay for the suffering, as distinct from the armaments, have been cut in Administration budgets.

Based on hospital records, about one-fourth of the wounded civilians in South Vietnam are children under 12. Most of the South Vietnamese doctors go into military service, leaving hospitals understaffed. Some hospitals have been destroyed, others no longer function. And the wounded and refugees still run at the rate of several thousand every day the war goes on. They run to Saigon's side when North Vietnam's shells burst and run again when American bombs fall. But the Senate subcommittee's analysts report a new development in recent months: Hundreds of thousands in the northern provinces chose to remain under North Vietnamese rule and did not "vote with their feet" for Saigon.

Bombing from on high, obeying the call of the sensors and unloosing the smart bombs, American fliers fortunately are sustaining few casualties. The same cannot be said for the nonwhite civilian populations of Indochina, about whom the American public does not hear in its Presidential bulletins.

The PRESIDING OFFICER. Who yields time?

Mr. McCLELLAN. Mr. President, I yield 2 minutes to the distinguished Senator from Tennessee (Mr. BROCK).

Mr. BROCK. Mr. President, there is an old trick in southern politics of raising up a straw man and then knocking him down. I think the Senator from Arkansas has again demonstrated his competence in that field. Nobody has asked for a surrender. I would say, for myself, that no one here is speaking as a mouthpiece of the executive branch.

If I remember correctly, the candidate in 1964 to whom the Senator alluded made no such plea as a request for the nuclear bombing of Vietnam. The fact of the matter is that this amendment is, in effect, a mortgaging of the lives of the thirty-plus-thousand American troops remaining in Vietnam.

The Senator from Wisconsin's saying that bombing was totally irrelevant and unnecessary in World War II is a denial of the record of his own candidate. Why does he not suggest that we simply eliminate manned aircraft, if that is the case? I have not heard him do it.

The fact of the matter is that he does, with this amendment, place a mortgage on thirty-plus-thousand American lives remaining in Vietnam, not in a combat status. There are no combat troops there. Without air power they remain without adequate protection. I am not willing to play that kind of game. I am not willing to put a price on the lives of Americans. I do not know whether it costs us $2 billion or not to be doing that, but any dollar figure does not exceed the value of the life of one American soldier.

I support the amendment.

Mr. McCLELLAN. Mr. President, I yield 2 minutes to the Senator from Maryland (Mr. MATHIAS).

Mr. MATHIAS. I thank the chairman for yielding me the 2 minutes.

I just want to say that if the inner struggle that this amendment has caused me is illustrative of the struggle of the mind and spirit it has caused most Americans, I think we can appreciate the necessity of ending this war.

I view this amendment not only as a military and political decision, but as a human and moral decision, and I think the Congress of the United States has to address itself to human and moral decisions as well as political and military decisions.

There is an old law of Israel which says, "An eye for an eye and a tooth for a tooth," and sometimes that law has been misread as a law of vengeance—"An eye for an eye and a tooth for a tooth"—but in fact it was a law of mercy—not more than an eye for an eye, and not more than a tooth for a tooth.

I say that in the extent the bombing by this country is being inflicted on Indochina today we are exacting far more than an eye for an eye and a tooth for a tooth.

Mr. President, with some reluctance, I feel compelled to support this amendment.

Mr. GOLDWATER. Mr. President, will the Senator yield to me?

Mr. McCLELLAN. I yield to the Senator from Arizona.

Mr. GOLDWATER. Mr. President, I was not in the Chamber when, as I understand it, the Senator from Arkansas (Mr. FULBRIGHT) alluded to something he thought I might have said in 1964 with reference to using nuclear bombs in North Vietnam.

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

Mr. GOLDWATER. I yield.

Mr. FULBRIGHT. I was referring to General LeMay's statement, not that of the Senator from Arizona.

Mr. GOLDWATER. I was informed that the Senator was referring to me. So I apologize; I thought the Senator referred to me, and I wanted to make it perfectly clear that I have never advocated the use of a nuclear bomb in any place, at any time, nor would I ever, under the circumstances that we are in.

I was engaged as a Reserve officer at the time in the problems of defoliating the forests in that part of the world, where I had served in World War II and which I knew something about, and I made the statement that many things had been discussed, including an atomic device. The press picked that up before I got out of the studio and said I had advocated nuclear bombing. I just want to say that that is not so.

I further want to oppose this amendment. I listened to the statistics given by my friend from Wisconsin, and I have to say they are impressive. But we did not use the weight of our bombs when we should have. When you give an enemy as clever, as industrious, and as resourceful as the North Vietnamese, which defeated France for much the same reasons, almost 4 years of unrestricted use of highways and rails to get the supplies down South, all the bombing we have done, I do not think, could even have begun to knock out the supplies they have amassed. Our bombing should have begun the day we entered the war some 8 or 9 years ago. At that time we should have used all of our resources with conventional bombs, and I do not think the war would have lasted 3 months.

Mr. McCLELLAN. Mr. President, I yield 4 minutes to the Senator from Mississippi.

Mr. STENNIS. Mr. President, I thank the Senator, and I shall probably not use all that time.

We have been over the general subject matter of this debate many times and on many votes. I shall not detain the Senate now, except to cover two points:

I think this is the most dangerous amendment of all that we have considered so far, because it cuts off the funds, not after 90 days or at any specific time such as 4 months after its effective date, but when the bill is signed, that would automatically cut off all the funds in this bill, in the current year, for paying for this war.

We still have, in round numbers, 21,000 Army men over there in Vietnam itself, and an Air Force of around 11,000 men, most of whom would be left virtually unprotected if the President of the United States should have to suddenly stop all of this bombing, not only of Vietnam but through Indochina. Certainly we do not want to solemnly pass a drastic provision such as we find here, according to the words of this amendment, on that account alone.

Furthermore, there is no reference, no protection, and no consideration whatsoever given in this amendment to the POW's. As one who has taken part in these debates heretofore, that was the part of the other amendment that was most difficult to answer, the most difficult to argue against, and the most difficult to get votes against.

This amendment, as I say, leaves them out altogether, leaves them totally defenseless, those POW's and the missing in action, against whatever treatment might come from the enemy, which is one of the toughest if not the toughest we have ever faced.

So I think we must realize what we are doing here, and drop all other considerations. I see no point in trying to blame anyone for the war, or argue which presidential candidate might be right and which might be wrong. I do not think that has any place here.

But we are dealing with a serious matter, Mr. President. We cannot desert the men we sent out in uniform, representing our flag and our Nation. This amendment, even though not intended that way, would have that effect, which is no position for us to take.

I yield back the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. McCLELLAN. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Arkansas has 11 minutes remaining.

Mr. McCLELLAN. Very well. Mr. Pres-

ident, I have no other requests for time at the moment.

Mr. PROXMIRE. Mr. President, do I understand the Senator from Arkansas might speak now, and then the last speaker would be the majority leader?

Mr. McCLELLAN. I have no further requests for time at the moment. I understood that the Senator from Wisconsin wanted the majority leader to conclude the debate.

Mr. PROXMIRE. Yes; that is right.

Very well, Mr. President, I yield the remainder of my time to the majority leader.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. McCLELLAN. Understand, I have not yielded back my time.

The PRESIDING OFFICER. The Senator is correct.

Mr. MANSFIELD. Mr. President, the debate this afternoon has been carried out in a most somber manner, worthy of the situation which confronts this Nation today and has confronted the country for the last 11 years.

May I say to my friend the distinguished Senator from Tennessee that Vietnam and Indochina are not strawmen, as far as both the U.S. Senate and the American people are concerned. And may I say to my good friend the distinguished Republican leader that there are no noble Romans in this Chamber; we just happen to be a bunch of ordinary garden variety Americans who happen to have been able to achieve a degree of confidence in the people of our States, so that they were willing to send us here to speak our consciences as we saw fit.

As far as the fault is concerned, it is in all of us, and therefore we should not raise the finger against one another, but should recognize that because of actions taken by this institution and because of actions taken by administrations past and present, 45,858 Americans are now dead as a result of combat activity, 10,276 Americans are dead from noncombat causes, and 303,400 Americans are wounded.

The total dead is 56,134 Americans; the total casualties 359,534 Americans.

For the South Vietnamese, our allies, dead 181,000 plus, For our free world allies, dead, 5,000 plus. For the other side, dead, 895,260.

It does not make any difference what the color of a man's skin is, when he is dead he is dead. Nor does his background make any difference. But for 10 years we have participated in what was basically a civil war, in a country which would probably be considered sixth rate among the nations of the world. The casualties and the costs have been tremendous. I have tried to enumerate the figures.

The cost in money has been somewhere in the vicinity of $130 billion. But the greatest costs were the divisions at home, the problems which remain unsolved, and the questions which our people asked which we could not answer.

We have ruined four countries: North Vietnam, South Vietnam, Laos, and Cambodia. It has been estimated that there are in excess of 15 million craters in Indochina because of bombings—bombings which have been 3½ times greater in times greater in tonnage than all the tonnage than all the tonnage dropped in the Second World War and Korea.

Two million, five hundred thousand refugees have been created in Vietnam, 500,000 in Cambodia, and 750,000 in Laos—a country of 3 million people, according to the best estimates.

Well, I do not know what is going to wake this country up, because we have become apathetic. We have paid little attention to what is happening 10,000 miles away, because our casualties have been reduced—and I am grateful for that—because our men in large numbers have been withdrawn, and I am grateful for that. But in Thailand today we have 45,000 Americans.

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

Mr. McCLELLAN. I yield the Senator 1 minute.

Mr. MANSFIELD. In Laos we have mercenary troops from Thailand, and we have Americans in small numbers in as well.

We have about 40,000 men manning the Yankee Station in the South China Sea, stations for the 7th Fleet, and backup forces in the Philippines, Okinawa, and Guam.

This is a serious question which confronts this Nation. I know that every Senator, no matter how he votes on this amendment, feels this deeply and hopes devoutly that this barbaric war, this American as well as Vietnamese and Cambodian and Laotian tragedy, will soon be brought to an end.

We started this war, supposedly, to contain China, to stop the spread of communism, and now we are friends with China and the Soviet Union. The opposed menace has gone, but we are not.

Mr. CHILES. Mr. President, while I have consistently supported the efforts to cut off all support funds for the war in Vietnam and Indochina, contingent upon a resolution of the POW/MIA question, I cannot support the amendment by the Senator from Wisconsin (Mr. PROXMIRE) which would cut funds for bombing activities alone in Indochina.

It just seems to me to be the wrong way to seek an end to this war. We still have troops there which must be protected, and to cut off funds supporting the bombing does not answer the central question of seeking a final and total withdrawal of our military activity in Indochina.

With our troop withdrawal continuing, it seems that the bombing remains as the lever or tool to get our POW's back and our MIA's accounted for. I have a strong feeling that with the troop pullout our bargaining position was lessened in this regard. Now that the bombing activity appears to be our strongest bargaining device, to unilaterally cut this off without getting a commitment concerning the POW's/MIA's from the other side would seem to jeopardize our chances and would not be proper.

Mr. HATFIELD. Mr. President, 4,000 tons of bombs are being dropped every day on North Vietnam.

In South Vietnam, as of June 30, 1972, we have flown 38,055,349 sorties by our planes and helicopters. As the air war has intensified, these sorties have increased, while our troops have been gradually reduced.

Since we began this war, we have exploded a total 6,824,139 tons of explosives from the air. That is more than twice the total we used in World War II and the Korean war, combined.

And in the recent years of the air war, the intensity of our bombing has been extended over Cambodia and Laos as well.

The toll has been nearly beyond comprehension. Eight million refugees have been created. And in North Vietnam, Cambodia, and Laos, all we know is that tens of thousands have died or been wounded by our bombs.

The air war alone costs us $15 to $20 million each day.

Mr. President, all this bombing is not necessary to protect the few remaining troops in South Vietnam.

All this bombing will not return our prisoners. It has only been creating more.

We are now bombing North Vietnam as intensely as during any time of this war.

The bombing did not end the war in 1965, when it began, or in 1966, or in 1967.

And the bombing will not end the war now.

Mr. President, our bombing, and the casualties that it causes, are eroding any claim we might have to moral leadership in the eyes of the world.

It totally defiles any belief in the sanctity of human life.

We must end it now, and for this reason I shall support the amendment.

Mr. McCLELLAN. I yield myself such time as I may use.

Mr. President, earlier, when I spoke briefly, I concluded my remarks by pointing out that, although we all want the war ended, we know that this amendment would not end the war. The way to end this war is to cease fire. We have offered that to the enemy. They have declined. We have offered exchange of prisoners. They have declined.

Who wants the war to continue? Not the Senate, not the United States, not Americans, but the North Vietnamese. They are the ones who want this war to continue. They are continuing it every day they refuse to agree to a cease-fire.

Let me point out something else. We are concerned about women and children being killed by our bombing. I am sure that happens sometimes. That is not by design. It is bound to happen in war. Sometimes women and children are hit.

Let me point out that I have not heard anybody here this afternoon—and I have listened to all the debate—say one word of concern for the women and children in South Vietnam. I have not heard one word said about the immorality of the bullets and the rockets and the cannon shells bursting in the cities and villages of South Vietnam, killing innocent children and women, destroying hospitals and schools and churches. I have not heard one word said here about that this afternoon.

War is a two-way operation. We want it to stop. We are trying to stop it. There

is some doubt as to whether it was right for us to send forces to Vietnam initially.

I have said one thing repeatedly, and I say it again: We have learned one thing from this war. When we become involved in war again, let us fight to win. We have not done that in this instance. If we had fought to win, the blockade we have now imposed would have been imposed long ago, and the bombing now taking place, which this amendment would profess to stop, would have been begun long ago.

It is said that the bombing will not end the war. I will tell the Senate what it has done. It has stopped a drive that was intended to end the war by the other side, by conquest. That drive has been slowed down. It has not succeeded. South Vietnam has been able to repel it. I doubt whether the North Vietnamese today are able to mount another extensive assault, because the logistic situation is not as favorable to them as we permitted it to be for many, many years.

Mr. President, there are two other features about this matter: This amendment would stop the bombing which protects our soldiers in Vietnam. Our planes could not drop a bomb, even if the enemy was marching in its assault on the very position where our soldiers are located; our aircraft would not be permitted to drop a bomb. We could not defend our own forces.

Also, this amendment is offered on an appropriation bill. It is offered by a member of the Appropriations Committee. He has that right, and I would not deny him that right. I do not say this so much in criticism as I do in the hope that we can establish a policy by which we can operate more efficiently in the Appropriations Committee. I believe that those Members, or others, if they have the opportunity to do so, should offer amendments such as this before the committee, so that we can get an expression of the views of the committee, and thus bring the committee's recommendation to the Senate.

In this instance, however, this issue has been debated time and time again on the floor. As my distinguished colleague from Arkansas has said, other amendments that had far more merit than this, in my judgment, and ones that contained conditions that were more palatable have been rejected.

Here is an amendment in the raw. No committee has considered it. What this amendment would do has not been debated here before. It is here in the raw. There has been no hearing on it before the Appropriations Committee. It was not even offered before the Appropriations Committee. It has been offered on the floor of the Senate.

I suggest that an amendment of this import deserves more consideration than just an hour and a half debate on the floor of the Senate. It deserves hearings as to what impact it would have on our forces in Laos, Cambodia, and Vietnam, the disadvantages it would impose upon them, the danger to which it would expose them, and the jeopardy that would be incurred by any action such as this. This amendment deserves profound consideration, not just precipitate action such as this.

Mr. President, this amendment should be rejected. This amendment will not end the war. This amendment can serve only one purpose, in my judgment, and that is to aid the enemy. The enemy wants the bombing stopped. Militarily, the enemy is hurt by it. But it has not agreed to stop throwing the shells and the rockets and the bullets into the cities and villages of South Vietnam. It wants to continue the war in South Vietnam. The enemy does not want war made against it, but it wants to continue the war—and it will continue the war. The adoption of this amendment would aid the enemy in continuing the war; whereas, if this amendment is rejected, the bombing action that is being taken, and which this amendment would prohibit, is making it more and more difficult every day for the enemy to continue its invasion involving the destruction of homes and the killing of innocent people in South Vietnam.

Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The hour of 5 p.m. having arrived, the Senate, under the previous order, will proceed to vote on the amendment.

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. ROBERT C. BYRD. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Louisiana (Mrs. EDWARDS), the Senator from Oklahoma (Mr. HARRIS), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Montana (Mr. METCALF), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

I further announce that the Senator from Wyoming (Mr. MCGEE) and the Senator from Hawaii (Mr. INOUYE) are absent on official business.

I further announce that, if present and voting the Senator from South Dakota (Mr. MCGOVERN) and the Senator from Hawaii (Mr. INOUYE) would each vote "yea."

Mr. SCOTT. I announce that the Senator from Colorado (Mr. ALLOTT), the Senator from Tennessee (Mr. BAKER), the Senator from Nebraska (Mr. CURTIS), the Senator from Michigan (Mr. GRIFFIN), the Senator from New York (Mr. JAVITS), the Senator from Iowa (Mr. MILLER), the Senator from Ohio (Mr. TAFT), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

If present and voting, the Senator from Colorado (Mr. ABBOTT), the Senator from Nebraska (Mr. CURTIS), the Senator from Iowa (Mr. MILLER) and the Senator from Texas (Mr. TOWER) would each vote "nay."

The result was announced—yeas 26, nays 55, as follows:

[No. 493 Leg.]

YEAS—26

Bayh	Hartke	Muskie
Case	Hatfield	Nelson
Church	Hughes	Pastore
Cooper	Humphrey	Pell
Cranston	Kennedy	Proxmire
Eagleton	Mansfield	Ribicoff
Fulbright	Mathias	Tunney
Gravel	Mondale	Williams
Hart	Moss	

NAYS—55

Aiken	Dole	Pearson
Allen	Dominick	Percy
Beall	Ervin	Randolph
Bellmon	Fannin	Roth
Bennett	Fong	Saxbe
Bentsen	Gambrell	Schweiker
Bible	Goldwater	Scott
Boggs	Gurney	Smith
Brock	Hansen	Spong
Brooke	Hollings	Stafford
Buckley	Hruska	Stennis
Burdick	Jackson	Stevens
Byrd, Harry F., Jr.	Jordan, N.C.	Stevenson
Byrd, Robert C.	Jordan, Idaho	Symington
Cannon	Long	Talmadge
Chiles	Magnuson	Thurmond
Cook	McClellan	Weicker
Cotton	Montoya	Young
	Packwood	

NOT VOTING—19

Allott	Harris	Miller
Anderson	Inouye	Mundt
Baker	Javits	Sparkman
Curtis	McGee	Taft
Eastland	McGovern	Tower
Edwards	McIntyre	
Griffin	Metcalf	

So Mr. PROXMIRE's amendment (No. 1665) was rejected.

Mr. SCOTT. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. MCCLELLAN. Mr. President, I move to lay the motion on the table.

The motion to lay on the table was agreed to.

Mr. FULBRIGHT. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

On page 30, lines 8 and 9, strike out "$2,152,100,000" and insert in lieu thereof "$2,025,100,000".

On page 30, after the period in line 19, insert the following: "None of the funds appropriated by this Act may be used for the purpose of procuring any Advanced Airborne National Command Post aircraft (AABNCP).

On page 34, lines 9 and 10, strike out "$3,161,040,000" and insert in lieu thereof "$3,189,740,000".

The PRESIDING OFFICER. Does the Senator from Arkansas wish to have his amendments considered en bloc?

Mr. FULBRIGHT. Mr. President, I ask unanimous consent that my amendments be considered en bloc.

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

Mr. FULBRIGHT. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. SCOTT. Mr. President, would the Senator yield so that I might ask the distinguished majority leader a question as to the program, with the understanding that the time not be taken out of the Senator's time?

Mr. FULBRIGHT. Mr. President, for that purpose.

Mr. MANSFIELD. Mr. President, in response to the question raised by the distinguished Republican leader, the pending amendment will have a time limitation of not to exceed 1 hour. I understand that the distinguished Senator from Massachusetts (Mr. KENNEDY) has one and possibly two amendments today that, I think, will also be under a time limitation.

Mr. President, I further understand that the distinguished Senator from Illinois (Mr. STEVENSON) will have an amendment that is somewhat comparable to the amendment just disposed of. And if the interested parties could agree, I wonder if I might ask unanimous consent that there be a time limitation of 30 minutes on the Stevenson amendment, the time to be equally divided as heretofore?

Mr. SCOTT. Mr. President, reserving the right to object, we do not know what the Stevenson amendment is. If it is another so-called end-the-war amendment, we might need more time. I do not know, because we do not know how many Senators wish to be heard. The Senator from Michigan (Mr. HART) made that same point the last time.

Mr. MANSFIELD. Mr. President, could the Senator from Illinois give us a brief explanation of his amendment?

Mr. STEVENSON. Mr. President, the purpose of my amendment is to cut off all funds for aerial bombardment in Indochina except for direct ground support missions.

Mr. SCOTT. Mr. President, we reserve all points of order.

Mr. McCLELLAN. Mr. President, we reserve all points of order and agree to a half-hour time limitation.

Mr. MANSFIELD. Mr. President, I renew my request.

Mr. McCLELLAN. Mr. President, that is with the understanding, of course, that no amendments will be added to it, on the same basis as the others.

Mr. MANSFIELD. The Senator is correct.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana? The Chair hears none, and it is so ordered.

Mr. MANSFIELD. Mr. President, so far as I know those are all the amendments. And to reiterate, the same stipulation applies to the Stevenson amendment as to the Proxmire amendment, just rejected.

The PRESIDING OFFICER. Will the Senate be in order? The Senate will please be in order. The Senate is not in order.

Mr. SYMINGTON. Will the Senator yield for an observation?

Mr. FULBRIGHT. I yield.

Mr. SYMINGTON. It is my understanding that the senior Senator from Maryland also has an amendment he plans to offer to the bill. I have seen the amendment and I hope he does.

Mr. FULBRIGHT. Mr. President, this is a simple amendment. It will take only a few minutes to explain. It is very simple in its purpose.

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

The PRESIDING OFFICER. The Senator will suspend.

The Senate is not in order. The Senate is not in order. The Senator will not proceed until the Senate is in order. Senators will please take their seats and clear the aisles.

The Senator may proceed.

Mr. FULBRIGHT. Mr. President, the Committee on Appropriations has included in the Department of Defense appropriation bill (H.R. 16593) a recommendation for $127 million for the procurement of four aircraft for the Advanced Airborne National Command Post—AABNCP—and $24.5 million for research and development on this project—a total of $151.5 million.

I offer amendments which would have the effect of reducing the appropriation by $98.3 million. I would strike the $127 million appropriation from the bill, while adding $28.7 million to the Air Force R. & D. account for one "test-bed" aircraft. This would bring the Senate appropriation in conformity with that of the House of Representatives, which approved a total of $53.2 million, all under the category of "Research, Development, Test, and Evaluation, Air Force."

I believe the full $151.5 million expenditure would be unwise and unwarranted, particularly at a time when the country has serious financial difficulties and there is a strong need to limit spending. I support the view of the Committee on Appropriations of the House of Representatives, which rejected the procurement request for the Airborne Command Post on grounds that it is "premature and cannot be justified."

Under consideration here is the procurement of four Boeing 747 aircraft for use by the President and other members of the National Command Authority. The Air Force proposes to buy an eventual total of seven Boeing 747's for this purpose.

However, the Department of Defense already has a sizable fleet of airborne command posts, having spent nearly $550 million and perhaps more for them. The Strategic Air Command alone has 29 EC–135 aircraft serving as airborne command posts, auxiliary command posts, communications relay aircraft, and airborne launch control centers.

The House Appropriations Committee makes a strong case against the full appropriation, and I would like to quote from that committee's report:

> There is no assurance that any President will use the NCA airborne command post. There have been no studies made to determine what Presidents have done in the past during times of tension or crisis. There have been no studies made to determine how many and what types of advisers Presidents have utilized, as opposed to those made available to them, in times of tension or during crisis periods. Such studies would dictate the size of the aircraft needed and the validity of the concept as an important enhancement to command and control for the NCA.
>
> DOD is beginning with the largest aircraft available and developing lists of people to populate the aircraft as advisors. The lists provided during testimony by the Secretary of Defense and by the Air Force differ materially in a number of respects. All admitted that the list of advisors is still under development and coordination, but it has been estimated that of the 1,775 square feet of area required for the NCA function, 81 percent of the floor plan is devoted to NCA advisors. It is difficult to understand how this determination can be made at this time without the benefit of the above-described studies.

The House committee's report further states what seems to be obvious here:

> It would appear, therefore, that large numbers of 747 aircraft were budgeted with only minimal planning.

The complete committee report of the House on the subject states:

ADVANCED AIRBORNE COMMAND POST

> On January 24, 1972, $113,800,000 was included in a fiscal year 1972 urgent supplemental budget request for the procurement of four Boeing 747 aircraft for an Advanced Airborne Command Post program. In addition, the basic fiscal year 1973 budget had $103,800,000 for two additional Boeing 747 aircraft for the same program. On March 29, 1972, the four 747 aircraft in the urgent supplement were withdrawn and made a part of a fiscal year 1973 budget amendment. Of the total $217,600,000 for six Boeing 747 aircraft, only four aircraft in the total amount of $127,000,000 were recommended for authorization.
>
> The airborne command post concept was developed by the Joint Chiefs of Staff in the early 1960s as part of an overall plan to establish a number of alternate command posts for use by the President and other members of the National Command Authority (NCA). In about 1964, the airborne command posts became operational at Andrews Air Force Base. Other alternate command posts were established, including the National Emergency Command Post Afloat, which has since been terminated. The NCA airborne command post currently consists of three EC–135 aircraft on strip alert at Andrews Air Force Base.
>
> The Department of Defense (DOD) presently has a sizeable fleet of airborne command posts. From fiscal year 1962 through fiscal year 1971, DOD has spent about $538,000,000, and perhaps more, for airborne command posts for the Commander in Chief, Strategic Air Command; Commander in Chief, Pacific; and Commander in Chief, Europe. The Strategic Air Command (SAC) alone has 29 EC–135 aircraft serving as airborne command posts, auxiliary command posts, communication relay aircraft, and airborne launch control centers. The Commander in Chief, Atlantic, and Commander in Chief, North American Air Defense Command have also indicated a desire for airborne command posts. In addition, there are five command post aircraft in Pacific Air Forces, five at U.S. Air Force, Europe, and three in Headquarters Command, all in the Air Force.
>
> The Air Force proposes to buy a total of seven Boeing 747 aircraft. One will be used as a test bed platform to develop the optimum airborne command post configuration, to test the command control and communications equipment to be developed, and to test for electromagnetic pulse effects; three for replacement of current EC–135 airborne command posts at Andrews Air Force Base for the NCA; and three to replace five EC–135 SAC "Looking Glass" airborne command posts. The NCA and SAC aircraft will be identically configured.
>
> The C–5A and Boeing 747 have about 3,500 square feet (SF) of floor area. The DC–10/30 and L–1011 have about 2,500 SF of floor area. The current EC–135s have about 830 SF of floor area.
>
> The NCA aircraft are said to require 1,775 SF of which only 325 SF is for equipment and 1,450 SF is for people. In the 747, this would leave 1,725 SF for growth; in the L–1011/DC–10, it would leave 725 SF for growth.

SAC says it required between 1,270 to 1,420 SF for equipment and people. In the 747, this would leave between 2,100 and 2,200 SF for growth. In the L-1011/DC-10 aircraft, this would leave between 1,100 and 1,200 SF for growth.

SAC has spent some $33 million in developing operational doctrine and exploring automation requirements for an upgraded SAC "Looking Glass" airborne command post. SAC had looked at the 747, the DC-10, and the L-1011 as aircraft candidates, and seemed to prefer the 747, although the L-1011/DC-10 more nearly would meet SAC requirements as to floor space and growth potential, according to Air Force witnesses.

The proposed plan is to transfer the equipment in the current EC-135 NCA aircraft to the first three 747 aircraft. This will provide no additional command post automation or command communications capability beyond what they already have in the present EC-135 airborne command post. The 747 aircraft will provide four hours longer flight endurance and space for additional people. The current NCA aircraft have a crew of seven, a battle staff of 17, and 13 to 16 spaces for NCA advisors. The proposal would increase the battle staff to 39 and provide space for upwards of 100 other NCA advisors.

The single test bed aircraft will be used to develop, test, and evaluate an improved command control and communications equipment package for the ultimate NCA and SAC aircraft. The fiscal year 1973 RDT&E budget contains $53,200,000, of which $3,000,000 is for design of the 747 modifications, $2,000,000 is to cover contractor and other support costs, and $1,000,000 is for lease of another 747 for a low-level EMP test. The EMP facility for the full test will not be available until fiscal year 1975. Operational tests of the NCA/SAC command control and communications package will not be completed until October 1975 (fiscal year 1976). Floor plan layouts for the ultimate airborne command post will be developed with the test bed aircraft.

There is no assurance that any President will use the NCA airborne command post. There have been no studies made to determine what Presidents have in the past during times of tension or crisis. There have been no studies made to determine how many and what types of advisors Presidents have utilized, as opposed to those made available to them, in times of tension or during crisis periods. Such studies would dictate the size of the aircraft needed and the validity of the concept as an important enhancement to command and control for the NCA.

DOD is beginning with the largest aircraft available and developing lists of people to populate the aircraft as advisors. The lists provided during testimony by the Secretary of Defense and by the Air Force differ materially in a number of respects. All admitted that the list of advisors is still under development and coordination, but it has been estimated that of the 1,775 SF of area required for the NCA function, 81 percent of the floor plan is devoted to NCA advisors. It is difficult to understand how this determination can be made at this time without the benefit of the above-described studies.

The current plan of having NCA airborne command posts on strip alert at Andrews Air Force Base so near the coast is contrary to the SAC satellite basing program of moving B-52s in-land to protect them from a surprise SLBM attack. The Air Force proposed to further accelerate the satellite basing program as a SALT related requirement in the fiscal year 1973 budget amendment.

DOD is in the process of upgrading the command/control/communications of its ground command posts. Much of the ADP and other equipment for this effort is in the fiscal year 1972 and 1973 budgets. It must be installed, tested, interfaced, and doctrine established for the data base required. The NCA aircraft require only a summary of this data base to be identified and established and in some cases, none of it.

It would appear, therefore, that large numbers of 747 aircraft were budgeted with only minimal planning. A reasonable evolutionary program should dictate that the ground command posts and the SAC airborne command posts be upgraded and exercised before a determination can be made as to what kind and how much data will be required for an NCA airborne command post.

Three Boeing 747 aircraft are not required "to provide operational experience needed to properly define the command, control, and communications package to be installed and tested in the fourth (test bed) aircraft", as was testified. DOD has been operating NCA airborne command post aircraft since the early 1960's and this "operational experience" should already be available. DOD can draw upon the SAC Airborne Data Automation aircraft experience of several years, the NCA aircraft experience since 1964 and incorporate and further develop this know-how in the test bed aircraft.

In summary, the request for three operational aircraft, in addition to the test bed aircraft, is premature and cannot be justified. A large aircraft populated with significant numbers of advisors does not appear to enhance command and control for the NCA function to any appreciable extent. They are currently somewhat limited in their advisory role by the amount and timeliness of the information that can be made available to them. What is required is automation along with the communications necessary to interface with automated ground command posts, and this is to be developed using the proposed test bed aircraft. Our worldwide military command and control system is currently being upgraded, and the test bed aircraft should be able to take advantage of this experience as the ground command posts are improved. In the meantime the current EC-135 aircraft are sufficiently capable of performing the NCA airborne command post mission until the advanced capability is developed. The Committee recommends, therefore, approval of only the single test bed aircraft for funding in the RDT & E appropriation.

Mr. NELSON. Mr. President, will the Senator yield for a question?

Mr. FULBRIGHT. I yield.

Mr. NELSON. The Senator from Arkansas is referring to the appropriations described on page 28 of the appropriation bill?

Mr. FULBRIGHT. The Senator is correct.

Mr. NELSON. At first I was a little puzzled about this. The House committee makes a very compelling argument against proceeding with more than one 747. I think it is a very compelling argument that they do not proceed with any of them.

It is usually the House that is spending more money on defense than the Senate; we are always cutting back on the House. But in this case the Senate is increasing the appropriation over the amount the House requested.

Mr. FULBRIGHT. It is one of the few times I have ever seen in which the Senate committee increased the amounts in the appropriation bill for the Department of Defense over the amount approved by the House. The House committee report includes a very strong statement about the lack of preparatory study and, as I said, they do not know who would populate these huge airplanes. They feel it is premature to proceed.

There is some confusion because the House carried both the procurement and R. & D. in one item, one category, which includes one 747. The Senate divides it into two categories and would provide procurement funds for the four 747's and then has R. & D. separate.

My amendment would make it conform to the House action.

Mr. NELSON. If the Senator's amendment prevails, the House appropriations then would appropriate procurement of what they call one "test-bed" aircraft, and that means one Boeing 747 aircraft. Is that right?

Mr. FULBRIGHT. The Senator is correct.

Mr. NELSON. Then, the House's provision also includes funds for research and development for the electronics equipment to equip one 747.

Mr. FULBRIGHT. Yes, $53.2 million.

Mr. NELSON. I do not really understand why we should even do that, given the argument that the House made against going any further than they do. Do I understand this correct? The EC-135 is really what we call commercially a 707.

Mr. FULBRIGHT. That is right.

Mr. NELSON. The Strategic Air Command alone has 29 707's serving as airborne command posts and various other purposes around the world.

Mr. FULBRIGHT. That is correct. There are now 29 for this purpose.

Mr. NELSON. And so the committee is saying to us that the 707, which will carry—how many passengers with regular seating? 150?

Mr. FULBRIGHT. More than that, I think. The 707 has close to 200; does it not?

Mr. NELSON. It has over 100.

Mr. FULBRIGHT. Oh, yes.

Mr. NELSON. One hundred fifty or thereabouts. So what they are saying to us is that we already have 29 707's stationed at various commands in the United States and elsewhere, and now they want to move to a bigger plane. And the purpose, as I understand it from the Senate report, is that—

> This system will significantly improve our capability to control and direct our strategic forces during a nuclear conflict.

Is that it?

Mr. FULBRIGHT. Yes.

Mr. NELSON. So we are going to take the President of the United States, if he is willing to go, and haul him over to Andrews Air Force Base, stick him in a 747 with the Joint Chiefs of Staff in a plane big enough to haul 350 people. And they are all going to go up in a plane whose flying time is 2 hours longer than the 707's, 11 hours instead of 9. And then, as the bombs are dropping all over this country, they are going to run the show from up there in the air, Is that the purpose of it?

Mr. FULBRIGHT. That is the purpose of it. I thought the House very appropriately said:

> There is no assurance that any President will use the NCA airborne command post. There have been no studies made to determine what Presidents have done in the past

during times of tension or crisis. There have been no studies made to determine how many and what types of advisors Presidents have utilized, as opposed to those made available to them, in times of tension or during crisis periods. Such studies would dictate the size of the aircraft needed and the validity of the concept as an important enhancement to command and control for the NCA.

They point out there is no information to indicate that the President would want it or use it.

My amendment would save $98 million, while leaving $53 million-plus in the program.

I agree with the Senator that I see no use for one, but I thought it was utterly unrealistic for us to go below the House figure. I think the most the Senate could possibly be persuaded to do would be not to be more extravagant than the House. I thought that was all I could realistically hope to get, although it is a faint hope. In any case, I agree with the Senator that there is nothing to support the procurement of one 747.

After all, China is going to be sold Boeing planes. Perhaps this was done before there was an agreement to sell them to China and the idea was to keep the plant going.

Mr. NELSON. I am glad to say the 707 is a good plane.

Mr. FULBRIGHT. It is a good plane.

Mr. NELSON. But, as I understand it, the Senator cannot understand any reason for buying even one 747 and equipping it with $32 million worth of research and development to fly up there; but he has despaired of getting a really rational decision out of the Senate. So he just wants to waste a little less money out of the money we might otherwise waste.

Mr. FULBRIGHT. I thought it might appeal to the Senate, that there might be some faint possibility of carrying an amendment that would reduce the appropriation to the same amount as the House. That was the only reason. Otherwise I would not bring it up, because I do not remember when the Senate has agreed to vote against the Armed Services Committee.

Mr. NELSON. The fact is that we do not know whether the President wants to get up in that plane once the nuclear bombs start to drop.

Mr. FULBRIGHT. No studies have been made.

Mr. NELSON. Let me ask the Senator this question. Once the President is up in that 747, which will hold 400 people—I do not know how many they will have—and all the command personnel are in the plane, what happens so far as the decisions of this Government and the military? Whom are they going to be calling down here to find out what is going on so they will know what to do up there? What are they going to do up there?

Mr. FULBRIGHT. I do not know about that.

Mr. NELSON. If it did not cost us so much, I would laugh. But I would like to know what the President of the United States does when he is up there. Does he call some janitor in the Pentagon to tell him what is happening? I am totally dismayed by these incredible Rube Goldberg projects that somebody dreams up to run a war out of a 747. The committee report says:

This system will significantly improve our capability to control and direct our strategic forces during a nuclear conflict.

This is going to enhance our capability of what? Telling them how to shoot the missiles over to Russia, or wherever it is? I simply do not understand this scheme.

Mr. FULBRIGHT. I assume those are already programed, if we are to believe what we have been told in the past. I had never heard of this project for new airborne command posts until it was called to our attention earlier this year. The smaller command posts, which are scattered around the world, I assume are being used, not for nuclear conflicts, but, for example, in Vietnam. We have said we will not have any more Vietnams. We hope not. But I assume they are using something like this in Vietnam for just ordinary commands. The EC–135 is certainly adequate for it. This report sets out where those command posts are today. Whether they are very useful, I do not know.

Mr. NELSON. If this is useful, I would like an explanation of what it is useful for. What can they do out of a 747 that they cannot do out of a 707? I noticed, from reading the House report, that they say this is such a marvelous toy that the commanding officers in the Pacific theater and the European theater say, "This is great. How about getting us a couple?" Is that not in there somewhere?

Mr. FULBRIGHT. Yes.

Mr. NELSON. They would like one, too.

Mr. FULBRIGHT. The Air Force proposal was to buy seven of these aircraft, although the bill provides for only four. So they will have three later.

Mr. NELSON. If the Senator read the same report, I am sure he will remember that they have received requests from the Pacific and European commands that, if the President can have one of these things, they would like one, too.

Mr. FULBRIGHT. The House report says:

SAC has spent some $33 million in developing operational doctrine and exploring automation requirements for an upgraded SAC "Looking Glass" airborne command post. SAC had looked at the 747, the DC–10, and the L–1011 as aircraft candidates, and seemed to prefer the 747, although the L–1011/DC–10 more nearly would meet SAC requirements as to floor space and growth potential, according to Air Force witnesses.

That is not the one, I believe.

Mr. NELSON. Here it is on page 148, where it states:

The Commander in Chief, Atlantic, and the Commander in Chief, North American Air Defense Command, have also indicated a desire for airborne command posts.

Mr. FULBRIGHT. Oh, yes.

Mr. NELSON. They would like to have one of those things, too. Well, if that is all we have to spend our money on, heaven save us.

Mr. FULBRIGHT. It strikes me it would be a substantial saving, $98 million, in a context other than military.

Under all the conditions, I would hope the Senate would agree to cut this amount back to the figure of the House of Representatives.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. McCLELLAN. Mr. President, I yield 4 minutes to the Senator from South Carolina.

Mr. THURMOND. I thank the Senator from Arkansas.

Mr. President, I rise in opposition to the pending amendment which would strike from the Air Force procurement account $127 million to finance three new airborne command post aircraft and a fourth testbed aircraft.

Adoption of this amendment would prevent the Air Force from attaining an immediate increase in capability in the vital airborne command post field.

Presently the Air Force is using the old EC–135 aircraft for the national command post job. This aircraft is currently deficient in its ability to handle data for command decisions. The larger 747 aircraft requested by the Air Force would help reduce this deficiency. Later the same planes will house the more modern computers being developed in the research program.

Furthermore, the three 747's called for in the bill approved by the Appropriations Committee would give immediate improvements in our airborne command post capability because of four factors not available in the EC–135, which I call to the attention of the Senate.

These characteristics offered by the 747 and not available in the EC–135 include the 747's longer range, better survivability, greater endurance and shorter takeoff requirements.

Mr. President, the committee approved program provides $127 million for purchase and conversion of three 747 aircraft with currently available equipment from the EC–135. Also provided is a research and development testbed aircraft, which will contain more modern computers.

Under the proposed amendment only $53 million would be allowed, with these funds going toward the testbed aircraft and the research and development program.

The current program, as approved by the Appropriations Committee, was studied very carefully by both Armed Services Committees of the House and Senate. The Senate Appropriations Committee joined the two military authorizing committees in support of the program, and only the House Appropriations Committee favored the approach called for in the pending amendment.

Mr. President, few systems are more important than the one which enables the President of the United States to have all the data available, if it ever becomes necessary to use the airborne command post.

There is no question that approval of the committee bill will give the President an early increase in capability in this vital area. I urge my colleagues to reject this amendment and thereby support the full committee action in this important program.

The PRESIDING OFFICER. Who yields time?

Mr. JACKSON. Mr. President, I ask unanimous consent that there be a quorum call, not to be charged to either side.

The Senator from Mississippi (Mr. STENNIS) is to speak next, and he will be right back.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Washington? The Chair hears none, and it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. McCLELLAN. 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. McCLELLAN. I yield the distinguished Senator from Mississippi 5 minutes.

Mr. STENNIS. Mr. President, may we have order in the Senate? I can assure every Member that this amendment presents one of the more serious matters that we have in connection with command and control and proper communications.

The PRESIDING OFFICER. The Senate will be in order.

Mr. STENNIS. This is not a new gimmick. It is nothing to be laughed at, I say with all deference to my fine friend from Wisconsin. This is already a necessary, going concern that has been in use now for years.

May we have order, Mr. President, so that we may have a chance to get the attention of Senators?

The PRESIDING OFFICER. The Senate will be in order.

Mr. STENNIS. We have had this advance communications and control center in effect for years, because it is necessary. This is merely an updating. It concerns what is called loosely the "black box," because much of it is so sensitive and so highly classified. We cannot go into the details here of what all is involved in this communications system, but we have these planes flying now with the old equipment, or I should say the present equipment in them, at SAC out in Omaha and in that area, and we have the one that the President will occupy, necessarily, out here at Andrews Air Force Base. That is in operation now, and a highly important one.

I have been involved with this subject matter for several years. We have studied in depth the command posts here, but they are not advanced enough to be acceptable. We had also developed the ABM command post. That was deferred; but this is a matter that has been going on all the time, and is absolutely essential.

Our committee went into this matter in January of this year with the most minute proof and requirements, and we deferred until we could hear additional proof about it. The request was for seven planes, three for the Omaha area, three for the Washington area, and one extra. We went into all the discussions about the delay. This new equipment is not yet effective. It is not yet in operation, and not quite ready.

There was some disposition to defer this matter until all this new equipment was ready. But this thing is so urgent and so necessary, in our opinion and that of most of the committee, that by the time the hearings were over we decided we would recommend the four, and let that money be used just as rapidly as possible, and even put some of the new equipment in the old planes to start with.

Mr. FULBRIGHT. Mr. President, will the Senator yield for a question?

Mr. STENNIS. I just have 5 minutes. I am inclined to yield to the Senator, but I just must use my time.

So this was debated over at great length and subjected to extensive proof by the very best available witnesses that we could find, and we went into it the second time and put it into the regular bill for four of these planes, even though some of this equipment is going to be rushed into the old planes. That will necessarily cost a little extra money, but it shows how necessary it is.

We decided that instead of the seven, we would authorize the four. We considered getting another kind of plane, to see if we could save any money, but buying these 747's off the shelf was the best thing, we decided, after all.

Having this new equipment is highly important. It includes new devices to prevent detection. It involves matters concerning the black box, that can be used but not talked about here, but I assure the Senate that it would protect our security.

This matter they are asking about, where the President is going to be and how he is going to communicate with them, is the very thing we want. We want him in some place where he can be communicated with with the least delay possible, and have the most modern equipment that can be made, and also have enough others with him to advise him militarily and otherwise about that kind of decision which, God forbid, he will never have to make. Surely we do not want him to ever have to use it, but we have one sitting out yonder at Andrews right now that is not modern any more.

These planes are incidental, in a way, to the new equipment that we just must have. So I base the whole thing on that point alone. But when we really did get into this matter fully, it was agreed that it was necessary.

Also, we have to remember this: We are going to have the Polaris, the Trident, and so forth, at sea; we are going to have the ICBM's, the bombers, and everything else; and if that emergency should come, we do not want to fail to have the most modern and best communication equipment for the Commander in Chief, the man who will have to make the final decision.

Of course, we want to save this money. With all deference to the House, I doubt that they had time in which to go into this matter as fully as we could find the time early in the year to get into it with a double look.

I do not think there is anything more important or necessary in this bill than this communication system. We have to compete with the very best that the Soviets have. So anything short of the best in this field—and enough of it and in time—means that we will fail to perform a simple duty.

Mr. President, no element of our national security posture is more crucial than the structure of command and control that directs and coordinates our strategic defense capability in time of war or crisis. If our nuclear deterrent is to be credible—if it is to defend this Nation by deterring aggression or containing an accident—it is vital that it be capable of surviving a preemptive attack. And if the deterrent is to survive it is essential that we assure the survivability of the men charged with the Constitutional responsibility to command our Armed Forces, and the equipment they require to communicate effectively. That is the issue before the Senate: can we assure that the President and the National Command Authority will be available to direct the defensive and diplomatic actions of this Nation in the event of war or in a time of deep crisis?

Mr. President, there are basically three ways to protect the vital command and control link of our strategic deterrent forces. To assure that the National Command Authority is survivable, we could build deep underground shelters adequate to accommodate the President and his principal diplomatic and defense advisors, the communications specialists and battle staff needed to execute our strategic plans and the equipment and supplies necessary to support the command and control function. We in the Congress have, in the past, debated the wisdom of developing and constructing such facilities as well as the feasibility of achieving the sort of blast-resistant shelter that would be required. We have rejected proposals along these lines and we have done so for reasons that, in recent years, have become even more compelling. The simple fact is that the improvement in ICBM accuracy is such that it is virtually impossible to secure any such facility against the effects of a multimegaton nuclear detonation.

Any fixed installation capable of withstanding the highest blast over-pressures we can build against can be destroyed by a handful of Soviet SS-9 missiles delivered with the sort of accuracy we now have in our own missile forces. I find it curious that the very individuals who were so conscious of the vulnerability of fixed installations in the case of missile silos are so dimly aware of the compounded vulnerability of a single, fixed underground facility for the protection of the NCA. Not the least of the reasons for rejecting the option of an underground facility is the enormous cost that would be involved, running to billions of dollars. Some years ago the estimates were put at over $1 billion—and that was at a time when the inaccuracy of Soviet missiles was such as to limit greatly the expected blast overpressures to which such an installation might be subjected.

A second option for defending the NCA will, I am sure, be fresh in the minds of Members of this Senate. It was, after all, the Senate that acted to delete the request from the administration for an ABM defense of the NCA. As Senators know we were asked to approve a multibillion-dollar program to deploy Safeguard radars and interceptors around Washington, D.C., with the purpose of protecting the National Command Authority from attack. Now, I went into conference with the House Committee on Armed Services with a mandate from the

Senate to require the deletion of funds the House had approved for an NCA defense. As Senators know, the House receded and the defense of the NCA by the use of an ABM system was dropped from the authorization bill. This, it seems to me, Mr. President, places a particular responsibility on the Senate to assure that we have provided prudently and properly for the survival of the national decisonmaking authority in the event of war or severe crisis. And our action in rejecting the other two courses of action—deep underground facilities and ABM—forces us to focus on the option now before us with an unusually severe obligation to act with great care.

Mr. President, I do not want to rehearse here the arguments on both sides of the Washington ABM question. But it is worth noting that the NCA defense proposed in the administration's program this year would have cost at least $2 billion to acquire and very likely much more, depending on the precise configuration of components eventually selected.

Now the third option, Mr. President, in providing for the security of the President, his diplomatic and defense advisers, the battle team and communications specialists is to make this vital NCA mobile so that it will survive attack. And the only feasible way to accomplish this lifesaving mobility is by the use of aircraft to carry the essential apparatus away from the national capital in the event of attack or extreme crisis.

This third option—airborne command—is in fact the method we now rely upon. What is at issue before the Senate now is whether we ought to sustain the judgment of the Committee on Armed Services and the Committee on Appropriations by supporting approval for the procurement of aircraft, equipment, research, development and testing for the new, advanced airborne command post. This program, building on the experience of the present program which relies on the use of EC-135 aircraft based at Andrews Air Force Base, represents a vital improvement in our existing capabilities. Particularly in the light of the SALT accords it is vital insurance that we can preserve the integrity of our command and control structure and the necessary communications equipment.

There are three principal reasons why the acquisition of the new airborne command post program, which is based on 747 aircraft, is required.

First, it will enable us to provide adequate space aboard the command authority aircraft, space that is not available on the much smaller EC-135. For example, the space allotted to the President on board the EC-135 is only slightly larger than the elevators in the old Senate Office Building. In these cramped quarters the President and his advisers would be expected to make and order the crucial diplomatic and military decisions of life and death that are associated with the sort of crisis or war situation in which the airborne command post functions.

In addition space on board the 747 would enable the President to have available to him approximately three times the number of key advisers as can be accommodated on board the EC-135. Using the EC-135, not more than a dozen or so Presidential civilian and military advisers can be on board—and even then no more than a handful could be in direct and immediate consultation with him owing to the smallness of the quarters in which he could meet with his key staff. No decisions ever made are likely to be more important to the future of the world than the decisions made on board an NCA aircraft in time of war. History will give us no excuse for having failed to provide adequately for the space and personnel with which to make such decisions wisely.

Additional communications and operations personnel could be accommodated by the 747, an important addition in capability in view of the severe limitations on handling capacity of the EC-135. It is the best judgment of the responsible agencies that the present aircraft are inadequate in this regard.

Second, the use of the 747 rather than the EC-135 will mean improved endurance and survivability. The 747 can remain aloft some 6 to 8 hours longer than the EC-135 without refueling, an important capability in the event of a widespread attack. Moreover, certain improvements in the survivability of the aircraft itself will be incorporated in the 747 which, by the way, can take off and land at many more potential sites than the EC-135. These factors combine to give us greater assurance that the essential command and control functions will be carried out in the event of need.

Third, the communications and data handling capacity of the 747 will be very much greater than that of the EC-135. Much of the information on this is technical and confidential, but suffice it to say that the 747 is large enough to incorporate vital new technology, the development of which is a principal part of the program. During the development of these advances in communications and handling capability we can use the present equipment from the EC-135 on board the 747 on a transitional and evolutionary basis.

Mr. President, the decision of the two responsible Senate committees on this matter is persuasive and prudent. We have rejected two alternative approaches to the defense of the national command authority, underground installations and active city defenses. I believe that we have the most modern and survivable version of the third alternative, an airborne command post. I strongly urge the Senate to support its committees and to reject this last-minute effort to delete this essential program and thereby commit us to an increased risk that the vital command and control link will become insecure.

This program has already been thoroughly examined and debated by this body in connection with the fiscal year 1973 Defense authorization. And the procurement of four 747 aircraft for the Airborne Command Post program has already been approved and authorized by this body.

The program in this bill is the same that has already been authorized by the Congress. The Appropriations Committee has examined the Airborne Command Post program and has arrived at the same conclusion as the Armed Services Committee. Mr. President, I see no reason why the Senate or the Congress should change their mind on this vital strategic program.

Let me speak directly to what this amendment will do.

The amendment would limit the program to one test aircraft and funds to commence development of an advanced command, control, and communications system for the use of the National Command Authority in directing our strategic forces in time of emergency or attack. However, the availability of that advance system is some years away.

What the amendment does preclude is an immediate increase in survivability and capability by denying three additional 747 aircraft. I want to emphasize that these three aircraft will not solve all the problems—that is the purpose of developing new systems—but they do permit a vital and immediate increase in suvivability and capability.

Defense officials were unanimous in their statements that the current EC-135 command post aircraft has serious deficiencies.

I do not need to remind you of the importance of assuring that the President and the National Command Authority have the ability to command and control our national resources in an emergency situation. If there are critical deficiencies, they must be eliminated.

Let me describe briefly what the three aircraft that are in dispute will accomplish.

First. The 747 aircraft will provide added space in the plane for increased staffing of the National Airborne Command Post. This increase is necessary to properly analyze and present data for intelligent decisionmaking.

Second. The 747 is a more survivable aircraft. The 747 can remain airborne some 6 to 8 hours longer than the current aircraft—which contributes to a more survivable system. The 747 can also take off and land at many more airfields than the current EC-135, and this increases operational flexibility.

Third. The size of the 747 is large enough to handle increased communications and data handling equipment. Mr. President, this is a highly sensitive area, but I am sure all are aware that significant advances have been made in the past few years. The current EC-135 aircraft is simply too small to accommodate any additional growth in equipment.

Mr. President, the decision of two responsible Senate committees on this program is persuasive and prudent. Immediate improvement is required for an assured capability for the National Command Authority to control and direct our strategic forces.

I strongly urge the Senate to reject this amendment which fails to provide an essential improvement in the strategic area.

At page 22 of the report of the Committee on Armed Services on fiscal year 1973 Defense authorization, there appears the following:

> The committee initially had reservations about the advisability of modifying the three aircraft with old equipment. However, the

committee was advised that an immediate improvement in survivability and capability will be realized by the increased performance of the aircraft itself; by the replacement of unreliable equipments and augmentation with new equipments; and by the increase in the size of battle staff and advisors. In order to obtain maximum benefit from this interim step, and to avoid the expense of installing equipment of marginal utility, the Air Force should replace as much of the EC-135 equipment as practicable during the modification of the three aircraft.

The committee's recommendation is predicated upon recognition of the fact that the President must be provided with an effective and modern Command and Control System for use in a general war that is as survivable as the weapons it serves and sufficiently capable to provide the President with strategic options other than massive retaliation. The Advanced Airborne National Command Post will meet these requirements.

I hope this amendment is rejected and that we will work out something in conference.

Mr. McCLELLAN. I yield the Senator from Mississippi 2 minutes.

Mr. FULBRIGHT. Mr. President, will the Senator yield for a question?

Mr. STENNIS. I yield.

Mr. FULBRIGHT. The report of the House says that no studies have been made to determine what Presidents have done in the past in times of crisis:

There have been no studies made to determine what Presidents have done in the past during times of tension or crisis.

Is the Senator saying that he has made such studies?

Mr. STENNIS. Yes, the Armed Services Committee is satisfied. The House went into it, and they approved it.

I am not critical of the Appropriations Committee, but I am fully satisfied, after a very minute examination of the matter, that, yes, they have the plans, and I want this equipment to move as fast as possible. I wanted them even to put it in the old planes, which will be inadequate. The space is not sufficient.

Mr. FULBRIGHT. The Senator mentioned the Soviets. Does he have information that the Soviets have such a plan?

Mr. STENNIS. I am not going into what the Soviets have. I tell Senators that I think this matter is urgent.

Mr. FULBRIGHT. Then, will the Senator tell me what is so urgent in the present situation? Does he anticipate nuclear war with the Soviet Union?

Mr. STENNIS. I heard the talk here about nuclear war, in the previous argument. That is what we are trying to avoid.

Mr. FULBRIGHT. The Senator believes it is urgent. Why does he believe it is urgent?

Mr. STENNIS. It is urgent that we be prepared and let them know, and anyone else coming along, that we are prepared. Certainly, we are not going to be a 5-mile runner and then stumble at the very last because we put an old barrier up that we cannot get through ourselves.

Mr. FULBRIGHT. The Strategic Air Command alone has 29 of these planes now. What is so urgent about the new one?

Mr. STENNIS. That is old equipment. We have looked into this matter, I say to the Senator.

I yield whatever time I have remaining to the Senator from Washington.

Mr. FULBRIGHT. Does the Senator decline to yield any further?

Mr. STENNIS. No. I will yield to the Senator any time I have the time. I want the Senator from Washington to have the remainder of my time.

Mr. FULBRIGHT. I will yield the Senator my time, if he wishes.

The PRESIDING OFFICER. Who yields time?

Mr. JACKSON. Mr. President, will the Senator yield me 3 minutes?

Mr. McCLELLAN. I yield 3 minutes to the Senator.

Mr. JACKSON. I inquire of the Senator from Mississippi, is it not a fact, first, that the central issue here is effective command and control in a crisis?

Mr. STENNIS. Absolutely.

Mr. JACKSON. Command and control by the Commander in Chief. People are concerned about constitutional control. It is obvious that you have to decide how you preserve command and control in a crisis.

Mr. STENNIS. That is the only issue.

Mr. JACKSON. That is the issue.

Mr. STENNIS. That is the only purpose.

Mr. JACKSON. Mr. President, the Senate has before it an amendment that seeks to overturn the technical judgment of both the Armed Services and Appropriations Committees. I refer to the judgment involved in this amendment as technical because the distinguished chairman of the Armed Services Committee, Mr. STENNIS, has already argued, in a very convincing manner, that an airborne command post is the only alternative we have if we reject deep shelters and ABM defenses of the NCA. In that judgment I most certainly concur. Thus, it would seem to me that the issue resolves into whether the KC-135 airborne command post is adequate to the present and planned requirements for a survivable command and control structure or whether—as I and the committee believe—it is inadequate and ought to be replaced by a more modern aircraft with better equipment and greater operating space.

As many Senators know, I have been a vigorous opponent of the use of an ABM system around Washington as a means of defending the NCA from an attack that might leave the vital command and control link inoperable or severely degraded. Quite apart from cost considerations, which are important, I have doubted whether a Safeguard deployment around Washington would in fact be capable of blunting an attack to the extent that the national command authority could survive.

These doubts have in no way led me to a sense of complacency about the adequacy of our present measures to assure the survivability of the NCA. I share the concern of the chairman that the present reliance on EC-135 aircraft has meant too little space and too few personnel either to advise the President adequately on critical diplomatic and military decisions or to carry out the complex data processing and command functions.

Particularly in view of the SALT agreements with their acknowledged disparity between ourselves and the Soviets, I believe it is vital that we modernize the airborne command post as soon as practicable. The decision of the Armed Services Committee to proceed with the provision of 747 aircraft and a program to modernize and improve the command and control function is a most welcome and timely one. I believe this decision deserves the support of the Senate.

Mr. President, I am amazed at two Senators who get up as if this airborne command proposal is something new. It is not new. What is proposed here involves new equipment and more space. It involves something that is very sensitive and cannot be brought out on the floor of the Senate. The chairman knows this. It involves new equipment which can be put into this plane which will protect further the security of those aboard the plane in a crisis. That is the sole issue—it is command and control. Command and control is one of the key issues involved in the SALT Agreements that were emphasized.

I am amazed that someone said here today that this is something that was dreamed up in the Pentagon. This is a request of the President. All Presidents have found it necessary to rely on this kind of safeguarded command and control. That is the issue.

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

Mr. JACKSON. I yield.

Mr. HUMPHREY. I think this is an item on which economy is not the question. I am somewhat familiar with this argument from other days. I think that command and control, as the Senator from Washington has indicated, is absolutely of essential importance. Arguing about amounts of money we ought to spend for particular systems is another question.

Mr. JACKSON. But it also goes to the constitutional question of whether you are going to have civilian control. Under the present setup, there is room—about the size of a Senate elevator—for about five people with the President in the event of a crisis. So we have the opportunity here of having a larger facility with more people and more equipment aboard than can be handled with the existing facility.

After turning down the underground facility, after turning down the ABM for Washington—which I supported turning down because I do not think it would be effective—it seems to me that the obvious logic of beefing up the present command and control is absolutely necessary. It goes to the heart of the whole constitutional system.

Mr. HUMPHREY. Otherwise, why appropriate all this money?

Mr. JACKSON. That is correct.

Mr. HUMPHREY. I think this argument is perfectly clear.

Mr. FULBRIGHT. I yield myself 5 additional minutes.

Mr. President, this passion over command and control is very instructive. It is very odd that the committee in the House that has responsibility for this matter says that it has not been studied, that there is nothing to indicate that

the President would even use the command post. They say there is no assurance that any President will use the NCA airborne command post.

I can imagine now how it would affect the country if there were an alert, and the next thing they heard was that danger was threatening the country, that the President and all his staff had boarded a plane and taken off and left the United States to whatever fate it may suffer.

I am sure that in England, during World War II, when Churchill was standing there, trying to encourage his people to resist, it would have been a strange sight if he had taken off in a plane instead.

It is a fantastic idea. The committee in the House, I think, has an unanswerable argument—that no studies have been made to determine who he would take with him or that he would go at all. There is nothing in the record to indicate that there is any urgency about this matter.

The House committee says in no uncertain words that the request for three operational aircraft is premature and cannot be justified. I think everything indicates that. To be told, if you only knew as much as we do about a little black box, then you would not have any question about it, I do not think is a very good answer. The committee of the House of Representatives which passed on this subject and which has heard about the little black box was clearly opposed to this funding. We have seen them every now and then, and we had much testimony about the black boxes on the *Maddox* at the time of the Gulf of Tonkin, so that it is not all that mysterious. I do not know how much money has already been spent on a command control center out in NORAD, and we have an enormous center in Omaha, and all kinds of other centers, for that matter. It is premature, that there is no evidence other than just the word, that if we knew all the secrets the chairman of the committee knows, we would approve.

I think it should be struck.

Mr. YOUNG. Mr. President, will the Senator from Arkansas yield me 2 minutes?

Mr. McCLELLAN. I yield 2 minutes to the Senator from North Dakota.

The PRESIDING OFFICER (Mr. HART). The Senator from North Dakota is recognized for 2 minutes.

Mr. YOUNG. Mr. President, I rise in opposition to the amendment to reduce funds for an advanced airborne command post.

The Department of Defense Procurement and Research and Development Authorization Act, now public law, was based on action by this Congress to include $127 million for four 747 aircraft, and $32 million for research and development. This is almost identical to that recommended by our committee.

Now, Mr. President, when the President's budget was presented to Congress in January of this year, a strong case was made for this program. That case was further supported by testimony from Secretary Laird, Admiral Moorer, Mr. Moot, and by witnesses from the Air Force, who would manage the acquisition of this program. Later, in direct support of the SALT accords submitted to the Senate by the President on June 10, 1972, Secretary Laird again came to the Congress and emphasized, in connection with support for the Moscow SALT accords, the importance of improving our capability, to command and control our strategic forces. The Congress has now ratified the ABM treaty and approved the SALT interim agreement.

This body should not now start action, which would erode and dilute the important implications of the Moscow accords. As the Senator from Mississippi pointed out, the Congress has deleted the proposed authorization, in the Safeguard program, for an active ABM defense of the National Command Authority here in Washington, D.C., which at its most optimistic estimate, would have exceeded $2 billion in cost, and would have probably substantially exceeded that figure.

We are all aware of the accuracies of today's large nuclear weapons, and the newer versions, now being developed in the Soviet Union. Unfortunately, one cannot take comfort in the thought of going underground. In the case of deep underground command and control centers, one must be able to communicate with the outside world. It is this communication network that is absolutely vital, and yet in the case of underground centers, it is this aspect that is so vulnerable. In today's environment—and tomorrow's—the command and control center should be airborne so that it is mobile and survivable.

During the early 1960's when the requirement for an airborne command post emerged, KC–135's, the largest available aircraft at that time, provided adequate space to do the job. Our strategic forces were basically the manned bomber and tanker fleets plus a few Atlas and Titan ICBM's. Today the situation is dramatically different and much more complex. We now have a thousand Minuteman missiles plus Polaris and Poseidon fleet ballistic missiles, and a big quantum jump in space requirements has taken place. Technology has also changed other aspects of this complex management job. Satellite systems and automatic data processing systems which allow rapid retargeting are two examples.

It is urgent we give to our President—Commander in Chief—the best management control tools available, and a survivable, flexible airborne command post has to be one of our top priorities. We are fortunate to have the 747, a well-developed, tested, proven aircraft available to provide the needed advantages in space, endurance, and flexibility.

I urge the strong support of this body of the recommendation made on the airborne command post by the Appropriations Committee.

Mr. President, we have been discussing the need for a command post for 10 to 15 years. We were first going to have an underground command post system. That was not approved. Now we have larger airplanes, as has been pointed out, which can carry more sophisticated intelligence equipment.

Unfortunately, we cannot disclose what that equipment will do. However, that is information that Russia would like very much to have. It would be valuable information for them to have. Those of us who have made a study of it know that the equipment will be far more advanced than what we have at present.

On the assumption that we need to have an effective command post for the President of the United States, the present airplanes, of course, will carry the kind of equipment that we have now, but they do not have the space that is necessary for the more modern equipment, we will soon have ready.

Mr. MAGNUSON. Mr. President, I want to associate myself with the remarks of the distinguished chairman of the Senate Armed Services Committee. He is a man committed to providing this Nation with a strong defense but he is also committed to cutting out any project that is not absolutely necessary. The evidence he has presented clearly indicates that this airborne command and control system would significantly improve our capability to control and direct our strategic forces during a nuclear conflict between the United States and other major powers.

The Senate is well aware of the underground command post in West Virginia. Previously, this command post was considered safe, but this is no longer true because of the destructive power and accuracy of the Soviet Union's SS–9 ICBM. Even if the President's underground command post were not destroyed, the communications systems would be devastated. This fact dictates that the President use an air command post in order to carry out his responsibilities as Commander in Chief.

An airborne command post will have the best chance for survivability and will also leave the President with a communication system to command nuclear forces. Defense officials, testifying before Congress, were unanimous in their statements that the current command post aircraft—EC–135—has serious deficiencies.

To spend billions for sufficient strategic forces and yet be unable to adequately command and control the responses of these forces cannot be tolerated. Congress has cut out $4 billion for an ABM site in Washington, D.C. I believe we acted responsibly in taking that action, but I also feel that because of that decision, we need to upgrade the emergency command and control of our strategic forces.

This new system is required because the current airborne command posts cannot accommodate the additional communications, surveillance and warning systems, and equipment and the additional people needed to effectively manage the strategic forces.

The existing EC–135 fleet was deployed in 1964 with equipment dating back to the early 1960's. By 1969, the EC–135 had reached its space and payload limits. National policy dictates that, during an emergency, we be in the position of responding to a wide range of options. The current EC–135 cannot carry sufficient personnel to receive and process the quantity of incoming data currently available. When the small battle staff is processing incoming data, they cannot

support nuclear war decisionmaking and vice versa, according to the Department of Defense. This saturated condition does not permit detailed review of numerous response actions. Currently, the manpower and manual information processing methods on the existing EC–135 airborne command posts—ABNCP—permit execution of only very limited options if the soft, ground-buried command posts are incapacitated or destroyed.

The Air Force, after extensive review, has selected the Boeing 747 for this mission because it provides advantages in space, endurance, and flexibility which potentially competing aircraft could not match. The 747 provides an additional 1,000 square feet of floor area and 35,000 pounds of additional payload capability over the DC–10 and the L–1011. The 747 provides more gross space for growth to meet requirements of the future.

Far more persuasive, however, is the fact that the 747 provides approximately 3 hours more endurance time than the DC–10 or the L–1011 and requires 2,000 feet less runway under identical conditions. This latter advantage means that there are many more fields from which the 747 could operate. This fact compounds the targeting problem for our adversaries.

Since its unique mission requires the aircraft to carry the President or other designated national command authorities, it should include those capabilities which will enhance its successful operation and its survivability. The Senate Armed Services Committee, in approving this program said:

The President must be provided with an effective and modern command and central system for use in a general war that is as survivable as the weapons it serves and sufficiently capable to provide the President with strategic options other than massive retaliation.

I hope the Senate will support the decision made by both the Senate Armed Services Committee and the Senate Appropriations Committee.

Not going ahead with this important program would be pennywise and pound foolish.

Mr. President, I ask unanimous consent to have printed in the RECORD a statement entitled "The Case for the Advanced Airborne Command Post."

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

THE CASE FOR THE ADVANCED AIRBORNE COMMAND POST

1. Description/Mission—The AABNCP would provide the National Command Authorities (NCA) with an Airborne Command Post system with significantly greater physical size, endurance, flexibility, and Nuclear War Command and Control Capability than the current EC–135 aircraft. This Airborne Command and Control system would significantly improve our capability to control and direct our strategic forces during a nuclear conflict between the U.S. and other major powers.

Basis for F.Y. 1973 budget request—The growing threat from Soviet ICBM's and the rapidly dwindling warning time make early improvements to our airborne command and control system imperative. Early deployment of a larger ABNCP will demonstrate U.S. resolve to maintain an adequate capability to execute the surviving nuclear forces following an attack on the U.S. and/or its allies.

II. General Glasser—The advanced airborne command post program will replace the EC–135 airborne command posts of the national military command system and the Strategic Air Command to provide them with larger aircraft capable of improved emergency command and control of our strategic forces.

This new system is required because the current airborne command posts cannot accommodate the additional equipment and people needed to manage effectively the forces using information from improved communication, surveillance, and warning systems.

The growing threat from ICBM's and SLBM's together with reductions in warning time have made the early acquisition of an improved airborne command and control capability essential to obtain the maximum effectiveness from our strategic forces in the minimum time even though the ground based national command authority command and control centers are destroyed.

III. Senator Symington—The 747 will be more convenient to use but what is it that the 747 can do that the KC–135 can't do that would force us to put another half billion dollars in it?

General Glasser.—There are three primary areas where this comes about.

The first is in the floor space and payload capability. There are a number of improvements, primarily in the communications area and in the data processing and display area which simply cannot be accommodated on the 135's as they exist today. They are too crowded. There are things that people want on board that they can't put on board.

The second is the numbers of personnel. The (deleted) would be unable to bring on (deleted) simply because of lack of space.

Thirdly is the flight duration of the aircraft. The KC–135 is good at best around 10 hours whereas with the 747 we can extend it to 16-plus hours and we propose to put a refueling capability on it so that at any particular time you could keep it up to that (deleted) the full duration of the emergency.

IV. Retaining assured command and control by such means as the AABNCP is crucial to the deterrent capability of our strategic forces. The need for such airborne command and control has increased as the warning time on strategic missiles has been reduced over the years.

It is the view of the Committee that such benefits as may be gained from the Strategic Arms Limitation Agreement with the Soviets require that even greater importance be placed on the reliability of communications, command and control capability in regard to our strategic forces.

V. *A comparative* analysis by the Air Force indicated that the 747 provided advantages in space, endurance, and flexibility which potentially competing aircraft could not match. The 747 provides an additional 1,000 square feet of floor area and 35,000 pounds of additional payload capability over the DC–10 and the L–1011. Therefore, though other aircraft could meet present space requirements, the 747 provides more gross space for growth to meet requirements of the future.

Far more persuasive, however, is the fact that the 747 provides approximately 3 hours more endurance time than either the DC–10 or the L–1011 and requires 2,000 feet less runway under identical conditions. This latter advantage means that there are many more fields from which the 747 could operate. Since its unique mission requires the aircraft to carry the President or other designated National Command Authorities, it should include those capabilities which will enhance its successful operation and its survivability.

VI. *The Senate* Armed Services Committee's recommendation is predicted upon recognition of the fact that the President must be provided with an effective and modern Command and Control System for use in a general war that is as survivable as the weapons it serves and sufficiently capable to provide the President with strategic options other than massive retaliation. The Advanced Airborne National Command Post will meet these requirements.

VII. *Defense officials were unanimous in their statements that the current command post aircraft has serious deficiencies.* The committee is greatly concerned that such a situation exists in our vital strategic forces. To spend billions for sufficient strategic forces and yet be unable to adequately command and control the responses of these forces cannot be tolerated.

VIII. *The planned* Advanced Airborne National Command Post program of seven aircraft ultimately will replace the EC–135 Airborne Command Posts (ABCP) of the National Military Command System (NMCS) as well as those of the Strategic Air Command. The larger Boeing 747 aircraft, with improved command and control systems, will provide significant improvements in the emergency command and control of our strategic forces. This new system is required because the current Airborne Command Posts cannot accommodate the additional communications, surveillance and warning systems and equipment and the additional people needed to effectively manage the strategic forces.

IX. *National* policy dictates that we be in the position of responding to a wide range of options. The current EC–135 Command Post aircraft cannot carry sufficient personnel to receive and process the quantity of incoming data currently available. When the small battle staff is processing incoming data, they cannot support nuclear war decisionmaking and vice versa. This saturated condition does not permit detailed review of numerous response actions. Currently, the manpower and manual information processing methods on the existing EC–135 Airborne Command Posts (ABNCP) permit execution of only very limited options when the soft, groundbased command posts are incapacitated or destroyed.

Mr. MAGNUSON. Mr. President, the statement was made a little while ago that the President may never use this. There is not a person within the sound of my voice that does not hope "a President will never have to use it." The answer to all this is that although the Appropriations Committee did not have as much time as it would have liked to review this item, the Armed Services Committee went into the matter in detail. It also went in detail into some of the classified aspects of it that we cannot talk about.

I know that we have been trying for years to defend the President in an emergency and have spent much money in West Virginia on this project. That command post is now in jeopardy because of the existence of the SS–9 ICBM.

The existing EC–135 fleet was deployed in 1964 with equipment dating back to the early 1960's. By 1969, the EC–135 had reached its space and payload limits. National policy dictates that, during an emergency, we be in the position of responding to a wide range of options. The current EC–135 cannot carry sufficient personnel to receive and process the quantity of incoming data currently available.

Mr. FULBRIGHT. Mr. President, will the Senator from Washington yield?

Mr. MAGNUSON. I have only 1 minute to speak. I want to say one other thing then I will be glad to yield. The Senator from Arkansas suggests that

this might have been concocted for some reason, to produce employment at the Boeing Co. Of course part of this money is for electronic equipment and engines with which Boeing has nothing to do. It is true, however, that they will buy planes off the rack——

Mr. FULBRIGHT. Four, I believe.

Mr. MAGNUSON. Yes; this act provides for the purchase of four off the rack. We are very happy about that. We would not deny that. But this was not concocted for that purpose at all. It happened that they found an airplane that was big enough to take care of what they thought would be their needs today and in the foreseeable future. This plane allows for growth because it has 4,600 square feet of floor space.

Mr. FULBRIGHT. Could I ask the Senator from Washington a question: We have only one President. Under my amendment we would get one 747 for the President. We are not going to have four Presidents. The President is not going to be in four places at one time. Are we going to use a 747 for colonels and generals? There is only going to be one President at any one time. Under my amendment, which conforms to the House bill, we will have one 747 and it will be at Andrews or wherever the President goes and can go, because he goes in his big plane, too. I do not understand why we have got to have four or seven. Because the President is not going to be in seven different places at one time. If the mission the Senator has described is the correct one, why do we need more than one?

Mr. MAGNUSON. If the Senator will read the Armed Services testimony, we need four planes for the National Command Authority. We will need three for SAC in the future.

This is a total of seven airplanes. Only four are sought in the fiscal year 1973 Department of Defense Appropriation Act. The fourth would be used for R.D.T. and E.

Mr. FULBRIGHT. I still do not see why we need more than one, with one President.

Mr. JACKSON. Mr. President, I think the point here needs to be made, that at the present time they are using about 30 to 35 EC-135's. That is a converted tanker. There will be three at Andrews, three out at Omaha at SAC, and one for R.D.T. and E. It will have the advantage of being able to pull together in one of the individual planes the new equipment which involves space. That is what it all boils down to, space for the equipment and for the personnel. Seven planes are involved.

Mr. MAGNUSON. The EC-135's will be used for some other purpose. That is my understanding of their plan.

Mr. JACKSON. Mr. President, I now yield 4 minutes to the Senator from Missouri (Mr. SYMINGTON).

The PRESIDING OFFICER. The Senator from Missouri is recognized for 4 minutes.

Mr. SYMINGTON. Mr. President, I thank the able Senator from Washington. Along with him in executive session, I heard much of the testimony on this matter in the Armed Services Committee. I have read the report since then of the House Appropriations Committee.

May I read what the report says:

> The C-5A and Boeing 747 have about 3,500 square feet (SF) of floor area. The DC-10/30 and L-1011 have about 2,500 SF of floor area. The current EC-135s have about 880 SF of floor area.
>
> The NCA aircraft are said to require 1,775 SF of which only 325 SF is for equipment and 1,450 SF is for people. In the 747, this would leave 1,725 SF for growth; in the L-1011/DC-10, it would leave 725 SF for growth.
>
> SAC says it required between 1,270 to 1,420 SF for equipment and people. in the 747, this would leave between 2,100 and 2,200 SF for growth. In the L-1011/DC-10 aircraft, this would leave between 1,100 and 1,200 SF for growth.
>
> SAC has spent some $33 million in developing operational doctrine and exploring automation requirements for an upgraded SAC "Looking Glass" airborne command post. SAC has looked at the 747, the DC-10, and the L-1011 as aircraft candidates, and seemed to prefer the 747, although the L-1011/DC-10 more nearly would meet SAC requirements as to floor space and growth potential, according to Air Force witnesses.

That is a quotation from the House Appropriations Committee on September 11, 1972.

I would ask my able colleague, a member of the Armed Services Committee, if he does not think there should be some argument or, at least, merit in the position taken on the DC-10, if that is the position of the Air Force.

Mr. JACKSON. Mr. President, I think the Senator asks a very appropriate question.

The Air Force made a critical evaluation of equipment available. They approached it on the basis that the Senator from Washington (Mr. MAGNUSON) mentioned of buying it off the shelf, so that they would not have to buy a special aircraft. They made an analysis that started out by finding that, for example, the C-5A or Boeing 747 have 3,400 square feet and the DC-10 and the L-1011 have about 2,500 square feet of floor area and that the DC-135's have about 800 square feet of floor area.

A comparable analysis by the Air Force indicates that the 747's provide advantages, as I understand it, in space, endurance, and flexibility which potentially competing aircraft cannot match. The 747 provides, as the Senator indicated, 1,000 additional square feet of floor area and 35,000 pounds of additional payload capability over the DC-10 and L-1011.

The PRESIDING OFFICER. The time has expired.

Mr. JACKSON. Mr. President, I yield myself 2 additional minutes.

The PRESIDING OFFICER. The Senator is recognized for 2 additional minutes.

Mr. JACKSON. Mr. President, therefore the 747 provides more gross space for growth to meet requirements of the future.

As outlined by the Air Force, something that is far more persuasive is the fact that the 747 provides approximately 3 hours more endurance time than the DC-10 or the L-1011 and requires 2,000 feet less runway under identical conditions. This latter advantage means that there are many more fields from which the 747 could operate. This fact compounds a targeting problem for our adversaries. Since its unique mission requires the aircraft to carry the President or other designated national command authorities, it should include those capabilities which will enhance its successful operation and survivability.

So, I say to the Senator further in response to his question that they did review the requirements as against the planes available commercially, and they came to the conclusion I mentioned.

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

Mr. SYMINGTON. Mr. President, will the Senator from Arkansas yield me 1 minute?

Mr. FULBRIGHT. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. Four minutes remain to the Senator from Arkansas.

Mr. FULBRIGHT. Mr. President, I yield 1 minute to the Senator from Missouri.

Mr. SYMINGTON. Mr. President, I ask the Senator from Washington if it is not true that the price is somewhat comparable to the price air transport companies get and that the additional cost involved is in the new technical equipment which is judged necessary because of advanced technology.

Mr. JACKSON. The Senator is correct. They sell exactly on the same basis.

Mr. MAGNUSON. And it comes off the rack, so to speak, just the way it is.

Mr. FULBRIGHT. Mr. President, I was very interested in listening to the colloquy. Is the DC-10 made by McDonnell Douglas, being built at the same location where McDonnell makes the F-15?

Mr. SYMINGTON. Mr. President, the plane is not made in St. Louis at all.

Mr. FULBRIGHT. The fact is that we only have one President, and all we need is one 747, if we need that. It is very doubtful if we need it at all. There is no evidence that any President would ever order it out in such a strange way to command. If a nuclear war gets underway there will not be much left to command. Everyone admits that. If these debates on nuclear war mean anything at all, it would be too late for a command or for anything else.

Mr. President, if we get into a nuclear exchange with Russia, it would be too late to do anything. The whole purpose of what the President has been doing in the SALT talks or the talks about the interim agreement has been based upon the assumption that deterrents must be maintained and that we cannot afford to have a nuclear war.

What is leading to a bad case of schizophrenia and terrific frustration is this inherent inconsistency between producers who build under a conventional warfare basis, the same old equipment we had in World War II and the Korean war, being confronted from time to time by such expeditions as the President's trips to Moscow and Peking, which we approve of. In view of these developments, and of the SALT talks, which we also approve of, the conventional approach is utterly inconsistent. If there is anything at all in the SALT talks—

and I hope and believe that there is—then all of this talk about command persons to preside over a nuclear war in process does not make much sense. The talks that are in process and would avoid a nuclear war do make sense, and I am for them.

If this had any relation whatsoever to being able to avoid a nuclear attack, I would be for it. However, I do not think it makes a great deal of sense to say that we are giving the President the capacity at least to supervise this, although there is no indication that he wants it.

The PRESIDING OFFICER. The time has expired.

Mr. MANSFIELD. Mr. President, for the information of the Senate, the attachés have notified all Senators that from now on the rollcall votes will take 10 minutes.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Arkansas. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Louisiana (Mrs. EDWARDS), the Senator from Oklahoma (Mr. HARRIS), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Montana (Mr. METCALF), the Senator from Alabama (Mr. SPARKMAN), the Senator from California (Mr. TUNNEY), and the Senator from Alaska (Mr. GRAVEL) are necessarily absent.

I further announce that the Senator from Wyoming (Mr. MCGEE) and the Senator from Hawaii (Mr. INOUYE) are absent on official business.

Mr. SCOTT. I announce that the Senator from Colorado (Mr. ALLOTT), the Senator from Tennessee (Mr. BAKER), the Senator from Nebraska (Mr. CURTIS), the Senator from Michigan (Mr. GRIFFIN), the Senator from New York (Mr. JAVITS), the Senator from Iowa (Mr. MILLER), the Senator from Ohio (Mr. TAFT), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

Also the Senator from Maryland (Mr. BEALL), the Senator from Arizona (Mr. GOLDWATER), and the Senator from South Carolina (Mr. THURMOND) are necessarily absent.

If present and voting, the Senator from Colorado (Mr. ALLOTT), the Senator from Maryland (Mr. BEALL), the Senator from Nebraska (Mr. CURTIS), the Senator from Iowa (Mr. MILLER), the Senator from South Carolina (Mr. THURMOND), and the Senator from Texas (Mr. TOWER) would each vote "nay."

The result was announced—yeas 14, nays 62, as follows:

[No. 494 Leg.]

YEAS—14

Aiken	Cranston	Nelson
Bayh	Fulbright	Proxmire
Burdick	Hart	Saxbe
Case	Hartke	Stevenson
Church	Kennedy	

NAYS—62

Allen	Fannin	Muskie
Belimon	Fong	Packwood
Bennett	Gambrell	Pastore
Bentsen	Gurney	Pearson
Bible	Hansen	Pell
Boggs	Hatfield	Percy
Brock	Hollings	Randolph
Brooke	Hruska	Ribicoff
Buckley	Hughes	Roth
Byrd,	Humphrey	Schweiker
Harry F., Jr.	Jackson	Scott
Byrd, Robert C.	Jordan, N.C.	Smith
Cannon	Jordan, Idaho	Spong
Chiles	Long	Stafford
Cook	Magnuson	Stennis
Cooper	Mansfield	Stevens
Cotton	Mathias	Symington
Dole	McClellan	Talmadge
Dominick	Mondale	Weicker
Eagleton	Montoya	Williams
Ervin	Moss	Young

NOT VOTING—24

Allott	Gravel	Metcalf
Anderson	Griffin	Miller
Baker	Harris	Mundt
Beall	Inouye	Sparkman
Curtis	Javits	Taft
Eastland	McGee	Thurmond
Edwards	McGovern	Tower
Goldwater	McIntyre	Tunney

So Mr. FULBRIGHT'S amendment was rejected.

Mr. KENNEDY. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read the amendments, as follows:

On page 21, beginning with line 6, strike out all down through line 17 on page 21.

On page 51, beginning with line 18, strike out all down through line 5 on page 52, and insert in lieu thereof the following:

SEC. 729. No appropriation contained in this Act shall be available for the payment of any expenses in connection with any program administered by the National Board for the Promotion of Rifle Practice.

Mr. KENNEDY. Mr. President, I yield to the distinguished majority leader.

Mr. MANSFIELD. Mr. President, with the understanding that no time will be taken out of the time of the Senator on his amendment, for the benefit and information of the Senate, so that we will know how long we will have to stay tonight to finish the pending business, we know at the present time we have one and possibly two amendments to be offered by the distinguished Senator from Massachusetts, one by the distinguished Senator from Illinois (Mr. STEVENSON), one, I believe, by the distinguished Senator from Michigan (Mr. HART). Are there any others?

Mr. MATHIAS. I have one.

Mr. COTTON. Mr. President, was there one by the distinguished Senator from Minnesota (Mr. HUMPHREY)?

Mr. MANSFIELD. Not that I know of.

I understand that the Senator from Michigan is prepared to agree to a very short time limitation. Is the Senator from Maryland—I did not know he was going to offer an amendment until just now—prepared to do the same? I want the Senate to know how to proceed. If it is going to be too late, we are not going to keep Senators around here. They have had a long day.

Mr. MATHIAS. Mr. President, to respond, my amendment will be in the nature of an antiwar amendment. It will require some study of the legislative history of the last session of Congress, at which time the Mansfield amendment, which has since been signed by the President, was adopted. I would think Senators would want to be very careful in their analysis of that language and how it might apply to this legislation. I would not think it wise at this moment to accept any time limitation.

Mr. MANSFIELD. The Senator, then, does not see any possibility of finishing the pending business this evening?

Mr. MATHIAS. I shall be glad to discuss it with the majority leader, but I do think it may take more than just an hour.

Mr. MANSFIELD. Mr. President, could the distinguished Senator from Michigan give the leadership some idea as to what his amendment will encompass?

The PRESIDING OFFICER (Mr. HART). The amendment, which I have not yet had printed, is an across-the-board 5-percent cut. It will not take very long to explain. There may be other Senators who want to react to it, but, in my case, I can describe it in very brief time. The Pentagon would be told to take 5 percent less than the $74.6 billion, applying the cut of $3.6 billion in areas to be decided by the Defense Department.

Mr. MANSFIELD. I thank the Senator. We will try to work it out a little later.

Mr. KENNEDY. Mr. President, just for the information of the Senate, I have two amendments. I am hopeful one will be accepted. I am doubtful that one of them will be. I do not think either of them will take prolonged discussion or debate, just for the information of the majority leader.

The PRESIDING OFFICER. Will the Senator indicate whether he desires his amendments to be considered en bloc?

Mr. KENNEDY. I so desire.

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

Mr. KENNEDY. Mr. President, there are two parts to the amendment I have proposed this evening. They refer to the part of the defense bill that provides resources and funds to the National Board for the Promotion of Rifle Practice, which is housed in the Pentagon.

The first part of the amendment would strike the section of the defense appropriation that would provide $100,000 which is used in the Pentagon to make recommendations of how best to transfer military weapons to civilian use.

The other part of the amendment refers to that section of the defense appropriation bill on page 51, line 18, which reads that—

During the current fiscal year, the Secretary of Defense shall, upon requisition of the National Board for the Promotion of Rifle Practice, and without reimbursement, transfer from agencies of the Department of Defense to the Board ammunition from stock or which has been procured for the purpose in such amounts as he may determine.

This is a general, open-ended appropriation, actually—under which money is being used for the purchase of and supply of ammunition to countless gun clubs in this country, at taxpayers' expense. For example, amounts used in the past, to support the world target-shoot-

ing contest of 1970. I think we ought to understand completely the amount of money which is being appropriated under that second section.

If we are going to underwrite and support the international competition for target shooting, I think the American people might wonder why we are not supporting international competition for baseball or other items which are included in the Olympics.

I think we ought to be able to have the figures outlined for us and exactly how much of the taxpayers' funds are being used for these various programs.

I have looked through the report and have been unable to find those figures listed anywhere.

I would like to request from the manager of the bill how much has been included under section 729, how much has been used for the purchase of ammunition, what the procedures are that are being followed in supplying that ammunition to gun clubs, and whether other people outside the National Rifle Association are going to be able to take advantage of such ammunition that is going to be available through this program, and what the procedures are that are going to be followed.

Then I would be interested in the justification of the $100,000 that will be expended under the section on page 21 of the bill that provides for necessary expenses of construction, equipment, and maintenance of rifle ranges under the National Board for the Promotion of Rifle Practice. I understand that a principal function of that Board is to conduct research and engineering studies to find out how we can convert hundreds of thousands, even millions, of defense weapons and turn them into civilian use.

I would be interested in what response we might have with respect to those particular sections so that we can find out exactly what amounts of the taxpayers' funds are being used in this area, so we will all understand the policies which guide us.

I take this opportunity to offer an amendment to H.R. 16593, the appropriations for the Department of Defense, in order to eliminate the functions of the Army National Board for the Promotion of Rifle Practice.

My reason for moving to delete this activity from the appropriations for our vast military organization is straightforward—Federal support of civilian rifle practice is an absolete anachronism that cannot be justified in our modern society.

The Congress created the National Board for the Promotion of Rifle Practice in 1903 to carry out four missions:

First, to promote practice in the use of military type individual small arms among civilians;

Second, to promote small arms matches and competitions;

Third, to issue arms, ammunition, targets, and other supplies to competitors paritcipating in these activities; and

Fourth, to procure and award to winning competitors, trophies, medals, badges, and other insignia.

According to the legislation creating the board, the basic purpose of these activities is to encourage and to support small arms target practice, presumably so that in time of war the Nation would have a trained corps of riflemen and rifle instructors.

Perhaps in 1903 that was not only a noble goal, it was also a predictable result of the lingering frontier ethic.

At the turn of this century, the need for a prepared civilian force of riflemen may have been important. But if there is any one thing that our enormous military training system has mastered—it has mastered the technique for teaching raw recruits how to shoot. And I seriously doubt that the funds appropriated for the civilian marksmanship program have contributed substantially, if at all, to the development of proficient marksmen in today's army.

Indeed, the visible and obvious result of those Pentagon-sponsored shooting matches is to provide a Federal subsidy for people who derive recreational enjoyment and personal satisfaction from the use of firearms.

Every Member of this Senate is fully aware of my earnest demand to establish a nationwide Federal firearms control system. I believe that only with such a system can we begin to stem the bloody flow of firearms killings in this country. Until a standardized system to restrain firearms abuse is enacted, I can see no reason why the Federal Government should be involved in paying for people to take target practice in military firing ranges or anywhere else, for that matter.

Lt. Col. Frank Lohman, director of the civilian marksmanship program, asked the House Appropriations Committee, earlier this year, for $126,000 to maintain the program at its 1972 level during the 1973 fiscal year. He also requested $284,000 for the Army to purchase some 20 million rounds of .22 caliber ammunition. According to the colonel, that ammunition would be consumed in the many practice and competitive matches conducted by civilian shooting organizations, including the National Rifle Association.

Mr. President, I find it difficult to understand why the Defense Department should buy 20 million bullets for civilians to use in 1 year.

Furthermore, I am considerably more troubled by the apparent duplicity demonstrated by the managers of the Department in the way they finally recommended appropriations under this authority. It is intriguing to observe that the bill passed by the House of Representatives appropriates $159,000 for the National Board for the Promotion of Rifle Practice to add three staff members, but the bill does not specifically provide funds for the purchase of 20 million bullets. Instead, that bill gives the Secretary of Defense authority to transfer from other accounts almost any amount he desires for the purchase of bullets to be used in this program. Thus, the Defense Department almost has carte blanche authority to spend unlimited funds in order to keep the guns of civilian shooters loaded at all times.

It is encouraging to see that the Senate Appropriations Committee is moving in the right direction by cutting the funding to $100,000. I intend to carry that reduction all the way and to eliminate all funds for this unnecessary program.

In 1967, when I first brought the details of this program to public attention, annual expenditures for the civilian marksmanship program amounted to over $3 million. Today, the appropriations bill before the Senate specifically denotes $100,000 for support personnel and an undisclosed sum for ammunition and supplies.

During that timespan, we seem to have produced a substantial reduction in this program. But I am currently alarmed by the Department's actions which reveal two blatant assaults on the integrity of the public trust:

First, Secretary Laird began in 1970 to reverse the trend that had consistently restrained the scope of this program. In that year, he overruled Army Undersecretary Thaddeus Beal and agreed to provide $70,000 in military support for the 1970 world shooting championships. Thus, the Department of Defense elected to underwrite a worldwide shooting contest sponsored by the country's most active gun lobby—the National Rifle Association. And last year, the department provided support for the national shooting matches for the first time since 1968. So it can fairly well be claimed that while our Government denies assistance for Americans to compete in athletic contests like the Olympic games, the administration openly subsidizes competition among people from around the world who demonstrate an interest in shooting guns.

Second, because the National Rifle Association exercises nearly exclusive control over the eligibility of participants in these programs, the fundamental legality of the programs is in doubt. For, participants in these subsidized programs must show allegiance to and negotiate through National Rifle Association affiliates in order to gain access to the Federal arms supply. If the Defense Department can justify a subsidy for those who enjoy shooting guns, why cannot the Department of Transportation subsidize people who enjoy racing automobiles; or why should not the Agriculture Department subsidize people who derive pleasure and satisfaction from cultivating and raising roses or camellias; or, why cannot the Interior Department provide subsidies for young boys who yearn to play the wholesome sports of baseball, football, or basketball?

I am particularly dismayed with the thrust and direction of this program because it serves to validate the role of firearms as an acceptable and attractive part of our daily life. Yet, the administration has chosen to oppose measures that would discourage the abuse and misuse of guns. Each year the count of gun deaths on America's domestic battlefields leaps beyond the death toll of the year before. Instead of actively seeking to stop killing over 21,000 civilians with guns each year, the administration is vigorously spending tax dollars to encourage people to do even more shooting.

Proudly, the National Rifle Association boasted in the May 1972 issue of the American Rifleman that the Army is using its Fort Benning, Ga., training unit to investigate and to research ways to sidestep the provisions of existing Federal gun laws.

The American Rifleman admits, that under "the strict construction of the 1968 Federal Gun Control Act" private possession or even the firing of fully automatic arms by civilians is outlawed. But the Pentagon is efficiently pursing every possible approach that will enable the Army to convert its basic small arms weapon—the M-16—for use by civilian target shooters.

American households comprise the largest civilian-owned arsenal in the history of mankind. Between 100 million and 150 million rifles and shotguns are owned by our citizens. And another 30 million handguns are believed to be privately owned by the American people.

With such an enormous civilian arsenal what rationale justifies a Government subsidy aimed at the development of yet another potentially deadly firearm?

Why should the citizens of this country contribute their tax dollars for the production of a device that could ultimately fall into the hands of those who might abuse such a powerful and threatening weapon?

Mr. President, while I seek to delete $100,000 from this appropriations measure, it is important to remember that the money amount is much less significant than the overall impact of this program.

My amendment not only would abolish the program by deleting the $100,000 appropriation, it would also deny the use of other Defense Department funds to National Board for the Promotion of Rifle Practice.

There is clearly no justification for the Department to continue this activity. And certainly there is no reason why the Department should expand its subsidy in this area.

Indeed, the Senate has, for too long, struggled with the broader issue of funding the burdensome costs of a war in Indochina that nobody wants. Clearly, there should be less anguish about continuing Federal support for civilian firearms activities on the home front.

I therefore urge the Senate to strike the appropriation for the civilian marksmanship program, and to abolish the National Board for the Promotion of Rifle Practice. Continued Federal support of this privately operated recreational pursuit contributes little, if any good, to the welfare of our citizens. There is no room in our Federal Establishment for programs that may serve to embellish the public appeal for activities that can lead to the abuse or the misuse of firearms.

I am hopeful that the chairman can provide answers to the questions I have raised about this matter.

Mr. McCLELLAN. Mr. President, what, specifically, is the Senator's question?

Mr. KENNEDY. There are two parts of the amendment. One would be to strike section 729, which provides an open-ended appropriation, really, for the Secretary of Defense to respond to requests from the National Board for the Promotion of Rifle Practice such amounts as the Secretary of Defense may determine, and also reimbursement for traveling expenses for various military personnel to go to various international rifle matches.

I would be interested in knowing how much money is intended to be appropriated under that section, or whatever information the chairman could give us as to how much was appropriated last year or in previous years, so that we could have some explanation of the item. We are interested in ascertaining how the taxpayers' funds are used for rifle target practice. I think we ought to know how much is being actually used for that purpose so we may have some idea of the intention of the committee with respect to that particular section.

Mr. McCLELLAN. Mr. President, does the Senator want me to speak on my time?

Mr. KENNEDY. I was interested in having the Senator respond to that question, or I will reserve the remainder of my time if the Senator wishes to make a statement.

Mr. McCLELLAN. I am sorry, Mr. President, I probably cannot respond as fully as I would desire. I had no idea the Senator was going to ask the question or offer the amendment. Had I been given a little notice, I would have had full information on any question he might have asked.

May I say to the Senator, however, that on this particular item, we reduced the amount provided by the House of Representatives from $159,000 to $100,000. I had some misgivings about the entire program. I had in mind making a study of activities of this agency prior to next year, with a view to possible reduction or phasing out the program.

I understand the program has been carried on for many years. I can see there is some justification for having the military encourage rifle practice if that might contribute to young people being better soldiers if they should be called into service. I think it has some merit. But at the same time, I remain committed to discovering any and all ways of making reductions in military expenditures where we can do so without placing in jeopardy our military posture. I feel that this might be an area where we could very well do that.

I did not know this question was going to be asked, as I say to my distinguished friend, but I would be happy to respond to any degree possible. I might say to the Senator that while the committee voted $100,000 for the National Board for Promotion of Public Practice, I do not feel strongly about this item. We reduced the amount somewhat to indicate to our friends in the other body that we have some misgivings about it, and unless they can convince us otherwise, we would insist on the reduced amount. Needless to say, I shall defend the action of the committee until the Senate has voted otherwise.

I say to my distinguished friend from Massachusetts that I had in mind, personally, going into it next year with a possible view to eliminating all of it. But I would like, this year, to take it to conference. There has been no advance warning about it. We had no issue connected with it before the committee. But, again, I think we ought to place the House on notice of our thinking and what we are doing, and that is one thing I had in mind in asking for a reduction in this item.

I think my views are shared by the distinguished Senator from North Dakota, who is the ranking minority member of the Defense Subcommittee.

Mr. KENNEDY. Mr. President, I yield myself 4 minutes.

Mr. McCLELLAN. I am happy to yield the Senator whatever time he wants.

Mr. KENNEDY. I regret not being able to bring this to the chairman's attention. As he knows, the bill came up on Saturday, and my presentation was only prepared over the course of the week end, and therefore we were unable to do so.

I appreciate the attitude of the chairman of the committee. I think the two parts which I have the greatest interest in are the section which the Senator has mentioned, and then the section—as I understand, section 729—which is really an open ended kind of appropriation.

Mr. McCLELLAN. I would be willing to take that part of the Senator's amendment to conference. I have no objection to doing that.

Mr. KENNEDY. Fine.

Mr. McCLELLAN. I do not know what kind of a case can be made for it. If the Senator will offer his amendment in two parts, I would be glad to accept that one, if the Senator will withdraw the other, so that we may again initiate action leading to the possible elimination of this whole program.

I do not make this as an irrevocable statement. Maybe I can be convinced otherwise by Senators and a full disclosure of the facts. But I am looking for areas where this defense appropriation can be reduced. I think we must search for such areas, and eliminate every bit of surplus that we can.

Mr. KENNEDY. Could I have the suggestion of the Senator from Arkansas, then, that we divide it into two parts?

Mr. McCLELLAN. I would suggest that. I would be glad to take the second amendment to conference, if the Senator will leave the other one as it is. In that way we can be certain that no money will be expended therein, except the amount in the bill. That will keep it from being open ended.

Mr. KENNEDY. It is open ended now, and the thrust of my amendment would be to strike that section.

Mr. McCLELLAN. That would place it in conference.

Mr. KENNEDY. It would place it in conference; and what the Senator would attempt to do is reach at least some type of figure so that we would know what that figure was?

Mr. McCLELLAN. I am advised by the staff that the amount requested for fiscal year 1973 was $126,000. The House raised this to $159,000 and the committee reduced it to $100,000.

Mr. KENNEDY. The Senator is quite correct about the first section.

Mr. McCLELLAN. On the 729 item, the amount heretofore utilized has been in the neighborhood of $100,000.

Mr. KENNEDY. All right.

Mr. McCLELLAN. I am willing to take that to conference, so that both sides of the argument can be fully developed.

Mr. KENNEDY. If the Senator will do that——

Mr. McCLELLAN. We have it in the

bill. We can have an issue in the conference about it.

Mr. KENNEDY. I myself think it would be enormously useful at the conference that we set some kind of figure and have some kind of indication about how those resources are being expended. This is really blind here at the present time.

Mr. McCLELLAN. I agree with the Senator.

Mr. KENNEDY. There have been a number of requests with specific reference to this title, and I think it is important that we understand how much money is actually in that section, and what it is being used for, and I hope the committee will use a sharp pencil in terms of the justification for those provisions.

Mr. President, I modify——

Mr. McCLELLAN. May I say this before the Senator makes his motion? I said earlier, in my opening remarks on this bill and also before the Appropriations Committee that the manager of the bill, the senior Senator from Arkansas, is laboring under some disadvantages in presenting this bill, as the Senator may know. During all of the hearings except that on the supplemental request, I was engaged in a political campaign, and was not able to attend the hearings. Subsequently, most regrettably, the chairman of the committee, who would normally have handled it, passed away. Now it has fallen into my lap, and I am not as completely knowledgeable on some of these items as I would like to be. I hope to have acquired a fuller background on defense matters if I continue as chairman of the committee.

I thought at the time we considered the item that it should be reduced, and thus we took the action we did in reducing it to $100,000.

The PRESIDING OFFICER (Mr. HART). The Senator from Massachusetts has obtained unanimous consent to have the amendments considered en bloc. Does he now ask unanimous consent that they be modified and treated separately?

Mr. KENNEDY. The Senator from Massachusetts so requests.

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

Mr. KENNEDY. Mr. President, I ask that the Senate proceed to the consideration of the second section of the amendment, which refers to section 729.

Mr. McCLELLAN. Mr. President, unless there is objection on the part of my colleague the ranking minority member of the Appropriations Committee——

Mr. YOUNG. Mr. President, I have no objection.

Mr. McCLELLAN. Without objection, then, I am glad to accept the Senator's amendment as modified.

Mr. KENNEDY. I appreciate that.

I know that when you have a bird in the hand, you should not keep talking; but I would call the attention of my colleague from Arkansas to a study done by the Arthur D. Little Co. in 1966 concerning the subject matter of the first part of this amendment. I think the Senator from Arkansas would be interested in their evaluation of this whole program, and I would hope that during his deliberations he would give some consideration to that study. I think it is extremely revealing, and that the Senator would find it informative.

I am prepared to yield back the remainder of my time.

Mr. McCLELLAN. I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back.

The question is on agreeing to the amendment, as modified, of the Senator from Massachusetts.

The amendment, as modified, was agreed to.

THE HUMAN EXPERIMENTATION AMENDMENTS TO THE DEFENSE APPROPRIATIONS BILL

Mr. KENNEDY. Mr. President, I have another amendment which I think will be accepted. I send it to the desk.

The PRESIDING OFFICER (Mr. HOLLINGS). The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. KENNEDY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

At the appropriate place in the bill insert a new section as follows:

SEC. —. None of the funds appropriated by this Act shall be available for any research involving un-informed or non-voluntary human beings as experimental subjects.

Mr. KENNEDY. Mr. President, I ask unanimous consent that Mr. Ellis Mottur be permitted the privilege of the floor during the discussion of this amendment.

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

Mr. KENNEDY. Mr. President, if I may have the attention of the chairman of the committee, the Senator from Arkansas, and of the ranking minority member of the committee, I will explain the amendment. This amendment was initially offered in the military authorization bill and was accepted by the chairman, the distinguished Senator from Mississippi. It was adopted by the Senate on a voice vote without opposition, but it was dropped in conference. I raise it again at this time, and the reason why I raise it is that I think we need to develop a clarification of policy with respect to human experimentation.

At the present time the Defense Department spends approximately $10 million per year for human experimentation. When properly carried out, human experimentation is well justified and can be extremely important and useful. There are a number of Defense Department programs, in which varying standards have been used for regulating the participation of the different individuals who have served as the experimental subjects of those programs. What we are trying to achieve here is the development of a uniform set of standards by the Defense Department which will govern the use of funds for human experimentation.

I have taken the opportunity of making an inquiry to the Defense Department about this, and the Department has indicated that it has no objection to this amendment.

Human experimentation has been conducted by the Defense Department for some time; but I am not making any allegations or charges on the basis of the information that I have, or that our Health Subcommittee has, that any of those experiments have violated the kinds of criteria which have been established to date. What we are trying to accomplish here is to assure that as we move ahead with Defense Department sponsored human experimentation, we will develop a set of detailed standards which respect the rights of the individual—which assure he has knowledge of what risk are involved in the experiment and that he freely volunteers to participate after being informed of those risks.

As I have said, the Armed Services Committe accepted a more sweeping and detailed form of this amendment; and the Senate adopted it by a voice vote on August 1. I hope that the chairman of the Appropriations Committee feels that he can accept the more limited form of the amendment before us today.

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

Mr. KENNEDY. I yield.

Mr. STENNIS. For the information of the Senate, we accepted the amendment, exactly as the Senator from Massachusetts has said, and it provides as he has said. It was rejected in the conference, largely on a jurisdictional point. It was objected to very strenuously. It was really a health measure, they thought, and should go before their Committee on Health.

Mr. McCLELLAN. Mr. President, this is another of those amendments which comes up on the floor and which I have not had an opportunity to consider. I did not know it was going to be brought up. I do not know the full impact of the amendment. I do not know whether it has merit. Apparently, the House will not take it. If the Senator wants me to take it to conference, I will do so and have them consider it again.

Mr. KENNEDY. Perhaps the Senator from Mississippi can clarify the matter. The amendment we had offered on the authorization bill covered all Federal agencies. This amendment applies only to the Defense Department. I would think it would meet some of the objections that were voiced at that time. Am I correct?

Mr. STENNIS. I think it would perhaps meet part of their objections, at least, and would be a different amendment from what we had to deal with. They made the point about so many agencies being affected. I think it could be taken to conference. It is worthy subject matter.

Mr. McCLELLAN. I will take it to conference, but I do not want that action to be taken as an irrevocable commitment to support it. I have to understand more about it. I will be pleased to take it to conference.

Mr. KENNEDY. That would be acceptable.

Mr. President, we really did not have—at least, some of us—adequate notification about the full implications of this

most expansive legislation. These points were raised Saturday. I attended the Saturday session, and there are a number of extremely important provisions in this measure.

It is my practice to notify the members of the committee or the floor manager of any amendment. But I would hope the chairman would take it to conference.

It would be extremely difficult for me to understand why this type of amendment would be unacceptable. It just prohibits the use of Defense Department funds for human experimentation, except when the individuals have been fully informed of any physical or mental health risks involved, and freely volunteer to participate in such a program. I would think it would be acceptable to the Senate and, hopefully, to the House. I hope the Senator will take it to conference. We will take it upon ourselves to provide some additional information and justification for these programs to the chairman of the committee.

DESIGNATION OF STRATIFIED PRIMITIVE AREA—A PART OF THE WASHAKIE WILDERNESS—CONFERENCE REPORT

Mr. JACKSON. Mr. President, I submit a report of the committee of conference on S. 166, and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. HOLLINGS). The report will be stated by title.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 166) to designate the Stratified Primitive Area as a part of the Washakie Wilderness, heretofore Shoshone National Forest, in the State of Wyoming, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all the conferees.

The PRESIDING OFFICER. Is there objection to the consideration of the conference report?

There being no objection, the Senate proceeded to consider the report.

(The conference report is printed in the House proceedings of the CONGRESSIONAL RECORD of September 25, 1972, at p. 31981.)

Mr. JACKSON. Mr. President, the House amendment to S. 166 consisted of striking all after the enacting clause and substituting in lieu thereof new text which varies from the Senate bill in one significant way. The committee of conference accepted the Senate version which provided for the protection of the DuNoir area to the west of the main Washakie Wilderness by the creation of a special management unit, but added a new subsection to the bill directing the Secretary of Agriculture to initiate a continuing study of this area and at the end of a 5-year period following the enactment of this act to recommend to the President and the Congress what he considers to be the area's highest and best public use.

Mr. President, I am satisfied that the agreement reached by the conference committee is a reasonable compromise and I move the adoption of the conference report.

The motion was agreed to.

Mr. JACKSON. Mr. President, I ask unanimous consent that a statement by the distinguished Senator from Wyoming (Mr. HANSEN) on this subject be printed in the RECORD at this point.

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

STATEMENT BY SENATOR HANSEN

Mr. President, the approval of the Senate of the Conference Report on legislation to establish the Washakie Wilderness within the Shoshone National Forest culminates an effort that first began with my introduction of the original legislation in 1967.

Since that time, there has been a continued effort to try to reach some permanent solution which would provide for the statutory protection of the area.

Hearings were held on this legislation in 1968. In the 91st Congress, two bills were introduced, one by myself and one by my colleague, Senator McGee. The major difference between the two bills was that Senator McGee's bill would have increased my proposal by about 30,000 acres by inclusion as wilderness of an area commonly referred to as the DuNoir.

In 1970, Senator McGee and I met to try to work out the differences between the two pieces of legislation. As passed by the Senate, the Washakie Wilderness legislation represents the compromise that we reached.

In effect, we took the area of dispute, the DuNoir, and agreed to put it under a special management status spelled out in Section 5 (a) of the legislation. In reaching the solution which is encompassed in Section 5(a) of the pending legislation, every word was carefully picked so as to represent exactly what Senator McGee and I intended.

There is no need to try to interpret the meaning of the Congress in approving the special management provisions of Section 5. The meaning is clear from the actual working of the provision.

Section 5(a) was agreed to by Senator McGee and myself, the Governor of Wyoming, various state agencies, and numerous local interests. Originally, the Wyoming Outdoor Cordinating Council, representing various environmental factions throughout the state, agreed to the provisions. Apparently, this was later withdrawn.

Mr. President, I want to acknowledge the tremendous help and cooperation which I received from my colleague, Senator McGee. His support enabled favorable consideration of the special management provision of S. 166 here in the Senate, and this was sustained through Conference.

Although differences existed in the House and Senate passed versions of the bill, the Conference Committee accepted the Senate bill with a new provision to authorize the Secretary of Agriculture to restudy the DuNoir and report back to Congress.

Approval of the Conference Report by the Senate today will pave the way for the President's signature. Statutory protection of over 230,000 acres of prime land in northwestern Wyoming will become a reality following six years' effort.

I urge the approval of this Report.

DEPARTMENT OF DEFENSE APPROPRIATIONS, 1973

The Senate continued with the consideration of the bill (H.R. 16593) making apppropriations for the Department of Defense for the fiscal year ending June 30, 1973, and for other purposes.

Mr. KENNEDY. Mr. President, on August 1, the Senate passed an amendment to the military procurement bill which prohibited the use of Federal funds for human experimentation, except when the human beings involved had been fully informed of any physical and mental health risks involved and had freely volunteered to participate after being so informed.

That amendment set forth certain procedures for implementing the policy with respect to military procurement research contracts. The staff of the Armed Services Committee discussed the amendment with the Department of Defense and reported that DOD had no objection to the amendment. The amendment, which I introduced, was cosponsored by 16 other Senators, including Senator MCINTYRE, the chairman of the Armed Services Subcommittee on Research and Development.

The distinguished chairman of the Armed Services Committee, Senator STENNIS, agreed to accept the amendment; and it was adopted by the Senate on a voice vote without opposition.

In the conference on the bill, however, the House conferees felt the amendment was not germane to the House bill because its policy provision applied to all Federal agencies. In addition, as stated in the conference report:

> The House conferees, while not opposed in principle had no time to study the ramifications of the provision or its full effect upon the defense establishment. The Senate conferees, therefore, reluctantly recede.

The amendment I am offering today is aimed at the same problem as the amendment adopted by the Senate on August 1; but its scope is limited solely to the Department of Defense. In addition, it does not set forth any procedures for implementation, but merely states that:

> None of the funds appropriated by this Act shall be available for any research involving un-informed or non-voluntary human beings as experimental subjects.

I believe this is a requirement which almost no one would quarrel with. The rationale for it is set forth in detail in the RECORD of August 1, pages 26229 to 26330; and I ask unanimous consent that the record of that debate be reprinted in the RECORD at this point.

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

DEPARTMENT OF DEFENSE APPROPRIATIONS, 1973

Mr. KENNEDY. Mr. President, I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk proceeded to read the amendment.

Mr. KENNEDY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

"On page 13, between lines 7 and 8, insert a new section as follows:

"SEC. 203. (a) It is hereby declared to be the policy of the United States that Federal funds may be used to conduct research involving human beings as experimental subjects only when each participant has freely

volunteered to participate after having been fully informed of any physical or mental health risks which may be incurred as a result of participating in such research.

"(b) In order to carry out the policy stated in subsection (a) of this section with respect to the Department of Defense, none of the funds authorized by this or any other Act may be used by the Department of Defense to contract with any individual, corporation, institution, organization, or other entity, for the purpose of carrying out any research project which uses human beings as experimental subjects unless—

"(1) the Secretary of Defense has determined that such project is essential to the national defense;

"(2) the Secretary of Health, Education, and Welfare has been informed of the project and he has either (A) indicated in writing to the Secretary of Defense whether the research project is one which will involve substantial risk of serious injury to the physical or mental health of the human subjects to be used and whether the research project is one which will involve substantial risk of resulting in any genetic change in such subjects, or (B) permitted forty-five days to elapse after having been officially informed of such project without having submitted to the Secretary of Defense a written notice as described in subclause (A) of this clause;

"(3) the human subjects to be used have been fully informed of the nature and purposes of the research project and of any possible physical and mental health consequences that may result from participation in such research project, including any physical and mental health consequences included in the report of the Secretary of Health, Education, and Welfare submitted pursuant to clause (2); and

"(4) each person participating in such project has freely volunteered to participate after he has received the information referred to in clause (3)."

The PRESIDING OFFICER. The Chair reminds Senators that, under the previous agreement, there is 1 hour for debate on this amendment, to be equally divided between the Senator from Massachusetts and the manager of the bill.

Mr. STENNIS. Mr. President, in the name of membership, I ask that the Chair maintain order to the extent that we can at least hear.

The PRESIDING OFFICER. The Senate will be in order. The Senator will suspend until Senators have taken their seats and ceased audible conversation.

HUMAN EXPERIMENTATION AMENDMENT TO MILITARY PROCUREMENT AUTHORIZATION BILL

Mr. KENNEDY. Mr. President, advances in modern medical sciences have lengthened the span and changed the quality and very meaning of human life. But at the same time, these advances have opened a Pandora's box of ethical, social, and legal issues in areas such as heart transplants, artificial kidneys, test tube babies, genetic intervention, behavior modification, and experiments on human beings.

For example, recently a hospital has been sued for allegedly allowing a black laborer to die so that his heart could be used in a transplant operation. I would not want to comment on the merits of that particular case, but it illustrates the range of difficult questions which must be faced: When heartbeat and other vital signs can be maintained by artificial means, how is death to be defined? Under what circumstances may the organs of the deceased be used for transplant? Who should give permission for such transplant? Did racial considerations affect the decision to use this heart, as was alleged in the suit?

Medical science advances pose many other difficult ethical and social questions:

Should carriers of hereditary diseases, like sickle cell anemia, be prohibited from having children? Should they be counseled against having them?

Should retarded persons be segregated from members of the opposite sex? Should they be sterilized?

What are the ethical implications of test tube babies? What will happen to our population when men and women are free to determine the sex of their children? Or to fabricate babies with pre-established characteristics?

How should society regulate the use of behavior modification drugs and other techniques to control human behavior? How can we control the controllers?

How should the Nation allocate scarce medical resources between organ transplants for a few individuals versus research and services which can help many?

Which individuals should receive the life and death benefit of artificial kidney facilities? How should we choose among those who need this help?

How long will the Nation tolerate a situation in which 50,000 need kidney services, and only 2,000 can receive them because of financial limitations?

The solutions to these sorts of problems cannot be found within science alone. As Dr. Jerome Wiesner said, "Science is no substitute for thought." These issues cannot be resolved by complex mathematical formulas or high speed computers.

They fundamentally involve questions of ethics and social responsibility. To come to grips with them, we must focus the full range of human talent and imagination—from the natural and social sciences, the arts and humanities, religion and philosophy, and the professions of law, medicine, and public service. We must draw on all the resources mankind has to offer; for after all it is the quality of man's life which is at stake.

Obviously the solution to these problems will not come overnight. The Senate has already taken a major step toward the solution of these problems. On November 9, 1971, as chairman of the Health Subcommittee, I held hearings on these issues and specifically focused on Senate Joint Resolution 75, to establish a National Advisory Commission on Health, Science, and Society. This resolution had been introduced by the distinguished Senator from Minnesota (Mr. MONDALE). The hearings record provided overwhelming support for this resolution, and on December 2, 1971, the Senate passed Senate Joint Resolution 75. The resolution is now before the Health Subcommittee in the House, and I am hopeful that it will receive hearings and House action this year.

But even if the resolution is passed, and the National Advisory Commission on Health Science and Society is established, it will be 2 years before the Commission presents its final report to the President and the Congress. And then it will undoubtedly take additional time before the recommendations of the Commission are incorporated in appropriate legislation and executive action.

It is fitting and necessary that this Commission activity occur. For these problems will confront mankind for the foreseeable future. Developing lasting solutions to the problems must require considerable thought and effort.

But while these long-term efforts are underway, it is equally important that we move ahead and take whatever constructive steps are possible now to cope with the existing problems in these areas.

One of the most significant problems in this entire area is that of human experimentation. Historically the advance of modern medical science has traditionally made use of human experimentation, frequently with the scientists using themselves as experimental guinea pigs. Without some human experimentation it would not have been possible to develop the smallpox vaccine or to begin to cope with malaria. And the development of modern drugs is dependent on a certain amount of experimental drug use among special patient groups. Such drug testing has to be much more closely monitored and regulated than it has been in the past, but under the proper controlled conditions it has to occur; for human experimentation is an essential requirement for medical progress.

The thrust of my remarks today is not that human experimentation is inherently bad or that it should be banned or prohibited. Human experimentation is essential in a balanced program of medical research. But the problems posed by human experimentation—in medicine, ethics, law, and social policy—are enormous. How we resolve these issues will have a major impact on the lives of millions of Americans over the coming years.

The kind of impact human experimentation can have has been dramatically demonstrated in recent days with revelation of the tragic syphilis project at Tuskegee. The disclosure of a 40-year experiment on hundreds of poor, black men stricken with syphilis in Alabama, raises the specter of an Orwellian nightmare. Because we now have complex devices like kidney machines, and because we can now transplant a man's heart; and because we have now ended the deathly plagues of smallpox and polio—too many Americans have been lulled into a false sense of security about the powers and practices of medical science. But the news that a Federal agency—the Public Health Service—has used taxpayers' dollars to conduct a program to experiment on poor, sick, black people—without their knowing it—is an alarming revelation at best.

Many questions leap to mind with that outrageous news:

Why were not the patients treated with penicillin after that "wonder" drug had been discovered?

Why did the experiment include only men? And why were only black men included?

How many of those men are now in mental institutions, because the syphilis infection caused irreversible brain damage?

How many of those test patients fathered children who contracted congenital syphilis?

Are Federal agencies conducting any other such experiments?

And, why has the news of the Tuskegee experiment come to light right at this time?

Current Public Health Service figures show that nearly 100,000 new cases of syphilis were reported nationwide in 1971. During 1970 and 1971, the increase in reported cases rose 8 percent and 15 percent respectively. Those alarming rates definitely suggest that syphilis has reached epidemic proportions. Health authorities are particularly concerned at the fact that especially high rates are reported among our Nation's young people.

Can it be that the news about the 40-year-old Tuskegee experiment is intended to appease the national concern over the current syphilis epidemic? Since some health officials insist that treatment of the few Tuskegee survivors is useless—do they also plan to announce that treatment of today's teenagers is not required?

Mr. President, there is an almost endless stream of questions raised by the announcement that syphilis experiments on hundreds of black men have been sponsored by the Public Health Service. The amendment I have offered today is but one small step in coping with these problems. But it does establish as national policy that Federal funds can be used for human experimentation only when the participants have freely volunteered after knowing the risks involved.

The Tuskegee case is perhaps the most striking and heart-rending instance of human experimentation which has yet been brought to light. But many other cases exist.

Some involve clearcut violations of human rights, as in Tuskegee. But many others involve complex problems of fact, of law, of medical judgment, of ethics, and social policy. The range of issues involved can be seen from the following examples:

At an institution for the mentally retarded, children were deliberately exposed to hepatitis to study the problems involved in developing immunity to the disease. The issues in this case are complex. The families of the children apparently did give their consent to the procedure, but many authorities on medical ethics question whether parents have the moral right to "volunteer" their children for experiments. And even when parents do volunteer their children in such a case, are they doing so under some subtle pressure which prevails when children are inmates of such an institution?

Another factor in this case was the fact that almost all children in this particular institution would contract hepatitis sooner or later, whether or not they were deliberately exposed. So the doctor in charge of the research asserted that deliberately exposing them under controlled conditions did not increase the danger to them. Others have argued, however, that the problem lies with the inadequate conditions at the institution. If proper sanitation were maintained, they would not contract the disease as a normal matter of course. I think this case illustrates the kind of problems we have to face in this area.

Another case involves experimenting with prisoners. In one case, prisoners who were particularly prone to serious violence have been subjected to brain surgery to try to alter their behavior characteristics and inhibit or destroy their tendency toward violence. Some medical authorities argue that this is a perfectly acceptable procedure for such cases. But others assert that it is merely a way of turning the prisoners into vegetables who will not have the capacity for violence after their operation. Even if the medical profession were to determine that this is a sound procedure in certain cases, who is to determine which individuals have a strong-enough tendency to violence that can only be treated by surgery? And what procedures are they to follow in making that decision? And even if certain individuals were singled out by such a procedure, how would they volunteer to have the operation? In their situation could they really understand all the facts involved? And can any prisoner, who is in an inherently coercive situation, really "volunteer" for anything? In this connection it is worth noting that in Great Britain the use of prisoners in human experimentation is prohibited by law, on the grounds that prisoners cannot really volunteer, in the true sense of volunteering. This problem of "what it means to volunteer" also applies to individuals in mental institutions and to patients with a terminal illness, who may be desperate to try anything.

Another case, which was the subject of a recent Washington Post editorial, involved 398 women who were mostly Mexican-Americans. In a study funded by AID, the women were divided into three groups. One group was given regular commercially marketed birth control pills. Another group was given an experimental pill which had not yet been tested out in terms of its effectiveness or its safety. The third group was given a placebo or fake pill with no effect. The startling point about this experiment, however, was that the women were not told they were participating in an experiment. Thus all the women thought they were taking birth control pills which were effective. The sad result of this experiment was that a number of the women who took the placebo or fake pill gave birth to unwanted children, with all the potential tragedy that that portends. And the experimental pill was later declared to be unsafe for human use by FDA, so that the women in that group were using a dangerous medication without knowledge that it was being administered to them.

One of the AID officials involved in dealing with the study was quoted in the press as commenting:

"The potential benefits to humanity in this kind of study outweigh the potential risks to the individual subjects."

Perhaps there is someone wise enough to make such judgments, but the essence of democracy is that we do not delegate to any officials the right to make such decisions for others. Free choice is at the basis of our Nation, and if we once allow that right to be eroded—regardless of for what purported humanitarian purposes—we have lost one of our most precious rights.

We cannot permit Government bureaucrats to make decisions which place others into experimental situations without their full knowledge and without their volunteering to participate. We must establish a national policy for human experimentation which safeguards this right and which provides Government officials with procedures to guide their actions on such matters.

Another case involving 525 members of the Air Force who had strep sore throats. It was common medical knowledge at the time of this incident that treatment with penicillin could prevent strep throat from developing into rheumatic fever; but that without penicillin some of the airmen would be likely to develop rheumatic fever. The doctors running this experiment were aware of these facts; yet they wanted to learn what the effects of withholding penicillin would be. So none of the 525 airmen received penicillin, and at least 25 of the airmen contracted rheumatic fever. According to the testimony we received at our hearing last November, none of these airmen knew they were being experimented on; they were certainly not volunteering with awareness of what was involved.

Another case of a group of 80 to 100 terminal cancer patients who were being treated with whole-body radiation at a civilian general hospital. The hospital had a contract with the Defense Department to study the effects of the whole-body radiation on the cancer patients. The results were provided to DOD for use in planning with respect to nuclear warfare; for the whole-body radiation which the patients received had some similarity to what soldiers would experience on a battlefield if they were exposed to radiation from a nuclear explosion.

There is nothing inherently wrong with such a project provided that the radiation dosage which the patients received was not affected by the requirements of the DOD contract; and that the patients knew the nature of the research they were participating in and freely volunteered to do so, after having a thorough explanation of what was involved. However, because there was considerable confusion about the facts of the case, a controversy developed with charges and countercharges being made about the project. As a result of this controversy the institution at which this treatment occurred has since suspended the project, and indicated that if it is resumed in the future it will not be with defense department funds.

I have no intent in mentioning this case to criticize the Defense Department or the institution involved. The point is that adequate policies and procedures were lacking for handling such a situation, and as a result controversy and confusion developed which were certainly not beneficial to DOD, to the institution involved, or to the individual patients who participated in the research. The purpose of my amendment is to prevent such situations from developing in the future.

A final illustration of the problems involved in human experimentation also involves DOD funding of a project at a civilian medical institution. This case involves patients who have cancer of the eye, and whose eyes are going to be removed in an operation. Shortly before they are due for the operation, their diseased eye is subjected to an intense beam of radiation, similar to what military personnel would receive if they witnessed a nuclear explosion in the distance. After the diseased eye is removed, the tissue is studied to help in military planning with respect to nuclear conflict. Again the case is not cited in a critical vein, but merely to indicate the existence of such projects and the need to assure that there are adequate policies and procedures to safeguard the rights of the individuals involved.

I think the foregoing examples show the range and complexity of the problems involved in human experimentation. We cannot solve these problems overnight. The Health Subcommittee has been studying these problems, with the aim of determining what legislation may be necessary in this area. And I am considering the need for hearings on human experimentation to aid in the development of such legislation.

But while we are working on the more fundamental problems and trying to develop lasting solutions to them, there is an important constructive step which the Senate can take today in its consideration of the military procurement bill.

Let me reemphasize the point that human experimentation under appropriate safeguards is an essential part of medical research. And the Defense Department has many legitimate requirements to conduct and sponsor human experimentation.

For example, when military test pilots test a new aircraft, they may have their physiological responses monitored to help in evaluating the plane and in preparing for its use in normal operations. This is a form of human experimentation, and it is of course fully justified, even though the subject's participation may involve serious risk of substantial injury or death to himself. He volunteers for such service with full knowledge of what is involved.

Similarly, testing out new undersea vehicles or deepsea diving techniques can involve substantial danger to the volunteers involved, and is a form of human experimentation, but again is fully justified. And in more conventional terms, the military has to experiment with human reactions to night combat, to undue stress and strain, and to a host of other situations which occur in military activity. Similarly, DOD runs vast educational and training programs, and needs the benefits of research on training methods, like computer assisted instruction.

So there are many areas of legitimate, necessary research on human beings which DOD carries out. It is not my purpose to attempt to delineate these or in any way circumscribe them. The purpose of my amendment is merely to assure that basic national policy is established and followed to protect the rights of the human beings involved in the research.

This is a goal with which I think there should be little, if any, disagreement. In this connection, it is my understanding, as indicated by the staff of the Armed Services Committee, that the Department of Defense does not oppose this amendment.

I am also delighted that the distinguished Senator from New Hampshire has decided to cosponsor this amendment. As chairman of the Armed Services Subcommittee on Research and Development, he is an authority on such matters; and I welcome his support for this measure.

Incidentally, I should mention that 16 Senators have cosponsored the amendment. In addition to Senator McIntyre, they include Senators Bayh, Brooke, Cranston, Harris, Hart, Hughes, Humphrey, Inouye, Javits, McGovern, Mondale, Randolph, Ribicoff, Tunney, and Williams.

The purpose of the amendment is to help in clarifying national policy on human ex-

perimentation, and particularly to assist DOD in implementing this policy with respect to human experimentation which is carried out under DOD contract. The present DOD policies in this regard are not entirely comprehensive and clear; so I believe this amendment can be of considerable help to DOD. The staff of the Armed Services Committee was helpful in obtaining for us copies of DOD regulations on human experimentation; and at my request the Comptroller General also made a survey and summary of the situation. I shall ask that the material they provided be inserted in the RECORD at the conclusion of my remarks. But the major point is that the regulations are not entirely uniform or comprehensive so that my amendment should prove helpful to DOD in establishing clear policies on human experimentation.

The substance of the amendment is simple. Subsection (a) establishes as national policy that Federal funds will be used for human experimentation only when the participants have freely volunteered after being fully informed of the risks involved. This subsection applies to all Government agencies. Subsection (b) applies this policy to the Defense Department. It says that DOD can contract for research on human beings only when: First, it is essential to the national defense; second, when HEW has indicated whether substantial risk of serious injury is involved; third, when the participants have been fully informed of what is involved; and fourth, when they freely volunteer to participate.

To summarize my remarks, the problem of human experimentation is enormous. My amendment is only a small, but I believe significant step to move forward on this front. It would clarify national policy on human experimentation. And it would assist the Department of Defense in implementing that policy.

I am convinced it would be of great help to the Defense Department, to the institutions which perform the research, and above all, it would help protect the human rights of the individuals involved in the experiments.

I urge each Senator to support this amendment.

Mr. President, at my request the General Accounting Office studied the policy of the Department of Defense regarding the protection of human beings used in medical research projects under DOD contracts. The Comptroller General of the United States wrote me summarizing the GAO findings, and I ask unanimous consent that his letter be printed in the RECORD.

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

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, D.C., May 26, 1972.

Hon. EDWARD M. KENNEDY,
Chairman, Subcommittee on Health, Committee on Labor and Public Welfare, U.S. Senate.

DEAR MR. CHAIRMAN: Pursuant to your request of December 23, 1971, and discussions with your office, we obtained documents relating to . . . the policy of the Department of Defense on the subject of the protection of humans used in medical research projects under contract. . . .

Concerning the policy on the subject of the protection of humans used in medical research projects, an official of the Department advised us that the policy of the Department was set forth in Department of Defense Instruction 5030.29, dated May 12, 1964. The instruction, which is applicable to all components of the Department and to its contractors or grantees, states that:

"The Department of Defense assumes full responsibility for the protection of humans involved in research under its sponsorship whether this involves investigational drugs or other hazards.

"Each Military Department will establish within the office of its Surgeon General a formal Review Board of professional personnel to consider each research proposal from within that Military Department or from its contractors or grantees which may involve the use of human subjects in the clinical investigation of new drugs. Before a clinical test with an investigational drug may be performed under the sponsorship of a Military Department—

"1. the plan of the test and other pertinent details must be submitted to the appropriate Review Board.

"2. the Board must indicate its approval, and

"3. the approval must be confirmed by the respective Surgeon General."

With the exception of certain reports that were required to be filed with the Food and Drug Administration of the Department of Health, Education, and Welfare in the case of investigational new drugs, no procedures were specified in the instruction with regard to the use of human subjects for other research purposes. The reports to be filed with the Food and Drug Administration were set forth in a Memorandum of Understanding between the Department of Health, Education, and Welfare and the Department of Defense, dated February 1964, which contained the procedures to be followed to ensure that the requirements of the Federal Food, Drug, and Cosmetic Act, as amended (21 U.S.C. 355), and the regulations issued under the act are fully met.

Although the instruction appeared to be directed primarily toward the investigational use of drugs, an official of the Department of Defense advised us that the instruction applied to all medical research projects. He stated also that each service directed its own research projects without control from the Department.

We contacted officials of the Departments of the Army, Navy, and Air Force and of the Defense Nuclear Agency . . . to determine whether they had any instructions or regulations that were applicable to the use of humans in medical research work under contract. The officials were not aware of any instructions or regulations, other than the instructions and regulations implementing human subjects that would apply to contractors conducting medical research for their organizations.

An official of the Department of the Air Force advised us that the Air Force did not conduct medical research under contract. Officials of the Department of the Army and Navy stated that, although most medical research had been conducted in-house, some had been performed under contract. They stated also that, when work is to be performed under contract, they must be satisfied that patient consent forms will be used and that human subjects will be adequately protected before a contract is executed.

An official of the Defense Nuclear Agency advised us that, although the Defense Nuclear Agency did not have any contracts for the use of human subjects for medical research, the following language had been included in all medical contracts after August 1971:

"The COR [Contracting Officer's Representative] shall be informed in writing of any project plans on the part of the Contractor to employ new, experimental, and investigational drugs or other hazards in research involving human subjects, and such experimentation shall be specifically authorized by the Contracting Officer in writing prior to the prosecution of such research. Without the concurrence and authorization by the Contracting Officer for the specified drug or other hazard involved, such research shall not be performed. (The purpose of this clause is to insure compliance with the Department of Defense Instruction, 5030.29, 1964 May 12, entitled 'Investigational Use of Drugs or Other Hazards by the Department of Defense', a copy of which is furnished to the Contractor with this Contract)." . . .

We plan to make no further distribution of this report unless copies are specifically requested, and then we shall make distribution only after your agreement has been obtained or public announcement has been made by you concerning the contents of the report. We trust these comments will serve the purpose of your inquiry.

Sincerely yours,

ELMER B. STAATS,
Comptroller General of the United States.

Mr. KENNEDY. Mr. President, at the request of the staff of the Health Subcommittee, the staff of the Armed Services Subcommittee on Research and Development contacted the Defense Department to inquire about their policies and procedures regarding human experimentation. Attached is the DOD response including copies of applicable regulations. I ask unanimous consent that this information be printed in the RECORD.

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

OFFICE OF THE DIRECTOR OF DEFENSE AND ENGINEERING,
Washington, D.C., February 18, 1972.

Mr. HYMAN FINE,
Professional Staff Member, Committee on Armed Services, Old Senate Office Building, Washington, D.C.

DEAR MR. FINE: Enclosed are preliminary answers to your questions of 14 February 1972. We hope they will be of help to you.

To provide full answers to your questions, particularly number 1, will involve considerable effort for us; may I receive from you confirmation that such detail is necessary?

Since the medical field is somewhat sensitive about the use of the term "guinea pig" for human subjects, I've taken the liberty to slightly reword your questions.

Sincerely,

GUS D. DOROUGH,
Deputy Director, (Research & Advanced Technology).

Attachments.

QUESTIONS AND ANSWERS

Question 1. Is the Defense Department spending any money or asking for any money for research purposes which would use military or civilians as "experimental subjects" in medical research (include all funds spent to date, broken out by fiscal year, by appropriation, and by program and project)?

Answer: The answer is yes, but to determine the amount with the kind of detailed breakdown your request will require considerable collating effort. We believe the dollar value is a relatively small percentage of the total medical R&D. A very common area of human personnel use involves studies on the medical effects of certain military environments (high performance aircraft, submarines, and other climatic and underwater environments). Another use is in the final stages of development of vaccines against infectious diseases.

Question 2. If the Defense Department is using, or should plan to use human beings in medical research, what authority, if any, is necessary for them to undertake such research? Secretary of Defense approval, etc.? Is Surgeon General or anyone in HEW involved? Is the Environmental Protection Agency involved?

Answer: The authority necessary to undertake research varies with the DoD agency and the nature of the research. In general it requires the approval of a major laboratory director as a minimum, and more commonly requires the review and authority of the Surgeon General of a Military Department and frequently is restricted to the authority of the Secretary of a Military Department.

The main guides in this area are a DoD

instruction and Army, Navy and Air Force regulations and instructions. Copies of these are enclosed.

The Surgeon General and HEW are definitely involved in all research pertaining to the investigational use of new drugs. This is a result of an interagency agreement, a copy of which is enclosed.

As far as we can tell the Environmental Protection Agency is not directly involved in any DoD research with human volunteers, unless the research itself has an environmental implication.

Question 3. What information is given to those who may participate in such research as "experimental subjects"? Are they fully informed as to all of the risks or possible consequences of the testing on themselves?

Answer: Informed consent is a primary ethical and legal requirement for all DoD use of human volunteers. The enclosed instructions and regulations describe this in some detail. We will provide amplifying information if you so desire.

Question 4. What controls exist within the Department of Defense to ascertain the needs for these projects, the impact on the patients, and the adherence to accepted medical standards for the programs?

Answer: The most important control does not exist in any regulation or bureaucratic procedure. It exists in the integrity and ethical standards of the physicians charged with conducting and supervising such research.

No regulation requires that the principal investigator and his professional co-workers be the first humans to receive a new vaccine or explore a new part of an acceleration profile, but they usually are.

The formal controls are outlined in the enclosed documents, but we will provide you with amplifying information if you so desire.

Question 5. Are there different standards applied to military personnel than to civilians?

Answer: In terms of supervision, volunteering, informed consent, freedom to terminate, there is no difference between military and civilian standards.

Professionals and technicians in the Armed Forces traditionally have voluntarily accepted higher degrees of risk to obtain vital information, than would be regarded as appropriate to ask of civilian volunteers. Examples are the Army Yellow Fever Volunteers. Colonel W. R. Lovelace (MC) U.S. Air Force-High Altitude Parachute Research in World War II and Lt. Carter Collins, MSC USN centrifuge demonstration that men could tolerate the G forces of reentry from space.

MEMORANDUM OF UNDERSTANDING BETWEEN THE DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, AND THE DEPARTMENT OF DEFENSE CONCERNING INVESTIGATIONAL USE OF DRUGS BY THE DEPARTMENT OF DEFENSE

BACKGROUND

Section 505(a) of the Federal Food, Drug and Cosmetic Act, as amended by Section 104 of P.L. 87-781, 76 Stat. 784, 21 U.S.C. 355, (1962 Supp.) established new procedures for the approval required before the new drug can be introduced into interstate commerce. Section 355(i) of Title 21, United States Code (1962 Supp.) establishes exemptions from the new approval procedures for drugs which will be used only for manufacture of other drugs or for investigational purposes. That section establishes the general basis for exemption and provides that the Secretary of Health, Education, and Welfare shall promulgate regulations to give effect to the general guidance of the statute.

On January 8, 1963, the Secretary published the regulations in 28 Federal Register 179 (1963); the regulations will eventually appear in Title 21, Part 130, Section 130.3 of the Code of Federal Regulations. These regulations establish the procedure and prescribe the necessary forms to be filed in order to exempt drugs to be used only for investigational purposes from the approval procedures of the Food, Drug and Cosmetic Act.

PURPOSE

The purpose of this memorandum of understanding is to state the procedures that will be followed by the Departments of Defense and Health, Education, and Welfare to insure that the requirements of the Federal Food, Drug, and Cosmetic Act and the investigational drug regulations issued under that act are fully met without jeopardizing or impeding the requirements of national security or the requirements of Federal laws and regulations relating to such use of drugs.

The Surgeon General of each Military Department has established within his office a formal "Review Board" which carefully considers each research proposal from its own agency or from outside contractors which may involve the use of human subjects in the clinical investigation of new drugs. Each "Review Board" is staffed with professional people capable of performing competent review of such research proposals to insure adequate protection of human subjects. The Department of Defense assumes full responsibility for the protection of humans involved in research under its sponsorship whether this involves investigational drugs or other hazards.

Before a clinical test may be performed with an investigational drug, the plan of the test and other pertinent details must be submitted to the appropriate "Review Board," the Board must indicate its approval, and the approval must be confirmed by the appropriate Surgeon General.

AGREEMENT

Under these circumstances, the Departments of Defense, and Health, Education, and Welfare agree that the following procedure meets the requirements of the Food, Drug, and Cosmetic Act:

1. Clinical investigations that are classified for reasons of national security will not require the filing of a formal "Claim for Exemption" to the Department of Health, Education, and Welfare. Approval of the test by the appropriate Review Board and Surgeon General will automatically exempt the drug being employed from the application of the new drug section of the Food, Drug, and Cosmetic Act during the investigational study. The Department of Defense will report to FDA findings associated with such studies which FDA should be aware of in order to make a sound evaluation of nonclassified studies proposed on the same or similar drugs. Additionally, the Department of Defense will discuss its classified investigations of drugs periodically with FDA personnel who have proper security clearance.

2. In the case of non-classified security research programs sponsored by the Department of Defense and conducted within its research facilities or for the Department upon contract, copies of the request for approval submitted to the appropriate DOD Review Board, the Review Board's evaluation and approval, and notice of approval by the appropriate Surgeon General will be filed with the FDA as the claim for exemption for the investigational drug.

3. When the Department of Defense performs clinical tests upon new drugs being sponsored by the pharmaceutical industry, the ordinary claim for exemption (Form 1571 of the Investigational Drug Regulations) will be filed with the Food and Drug Administration.

ANTHONY J. CELEBREZZE,
The Secretary of Health, Education and Welfare.

CYRUS VANCE,
The Deputy Secretary of Defense.

February 18, 1964.

QUESTIONS

1. Is the Defense Department spending any money or asking for any money for research purposes which would use military or civilians as "guinea pigs" in medical research (include all funds spent to date, broken out by fiscal year, by appropriations, and by program and project)?

2. If the Defense Department is using, or should plan to use human beings in medical research, what authority, if any, is necessary for them to undertake such research? Secretary of Defense approval, etc.? Is Surgeon General or anyone in HEW involved? Is the Environmental Protection Agency involved?

3. What information is given to those who may participate in such research as "guinea pigs"? Are they fully informed as to all of the risks or possible consequences of the testing on themselves?

4. What controls exist within the Department of Defense to ascertain the needs for these projects, the impact on the patients, and the adherence to accepted medical standards for the programs?

5. Are there different standards applied to military personnel than to civilians?

RESEARCH AND DEVELOPMENT—USE OF VOLUNTEERS AS SUBJECTS OF RESEARCH

HEADQUARTERS,
DEPARTMENT OF THE ARMY,
Washington, D.C., March 26, 1962.

1. PURPOSE

These regulations prescribe policies and procedures governing the use of volunteers as subjects in Department of the Army research, including research in nuclear, biological, and chemical warfare, wherein human beings are deliberately exposed to unusual or potentially hazardous conditions. These regulations are applicable worldwide, wherever volunteers are used as subjects in Department of the Army research.

2. DEFINITION

For the purpose of these regulations, unusual and potentially hazardous conditions are those which may be reasonably expected to involve the risk, beyond the normal call of duty, of privation, discomfort, distress, pain, damage to health, bodily harm, physical injury, or death.

3. EXEMPTIONS

The following categories of activities and investigative programs are exempt from the provisions of these regulations:

a. Research and nonresearch programs, tasks, and tests which may involve inherent occupational hazards to health or exposure of personnel to potentially hazardous situations encountered as part of training or other normal duties, e.g., flight training, jump training, marksmanship training, ranger training, fire drills, gas drills, and handling of explosives.

b. That portion of human factors research which involves normal training or other military duties as part of an experiment, wherein disclosure of experimental conditions to participating personnel would reveal the artificial nature of such conditions and defeat the purpose of the investigation.

c. Ethical medical and clinical investigations involving the basic disease process or new treatment procedures conducted by the Army Medical Service for the benefit of patients.

4. BASIC PRINCIPLES

Certain basic principles must be observed to satisfy moral, ethical, and legal concepts. These are—

a. Voluntary consent is absolutely essential.

(1) The Volunteer will have legal capacity to give consent, and must give consent freely without being subjected to any force or duress. He must have sufficient understanding of the implications of his participation to enable him to make an informed decision, so far as such knowledge does not compromise the experiment. He will be told as much of the nature, duration, and purpose of the experiment, the method and means by which it is to be conducted, and the inconveniences

and hazards to be expected, as will not invalidate the results. He will be fully informed of the effects upon his health or person which may possibly come from his participation in the experiment.

(2) The consent of the volunteer will be in writing. A document setting forth substantially the above requirements will be signed by the volunteer in the presence of at least one witness not involved in the research study who will attest to such signature in writing.

(3) The responsibility for ascertaining the quality of the consent rests upon each person who initiates, directs, or conducts the experiment. It is a personal responsibility which may not be delegated.

b. The number of volunteers used will be kept at a minimum consistent with *c* below.

c. The experiment must be such as to contribute significantly to approved research and have reasonable prospects of yielding militarily important results essential to an Army research program which are not obtainable by other methods or means of study.

d. The experiment will be conducted so as to avoid all unnecessary physical and mental suffering and injury.

e. No experiment will be conducted if there is any reason inherent to the nature of the experiment to believe that death or disabling injury will occur.

f. The degree of risk to be taken will never exceed that determined to be required by the urgency or importance of the Army program for which the experiment is necessary.

g. Proper preparations will be made and adequate facilities provided to protect the volunteer against all foreseeable possibilities of injury, disablity, or death.

h. The experiment will be conducted only by scientifically qualified persons. The highest degree of skill and care will be required during all stages of the experiment of persons who conduct or engage in the experiment.

i. The volunteer will be informed that at any time during the course of the experiment he will have the right to revoke his consent and withdraw from the experiment, without prejudice to himself.

j. Volunteers will have no physical or mental diseases which will make the proposed experiment more hazardous for them than for normal healthy persons. This determination will be made by the project leader with, if necessary, competent medical advice.

k. The scientist in charge will be prepared to terminate the experiment at any stage if he has probable cause to believe, in the exercise of the good faith, superior skill, and careful judgment required of him, that continuation is likely to result in injury, disability, or death to the volunteer.

l. Prisoners of war will not be used under any circumstances.

5. ADDITIONAL SAFEGUARDS

As added protection for volunteers, the following safeguards will be provided:

a. A physician approved by The Surgeon General will be responsible for the medical care of volunteers. The physician may or may not be the project leader but will have authority to terminate the experiment at any time that he believes death, injury, or bodily harm is likely to result.

b. All apparatus and instruments necessary to deal with likely emergency situations will be available.

c. Required medical treatment and hospitalization will be provided for all casualties.

d. The physician in charge will have consultants available to him on short notice throughout the experiment who are competent to advise or assist with complications which can be anticipated.

6. APPROVAL TO CONDUCT EXPERIMENT

It is the responsibility of the head of each major command and other agency to submit to The Surgeon General a written proposal for studies which come within the purview of this directive. The proposal will include for each study the name of the person to be in charge, name of the proposed attending physician, and the detailed plan of the experiment. The Surgeon General will review the proposal and forward it with his comments and recommendations on medical aspects to the Chief of Research and Development for approval. When a proposal pertains to research with nuclear, biological, or chemical agents, the Chief of Research and Development will submit the proposal, together with The Surgeon General's review, to the Secretary of the Army for approval. No research with nuclear, biological, or chemical agents using volunteers will be undertaken without the consent of the Secretary of the Army.

7. CIVILIAN EMPLOYEES

When civilian employees of the Department of the Army volunteer under this program, the following instructions will be observed:

a. Any duty as a volunteer performed during the employee's regularly scheduled tour of duty will be considered as constructive duty for which straight time rates are payable. Time spent in connection with an experiment outside the employee's regularly scheduled tour will be considered as voluntary overtime for which no payment may be made nor compensatory time granted. The employee will be so informed before acceptance of his volunteer services.

b. Claims submitted to the Bureau of Employees' Compensation, U.S. Department of Labor, because of disability or death resulting from an employee's voluntary participation in experiments, will include a citation to title 10, United States Code, section 4503 as the Department of the Army authority for the use of such volunteer services.

c. All questions concerning hours of duty, pay, leave, compensation claims, or application of other civilian personnel regulations to volunteer employees will be presented through channels to the Deputy Chief of Staff for Personnel, ATTN: Office of Civilian Personnel.

8. IMPLEMENTING INSTRUCTIONS

Heads of major commands and other agencies will issue necessary implementing instructions to subordinate units. Copies of implementing instruction will be furnished to the Chief of Research and Development.

[Appendix]

LEGAL IMPLICATIONS

The following opinions of The Judge Advocate General furnish specific guidance for all participants in research using volunteers:

1. Authority. The Secretary of the Army is authorized to conduct research and development programs including the procurement of services that are needed for these programs (10 U.S.C. 4503). The Secretary has the authority to "assign detail and prescribe the duties" of both members of the Army and civilian personnel (10 U.S.C. 3012(e)).

2. Military personnel and Department of the Army civilian employees. Compensation for the disability or death of a civilian employee resulting from personal injury or disease proximately caused by his employment is payable under the Federal Employees Compensation Act (39 Stat. 742 et seq.), as amended (5 U.S.C. 751 et seq.), regardless of whether his employment was of a hazardous nature. The amount and type of disability compensation or other benefits payable by reason of the death or disability of a member of the Army resulting from injury or disease incident to service depends upon the individual status of each member, and is covered by various provisions of law. It may be stated generally that under present laws no additional rights against the Government will result from the death or disability of military and civilian personnel participating in experiments by reason of the hazardous nature of the operations.

3. Private citizens. It is the policy of the United States to prohibit the acceptance of voluntary services particularly when they may provide a basis for a future claim against the Government. (R.S. 3679, as amended; 31 U.S.C. 665(b)).

4. Use of appropriated funds for the purchase of life insurance. As the payment of insurance premiums on the life of an officer or employee of the United States is a form of compensation which is not currently authorized, payment of those premiums is prohibited (R.S. 1765; *Commissioner of Internal Revenue* v. *Bonwit*, 87 F 2d 764 (2d Cir. 1937); *Canaday* v. *Guitteau*, 86 F 2d 303 (6th Cir., 1936); 24 Comp. Gen. 648 (1945)).

5. Contractor's employees. There appears to be no legal objection to the use of employees of contractors in research and development experiments. It is the responsibility of the contracting officer to determine whether the terms of the contract are sufficiently broad to permit the participation of these employees. Generally, benefits to which private employees may become entitled by reason of death or disability resulting from their employment are payable under State law except persons covered by the survivors insurance provisions of the Social Security Act (49 Stat. 623, as amended (42 U.S.C. 402)). Reimbursement of the employer for additional costs by reason of this liability of his employees will depend upon the terms of each contract. These employees are not disqualified from prosecuting claims against the Government under the Federal Torts Claim Act (28 U.S.C. 2671 et seq., see AR 25–70). In cost reimbursement type research contracts with commercial organizations the cost of maintaining group accident and life insurance may be reimbursed to the contractor (subject to certain exceptions) under ASPR 15–205.16 provided that the approval of the head of the Procuring Activity is obtained (APP 10–551).

6. Irregular or fee-basis employees. Intermittent services of such employees are authorized. (For experts and consultants see Sec. 15, Act of 2 Aug. 1946 (60 Stat. 810; 5 U.S.C. 55a); Sec. 501, DoD Appropriation Act, 1961 (74 Stat. 349); note APP 30–204.1, CPR A7; Sec. 710 Defense Production Act of 1960 (64 Stat. 819; 50 U.S.C. App. 2160); and for architects, engineers, and other technical and professional personnel on a fee basis, see 10 U.S.C. 4540.). Whether these employees can be detailed or assigned to the proposed experiments will depend upon the statutory authority for employment and the provisions of their employment agreement in each case. The Federal Employees Compensation Act, *supra*, in all probability applies with respect to these irregular and fee-basis employees for any injury or disease resulting from their employment, although a final determination in such cases will have to be made by the Bureau of Employees Compensation, Department of Labor. Subject to such restrictions and limitations as may appear in the statutory authority under which he is employed, it would appear that the Government may legally bear the expense of premiums upon the life of an irregular or fee-basis employee whose rate of compensation is not fixed by law or regulations. In this regard, it may be advisable for the Government to provide an additional allowance to the employee for financing such private insurance arrangements as he may wish to make rather than to undertake direct negotiations with insurance carriers for the desired coverage.

7. Conclusion. Subject to the above conditions, Armed Forces personnel and/or civilians on duty at installations engaged in research in subject fields will be permitted

to actively participate in all phases of the program.

By order of the Secretary of the Army:

G. H. DECKER,
General, United States Army,
Chief of Staff.

J. C. LAMBERT,
Major General, United States Army,
The Adjutant General.

DEPARTMENT OF THE NAVY,
Washington, D.C., April 28, 1969.

SECNAV Instruction 3900.39.
From: Secretary of the Navy.
To: Distribution List.
Subj: Use of volunteers as subjects in research, development, test, and evaluation.
Ref: (a) Manual of the Medical Department Chapter 20, Research and Development, Paragraph 20–8, Use of Volunteers in Harzardous Experiments.
Encl: (1) Sample Human-Volunteer Consent Document.

1. *Purpose*. To prescribe policies and procedures of the Department of the Navy governing the use of volunteer subjects in research, development, test, and evaluation (RDT&E) conducted by, within, or for the Naval Establishment wherein human beings are experimentally exposed to hazardous conditions or materials. This Instruction does not apply to the use, in the treatment of individual patients, of drugs approved by the Federal Drug Administration for investigational use only. It does apply to the use of investigational drugs under an approved RDT&E project or task in a volunteer population of healthy persons or a volunteer population of patients in which the experimental drug testing has no relationship to the cause of their being on the sick list.

2. *Background*. In the use of volunteers as subjects in hazardous experimental situations, it is obvious that military R&D commanders, scientific and technical program managers, and project directors have special responsibilities both moral and legal in nature. It has long been recognized that hazardous experiments utilizing human test subjects are absolutely necessary to extend the frontiers of medical science, aerospace flight, and undersea exploration. The atrocities which were committed against human beings during the Second World War served as a decisive factor in the adoption by the World Medical Association of a clearly stated code of medical ethics. It is accepted United States national and Department of Defense policy that the use of human subjects be based upon voluntary, informed consent and be confined to experiments or tests which are necessary, scientifically sound, and reasonably safe.

3. *Definitions*. For the purpose of this Instruction, hazardous conditions or materials are those which present risk of privation, discomfort, distress, pain, physical or mental injury, or death greater than the hazards inherent in training or work within accepted occupational parameters.

4. *Policy*. Certain basic principles must be observed to satisfy moral and legal concepts. These are:

(1) The volunteer must have legal capacity to give consent. He will be so situated as to be able to exercise free power of choice, without the intervention of any element of force, deceit, duress, or ulterior form of constraint or coercion. He will have sufficient knowledge and comprehension of the elements of the subject matter involved to enable him to make an understanding and enlightened decision. Such knowledge will be provided to the volunteer in such a manner as not to compromise the experiment. Thus he will be told, prior to acceptance of his consent, the nature, approximate duration, and purpose of the experiment; the method and means by which it is to be conducted; and the inconveniences and hazards entailed—all in such a way as not to invalidate the results. He will be fully informed of the effects upon his health or person which may possibly result from his participation in the experiment. He will be made to understand clearly that, at any time during the course of the experiment, he will have the right to revoke his consent and to withdraw from the experiment without prejudice to himself.

(2) The document of consent will be in writing, setting forth the above requirements and containing, or having attached and referenced, a summary of the information given to the volunteer pursuant to the foregoing requirements. It shall also contain a statement by the volunteer that he is not relying upon any information or representation not set forth in the document of consent and that his consent is given as an exercise of free will, without any force or duress of any kind. The document will be signed by the volunteer—over his full name; his rank, rate, grade, or title; and his date of birth—in the presence of at least one witness who is not directly involved in the experiment or test and who will attest to such signature in writing. Enclosure (1) provides a sample of an acceptable volunteer consent document, the original of which will remain in the records of the activity conducting the RDT&E.

(3) The responsibility for ascertaining the validity of the consent rests upon the person who directs the experiment or test. It is a personal responsibility which may not be delegated.

b. The number of volunteers used will be kept at a minimum consistent with sample-size requirements necessary for scientifically valid conclusions.

c. The experiment must be such as to contribute to an approved naval RDT&E project. In addition, the experiment or test should be such as to yield fruitful results for the good of society, unobtainable by other methods or means of study, and not random and unnecessary in nature. There will be reasonable anticipation that the results will justify the performance of the experiment or test. Accordingly, all experiments and tests will be based upon prior study or experimentation and designed to accomplish this objective. All medical experiments or experiments involving the use of an experimental drug should be based upon the results of animal experimentation and a knowledge of the natural history of the disease or other problem under study.

d. The experiment or test will be conducted so as to avoid unnecessary physical or mental stress. No experiment or test will be conducted if, upon careful consideration by the person who directs the experiment, there is reason to believe that death or disabling injury will occur. The degree of risk to be taken will never exceed that determined to be justifiable by the humanitarian importance of the problem to be solved by the experiment. Proper preparations will be made under the supervision of a qualified physician, knowledgeable in the test field, and with adequate medical facilities and safety equipment being provided to protect the volunteer against the possibilities of injury, disability, or death. Adequate and complete medical treatment will be available for treatment of casualties. The physician-in-charge will have consultants, available on short notice, who are competent to advise or assist with unexpected complications.

e. The experiment or test will be directed only by scientifically qualified persons with a high degree of technical and professional competence in conducting such procedures. All personnel supervising or participating in such procedures must be adequately trained to perform their duties reliably in foreseeable circumstances. The highest degree of care will be required at all stages of the experiment or test.

f. Volunteers will have no physical or mental diseases which will make the proposed experiment more hazardous for them than for normal healthy persons. This determination will be made by the experiment or test director on the basis of competent medical advice.

g. The experiment or test director, or his acting subordinate, will exercise careful judgment, superior skill, and good faith at all times during the course of the experiment or test. The director will terminate the procedure at any stage if it is likely that continuation will result in injury, disability, or death to a volunteer. During the course of an experiment or test, a volunteer shall be at liberty to revoke or withhold his consent and to withdraw, without prejudice to himself, from the experiment or test, or from a portion thereof. New dangers and adverse developments arising during the course of the experiment or test, about which the volunteer has not been briefed or warned, shall be reported to the volunteer in a timely manner unless such communication would pose an immediate threat to his safety.

h. Prisoners of war will not be used under any circumstances.

5. PROCEDURES

a. The experiment or test director will prepare a written request for approval of the use of volunteers in any proposed procedure coming within the purview of this Instruction. The request will include the names of the director and the conducting activity and the identity of the responsible supporting medical activity. It will speak appropriately to the principles of policy guidance expressed in paragraph 4 of this Instruction. The request will enclose a plan of the experiment or test consistent with security requirements.

b. The request will be forwarded via (1) the appropriate military chain of command; (2) the Chief, Bureau of Medicine and Surgery; (3) the Chief of Naval Personnel/Commandant of the Marine Corps, or both, as appropriate; and (4) the Chief of Naval Operations (DCNO(DEV)) to the Secretary of the Navy (ASN(R&D)).

(1) The RDT&E chain of command endorsements are to be directed primarily to the technical soundness and program importance of the experiment or test for which the use of human volunteers is proposed.

(2) The Chief, Bureau of Medicine and Surgery, will direct his endorsement specifically to the degree of hazard inherent in the test, the adequacy of safety measures, the adequacy of medical supervision and support, and the adequacy of the human-volunteer consent statement to be utilized.

(3) The Chief of Naval Personnel/Commandant of the Marine Corps will direct their respective endorsements in particular to the utilization of active-duty military personnel in existing billets for voluntary duty as experimental subjects, and to other aspects as they deem appropriate.

(4) The Chief of Naval Operations (DCNO (DEV)) will direct his endorsement to the validity of the requirement for doing the experiment; the adequacy of the certification by BUMED on pertinent medical aspects; the approved utilization of personnel in the manner proposed; and the statement of program need by the sponsoring command. Administrative and coordination action will be assigned to the Staff Assistant for Medical and Allied Sciences.

(5) The Assistant Secretary of the Navy (Research and Development) will act as approving authority for the Secretary of the Navy. Review of legal aspects will be accomplished by the Office of the Judge Advocate General.

6. *Management*. Since the use of volunteers in experimental or test situations is an integral part of the conduct of the RDT&E Program and does not involve the establishment of additional manpower billets, action on such requests, including coordination of

manpower and legal aspects, will be through the RDT&E chain of command.

7. *Implementation.* Addressees are authorized to take such action as is necessary to assure compliance with this Instruction throughout the Naval Establishment.

JOHN W. WARNER,
Under Secretary of the Navy.

[Sample form]

APRIL 28, 1969.

CONSENT TO PARTICIPATE VOLUNTARILY IN A RESEARCH, DEVELOPMENT, TEST, OR EVALUATION (R.D.T. & E.) PROCEDURE

Date _____.

1. I hereby volunteer to participate as a subject in a RDT&E procedure being conducted under Element No. ____, Project No. ____, Work Unit Title "_____," which has been approved by _____ (sponsoring command). I understand that the adequacy of safety measures has been certified by the Chief, Bureau of Medicine and Surgery, and that authority to use human volunteers has been granted by the Secretary of the Navy.

2. The nature and purpose of the procedures have been explained to me as follows: (See attached summary.)

3. In making my decision to volunteer, I am not relying upon any information or representation not set forth in this document, or attached summary. My consent is given as an exercise of free will, without any force or duress of any kind. I understand that my consent to participate does not constitute a release from any possible future liability by the United States attributable to the experiments.

Signed: _____
(Typed name, rank, rate, or grade)
Date of birth_____
Witnessed: _____
(Not directly involved in test)
Approved: _____ (Test Director).

DEPARTMENT OF THE AIR FORCE

Washington, D.C., August 28, 1969.

RESEARCH AND DEVELOPMENT—USE OF VOLUNTEERS IN AEROSPACE RESEARCH

(This regulation establishes the policy and assigns the responsibility for using volunteer test subjects in aerospace research, development, test and evaluation (RDT&E). It applies to the use of humans in studies conducted in facilities where the subjects are Government employees and where there is a risk of health damage.)

1. APPLICATION OF THIS REGULATION

The provisions of this regulation:

a. Apply to RDT&E procedures in which human subjects are used and in which there is inherent risk of distress, pain, damage to health, physical or emotional injury, invasion of privacy, surrender of autonomy or death. Such tests usually are conducted to determine either the level of human tolerance/performance for a condition that may be imposed by Air Force operations or the adequacy of equipment designed for human use (see AFR 80-14). This includes tests and experiments conducted within a Federal Government installation or facility regardless of the composition of the investigating team (contractor personnel, military personnel, civil service personnel or a mixture thereof) or at contractor facilities when the human subjects are Government employees, either military or civilian.

b. Do not apply to:

(1) Investigations conducted under the provisions of AFRs 169-6 and 169-8.

(2) RDT&E that involves inherent occupational hazards to health, or exposure to potentially hazardous situations such as those encountered in training or other duties requiring orders for regular and frequent performance of hazardous duty; for example: flight training, jump training, pressure chamber indoctrination, and handling of explosives, etc.

(3) The human engineering portions of a research project when they involve only hazards encountered in normal training or other normal military duties and when disclosure of the research conditions would defeat the purpose of the investigation by revealing the artificial nature of the experiment.

(4) Experiments using human subjects that are judged to be nonhazardous on the basis of meeting *all* of the following criteria:

(a) They are conducted in the usual ambient environment of the laboratory, office, or in moderate weather outdoors.

(b) They involve only the application to the subject of stimuli to the communication senses (sight, hearing, touch, and smell) at energy levels and durations known to be well within commonly experienced and tolerated ranges.

(c) They do not involve the planned applications of unusual or known to be harmful physical or chemical energy to the subject, such as noise, vibration, barometric pressure alternations, declaration or acceleration, immersion in water, chemical agents, or drugs, etc.

(d) They do not involve unusual physical exertion or application of force by the subject.

(e) The experimental environments have no ground safety hazards, such as electrical shock, sharp objects, slippery floors, or obstacles not readily visible.

(f) Have no combinations of conditions which are expected to produce any of the adverse effects covered in paragraph 1a.

2. OBTAINING VOLUNTARY CONSENT

a. The principal investigator must insure that the volunteer (or the person acting for him) has the legal capacity to consent, is able to exercise true freedom of choice without overt or hidden persuasion, and is fully informed. The fact that a member of the Armed Forces is less than 21 years of age does not impair his legal capacity for this purpose.

b. Before a volunteer (or the person acting for him) is permitted to give his consent, the investigator must give him an accurate explanation of the research study that he can and does understand. The explanation shall include at least:

(1) The purpose, nature, and duration of the study.

(2) The methods and means by which the study will be conducted.

(3) Foreseeable inconveniences, hazards, and effects upon the volunteer's health that could result from his participation in the experiment.

(4) An identification of any parts of the test program that neither the volunteer nor the individual conducting the test can stop immediately.

c. The volunteer (or the person acting for him) must give his consent in writing as shown by attachment 1; when a person is acting for the volunteer, the wording will be appropriately modified. He must sign the consent in the presence of at least one witness who will then attest to the volunteer's signature by signing in the place provided. In addition, the investigator who advised of possible consequences must also sign the consent in the presence of the same witness.

3. Use of Volunteers in RDT&E. The following criteria apply to all RDT&E efforts which involve volunteers as subjects:

a. All necessary preliminary tests with laboratory animals and human simulators must have been conducted and evaluated before a human subject is used. Hazardous research that uses volunteers will be performed only to validate important data essential to a project, development, system or Air Force mission.

b. Research studies using volunteers will be conducted to avoid all unnecessary physical or mental discomfort. Before the investigation or test begins, a physician will conduct, and record such examinations and evaluations of the volunteer as his professional judgment dictates. Permanent records of these examinations will be maintained as part of the project record, as required in AFR 161-2, and also in the volunteer's DD Form 722, "Health Record."

c. A physician, other than the principal investigator will be designated to be responsible for the professional care and safety of the volunteer during the project. This physician will *not* be involved in the research or test in any way other than to be the protector of the life and health of the volunteer. This physician or the investigators may terminate the study at any time.

d. The volunteer, at any time, has the right to revoke his consent and withdraw from the experiment without prejudice. The volunteer must be fully informed of these facts and procedures.

e. Before being a subject of RDT&E, the consent of the volunteer, or his legal representative, must be obtained and placed in the records of the project. (See attachment 1.)

f. If the volunteer has taken medication or received medical or dental treatment since last used as a subject, it is mandatory that he inform the principal investigator and the physician of this fact before the conduct of the next experiment.

g. For each RDT&E project, the Laboratory or Test Director and a physician must examine a protocol submitted by the project/task scientist to determine:

(1) The necessity to use volunteers.

(2) The safety precautions.

(3) The protective measures.

(4) The adequacy of medical surveillance.

Both the Laboratory or Test Director and a physician will sign a certification attesting to the above conditions. These documents will become permanent records in the RDT&E protocol.

4. COMMAND RESPONSIBILITIES

a. Major commands will establish suitable procedures to insure compliance with the policies stated in this regulation.

b. Laboratory commanders will approve or disapprove all RDT&E protocols involving the use of volunteer subjects and are responsible for basing this decision upon appropriate medical review and advice.

5. PUBLICATIONS PERTAINING TO HUMAN VOLUNTEERS

All printed papers or articles reporting research in which volunteer subjects are used will contain the following footnote: "The voluntary informed consent of the subjects used in this research was obtained in accordance with AFR 80-33.

By order of the Secretary of the Air Force.

JOHN D. RYAN,
General, USAF, Chief of Staff.
JOHN F. RASH,
Colonel, USAF, Director of Administration.

AUGUST 28, 1969.

VOLUNTEER'S CONSENT

Subject: Consent of Volunteer.

1. I hereby volunteer to participate as a test subject in the following (insert "investigation" or "test" as appropriate) which has as its purpose (state the purpose in sufficient detail to assure that it will be clearly understood by both the medical review authority and the volunteer). (Insert rank, name, component, and corps) has discussed with me to my satisfaction the reasons for this (insert "investigation" or "test" as appropriate) and its possible adverse and beneficial consequences.

2. This consent is voluntary and has been given under circumstances in which I can exercise free power of choice. I have been informed that I may at any time revoke my consent and withdraw from the experiment without prejudice and that the investigator

or physician may terminate the experiment at any time regardless of my wishes.

3. I understand that before my use as a test subject, I must inform the principal investigator and project physician of any change to my medical status. This information will include any medications I have taken and any medical or dental care/treatment received since my last use as a test subject.

(Signature of Volunteer.)

(Signature of Officer who Advised of Possible Consequences.)

(Signature of Witness.)

DEPARTMENT OF DEFENSE INSTRUCTION,
May 12, 1964.

Subject: Investigational Use of Drugs by the Department of Defense.

Reference: (a) Drug regulations published by Department of Health, Education and Welfare (21 CFR 130.3).

I. PURPOSE

This Instruction specifies the manner in which the regulations cited in reference (a) will be applied to the investigational use of drugs by the Department of Defense.

II. APPLICABILITY

The provisions of this Instruction apply to all DOD Components and their contractors or grantees engaged in the investigational use of drugs.

III. RESPONSIBILITIES

A. The Department of Defense assumes full responsibility for the protection of humans involved in research under its sponsorship whether this involves investigational drugs or other hazards.

B. Each Military Department will establish within the office of its Surgeon General a formal Review Board of professional personnel to consider each research proposal from within that Military Department or from its contractors or grantees which may involve the use of human subjects in the clinical investigation of new drugs. Before a clinical test with an investigational drug may be performed under the sponsorship of a Military Department—

1. the plan of the test and other pertinent details must be submitted to the appropriate Review Board.

2. the Board must indicate its approval, and

3. the approval must be confirmed by the respective Surgeon General.

IV. REPORTS

A. Clinical investigations that are classified for reasons of national security will not require the filing of a formal "Claim for Exemption" to the Department of Health, Education, and Welfare Approval of the test by the appropriate Review Board and Surgeon General will automatically exempt the drug being employed from the application of the new drug section of the Food, Drug, and Cosmetic Act during the investigational study. The Military Departments will report to the Food and Drug Administration (copies to OSD unnecessary) findings associated with such studies which FDA should be aware of in order to make a sound evaluation of non-classified studies proposed on the same or similar drugs. Additionally, the Military Departments will discuss their classified investigations of drugs periodically with FDA personnel who have proper security clearance.

B. In the case of non-classified security research programs sponsored by the Department of Defense and conducted within its research facilities or for the Department upon contract, copies of the request for approval submitted to the appropriate Review Board, the Review Board's evaluation and approval, and notice of approval by the appropriate Surgeon General will be filed with the FDA as the claim for exemption for the investigational drug.

C. When the Department of Defense performs clinical tests upon new drugs being sponsored by the pharmaceutical industry, the ordinary claim for exemption (Form 1571 of the Investigational Drug Regulations) will be filed with the FDA.

V. EFFECTIVE DATE AND IMPLEMENTATION

This instruction is effective immediately. Two copies of implementing instructions shall be forwarded to the Director of Defense Research and Engineering within sixty days.

HAROLD BROWN,
Director of Defense Research and Engineering.

Mr. DOMINICK. Mr. President, will the Senator from Massachusetts yield for a question?

Mr. KENNEDY. I yield.

Mr. DOMINICK. Does the Senator have any programs he knows of that are being started now, or are being conducted now, which will be inviolation of the proposal he has made?

Mr. KENNEDY. No. I have been careful not to identify any of the existing programs, because we are not seeking to ascribe blame or criticize particular programs. The amendment is addressed at the general problem. The problem, as suggested by the Comptroller General, is that there is no single standard, no uniform or comprehensive policy to cover all DOD contracts for human experimentation, which amount to approximately $10,000,000 per year. So it seems to me, in order to establish a uniform policy, this amendment is worthwhile.

Mr. DOMINICK. I believe the Senator has a perfectly good amendment. The only thing I was wondering about was whether there was anything we could do immediately. I gather that hearings will be held.

Mr. KENNEDY. That is right. The Senator from Colorado is familiar with some of the matters which have been brought to the attention of the committee as a result of newspaper reports and others, but I am not prepared at this time to get into an evaluation of the programs. We need more time for that. Staff studies are being made on some of the programs. I do not want to identify them at this time. But there is justification, given the facts, to establish a uniform policy. I would hope this amendment would meet that need.

Mr. DOMINICK. I thank the Senator from Massachusetts.

Mr. ALLEN. Mr. President, will the Senator from Massachusetts yield for a further question?

Mr. KENNEDY. I yield.

Mr. ALLEN. Does the Senator's amendment guard in some way against the kind of program such as the U.S. Public Health Service inaugurated back in the early 1930's at Tuskegee, Ala., where some 400 poor, black, uneducated citizens of that area were drawn into an experimental program under which they were hospitalized for a given treatment for every ailment that they had except the real one that they had, which was syphilis; and this program continued up to the present time, even though a cure for syphilis was developed many years ago, in the early 1940's, I believe. The medicine and the treatment for cure of syphilis was withheld from these 400 citizens under that early program, with these people not being advised of the nature of the program that they were participating in, the agreement being that they would stay under the program for the remainder of their lives, and that at the end of their lives, they would be subject to an autopsy to determine the debilitating effect of the disease.

Would the Senator's amendment ward off a program of that sort?

Mr. KENNEDY. I believe that it would. Quite clearly, it is intended to encompass that kind of program. I fail to see how, if those individuals had been notified and made aware of the dimensions of that program, if they had been made aware of the fact that a cure for syphilis had been developed—through penicillin—how there would have been any further justification to continue that program.

Mr. ALLEN. They were not advised.

Mr. KENNEDY. No, they were not advised or notified. This amendment would apply to such cases in the future. Furthermore, let me say that I was very much distressed to read the newspaper accounts of that program.

We had Dr. Du Val, Assistant Secretary of Health, Education, and Welfare, before our committee and we asked him to make a complete report on this, as well as other human experimentation programs conducted by the HEW. He will submit them to our Health Subcommittee and we intend to conduct our own investigation, not only into that one, but other kinds of human experimentation programs.

This amendment would obviously address itself to that particular development, and others; I was horrified to read about that particular program the Senator mentioned.

Mr. ALLEN. When did Dr. Du Val say that this report or investigation of this program would be made available to the general public?

Mr. KENNEDY. We asked him on Thursday of last week, and if my memory serves me correctly, he said it would take about 4 to 6 weeks, and, in the meantime, what he did say was that procedures will be followed in HEW to insure, during the time they are conducting this study, that this will not happen again. The report will be printed in the RECORD as soon as we receive it, for the benefit of all Senators.

Mr. ALLEN. I thank the Senator from Massachusetts very much. I want to assure him that I support his amendment.

Mr. STENNIS. Mr. President, I yield 5 minutes to the Senator from New Hampshire.

The PRESIDING OFFICER. (Mr. STAFFORD). The Senator from New Hampshire is recognized for 5 minutes.

Mr. MCINTYRE. Mr. President, I am pleased to speak in support of the human experimentation amendment which it is my privilege to cosponsor with my distinguished colleague from the State of Massachusetts. Senator KENNEDY's amendment to the military procurement authorization bill is another clear indication of his concern with matters involving the health of our population.

The declaration of policy which is contained in the proposed amendment is much broader in its meaning than is involved in the operations of the Department of Defense. However, it should serve as a basis for providing the impetus to all Federal agencies which are engaged in research involving the citizenry of our country to insure that their physical and mental health is adequately protected.

There have been instances reported in the press involving the Department of Defense and the Department of Health, Education, and Welfare where some doubts were raised concerning the procedures employed in the conduct of research on human beings. It is important that when the Department of Defense undertakes to contract for such research with individuals, corporations, institutions, or other organizations outside the Federal Government, any risks to the physical or mental health of the subject be made known to that subject before research is conducted. In that case, the person involved will have an opportunity to have considered all aspects of the research before he agrees to participate.

The additional provision which would establish a formalized procedure involving the Secretary of Health, Education, and Welfare, who will review such proposed research before the Department of Defense may proceed, represents another positive means for insuring the intent of this amendment is being properly implemented.

I am informed that the Department of

Defense has reviewed the language of the proposed amendment and has no objection. I urge my colleagues, therefore, to join with me in agreeing to this amendment.

Mr. STENNIS. Mr. President, I yield myself 1 minute before I yield to the Senator from Ohio (Mr. TAFT) to say that I have been over this amendment as it now stands, and even though I do not like the idea at all of putting a primarily health provision into a military hardware bill, I do recognize its merits, as a regulation only, dealing with human beings. Those purposes being set forth clearly and reasonably, in its present form, I do not think I could oppose the amendment or that I should oppose it. So I am going to agree, in its present form, to support the amendment. But there will be some further debate on it and I make that announcement now.

Mr. President, I am glad to yield 10 minutes to the Senator from Ohio. And I can yield him additional time if he requires it.

The PRESIDING OFFICER. The Senator from Ohio is recognized for 10 minutes.

Mr. TAFT. Mr. President, I thank the distinguished chairman for yielding to me at this time.

I bring up the matter that really lies behind this amendment with some qualms. I think it is unfortunate, as the chairman has stated, that this issue is raised on a military authorization bill. It should, I certainly think, receive the attention of the Senate and should receive the attention of the House and should become law, or a provision similar to this should become law.

I have no arguments with the merit of the language in the amendment. However, there are inherent dangers involved in this situation that the Senate ought to consider very carefully.

I have no desire today, as I have indicated, to go into any great detail with regard to the rather protracted discussion and exchange of correspondence that I have had with the Senator from Massachusetts on this subject relating to the investigation by the subcommittee of an institution in my State.

I am not going to belabor that and go into that in any great detail. As a matter of fact, a good deal of the correspondence is already in the Record. It is contained in the Record of December 15, 1971, from page 47049 on and in the Record of January 19, 1972, from page 250 on. It goes into some detail with regard to the entire problem.

The difficulty that arose in connection with this related to a project in which total body radiation was already being studied as a research activity by an institution and by professional men in the medical profession of the highest reputation and ability, in my opinion.

The matter was brought under the scrutiny of the staff of the committee without any action by the subcommittee itself. Investigators were sent out and a demand was made for information relating to the individual patients involved.

I have not explained that the financing of it by defense in this connection related to a report on what the effects of the particular program that was under way and was already being studied might be.

A refusal was made by the medical men involved to reveal the information, and I think very properly. And they have been upheld in this matter by legal opinion as to what the doctor-patient relationship is.

I feel that we ought to make some safeguards about this entire area.

I think that prior to that time in the Record I had asked for an investigation to go on. And as a matter of fact, there were a number of investigations. One of them was by a special committee appointed by the American College of Radiology. They went into the matter and gave the program a clean bill of health and also as to the health of the individuals involved.

The people involved tell me that the publicity given to the program was unauthorized by the committee. At least, it was unauthorized by me. I am a member of that committee. This had a very deleterious effect on at least one patient involved.

Mr. President, when all time is yielded back on this amendment, I hope to offer a further amendment to the amendment which will have the effect of providing that no Federal money will be used to violate the doctor-patient privilege or require the disclosure of confidential information by other doctors engaged in any such research project.

I think this safeguard is overdue and necessary. I think that if we go the one step, in view of the track record that already exists on this particular case, we ought to go that additional step.

Mr. STENNIS. Mr. President, I yield myself one-half minute because of the importance of these proceedings. I hope that we can have quiet so that the Senators will have a chance to understand the discussion and maybe the conversations here can cease.

The PRESIDING OFFICER. The Senate will please be in order.

Mr. KENNEDY. Mr. President, I would be willing to modify my amendment to include the language requested by the Senator from Ohio if we could add at the end, "except as may be required by law."

Would the Senator be willing to include those words? I am advised by legislative counsel that this would achieve, I believe, what he is attempting to achieve. It is certainly important. We definitely want to protect the confidentiality of the doctor-patient relationship. If I correctly understand the trust of the Senator's amendment, it is to protect those rights. And I share with him the desire to achieve the goal of his amendment to my amendment.

If the Senator remembers, in the recent Communicable Disease Act that we just passed, the second title referral to a special health problem as it applied to syphilis. The question came up there as to how we were going to keep and maintain records.

I believe that we worked out a compromise in the Committee on Labor and Public Welfare that was satisfactory. I have received information by way of a telephone call to my staff that this language follows that very closely, and it would be acceptable to me if we could add the additional words.

Mr. TAFT. Mr. President, I am not sure that I understand the intent of the Senator. I understand the import of the language he suggests adding to my amendment. Is the import intended to specify that the requirement of law be one of protecting the confidential relationship between the doctor and the patient, or is it the intention that if there is a Federal law that requires the production of information, even though it violates that relationship, the information would have to be given?

Mr. KENNEDY. Mr. President, I had not seen the Senator's amendment until a few minutes ago. Since we do not want to modify or adjust or change the patient-doctor relationship, we do not want to write in something here which would vitiate what we did in the Communicable Disease Act and perhaps in other disease programs which may already be in existence.

As I say, title II of the Communicable Disease Act considered the whole question as applied to one particular disease.

I do not want in the amendment, which was a very carefully worked out by those doing the research for that particular disease, and also with legal authority and with all doctors who are working on it, to vitiate what we did in the other act, or what has previously been done in similar acts.

It is identical to the language which would protect the doctor-patient relationship and would provide sufficient information necessary to develop a comprehensive kind of program with which to attack syphillis.

Mr. President, I am sympathetic to what the Senator is attempting to do. There is no intention in my amendment to violate the doctor-patient relationship. I would have no objection to accepting the Senator's amendment, provided it includes the change I proposed.

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

Mr. KENNEDY. Mr. President, I yield to the Senator from Ohio.

Mr. TAFT. Mr. President, I have heard the Senator from Massachusetts. It is not the intent of the Senator in any way to affect the Communicable Disease Act.

I think with his explanation of his intention in this connection of the change he is proposing would be appropriate and my amendment could be offered when time is yielded back. I would be willing to include my remarks on the bill. I understand it is a parliamentary matter.

Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. TAFT. Mr. President, as I understand the situation, the Senator from Massachusetts has to yield back his time before my amendment could be called up.

The PRESIDING OFFICER. All the time would have to be yielded back before the Senator from Ohio could offer his amendment.

Mr. TAFT. The other question I wish to ask the Senator from Massachusetts. Would the Senator amend his amendment to include the language I have proposed, since that might be a shorter route?

Mr. KENNEDY. Mr. President, I move to amend my amendment as suggested by the amendment of the Senator from Ohio, and to add the additional language "except as may be required by law."

The PRESIDING OFFICER. Does the Senator from Massachusetts make that a unanimous-consent request?

Mr. KENNEDY. Mr. President, I have not asked for the yeas and nays. I believe that it is in order to make the request.

The PRESIDING OFFICER. Does the Senator make a unanimous-consent request to amend his amendment?

Mr. KENNEDY. I will, if necessary, but as I understand it, if the yeas and nays have not been ordered I can amend the amendment at any time. Is that correct?

The PRESIDING OFFICER. The Chair is informed by the Parliamentarian that in this case modification takes unanimous consent because of a previous unanimous-consent agreement on this particular amendment.

Mr. KENNEDY. Mr. President, I ask unanimous consent to modify my amendment, as expressed in the amendment of the Senator from Ohio, with the additional language I proposed.

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

The amendment, as modified, is as follows:

"On page 13, between lines 7 and 8, insert a new section as follows:

"SEC. 203 (a) It is hereby declared to be the policy of the United States that Federal funds may be used to conduct research involving human beings as experimental subjects only when each participant has freely volunteered to participate after having been fully informed of any physical or mental health risks which may be incurred as a result of participating in such research.

"(b) In order to carry out the policy stated in subsection (a) of this section with respect to the Department of Defense, none of the funds authorized by this or any other Act may be used by the Department of Defense to contract with any individual, corporation, institution, organization, or other entity, for the purpose of carrying out any research project which uses human beings as experimental subjects unless—

"(1) the Secretary of Defense has determined that such project is essential to the national defense, and no federal employee violates the doctor-patient privilege or re-

quires confidential information developed because of the doctor-patient relationship in any such research project, except as may be required by law;

"(2) the Secretary of Health, Education, and Welfare has been informed of the project and he has either (A) indicated in writing to the Secretary of Defense whether the research project is one which will involve substantial risk of serious injury to the physical or mental health of the human subjects to be used and whether the research project is one which will involve substantial risk of resulting in any genetic change in such subjects, or (B) permitted forty-five days to elapse after having been officially informed of such project without having submitted to the Secretary of Defense a written notice as described in subclause (A) of this clause;

"(3) the human subjects to be used have been fully informed of the nature and purposes of the research project and of any possible physical and mental health consequences that may result from participation in such research project, including any physical and mental health consequences included in the report of the Secretary of Health, Education, and Welfare submitted pursuant to clause (2); and

"(4) each person participating in such project has freely volunteered to participate after he has received the information referred to in clause (3)."

Mr. KENNEDY. I am prepared to yield back my time.

Mr. STENNIS. I yield myself 2 minutes.

The PRESIDING OFFICER. The Senator from Mississippi is recognized for 2 minutes.

Mr. STENNIS. Mr. President, it has been impossible for those of us not familiar with the amendment to get the full significance of what it might mean. I have not seen the Taft amendment. I think the amendment of the Senator from Massachusetts was well placed, as far as this bill is concerned.

I have a verbal, oral report that the Department of Defense said the Kennedy amendment was workable, and so forth. I have nothing from them on the Taft amendment.

I mention that because sometimes it is possible to run into strong opposition to an amendment that has not been referred, and it becomes all but impossible to handle. However, I still feel as I did about the Kennedy amendment, which is now modified.

Mr. BAYH. Mr. President, I am pleased to cosponsor this important amendment to the military procurement authorization bill by my good friend, the Senator from Massachusetts (Mr. KENNEDY). It is only fitting that when we authorize many billions of dollars for the procurement of weapons designed to destroy human life that we at the same time express our concern for the sanctity of human life and the respect that we have for individual human beings.

The purpose of this amendment is to see to it that human beings involved as subjects in research and experimentation are not treated as mere laboratory specimens. This amendment establishes as national policy "that Federal funds may be used to conduct research involving human beings as experiment subjects only when each participant has freely volunteered to participate after having been fully informed of any physical or mental health risks which may be incurred as a result of participating in such research."

I am sure that none of our colleagues could quarrel with such a purpose, especially with the knowledge of the kind of experiments that have been conducted using human subjects—without these subjects having been informed of the possible risks and dangers involved in the experiments. It has long been a fundamental tenet of our law that an uninformed consent is no consent at all. Therefore when we read stories of how mentally retarded chilrden are injected with hepatitis—children whose capacity to consent is questionable—and whose parents were not fully apprised of the risks involved; when we read of uneducated women in Texas who are deceived as to the nature of experimentation with contraceptives in which they are involved; when we are all too aware of the many abuses of prisoners with regard to their participation in often hazardous experiments—conducted at times under the most questionable of circumstances; and most recently when we all learned of the shocking and outrageous revelations regarding the Tuskegee study of syphilitic patients—when we are made aware of these trespasses against human dignity, all of which purported to be carried out only with the consent of the subjects, then it is time that we begin to define just what the elements of this consent must be.

This amendment writes into law the kind of safeguards that should have been carried out all along in every branch of the Government. We are finding out, tragically, now, that these safeguards may not have been carried out in all instances. Now at least the Department of Defense and its contractors will be required to comply with basic elements of decency: subjects must be fully informed of the possible risks to their physical and mental health, including such risks as the Secretary of Health, Education, and Welfare may report to the Department of Defense; and each subject must have freely volunteered to participate after he has received the information concerning the possible risks to his mental and physical health. And while this amendment by its terms applies only to the Department of Defense and its contractors, it is my hope that such regulation of human experimentation will be established in all the departments and agencies of this Government as a mark of the respect for human life which is the hallmark of a civilized nation.

I join Senator KENNEDY and the other cosponsors of this amendment in urging its adoption this afternoon.

Mr. KENNEDY. I am prepared to yield back the remainder of my time.

Mr. STENNIS. I am prepared to yield back the remainder of my time. But before I do so I imagine we can have a voice vote.

Mr. KENNEDY. Yes.

Mr. STENNIS. I yield back my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment of the Senator from Massachusetts, as modified.

The amendment, as modified, was agreed to.

Mr. STENNIS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. KENNEDY. I move to lay that motion on the table.

The motion to lay on table was agreed to.

Mr. KENNEDY. Mr. President, the rationale for this amendment can be briefly summarized as follows: The Health Subcommittee's study of medical research involving human experimentation has indicated a need for the development of national policy and procedures to safeguard the rights of the human subjects involved in such experimentation. The Defense Department sponsors about $10 million a year of contract research involving human subjects, and also conducts additional in-house research involving human subjects. The General Accounting Office has surveyed DOD regulations with respect to human experimentation and indicated that there is a lack of uniformity and comprehensiveness in these regulations, among the three armed services and the various defense agencies.

Accordingly, I believe the adoption of this amendment would aid the Defense Department in developing general policy for human experimentation projects, and would stimulate DOD to develop clearcut, consistent procedural guidelines for the implementation of such policy throughout the Department.

At this time I want to reiterate the point I made in the debate on August 1st: that in offering this amendment, I intend no criticism of the way in which DOD has handled its human experimentation projects in the past. The purpose of this amendment is to help DOD in clarifying its policies and protecting the rights of persons involved in such experiments.

As I stated in the earlier debate, the Defense Department has many legitimate requirements to conduct and sponsor human experimentation. For example, when military test pilots test a new aircraft, they may have their physiological responses monitored to help in evaluating the plane and in preparing for its use in normal operations. This is a form of human experimentation; and it is, of course, fully justified, even though the subject's participation may involve serious risk of substantial injury or death to himself. He volunteers for such service with full knowledge of what is involved.

Similarly, testing out new undersea vehicles or deepsea diving techniques can involve substantial danger to the volunteers involved, and is a form of human experimentation, but again is fully justified. And in more conventional terms, the military has to experiment with human reactions to night combat, to undue stress and strain, and to a host of other situations which occur in military activity. Similarly, DOD runs vast educational and training programs, and needs the benefits of research on training methods, like computer assisted instruction. So there are many areas of legitimate, necessary research on human beings which DOD carries out.

This amendment is in no way intended to circumscribe legitimate military research involving human subjects. When the military has a need to observe a soldier's or sailor's reactions to certain situations which arise in the course of normal military operations, in order to improve operational effectiveness. DOD would continue to have the freedom to carry out such studies, with appropriate safeguards for the individuals involved.

This amendment is aimed at those situations in which specific research projects are set up, involving human beings as experimental subjects. In those cases, the amendment would require that DOD establish clearcut consistent policy and procedures which safeguard the rights of the individuals involved.

The problem of human experimentation is enormous, involving complex issues of law, ethics, and public policy—and cutting across the fields of medicine, psychology, sociology, law, public administration, theology, and others. The Health Subcommittee is studying these issues and hopes to develop legislation in the next Congress to help delineate national policy in this regard.

But at this point in time we can make a constructive step forward in one spe-

cific area: the clarification of DOD policy and procedures regarding human experimentation. I am convinced that adoption of this amendment would be of help to the Defense Department, to the institutions which perform such research, and to the individuals involved in the experiments.

I urge each Senator to support this amendment.

Mr. President, I yield back the remainder of my time.

Mr. McCLELLAN. I yield back the remainder of my time.

The PRESIDING OFFICER. All time on this amendment has been yielded back.

The question is on agreeing to the amendment of the Senator from Massachusetts (Mr. KENNEDY).

The amendment was agreed to.

Mr. HART. Mr. President, I call up my amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 51, between lines 11 and 12, insert a new section as follows:

SEC. 803. Notwithstanding the foregoing provisions of this Act, the aggregate amount appropriated by this Act is hereby reduced by 5 per centum.

Mr. HART. Mr. President, as I indicated when questioned by the distinguished majority leader earlier, this amendment is as simple and as straightforward as any proposal we shall face, and I would anticipate, if it is agreeable to the chairman of the Appropriations Committee, that 15 minutes be allotted to the amendment to be equally divided, that that much time would be adequate.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that time on this amendment be limited to 15 minutes, to be equally divided between the distinguished Senator from Michigan (Mr. HART) and the distinguished manager of the bill.

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

Mr. HART. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from Michigan is recognized for 5 minutes.

Mr. HART. I ask for the yeas and nays, Mr. President.

The yeas and nays were ordered.

Mr. HART. Mr. President, the report by the Senate proposes the spending of $74,604,000,000-plus. The committee is to be commended, I believe, for the care that clearly it has applied in refusing the budget request which was in the range of $79.5 billion. The Senate committee has increased somewhat the figure proposed to be spent by the House. In the consideration of the authorization bill, several efforts were made to reduce the authorization.

We will recall the nuclear attack aircraft carrier and its elimination as proposed by the distinguished Senator from Ohio (Mr. SAXBE) which drew about 30 votes; the Navy missile firing submarine, the *Trident* and the proposal to cut that drew some 39 votes; and we have heard the discussion about the extra 747's. These and similar votes show a desire to cut this Defense appropriation but disagreement as to what specific items should be eliminated. We can achieve a cut in the total appropriation by adopting the pending amendment, leaving the specific items to be determined by Defense officials most familiar with the competing claims.

It is my feeling that the Pentagon is not vastly different in its experience and performance than we are as individuals. Unless a person is in hard core poverty, except for someone in raw poverty, is it not our own experience that not every dollar we ask for is needed, not every dollar given us is essential?

We can survive, as individuals and as families, usually with less than we are given. We may not find it as rewarding, as comfortable, as convenient, or as satisfying, but we can survive. It may be a child away at school, who is given an allowance to cover rent, books, clothing, travel, extracurricular activities, entertainment, and so forth, to be provided for. Cut that allowance by 5 percent, 5 percent less for that child, and provided he is allowed to determine what areas he will reduce spending, and it will be sufficient for him to survive.

I am proposing that this family we call the Pentagon over at the Department of Defense, if it is permitted to make its own judgment as to where it shall reduce by 5 percent this almost $75 billion that we are giving it, can make a prudent judgment, apply the reduction and our national security will not be jeopardized. Indeed, our national security, might well be strengthened by using the $3.7 billion saved by this amendment to meet some of the domestic threats to our security—and I am not talking about Communist cells, I am talking about decaying cities, or you name any of the other threats, Mr. President. Maybe it is health care. Maybe it is food for hungry children. Maybe it is educational programs. Save $3.7 billion and apply it to these internal needs. That will strengthen our Nation and better serve our people.

So I suggest that if we are about to appropriate in the range of almost $75 billion to the Pentagon, we say, "Less 5 percent." That is the purpose of my amendment.

I have an inconsistent record on this kind of proposal. In my earlier years here I thought it was an unwise thing to do. I thought it was better that the committee system respond, to make selections among the competing Pentagon programs. But the longer I watch this business it seems to me more prudent when we are dealing with a sum in the range of $75 billion, to say "less 5 percent, and you, the Department of Defense, determine where that $3.7 billion less shall be taken from and what programs." It is as we do with the child in school, "You will get 5 percent less allowance, but you figure out from where you best can to take it, out of travel, entertainment, clothing, food, rent, or books, You figure it out."

I am sure that the Pentagon can survive with 5 percent less, they will still have more than $70 billion, and I think the country would be stronger for it.

Finally, Mr. President, unless we can add a "stop the bombing," or "stop the war" amendment, an antiwar amendment, I should feel compelled to work against passage of this bill, even if my 5 percent cut has been incorporated.

Mr. President, I yield to the distinguished Senator from Wisconsin (Mr. PROXMIRE) the remainder of my time.

Mr. PROXMIRE. Mr. President, I enthusiastically support the Senator from Michigan's (Mr. HART) amendment. I have often asked the experts of the Department of Defense whether a general cut of this kind or a specific one that deleted funds for a particular purpose was better or more responsible, and they have uniformly told me that this, the way Senator HART has proposed, was the way to make the cut. Let the Pentagon exercise the priorities. That is their business. Tell them to make a cut of $3.7 billion, which this amendment would provide, and they will be able to do it in a way that will not weaken our Armed Forces.

Mr. President, there are all kinds of places where cuts can be made. We have $28 billion overruns in our procurement, $28 billion in our major weapons system. In the Vietnam war we have an incremental cost of $6.1 billion. We can decide to get out of there. Or we can decide to get out more than we have.

One of the areas that can certainly save money is with respect to the proliferation of bases that we have all over the world. We can withdraw our troops and pull our troops back from some of the 3,000 installations we have spread all over the world. Certainly some can be phased out.

If we do not act tonight, the Senate will probably tell the President of the United States to do something like this in a few days when we act on the debt ceiling bill. Many Senators will vote for that bill, who will oppose the Hart amendment.

If we delete $3½ billion from this bill, we will not pass the buck to the President to determine where he wants to cut. If Congress would exercise any kind of judgment on this matter, it seems to me that the Hart amendment is the place to do it.

I thank the Senator.

The PRESIDING OFFICER (Mr. HOLLINGS). The time of the Senator from Michigan has expired.

The Senator from Arkansas is recognized.

Mr. McCLELLAN. Mr. President, I do not think we should abrogate our responsibility at this time of great stress with respect to our financial situation. I am as cognizant of that as anyone else. However, if this were the procedure we were going to follow hereafter, it seems to me that we should say that we will not provide more than $65 billion for the Defense Department, then make a lump sum appropriation, permitting the Defense Department to spend the money according to their own priorities.

However, I think we have a responsibility to determine where the priorities are. A Senator who thinks the funds should be cut has the opportunity to offer an amendment in this bill. That is the proper procedure that I would hope would be followed. But if we start to

turn over to the military a lump sum and say, "You cut it wherever you want, and you may use it in what manner you wish"—that is bad practice. It is not sound.

The Senator talks about bases. I believe in bringing the soldiers home from the bases. However, if the Senator thinks the military officials will bring them home, he is dreaming. They will keep them there as long as they can. The only way we can accomplish that is to pass a law and make them do it and not leave it to them to decide.

If the Senate thinks cuts should be made, they should be made where we think they should be made.

I serve notice that I voted for the Mansfield amendment at one time to bring our troops home. I have said it in public speeches that I think most of them ought to be brought home. I say it again now, and I will vote to bring them home if a proper amendment were presented. But this amendment will not bring them home, for it will not work.

If we are going to do it in the manner proposed, there is no use in the Appropriations Committee being meticulous in attempting to determine where the money should and should not be spent. We should just appropriate the money.

We have cut the bill $5 billion under the President's budget. I think we have made some very real progress in economizing. I think it will be cut some more next year. I am dedicated to that for I am committed to reducing defense appropriations. At the same time, I do not want to impair the country's needs with respect to military posture.

I will search the bill next year from one end to the other with the idea of finding places where we can reduce the amount.

Mr. President, I yield to the Senator from North Dakota such time as he might require.

Mr. YOUNG. Mr. President, I will take only a few minutes. This bill is approximately $75 billion. Fifty-six percent of it is for personnel, or nearly $40 billion, that leaves a balance of $35 billion.

I might say in regard to personnel that under the statutory requirements there is very little that the Defense Department can do about the amount of compensation for personnel.

There is, also, the question of pay for retired personnel. This amounts to nearly $4 billion. They cannot do anything about that.

There is more than $1 billion for pollution and environmental matters. They cannot do anything about that.

We got to a place where we cannot cut any more. There are only a few places where we could apply the $3.5 billion reduction contained in this amendment. A 5-percent cut in the remaining funds in this bill would equal approximately a 15-percent reduction in vital programs.

The chairman of the Appropriations Committee has pointed out that a cut of $5 million has already been made.

I do not see how a cut like this could be made without serious injury to our national security.

Mr. McCLELLAN. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time has expired or been yielded back. The question is on agreeing to the amendment of the Senator from Michigan.

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. MATHIAS (when his name was called). On this vote I have a live pair with the Senator from Texas (Mr. TOWER). If he were present he would vote "nay." If I were free to vote, I would vote "yea." I withhold my vote.

Mr. ROBERT C. BYRD. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Oklahoma (Mr. HARRIS), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Montana (Mr. METCALF), the Senator from Alabama (Mr. SPARKMAN), the Senator from California (Mr. TUNNEY), the Senator from Alaska (Mr. GRAVEL), and the Senator from Louisiana (Mr. EDWARDS) are necessarily absent.

I further announce that the Senator from Wyoming (Mr. MCGEE) and the Senator from Hawaii (Mr. INOUYE) are absent on official business.

Mr. SCOTT. I announce that the Senator from Colorado (Mr. ALLOTT), the Senator from Tennessee (Mr. BAKER), the Senator from Nebraska (Mr. CURTIS), the Senator from Michigan (Mr. GRIFFIN), the Senator from New York (Mr. JAVITS), the Senator from Iowa (Mr. MILLER), the Senator from Ohio (Mr. TAFT), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

Also, the Senator from Maryland (Mr. BEALL), the Senator from Kansas (Mr. DOLE), the Senator from Arizona (Mr. GOLDWATER), and the Senator from South Carolina (Mr. THURMOND) are necessarily absent.

If present and voting, the Senator from Colorado (Mr. ALLOTT), the Senator from Maryland (Mr. BEALL), the Senator from Nebraska (Mr. CURTIS), the Senator from Kansas (Mr. DOLE), the Senator from Iowa (Mr. MILLER), and the Senator from South Carolina (Mr. THURMOND) would each vote "nay."

The pair of the Senator from Texas (Mr. TOWER) has been previously announced.

The result was announced—yeas 28, nays 46, as follows:

[No. 495 Leg.]

YEAS—28

Burdick	Humphrey	Proxmire
Church	Kennedy	Randolph
Cook	Mansfield	Ribicoff
Cranston	Mondale	Roth
Eagleton	Montoya	Saxbe
Fulbright	Moss	Stevenson
Hart	Muskie	Symington
Hartke	Nelson	Williams
Hatfield	Pearson	
Hughes	Pell	

NAYS—46

Aiken	Brock	Chiles
Allen	Brooke	Cooper
Bayh	Buckley	Cotton
Belimon	Byrd, Harry F., Jr.	Dominick
Bennett	Byrd, Robert C.	Ervin
Bentsen	Cannon	Fannin
Bible	Case	Fong
Boggs		Gambrell
Gurney	Magnuson	Spong
Hansen	McClellan	Stafford
Hollings	Packwood	Stennis
Hruska	Pastore	Stevens
Jackson	Percy	Talmadge
Jordan, N.C.	Schweiker	Weicker
Jordan, Idaho	Scott	Young
Long	Smith	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Mathias, for.

NOT VOTING—25

Allott	Gravel	Miller
Anderson	Griffin	Mundt
Baker	Harris	Sparkman
Beall	Inouye	Taft
Curtis	Javits	Thurmond
Dole	McGee	Tower
Eastland	McGovern	Tunney
Edwards	McIntyre	
Goldwater	Metcalf	

So Mr. HART's amendment was rejected.

Mr. PELL. Mr. President, I have voted in favor of this amendment to reduce defense appropriations this fiscal year by 5 percent as a matter of conscience and conviction, realizing that the amendment would be defeated.

The amount of the reduction involved is less than the estimated incremental costs of our continued military involvement in Southeast Asia this year.

The Defense Department, with its cost overruns and expensive contracting out procedures, could easily stand this modest reduction if it were to end our bombings, shelling, and expenditures in support of the Saigon government.

I cast this vote in favor of the amendment as a vote of protest against our continued military activities in Southeast Asia.

Morever, I cast this vote as an indication of a way that our spending could be kept under the $250 billion spending ceiling.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Mr. MATHIAS. Mr. President, I have an amendment at the desk, and I call it up at this time.

The PRESIDING OFFICER. The amendment will be stated.

The amendment was read as follows:

At the appropriate place in the bill insert a new section as follows:

Sec. ——. None of the funds appropriated by this act may be expended in Indochina for military operations not in accordance with any legal provisions of Section 601(a) of Public Law 92-156 of November 17, 1971.

Mr. STENNIS. Mr. President, may we have quiet? This is important.

The PRESIDING OFFICER. The Senate will be in order.

Mr. MATHIAS. Mr. President, I ask unanimous consent to have printed in the RECORD the language of section 601(a) which was referred to in the amendment.

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

[Public Law 92-156, 92nd Congress, H.R. 8687, November 17, 1971]

TITLE VI—TERMINATION OF HOSTILITIES IN INDOCHINA

SEC. 601. (a) It is hereby declared to be the policy of the United States to terminate at the earliest practicable date all military operations of the United States in Indochina, and to provide for the prompt and orderly withdrawal of all United States military forces at a date certain, subject to the release of

all American prisoners of war held by the Government of North Vietnam and forces allied with such Government and an accounting for all Americans missing in action who have been held by or known to such Government or such forces. The Congress hereby urges and requests the President to implement the above-expressed policy by initiating immediately the following actions:

(1) Establishing a final date for the withdrawal from Indochina of all military forces of the United States contingent upon the release of all American prisoners of war held by the Government of North Vietnam and forces allied with such Government and an accounting for all Americans missing in action who have been held by or known to such Government or such forces.

(2) Negotiate with the Government of North Vietnam for an immediate cease-fire by all parties to the hostilities in Indochina.

(3) Negotiate with the Government of North Vietnam for an agreement which would provide for a series of phased and rapid withdrawals of United States military forces from Indochina in exchange for a corresponding series of phased releases of American prisoners of war, and for the release of any remaining American prisoners of war concurrently with the withdrawal of all remaining military forces of the United States by not later than the date established by the President pursuant to paragraph (1) hereof or by such earlier date as may be agreed upon by the negotiating parties.

Approved November 17, 1971.

Mr. McCLELLAN. Mr. President, will the Senator yield for a parliamentary inquiry?

Mr. MATHIAS. I am happy to yield to the distinguished Senator for that purpose, without losing my right to the floor.

Mr. McCLELLAN. I want to ascertain whether this amendment comes under the unanimous-consent agreement limiting time.

The PRESIDING OFFICER. The Parliamentarian has ruled it would appear to be an effort to terminate the war and would not be under the restriction of time.

Mr. McCLELLAN. This is not?

The PRESIDING OFFICER. This is not.

Mr. McCLELLAN. There is no limitation of time?

The PRESIDING OFFICER. No limitation of time.

The Senator from Maryland is recognized.

Mr. MATHIAS. Mr. President, I shall be very brief and I will not hold the Senate long.

My purpose in offering this amendment is very simple. It merely incorporates into the Defense appropriation bill by reference the policy adopted by Congress, which was approved by the President of the United States on November 17, 1971.

I will say that the language as then approved was precatory. In this amendment it becomes executory. The purpose of the amendment to declare policy of the U.S. operations in Indochina was fully discussed in the Senate at the time of the adoption, and that discussion need not be repeated here. It is a part of the RECORD, and the RECORD is an integral part of this debate. I believe that is the law of the land, and that we should reinforce it by reenacting it as a part of this legislation.

My intention in offering this amendment is very simple. It is to incorporate into the defense appropriation bill by reference the policy adopted by the Congress and approved by the President on November 17, 1971.

That language was precatory. When this amendment becomes law it will be executory.

It was a pious hope, we can now make it mandatory.

The purpose of this resolution embodying a declaration of policy for the U.S. operations in Indochina was fully discussed in the Congress at the time of its adoption and that discussion need not be repeated here. It is all a part of the record and the record is an integral part of this debate.

Specifically, the purpose of the amendment I have offered is to reaffirm the policy of the United States set forth in Public Law 92-156 last November. My amendment states that no funds can be expended for any activities not in accordance with the policies declared in section 601(a) of that law. My amendment thus puts teeth into that policy declaration; it means that we are serious about what we enacted last November and that all military activities are to be consistent with the law—without exception.

Section 601(a)—known as the Mansfield amendment—states that all U.S. military operations are to be terminated at the earliest practicable date; all U.S. military forces are to be withdrawn promptly and orderly "at a date certain." These actions are made subject to the release of all American POW's and an accounting of all Americans missing in action.

The section urges and requests the President to undertake specific action to implement this policy including the establishment of a final date for our withdrawal from Indochina contingent upon the release of our POW's and an accounting of Americans missing in action.

It is my expectation in offering this amendment that such a date should be announced without delay, and it is my hope that the negotiations urged in section 601(a) will be pursued with vigor publicly and privately and will yield the peace for which Americans have longed for so many years.

My amendment will foster such a peace by making it the law of the land that none of the $75 billion of taxes paid by American citizens and appropriated in this bill will be used for any purpose inconsistent with these policies which this Senate approved almost a year ago.

Mr. COTTON. Mr. President, will the Senator yield for a question?

Mr. MATHIAS. I am happy to yield.

Mr. COTTON. I believe the Senator obtained unanimous consent to insert that resolution into the RECORD. How long is that resolution?

Mr. MATHIAS. It is not very long, and I shall be very happy to read it.

I have copies of it here that I would like to have distributed.

I read from the resolution:

SEC. 601. (a) It is hereby declared to be the policy of the United States to terminate at the earliest practicable date all military operations of the United States in Indochina, and to provide for the prompt and orderly withdrawal of all United States military forces at a date certain, subject to the release of all American prisoners of war held by the Government of North Vietnam and forces allied with such Government and an accounting for all Americans missing in action who have been held by or known to such Government of such forces. The Congress hereby urges and requests the President to implement the above expressed policy by initiating immediately the following actions:

(1) Establishing a final date for the withdrawal from Indochina of all military forces of the United States contingent upon the release of all American prisoners of war was held by the Government of North Vietnam and forces allied with such Government and an accounting for all Americans missing in action who have been held by or known to such Government or such forces.

(2) Negotiate with the Government of North Vietnam for an immediate cease-fire by all parties to the hostilities in Indochina.

(3) Negotiate with the Government of North Vietnam for an agreement which would provide for a series of phased and rapid withdrawals of United States military forces from Indochina in exchange for a corresponding series of phased releases of American prisoners of war, and for the release of any remaining American prisoners of war concurrently with the withdrawal of all remaining military forces of the United States by not later than the date established by the President pursuant to paragraph (1) hereof or by such earlier date as may be agreed upon by the negotiating parties.

Approved November 17, 1971.

Mr. COTTON. I thank the Senator.

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

Mr. MATHIAS. I yield.

Mr. SYMINGTON. As I read the amendment of the distinguished Senator from Maryland, his amendment simply states that nothing in the legislation we are considering should violate the law that has been passed by the Congress and signed by the President. Is that correct?

Mr. MATHIAS. The Senator is correct. That is my intention.

Mr. McCLELLAN. Mr. President, I see nothing in this proposal except that it reenacts a statute. It is completely redundant as far as I am concerned. If certain Senators want this, it is all right with me. It does not add anything to the law of the land as it is today, nor does it detract from it.

The PRESIDING OFFICER. The question is on the adoption of the amendment of the Senator from Maryland (putting the question).

The amendment was agreed to.

Mr. STEVENSON. Mr. President, I had intended to offer an amendment cutting off appropriations for bombing in Indochina, except for aerial support of ground combat operations. Senator MATHIAS offered his amendment with the purpose of ending all bombing in Indochina. His amendment was adopted, and so I will not, at this late hour, offer my amendment. If, as I fear, the Mathias amendment does not fulfill its purpose and the bombing continues, I will offer my amendment another time on another bill.

The PRESIDING OFFICER. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time.

Mr. NELSON. Mr. President, while I would support a substantial portion of the appropriations in this bill, I intend to vote against it, because it appropriates $6.1 billion to continue war operations in Southeast Asia. I have opposed this war since the beginning and voted against the first supplemental appropriations for the Vietnam war in the spring of 1965. As we stand here today debating this additional Vietnam appropriations, I cannot get over the feeling that "I have been here many times before." Requests for more funds keep coming up year after year. The only way to stop this war is to stop spending money on it.

I warned at the time of my 1965 vote that such an investment would lead to a long war. Sadly, this prediction came true. The tragic loss of life and the human misery this war has caused is incalculable. The cost of the war in dollars is staggering. The total cost of the war between fiscal years 1965 and 1973, according to the Senate Appropriations Committee report, is about $110 billion. The Appropriations Committee report documents in detail the dollar cost of this mistaken enterprise.

Mr. President, I request unanimous consent that the table entitled Southeast Asia Operations from Report No. 92–1243 be entered in the RECORD at this point.

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

SOUTHEAST ASIA OPERATIONS

[Outlays in millions of dollars

Fiscal year	Full costs	Incremental costs	Number of U.S. forces in South Vietnam—end of year	Number of U.S. forces in Southeast Asia other than South Vietnam—end of year[1]
1965	$103	$103	59,900	42,900
1966	5,812	5,812	267,500	54,200
1967	20,133	18,417	448,800	80,300
1968	26,547	20,012	534,700	87,400
1969	28,805	21,544	538,700	82,900
1970	23,052	17,373	414,900	57,200
1971	14,719	11,542	239,200	48,200
1972	9,261	7,346	[2] 48,605	84,700
1973 budget estimate	7,063	5,821	[3] 39,000	NA

[1] Figures used are a combination of Thailand and off-shore naval forces as of the end of periods indicated.
[2] Preliminary estimate.
[3] Planned authorized strength to be obtained by Sept. 1, 1972, as announced by the President on June 28, 1972.

Note.—Combined strength of U.S. military personnel in Cambodia and Laos was under 1,000 during these periods except for increased military activities in Cambodia in 1971. The number of U.S. military personnel in Cambodia at that time was included in the totals for South Vietnam.

Mr. NELSON. Mr. President, the State of Wisconsin has picked up the bill for the Vietnam war since 1965 to the tune of approximately $2,156,000,000. That means a cost of almost $500 for every man, woman, and child in Wisconsin. And each family has been taxed over $1,800 for this bankrupt military policy.

Recently, the "Citizens' Organization for a Sane World" completed a study comparing the Wisconsin State revenues allocated to the Indochina war and the budgets of Federal programs conducted in Wisconsin during fiscal year 1971. That study and a Madison Capital Times Special feature on war costs demonstrates the perverse priority placed on the Indochina war at the expense of badly needed domestic programs. According to the Sane study, in the State of Wisconsin the average taxpayer contributed $54 in tax revenues for the war in 1971 alone; Wisconsin taxpayers paid a total of over $238 million.

Wisconsin revenues for the Indochina war exceeded the combined budgets of all fiscal year 1971 programs conducted in the State of Wisconsin by the Department of Agriculture, the Department of Commerce, and the Office of Economic Opportunity. Wisconsin revenues which could have been used for research at the Department of Agriculture's Forest Products Laboratory in Madison instead were used in Vietnam pacification programs.

Milwaukeeans' tab for the war was double the budget of the Environmental Protection Agency for the entire State of Wisconsin. Water pollution programs that are of vital importance to Wisconsin rivers including the Upper Fox and the Pecatonica are dependent on EPA funds. To ignore the pollution in these and other rivers across the United States costs the Nation an estimated $12 million in property damage annually. Milwaukee revenues that could have been used to insure the protection of these natural resources instead were diverted to programs like the Rome Plow land clearance campaign which has stripped bare over 750,000 acres of Vietnam, an area the size of Rhode Island, and produced major soil erosion and flood damage in South Vietnam.

In 1971, the Madison community's contribution to the Indochina war budget equaled the budget for Department of Labor programs conducted in Madison. Madison revenues which might have gone for Job Corps programs to reduce unemployment were used instead for a futile war effort that has produced over 4 million homeless Indochinese refugees.

These comparisons reveal that the Indochina war has cost Wisconsin—on all levels, individual, community, and State—dearly. Yet this diversion of badly needed funds from such critical areas as the economy and the environment has gained us nothing militarily in the war. The cruel irony is that it has produced senseless destruction of once fertile land of our allies in Southeast Asia.

The most graphic example of distorted priorities is that part of the war which continues unabated and is actually spiralling to even higher levels than in the past—the air war. The Cornell University air war study group lead by Dr. Raphael Littauer has recently published the results of a comprehensive study in a book entitled "The Air War in Indochina." Using such sources as the National Security Council study memorandum on Vietnam to corroborate the Littauer study, Mr. Robert Kleiman reviewed "The Air War in Indochina" in the August 13, 1972, "New York Times Book Review." The results depict the air war as an exercise in futility. The National Security Council memorandum points out that the enemy's needs are so small that even unlimited bombing—the current strategy of this administration—will not seriously hamper North Vietnam's shipment of war supplies. The study of the Cornell group further shows that close air support during the period of U.S. ground troop involvement accounted for only 10 percent of all fixed wing activity. The remaining 90 percent of all air sorties were for some vague policy of interdiction. The indiscriminate dropping of over 6 million tons of bombs—50 percent of all bombs dropped fell outside the intended target area—has created a monumental catastrophe.

When I introduced the Vietnam Ecological Damage Assessment Act of 1972 in January, I discussed the cruel irony of this situation which has done far greater damage to our ally, South Vietnam, than to the enemy. Yet it is sadly apparent that the spurious reasoning which has led to the expenditure of billions of dollars for a counterproductive bombing campaign continues to prevail. This irrationality is present not only in Vietnam, but is reflected in soaring defense spending outside of Vietnam as well.

The great waste involved in the Indochina war is only the tip of the iceburg. We are involved in a global arms race which increasingly diverts bady needed resources from such areas as health and education. This fiscal year's increase in funding for the F–15 Air Force fighter plane surpasses the entire Federal aid budget for Wisconsin in fiscal year 1971. It is not only the major weapons systems such as planes and tanks that dwarf our serious domestic needs. Even the expendable ordnance delivered by the weapons themselves overshadows the cost of many critical State programs. A single Navy F–14 carries six air-to-air missiles at a total cost of $1.5 million. The price of just three of these missiles exceeds the Department of Interior's fiscal year 1971 budget for land and water conservation in Wisconsin. On the national scale, the eventual cost of all U.S. weapons systems now in development or procurement is $105.2 billion. This amount of money could cover the total cost in every area of environmental cleanup.

Mr. President, I ask unanimous consent that the Capital Times feature, and Mr. Kleiman's article in the New York Times be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. NELSON. The cost of the recent escalation in Indochina is measurable in terms of dollars. The number of B–52's has increased four times, with up to 100 B–52 sorties daily at the cost of $41,000 per sortie. Our tactical aircraft have been tripled with as many as 800 sorties daily at the cost of $8,500 for each flight of a fighter-bomber. One day's worth of sorties, it figures, comes close to $10 million. The cost of the war is even measurable in manpower—our naval manpower in the Gulf of Tonkin, for example, has been doubled to 40,000. But the cost of this escalation in human misery is incalculable—and tragically unnecessary.

The end of this war is long overdue. On July 2, 1966, I stated—and I also reaffirm that position today—that—

We have had a fair trial of the theory that our massive military might can force the

enemy to the bargaining table. It has not worked.

What we have instead is:

The death of 56,000 Americans.

The death of more than 150,000 South Vietnamese and other allies.

The death of around 800,000 on the other side.

The wounding of 300,000 Americans.

The imprisonment of at least 500 Americans.

The loss of 1,100 Americans missing in action.

Obviously, this war has gone on too long and has cost too much in money and misery. Congress must not pay 1 more cent for this investment in political bankruptcy.

It is shocking to think that this administration, which came on the scene 4 years ago with a secret plan to end this war, is still asking the taxpayer to pay for the folly of pursuing an illusory military victory in Southeast Asia. It is incredible to think that this administration is asking Congress to appropriate for a war that it rejected in the Mansfield amendment of the Military Procurement Act. That act, which passed both Houses and was signed by the President last year, declared it to be "the policy of the United States to terminate at the earliest practicable date all military operations of the United States in Indochina."

It is time to stop this mistaken war policy. I intend to vote against this bill which contains funds for the Vietnam war as a protest, even though there are funds for other projects in the bill which merit affirmative action.

To repeat what I said when I voted against the first supplemental appropriation to start the ground war in 1965:

You need my vote less than I need my conscience.

EXHIBIT 1

[From the Capital Times, Madison, Wis., Aug. 17, 1972]

TRANSPORTATION

This

Nuclear aircraft carrier and its aircraft, guided missiles, frigates and other support costs.

Could buy this

Construction of Washington, D.C. subway system. (Price: $2.98 billion.)

Proposal of Mayor Thomas Lukens, Cincinnati, for federal subsidies for urban transportation systems to pay deficits and operating costs. Price: $150 million per year.

HOUSING

This

One Huey Helicopter.

One Navy A-6E "Intruder" aircraft.

One Vulcan 20 mm. cannon used extensively in Indo-China.

Could buy this

Sixty-six low-cost houses with two bedrooms each. Price: $1 million.

Construction of 257 average New York City apartments at $35,000 each. Price: $9 million.

Average cost of eight single family houses at $25,000 each. Price: $200,000.

ENVIRONMENT

This

Overrun to date on the F-111 aircraft program.

Overrun of current Pentagon cost estimates above original planning estimates for 45 weapons systems as of June 30, 1971.

Possible total cost of the B-1 bomber program to completion with fully equipped planes.

Eventual cost of all weapons systems now in development or procurement.

Could buy this

Unfunded applications for Department of Housing and Urban Development water and sewer grants. Price: $4 billion plus.

Estimated cost of abatement of water pollution between 1970 and 1975 by President's Council on Environmental Quality. Price: $38 billion.

Estimated cost of adequate solid waste treatment programs by President's Council on Environmental Quality. Price: $43.5 billion.

Total cost of environmental cleanup. Price: $105.2 billion.

RURAL DEVELOPMENT

This

The amount Lincoln County, Oregon, paid to support military spending in fiscal year 1971.

Ten Sprint missiles in the Safeguard ABM system at $2 million each.

Could buy this

New high school for Toledo-Newport, Ore. Price: $62,250,000.

Unfunded applications for assistance in housing programs in Arkansas, as of November, 1971.

IMPOUNDED FUNDS

This

The combined overruns to date on the main battle tank, the M60 tank, Safeguard ABM, B-1 bomber, F-111, Cheyenne, DD-963 destroyer, and the C-5A.

Could buy this

Congressionally authorized funds for highway construction, low-rent public housing, model cities, water and sewer grants, urban renewal, regional economic development, farm credit, and transportation impounded by President Nixon in 1971. Price: $12 billion.

HEALTH SERVICES

This

The operating costs of ten Huey helicopters in Indochina for one year.

$404 million 1973 funding for converting Polaris submarines to Poseidon MIRVed configuration.

One DE-1052 destroyer escort and one DD-963 destroyer.

Fifteen Air Force F-15 fighters.

Office of Management and Budget estimate of ultimate cost of one B-1 bomber with its bombs.

One C-5A.

Two Huey Helicopters.

Four main battle tanks.

One Huey Helicopter.

One B-1 bomber.

Three Huey helicopters and one Air Force F-15 fighter.

Four C-5A's.

One Navy F-14.

Approximate cost of ten B-52 bombing sorties in Indochina, or approximate operating costs of three Huey helicopters in Southeast Asia for one year.

Could buy this

Health center in Baton Rouge, La. Price: $1.5 million.

Federal heart disease prevention program to establish research centers and clinics. Price: $425 million over 5 years.

Decrease in funds for education and training of health personnel from 1972 to 1973 budget: $140.9 million.

Decrease in funds for health services planning and development: $139.5 million.

Cuts in Hill-Burton hospital construction grants: $72 million.

Four 300 bed hospitals. Price: $60 million.

Fifty bed hospital at $47,000 per bed.

100 bed hospital at $44,000 per bed.

Construction of two-story public health center in Decatur, Ala. Price: $1 million.

Construction of a 584 bed general hospital in San Francisco. Price: $41 million.

Construction of a 228 bed general hospital in Granite City, Ill. Price: $12 million.

Funds for medical facilities construction grants at 1972 level to rebuild and renew hospital physical plants: $230 million.

Construction of a 300 bed general hospital, $15,600,000.

Construction of a 22 bed nursing home in Estill, S.C. Price: $446,000.

INCOME SECURITY

This

Three nuclear power attack submarines.

Two DE-1052 Destroyer escorts.

One Main Battle Tank.

Current estimate of the total final cost of the C-5A construction program.

Could buy this

Decrease in grants to states from the Department of Health, Education and Welfare for public assistance in the proposed 1973 budget: $567 million.

Decrease in funding of the Child Nutrition program of the Department of Agriculture in the proposed 1973 budget: $69 million.

Decrease in funding of the Special Milk program of the Department of Agriculture in the proposed 1973 budget: $1 million.

Elimination of hunger in the United States; estimate of the Urban Coalition. Price: $4 to $5 billion per year.

DAY CARE

This

Overrun to date on the B-1 bomber program in which not even one prototype has been completed yet.

Could buy this

Federal Child Care program for child nutrition, health, and day care approved by Congress but vetoed by President Nixon in December, 1971. Price: $2.1 billion.

EDUCATION

This

Construction costs of one nuclear powered aircraft carrier, minus equipment.

The cost of current loaning of Navy destroyers and submarines to Turkey, Greece, Spain and Korea.

Pentagon estimate of the cost of one B-1 bomber.

Approximate operating costs of six Huey helicopters for one year in Indochina.

Approximate cost of one Huey helicopter.

One Navy F-14 air superiority fighter.

Five Air Force F-15 air superiority fighters.

Five Boeing 747's for the President's Airborne Command Post to be used by Executive Staff in nuclear war.

1973 Safeguard funding.

Projected cost of one Air Force F-15 fighter.

Projected cost of proposed new "tactical cruise-missile attack submarine."

Four Spartan missiles for the Safeguard ABM system.

The operating cost of each B-52 sortie in Southeast Asia (sortie—one plane, one mission).

One nuclear powered attack submarine.

Seven Sprint missiles for the Safeguard ABM system.

Could buy this

A $10,000 salary for 100,000 elementary school teachers. Price: $1 billion.

Construction of two suburban high schools in the Midwest. Price: $32 million.

Deficit of Philadelphia school board for running their school system in 1971. Price: $40 million.

Cost to reopen the main branch of the New York Public Library on Saturdays, Sundays and holidays for one year: Price: $900,000.

Keeping the New York Public Library's science and technology division, now threat-

ened with closing, open to the public. Price: $1 million.

Construction of 28 school projects in Philadelphia, shelved for lack of funds. Price: $17 million.

School system budget of Gary, Ind. Price: $42 million.

School system budget for Washington, D.C. Price: $141.7 million.

School system budget for New York City. Price $1.7 billion.

School system budget of Independence, Mo. Price: $10 million.

School system budget of Philadelphia, Pa. Price: $330 million.

Dayton, Ohio needed $12.6 million to reopen its schools in November, 1971.

College scholarships of $2,050 to 20 American students. Price: $41,000.

Decrease in 1973 federal funding for graduate fellowships. Price. $175 million.

Decrease in 1973 federal funding for library acquisitions: $14 million.

URBAN DEVELOPMENT

This

Increase in funding in 1973 for the F–15 Air Force fighter plane.

Three Navy F–14's.

Low range estimate of possible total cost of the Underwater Long-range Missile System (ULMS).

Three Air Force F–15's.

$491 million increase in funding for Air Force F–15's.

$800 million increase in ULMS.

$44 million increase in funding for the Cheyenne helicopter.

$74 million increase in funding for the B–1 bomber.

$9.3 million funding for procurement of Vulcan 20 mm. cannons for fiscal year 1973.

Could buy this

Nixon administration's shortfall in requests for urban renewal below 1972 congressional authorization. Price: $465 million.

Funds impounded in 1972 by Nixon for housing rehabilitation. Price: $50 million.

League of Cities and U.S. Conference of Mayors estimate of urban centers' needs for modernizing hospitals and building new ones. Price: $18 million.

Detroit's budget deficit for 1971: $30 million.

Cuts in urban categorical grants managed by HUD in President Nixon's proposed 1973 budget:

Urban renewal: $465 million.
Water and sewer: $700 million.
Section 236 housing: $50 million.
Rehabilitation Loans: $90 million.
Rent supplements: $7 million.

THE AIR WAR IN INDOCHINA

(By Robert Kleiman)

One of the indestructible myths about the Vietnam war is that the nation's leaders drifted into it, unaware of where step-by-step decisions were leading. But as the scenario starts to unroll all over again, with massive bombing mounting toward the peak levels of the past, the myth needs close reexamination.

It was the introduction in February, 1965, of American air power on a large scale into the guerrilla war within South Vietnam that first transformed the role of the United States, from giving arms and the advice of a 24,000-man military mission into direct involvement in combat. Within weeks there began the sustained bombing of North Vietnam; organized units of the North Vietnamese Army invaded the South, and the United States committed ultimately more than half a million ground troops.

The week the American air war began, a visitor asked Gen. William C. Westmoreland, the United States military commander in Vietnam, whether the death and destruction already inflicted on the South Vietnamese countryside by American-built planes, some with American pilot-advisers aboard, would not escalate enormously now and prove self-defeating. Could the oft-proclaimed American objective of "winning the hearts and minds of the people"—in what was more a political than a military conflict—be achieved through the application of murderous firepower, which inevitably would kill innocent civilians as well as Vietcong?

"We've looked into that problem," the General replied, "with the help of a study group sent out by Rand [the civilian research organization]. Our conclusion was nutshelled at lunch the other day by the head of the team:

" 'We've got the onus; let's get the bonus.' "

Seven years and almost seven million tons of bombs later—more than three times the tonnage dropped by American planes in all theaters during World War II—the undoubted onus and the alleged bonus can be evaluated.

The Cornell University Air War Study Group, a team of 21 scholars of many disciplines led by Raphael Littauer, professor of physics at Cornell, analyzed all the significant official and unofficial reports available on the American air war in Southeast Asia, its policies, its methods, its effectivness—and its cost, both to the United States and the peoples of Indochina. They distributed their findings privately in November, 1971, and then revised and updated them for this publication by Beacon Press.

"The Air War in Indochina" is a cold, clinical study. But its revelations—many extrapolated from piecemeal data, then assembled like a jigsaw puzzle—are startling. Some of its most striking estimates were recently corroborated by a leak of the secret 548-page National Security Council study memorandum on Vietnam (NSSM–1)—drafted in 1969 for President Nixon by eight Government agencies and coordinated by Henry Kissinger and his staff. NSSM–1 was printed in the Congressional Record of May 10 (p.E.–4975) and May 11 (p.E.–5009).

Mr. Littauer and his colleagues devote considerable attention to the bombing of North Vietnam. But what stands out in their study even more than the damage done to the enemy in the North is the devastation inflicted on our friends in the South.

Of the 6,300,000 tons of bombs dropped on Indochina from 1965–71, the Cornell group estimates that 600,000 tons were dropped on North Vietnam, while 3,900,000 were dropped on the South. (The remainder went into Cambodia and Laos, much of it on the Ho Chi Minh trail.) Allied artillery, mortars, rockets, other ground weapons and naval guns pounded Indochina with an added seven million tons of munitions in the same period, most of it in South Vietnam. South Vietnam is smaller than the state of Missouri.

The number of civilian casualties in North Vietnam was estimated by a 1967 C.I.A. study cited in the Pentagon Papers at 29,000 for 1965–66. Two years later, in 1969, the Defense Department said in NSSM–1 that "it has been stimated that approximately 52,000 civilians were killed in North Vietnam by U.S. air strikes."

In South Vietnam the casualties have been much higher. Senator Edward Kennedy's Subcommittee on Refugees, relying on official reports, has estimated noncombatant casualties through April, 1971, from military action by the United States and the Saigon Government at a minimum of half a million persons, about one-third of them killed, a percentage of population that is more than double that suffered by German civilians under Allied bombing in World War II.

Vietnamese society has been completely dislocated by the bombing. In the North, urban populations have had to disperse. In the South more than six million (about one-third of the population) are estimated to have become refugees. The number of urban Southerners (including those in squalid refugee shantytowns) has almost trebled to an estimated 40 per cent of the population, making South Vietnam more urbanized than Sweden, Canada, the Soviet Union, Austria, Switzerland, Italy and all other Southeast Asian states.

The original rationale for the large-scale use of air power was that it would save the lives of Allied troops. Army Brig.-Gen. Glenn D. Walker said, "You don't fight this fellow rifle to rifle. You locate him and back away. Blow the hell out of him and then police up."

Close air support of troops in action, often decisive in a conventional battle, can even be effective against guerrillas. But civilian casualtes then mount. Guerrilas are highly mobile and hard to distinguish from the population—especially from fast-moving jet aircraft. Intelligence is often faulty. The Air Force is under pressure from ground units to use area weapons, such as napalm and cluster-bomb units, even against snipers. Area weapons, by definition, are indiscriminate.

Nevertheless, efforts were made, at the start, to limit civilian casualties. In August, 1966, after revelation of a dozen bombings of friendly troops and villages, General Westmoreland appointed a board of senior officers to improve control procedures. "One mishap—one innocent civilian killed, one civilian wounded or one dwelling needlessly destroyed—is too many," his directive stated.

But long before this review, which led to no known result, the whole character of the air war had been altered by its sheer volume. From about 1,000 sorties in the month of January, 1965, before American air units were engaged, the tempo had soared more than tenfold by the end of that year, and then doubled again by 1968 to over 20,000 a month.

What was being struck?

One of the extraordinary discoveries of the Cornell researchers was that in the end *less than 10 per cent* of the United States fixed-wing air activity in South Vietnam went into close air support of troops in combat. More than 90 per cent was used for "interdiction," a term that has been stretched far beyond attacks on supply routes to encompass harassment, reprisal, area saturation in Communist staging zones and, in regions where the Vietcong has been predominant, attacks "to influence the population: to cause them to move into areas under government control, or to make them stop supporting the insurgency."

In a guerrilla war, the study points out, the enemy "may live intermingled with the population or may actually *be* the population. . . . To interdict such an enemy means to blanket all possible areas with firepower. . . . Seen in this light, generalized interdiction in Vietnam takes on the character of *strategic* warfare. The targets are not well enough defined to qualify as tactical objectives. Rather, the attacks are directed against the over-all reserves of the insurgents, which are in the population itself, and against the will to continue the fight."

During the peak years of the air war in South Vietnam, when fighter bombers accounted for as many as 20,000 strike sorties a month, B–52's flew less than 1,600 sorties monthly. But the Cornell team discovered that about half the actual tonnage of aerial munitions dropped on South Vietnam was delivered by B–52's. (It undoubtedly is far higher now, with some 200 B–52's [about half the Strategic Air Command (SAC) force] now engaged in bombing Indochina—a fivefold increase since February and twice the peak number engaged pre-1972).

The penultimate in indiscriminate bombing is the area obliteration attack by giant B–52 stratofortresses of the SAC, each dropping about one hundred 500-pound bombs

within a fraction of a minute. Four typical six-plane missions can demolish an area equal to that destroyed by the Hiroshima atom bomb.

Information from the Cornell study and NSSM-1 on the civilian devastation inflicted by the air war is fragmentary but revealing:

By the end of 1967 some 70 per cent of the villages in Quang Ngai province in South Vietnam had been destroyed. During at least one period in 1968-69, about 90 per cent of I Corps—the five northernmost provinces of South Vietnam—became a free fire zone.

Between 1966 and 1969, according to NSSM-1, the United States Navy alone reported that it had destroyed almost 35,000 "structures" and damaged about 43,000.

The C.I.A. in NSSM-1 complained about the lack of systematic information on civilian damage but concluded on the basis of limited data that, "the rural hamlets take a tremendous beating." It noted that one extended series of reports covering 5,870 of South Vietnam's hamlets revealed that each month 4 per cent "are either bombed, strafed, defoliated or otherwise harmed during the course of friendly military operations. A higher percentage of hamlets would appear to experience one or more of these phenomena in a minor form." Extrapolation of these figures could suggest that the total number of hamlet attacks over 12 months, including repetitions, may have exceeded 96 per cent of the number of hamlets in those regions, if not in the country as a whole.

Mr. Littauer and his colleagues asserted that deliberate attacks on the civilian population were not part of the official policy," but evolved from a variety of "special situations." The military wanted to make selective attacks on the guerrillas while depriving them of the recruits, food and shelter provided by the population.

"The problem is often attacked in reverse," the study notes. "Rather than driving the guerrillas away from the population, the population is moved away from those areas in which the insurgents are established. . . . Adopting Mao Tse-Tung's simile that a guerrilla lives among the population 'like a fish in the sea,' this tactic has been described as 'draining the sea away from the fish.'" This "refugee generation" permits the creation of "free fire zones" in which anyone remaining is considered the enemy. (Criticism has brought an order to call free fire zones "specified strike zones," but the practice continues.) In other areas, after hostile sniper fire—sometimes from small marauding Vietcong units long since departed—villages are warned by leaflet or loudspeaker, then bombed in reprisal and inundated with "I-told-you-so" leaflets. The pro forma advance approval of the Saigon-appointed Province Chief, usually an Army officer, covers the operation with a fig leaf of propriety.

By the very nature of air warfare, human error and a wide variety of technical factors take their toll. A major element is euphemistically called "contingent ordnance," bombs dropped outside the target area. "Contingent ordnance" includes "navigational errors" common during bad weather and instrument bombing; "target misidentification" that sometimes destroy a friendly village (indicating that the planned target itself was a village); "surplus ordnance," left after the primary target has been attacked, that is used against secondary targets, less carefully selected; "antipersonnel weapons" that are the most effective means of suppressing antiaircraft fire in North Vietnam, but which wreak heavy civilian damage; and "emergency dumping" of ordnance when planes are attacked by hostile fighters or damaged by ground fire. Finally, there is the "armed reconnaissance" mission, trying to hit "targets of opportunity" at high speed.

All in all, it is estimated that *more than half the ordnance delivered falls outside the intended target area.*

Ironically, greater precautions were taken at one time to avoid civilian damage in North Vietnam than in the South. Targets in the North were approved by the White House. No attacks in 1965 were permitted within a 30-mile radius of Hanoi and a 10-mile radius of Haiphong. Attacks on minor military facilities in populated areas were barred. In the month-long campaign in July, 1966, that destroyed 70 per cent of North Vietnam's oil storage capacity, much of it in urban areas, Washington insisted on extraordinary precautions: use of the most experienced pilots; visual identification of targets in good weather; an axis of attack that avoided the most populated areas; maximum electronic countermeasures against antiaircraft fire to limit pilot distraction; use of weapons of high precision delivery; and limitation of SAM and AAA suppression to sites outside populated areas. But such careful restrictions were rarely applied after that. Last December's five-day, 1,000-sortie, series of "protective reaction" strikes against North Vietnam, in retaliation for the downing of four Phantoms over northern Laos, was almost entirely in bad weather with the ground invisible. Pilots later called it "a farce" and "sheer insanity" not to await better weather. President Nixon called it "very successful."

"When North Vietnam was first targeted, the Joint Chiefs of Staff found only eight industrial installations worth listing," the Defense Intelligence Agency reported to Secretary McNamara in November, 1965. Military-Congressional pressure later made the target list a political football in what the Cornell study describes as a "highly cynical numbers game." Early in 1967, on Joint Chiefs of Staff urging, President Johnson added a number of industrial targets within urban areas previously barred, and the Chairman of the Joint Chiefs reported that there were no important military targets left in the North; the only escalation possible would be the mining or bombing of ports and irrigation dikes and a land invasion of North Vietnam. Nevertheless, in July-August, 1967, presumably to blunt criticism from the Senate Armed Services Committee, President Johnson expanded the area subject to armed reconnaissance and somehow found 44 new fixed targets.

The Air Force and Navy each were allotted a number of sorties fortnightly to avoid interservice rivalry. As a result, many missions evidently have been flown in poor weather to secondary targets to meet that "quota." The list of fixed targets usually was exhausted quickly, and pilots then worked off their quotas on armed reconnaissance missions against trucks, railroad cars, barges and even less important targets—rather than dump their bombs in the ocean before landing. With worthwhile fixed targets scarce, such armed reconnaissance missions made up nearly three-fourths of the sorties over the North flown in 1965 and 90 per cent by 1967.

Of all the tragedies in the devastation of Indochina from the air, perhaps the deepest lies in its overwhelming futility. The impact on the war of most of the bombing has been marginal at best and, more often, self-defeating.

The Joint Chiefs and the United States Command in Saigon claim in NSSM-1 that the bombing of North Vietnam and Laos was effective because it destroyed 12 to 14 per cent of the trucks and 20 to 35 per cent of the supplies on the infiltration trails. But the C.I.A. and the Office of the Secretary of Defense punctured that claim. The Kissinger summary noted: "OSD and CIA find that the enemy needs in South Vietnam—10 to 15 trucks of supplies per day [carrying 30 to 50 tons of weapons and ammunition]—are so small and his supply of war materiel so large that the enemy can replace his losses easily, increase his traffic flows slightly, and get through as much supplies to South Vietnam as he wants to in spite of the bombing." A study by the Pentagon's Office of Systems Analysis showed that while American attack sorties against North Vietnam increased about fourfold between 1965 and 1968, Communist main forces in South Vietnam increased 75 per cent in strength and ninefold in overall activity.

That the bombing stiffened North Vietnam's will to fight and reduced dissent at home is something on which all analysts agree. Economically, North Vietnam paradoxically also gained. Official Pentagon and C.I.A. estimates that aid from other Communist countries totaled four to six times as much as was destroyed. With vigorous road and rail building, even the capacity of the North Vietnamese transport network—a main target—increased under the bombing, the C.I.A. reported in NSSM-1. But the dollar cost to the United States in lost aircraft alone (almost 1,100 planes) was ten times the damage inflicted on North Vietnam by the 1965-68 bombing. And many crews were lost as well.

The military advised that a gloves-off bombing policy would solve the problem—advice President Nixon now has adopted. The mining of Haiphong and other ports and the removal of bombing restrictions on overland transport from China (accepting "high risks of civilian casualties") would have a decisive effect on the war, the Generals insisted in NSSM-1. But the C.I.A. and the Office of the Secretary of Defense argued that "the overland routes from China alone could provide North Vietnam with enough material to carry on, even with an unlimited bombing campaign." Events seem to have proven them right, despite the laser bombing devices and other "smart bombs" that recently have knocked out bridges and other difficult targets.

President Johnson was shown in the Pentagon Papers to have received similar cautions about his military advice as early as the fall of 1965 from Defense Secretary McNamara and in 1966-67 from the Jason study group of 47 of America's most distinguished weapons scientists. After analyzing nine alternative bombing strategies, which included mining the ports and attacking the irrigation and flood-control dikes, the Jason study concluded: "We are unable to develop a bombing campaign in the North to reduce the flow of infiltrating personnel into South Vietnam."

Some dikes now are being hit, since bombing restrictions have been removed for targets nearby—an ominous hint that bombing could flood much of the country. The air war imposes other substantial strains on North Vietnam and a heavy penalty of human suffering on its population. Although Hanoi Politburo suffers less, President Nixon may be gambling that Sino-Soviet feuding will hamper the flow of supplies and that the desire for accommodation with the United States may lead Moscow and Peking to exert enough leverage on Hanoi to bring about a negotiated settlement. But this has not succeeded in the past despite some Soviet help in the Paris talks in 1968.

In South Vietnam, the bombing has also been marginal in value or self-defeating, except for the 10 per cent or less devoted to close air support. The latter evidently has been decisive in enabling the South Vietnamese Army to avoid a major defeat in the recent Communist offensive. A particularly futile use of air and artillery power has been in "unobserved fire," bombs and shells used against places where the enemy might be, but without reliable information that he was there. Thus two of the Pentagon's former top systems analysts, Alain and Enthoven and K. Wayne Smith disclosed in their "How Much Is Enough?" (Harper & Row, 1971) that probably fewer than 100 Communist troops were killed by unobserved fire in 1966, when 65 per cent of the total tonnage of

bombs and artillery shells was expended against such nontargets—at a cost of $2 billion and significant alienation of Vietnamese civilians.

For irony, one systems analysis study calculated that the 27,000 tons of dud bombs and shells from such attacks could have provided the enemy wtih more explosives than he used in the mines and booby traps that killed more than 1,000 American troops that year. But Enthoven and Smith report that the only effect on the military of the study—and the later capture of a Communist training film on turning American duds into grenades—was an effort to improve munitions and reduce the dud rate.

The military uselessness of most of the bombing bears directly on the issue of American war crimes, something the Cornell scholars discuss but leave to the reader to judge. They note that detailed international law is lacking or outdated for air warfare. But grave violations can be inferred from the principles that govern the agreed rules of land and naval warfare. The most serious such violation, they point out, is of the rule requiring a reasonable "proportionality" in warfare between the damage caused and the military gain sought or anticipated. There is no sign in the air war report of the fear, hatred and racial contempt for the Asian that played a role in the Mylai massacre by American ground troops. Nevertheless, the unstated conclusion that shrieks out of Cornell's deadpan study is that the American air war in South Vietnam has included a long list of both officially-sanctioned and officially-ignored aerial Mylais.

How did this abuse of air power originate? Professor Littauer and his colleagues believe it was not deliberate decisions that led to the vast overemployment of American airpower in Vietnam as much as it was a case of the vast "availability of airpower . . . setting the U.S. on the path it has followed." The historic evolution of strategic air warfare has also been a factor.

Attacks by the United States and its allies on the enemy's population are not new in warfare. They were frequent in the strategic bombing of World War II, but a pretense was made then that the targets were essentially military. Today, in the age of mutual nuclear deterrence, the main task of strategic air planners is to prepare openly to destroy the enemy's cities and urban population. All this undoubtedly has contributed to the ease with which the nation's leaders, its military commanders and its young airmen have drifted into attacks on predominantly civilian targets in Vietnam. Killing from the air is a distant, impersonal affair to the plot, not to mention the whole chairborne chain of command, back to the White House.

Somehow, even as the ferocity of the air war has mounted, the military and civilian leaders of the United States have managed to look the other way. A news report noted as early as mid-1966 that no regular tabulation of civilian casualties was being kept in South Vietnam. In early 1969, when the Kissinger staff drafted the 28 questions that produced the NSSM-1 study for President Nixon, Question 19 asked: "How adequate is our information on the over-all scale and incidence of damage to civilians by air and artillery?" The responses from the eight agencies questioned took up less than six pages of the 548-page document. The summary stated: "Every agency except MACV/JCS [the U.S. military command in Saigon and the Joint Chiefs of Staff in Washington] agree that the available data on war damage to the civilian population is inadequate. . . . The responses received suggest that this is a very serious problem in need of further U.S. government attention and analysis."

Now, three years later—with civilian casualty estimates in South Vietnam exceeding the top figures of 1967-68—it is evident from the Cornell study that the indifference continues. "There are no spaces on bomb-damage assessment forms for reporting civilian damage," the Cornell study states. "The targets hit are assumed to be those described in the original briefing for the mission, however tentative their identification may have been. Jargon proliferates. A hootch (house) destroyed becomes a 'military structure,' a sampan is a 'waterborne logistic craft.' The jargon pervades the reports, invades the intelligence accounts and finally comes to influence even the policy thinking. . . . Many of the participants eventually come to accept the view that everything on the ground (at least in some regions) is 'the enemy' and that all ordnance expended helps to 'save the lives of our boys.'"

Mr. Littauer and his colleagues finished their book before the case of Gen. John D. Lavelle exposed the repeated bombing of North Vietnam—perhaps with wider military complicity—in violation of Presidential orders. But it would be unlikely to alter their conclusion that official American policy, rather than the aberrations of individuals, is primarily to blame for the air war's "unjustified devastation, reprisals, collective penalties, and grave breaches of the proportionality rule, as well as widespread destruction of food crops"—all war crimes in land battle. The Cornell scholars urge a public investigation of bombing policy, rather than war crimes trials.

Congressional hearings on the Lavelle case could provide an opportunity for this wider inquiry. Beyond the war crimes issue, there is a crucial Constitutional question that is pointed sharply in a brilliant preface to the Cornell study by Neil Sheehan, The Times reporter who brought the Pentagon Papers to publication. He notes that the low visibility of the air war (no journalists accompany the planes), its relatively low cost in dollars and American casualties, its responsiveness to centralized control and its enormous destructive force have now made it possible for an American President "to conduct war with little reference to the wishes of the body politic at home."

More than Indochina is involved. The 1969 Nixon Doctrine for all of Asia seeks to fulfill military commitments with air and sea power in support of local ground forces. Sound though this strategy may be for conventional war, it has little value in an insurgency. It can only lead again to the kind of tragedy whose epilogue is being acted out in this year's re-escalation of the air war: the destruction of Vietnam in the effort to "save" it. The bonus, so far, has proved illusory. The onus we will all live with for the rest of our lives.

DOD'S CONTINUED LEASING OF BULK MILK DISPENSERS

Mr. PEARSON. Mr. President, for several years it has been the policy of the Department of Defense and the Congress, as stated in the RECORD and committee reports, that dairies serving the military be required to furnish bulk milk dispensers. As a result, very large investments were made in these dispensers, specifically to serve the military. This investment would be destroyed if the Government purchased its own dispensers. This would also be an inexcusable and uneconomic waste of Government funds.

The Department has informally agreed heretofore not to purchase bulk milk dispensers for use in the continental United States.

I am making this statement, Mr. President, to record the committee's understanding that this agreement will continue and that no funds appropriated under this act will be used to purchase bulk milk dispensers to replace those now in use or in connection with any new construction of military facilities.

Mr. McCLELLAN. Mr. President, I ask for the yeas and nays on passage.

The yeas and nays were ordered.

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

Mr. McCLELLAN. Mr. President, I yield myself 2 minutes on the bill, and I yield to the Senator from Mississippi.

Mr. STENNIS. I invite the Senator's attention to page 188 of the committee report, next to the last paragraph which begins on that page, entitled, "Advanced ballistic reentry system." I note here that the Senate bill leaves out $10 million that was included in the House bill.

My question is very simple and direct. As I understand, that $10 million was put in for what we call a reentry vehicle.

Mr. McCLELLAN. That is in the House bill. It is my understanding that is what it is.

Mr. STENNIS. It was left out of the Senate bill, however, and it was $10 million for what we call a reentry vehicle, which is a new version of a missile. I wanted to make the record clear on it.

Mr. McCLELLAN. That is what the report says.

Mr. STENNIS. For what reason did the committee leave it out?

Mr. McCLELLAN. My understanding is that it was not authorized. That is one reason. There may have been others, but that was the compelling reason.

Mr. STENNIS. That is correct. That is the point I wanted to make.

Mr. McCLELLAN. That was the compelling reason.

Mr. STENNIS. I want to compliment the chairman of the committee for recognizing the fact that it was not authorized. That matter was in debate here and was considered in our authorization bill this year. It was not in the Senate bill. It was in the House bill. We had a very good conference on it, and it was agreed that it would be carried over and would be considered in January of next year. But it was not authorized in the authorization bill. I bring that up.

I want to point out that I will raise very serious objection in conference to this item on the point already mentioned—that it has not been authorized. If we do not respect and live up to our authorization bills—barring some extraordinary, unusual happening—why, it makes a mockery of our law which requires authorization and the process to go through.

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

Mr. STENNIS. I yield.

Mr. MANSFIELD. I want to commend the Senator for driving through that point and emphasizing and reemphasizing what we discussed in committee.

Mr. McCLELLAN. Mr. President, I was going to say I am sure the Senator is going to have considerable support among the conferees.

Mr. STENNIS. I hope so. I am just putting this in the RECORD.

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

Mr. McCLELLAN. I yield.

Mr. SYMINGTON. I respectfully commend the statement made by the distinguished Senator from Mississippi. Every Senator, I am sure, realizes that what he is doing is protecting the dignity of the U.S. Senate as a whole, and I am grateful to him for what he just said.

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

Mr. McCLELLAN. I yield.

Mr. YOUNG. I would say that every conferee will be in favor of adopting this amendment. It was unanimous in the committee that it should not be approved because of not being authorized.

Mr. McCLELLAN. I think the committee was unanimous.

Mr. STENNIS. Mr. President, if the Senator will yield further, I do not say it was not unanimous. I want to make the point that they are overstepping when they keep pressing for this missile when it was not authorized. I doubt if there would have been an authorization bill yet if we had not taken this course.

Mr. McCLELLAN. Mr. President, if there are no other requests for time, I yield back the remainder of my time.

Mr. YOUNG. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time on the bill has been yielded back.

The bill having been read the third time, the question is, Shall it pass? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Louisiana (Mrs. EDWARDS), the Senator from Alaska (Mr. GRAVEL), the Senator from Oklahoma (Mr. HARRIS), the Senator from South Dakota (Mr. McGOVERN), the Senator from New Hampshire (Mr. McINTYRE), the Senator from Montana (Mr. METCALF), the Senator from Alabama (Mr. SPARKMAN), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that the Senator from Hawaii (Mr. INOUYE), and the Senator from Wyoming (Mr. McGEE) are absent on official business.

Mr. SCOTT. I announce that the Senator from Colorado (Mr. ALLOTT), the Senator from Tennessee (Mr. BAKER), the Senator from Nebraska (Mr. CURTIS), the Senator from Michigan (Mr. GRIFFIN), the Senator from New York (Mr. JAVITS), the Senator from Iowa (Mr. MILLER), the Senator from Ohio (Mr. TAFT), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

Also, the Senator from Maryland (Mr. BEALL), the Senator from Kansas (Mr. DOLE), the Senator from Arizona (Mr. GOLDWATER), and the Senator from South Carolina (Mr. THURMOND) are necessarily absent.

If present and voting, the Senator from Colorado (Mr. ALLOTT), the Senator from Maryland (Mr. BEALL), the Senator from Nebraska (Mr. CURTIS), the Senator from Kansas (Mr. DOLE), the Senator from Iowa (Mr. MILLER), the Senator from South Carolina (Mr. THURMOND), and the Senator from Texas (Mr. TOWER) would each vote "yea."

The result was announced—yeas 70, nays 5, as follows:

[No. 496 Leg.]

YEAS—70

Aiken	Eagleton	Packwood
Allen	Ervin	Pastore
Bayh	Fannin	Pearson
Bellmon	Fong	Pell
Bennett	Gambrell	Percy
Bentsen	Gurney	Proxmire
Bible	Hansen	Randolph
Boggs	Hart	Ribicoff
Brock	Hartke	Roth
Brooke	Hollings	Saxbe
Buckley	Hruska	Schweiker
Burdick	Humphrey	Scott
Byrd, Harry F., Jr.	Jackson	Smith
Byrd, Robert C.	Jordan, N.C.	Spong
Cannon	Jordan, Idaho	Stafford
Case	Kennedy	Stennis
Chiles	Long	Stevens
Church	Magnuson	Stevenson
Cook	Mathias	Symington
Cooper	McClellan	Talmadge
Cotton	Mondale	Weicker
Cranston	Montoya	Williams
Dominick	Moss	Young
	Muskie	

NAYS—5

Fulbright	Hughes	Nelson
Hatfield	Mansfield	

NOT VOTING—25

Allott	Gravel	Miller
Anderson	Griffin	Mundt
Baker	Harris	Sparkman
Beall	Inouye	Taft
Curtis	Javits	Thurmond
Dole	McGee	Tower
Eastland	McGovern	Tunney
Edwards	McIntyre	
Goldwater	Metcalf	

So the bill (H.R. 16593) was passed.

Mr. McCLELLAN. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. McCLELLAN. Mr. President, before making the final unanimous consent request, I want to thank my colleagues on the Appropriations Committee, and particularly the ranking minority member on the committee, and the Senators who worked with me in helping us bring out a bill that has actually evoked less opposition or fewer requests for amendments than we had anticipated. I am glad that we have been able, within less than 5 hours' time since we started consideration of this bill, to bring it to final passage.

I want to thank all Members of the Senate for their tolerance and their understanding, and for the confidence they have evidenced in the work of the committee with respect to this bill, in view of the very few amendments that were offered. Most of them—all but one or two—were not very controversial.

Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical corrections and renumber sections of the bill in preparing the Senate amendments to the Department of Defense Appropriation Act of 1973 (H.R. 16593).

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

Mr. McCLELLAN. Mr. President, I move that the Senate insist on its amendments and request a conference with the House on the disagreeing votes thereon, and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. McCLELLAN, Mr. STENNIS, Mr. PASTORE, Mr. MAGNUSON, Mr. MANSFIELD, Mr. SYMINGTON, Mr. YOUNG, Mrs. SMITH, Mr. ALLOTT, and Mr. HRUSKA conferees on the part of the Senate.

Mr. MANSFIELD. Mr. President, I wish to commend the distinguished Senator from Arkansas (Mr. McCLELLAN) for his outstanding efforts in managing this bill to completion in such a short period of time. His mastering of the subject matter was evident both in the committee and here on the floor of the Senate. When one considers that Senator McCLELLAN only assumed the chairmanship of the Subcommittee on Defense Appropriations last August after the sudden and untimely death of the late distinguished chairman of the Appropriations Committee, Mr. Ellender, his accomplishment here today is all the more noted. A measure of the magnitude of over $75 billion is difficult for any American or any Senator to imagine. But Senator McCLELLAN is not only able to imagine it but to master it in this short period of time.

In addition, I would like to commend the distinguished Senator from North Dakota (Mr. YOUNG) the ranking minority member on this committee for a contribution of equal note. As always the distinguished Senator from North Dakota provides a learned and thoughtful contribution to each effort he undertakes. To the Senate as a hole I wish to express the leadership's gratitude for the expeditious handling of this measure. It is achievements in expediting the business of the Senate like the one that was exhibited here today that make realistic a sine die adjournment by the end of next week.

MESSAGE FROM THE HOUSE—ENROLLED BILLS SIGNED

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the Speaker had affixed his signature to the following enrolled bills:

H.R. 9501. An act to amend the North Pacific Fisheries Act of 1954, and for other purposes; and

H.R. 14915. An act to amend chapter 10 of title 37, United States Code, to authorize at Government expense, the transportation of house trailers or mobile dwellings, in place of household and personal effects, of members in a missing status, and the additional movement of dependents and effects, or trailers, of those members in such a status for more than 1 year.

The enrolled bills were signed by the Acting President pro tempore (Mr. ROBERT C. BYRD).

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that today, October 2, 1972, he presented to the President of the United States the following enrolled bill:

S. 345. An act to authorize the sale and

exchange of certain lands on the Coeur d'Alene Indian Reservation, and for other purposes.

ESTABLISHMENT OF THE GATEWAY NATIONAL RECREATION AREA

Mr. BIBLE. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 1852.

The PRESIDING OFFICER (Mr. HOLLINGS) laid before the Senate the amendments of the House of Representatives to the bill (S. 1852) to provide for the establishment of the Gateway National Recreation Area in the States of New York and New Jersey, and for other purposes, which were to strike out all after the enacting clause, and insert:

That in order to preserve and protect for the use and enjoyment of present and future generations an area possessing outstanding natural and recreational features, the William Fitts Ryan Gateway National Urban Recreation Area (hereinafter referred to as the "recreation area") is hereby established.

(a) The recreation area shall comprise the following lands, waters, marshes, and submerged lands in the New York Harbor area generally depicted on the map entitled "Boundary Map, Gateway National Urban Recreation Area," numbered 951–40017 sheets 1 through 3 and dated May, 1972:

(1) Jamaica Bay Unit—including all islands, marshes, hassocks, submerged lands, and waters in Jamaica Bay, Floyd Bennett Field, the lands generally located between highway route 27A and Jamaica Bay, and the area of Jamaica Bay up to the shoreline of John F. Kennedy International Airport;

(2) Breezy Point Unit—the entire area between the eastern boundary of Jacob Riis Park and the westernmost point of the peninsula;

(3) Sandy Hook Unit—the entire area between Highway 36 Bridge and the northernmost point of the peninsula;

(4) Staten Island Unit—including Great Kills Park, Miller Field (except for approximately 26 acres which are to be made available for public school purposes), Fort Wadsworth, and the waterfront lands located between the streets designated as Cedar Grove Avenue, Seaside Boulevard, and Drury Avenue and the bay from Great Kills to Fort Wadsworth;

(5) Hoffman and Swinburne Islands; and

(6) All submerged lands, islands, and waters within one-fourth of a mile of the mean low water line of any waterfront area included above.

(b) The map referred to in this section shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior, Washington, District of Columbia. After advising the Committees on Interior and Insular Affairs of the United States House of Representatives and the United States Senate in writing, the Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized to make minor revisions of the boundaries of the recreation area when necessary by publication of a revised drawing or other boundary description in the Federal Register.

SEC. 2. (a) Within the boundaries of the recreation area, the Secretary may acquire lands and waters or interests therein by donation, purchase or exchange, except that lands owned by the States of New York or New Jersey or any political subdivisions thereof may be acquired only by donation.

(b) With the concurrence of the agency having custody thereof, any Federal property within the boundaries of the recreational area may be transferred without consideration to the administrative jurisdiction of the Secretary for administration as part of the recreational area.

(c) Within the Breezy Point Unit, (1) the Secretary shall acquire an adequate interest in the area depicted on the map referred to in section 1 of this Act to assure the public use of and access to the entire beach. The Secretary may enter into an agreement with any property owner or owners to assure the continued maintenance and use of all remaining lands in private ownership as a residential community composed of single-family dwellings. Any such agreement shall be irrevocable, unless terminated by mutual agreement, and shall specify, among other things:

(A) that new construction will be prohibited on any presently undeveloped lands between the line of existing dwellings and the beach area to be acquired by the Secretary;

(B) that all construction commencing within the area, including the conversion of dwellings from seasonal to year-round residences, shall comply with standards to be established by the Secretary;

(C) that additional commercial establishments shall be permitted only with the express prior approval of the Secretary or his designee.

(2) If a valid, enforceable agreement is executed pursuant to paragraph (1) of this subsection, the authority of the Secretary to acquire any interest in the property subject to the agreement, except for the beach property, shall be suspended and the Secretary is authorized to designate, establish, and maintain a buffer zone on Federal lands separating the public use area and the private community.

(3) The Secretary is authorized to accept by donation from the city of New York any right, title, or interest which it holds in the parking lot at Rockaway which is part of the Marine Bridge project at Riis Park. Nothing herein shall be deemed to authorize the United States to extinguish any present or future encumbrance or to authorize the State of New York or any political subdivision thereof to further encumber any interest in the property so conveyed.

(d) Within the Jamaica Bay Unit, (1) the Secretary may accept title to lands donated by the city of New York subject to a retained right to continue existing uses for a specifically limited period of time if such uses conform to plans agreed to by the Secretary, and (2) the Secretary may accept title to the area known as Broad Channel Community only if, within five years after the date of enactment of this Act, all improvements have been removed from the area and a clear title to the area is tendered to the United States.

SEC. 3. (a) The Secretary shall administer the recreation area in accordance with the provisions of the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2–4), as amended and supplemented. In the administration of the recreation area the Secretary may utilize such statutory authority available to him for the conservation and management of wildlife and natural resources as he deems appropriate to carry out the purposes of this Act: *Provided*, That the Secretary shall administer and protect the islands and waters within the Jamaica Bay Unit with the primary aim of conserving the natural resources, fish, and wildlife located therein and shall permit no development or use of this area which is incompatible with this purpose, except as provided in subsection 2(d).

(b) The Secretary is authorized to enter into cooperative agreements with the States of New York and New Jersey, or any political subdivision thereof, for the rendering, on a reimbursable basis, of rescue, firefighting, and law enforcement services and cooperative assistance by nearby law enforcement and fire preventive agencies.

(c) The authority of the Secretary of the Army to undertake or contribute to water resource developments, including shore erosion control, beach protection, and navigation improvements, pertaining to the deepening of the shipping channel from the Atlantic Ocean to the New York harbor, on land and/or waters within the recreation area shall be exercised in accordance with plans which are mutually acceptable to the Secretary of the Interior and the Secretary of the Army and which are consistent with both the purpose of this Act and the purpose of existing statutes dealing with water and related land resource development.

(d) The authority of the Secretary of Transportation to maintain and operate existing airway facilities and to install necessary new facilities within the recreation area shall be exercised in accordance with plans which are mutually acceptable to the Secretary of the Interior and the Secretary of Transportation and which are consistent with both the purpose of this Act and the purpose of existing statutes dealing with the establishment, maintenance, and operation of airway facilities: *Provided*, That nothing in this section shall authorize the expansion of airport runways into Jamaica Bay or air facilities at Floyd Bennett Field.

(e) In the Sandy Hook and Staten Island Units, the Secretary shall inventory and evaluate all sites and structures having present and potential historical, cultural, or architectural significance and shall provide for appropriate programs for the preservation, restoration, interpretation, and utilization of them.

SEC. 4. (a) There is hereby established a William Fitts Ryan Gateway National Urban Recreation Area Advisory Commission (hereinafter referred to as the "Commission"). Said Commission shall terminate ten years after the date of the establishment of the recreation area.

(b) The Commission shall be composed of eleven members each appointed for a term of two years by the Secretary as follows:

(1) two members to be appointed from recommendations made by the Governor of the State of New York;

(2) two members to be appointed from recommendations made by the Governor of the State of New Jersey;

(3) two members to be appointed from recommendations made by the mayor of New York City;

(4) two members to be appointed from recommendations made by the mayor of Newark, New Jersey; and

(5) three members to be appointed by the Secretary to represent the general public.

(c) The Secretary shall designate one member to be Chairman. Any vacancy in the Commission shall be filled in the same manner in which the original appointment was made.

(d) A member of the Commission shall serve without compensation as such. The Secretary is authorized to pay the expenses reasonably incurred by the Commission in carrying out its responsibility under this Act upon vouchers signed by the Chairman.

(e) The Commission established by this section shall act and advise by affirmative vote of a majority of the members thereof.

(f) The Secretary or his designee shall, from time to time, consult with the members of the Commission with respect to matters relating to the development of the recreation area.

SEC. 5. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act, but not more than $11,450,000 for the acquisition of lands and interests in lands and not more than $92,813,000 (July, 1971 prices) for development of the recreation area, plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in the construction costs as indicated by engineering cost indices applicable to the type of construction involved herein.

And amend the title so as to read: "An Act to establish the William Fitts Gate-

way National Urban Recreation Area in the States of New York and New Jersey, and for other purposes."

Mr. BIBLE. Mr. President, I move that the Senate disagree to the amendment of the House to the bill and request a conference with the House thereon, and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to; and the Chair appointed Mr. JACKSON, Mr. BIBLE, Mr. MOSS, Mr. JORDAN of Idaho, and Mr. HANSEN conferees on the part of the Senate.

PROTECTION OF FOREIGN OFFICIALS—CONFERENCE REPORT

Mr. HRUSKA. Mr. President, I submit a report of the committee of conference on H.R. 15883, and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. BURDICK). The report will be stated by title.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 15883) to amend title 18, United States Code, to provide for expanded protection of foreign officials, and for other purposes having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all the conferees.

The PRESIDING OFFICER. Is there objection to the consideration of the conference report?

There being no objection, the Senate proceeded to consider the report as follows:

CONFERENCE REPORT

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 15883) to amend title 18, United States Code, to provide for expanded protection of foreign officials, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendments of the Senate numbered 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 13, 14, 15, 16, 17, 18, 19, and 20, and agree to the same.

Amendment numbered 12: That the House recede from its disagreement to the amendment of the Senate numbered 12, and agree to the same with an amendment, as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

"(b) Whoever willfully intimidates, coerces, threatens, or harasses a foreign official or an official guest, or willfully obstructs a foreign official in the performance of his duties, shall be fined not more than $500, or imprisoned not more than six months, or both.

And the Senate agree to the same.

Mr. JOHN L. MCCLELLAN,
Mr. JAMES O. EASTLAND,
Mr. QUENTIN N. BURDICK,
Mr. ROMAN L. HRUSKA,
Mr. MARLOW W. COOK,
Managers on the Part of the Senate.

Mr. EMANUEL CELLER,
Mr. HAROLD D. DONOHUE,
Mr. HENRY P. SMITH III,
Managers on the Part of the House.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 15883) to amend title 18, United States Code, to provide for expanded protection of foreign officials, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the Managers and recommended in the accompanying conference report:

OFFICIAL GUESTS

Amendments Nos. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 13, 14, 16, 17, 18, 19, and 20: These amendments expand the coverage of the House bill to apply to official guests in the same manner as the bill applies to foreign officials. Official guests are defined in Senate amendment numbered 6 as citizens or nationals of a foreign country present in the United States as an official guest of the Government of the United States pursuant to designation as such by the Secretary of State. The House recedes.

OBSTRUCTION, ETC. OF OFFICIALS AND GUESTS

Amendment No. 12: The House bill provided a $500 fine or six months imprisonment or both for the willful intimidation, coercion, threatening, or harassment of a foreign official and for the willful obstruction of a foreign official in the performance of his duties. The Senate amendment numbered 12 would extend this protection to official guests without requiring that either the foreign official or official guest be engaged in the performance of his duties in order for the provision relating to obstruction to apply. Under the conference agreement, the Senate amendment is concurred in with an amendment providing that the obstruction of a foreign official is punishable only if he is engaged in the performance of his duties.

FIRST AMENDMENT RIGHTS

Amendment No. 15: Section 301 of the House bill provides certain provisions prohibiting the assault, striking, wounding, imprisoning, offering violence to, intimidation of, coercion of, threatening of, or obstruction of a foreign official and prohibiting certain public displays and other actions within one hundred feet of certain buildings and premises. Senate amendment numbered 15 would provide that nothing in these provisions shall be construed or applied to abridge first amendment rights. The House recedes.

Mr. HRUSKA. Mr. President, the differences between the two bills of the House and the Senate were very small. The addition of protection extended to official guests was inserted in the Senate bill. It was accepted by the other body. On all other points, agreement was had.

Mr. President, I move the adoption of the conference report.

The motion was agreed to.

Mr. HRUSKA. Mr. President, I ask unanimous consent that the printing of the report as a Senate report be waived.

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

ORDER FOR COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS TO MEET ON OCTOBER 3, 1972

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be permitted to sit in executive session commencing at 10:30 a.m. on October 3, 1972, to consider housing legislation.

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

ORDER FOR RECOGNITION OF SENATOR WEICKER TOMORROW VACATED

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order previously entered for the recognition of Mr. WEICKER on tomorrow morning be vacated.

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

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that following the recognition of the Senators for 15-minute orders on tomorrow, there be a period for the transaction of routine morning business, for not to exceed 15 minutes, with statements therein limited to 3 minutes.

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

ORDER TO PROCEED TO THE CONSIDERATION OF H.R. 1 TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at the conclusion of routine morning business on tomorrow, H.R. 1 be laid before the Senate.

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

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, tomorrow the Senate will convene at 9 a.m.

The following Senators will be recognized, each for not to exceed 15 minutes, and in the order stated: Mr. BROOKE, Mr. BUCKLEY, Mr. BOGGS, and Mr. ROTH.

Following the recognition of the foregoing Senators under the 15-minute orders previously entered, there will be routine morning business for not to exceed 15 minutes, with statements therein limited to 3 minutes.

Following routine morning business on tomorrow, the consideration of H.R. 1, the welfare bill, will be resumed. The pending question will be on the adoption of the substitute by Mr. RIBICOFF for the amendment offered jointly by Mr. ROTH and Mr. HARRY BYRD, JR.

There may be yea-and-nay votes tomorrow prior to 1 p.m. That remains to be seen.

At 1 p.m., the Senate will proceed to

debate the cloture motion with respect to S. 3970. There will be 1 hour of debate, running from 1 p.m. to 2 p.m., on the motion to invoke cloture. At 2 p.m., there will be an automatic quorum call, under rule XXII; and thereafter, or circa 2:10 p.m., a yea-and-nay vote will occur on the motion to invoke cloture. As to what will happen beyond that, I cannot say. It will depend upon whether or not cloture is invoked.

I might say, however, that the HEW appropriations bill and the military construction appropriations bill are available to be taken up at any time, and a time limitation agreement has been entered on both.

Suffice it to say, in closing, that there will likely be several yea-and-nay votes tomorrow.

ADJOURNMENT UNTIL 9 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 9 a.m. tomorrow.

The motion was agreed to; and at 7:54 p.m. the Senate adjourned until tomorrow, Tuesday, October 3, 1972, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate October 2, 1972:

U.S. COAST GUARD

The following officers of the U.S. Coast Guard for promotion to the grade of commander:

Donald M. Thomson, Jr.
Harry A. Rowe
James H. Costich
Robert S. Palmer, Jr.
George W. Conrad
Alfred F. Parker
Claud V. Oneal
Frank H. Carman, Jr.
Edward C. Pangrass
George M. Heinrich
Carlton F. Meredith
James L. Haas
Bobby G. Kingery
William P. Hewel
Alan B. Smith
Richard C. Walton
George A. Saunders
James F. Coen
Thomas B. Lain
William H. Goetz
Warren K. Wordsworth
Emanuel Schneider
Russell A. Cahill
Robert D. Askew
William J. Irrig
Edwin M. Custer, Jr.
Jimmie J. Davis
Hugh J. Milloy
James L. Webb
David H. Freeborn
Horton E. Gafford III
Garret T. Bush III
Charles S. Loosmore
Geoffrey T. Potter
Jack C. Goldthorpe
William G. Walker
Robert R. Wells
Ronald M. Polant
James T. Montonye
Stephen J. T. Masse
John R. Edwards
David L. Pepple
John T. Howell
Gerald R. Foster
Joseph E. Vorbach
Donald L. Hoffer
James W. Coste, Jr.
Floyd W. White, Jr.
John Deck III
Peter A. Bunch
John W. Gerometta
James L. McDonald
Richard L. Andrews
Harold F. Norton, Jr.
Robert E. Shenkle
William B. Howland
George E. Krietemeyer
Albert J. Allison III
Robert B. Workman, Jr.
Frank W. Olson
Garald H. McManus
William M. Devereaux
Peter C. F. Lauridsen, Jr.
William P. Leahy, Jr.
Walter S. Rich
James G. Heydenreich
John W. Klotz
Jason M. Bowen
Joel D. Sipes
Paul A. Welling
James E. Foels
William N. Schobert
James A. Chappell
Daniel C. Mania
Richard H. Hicks
Bruce G. Lauther
Harold E. Stanley
Carl W. Snyder, Jr.
Philip M. Lebet
James M. Mullen
Danny M. Brown
Cameron A. Hatfield
Robert T. Morhard
Lawrence Graham
Max H. Casper
Louis R. McDowell
Howard W. Barkell
Joseph H. Martin
James F. Eckman
James A. Blake
Joseph M. Tanguay
Ronald H. Youngman
Dean L. Webster
Hubert T. Bloomquist
John D. Brewer
Jackie R. Gore
James E. Mitts
Francis J. Honke
Richard H. Hill
Raymond H. Spoltman
Richard C. Tims
Thomas F. Tutwiler
Kenneth E. Wadman
Stewart A. Walker
Marshall H. Shytle
John H. Holmead III
Allen J. Taylor
David H. Freese, Jr.
William H. Hayes, Jr.
William H. Wilson, Jr.
William H. Tydings

The following Reserve officers to be permanent commissioned officers in the regular Coast Guard in the grade of lieutenant:

Michael A. Vance.
Steven A. McCall.
Robert V. Fischer.

IN THE AIR FORCE

The following-named Air National Guard of the United States officers for promotion in the Reserve of the Air Force, under the appropriate provisions of section 593(a), title 10, United States Code, as amended.

LINE OF THE AIR FORCE

Major to lieutenant colonel

Robert H. Boehringer, [redacted].
Joseph C. Cimmino, [redacted].
William J. Dickinson, [redacted].
Melvin E. Gourdin, [redacted].
John M. Marvin, [redacted].
Palmer E. McCoy, [redacted].
Harold E. Nelson, [redacted].
Edward O. Potts, Jr., [redacted].
Jerral V. Skinner, [redacted].

IN THE ARMY

The following-named officers for promotion in the Reserve of the Army of the United States, under the provisions of Title 10, Section 3370:

ARMY PROMOTION LIST

To be colonel

Barrett, P. L., Jr., [redacted].
Bufkin, Cary E., [redacted].
Cliette, Alfred, [redacted].
Dawsey, Joseph V., Jr., [redacted].
Dunn, Walter P., [redacted].
Farmer, John O., [redacted].
Garbee, Wesley E., Jr., [redacted].
Hansen, Warren E., [redacted].
Henderson, C. B., [redacted].
Lane, Robert L., [redacted].
Moorhead, Samuel L., [redacted].
Parsons, Boyd D., Sr., [redacted].
Pryor, Henry T., [redacted].
Sexton, Leon D., [redacted].
Skinner, Stanford J., [redacted].
Smith, Richard B., [redacted].
Tagawa, Walter K., [redacted].

CHAPLAIN CORPS

To be colonel

Ballinger, Malcolm B., [redacted].
Brown, Melvin R., [redacted].

DENTAL CORPS

To be colonel

Arnold, Paul J., [redacted].

MEDICAL CORPS

To be colonel

Allen, George L., [redacted].
Brady, Anna M., [redacted].
Burka, Edward R., [redacted].
Hall, David G., III, [redacted].
Lindsay, Kenneth E., [redacted].

The following-named officers for promotion in the Reserve of the Army of the United States, under the provision of title 10, sections 3366 and 3367:

ARMY PROMOTION LIST

To be lieutenant colonel

Adams, James R., [redacted].
Allred, Warren D., [redacted].
Anderson, William T., [redacted].
Anhaeuser, Erwin B., [redacted].
Arras, Robert G., [redacted].
Atwater, Melvin G., [redacted].
Baker, James R., [redacted].
Bardos, Phillip G., [redacted].
Barry, Peter R., [redacted].
Beckman, Paul B., [redacted].
Bennett, Frederick, [redacted].
Bice, James F., [redacted].
Bickford, William M., [redacted].
Bilyeu, Rolland R., [redacted].
Blocher, Philip H., [redacted].
Bowen, Dell R., [redacted].
Bowman, Gregory R., [redacted].
Boyer, Kenneth W., [redacted].
Brege, George L., [redacted].
Brett, Charles E., [redacted].
Brown, F. C. Jr., [redacted].
Brown, Needham A., [redacted].
Bugg, Robert O., [redacted].
Burton, Paul S., [redacted].
Califano, Leonard E., [redacted].
Campbell, Donald C., [redacted].
Carlson, Don Andrew, [redacted].
Carter, Thomas E. Jr., [redacted].
Churchill, Norman L., [redacted].
Clark, Thomas M., [redacted].
Clark, William B., [redacted].
Clepper, Walter D., [redacted].
Coffey, Francis J., [redacted].
Cole, John A., [redacted].
Collier, William, [redacted].
Corrigan, Robert J., [redacted].
Craft, Roy G., Jr., [redacted].
Creger, C. R. Jr., [redacted].
Crumley, Monte G., [redacted].
Dahlin, Roland E. 11, [redacted].
Deede, Marvin J., [redacted].
Delsandro, A. J., [redacted].
Dickman, Irwin S., [redacted].
Donadio, A. T. Jr., [redacted].
Donovan, Jerome J., [redacted].
Dowless, Herbert F., [redacted].
Dung, Wallace S. H., [redacted].
Durnin, George W. Jr., [redacted].
Elder, Charles A., [redacted].
Erb, Charles D., [redacted].
Estes, Leland L. Jr., [redacted].
Fader, Wesley, [redacted].
Falcone, Ernani C., [redacted].
Farner, Frank, [redacted].
Ferguson, Robert W., [redacted].
Ficks, Filmore L., [redacted].
Fitchett, Royal N. Jr., [redacted].
Folluo, Charles M. III, [redacted].
Fordice, Daniel K., [redacted].
Forster, Merlin H., [redacted].
Fries, Charles J. V. III, [redacted].
Frischknecht, Clair, [redacted].
Gaston, Joseph E., [redacted].
Gilreath, Joseph M., [redacted].
Gleason, H. W., Jr., [redacted].
Godwin, Gaylord K., [redacted].
Gore, Charles G., Jr., [redacted].
Gray, John D., [redacted].
Guzzi, Joseph L., [redacted].
Hampton, Donald J., [redacted].
Hanson, Richard E., [redacted].
Harris, Bobby L., [redacted].
Harvey, Norman L., [redacted].
Haze, Theodore M., [redacted].
Hennessy, Richard F., [redacted].
Hester, John F., [redacted].
Hogan, Max R., [redacted].
Honesty, Charles C., [redacted].
Hubbell, Robert D., [redacted].
Ishikawa, Richard M., [redacted].

Jackson, Leonard L., [redacted].
Jenkins, Kennedy A., [redacted].
Jenkins, Robert D., [redacted].
Jones, Louis I., Jr., [redacted].
Kankowski, Walter J., [redacted].
Kassed, Marvin W., [redacted].
Kell, Grady E., [redacted].
Kennealy, James E., [redacted].
Knox, Dale E., [redacted].
La Kier, Saul W., [redacted].
Lamb, John T., [redacted].
Landis, William B., [redacted].
Lantz, James W., [redacted].
Larks, Jack, [redacted].
Larsen, Arthur M., Jr., [redacted].
Larson, William R., [redacted].
Leavey, T. C., Jr., [redacted].
Lo Paul, P. C., [redacted].
Loader, Marcus G., [redacted].
Looney, Daniel J., [redacted].
Lopez, Vincent C., [redacted].
Lyons, William F., [redacted].
Malcolm, Ronald A., [redacted].
Mallett, Edmund I., [redacted].
Malone, Douglas J., [redacted].
Maurer, George M., Jr., [redacted].
McKinney, Gerald R., [redacted].
McKinney, T. R., Jr., [redacted].
McLaughlin, D. J., [redacted].
McMillan, William, [redacted].
McMurtry, John H., [redacted].
McKillip, Milton R., [redacted].
McMahon, R. J., Jr., [redacted].
McManus, W. R., Jr., [redacted].
McPherson, Grover C., [redacted].
Metallo, Vincent J., [redacted].
Meyers, S. E., Jr., [redacted].
Miller, James V., [redacted].
Miller, Norman L., [redacted].
Miner, James O., [redacted].
Moore, Richard M., [redacted].
Moran, Arthur T., [redacted].
Morris, Charles M., [redacted].
Mott, Charles J., [redacted].
Mularcik, Albert A., [redacted].
Murdock, Alan G., [redacted].
Nabors, Alphonso W., [redacted].
Nash, John N., [redacted].
Neidhart, Robert G., [redacted].
Neufeld, Stanley W., [redacted].
Newcomb, L. T., [redacted].
Nienhuis, Earl J., [redacted].
Oliver, James R., [redacted].
O'Reilly, Donald F., [redacted].
Padavan, Frank, [redacted].
Palus, Edward M., [redacted].
Pape, Philip E., [redacted].
Paulson, Theodore W., [redacted].
Pavlow, George, [redacted].
Perkins, John P., [redacted].
Poffenberger, A. E., [redacted].
Pollack, Erwin E., [redacted].
Poynton, Brian A., [redacted].
Pringle, Homer S., [redacted].
Reagan, James J., [redacted].
Reichert, W. F. Jr., [redacted].
Riddle, Eugene N., [redacted].
Robinson, Thomas F., [redacted].
Roe, James William, [redacted].
Roland, Virgil B., [redacted].
Ross, Thomas E., [redacted].
Rozycki, Bogart G., [redacted].
Ruvolo, John J., [redacted].
Salter, Robert M., [redacted].
Schulz, Kaye R., [redacted].
Schwartz, Jules, J., [redacted].
Seidner, Burton V., [redacted].
Seroski, Clem S., [redacted].
Seymour, David E., [redacted].
Skeens, James K., [redacted].
Slyman, Samuel, [redacted].
Smith, Frank H. Jr., [redacted].
Smith, Lyle C., [redacted].
Stankewich, J. A., [redacted].
Stefanic, Louis A., [redacted].
Steward, Warren V., [redacted].
Sullivan, Caleb P., [redacted].
Sutera, Angelo M., [redacted].
Sween, Harlan G., [redacted].
Sweeney, John A., [redacted].
Szabo, Steve S., [redacted].
Taddeo, Philip A., [redacted].
Tauber, Richard L., [redacted].
Taylor, Blaine G., [redacted].
Tune, Howard H., [redacted].
Turner, Thomas E., [redacted].
Ussery, Albert T., [redacted].
Vass, Stanley C., [redacted].
Venanzini, Sante P., [redacted].
Wagoner, Robert B., [redacted].
Waite, John R., [redacted].
Waller, Thomas N., [redacted].
Warner, Richard M., [redacted].
Washington, C. Jr., [redacted].
Watson, Richard C., [redacted].
Wehner, Russell L. Jr., [redacted].
Weiss, Gerhard H., [redacted].
Whypp, David A., [redacted].
Williamson, Ramon N., [redacted].
Witte, Harold W., [redacted].
Wright, Gerald L., [redacted].
Yaich, Branislav, [redacted].
Yamanaka, Edward T., [redacted].
Yaw, Herbert W., [redacted].
Zellem, Steven, [redacted].
Zimakas, T. Trefon, [redacted].
Zimmerman, George F., [redacted].
Zimmerman, Thomas L., [redacted].

CHAPLAIN CORPS

To be lieutenant colonel

Wood, Thomas E., [redacted].

ARMY NURSE CORPS

To be lieutenant colonel

Gaudes, Flora A., [redacted].
Kubiak, Arthur S., [redacted].
Randall, Mary T., [redacted].

DENTAL CORPS

To be lieutenant colonel

Bolinger, G. F. Jr., [redacted].
Restarski, T. E., [redacted].

MEDICAL CORPS

To be lieutenant colonel

Blackmon, James T., [redacted].
Buttery, C. M. G., [redacted].
Christian, C. F., [redacted].
O'Brien, William H., [redacted].
Slusher, Ralph C., [redacted].

MEDICAL SERVICE CORPS

To be lieutenant colonel

Bowling, Hollis H., [redacted].
Collins, Charles M., [redacted].
Fodero, S. D., [redacted].
Goeppner, Joe, [redacted].
Hanson, Philip J., [redacted].
Harris, Howard D., [redacted].
Murphy, Thomas W., [redacted].
Nowak, Maryan L., [redacted].
Taylor, Alvin N., [redacted].
Tomimatsu, Louis, [redacted].
Weeks, Thomas H., [redacted].

ARMY MEDICAL SPECIALIST CORPS

To be lieutenant colonel

MacKnight, Nancy E., [redacted].

VETERINARY CORPS

To be lieutenant colonel

Norcross, M. A., Jr., [redacted].

The following-named officers for appointment in the Reserve of the Army of the United States, under the provisions of Title 10, U.S.C. Sections 591, 593, and 594:

MEDICAL CORPS

To be lieutenant colonel

Barnhart, Roger A., [redacted].
Bove, Victor M., [redacted].
Dierdorff, Edwin P., [redacted].
Eichman, Otto K., [redacted].
Jones, Ralph W., [redacted].
Skamas, Demetrios C., [redacted].
Smith, Milton P., [redacted].

The following-named Army National Guard officers for appointment in the Reserve of the Army of the United States, under the provisions of Title 10, U.S.C., section 3351:

ARMY PROMOTION LIST

To be colonel

Alencastre, Melvin, [redacted].
Carey, Willard K., [redacted].
Fairfield, George H., [redacted].
Frye, William S., [redacted].
Gayle, Charles N., Jr., [redacted].
Lala, Henry J., [redacted].
Lamoreaux, Charles E., [redacted].
Lankford, Lewis H., [redacted].
Rutkowski, Edmund A., [redacted].
Southerland, George E., [redacted].
Stanko, John J., Jr., [redacted].
Wayt, David W., [redacted].
Williams, Robert E., [redacted].
Zalmas, George W., [redacted].
Zanetti, Leonard J., [redacted].

MEDICAL CORPS

To be colonel

Cook, Malcolm C., [redacted].

The following-named Army National Guard officers for appointment in the Reserve of the Army of the United States, under the provisions of Title 10, U.S.C., section 3351:

ARMY PROMOTION LIST

To be lieutenant colonel

Bennett, James W., [redacted].
Bishoff, Wilbur C., [redacted].
Browning, Wilmer, [redacted].
Buitrago-Gonzalez, Jose A., [redacted].
Coates, Allan R. Jr., [redacted].
Dennen, David W., [redacted].
Dennis, James T., [redacted].
Dexter, Hale G., [redacted].
Dezarn, Robert L., [redacted].
Dodge, Galen W., [redacted].
Doyle, Henry A. Jr., [redacted].
Duckworth, Norman E., [redacted].
Duralde, Joseph M., [redacted].
Farnsworth, Harlan R., [redacted].
Forrey, Robert M., [redacted].
Friend, Cletus W., [redacted].
Green, Guy R. Jr., [redacted].
Henderson, Lee A., [redacted].
Hernandez-Marrero, A., [redacted].
Herzinger, Stanley J., [redacted].
Kane, Frank E., [redacted].
Keefe, Bernard J. Jr., [redacted].
Kiefner, Charles M., [redacted].
Lewis, Richard W., [redacted].
Lewis, Robert O., [redacted].
McClellan, Robert G., [redacted].
McGough, Donald R., [redacted].
MacDonald, John K., [redacted].
Merchant, Robert L., [redacted].
Miller, Walter W., [redacted].
Morrison, Donald B., [redacted].
Pettit, Clarence A., [redacted].
Puzio, Thaddeus A., [redacted].
Racca, Ralph A., [redacted].
Roberts, Thomas P., [redacted].
Robinson, Guy W., [redacted].
Smith, Jesse M., [redacted].
Thompson, Charles B., [redacted].
Townley, James R., [redacted].
Watley, Norman E., [redacted].

DENTAL CORPS

To be lieutenant colonel

Warren, Ross W., [redacted].

MEDICAL CORPS

To be lieutenant colonel

Cline, David W., [redacted].
Fraiser, Lacy P., [redacted].
Pingree, James H., [redacted].

MEDICAL SERVICE CORPS

To be lieutentnant colonel

White, William K., [redacted].