not just improvident, but also unecessary for Congress to commit the Federal Treasury to underwriting the creation of new markets for nuclear fuel. It is precisely this argument which has caused the pronuclear Oil, Chemical and Atomic Workers Union to lobby vigorously against sections 2 and 3, in support of an amendment I shall offer to strike these sections—the "privatization" scheme—from the legislation.

The fact is, as a letter from the president of the OCAW union accurately states:

The present three Government diffusion plants plus the additional add-on plant at Portsmouth, Ohio, will provide more than sufficient enriched uranium . . . the building of a fifth gaseous diffusion—enrichment—plant by—private and foreign investors—would provide excess capacity.

I commend this letter to my colleagues' attention, as well as the letter from the American Public Power Association:

ENCLOSURE No. 1

OIL, CHEMICAL AND ATOMIC WORKERS, INTERNATIONAL UNION,
Denver, Colo., June 21, 1976.

To: All Members of the U.S. House of Representatives.

DEAR HOUSE MEMBER: On behalf of the approximately eight thousand workers in the gaseous diffusion plants represented by my Union, I am writing to urge you to take a strong position against the Nuclear Fuel Assurance Act, H.R. 8401.

We oppose the sections of this bill which would turn over uranium enrichment to private corporations under terms which would be very beneficial to these corporations but detrimental to U.S. taxpayers, to electricity consumers and to the future of the existing Government-owned gaseous diffusions plants.

The present three Government diffusion plants plus the Government additional add-on plant at Portsmouth, Ohio, will provide more than sufficient enriched uranium to fuel the 185 thousand megawatt nuclear power plants which are projected by ERDA to be operating by 1985. (The present number of operating plants is sixty.) The principal object of the bill is to authorize ERDA with the Uranium Enrichment Associates to negotiate a fifth (private) gaseous diffusion plant.

The building of the fifth gaseous diffusion plant by UEA would provide excess capacity. In the first draft of the UEA–ERDA contract, any surplus capacity would be met by curtailing operations at the lower-cost government plants. Other private centrifuge enrichment plants would be covered by the bill but the technology is not yet proved on a commercial scale so that these projects are much further down the road.

The comparative costs of the UEA venture with the Government add-on plant at Portsmouth are clearly brought out by the $3.5 billion estimate for the UEA plant as against $2.5 billion for the Portsmouth add-on. The difference in interest rates is enormous. UEA has stated that they expect the return to investors on the $3.5 billion to run 15% after taxes. This compares with normal U.S. Government bond interest on $2.5 billion for Portsmouth. The high return to UEA investors is expected in spite of the fact that the money of U.S. investors would be fully guaranteed by the Government under the Nuclear Fuel Assurance Act.

As uranium enrichment is highly capital-intensive, the cost per kilogram of UEA enriched uranium would be much higher than that from the Government plants. The prices for Government uranium would have to be raised in order to make UEA uranium commercially competitive. As the cost of uranium enrichment is a substantial fraction of the costs of nuclear power, increasing the price of fuel grade uranium would be another setback to the program of nuclear power expansion in this country.

My Union notes with dismay that 60% of the ownership of the UEA consortium will be foreign. UEA states that this will not lead to further disclosures of U.S. secret enrichment know-how to foreign interests. The record of the handling of classified knowledge over the past several years hardly reassures us. Once in the hands of foreign powers, control of the classified knowledge is lost and it may readily diffuse to third parties, including non-signers of the nuclear non-proliferation treaty.

The bill states that any contract between UEA and ERDA will require specific approval by Congress at a later date. But the passage of the Nuclear Fuel Assurance Act would, in fact, give the green light to UEA and ERDA to go ahead with the drafting of a contract. Under the terms of the Act, this contract would be clearly disadvantageous to the Government and the public. It is my strong conviction that the time to stop this contract is NOW.

Sincerely yours,

A. F. GROSPIRON,
President.

AMERICAN PUBLIC POWER ASSOCIATION,
Washington, D.C., June 24, 1976.

Hon. JONATHAN B. BINGHAM,
U.S. House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN BINGHAM: The American Public Power Association, representing more than 1,400 local publicly-owned electric utilities throughout the country, urges you to support section 4 and to oppose sections 2 and 3 of H.R. 8401, the Nuclear Fuel Assurance Act. Sec. 4 of H.R. 8401, would authorize $255 million for Federal construction and operation of an expansion of an existing Government-owned uranium enrichment facility. We believe such a program would supply fuel for nuclear power plants at the lowest cost to the consumer, prevent monopolization, and protect national interests.

At the association's annual conference last week, APPA members adopted a resolution opposing "Federally-subsidized privately-owned commercial gaseous diffusion plants." Accordingly we urge you to oppose sections 2 and 3 of H.R. 8401 which would provide $8 billion fn Government guarantees to private plants. Under the plan proposed in sections 2 and 3, the public would bear the risks while private industry would reap the benefits. It has been estimated that the private enrichment plant would result in an increase in the cost of nuclear fuel by approximately $700 million a year—a cost that consumers would have to pay. The General Accounting Office has termed this concept "excessively generous" and has said, "Its fundamental short-coming is that it shifts most of the risks during construction and proving the plant can operate to the Government."

Sincerely,

ALEX RADIN.

SENATE—*Friday, July 23, 1976*

The Senate met at 9 a.m. and was called to order by Hon. JOHN C. CULVER, a Senator from the State of Iowa.

PRAYER

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

Our Father God, reverently we pause in Thy presence to welcome the new day and to place our lives upon the altar of public service. By Thy grace may we strive to lift every moment of this day into the higher order of Thy kingdom. Grant us wisdom higher than our own and to the gift of wisdom add some wit lest we become morose and our ways monotonous. Endow us with creative insight, disciplined thought, precise expression, and sound judgment. At the end assure us of Thy goodness and mercy which never ceases.

Through Jesus Christ our Lord. 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 assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., July 23, 1976.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. JOHN C. CULVER, a Senator from the State of Iowa, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

Mr. CULVER 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 Thursday, July 22, 1976, be dispensed with.

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

EXECUTIVE SESSION

Mr. MANSFIELD. I ask unanimous consent that the Senate go into executive session to consider the nominations of Mr. Poole and Mr. Chase.

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

THE JUDICIARY

The second assistant legislative clerk read the nomination of Cecil F. Poole, of California, to be a U.S. district judge for the Northern District of California.

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

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

COMMUNITY SERVICES ADMINISTRATION

The second assistant legislative clerk read the nomination of Robert C. Chase, of Virginia, to be Deputy Director.

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

Mr. MANSFIELD. I ask unanimous consent that the President be immediately notified of the confirmation of these nominations.

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

LEGISLATIVE SESSION

Mr. MANSFIELD. I ask unanimous consent that the Senate resume the consideration of legislative business.

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

AMERICA AND ASIA

Mr. MANSFIELD. Mr. President, yesterday the distinguished Secretary of State, Mr. Henry Kissinger, made a speech in Seattle, Wash., entitled "America and Asia."

I have not had a chance to go over the speech in detail, it having been placed on my desk only this morning, but I do wish to commend the Secretary of State for placing the proper emphasis on Asia and the Pacific in relation to the foreign policy of this Nation. He states:

> We are at peace for the first time in more than 15 years.

That is true; but the path to peace has been strewn with many obstacles, some of which could have been avoided.

He states also:

> From here (the Pacific Northwest), America looks out across the Pacific toward the nations—new and old—of Asia.

He states further:

> No region in the world is more dynamic, more diverse or more complex than Asia:—In the past generation Americans have fought three major wars in Asia.

May I say, incidentally, one of them totally unnecessary and certainly tragic.

Again quoting:

> We have learned the hard way that our own safety and well-being depend upon peace in the Pacific, and that peace cannot be maintained unless we play an active part.

I agree with that statement, though I must say that our primary concern is not the Asian mainland but the Pacific. We are not an Asian power; we are a Pacific power.

Continuing:

> Our prosperity is inextricably linked to the economy of the Pacific basin. Last year our trade with Asian nations exceeded our trade with Europe. Asian raw materials fuel our factories; Asian manufacturers serve our consumers; Asian markets offer outlets for our exports and investment opportunities for our business community.
>
> And our ties with Asia have a unique human dimension. For generations Americans have supplied an impulse for change in Asian societies; Asian culture and ideas in turn have touched our own intellectual, artistic and social life deeply.

Furthermore, he states:

> American foreign policy has known both great accomplishment and bitter disappointment in Asia.

No statement could be truer. Then he says, further on:

> By the late 1960's, however, old policies confronted new realities: American disenchantment with a war we would not win and could not end;

A war which, I might say again, we should not have entered, and we were caught in an impasse which was of our own creation.

Then he goes on to state:

> We have helped our allies and friends augment their own strength, while we have gradually reduced our own military presence in Asia by 130,000 men in addition to the 550,000 troops we withdrew from Vietnam.

Correct; and all to the good. He states further:

> Much will depend on our actions and on the confidence of Asian nations in our steadiness. Indeed, all the strands of our global policy meet in Asia:
>
> Peace in Asia is crucial for global peace.
>
> The need to resolve conflicts and to ease tensions is nowhere more acute than in Asia.
>
> And the effort to shape new patterns of international cooperation holds great promise in Asia where the developing nations are among the world's most dynamic and self-reliant.

Then he makes this interesting observation, which I think too few of us are aware of:

> All the world's major powers—the United States, Japan, China, the Soviet Union, Western Europe—have significant interests in Asia.

It is there where we have, we might say, an interdiction of all the great powers of the world, except those of Western Europe, and it is the only place today where that occurs.

Farther on, the Secretary of State has some pertinent things to say about Japan and its importance to us, about Korea, about our relationship with China, and other matters relative to Southeast Asia, and Asia as a whole.

I wish to commend the Secretary of State—and I shall read his speech more carefully as I find time—for the speech which he has made, for the emphasis which he has placed on Asia, and for the recognition which this region is gradually getting in this country because of its importance in trade, in aid, in defense, and in relation to our economic security.

We are not a European nation; we are not an Asian nation; but we are an Atlantic power, we are a Pacific power, and later during the course of this session I shall have more to say about Asia and its implications for us.

Mr. President, I ask unanimous consent that the full text of the Secretary's significant speech be printed in the RECORD at this point.

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

ADDRESS BY THE HONORABLE HENRY A. KISSINGER

A little more than two weeks ago this nation celebrated its 200th birthday. In the process of that celebration, Americans learned that despite the agony, the turmoil and the constitutional crisis of the last decade we are still proud to be Americans, and still proud of what America means to the world. We felt once again that our country is free, and vibrant with life and change. We saw that tolerance and hope and dedication are far more a part of the American national character today than hatred, division and despair.

To the generation that came to maturity in the late Sixties or early Seventies, these truths may have been apparent for the first time. For my generation, it was, rather, a reminder of basic verities about America which had been in danger of being obscured by the turmoil of a decade. But for all of us, of whatever generation, it was an uplifting experience.

Certainly the events of one celebration, however inspiring, cannot by themselves solve the long-term problems that our nation will face in its third century. But they illuminate the road before us as we enter our electoral campaign. They tell us that it is time to move away from the counsels of timidity, fear and resentment which have done so much to corrupt our public dialogue.

Ours is not a nation bent on domination, as we were told four years ago. Ours is not a nation in retreat, as we have been told too often this year. Ours is a nation which understands that America cannot be at peace if the world is at war; that America cannot be prosperous if the world is mired in poverty; that America cannot be true to its heritage unless it stands with those who strive for freedom and human dignity. In short, we know that our lives, liberty and pursuit of happiness depend on the world in which we live and that America's leadership is crucial to shaping what kind of world that will be.

We face today, as we have for several years, international conditions quite unlike those known by earlier generations of Americans. We have designed a foreign policy capable of mastering those new challenges; a foreign policy for the last quarter of the 20th century based on four propositions:

First, American strength is essential to the peace of the world and to the success of our diplomacy. We should not bemuse ourselves with false choices between defense or domestic needs, between security or social justice. Unless we pursue all these objectives we are likely to achieve none of them. Security cannot be the sole goal of our policy, but no other achievements can endure without it.

Second, our alliances with the great democracies of North America, Western Europe, and Asia are the bedrock and the top priority of our foreign policy.

Third, in an age of thermonuclear weapons and strategic balance, we have a moral as well as a political obligation to strive mightily toward the overriding goal of peace. We are ready to use our strength to resist blackmail or pressure; we must also be prepared to negotiate longstanding disputes, foster habits of moderation and develop more constructive ties with potential adversaries. The American people and the people of the world ask for a peace more secure than a balance of terror constantly being contested.

Forth, security and peace are the foundation for addressing the positive aspirations of peoples. Prosperity, human rights, protecting the environment, economic development, scientific and technical advance and cultural exchange have become major concerns of international diplomacy. In these spheres, the destinies of nations are interdependent and a world of order and progress requires new forms of cooperation among all nations—rich and poor, industrialized and developing.

We want our children to live in a world of greater peace and justice. We want them to

have the opportunity to apply their own genius, in their own time, to the betterment of mankind. To do so we, in our time, must help shape an international order that welcomes the participation of all nations and responds to the deepest concerns of all peoples.

We have come a long way already. We are at peace for the first time in more than 15 years. Our collaboration with the great industrial democracies is steadily expanding into new fields, while its fundamental basis is stronger than it has been in years. We have made progress toward peace in the Middle East and, partly because of our unique role there, the elements for major new advances exist. In Asia, we have—as I will discuss in greater detail—solidified our ties with both our friends and our potential adversaries. Here in the Western Hemisphere we are building a new relationship based on equality and mutual respect. We have inaugurated a hopeful new policy in Africa. And with respect to the Soviet Union we have combined a determination to resist expansion with a readiness to build relations on a more stable and lasting basis—we are, and will be, conciliatory but vigilant.

The people of the Pacific Northwest hardly need to be told of the strength or role of America. Yours is a region but recently carved from a wilderness by men and women of courage and vision. Here the pioneer spirit that is so much a part of our history lives on, and from here America looks out across the Pacific toward the nations—new and old—of Asia.

And it is America's relations with Asia that I would like to discuss with you today.

THE ASIAN DIMENSION

No region in the world is more dynamic, more diverse or more complex than Asia:

In the past generation Americans have fought three major wars in Asia. We have learned the hard way that our own safety and well-being depend upon peace in the Pacific, and that peace cannot be maintained unless we play an active part.

Our prosperity is inextricably linked to the economy of the Pacific basin. Last year our trade with Asian nations exceeded our trade with Europe. Asian raw materials fuel our factories; Asian manufacturers serve our consumers; Asian markets offer outlets for our exports and investment opportunities for our business community.

And our ties with Asia have a unique human dimension. For generations Americans have supplied an impulse for change in Asian societies; Asian culture and ideas in turn have touched our own intellectual, artistic and social life deeply.

American foreign policy has known both great accomplishment and bitter disappointment in Asia. After World War II we sought above all to contain communist expansion. We essentially succeeded. We forged a close alliance with democratic Japan. We and our allies assisted South Korea in defeating aggression. We provided for the orderly transition of the Philippines to full independence. We strengthened the ties with Australia and New Zealand that had been forged as allies in two wars. We spurred the development of the Pacific basin into a zone of remarkable economic vitality and growth.

By the late 1960's, however, old policies confronted new realities: American disenchantment with a war we would not win and could not end; acute rivalry between the major communist powers; and, above all, Japan's burgeoning power and prosperity. It was becoming apparent that our commitments in Asia too often dictated our interests; that we sometimes acted as though our stake in our allies' security was greater than their own; that estrangement with China no longer served either nation's interests nor the cause of global stability; that our economic dealings not infrequently resembled patron-client relationships.

Throughout the first half of this decade, therefore, we have been fashioning a new policy for Asia. We have been bringing our commitments into balance with our interests. We have helped our allies and friends augment their own strength, while we have gradually reduced our own military presence in Asia by 130,000 men in addition to the 550,000 troops we withdrew from Viet-Nam. We have strengthened our relations with Japan, begun a new relationship with the People's Republic of China and searched for political solutions to Asian regional conflicts. We have encouraged Asian nations in their self-reliance and in their efforts at regional cooperation. We have welcomed Asian nations in new multilateral efforts to improve the global economic system.

While a great deal has been accomplished, Asia remains a region of potential turbulence. The collapse of Viet-Nam last year produced concern about a more general American retreat from Asia. Happily, such fears have subsided, largely because American policy has buttressed the inherent strength and resilience of the nations of Asia. But there are no grounds for complacency. Soviet activity in Asia is growing. North and South Korea remain locked in bitter confrontation. Hanoi represents a new center of power and its attitude toward its neighbors remain ambiguous and potentially threatening. Most developing nations remain afflicted by social and political tensions. And the scramble for oil and ocean resources raises the specter of possible future territorial disputes.

Much will depend on our actions and on the confidence of Asian nations in our steadiness. Indeed, all the strands of our global policy meet in Asia:

Peace in Asia is crucial for global peace.

The need to resolve conflicts and to ease tensions is nowhere more acute than in Asia.

And the effort to shape new patterns of international cooperation holds great promise in Asia where the developing nations are among the world's most dynamic and self-reliant.

Let me now discuss each of these challenges in turn.

ASIAN SECURITY

First, the problem of security in Asia.

All the world's major powers—the United States, Japan, China, the Soviet Union, Western Europe—have significant interests in Asia. All would be directly affected by conflict there. Yet the security of none of these powers is determined exclusively—and in some cases not even primarily—by events in Asia. Therefore, no nation should believe that it can enhance its security by deflecting conflicts from one continent to another. If the European balance is upset, our security and the security of Asian countries will be affected. If the Asian balance is jeopardized, serious repercussions will be felt in Europe. Neither in Europe nor in Asia can we permit others to dictate our destiny or the destiny of those whose independence is of concern to us.

Security policy for Asia must therefore be formed in global terms. Yet its requirements are uniquely complex. In Europe two alliance systems face each other directly across a clear line drawn down the center of the continent. The principal danger is external attack by organized military forces. The strengths and weaknesses of both sides are relatively calculable.

In Asia the balance is more multiple and fluid. The focal point is not solely between East and West—it includes the contention between the two major communist powers, and the threats are highly diverse.

In some areas, such as Korea, the principal danger lies in armed attack across an established frontier. In others, such as Southeast Asia, the more immediate threats involve insurgency. Governments confront the difficult challenge of nation-building. Most are burdened by complex social problems arising from religious, racial and cultural differences. Virtually all must contend with armed dissidents who are frequently ready to accept outside assistance.

As President Ford stated in Honolulu last December, the linchpin of our Asian security effort must be a strong and balanced US military posture in the Pacific. Only if we are perceived to be clearly capable of supporting friends can we discourage aggression against them. Only by showing that we understand the necessities of the regional balance of power can we encourage free countries to see to their self-defense. To the extent that the nations of Asia achieve a margin of security the political forces that stand for democracy and human liberty are encouraged. By the same token, unilateral withdrawals from Asia diminish our security as well as our influence even over the domestic evolution of friendly countries.

It goes without saying that an American commitment is vital only if it is perceived to be as much in the interest of our allies as of ourselves. No nation should conduct its policy under the illusion that it is doing the United States a favor by permitting us to contribute to its defense. Those who seek to adjust their defense relationships with us will find us prepared to accommodate their desires in a spirit of reciprocity.

At the same time let there be no doubt about this Administration's firmness with regard to our treaty commitments. Allies needing our support will find us constant; adversaries testing our resolution will find us steadfast.

It is not possible to enumerate all our security interests in Asia in one speech. Let me therefore discuss three areas of special importance or complexity: Japan, Korea and Southeast Asia.

No relationship is more important to the United States than our alliance with Japan. Mutual security remains fundamental to our collaboration, but in a new era we have extended our partnership to a broad range of common interests: easing tensions in Asia, solving regional and global problems, and combining our vast economic strengths to spur stable and non-inflationary world economic growth.

In the early 1970's, Japan and the United States passed through an inevitable period of adjustment from dependence and American predominance to equality and mutual responsibility. There were frictions over textiles and monetary policies and over the timing of our essentially parallel China policies. But these difficulties have been overcome; they proved to be the growing pains of a more mature and equal relationship. Today our relations with Japan are better than they have ever been. There are no significant bilateral disputes. We have developed a clearer common perception of our security requirements, which will be further enhanced by the recently formed Joint Committee on Defense Cooperation. We have injected greater balance and reciprocity into our economic relations. We have learned to identify and deal with potential difficulties before they become politically explosive. We have consulted with greater frequency and frankness and in greater depth than in any previous period. Both nations are displaying sensitivity to the intangibles of our relationship, and have built a wide base of public support for closer cooperation.

Our relationship with Japan plays a central role in furthering stability and progress in Asia and the world. Our security relationship is crucial for the global balance of power.

Japan is our largest overseas trading partner. Each of us seeks to improve relations with Moscow and Peking; to ease tensions in Korea; to encourage a stable political evolution in Southeast Asia. Each of us cooperates in the development of effective international efforts to promote stable economic growth, strengthen bonds among the industrial democracies, and shape more positive ties between the industrial and developing countries.

Japan and the United States share a common dedication to the principles of democracy. And so, close consultation on key regional and global issues is at the heart of our respective policies. The United States will make every effort to strengthen these bonds.

Americans fought and died to preserve South Korea's independence. Our experience and our sacrifice define our stake in the preservation of this hard-won stability; treaty obligations of mutual defense define our legal obligations. Our support and assistance will be available where it has been promised. In fulfilling our commitments we will look to South Korea to assume the primary responsibility for its own defense, especially in manpower. And we will continue to remind the South Korean Government that responsiveness to the popular will and social justice are essential if subversion and external challenge are to be resisted. But we shall not forget that our alliance with South Korea is designed to meet an external threat which affects our own security, and that of Japan as well.

Difficult as the situation still remains in Korea, it is the friendly nations of Southeast Asia that, in the wake of Indochina, are facing the greatest adjustment to new conditions.

Nations which once looked to us for their security almost exclusively have been forced by events into greater self-reliance and broader cooperation among each other. The members of the Association of Southeast Asian Nations—the Philippines, Indonesia, Thailand, Malaysia and Singapore—are determined to preserve their independence by hastening the pace of regional consolidation. All face serious problems that are endemic to the process of development; all seek to sustain and expand their relations with us; all hope that we will retain an active interest in their destiny.

President Ford, in his speech in Honolulu last December, and in his visits to the Philippines and Indonesia, affirmed our continuing interest in the well-being and safety of Southeast Asia. We shall encourage the efforts of the ASEAN countries to bolster their independence; we welcome Southeast Asian regional cooperation. Clearly our effort cannot substitute for, but only supplement regional efforts. But we are prepared to continue to provide military assistance, though with greater emphasis on cash and credit sales. We will, as well, maintain our military presence in the Western Pacific, especially our mobile naval and air power. We are in the process of negotiating a new base agreement with the Philippines. We will promote new patterns of economic cooperation. And we will cooperate with ASEAN countries, consistent with their own initiatives and concepts.

EASING TENSIONS TO STRENGTHEN PEACE

Second, let me turn to the problem of easing tensions.

In the thermonuclear age, we have no more important obligation than to push back the shadow of nuclear confrontation. If crises occur, they must not result from any lapse of vision on our part. Accommodation without strength or principle leads to appeasement; but in the thermonuclear age, reliance on power—not coupled with a spirit of conciliation—can spell catastrophe for all of mankind.

Thus the United States, in concert with its Allies, seeks to reach beyond security toward better relations—based on strict reciprocity and principle—with former or potential adversaries.

No nation is more important to this process than the People's Republic of China. Together we have turned a dramatic new page, following a generation of mutual suspicion and hostility. There have long been deep sentimental attachments between the American and Chinese peoples which have provided an important bond between our two nations even in the most difficult times. But it was mutual necessity that impelled us both to launch a fresh beginning in 1969. Our shared concern that the world remain free from domination by military force or blackmail—"hegemony" as we have described it in our various communiques—provided the strategic foundation for a new relationship. This mutual interest continues and is the basis for durable and growing ties.

Both sides derive benefits from constructive relations—improved prospect for maintaining a global equilibrium, reduced dangers of conflict in Asia, mutually beneficial trade and cultural exchanges and expanded possibilities for cooperative or parallel action on specific global issues. We have made significant progress in improving relations with China over the past several years. We have established liaison offices in each other's capitals. We have increased trade and promoted exchanges. Frequent and wide-ranging talks with Chinese leaders—including visits by two American presidents and many Congressional delegations—have deepened our mutual understanding. On some international issues there is substantial compatibility in our perspective and, where our interests diverge, we are diminishing the risks of miscalculation.

It is important to recognize that China's perception of the United States as a strong and resolute force in international events is an important factor in shaping our relations. We will keep Chinese views in mind in framing our approach to important international questions. But, equally, if so subtle and complex a relationship is to prosper, the People's Republic of China must take our concerns and problems into account as well. We must deal with each other on the basis of equality and mutual benefit—and a continuing recognition that our evolving relationship is important for global stability and progress.

The new relationship between the United States and the People's Republic of China is now an enduring and important feature of the international scene. We are determined to work to improve it further. While difficult issues remain, we intend to continue to move toward the normalization of our relationship in keeping with the principles of the Shanghai Communique.

On the Korean Peninsula, too, we are prepared to make serious efforts to ease tensions.

In recent years North Korea and its friends have mounted a major diplomatic campaign—especially in the so-called nonaligned forums and the United Nations—to alter the institutional arrangements of the armistice agreement which ended hostilities in Korea 23 years ago and helps to keep the peace today. They insist upon unconditional dissolution of the United Nations Command, which, together with North Korea and China, is a signatory to the armistice agreement. They have gone so far as to claim that if the Command is dissolved, the armistice agreement itself would cease to exist. At the same time, North Korea demands the unilateral withdrawal of American forces from Korea. They propose that the issues of peace and security on the Peninsula be discussed in bilateral talks with the United States alone, excluding the Republic of Korea which represents two-thirds of the Korean population.

North Korea's proposals are designed not to promote peace but to isolate our ally, to precipitate unilateral American withdrawal and to dissolve the existing legal arrangements into amorphous general negotiations.

The United States will never accept such proposals. No nation that truly believes in peace should support them; no country interested in genuine non-alignment should lend itself to so one-sided an approach.

We do not maintain that present arrangements in the Korean Peninsula must remain forever frozen. On the contrary, the United States favors new negotiations to promote security and to ease tensions there. We are prepared to discuss a new legal basis for the existing armistice. We are also ready to replace the armistice with more permanent arrangements.

But this Administration cannot, and will not, negotiate behind the back of our South Korean ally over issues which affect its very existence.

Nor will the United States agree to terminate the U.N. Command without new arrangements which preserve the integrity of the armistice agreement—the only existing legal arrangement which commits the parties concerned to keep the peace—or which establish a new permanent legal basis. And the United States will not undermine stability and hopes for negotiation by withdrawing its forces unilaterally.

The United States position with respect to Korea is clear:

First, we urge a resumption of serious discussions between North and South Korea.

Second, if North Korea's allies are prepared to improve their relations with South Korea, then and only then, will we be prepared to take similar steps toward North Korea.

Third, we continue to support proposals that the United Nations open its doors to full membership for South and North Korea without prejudice to their eventual reunification.

Finally, we are prepared to negotiate a new basis for the armistice or to replace it with more permanent arrangements in any form acceptable to all the parties.

In this spirit, we proposed last September a conference including North and South Korea, the United States and the People's Republic of China—the parties most immediately concerned—to discuss ways of preserving the armistice agreement and of reducing tensions in Korea. We noted that in such a meeting we would be ready to explore possibilities for a larger conference to negotiate more fundamental and durable arrangements.

Today, President Ford has asked me to call again for such a conference.

Specifically, the United States Government is prepared to meet with South Korea, North Korea and the People's Republic of China during the coming session of the United Nations General Assembly. We propose New York, but we are ready to consider some other mutually agreeable place. We are willing to begin immediate discussions on issues of procedure and site. Such a conference could provide a new legal structure for the armistice if the parties agree. It could replace it with more permanent arrangements. It could ease tensions throughout Asia.

We urge other parties to respond affirmatively. Any nation genuinely interested in peace on the Peninsula should be prepared to sit down and talk with the other parties on ways to improve the existing situation.

Southeast Asia, as much as Northeast Asia, requires our careful attention. Indochina, an arena of war for generations, has yet to find a positive and peaceful role. Viet-Nam has been unified by force, pro-

ducing a new and strong power in the region, and communist regimes have taken over in Laos and Cambodia. The relations of the Indochinese states with one another are unsettled and unclear, as are Hanoi's longer term ambitions. Our policy is designed to bolster the independence of our friends, encourage the restraint of former foes, and help chart a more constructive pattern of relations wtihin the region.

We have said on many occasions that for us the Indochina war is over. We are prepared to look to the future; we are willing to discuss outstanding issues; we stand ready to reciprocate gestures of good will. We have conveyed our willingness to open discussions with the Vietnamese authorities, with both sides free to raise any issues they wish.

For us the Americans missing in action remain the principal concern. Let there be no mistake: there can be no progress toward improved relations with Hanoi without a wholly satisfactory accounting for these men. Nor will we yield to cynical efforts to use the anguish of American families to extort economic aid. If the Vietnamese meet our concerns for the missing in action and exhibit restraint toward their neighbors, they will find us ready to reciprocate and to join in the search for ways to turn a new page in our relations.

NEW PATTERNS OF COOPERATION

Beyond security, beyond the imperative of easing tensions, lies a new dimension of international relations—to help shape a global structure that responds to the aspirations of peoples and assures our children a world of prosperity, justice and hope. We must meet this challenge because:

There cannot be enduring tranquility in a world scarred by injustice, resentment and deprivation;

There cannot be assured prosperity in a world of economic warfare and failed development; and

There cannot be an enduring international order in a world in which millions are estranged from decisions and practices which determine their national well-being.

As the world's strongest economy, the United States has accepted responsibility for leadership in this agenda of interdependence. In many international forums over several years, we have put forth comprehensive initiatives to produce concrete progress on the most compelling issues of our interdependent world: food, energy, commodities, trade, technology, the environment, and the uses of mankind's last frontiers, the oceans and outer space.

Nowhere are the possibilities and benefits of economic cooperation greater than in Asia. The record of developing countries in Asia is extraordinary. Most grew at annual rates of six to seven percent a year for the entire decade prior to the 1973 oil embargo; Asian economies have flourished, even in the face of global recession.

The secret of their economic performance is no mystery. Rich in natural resources, fertile land and industrious people, East Asia—with few exceptions—is not burdened with massive overpopulation. Most countries in the area possess talented entrepreneurs and skilled administrators; most governments have rejected the confining straitjacket of statist economic practices; virtually all provide a hospitable climate for foreign investment.

If growth and vitality are a common feature, the developing nations of Asia otherwise reflect a considerable diversity. Some, despite abundant resources, remain among the world's poorest in terms of per capita income. Others are rapidly approaching the ranks of the advanced nations. Some export principally raw materials and foodstuffs, while others have joined Japan as industrial workshops for the world.

Although the impulse for regional integration is apparent, the Asian-Pacific market economy is open and accessible to the world. The United States, Japan and others supply capital, market, management skills and technology. We in turn obtain from the developing countries of Asia reliable supplies of important raw materials, fair treatment of our investments and expanding markets for our trade.

Economic development does not automatically ensure tranquility between states or within them. But it can enhance the ability of governments to obtain public support, strengthen the legitimacy of institutions, and consolidate national independence. These factors are of particular importance for Asian nations beset—as they often are—by the problems of national building and domestic dissidence.

Cooperative relations between the industrialized nations and the developing nations of Asia are both inescapable and vital.

The United States and the developing nations of Asia share important interests:

We should both value an international economic system which ensures steady, noninflationary growth and expands the opportunities of our citizens.

We must both recognize that if economic development is to strengthen stability, it must enhance national self-reliance. The developing nations of Asia need concessional foreign assistance far less than support for their efforts to participate in the international economy on a more equal footing.

We must deal with each other on the basis of parity and dignity, seeking responsible progress on issues, to liberalize trade, to expand investment opportunities, and to transfer technology.

We must cooperate to improve the effectiveness of established institutions such as the Asian Development Bank. We must be ready to create new instruments—for example, the proposed International Resources Bank—to address the new range of issues in the field of commodities.

The nations bordering the Pacific have an opportunity to usher in an era of cooperation which will enhance the prosperity of their peoples and give an impetus to the well-being of mankind.

AMERICA'S STRENGTH AND SPIRIT

Three times in the past 35 years many thousands of American lives have been lost in wars on the Asian continent. For us World War II began and ended there. A blatant communist attempt to conquer Korea was defeated there. And the tragedy of Viet-Nam, with its 50,000 dead and the wave of bitterness it created her at home, was played out there.

It must not happen again. It will not happen again if America's policy, profiting from the past, takes charge of its future, making aggression too costly to attempt and peace too tempting to reject.

Our greatest challenge abroad is to continue to act on the knowledge that neither peace nor prosperity—for ourselves or anyone else on our small planet—is possible without the wisdom and the continuing active involvement of the United States. Our size, our economy, our strength and our principles leave us no alternative but to be concerned with events in the world around us.

Our greatest foreign policy need at home is steadiness, cohesion and a realization that in shaping foreign policy we are engaged in an enterprise beyond party and not bounded by our electoral cycles. Today, Americans—of whatever party or political conviction—can have confidence that their country, as always, has the substance and the strength to do its duty:

We have the military and economic power together with our allies to maintain the balance of stability upon which global peace must rest.

We have the wisdom to see that an enduring peace requires dedicated and realistic measures to reduce tension.

And we have the vision to fashion new relationships among all nations in an interdependent world, to work toward a true and lasting world community.

The bond between America's spirit and America's achievement, between her courage and her responsibility was expressed by a great poet here in Seattle. As Theodore Roethke said:

"I feel my fate in what I cannot fear.
I learn by going where I have to go."

That is the American way. We are a people accustomed to, and capable of, forging our own destiny. We are ready, as Americans always have been ready, to face the future without fear. We shall go where we have to go. We shall do what we have to do.

The ACTING PRESIDENT pro tempore. Does the majority leader seek further recognition?

Mr. MANSFIELD. No.

Mr. GRIFFIN. Mr. President, I yield back the time for the minority.

ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order there will now be a period for the transaction of routine morning business of not to exceed 30 minutes, with statements therein limited to 5 minutes each.

MESSAGES FROM THE PRESIDENT

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

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore laid before the Senate message from the President of the United States submitting sundry nominations which were referred to the Committee on Armed Services.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

ENROLLED BILL SIGNED

At 10:17 a.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the Speaker has signed the enrolled bill (S. 2054) to amend sections 203 and 204 of the Communications Act of 1934.

The enrolled bill was subsequently signed by the President pro tempore.

At 2:24 p.m., a message from the House of Representatives delivered by Mr. Hackney, one of its reading clerks, an-

nounced that the House disagrees to the amendments of the Senate to the bill (H.R. 8410) to amend the Packers and Stockyards Act of 1921, as amended, and for other purposes; requests a conference with the Senate on the disagreeing votes of the two Houses thereon; and that Mr. POAGE, Mr. MELCHER, Mr. BERGLAND, Mr. WEAVER, Mr. HARKIN, Mr. HIGHTOWER, Mr. BEDELL, Mr. SEBELIUS, Mr. THONE, and Mr. SYMMS were appointed managers of the conference on the part of the House.

The message also announced that the House has passed the bill (S. 521) to increase the supply of energy in the United States from the Outer Continental Shelf; to amend the Outer Continental Shelf Lands Act; and for other purposes, with amendments in which it requests the concurrence of the Senate.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

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

PROPOSED LEGISLATION BY THE DEPARTMENT OF THE NAVY

Two letters from the Secretary of the Navy transmitting a draft of proposed legislation to approve the sale of certain naval vessels and for other purposes (with accompanying papers); to the Committee on Armed Services.

REPORT OF THE SPECIAL REPRESENTATIVES FOR TRADE NEGOTIATIONS

A letter from the Special Representative for Trade Negotiations transmitting, pursuant to law, a report summarizing reviews and hearings conducted during the preceding 6-month period (with accompanying papers); to the Committee on Finance.

REPORT OF THE COMPTROLLER GENERAL

A letter from the Comptroller General transmitting, pursuant to law, a report entitled "Better Controls Needed Over Biomedical Research Supported by the National Institutes of Health" (with an accompany report); to the Committee on Government Operations.

REPORT OF THE OFFICE OF WATER RESEARCH AND TECHNOLOGY

A letter from the Deputy Assistant Secretary of the Interior transmitting, pursuant to law, the 1975 annual report of the activities and accomplishments of the Office of Water Research and Technology (with an accompanying report); to the Committee on Interior and Insular Affairs.

NOTICE OF MEETINGS RELATED TO THE INTERNATIONAL ENERGY PROGRAM

A letter from the Assistant General Counsel of the Federal Energy Administration transmitting, pursuant to law, a copy of a notice of meetings related to the International Energy Program (with accompanying papers); to the Committee on Interior and Insular Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. ROBERT C. BYRD, from the Committee on the Judiciary, without amendment:

H.R. 1762. An act for the relief of Mrs. Lessie Edwards (Rept. No. 94–1049).

By Mr. MUSKIE, from the Committee on the Budget, without amendment:

S. Res. 488. A resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 13359 (Rept. No. 94–1050).

By Mr. MATHIAS, from the Committee on the Judiciary, without amendment:

H.R. 1558. An act for the relief of Doctor Gernot M. R. Winkler (Rept. No. 94–1051).

ELECTRIC AND HYBRID VEHICLE RESEARCH, DEVELOPMENT, AND DEMONSTRATION ACT OF 1976—CONFERENCE REPORT—(REPT. NO. 94–1048)

Mr. MOSS submitted a report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 8800) to authorize in the Energy Research and Development Administration a Federal program of research, development, and demonstration designed to promote electric vehicle technologies and to demonstrate the commercial feasibility of electric vehicles, which was ordered to be printed.

TAX REFORM ACT OF 1976—SUPPLEMENTAL REPORT—(REPT. NO. 94–938, PT. 2)

Mr. LONG, from the Committee on Finance, submitted a supplemental report on an additional committee amendment (amendment No. 2082) to be proposed to the bill (H.R. 10612) to reform the tax laws of the United States, which was ordered to be printed.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that today, July 22, 1976, he presented to the President of the United States the enrolled bill (S. 2054) to amend sections 203 and 204 of the Communications Act of 1934.

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. HUMPHREY (for himself and Mr. PERCY):

S. 3693. A bill to declare a national policy on investment in the private sector of the U.S. economy. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. ABOUREZK:

S. 3694. A bill to prohibit the Secretary of Agriculture from assessing additional charges against farmers and stockmen for livestock feed furnished them under section 407 of the Agricultural Act of 1949 in connection with any natural disaster which occurred in 1975. Referred to the Committee on Agriculture and Forestry.

By Mr. ABOUREZK:

S. 3695. A bill to authorize the Secretary of Commerce to enhance and validate certain export expansion activities. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. PHILIP A. HART:

S. 3696. A bill for the relief of Je-An Pak and his wife, Soon-Pyo Pak. Referred to the Committee on the Judiciary.

By Mr. ABOUREZK (for himself and Mr. MCGOVERN):

S. 3697. A bill to assist farmers and ranchers to replace foundation herds of cattle such farmers and ranchers are forced to sell as the result of natural disasters. Referred to the Committee on Agriculture and Forestry.

By Mr. BURDICK:

S. 3698. A bill to amend title 5 of the United States Code to provide for the award of attorney's fees to Federal employees in certain proceedings. Referred to the Committee on Post Office and Civil Service.

By Mr. PROXMIRE:

S. 3699. A bill to amend the Truth in Lending Act, the Federal Trade Commission Act, and the Equal Credit Opportunity Act. Referred to the Committee on Banking, Housing and Urban Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HUMPHREY (for himself and Mr. PERCY):

S. 3693. A bill to declare a national policy on investment in the private sector of the U.S. economy. Referred to the Committee on Banking, Housing and Urban Affairs.

THE INVESTMENT POLICY ACT OF 1976

Mr. HUMPHREY. Mr. President, a vast majority of the people in this country, irrespective of political affiliation or their place in the economy, are in basic agreement on certain fundamental aspects of our free enterprise system. One of these basic tenets is the importance of capital investment in the private sector. It is also a matter of general agreement that in order for our system to function and our country to prosper, there must exist sufficient incentive to induce adequate levels of capital investment.

It is only when one begins to get into the specifics of incentives themselves, and the wisdom and timing of various alternatives in this regard, that we reach areas of great controversy. Despite the apparent unanimity on the basic and fundamental proposition and its importance to the Nation as a starting point in the formulation of policy, there never has been any official enunciation or recognition of the vitally important underlying policy itself. I feel that this is an oversight and that it should be corrected by a legislative statement of national policy.

During the postwar reconstruction period of 1946, the Congress and the administration recognized the need to legislate a national policy for continuing high levels of employment and production in a free and competitive economy. The original legislation as passed by the Senate stated that it was the "responsibility of the Federal Government to foster free competitive private enterprise and the investment of private capital." Unfortunately, the emphasis on investment was deleted during conference. As a result, the National Policy on Employment, enacted into law on February 20, 1946 known as the Employment Act of 1946, concerns itself with employment, production, and purchasing power without explicitly recognizing that an investment policy is necessary in accomplishing the stated goals.

As the country's economy continued to expand in the intervening years, Congress was content to go along with the status quo, dealing with specific problems as they arose. However, the dismal performance of the U.S. economy during the last few years has caused many persons in and out of Government to reassess some of the fundamental aspects of our so-called free enterprise system and what makes it work. The staff of the Joint Committee on Internal Revenue Taxation recently produced a scholarly review entitled, "Capital Formation." This study points up the need for new and sound policies to insure increased investment in the private sector, reviews the past performance of the economy, and the various proposals on investment incentives which have been advanced. While the study does not specifically call for a statement of basic policy such as herein proposed, it certainly demonstrates that such a need exists.

As an aid to the national dialog, which will continue on specific incentive measures, it is necessary and appropriate to put first things first and to establish a basic National Investment Policy.

The bill I am introducing today has been drafted for this purpose. No new agencies are created or additional expenditures required by this legislation. It states important national policy. It further requires the President and his Council of Economic Advisers to focus on this policy in their recommendations and reports to the Congress, and calls for the cooperation and coordination of the Federal agencies in carrying out the policy objectives set forth.

Mr. President, I am hopeful that this bill will be given a high priority on the legislative schedule for enactment in this session of the Congress.

Mr. PERCY. Mr. President, I am delighted to join the distinguished Senator from Minnesota (Mr. HUMPHREY) in introducing the Investment Policy Act of 1976. This measure will, for the first time in our history, declare a national policy in support of sufficient incentives to assure maximum investment in private enterprise.

Neither the need for capital investment, nor the knowledge of that need, are new. But many economic analysts indicate the need will grow to critical proportions over the next decade, and both the executive and legislative branches must begin to grapple with the difficult question of how the necessary levels of investment in the private sector can best be reached.

The Joint Economic Committee, under the chairmanship of Senator HUMPHREY, held hearings on June 9 of this year on potential shortages in the productive capacity and financial capital that will be required to maintain the economic upswing and accommodate our growing work force. The hearings made an important contribution by demonstrating the level of concern about existing and potential effects of Government policy on investment in the private sector. More important, they demonstrated divergence of expert opinion on the ideal Government policy in this area.

To achieve full employment during the next 10 years, we will need at least 19 million new jobs. A large percentage of investment during this period—it was 62 percent during the decade of the sixties—must be devoted solely to replacing and modernizing existing equipment, meeting environmental standards, providing safer workplaces, and financing other expenditures that maintain and improve the quality of our lives. Adequate investment is the key to attaining the level of productivity necessary to meet these goals.

For the past decade I have worked with the Treasury Department, the Senate Finance Committee, and the House Ways and Means Committee to make our depreciation and amortization schedules more realistic and to make permanent and adequate the investment tax credit.

We must not be lulled into complacency now by the existence of excess capacity in industry at this particular point in time. The economy is on a steady upward track. Today's excess can quickly turn into the large production bottlenecks that occurred in 1973 and lead to spiraling price increases.

The Investment Policy Act will assist in avoiding this potential pitfall. It will make assessment of our capital needs and the development of Government policies to meet them a national priority.

Mr. President, I urge early action on this legislation.

By Mr. ABOUREZK:

S. 3695. A bill to authorize the Secretary of Commerce to enhance and validate certain export expansion activities. Referred to the Committee on Banking, Housing and Urban Affairs.

Mr. ABOUREZK. Mr. President, the bill which I am introducing today, if enacted, would greatly reform the State export data collection system in the United States.

State export promotion agencies are currently forced to use, in some cases, figures that have been outdated for many years. Also, because the territory of the Department of Commerce's field offices are often irregular, many opportunities for coordination between the field offices and State agencies are lost.

The legislation I am introducing today would direct the Secretary of Commerce to establish and implement a procedure to insure that each shipper's export declaration contains the address and state origin of each exporter. This information would then be disseminated on a semiannual basis. This more accurate and timely information would be a great asset for State export promotion agencies in their quests for additional markets.

Also, this legislation would direct the Secretary of Commerce to make the necessary adjustments in field office boundaries of the Department of Commerce, so that they are contained by State boundaries. In the case of less populated States, two or more States could be served by the same field office. This would be a great help in coordinating efforts between the Department of Commerce field offices and State and local agencies.

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

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

S. 3695

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 "Professional and Technical Assistance to Exporting Act of 1976."

FINDINGS AND PURPOSE

SEC. 2. The Congress finds—

(1) that foreign trade contributes to the economic welfare of all participating nations and to the standard of living of citizens of those nations;

(2) that the expansion of this Nation's exports is urgently needed to enable the United States to carry out its international responsibilities, to finance imports, to stimulate domestic employment, and to permit the pursuit of policies fostering international trade which benefits its citizens and the citizens of all participating nations; and

(3) that the proper role of government in achieving export expansion is to provide, where necessary, appropriate numbers of professional personnel as well as accurate measurements facilities and procedures to determine progress toward increasing exports.

DEFINITIONS

SEC. 3. As used in this Act, the term—

(1) "United States" means the several states, the District of Columbia, the Commonwealth of Puerto Rico, the insular possessions, and the Panama Canal Zone;

(2) "Secretary" means the Secretary of Commerce;

(3) "field office" means a regional or district field office of the Department of Commerce which is responsible for promoting domestic and international commerce and which is located in the United States.

EXPORT MEASUREMENT

SEC. 4. (a) To measure adequately the progress of the export expansion programs carried out by the Secretary, more accurate and definitive measurements than those already in use must be established and implemented.

(b) The Secretary shall establish and implement a procedure within the Bureau of Census of the Department of Commerce to insure that each shipper's export declaration contains the address (including the State) of the exporter. Total exports for each State, by country of destination and by schedule B commodity groups, will be compiled in a semi-annual report for each of the field office areas established under section 5.

(c) An evaluation of the measurement program established under this section shall be carried out by the Office of Field Operations, Department of Commerce, in cooperation with its field offices. Not later than eighteen months after the date of enactment of this Act, the Secretary shall transmit a report on such evaluation to the Congress including therein information on the implementation of such procedures, an analysis of results, and recommendations as to improvements.

(d) To carry out the purposes of this section, there are authorized to be appropriated not to exceed $500,000 for the fiscal year ending June 30, 1978.

FIELD STRUCTURE

SEC. 5. (a) The Secretary shall make such adjustments as may be necessary to conform the area served by each field office to the boundaries of a State (or of two or more contiguous States in the case of States which have small populations).

(b) For the purpose of carrying out the provisions of this section, there is authorized to be appropriated not to exceed $100,000 for the fiscal year ending June 30, 1977, except that more of the funds authorized under this subsection shall be available for any employee occupying a position not established or recognized by law.

By Mr. ABOUREZK (for himself and Mr. McGOVERN):

S. 3697. A bill to assist farmers and ranchers to replace foundation herds of cattle such farmers and ranchers are forced to sell as the result of natural disasters. Referred to the Committee on Agriculture and Forestry.

THE EMERGENCY LIVESTOCK REPLACEMENT ACT

Mr. ABOUREZK. Mr. President, I am introducing a bill today, along with my distinguished colleague, Senator GEORGE McGOVERN, entitled the Emergency Livestock Replacement Act. The bill would provide direct assistance to farmers who are forced to sell their most valuable livestock as a result of a natural disaster.

This year, people living in the upper Midwest have experienced one of the severest droughts that area has ever known. Most crop and weather experts have called it one of the worst in history and second only to the disastrous years of the 1930's. According to State agriculture officials, the effect of this drought has been almost a complete loss of crops in the affected areas resulting in financial losses totaling nearly a billion dollars.

In addition to crop farmers, those hardest hit have been the livestock producers. Pastures have dried up and withered away with the lack of adequate rain. Hay is so scarce that farmers are traveling hundreds of miles to obtain adequate feed. Fortunately, the South Dakota Farmers Union and other farmers unions in the upper Midwest have taken it upon themselves to locate available hay out of their States and have provided information to farmers on the location and availability of hay. But hay is extremely scarce.

South Dakota Lt. Gov. Harvey Wollman announced recently that if we are to sustain the present livestock numbers, an additional 2.5 million tons of hay will be required this year. Even if the hay is located, however, the problem is not solved. According to the most recent reports, hay is selling for up to $100 a ton, and additional transportation costs have been ranging from $25 to $35. Fortunately, the railroads have agreed to lower their freight rates for the shipment of hay and the Federal Government is subsidizing the farmers for two-thirds the cost of the shipment of hay up to $27 per ton.

But, this has not been enough to make the difference. If the average rancher is forced to locate and purchase hay at $70 a ton including transportation costs, his costs per cow will reach more than $250 for feed alone assuming he needs approximately 3½ tons per cow which, as I understand it, is a conservative estimate.

Faced with such stark facts about the incredible costs of keeping their herds, farmers are now selling off their cattle at an incredible rate. In fact, sales volumes are so high that livestock auctions are now limiting the number of cattle an individual can bring in.

According to the most recent statistics, State exports of beef during the month of June increased a phenomenal 45 percent over the same month 1 year ago. A total of 75,025 head were exported from South Dakota during June 1975. This year that figure skyrocketed to 110,082 head. Of course, these figures do not even take into account the thousands of head which are slaughtered within the State. Certainly, the percentage would then be even greater.

With this incredible volume, the price is naturally severely depressed. According to State agriculture officials, the average market price has plummeted by more than $30 a head.

Farmers are losing money either way they go. If they try to hold on to the cattle, they are faced with highly inflated feed prices. If they sell the cattle, they sacrifice an unacceptable cut in the market price. And when it comes to replacing those cattle after the drought ends, they are going to be forced to pay out a significant amount of money in the margin between what they got when they sold and what they had to pay when they bought back.

Mr. President, this situation has brought me to the realization that a program was needed to provide farmers certain assistance during times of disaster to help alleviate this problem. The legislation I am introducing today is designed to do that.

Under my legislation, the program would go into effect upon the President's designation of the area as a disaster. It would continue for a period of 2 years following that disaster designation. The Agricultural Stabilization and Conservation Service—ASCS—will be responsible for the administration of the program.

The program would limit each farmer or rancher to 100 head and would be available to all farmers without regard to their present financial status.

Following the disaster designation, upon the request of the farmer, the ASCS appraiser would visit a farm to establish a written appraisal for the cattle to be sold. The receipt of sale would be filed with the ASCS for certification. At any time during the 2 years following the date of the disaster designation, a farmer can purchase cattle for replacement purposes. After purchase, the ASCS would again appraise the newly purchased cattle to determine comparability to those the farmer is replacing. If the producer was required to pay more for comparable cattle at the time of repurchase, the U.S. Department of Agriculture would reimburse the farmer for the difference.

Basically, the legislation would create an insurance program for livestock producers faced with the disastrous circumstances resulting from natural disasters such as the drought we have experienced this year.

I sincerely hope that the Congress will consider this bill at the earliest possible moment. Our farmers simply cannot stand to continue to lose the phenomenal financial losses which they have for much longer.

Mr. President, I ask unanimous consent that the text of the Emergency Livestock Replacement Act be printed in the RECORD.

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

S. 3697

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 "Emergency Livestock Replacement Act".

SEC. 2. (a) Whenever the Secretary of Agriculture (hereinafter in this Act referred to as the "Secretary") determines that the farmers and ranchers in any area of the United States cannot, without extreme financial hardship, continue to maintain their foundation herds of cattle as the result of a natural disaster in such area, the Secretary is authorized to designate such area as a disaster area for purposes of this Act and to provide the farmers and ranchers in such area with foundation herd indemnification protection as hereinafter authorized.

(b) Any farmer or rancher in any area so designated by the Secretary may obtain foundation herd indemnification protection by filing a written application therefor with the Secretary in such manner as the Secretary shall prescribe.

(c) As soon as practicable after any farmer or rancher has filed an application with the Secretary for foundation herd indemnification protection under this Act, the Secretary shall make a written appraisal of the dollar value of the foundation herd of cattle designated by such farmer or rancher. In no event shall the designated foundation herd consist of more than 100 head of cattle.

(d) In order to be eligible for the foundation herd indemnification protection provided for in this Act a farmer or rancher must sell the foundation herd designated by him within 15 days after the date of the appraisal of such herd by the Secretary. If a farmer or rancher fails to sell such designated foundation herd within such 15 day period he may obtain a new appraisal by the Secretary.

SEC. 4. (1) Any farmer or rancher in any area designated as a disaster area for purposes of this Act who makes application for and is granted foundation herd indemnification protection under this Act and who purchases a replacement foundation herd of cattle within two years after the date on which such area is designated a disaster area for purposes of this Act shall be paid a replacement payment as provided in paragraph (2).

(2) The amount of the replacement payment paid to any farmer or rancher in any case shall be an amount equal to the difference between the amount such farmer or rancher had to pay to obtain a replacement foundation herd and the Secretary's appraised dollar value of the foundation herd sold by such farmer or rancher; but a farmer or rancher shall be entitled to a replacement payment only (A) to the extent that the amount paid for the replacement herd exceeds the Secretary's appraised dollar value of the foundation herd sold by the farmer or rancher, and (B) in an amount necessary to purchase a replacement foundation herd of a quality and quantity comparable to the foundation herd sold by the farmer or rancher.

(b) In no event shall the Secretary pay any amount in excess of an amount which is more than —— per centum greater than the appraised dollar value of the foundation herd of cattle sold by the farmer or rancher.

SEC. 5. The Secretary is authorized to issue such regulations as may be necessary to carry out the provisions of this Act.

SEC. 6. There are authorized to be appro-

priated such sums as may be necessary to carry out this Act.

SEC. 7. This Act shall become effective October 1, 1977.

By Mr. PROXMIRE:

S. 3699. A bill to amend the Truth in Lending Act, the Federal Trade Commission Act, and the Equal Credit Opportunity Act. Referred to the Committee on Banking, Housing and Urban Affairs.

Mr. PROXMIRE. Mr. President, I am today introducing a bill to implement the recent recommendations of the Federal Reserve Board for amendments to the Truth in Lending Act. The accompanying letters from the Board explain those recommendations in greater detail.

These proposals appear to be constructive suggestions for improvement and clarification of the act, and I believe they deserve public presentation and discussion. Among them are provisions of real potential benefit to consumers. The bill would require inclusion of credit insurance premiums in the disclosed finance charge unless consumers were given an unqualified right to cancel the insurance coverage. The bill would also extend the protections now enjoyed by credit card holders, with respect to liability for unauthorized use, to the holders of noncredit fund transfer cards used increasingly in EFT systems.

As the sponsor of the original Truth in Lending Act I am becoming more and more concerned that its beneficial purposes are being frustrated by unnecessarily complex disclosure requirements which consumers may ignore or fail to understand.

In addition, the very complexity of the requirements may impose significant costs and other burdens on creditors despite their good faith efforts to comply with the law. I would therefore hope that this bill will spur even further thought by interested parties on ways to make truth in lending more efficient and effective.

I note in particular that the Federal Reserve Board, in correspondence transmitting these recommendations, identifies four areas in which the Truth in Lending Act might be substantially simplified. These include further reduction of specific disclosure requirements, total preemption of similar State laws, elimination of the act's coverage of agricultural credit, and limiting the penalty provisions of the act to those violations that constitute material misstatements of credit terms.

This bill does not include provisions to implement these four suggestions, for I believe they are controversial and need careful study. But I am encouraged that the Board is devoting its attention to this subject, and am hopeful these suggestions will in time generate fruitful legislative proposals.

Mr. President, I am not committed wholeheartedly to the provisions of this bill at this time. We will want to give them a careful review through hearings, so that all those affected by them can comment. But I repeat my belief that these are constructive proposals, and my conviction that they merit serious attention.

I ask unanimous consent that two letters from the Federal Reserve Board, and the text of the bill, be printed in the RECORD.

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

S. 3699

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

Sec. 1. Definitions

(a) Section 103 of the Truth in Lending Act (15 U.S.C. 1602) is amended—

(1) by inserting "credit" following "include" in the second sentence of subsection (f);

(2) by striking the comma following "credit card" in subsections (j) and (n) and inserting in lieu thereof "or funds transfer card,";

(3) by inserting "or funds transfer card" following "credit card" the first time it is used in subsections (m) and (o); and

(4) by striking "credit" the first time it appears in subsection (1), by inserting "or funds transfer card" following "card" the second time it appears in such subsection, and by striking the period at the end of such subsection and adding at the end thereof the following: ", or for transferring funds into, out of, or between accounts of the cardholder without effecting an extension of credit."

(b) Section 103 of such Act (15 U.S.C. 1602) is amended by adding at the end thereof a new subsection as follows:

"(s) The term "funds transfer card" means any card or device existing solely for the purpose of transferring funds into, out of, or between accounts of the cardholder without effecting an extension of credit."

Sec. 2. Voluntary credit insurance

(a) Section 106(b) of the Truth in Lending Act (15 U.S.C. 1605(b)) is amended—

(1) by striking "and" the second time it appears in paragraph (1); and

(2) by striking the period at the end of paragraph (2) and adding "; and" in lieu thereof.

(b) Section 106(b) of such Act (15 U.S.C. 1605(b)) is amended by adding at the end thereof a new paragraph as follows:

"(3) the debtor is given fifteen days after consummation of the transaction to cancel the insurance and receive a full refund of any premiums paid."

(c) Sec. 106(d) of the Truth in Lending Act (15 U.S.C. 1605(d)) is amended to read as follows:

"(d) The following items shall not be included in the computation of the finance charge with respect to any transaction:

"(1) Fees and charges prescribed by law which actually are or will be paid to public officials for determining the existence of or for perfecting or releasing or satisfying any security related to the credit transaction.

"(2) The premium payable for any insurance in lieu of perfecting any security interest otherwise required by the creditor in connection with the transaction, if the premium does not exceed the fees and charges described in paragraph (1) which would otherwise be payable.

"(3) Taxes.

"(4) Any other type of charge which is not for credit and the exclusion of which from the finance charge is approved by the Board by regulation."

Sec. 3. Timing of annual report

Section 114 of the Truth in Lending Act (15 U.S.C. 1613) is amended by striking "Not later than January 3 of" and "after 1969,", and by capitalizing "each" the first time it appears in such section.

Sec. 4. Right of rescission

Section 125(a) of the Truth in Lending Act (15 U.S.C. 1635(a)) is amended by striking "residence" and inserting "dwelling" in lieu thereof.

Sec. 5. Voluntary periodic statements

Chapter 2 of the Truth in Lending Act (15 U.S.C. 1631–1645) is amended by striking § 126 (15 U.S.C. 1636) entirely.

Sec. 6. Comparative index of credit costs

Section 127 of the Truth in Lending Act (15 U.S.C. 1637) is amended by striking paragraph (5) and by redesignating paragraphs (6), (7), and (8) as paragraphs (5), (6), and (7), respectively.

Sec. 7. Sales not under open end credit plans; charges payable in event of late payment or delinquency

(c) Section 128(a)(9) of the Truth in Lending Act (15 U.S.C. 1638(a)(9)) is amended to read as follows:

"(9) Any charges payable in the event of late payments or delinquency."

(b) Section 128(a)(10) of the Truth in Lending Act (15 U.S.C. 1638(a)(10)) is amended to read as follows:

"(10) A statement indicating that a security interest is taken in any property which is the subject of the extension of credit and a clear identification of any other property in which a security interest is held or is to be retained or acquired by the creditor in connection with the extension of credit."

Sec. 8. Consumer loans not under open end credit plans; charges payable in event of late payment or delinquency

(a) Section 129(a)(7) of the Truth in Lending Act (15 U.S.C. 1939(a)(7)) is amended to read as follows:

"(7) Any charges payable in the event of late payment or delinquency."

(b) Section 129(a)(8) of the Truth in Lending Act (15 U.S.C. 1639(a)(8) is amended to read as follows:

"(8) A statement indicating that a security interest is taken in any property which is acquired with the proceeds of the extension of credit and a clear identification of any other property in which a security interest is held or is to be retained or acquired by the creditor in connection with the extension of credit."

Sec. 9. Liability of Holder of Funds Transfer Card

(e) Section 133 of the Truth in Lending Act (15 U.S.C. 1643) is amended—

(1) by adding "or funds transfer card" to the end of the section title;

(2) by striking the comma following "credit card" each time it appears in subsection (b) and inserting "or funds transfer card," in lieu thereof;

(3) by inserting "or funds transfer card" following "credit card" in subsection (c); and

(4) by striking the period at the end of subsection (d) and adding "or funds transfer card." in lieu thereof.

(b) Section 133(a) of such Act (15 U.S.C. 1643(a)) is amended to read as follows:

"(a) A cardholder shall be liable for the unauthorized use of a credit card or funds transfer card only if the card is an accepted card; the liability is not in excess of $50; the card issuer gives adequate notice to the cardholder of the potential liability; the card issuer has provided the cardholder with a self-addressed, prestamped notification to be mailed by the cardholder in the event of the loss or theft of the card; the unauthorized use occurs before the cardholder has notified the card issuer that an unauthorized use of the card has occurred or may occur as the result of loss, theft, or otherwise; and the card issuer has provided a method whereby the user of such card can be identified as the person authorized to use it. For the purposes of this section, a cardholder notifies a card issuer by taking such steps as may be reasonably required in the ordinary course of business to provide the card issuer with

the pertinent information whether or not any particular officer, employee, or agent of the card issuer does in fact receive such information."

Sec. 10. Fraudulent use of funds transfer card

(a) Section 134 of the Truth in Lending Act (15 U.S.C. 1644) is amended—

(1) by inserting "or funds transfer card" at the end of the section title;

(2) by inserting "or funds transfer card" following "credit card" each time it appears in subsections (a), (b), (c), and (f);

(3) by striking the semi-colon following "credit card" in subsection (d) and inserting "or funds transfer card;" in lieu thereof; and

(4) by striking the semi-colon following "credit cards" in subsection (e) and inserting "or funds transfer cards;" in lieu thereof.

Sec. 11. Business funds transfer cards

(a) Section 135 of the Truth in Lending Act (15 U.S.C. 1645) is amended—

(1) by inserting "and funds transfer cards" at the end of the section title;

(2) by inserting "or funds transfer cards" following "credit cards" the first time it appears in such section; and

(3) by striking "credit" the second and third times it appears in such section.

AMENDMENTS TO THE FEDERAL TRADE COMMISSION ACT

Sec. 12. Timing of annual report

Section 18(f)(5) of the Federal Trade Commission Act (15 U.S.C. 58(f)(5)) is amended by striking "not later than March 15 of each year."

AMENDMENTS TO THE EQUAL CREDIT OPPORTUNITY ACT

Sec. 13. Timing of annual report

Section 707 of the Equal Credit Opportunity Act (15 U.S.C. 1691(f)) is amended by striking "Not later than February 1 of" and "after 1976," and by capitalizing "each" the first time it appears in such section.

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM,
Washington, D.C., July 16, 1976.

Hon. WILLIAM PROXMIRE,
Chairman, Committee on Banking, Housing and Urban Affairs, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Our letter of June 25 transmitted a draft bill encompassing a number of recommendations by the Board for simplifying changes in the Truth in Lending Act as a result of your request. After further review the Board now recommends three additional changes in the Act. A draft bill that would implemeht these changes is enclosed. The Board also suggests that your Committee study four additional areas for simplification, described below. The Board does not make unconditional recommendations in these four areas because simplification of the Act in these respects might result in loss of certain consumer protections. The Board believes that adoption of its recommendations for simplification would not deprive consumers of essential information needed to shop for credit or to understand their credit arrangement, such as the amount of credit, finance charge, annual percentage rate, and repayment terms.

The first recommendation for further simplification would eliminate the itemization of certain charges enumerated in Section 106 (d), which requires that such charges be disclosed if they are to be excluded from the finance charge. The Board believes that such itemization is not necessary for the protection of consumers. Section 106(e) does not contain an itemization requirement for similar charges in real property transactions in order to exclude them from the finance charge, and no problems seem to have arisen because of the lack of such a requirement.

The second recommendation would eliminate disclosure of the type of security taken in connection with a credit transaction. The Board believes that this disclosure, which is ordinarily couched in highly technical language, provides little, if any, useful information to the consumer in making a credit decision. It might alos be noted that this requirement has given rise to a considerable amount of litigation and may impose substantial burdens without concomitant consumer benefits.

The third recommendation would limit the requirements of Sections 128(a) and 129(a) regarding clear identification of property taken as security for a closed-end credit transaction to make it inapplicable to those items of property that are being purchased as part of the credit transaction. Since the property taken as security is usually limited to the item being purchased, this change would in most cases eliminate disclosure of a fact of which consumers are generally already aware.

The additional four areas that your Committee may wish to consider involve potential adverse impacts on consumers that should be weighed carefully against the benefits of simplification before Congress determines that such disclosures are eliminated. The first of these concerns preemption of inconsistent State laws, State exemptions, and the validity of laws providing greater consumer protection (Sections 111 (a), 123, and 171). The Board believes that the benefit from a preemption of all similar existing State laws in this area by the Federal statute may outweigh any loss of protection to consumers and would justify such action by Congress. In this respect, the drafters of the Uniform Consumer Credit Code, which was originally designed in part to afford States a basis for obtaining an exemption from Chapter 2 of the Truth in Lending Act, have abandoned that approach. The prefatory note to that Act states in part (at p. xxxiv):

"[T]his Act evidences the conclusion that Congress has preempted the field of disclosure and any attempt of States to remain in the field by enacting statutes and regulations of their own cause [sic] substantially more harm than good."

As an alternative to the adoption of substantially similar laws by a Sate, the Code would incorporte the Federal disclosure law by reference so as to provide a State with the authority to enforce the Federal law.

The second area that the Board questions involves enforcement of the Act. Much of the present complexity of the Act and Regulation Z reflects the impact of the civil liability considerations. The threat of severe penalties for relatively minor technical violations has led many creditors to seek greater certainty by requesting official Board amendments and interpretations, which further complicate the regulation. Although private causes of action provide an important enforcement tool for the Act, the Board believes that Congress should carefully review the present civil liability provisions to determine whether modifications in them might reduce needless litigation and the resulting regulatory complications.

The Board has taken one action and is considering another that may assist in reducing unnecessary litigation. The Board has adopted procedures implementing the provisions of Public Laws 94-222 and 94-239, which provide a defense for creditors relying upon letters issued by duly authorized officials of the Board in connection with Regulations B and Z. In addition, the Board is considering the development of standardized Truth in Lending disclosure forms, or portions of forms, on which creditors could rely in complying with the Act. These forms could prove especially beneficial to creditors, such as small retailers, who do not have access to, or cannot afford, specialized legal counsel to design their forms.

While these measures should to some extent reduce the present volume of litigation and alleviate confusion resulting from the complexity of the Act and the regulation, the Board urges that Congress also study the possibility of limiting the penalty provisions of the statute to violations that actually interfere with the consumer's ability to make meaningful comparisons of credit terms. Only a limited number of terms seem to be genuinely helpful in this regard. These probably include the annual percentage rate, the finance charge, the amount financed, and the repayment schedule. It may be that civil liability should be incurred only for material misstatements of these terms, leaving technical violations to be dealt with by administrative remedies. Under present law a creditor may be penalized for purely technical violations of which the consumer may have been unaware at the time and which in no way entered into the decision to accept or reject the credit terms offered. This situation lends itself to abuse and has overburdened some courts with Truth in Lending litigation.

The third area relates to Sections 128(a) and 129(a), which require, among other things, disclosure of certain terms and amounts used in determining the amount financed in closed-end credit transactions. By introducing a variety of terms and figures into the disclosures, these provisions certainly contribute to the length and complexity of the disclosures to consumers. However, they specify the mathematical progression to be used by the creditor in determining the amount financed and also provide information that consumers may find useful in understanding the terms of the credit transaction.

Fourth, your Committee may also wish to consider whether the coverage of credit for agricultural purposes within the scope of the Truth in Lending Act is necessary. Coverage of such credit has caused numerous complexities in Regulation Z. There is a question whether an Act designed to protect consumers should include a type of credit that is related primarily to business or commercial activity.

The suggestions mentioned have been developed through an extensive review of the Act's requirements performed by the Board's staff with the assistance of several outside consultants. This review related primarily to those provisions of Truth in Lending that were contained in the original Act and for the most part affect only closed end credit transactions. Each section of that Act was carefully examined as a candidate for elimination or modification, attempting to balance creditor burdens in providing the information with the consumer protections that the information provides. Of course, the provisions regarding open end credit are equally complex and certainly warrant further attention by Congress and the Board. Since the recent Fair Credit Billing Act amendments are so closely related to open end credit, however, we believe that proposals for simplification in this area should await further experience.

I hope that you will find this discussion useful in your continuing efforts in the field of consumer protection.

Sincerely yours,

STEPHEN S. GARDNER.

CHAIRMAN OF THE BOARD OF GOVERNORS, FEDERAL RESERVE SYSTEM,
Washington, D.C., June 25, 1976.

Hon. WILLIAM PROXMIRE,
Chairman, Committee on Banking, Housing and Urban Affairs, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: I am pleased to transmit with this letter a draft bill encompassing seven recommendations by the Board of Governors for improvement of the Truth in Lending Act. These recommendations appear in the Board's 62nd Annual Report in

which they are discussed in more detail. A staff study of the feasibility of more sweeping changes is nearing completion and we will forward to you the results of that study in the very near future.

The first recommendation would delete the requirement that creditors who choose to send periodic billing statements in connection with credit other than open-end credit include certain disclosures with such statements.

The second recommendation would amend Sections 128(a)(9) and 129(a)(7) of the Act to require disclosure only of charges payable in the event of delinquency or late payment and not of charges payable on default.

The third recommendation would eliminate from the Act Section 127(a)(5) under which creditors of open-end credit accounts are permitted to make an elaborate disclosure of "the average effective annual percentage rate of return received from accounts under the plan for a representative period of time."

The fourth recommendation would amend Section 125 of the Act so that the right of rescission would not apply to credit contracts involving a security interest in a vacant lot.

The fifth recommendation would provide that in order for credit insurance to be classified as voluntary, and its cost excluded from the finance charge, the creditor must grant an absolute right of insurance cancellation for a reasonable time after its purchase. If, within that time period, a customer decides that he or she does not want the credit insurance, the customer could cancel the insurance and receive a full refund of all premiums paid.

The sixth recommendation would expand the scope of Section 133 of the Truth in Lending Act, which applies a limitation on liability for unauthorized use of credit cards, to cover funds transfer cards as well. The scope of Section 134, which provides for fines of up to $10,000 and imprisonment for up to 10 years for fraudulent use of a credit card, would be expanded correspondingly to apply also to the fraudulent use of funds transfer cards.

A final recommendation would permit the Board to submit the annual reports required by the Truth in Lending Act, the Equal Credit Opportunity Act, and the Federal Trade Commission Act at the same time and as components of the Board of Governors' *Annual Report*.

The first recommendation would eliminate a requirement that creditors of closed-end credit who choose to send periodic billings include the annual percentage rate, the date by which payment must be made in order to avoid additional finance or other charges; and also include any other items that may be specified by the Board. Since there is no requirement that all creditors send such periodic statements, the rule seems to penalize those creditors who do send payment reminders and may discourage the sending of such statements. Elimination of this provision should have no serious negative impact on consumers.

The second recommendation would eliminate a requirement that has led to much litigation without, the Board believes, providing meaningful information for consumers. The reference to charges payable on "default" in Sections 127 and 128 could be construed to require disclosure of *any* charges assessed against a debtor in the event of a judgment. It might also be interpreted to include those charges that a debtor may have to pay on repossession of collateral. A number of courts have held recently that the act of acceleration of a detailed credit contract is a charge that requires disclosure.

The third recommendation would eliminate a statutory provision implemented by an entire section in Regulation Z which is rarely, if ever, used.

The fourth recommendation would eliminate the right of rescission in vacant lot transactions. The primary purpose of the right of recission is to give a consumer time in which to reconsider the important act of pledging a home as securing for a loan. It presently applies to transactions involving credit purchases of vacant lots that are intended ultimately to become the consumer's "residence". The Board does not feel that the same considerations for affording protection exist in such situations. Further the Interstate Land Sales Full Disclosure Act already gives the consumer a right of revocation for many such vacant lot transactions.

The fifth recommendation is supported by evidence from the Federal Trade Commission and the results of a university survey[1] indicating that penetration rates approaching 100 per cent are being achieved by certain creditors in the sale of optional credit life and disability insurance. These high penetration rates raise the possibility that some creditors may be leading borrowers to believe that insurance coverage is necessary to obtain their loans, despite disclosures to the contrary. The university survey found that nearly 20 per cent of those consumers who purchased credit life insurance and nearly 15 per cent of those who purchased credit disability insurance believed, either because of misrepresentation or misunderstanding, that the insurance was required to obtain credit. In light of this evidence, the Board feels that remedial legislation is warranted.

The sixth recommendation would standardize treatment of credit cards and funds transfer cards under the Act. At present, limitations on cardholder liability apply only to cards with a credit feature—for example, to cards used in automated teller machines which have overdraft privileges. Cards used in automated teller machines to transfer funds are not considered credit cards under the Act.

Unauthorized use of a funds transfer card can result in substantial loss of a cardholder's savings and checking balances. Consistency in the treatment of funds transfer and credit cards is also desirable in that it would help assuage consumer fears and facilitate public acceptance of non-credit cards to the benefit of both consumers and card issuers. Public acceptance of funds transfer cards would, in turn, advance acceptance of electronic funds transfer systems (EFTS).

In this latter connection, the Board would also suggest that Congress reconsider the continuing need for Section 132 of the Act which prohibits the unsolicited issuance of credit cards and has posed a marketing hurdle to the entry of new competition into the credit-card field. In the Board's view, the abuses that Congress sought to correct by this section can be cured effectively by Section 133, which prevents consumer liability for the unauthorized use of an *unaccepted* credit card. Further investigation by Congress may indicate that the prohibition on unsolicited issuance could be relaxed or eliminated with no adverse effect on consumers, thereby encouraging competition in the credit-card field.

The final recommendation would avoid duplication and fragmentation of effort by providing for unified submission of the annual reports required of the Board by Congress. This would replace present provisions under which the Truth in Lending Act report must be submitted by January 3, the Equal Credit Opportunity Act report by February 1, and the Federal Trade Commission Act report by March 15.

[1] *Consumer Credit Life and Disability Insurance*, edited by Charles Hubbard. The College of Business Administration, Ohio University, 1973.

A draft bill embodying the Board's recommendations is enclosed, along with an enclosure showing the changes in existing law which would be made by our proposals.

In the Board's view, prompt enactment of these recommendations would result in desirable improvement of the present provisions of the Truth in Lending Act, and of the procedures under which the Board is accountable to Congress for the discharge of its duties.

Sincerely yours,

ARTHUR F. BURNS.

ADDITIONAL COSPONSORS

S. 2020

At the request of Mr. RIBICOFF, the Senator from Rhode Island (Mr. PASTORE) was added as a cosponsor of S. 2020, to provide optometric coverage under Part B medicare payments.

S. 3319

At the request of Mr. GLENN, the Senator from Massachusetts (Mr. KENNEDY), the Senator from Minnesota (Mr. HUMPHREY), and the Senator from Colorado (Mr. GARY HART) were added as cosponsors of S. 3319, to amend the Emergency School Aid Act.

S. 3684

At the request of Mr. BAKER, the Senator from Missouri (Mr. EAGLETON) was added as a cosponsor of S. 3684, to amend the Federal Aviation Act of 1958, as amended.

SENATE RESOLUTION 448

Mr. ABOUREZK. Mr. President, last June 10, the Senate adopted Senate Resolution 448, a resolution urging U.S. policy with respect to Lebanon. During the debate on that legislation, the Senator from Ohio (Mr. TAFT) asked to be added as a cosponsor of the resolution, but was not.

I ask unanimous consent that the Senator from Ohio be added as a cosponsor of Senate Resolution 448. He has been active in this area, and I want the RECORD to reflect that he requested to be added at that time.

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

SENATE JOINT RESOLUTION 206

At the request of Mr. STONE, the Senator from Ohio (Mr. TAFT) and the Senator from West Virginia (Mr. RANDOLPH) were added as cosponsors of Senate Joint Resolution 206, proposing a National Leadership Conference on Energy Policy.

SENATE CONCURRENT RESOLUTION 131

At the request of Mr. ABOUREZK, the Senator from Iowa (Mr. CLARK) was added as a cosponsor of Senate Concurrent Resolution 131, relating to increases in social security benefits.

AMENDMENTS SUBMITTED FOR PRINTING

POSTAL REORGANIZATION ACT AMENDMENTS OF 1976—H.R. 8603

AMENDMENTS NOS. 2069 AND 2070

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

Mr. HELMS submitted two amendments intended to be proposed by him to the bill (H.R. 8603) to amend title 39, United States Code, with respect to the

organizational and financial matters of the United States Postal Service and the Postal Rate Commission, and for other purposes.

AMENDMENT NO. 2071

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

Mr. WILLIAMS submitted an amendment intended to be proposed by him to the bill (H.R. 8603), supra.

AMENDMENT NO. 2072

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

Mr. EAGLETON submitted an amendment intended to be proposed by him to the bill (H.R. 8603), supra.

AMENDMENTS NOS. 2079, 2080 AND 2081

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

Mr. HOLLINGS (for himself, Mr. ABOUREZK, Mr. CANNON, Mr. HATFIELD, Mr. HATHAWAY, Mr. MCGOVERN, and Mr. WEICKER) submitted three amendments intended to be proposed by them jointly to the bill (H.R. 8603), supra.

TAX REFORM ACT OF 1976—H.R. 10612

AMENDMENT NO. 2073

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

Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill (H.R. 10612) to reform the tax laws of the United States.

AMENDMENT NO. 2074

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

Mr. BROOKE submitted an amendment intended to be proposed by him to the bill (H.R. 10612), supra.

AMENDMENTS NOS. 2075, 2076, AND 2077

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

Mr. NELSON submitted three amendments intended to be proposed by him to the bill (H.R. 10612), supra.

AMENDMENT NO. 2082

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

Mr. LONG (on behalf of the Committee on Finance) submitted an amendment intended to be proposed to the bill (H.R. 10612), supra.

CLEAN AIR ACT AMENDMENTS OF 1976—S. 3219

AMENDMENT NO. 2078

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

Mr. NELSON. Mr. President, an amendment that I am submitting to the Clean Air Amendments of 1976 would ban, effective January 1, 1977, aerosol spray containers containing specific fluorocarbons known to be harmful to the atmosphere, unless the EPA finds that their continued use poses no unreasonable risk of injury to health or the environment.

We can no longer wait to take action to effectively reduce the threat to the environment and human health posed by continued emission of these fluorocarbon propellants. The evidence indicates that we must act promptly to protect the public health.

Some 55 studies have been, or are being conducted, which indicate that specific fluorocarbons deplete the ozone layer in the upper stratosphere, thereby reducing the protection to the Earth from dangerous ultra-violet radiation.

The National Academy of Sciences Committee on the Impact of Stratospheric Change, which has been studying the subject for several years, has prepared a report, recommending that nonessential uses of fluorocarbons in aerosol spray cans be eliminated, according to a panel member as reported in the Philadelphia Inquirer, March 19, 1976, and Business Week, April 5, 1976. Mr. President, I ask unanimous consent that the first article be printed in the RECORD following these remarks and printing of the amendment. The NAS study, due in August, 1976, involves participation by four agencies: NSF, EPA, NOAA, and NASA.

Here are the facts, as scientists have concluded:

Erosion of the ozone layer can cause increases in the incidence of skin cancer and mutation of plant life.

A petition filed by 10 States, the Natural Resources Defense Council, Inc., and Environmental Defense Fund, Inc., seeks to have Consumer Product Safety Commission declare that pressurized consumer products containing certain fluorocarbon propellants be banned as hazardous. The States participating in the petition are: Minnesota, New York, Michigan, Oregon, Wisconsin, New Hampshire, Colorado, Florida, Vermont, and Massachusetts. I ask unanimous consent that a Wall Street Journal article describing the petition be printed in the RECORD following these remarks.

The petition cites the following dangers:

A report of the Federal Task Force on Inadvertent Modification of the Stratosphere, "Fluorocarbons and the Environment," June 1975—IMOS Report—says that current estimates indicate that even without further growth in fluorocarbon use above the 1972 level the eventual, equilibrium reduction of ozone would be about 7 percent. If the use of fluorocarbons continues to grow at the rate at which it grew during the 1960's, a reduction of between 10 percent and 15 percent will occur early in the next century.

A 7 percent reduction in the ozone content of the stratosphere will cause an additional 42,000 to 140,000 cases of skin cancer each year in the United States, and an additional 126,000 to 420,000 cases worldwide. A 15 percent reduction will cause an additional 90,000 to 300,000 cases of skin cancer each year in the United States and an additional 270,000 to 900,000 cases worldwide, the petition contends, based on the IMOS study.

Even if no additional fluorocarbons are released, further reduction in the average concentrations of ozone would continue, reaching a maximum in about a decade. The naturally occurring ozone formation necessary to counter this decrease would take at least a century or more, the IMOS Report concludes.

New laboratory and atmospheric measurements of the key chemical reactions and their rates have led to refinements and downward revisions of the expected amounts of ozone reduction, the petition notes. However, the petition points out that other new measurements have led to upward revisions of the estimates. The petition states—page 27:

> The net result of the new information, taken as a whole, is that the overall estimates of ozone reduction are approximately the same as those of more than a year ago.

It concludes—pages 27–29:

> At the same time, the new estimates are fortified by stronger experimental data than were available for the earlier estimates.

Climatic changes may result from fluorocarbon influence on the Earth's temperature.

According to information in the petition—page 36–7—studies by Dr. V. Ramanathan of the Langley Research Center of the National Aeronautical and Space Administration—NASA—indicate that in the cool temperatures in the lower atmosphere, fluorocarbon molecules absorb heat radiation from the Earth's surface and trap a substantial portion of it. This result in a "greenhouse effect" that may warm the Earth enough to cause significant climatic changes with respect to rainfall ice-cover and a partial melting of the polar ice caps.

Approximately 50 percent of all world use of pressurized products containing these ozone-depleting fluorocarbons and similar compounds as propellants is by U.S. consumers.

A recent Arthur D. Little study, contracted by the Environmental Protection Agency—EPA—says that aerosols account for about 62 percent of the fluorocarbons released into the atmosphere, with refrigerants—enclosed uses—leaking about 25 percent. The remaining 13 percent of fluorocarbons are used in both enclosed and nonenclosed ways, such as in solvents and as foam-blowing agents to make plastic products.

Alternatives to aerosols and alternative propellants that are not known to harm the ozone layer exist, and new ones are being developed by the aerosol industry. In fact, many manufacturers of consumer products that have been using aerosol sprays now are advertising and promoting nonaerosol containers. S. C. Johnson and Son of Racine, Wis., manufacturers of wax products, have ended the use of fluorocarbon propellants in the production of its broad line of consumer products.

The EPA has recommended that pesticides be packed in nonaerosol containers.

FDA Commissioner Alexander M. Schmidt, M.D., in an interview with U.S. News & World Report, Inc., February 23, 1976—pages 52–55—cited "fluorocarbons as a spray propellant" as an example of products that need to be removed from the market because of "a very strong suspicion rather than absolute proof" of risk to humans. He states:

> We already have banned use of vinyl chloride in aerosols because of the cancer risk.

Now there is a theory that fluorocarbons may destroy the ozone layer in our atmosphere that filters out ultraviolet light. The fear is that the result may be an increase in skin cancer.

There are quite a bit of data that show this thesis is correct. I don't think we can afford to wait a decade or two decades for incontrovertible proof that the ozone is disappearing. The National Academy of Sciences is studying the available evidence now. We will have their report within the next year, and will then make a decision.

Finally, retail prices of nonaerosols are less costly to consumers. An article by Sidney Margolius in the Washington Star, February 14, 1976, notes the comparative lesser costs of nonaerosol consumer products.

Mr. President, I ask unanimous consent that the Margolius column be printed in the RECORD following these remarks.

What the Nelson amendment does; how it differs from the Public Works Committee recommended bill on stratospheric ozone protection—section 153—and from the Packwood aerosol amendment:

Banning propellants:

Nelson amendment—bans, effective January 1, 1977, the manufacture, production, importation, export or sale of aerosol containers containing as propellants "trichloromonofluoromethane, difluorodichloromethane, or any other saturated chlorofluorocarbon compound not containing hydrogen," unless the EPA prior to that date, finds that such substances pose no unreasonable risk of injury to health or the environment.

This is similar to a law enacted in the State of Oregon May 23, 1975, except that the Oregon law is effective March 1, 1977. Mr. President, I ask unanimous consent that the text of the Oregon law be printed in the RECORD following these remarks.

It is also comparable to an amendment phasing out PCB's, which the Senate passed as part of the Toxic Substances Control Act, March 26, 1976 (CONGRESSIONAL RECORD, p. 8291).

This effectively bans products containing the fluorocarbon propellants known to cause ozone depletion, specifically those compounds identified chemically as P-11 (trichlorofluoromethane), P-12 (dichlorodifluoromethane), and other fluorocarbon compounds with similar physical and chemical properties (such as P-114, dichlorotetrafluoroethane) that are chemically inert and do not contain reactive bonds or unsaturated bonds, unless they are found not to pose unreasonable risks.

It is our understanding that compounds that do not contain unsaturated bonds and do not contain hydrogen bonds appear to be chemically stable and do not break down in the lower atmosphere, and therefore are most likely to drift into the stratosphere, where they break down and form chlorine atoms, which in turn react with ozone and reduce its concentration in the stratosphere.

The committee bill (part B—Ozone Protection, sec. 15)—Does not mandate a ban of such aerosol containers. It authorizes the EPA to propose by January 1, 1978, regulations to restrict the manufacture and use of aerosols containing halocarbons—a much larger family of fluorocarbons than the Nelson amendment bans—if the EPA finds that "halocarbon emissions from aerosol containers may reasonably be anticipated to cause or contribute to the endangerment of public health or welfare" (p. 58 of S. 3219 as reported Mar. 29, 1976). Such proposals would be submitted to Congress by April 1, 1978, and after public hearings, the EPA shall promulgate final regulations, which shall take effect if not disapproved by either House within 90 days.

In other words, the committee bill: First, does not ban the specific fluorocarbons known to deplete the ozone layer unless the EPA finds that they or other halocarbons "may reasonably be anticipated to endanger public health," and second, not until July 1978—some 1½ years after the Nelson amendment would become effective.

The committee bill does contain an "Expedited Regulation" provision—section 154, page 59—which authorizes EPA to take immediate action to ban or restrict the manufacture, production, sale, import, export or use of aerosol containers discharging halocarbons into the atmosphere, if it is "necessary to protect the public health or welfare from significant risk of harmful effects which may reasonably be anticipated to arise in whole or in part from" such emissions.

This provision of the committee bill also requires the administration, in promulgating any expedied regulations for a ban, to take into account the public need for aerosol containers, the costs and feasibility of such action, and all other costs related to depletion of stratospheric ozone.

My amendment would not affect this provision, which I support.

My amendment also would not affect the committee bill's provision authorizing EPA to propose regulations to control halocarbon emissions from other sources than aerosols if necessary to protect the public health.

The Packwood amendment—bans effective January 1, 1978—1 year after the Nelson amendment is effective—the manufacture, production, import or export of aerosol containers containing halocarbons—like with committee bill with respect to halocarbons affected but broader than the Nelson amendment, which affects specific fluorocarbons.

EPA may lift or modify the ban if it "finds that no significant risk to the public health, safety, or welfare is, or may be posed by the discharge of halocarbons into the ambient air from aerosol containers." The burden of proof is on the agency to find "no significant risk before lifting the ban."

Congressional review and lifting or modifying a ban:

Nelson amendment—shifts the burden of proof to petitioners, and allows for lifting or modifying the mandated ban only: First, after petitions have been presented to EPA, based on "new scientific evidence showing that such change in the prohibition presents no unreasonable risk to the public health, safety or welfare" resulting from the discharge of the specifically banned fluorocarbons into the ambient air; second, after EPA has considered the new evidence, consulted with experts and Federal agencies, and afforded the opportunity for a public hearing; and third, after both Houses of Congress have approved the changes recommended by EPA within 90 days of its proposal.

The criteria for a new finding is that there be "no unreasonable risk" rather than "no significant risk" to the public health, as the committee and Packwood amendments require. This criteria is similar to language in the Medical Devices Safety Act with respect to basis for changing device classifications, as recently enacted into law; and to the PCBS amendment passed by the Senate.

Committee bill—allows a change in a ban if either Houses does not disapprove within 90 days.

Packwood amendment—does not contain congressional review.

Exemptions:

Nelson and Packwood amendments—both contain provisions allowing EPA to grant specific exemptions from a ban, for the use of small quantities of the banned substances, if such aerosol containers are essential for the public health or welfare—such as medical devices—and adequate substitutes for the banned substances are not available, except that the Nelson amendment goes only to its limited banned fluorocarbons, while the Packwood amendment addresses all halocarbon-containing aerosols.

Committee bill—does not contain such exemptions.

Provisions in Nelson amendment not in committee on Packwood amendments:

Prohibition against stockpiling, identical to that in the Consumer Product Safety Act.

Specifies that this act shall not preempt existing authority to regulate aerosols in the Consumer Product Safety Act—also in Packwood amendment—the Food, Drug and Cosmetic Act, or any other act.

To summarize the basic differences: the Nelson amendment limits the ban, but mandates it sooner than the other amendments, and makes it incumbent on Congress to lift or modify such ban by affirmative action.

The Nelson amendment does not ban all aerosols—only those containing propellants which scientific evidence has identified as harmful to the ozone layer, and thus to human health and the environment.

Mr. President, I believe this is a rational compromise which addresses the problem at the earliest possible time, without undue hardship on the industry or the consumer.

The amendment has the support of several environmental organizations, including the Natural Resources Defense Council, Inc., and the Center for Science in the Public Interest, which responded to our request for comment on the amendment. They have also endorsed the Packwood amendment, with the qualification that they preferred an earlier ban, and stronger measure.

I ask unanimous consent that the text

of the amendment be printed in the RECORD, along with articles on the subject.

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

AMENDMENT No. 2078

On page 58, beginning with line 2, strike out all through line 7 on page 59 and insert in lieu thereof the following:

"SEC. 153. On and after January 1, 1977, except as provided in subsections (b) and (c), it shall be unlawful for any person to manufacture, produce, import, export to or from the United States, or sell in commerce any aerosol container containing as a propellant trichloromonofluoromethane, difluorodichloromethane or any other saturated chlorofluorocarbon compound not containing hydrogen, unless the Administrator finds prior to such date, on the basis of a study by the National Academy of Science and other available scientific information, that no unreasonable risk to the public health or the environment results from the use of such containers.

"(b)(1) Any person may petition the Administrator to modify or rescind the prohibition in subsection (a) in whole or in part, by presenting new scientific evidence showing that such change in the prohibition presents no unreasonable risk to the public health, safety, or welfare posed by the discharge of trichloromonofluoromethane, difluorochloromethane or any other saturated chlorofluorocarbon compound not containing hydrogen into the ambient air from aerosol containers.

"(2) In determining whether to modify or rescind such prohibition pursuant to subsection (a), the Administrator shall consider new scientific information, available reports, and any other material as he deems necessary, and consult with appropriate Federal agencies and scientific entities, and afford the opportunity

"(3) If he then finds that no unreasonable risk to the public health, safety or welfare is, or may be, posed by the discharge of trichloromonofluoromethane, difluorodichloromethane or any other saturated chlorofluorocarbon compound not containing hydrogen into the ambient air from aersol containers, he may propose by rule to modify or rescind the prohibition in subsection (a) in whole or in part, consistent with that finding, and shall submit such rule to Congress, which rule shall not take effect unless approved by a joint resolution of Congress within 90 calendar days.

"(c) If the Administrator determines that a particular use of trichloromonofluoromethane, difluorodichloromethane or any other saturated chlorofluorocarbon compound not containing hydrogen in aerosol containers is essential for the public health or welfare, and that an adequate substitute for such compound is not available, he may grant exemptions from the prohibitions in subsection (a) to allow the use of small quantities in such particular case.

"(d) The Administrator shall by rule prohibit manufacturers or importers of aerosol containers containing trichloromonofluoromethane, difluorodichloromethane or any other saturated chlorofluorocarbon compound not containing hydrogen from stockpiling (within the meaning of section 9(d)(2) of the Consumer Product Safety Act (15 U.S.C. 2058(d)(2)) any such containers so as to prevent such manufacturers or importers from circumventing the purpose of this section.

"(e)(1) From time to time the Administrator may revise any regulations issued pursuant to subsection (b)(3) of this section in light of new evidence as to the need for such regulations, subject to approval by the Congress as provided in such subsection (b)(3).

"(2) From time to time the Administrator may revise any of the regulations issued pursuant to subsection (c) and (d) of this section in the light of new evidence as to the need for such regulations.

"(f) Nothing in this section shall limit, restrict, or otherwise detract from the authority provided in section 154, or any authority vested in the Consumer Product Safety Commission, or any health-related authority vested in the Secretary of Health, Education and Welfare.

On page 59, line 10, strike "1978" and insert in lieu thereof "1977".

[From the Wall Street Journal, June 30, 1976]

DEFENDERS OF FLUOROCARBONS ARE SET BACK AS RESEARCH CENTER CONCEDES TEST ERROR

(By Jeffrey A. Tannenbaum)

NEW YORK.—The fluorocarbon industry has suffered a setback in its defense of the man-made gases, which are widely used in aerosol sprays and refrigerants and linked in a controversial theory to possible increases in human skin cancer.

In Boulder, Colo., the National Center for Atmospheric Research, operated by several universities, has written to scientists painfully conceding that the results of one of its experiments earlier this year were wrong. The fluorocarbon industry had seized upon the experiment as evidence possibly "exonerating" its products.

Although the correction was issued a month ago, unlike the original report it hasn't received widespread attention. Partly because of industry public-relations efforts, the experiment generated a flurry of publicity in May suggesting that the fluorocarbon flap was just a "scare" after all.

However, Allan L. Lazrus, a research chemist who signed the corrective letter for the Boulder center, said in an interview that the theoretical case against fluorocarbons appears sound. "It's absolutely not a 'scare,'" he said. "The evidence we have seems to vindicate the theory." An apparently growing number of scientists and other observers say they expect eventual government action to curtail fluorocarbon use, probably through a ban on fluorocarbon aerosols.

Most of the fluorocarbon industry, for its part, insists that if the Boulder center's corrected results don't destroy the case against the gases, something else will come along and do so. James P. Lodge Jr., an atmospheric scientist, retained by fluorocarbon makers and users as their scientific spokesman, continues to insist that "the whole thing seems to resemble a structure held together with Tinker Toys, Scotch tape and rubber bands."

STRENGTH OF THEORY

However, while agreeing it is possible that fluorocarbons may yet be found innocent in the case against them, most scientists—including some in the chemical industry—deem that unlikely. A scientist at Dow Chemical Co., which makes raw materials (and substitutes) for fluorocarbons, says, "Most of the research going on . . . is aimed at ironing out details. I don't think there's going to be any thunderbolt knocking out the theory."

Earlier, some in the industry thought the Boulder center's experiment may have been just such a thunderbolt. According to the theory, first advanced two years ago by University of California chemists Mario J. Molina and F. Sherwood Rowland, the fluorocarbon gases are wafted to the stratosphere and are broken down by ultraviolet radiation from the sun.

As the type of fluorocarbons involved contain the chemically active element chlorine, their breakdown, in theory, sets off a complex and awesome series of chemical reactions. In those reactions, the chlorine is released and destroys part of the shield of ozone, a form of oxygen, that prevents much potentially harmful ultraviolet radiation from reaching the earth's surface. More radiation then reaches the earth, causing an increase in skin cancer rates and possibly other harmful effects.

In a key test of the theory, scientists measured the amount of hydrochloric acid in the stratosphere. Theoretically, each chlorine atom released by the fluorocarbons sets off a catalytic chain reaction that converts tens of thousands of ozone molecules to ordinary oxygen, which can't filter out certain wavelengths of ultraviolet light. But the chlorine eventually combines with other types of atoms to produce such substances as hydrochloric acid.

Tests were tending to confirm the ozone-depletion theory by finding predicted amounts of hydrochloric acid that couldn't readily be accounted for in any other way. But last March, reporting on one of several studies of balloon samples of stratospheric air, the Boulder center disclosed that it had found significantly less hydrochloric acid than predicted by the theory.

If correct, this finding was a blow to the theory, because if predicted amounts of hydrochloric acid weren't present, predicted amounts of ozone presumably weren't being destroyed. What was happening to the chlorine released by the fluorocarbons? Messrs. Rowland and Molina themselves suggested that some of it, instead of depleting ozone, might be combining with substances already in the upper atmosphere to form chlorine nitrate.

Suddenly, the beleaguered defenders of fluorocarbons had some sorely needed ammunition. Last month, the industry-sponsored Council on Atmospheric Sciences claimed that the formation of chlorine nitrate in effect reduced the predicted depletion of ozone by fluorocarbons 80% to 90% in a key part of the stratosphere. Independent scientists tended to come up with lower figures but also saw a substantially reduced threat.

UNDERSTATEMENT OF FINDINGS

However, late last month the Boulder center quietly issued a "Dear Colleague" letter to scientists saying that the amount of hydrochloric acid had been badly understated. In preparing solutions containing known quantities of chemicals, for purposes of comparison with the stratospheric samples, a laboratory assistant had used the wrong amounts of two key chemicals, throwing off the results of the experiment. Then a safeguard procedure to detect such an error "was improperly omitted in this instance," the center wrote.

In theory, the possibility of chlorine nitrate formation remains, but new research results tend to reduce its importance. Last month, Philip L. Hanst, a senior scientist at an Environmental Protection Agency research facility in North Carolina, reported on an examination of infrared absorption spectra of stratospheric air. The spectra, in effect a type of photograph of the stratosphere, "fail to indicate chlorine nitrate at any altitude," Mr. Hanst reported. The experiment also placed a low limit on the amount that theoretically could be present, he added. Some other scientists dispute those findings.

Messrs. Rowland and Molina say they are holding to their original predictions that fluorocarbons will deplete the ozone shield 7% to 13%, possibly within 50 to 80 years.

UNCERTAINTIES REMAIN

Many industry scientists continue to dispute this. They say that the Molina-Rowland theory still can't satisfactorily account for

the Boulder center's revised results. They say that chlorine-nitrate formation, although undoubtedly "less of a factor" than thought before, still could prove significant. They say many uncertainties about the stratosphere remains, so that any estimates of ozone depletion are "very dubious" at best.

Debate also continues over what the effects of ozone depletion—and thus of more ultraviolet light reaching the earth—would be. Many scientists appear to agree that for each 1% decrease in ozone, there would be a 2% boost in usually nonfatal human skin cancer.

However, new calculations suggest that even greater increases might result. National Cancer Institute statisticians, reporting last month in the American Journal of Public Health, presented assumptions and calculations leading to the conclusion that skin cancer would rise 25% to 50%, depending on geographic location, for a 10% decrease in ozone. "We emphasize that such estimates should be considered crude until the many assumptions can be investigated," they said.

A ban on fluorobarbon aerosols is likely within two or three years even though all the scientific questions mightn't be resolved soon, according to Arthur D. Little Inc. of Cambridge, Mass., a major consulting company. "Scientists aren't going to be allowed to go on for years debating the nuances of this thing," says Richard Williams, staff member. Given doubt over whether to ban a product, he maintains, the regulators "would rather err on the side of protecting the public," especially when they perceive the products involved as less than absolute necessities.

[From the Philadelphia Inquirer, Mar. 19, 1976]

AEROSOLS HURT OZONE, PANEL FINDS

(By Joel N. Shurkin)

A panel of the prestigious National Academy of Sciences (NAS) has determined that fluorocarbon propellants, such as those found in most aerosol spray cans, are, in fact, a major threat to the environment. It will recommend that all their non-essential use be eliminated, a panel member said.

The panel, which spent almost a year reviewing previous research on fluorocarbons, confirmed a previous scientific conclusion: The chemicals damage the layer of ozone that protects the earth from dangerous ultraviolet radiation.

The statistical data supporting a ban look more and more persuasive, a member of the scientific panel, mainly comprising chemists and meteorologists, told The Inquirer yesterday. "The odds are against there being no danger."

Erosion of the ozone layer could cause increases in the incidence of skin cancer and mutation of plant life.

The panel will issue its report to the NAS' Committee on the Impact of Stratospheric Change, which will hold hearings at the end of next month.

That committee will then issue its own report under the stamp of the prestigious academy which will include whatever recommendations it thinks appropriate.

The panel report will probably be strongly opposed by the chemical industry, which maintains that research on the problem is not substantial enough to warrant any action for several years.

The DuPont Co., a major manufacturer of a refrigerant called Freon and other fluorocarbon products, has proposed that any government action be delayed for two years pending further study.

But the NSA panel, formed last year to look into the controversy, will report that it is too dangerous to wait.

"By the time you measure an ozone depletion, it's already too late," the panel member said.

The panel will not recommend an immediate ban on all uses of fluorocarbons, the source said, because of economic dislocation it would cause in the chemical industry.

Instead, the panel will recommend that non-essential uses be phased out.

Two years ago, researchers in California, using computer projections, said they believed that fluorocarbons, once discharged or leaked, rise into the stratosphere and interact with the ozone layer that surrounds the earth.

The researchers, whose findings have been duplicated independently by other scientists, believe that chlorine atoms in the fluorocarbons may destroy ozone ions, thus letting in too much radiation.

Howard Lewis, a public affairs official for the NAS, which was angry about premature disclosure of the report, said that if anyone asked him to confirm The Inquirer story, he would state that "there have been two major findings in the last few days" that prompted the panel to withdraw its report.

Lewis would not say what the findings were or how they might affect the report.

Two committee members interviewed yesterday by The Inquirer, however, confirmed the panel's recommendations, and made no mention of the report being withdrawn or of any findings that would alter its conclusions.

One of the sources emphasized that it was still possible to find a chemical reaction that would counteract ozone depletion, but none has been found so far. Scientists have studied between 100 and 150 different chemical reactions so far.

The source said that the present uses of fluorocarbons should be examined to see how important they are. The panel will recommend that superfluous uses, perhaps including use of such products as aerosol deodorants, should be phased out.

Other more important uses, such as refrigeration, could be eliminated when substitutes are found.

Fluorocarbons are used in most home spray products except shaving creams.

[From the Wall Street Journal, Dec. 24, 1975]

BAN ON FLUOROCARBONS IN SPRAY PRODUCTS IS SOUGHT BY RESOURCES COUNCIL, 10 STATES

NEW YORK.—The Natural Resources Defense Council and 10 states petitioned the federal Consumer Product Safety Commission to ban the use of fluorocarbon propellants in aerosol products.

There is growing scientific debate over the theory that chlorine atoms in certain fluorocarbons reach the upper atmosphere where they destroy natural ozone. The ozone shield filters out much of the harmful ultraviolet radiation from the sun. More radiation reaching the earth's surface, the theory goes, could result in more skin cancer in humans, damaged crops and changed climate.

A previous petition from the resources council was denied by the consumer-products commission last summer. The Food and Drug Administration also rejected the group's petition to ban fluorocarbon-containing aerosol products.

The latest petition cites "new scientific evidence" supporting the ozone-depletion theories, the council said. It asks the commission to act without waiting for a report on the issue due next April from the National Academy of Sciences.

"In light of the remarkable unanimity on this issue within the scientific community, it is unlikely that the National Academy of Sciences study will reach conclusions significantly different from those in this petition," the council said in a letter to Richard Simpson, outgoing chairman of the consumer-products commission.

The Aerosol Education Bureau, part of a large industry-sponsored effort to oppose a precipitate ban on fluorocarbon-containing products, issued a statement saying, "It would be inappropriate to impose restrictions on the use of fluorocarbons without proving the hypothesis, and we have a few years to do that." The statement was attributed to James P. Lodge, an atmospheric chemist retained by the industry as a spokesman.

States joining the resources council's petition are Colorado, Florida, Massachussets, Michigan, Minnesota, New Hampshire, New York, Oregon, Vermont and Wisconsin. Other co-petitioners are the Environmental Defense Fund and the Minnesota Public Interest Research Group.

Two of the states joining the petition—New York and Oregon—already have passed laws that would ban the use of fluorocarbon-spray products. More than a dozen other states are considering such action.

While the council said the consumer-products agency "has the legal authority to ban the use of a major portion of all aerosol products containing fluorocarbons," in reality the agency regulates a relatively small number of these products.

The FDA regulates all food, drug and cosmetic aerosol products. That includes hair-care and underarm deodorant products, which, alone, account for more than 70% of all fluorocarbon emissions from aerosol cans in the U.S., according to the resources council. The Environmental Protection Agency regulates aerosol pesticides.

A council spokesman didn't rule out the possibility of another petition to the FDA, but he said the renewed petitioning of the consumer-products agency was an attempt to "break the logjam."

[From the Washington Star, Feb. 14, 1976]

NONAEROSOLS ARE CHEAPER, TOO

(By Sidney Margolius)

Consumers have a chance to save on toiletries and cleaning products as more manufacturers abandon aerosol spray cans or at least make alternative forms of their products available.

Their flight has been impelled largely by charges that the fluorocarbon gases used as the propelling agent in aerosols for personal products are affecting the ozone concentration in the earth's stratosphere.

The argument is still continuing but no less an expert group than the American Chemical Society has confirmed that fluorocarbon concentrations have been reported in the atmosphere and have increased recently.

While the U.S. Commerce Department has denied any proven danger and the U.S. Product Safety Commission recently decided 3–2 that there was "insufficient evidence" to ban use of fluorocarbons, certainly the manufacturers are voting with their feet. Trade reports say that sales of aerosol cans dropped over 25 percent in 1975. In hair sprays, pump dispensers are taking over; in deodorants, it's roll-ons.

Several supermarkets even have curtailed or discontinued selling aerosols altogether, as in the case of the Berkeley co-ops in the San Francisco Bay area.

Whatever the dangers, you pay a high price for varying convenience and also often forfeit some product effectiveness. For one reason, aerosols are wasteful compared to alternative forms. Various estimates say that 20 to 90 percent of the contents of an aerosol can are the propellant itself. Moreover, you lose a lot of even the relatively small amount of product when using an aerosol. Much goes into the air.

Those manufacturers who package their products in both aerosol and nonaerosol forms themselves are now advertising the savings. Thus, the Vitalis pump-spray pack-

age states it provides almost twice as many applications per ounce as aerosol containers.

The Clairol Final Net pump-spray package claims it provides three times as much usable products per ounce because it's a "concentrate with 100 percent usable ingredients. No propellant, no waste, no aerosol fumes."

The savings are pyramided by the fact that not only do you get several times more product but most often the nonaerosol version costs less.

Researcher Jane Harmon found these comparative costs for a number of products sold in different forms:

Lysol cleanser—aerosol, 17 ounces, $1.19; pump spray, 17 ounces, 89 cents.

Fantastik cleanser—aerosol, 7 ounces, 99 cents; pump spray, 33 ounces, $1.79.

Carbona—aerosol, 7 ounces, $1.49; liquid, 8 ounces, $1.09.

Pine Sol disinfectant—aerosol, 17 ounces, 89 cents; liquid, 28 ounces, $1.49.

Windex—aerosol, 15 ounces, 89 cents; pump spray 20 ounces, 69 cents.

Jubilee cleaner—aerosol, 10.5 ounces, $1.39; liquid, 14 ounces, $1.19.

Guardsman polish—aerosol, 14 ounces, $1.37; liquid, 32 ounces, $2.49.

Private-brand lemon furniture polish—aerosol, 14 ounces, 99 cents; liquid, 14 ounces, 99 cents.

Easy Off cleaner—aerosol, 16 ounces, $1.45; liquid, 16 ounces, 89 cents.

Of course, a low-priced brand can throw out the usual price difference in favor of nonaerosols.

One regional supermarket chain sells its house brand of men's aerosol hair spray at less than half the tag on the national brand's aerosol or pump forms. In at least some types of products the nonaerosol form also is considered more effective. A leading hair spray manufacturer has said that its pump product is able to apply more product where wanted than its aerosol version.

Similarly, Ban Roll-On's claim of greater effectiveness in helping stop wetness than a number of sprays was judged by the Council of Better Business Bureaus to be substantiated.

The council's national advertising division said that their study of the test data submitted showed that the Ban Roll-On formulation lasted at least 21 percent longer than a number of leading spray formulations. In general, the roll-on was found to provide 51 days of "protection" compared to 37 days for the longest-lasting sprays.

The roll-on adherents claim that it isn't possible to put as much anti-wetness ingredients in the aerosol can because the higher concentration would clog the nozzle. Most other brands of antiperspirant now also offer roll-on versions.

One warning: Some of the new packages with pumps can mislead as to the amount of product provided. An oversized box may contain just the pump and, for example, only 4 ounces of hair spray. Too, in buying refills, avoid buying the packages that contain another pump.

SENATE BILL 771

(Including Amendments by Senate April 23 and by House May 23)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Prohibits sale of aerosol spray containing certain saturated chlorofluorocarbon compounds not containing hydrogen after [*July 1, 1976*] March 1, 1977.

Provides penalties.

A BILL FOR AN ACT RELATING TO THE ENVIRONMENT; AND PROVIDING PENALTIES

Be it Enacted by the People of the State of Oregon:

Section 1. The Legislative Assembly finds that:

(1) Scientific studies have revealed that certain chlorofluorocarbon compounds used in aerosol sprays may be destroying the ozone layer in the earth's stratosphere;

(2) The ozone layer is vital to life on earth, preventing approximately 99 percent of the sun's mid-ultraviolet radiation from reaching the earth's surface;

(3) Increased intensity of ultraviolet radiation poses a serious threat to life on earth including increased occurrences of skin cancer, damage to food crops, damage to phytoplankton which is vital to the production of oxygen and to the food chain, and unpredictable and irreversible global climatic changes;

(4) It has been estimated that production of ozone destroying chemicals is increasing at a rate of 10 percent per year, at which rate the ozone layer will be reduced 13 percent by the year 2014;

(5) It has been estimated that there has already been one-half to one percent depletion of the ozone layer;

(6) It has been estimated that an immediate halt to production of ozone destroying chemicals would still result in an approximate three and one-half percent reduction in ozone by 1990; and

(7) There is substantial evidence to believe that inhalation of aerosol sprays is a significant hazard to human health.

Section 2. After March 1, 1977, no person shall sell or offer to sell in this state any aerosol spray which contains as a propellant trichloromonofluoromethane, difluorodichloromethane or any other saturated chloroflurocarbon compound not containing hydrogen.

Section 3. Violation of the provisions of section 2 of this Act is a Class A misdemeanor.

NOTICE OF HEARINGS ON THE NARCOTIC SENTENCING AND SEIZURE ACT OF 1976, S. 3411

Mr. BAYH. Mr. President, the Subcommittee To Investigate Juvenile Delinquency has scheduled July 28 and August 5 for hearings on S. 3411 and related measures, designed to make more effective the Federal effort to curb traffic in dangerous drugs, which are pending before the subcommittee.

We intend to give attention to the stark reality that many who sustain the illegal flow of heroin do so while on bail and that once they are convicted few spend substantial time in custody. While I am especially concerned that the constitutional rights of criminal defendants are fully secured, I am likewise concerned that within such a framework our citizens are fully protected. In addition to a review of pretrial detention we intend to develop a record on the following proposals: mandatory minimum sentences for drug traffickers; forfeiture of the proceeds of illegal drug transactions; increased authority to permit customs officers to search persons suspected of smuggling money out of the country; stricter arrival reporting requirements for small privately-owned vessels; increases in the cash value of goods possessed by narcotics violators subject to forfeiture; and other related concerns, including the effectiveness of the Internal Revenue Service effort to prosecute narcotic law violators.

The subcommittee plans to hear testimony on July 28, 1976 from the Honorable Edward H. Levi, Attorney General of the United States; Mr. Peter Bensinger, the Administrator of the Drug Enforcement Administration; Mr. Richard Thornburgh, Assistant Attorney General, Criminal Division; Mr. Earl Silbert, U.S. Attorney for the District of Columbia, and other representatives from the Department of Justice. Likewise, Mr. David Macdonald, Assistant Secretary of the Department of the Treasury; Mr. Donald Alexander, the Commissioner of the Internal Revenue Service; Mr. Vernon Acree, Commissioner of Customs and other Treasury Department officials will appear. The Department officials will be present primarily to explain and discuss President Ford's drug message to the Congress and the recommended legislation.

On August 5, the subcommittee plans to hear testimony from a number of legal scholars and various associations with special interest in these matters.

The hearing on July 28 is scheduled to begin at 9:30 a.m. in room 1318 of the Dirksen Office Building. On August 5, the hearing will begin at 9:30 a.m. in room 2228 of the Dirksen Office Building.

Anyone interested in these hearings, or desiring to submit a statement for our record should contact Mr. John M. Rector, staff director and chief counsel of the subcommittee at 202-224-2951 or A504, U.S. Senate, Washington, D.C. 20510.

NOTICE OF HEARINGS

Mr. PROXMIRE. Mr. President, I wish to announce that the Committee on Banking, Housing and Urban Affairs will hold oversight hearings on the Treasury Department's program to enforce compliance with equal employment opportunity requirements by financial institutions which are Federal contractors.

The hearings will be held on August 2 and 3, 1976. They will begin each day at 10 a.m., room 5302, Dirksen Senate Office Building.

Anyone who wishes further information regarding these hearings should contact Elinor Bachrach, room 5300, Dirksen Senate Office Building, 202-224-7391.

NOTICE OF HEARING

Mr. MOSS. Mr. President, the Subcommittee on Census and Statistics of the Senate Committee on Post Office and Civil Service will hold a hearing on Thursday, July 29, 1976, to consider legislation providing for a mid-decade census of population and the improved administration of Federal programs, the benefits of which are determined on the basis of population. The specific legislative proposals to be considered are S. 3688 and H.R. 11337. The hearing will begin at 10 a.m. in room 6202, Dirksen Senate Office Building.

Any individual or organization wishing to testify or submit a written statement for the hearing record should, as soon as possible, contact Mr. Arthur Eck, Senate Committee on Post Office and Civil Service, 6206 Dirksen Senate Office Building, Washington, D.C. 20510 (202-224-5451).

HEARING CANCELLATION

Mr. ABOUREZK. Mr. President, I wish to announce that the hearings on S. 3274, the grand jury reform bill, scheduled to be held by the Subcommittee on Constitutional Rights on Tuesday, July 27, have been canceled for that date. They will be rescheduled in the fall.

NOTICE OF HEARING

Mr. PROXMIRE. Mr. President, I wish to announce that the Committee on Banking, Housing and Urban Affairs will hold a 4-day oversight hearing on the community development block grant program, authorized by the Housing and Community Development Act of 1974, on August 23 through August 26, 1976.

The hearing will begin at 10 a.m. each morning and will be held in room 5302, Dirksen Senate Office Building.

ADDITIONAL STATEMENTS

ALL-AMERICAN ROUTE FOR SHIPPING NATURAL GAS FROM ALASKA

Mr. STEVENS. Mr. President, shortly before the recess the Senate passed a bill which would expedite the decision on the transportation system for the vast reserves of natural gas in the Prudhoe Bay field of Alaska. As the Senate knows, there are three basic routes proposed for such a system.

I have been, and continue to be, a strong supporter of the route which would build a gas pipeline roughly parallel to the present oil pipeline. On the southern coast of Alaska the gas would be liquefied, loaded on tankers, and shipped to regasification plants on the west coast of the lower 48 for transport where needed in the contiguous States. I have supported that line not only because it is better for my home State but because it is the best system for the Nation. The Alaska route would result in more jobs for American workers, less environmental damage, greater tax revenues for American jurisdictions, more control of the system and—most important—the vitally needed gas would be supplied to the lower 48 more quickly.

I am pleased that the national executive committee of the American Legion in early May jointed on support of the all Alaskan, all-American system. At their meeting in Indianapolis on May 5 and 6 they passed a resolution of support of the all-Amerian gas line. I commend that resolution to my colleagues and ask unanimous consent that it be printed in the RECORD.

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

Resolution No. 5.

Committee: Economic.

Subject: Support an all-American route for shipping natural gas from Alaska.

Whereas, The American Legion by virtue of Resolution No. 4-1975, urged a national energy policy to protect a strong and viable domestic economy; and

Whereas, The Alaska Pipeline is nearing completion and transportation of natural gas from the oil fields in Alaska will be available approximately October 1979; and

Whereas, It is proposed that a gas pipeline paralleling the oil pipeline be built in Alaska, to be connected to a liquified natural gas (LNG) plant, and then transported by LNG tankers to the west coast of the United States; and

Whereas, The sending of LNG will result in greater employment of U.S. workers, both construction and in permanent employment, than if the gas were to go through Canada; and

Whereas, There will be greater amounts of monies paid in taxes to the United States government for a LNG system than for a pipeline through Canada; and

Whereas, There are questions of national security for a pipeline through another country; now, therefore, be it

Resolved, By the National Executive Committee of The American Legion in regular meeting assembled in Indianapolis, Indiana, on May 5-6, 1976, that The American Legion support legislation in Congress to secure an all-American route for shipping natural gas from Alaska.

S. 3219, CLEAN AIR ACT AMENDMENTS OF 1976

Mr. RIBICOFF. Mr. President, earlier this month I called to our colleagues' attention the very distressing fact that Connecticut has the second most severe problem in the country for photochemical oxidents, which are primarily caused by motor vehicles. This pollution often exceeds Federal standards established to guard the public health throughout the State of Connecticut. Some claim that this pollution is based in New York and New Jersey. I am advised, however, that even if these two States were to disappear, Connecticut would still be in violation of Federal health standards for smog and carbon monoxide.

Through the efforts of citizen groups, the Connecticut Department of Environmental Protection and certain industries, some progress has been made to improve air quality in my State. Since 1971, for example, the annual levels of sulfur dioxide have been reduced almost 50 percent in many areas of Connecticut. During the same period particulate levels have been reduced by almost 25 percent. Although these are important developments, much more needs to be done, not only in my region of the United States but throughout the Nation.

Positive and meaningful initiatives must be undertaken to improve the air we breathe and to provide effective protection of our country's air resources. We must face the fact that polluted air is expensive, costing Americans approximately $12 billion annually, including $5 billion for medical bills alone. The measure now before us—S. 3219—is a comprehensive bill designed to improve the country's air by the end of this decade. This bill proposes the first thorough revision of the Clean Air Act of 1970 and, in a number of important ways, strengthens the enforcement provisions of that law.

As the distinguished chairman of the Environmental Pollution Subcommittee, Mr. MUSKIE, so properly noted in his individual views to the report accompanying the bill, S. 3219 "continues the effort to preserve and enhance the quality of the Nation's air." There are, however, a number of shortcomings in this legislation which must be corrected if it is to achieve substantive results.

One defect, for example, is the substantial relaxation of the automobile emission standards required for cars produced in 1978 and afterward. However, data is available which proves that not only can existing standards be met but significant fuel economy can be realized as well. I believe it would be a serious mistake to postpone from 1978 to 1979 the imposition of strict standards for hydrocarbons and carbon monoxide and to delay until 1980 a nitrogen oxide emission standard which is six times weaker than levels now being achieved in California under a stricter law. We have proof that auto manufacturers can meet and surpass current auto emission standards with an increase in gas mileage at the same time. I would, therefore, encourage our colleagues to support the proposed amendments of the gentleman from Colorado, Mr. GARY HART, which will modify the automobile emission section of the bill to guarantee adequate public health protection.

On the other hand, some pending amendments could gravely damage whatever improvements in pollution control are proposed by this measure. Before hastily acting on these debilitating proposals we should bear in mind the results of a 1975 FEA poll in which 94 percent of the persons interviewed indicated they wanted clean air kept that way and desire to prevent the spread of air pollution to all parts of the Nation. This same poll dramatically revealed that three-quarters of the respondents said they would be willing to pay higher prices to pay for clean air.

One of the most controversial features of this bill is the provisions of section 6 which would protect relatively clean air from undue degradation. Some have charged that the nondegradation proposals will result in a nongrowth policy. However, some 16 States, including Connecticut, maintain that concentrations of air pollutants at or near secondary standards would produce such effects as to seriously threaten, if not destroy, their current economic base. I should also note that Connecticut was one of 20 States which joined the Sierra Club or submitted independent suits requesting the courts to require a nondegradation policy.

The issues before us in this legislation have broad potential ramifications. The original act provides essential safeguards against further deterioration of the quality of breathable air and sets up a timetable designed to reduce the most important forms of pollution. We are about to undertake the third major effort in the last decade to enact an effective clean air law and I would urge our colleagues not to undermine this effort.

CZECHOSLOVAK SOCIETY OF ARTS AND SCIENCES CONGRESS MEETS IN WASHINGTON

Mr. HRUSKA. Mr. President, the Czechoslovak Society of Arts and Sciences in America will hold its eighth biannual congress on the campus of Georgetown University from August 12 through 15, 1976. The theme will be "the Contribution of Czechs and Slovaks to North America."

Many of the society members, college professors, researchers, artists, musicians, and writers, come from the ranks of political refugees who escaped Czechoslovakia after the Nazi occupation of 1939, after the Communist coup of 1948, or after the invasion of the Warsaw pact powers in 1968. Others are American-born artists and scientists who share with their fellow Czechs and Slovaks an intense feeling of devotion to this country. America has given them the opportunity of self-expression in an atmosphere of freedom. They have, therefore, devoted this year's eighth congress of their society to a discussion of the contribution of Czechs and Slovaks to this country and to Canada since the first wave of refugees reached these shores in the 17th century.

THE CZECHOSLOVAK SOCIETY OF ARTS AND SCIENCES IN AMERICA

The first Czech refugees from religious persecution by the Hapsburg counter-reformation during the Thirty Years War, 1618–48, arrived in New York—then New Amsterdam. The most prominent one among them was Augustin Herman, later known as Lord of Bohemia Manor. During the 18th century Moravian Brethren immigrated and established the Moravian Brethren Church of America, with centers in Bethlehem, Pa., and Winston-Salem, N.C. But while a great many Czech and Slovak emigrants settled in the United States starting in the 1860's, before 1939 it was rare for a university professor, writer, or artist to leave Czechoslovakia for permanent settlement abroad.

Then came World War II. The Nazi onslaught precipitated the emigration or escape of some 20,000 persons. Among these exiles at least one-fourth were intellectuals. At the war's conclusion, some returned to Czechoslovakia. Many, however, remained in the United States, Canada, England, France, and other Western countries. A still greater exodus began in 1948 after the February coup in Czechoslovakia. In the decade following that coup, over 60,000 people escaped to the West. It is estimated that about one-tenth of these emigrees, some 6,000, were intellectuals, scholars, and professional people. Most of them found their way to the United States, Canada and Australia, while a few hundred established themselves in Western Europe and various countries in Central and South America, Asia, and Africa. In the 1950's it became increasingly difficult for Czechs and Slovaks to emigrate from Czechoslovakia either legally or by illegally crossing the borders, and the influx of Czech and Slovak refugees into the United States was reduced to a trickle. But after the liberalized Dubcek regime was crushed by the invasion of the Warsaw powers in August, 1968, another large exodus followed, again largely consisting of intellectuals, some of whom were admitted to the United States or Canada. But, this time a majority staved in Western Europe.

During the fifties, intellectuals who had managed to leave Czechoslovakia and gain permanent residence in the in the United States felt increasingly the need of maintaining and further developing Czechoslovak culture. In Czechoslovakia, history was being rewritten as if Orwell's "1984" had been advanced by 30 years, and the writings of past and present Czech and Slovak authors were on the proscribed lists. In 1958, a group of scholars led by the late Prof. Vaclav Hlavaty, a mathematician at the University of Indiana, and Dr. Jaroslav Nemec of the National Library of Medicine began to organize these intellectuals throughout the world into the Czechoslovak Society of Arts and Sciences in America.

Mr. President, the society is known among Czechs and Slovaks as SVU, an abbreviation of its name in the Czech or Slovak languages. Those living in the Western World welcomed its establishment enthusiastically and have supported it loyally. Comments in the controlled press of Czechoslovakia range from outright condemnation to reluctant acknowledgment of its significance. From its inception the society has maintained its nonpolitical character and refused to become an instrument of the so-called cold war. The membership, of course, is opposed to any totalitarian ideology, be it of the right or the left, knowing that culture and freedom are inseparable.

SOCIETY ACTIVITIES

The organization has embarked upon an ambitious publishing program and the society held its first nationwide congress in April 1962, in Washington, D.C. Since that time, the society's congresses have been held biannually at Columbia University, New York University, Georgetown University, and George Washington University.

OFFICERS AND MEMBERSHIP

Mr. President, present membership in the society exceeds 1,500. Miloslav Rechcigl, Jr., of the Agency for International Development, is president. He is assisted by five vice presidents; Dr. Alexej Borkovec of the U.S. Department of Agriculture; Dr. Jan Gavora of the Animal Research Institute of Ottawa; Dr. Josef Skvorecky, a well-known Czech writer and publisher of Toronto; Dr. Ernest Sturc of the International Monetary Fund, and Prof. Zdenek Suda of the University of Pittsburgh. Secretary General of the Society is Prof. John G. Lexa of New York University. Dr. Frank Meissner of the Inter-American Development Bank is treasurer of the society, and Dr. Jiri Skvor, known under the pen name Pavel Javor, a well-known Czech poet associated with Radio Canada International in Montreal, is editor of the society's literary quarterly Promeny. The society has local chapters in Washington; New York City; Albany-Schenectady-Troy, N.Y.; Cleveland; Chicago; Los Angeles; Montreal, Toronto, and Edmonton, Canada; London; Zurich, Bern, and Geneva, Switzerland; Munich and Stuttgart, West Germany; and Sydney and Melbourne, Australia. Apart from its biannual congresses in the United States, the society held its first European Conference at Horgen near Zurich in June 1970; a second European conference organized by the society's Swiss chapter will be held at Interlaken, Switzerland, September 17–19, 1976, on the theme "The History of Czech and Slovak Philosophy."

Members of the society are teaching at about 100 colleges and universities in the United States and Canada as well as in Western Europe. Inquiries about the society should be directed to the secretary general, Dr. John G. Lexa, at 47-16 Austel Place, Long Island City, N.Y. 11101.

It is my pleasure, Mr. President, to salute this fine organization, which is a source of pride to all of us of Czech and Slovak heritage, for the outstanding work it has done to preserve the traditional values of our native land. May the eighth congress be an overwhelming success.

WATERGATE REORGANIZATION AND REFORM ACT

Mr. STONE. Mr. President, on Wednesday, July 21, 1976, the Senate passed the Watergate Reorganization and Reform Act of 1976 by a vote of 91 to 5. Due to illness, I was unable to be present to vote on this extremely important piece of legislation. If my vote had been needed on any amendments or to insure final passage, I would have come in and I would have voted in favor of the bill. However, the Government Operations Committee staff assured me that my presence would not be necessary and I am very pleased to see that they were correct and that the bill passed by so large a margin.

The passage of the Watergate Reform Act marks a significant step toward safeguarding our democratic institutions from abuses by officials in any branch of the Government. The Office of the Special Prosecutor, which the bill establishes, would insulate the Federal prosecution team from improper influence in investigations involving high-level officials of the legislative, executive, or judicial branch. The bill also establishes a much needed congressional legal counsel to assist Congress in enforcing and defending its powers.

Of particular interest to me are the financial disclosure provisions. The Senate has passed disclosure provisions in the past, but never such comprehensive ones as those contained in title III of the Watergate reform bill. I have always considered financial disclosure a necessary responsibility of public officeholding and I have made it my personal practice to disclose the sources and amounts of my income, my joint income tax return each year, and my net worth. I am gratified that the Senate has gone on record so strongly in favor of the public disclosure of financial interests and I am hopeful that the House will follow suit before the end of this Congress.

IS NATO MILITARILY VIABLE?

Mr. TAFT. Mr. President, as part of the series which I have promised the Senate on the critical question of whether NATO is militarily viable, I would like to bring to the attention of the membership what I believe to be one of the most brilliant articles I have seen on the needs and the future of NATO.

This article, "New Weapons Technologies: Implications for NATO," appeared in the summer 1975 issue of Orbis. It is written by a gentleman whom I have the honor to know personally, Mr. John Morse, a former Deputy Undersecretary of Defense for International Security Affairs. As this article conclusively shows, Mr. Morse is one of the most perceptive thinkers in this country on the question of NATO's military viability.

While I do not agree with everything Mr. Morse suggests in this article—in particular, I do not think antitank infantry is an effective answer to the capability of armored forces—I do agree with him that what NATO needs, if it is to be viable, is a complete and objective reexamination of its military concepts, strategy, and doctrine. I see little reason to think that NATO can be militarily viable until it is restructured to deal effectively with the Soviet threat to the Transatlantic sealanes, on which all our resupply and reinforcement of the ground forces in Europe depends. Nor do I understand how we can hope to stop a Soviet conventional attack with our current NATO doctrine of Forward Defense, which experience has shown is probably the worst way to fight the likely type of Soviet attack.

As we examine the question of whether NATO is militarily viable, we must remember how important that question is to us, as Americans. If the NATO forces in Europe could not stop a Soviet conventional attack, then the United States would inevitably be left the only choice of a strategic nuclear confrontation with the Soviet Union. If we faced that situation then we would have to ask ourselves whether we were not "holding the bag" for the Europeans, and whether continued participation in NATO would be in our national interest. If NATO is to serve the interest of all its members, it must be based on both a U.S. strategic nuclear capability, and on a fully adequate European conventional defense capability.

Mr. President, I ask unanimous consent that this article by Mr. John Morse, "New Weapons Technologies: Implications for NATO," be printed in the RECORD.

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

NEW WEAPONS TECHNOLOGIES: IMPLICATIONS FOR NATO

(By John H. Morse)

Writing in Round Table in the autumn of 1973, Michael Howard described the paralysis of NATO in this gloomy passage:

NATO strategy and the NATO force structure has taken so much labour to construct—it is the result of such agonizing disagreements, such precarious compromises—that no senior NATO official cares even to contemplate proposals for its alteration. Even to suggest them is to be branded as irresponsible. The mere prospect of dismantling this system and reconstructing the defence of Western Europe on different principles is almost intolerable. As a result, the official view within the Alliance is that there can be no alternative to the existing arrangements, sustained by American forces at or about their existing levels, except a slide of Western Europe into neutralism, impotence, and "Finlandization."[1]

This is the classic situation of a military system still geared to fight, for both political and military reasons, the kind of war it fought and won more than thirty years earlier. Since 1945, Western military leaders have made no major changes in their military concepts, methods of operation, doctrines, tactics or force postures. They have improved their armed forces primarily by developing better versions of familiar weapon systems, but they continue to rely on infantry, tanks, airplanes, ships, carriers and the customary logistic systems to carry out for the most part the same roles and missions that won the last world war. New technologies have been applied chiefly to improving familiar weapon systems at great cost rather than to developing new techniques in the art of war. This is a dangerous situation. Hitler shattered a similarly vulnerable structure at the start of World War II, to mention but one of many examples in history.

Rapidly advancing technology is the driving force that demands frequent and often drastic changes in approaches to military problems. Systems possessing superior adaptability remain viable and will eventually prevail over inflexible ones. Large and long-established systems like NATO and its military services find it difficult or impossible to adjust in peacetime to changing strategic-technological environments. Only firmly enforced governmental directives or fiscal constraints, or hostilities that last long enough to permit changes imposed by necessity, can serve to overcome the inertia of bureaucracies and the understandable commitment of political and military leaders to tried and tested practices of the past.

Many military men will agree with these assessments, and a few political leaders intuitively will sense that they are correct. However, no one has yet found a way to update existing systems effectively in peacetime. One purpose of this article is to suggest a possible method, as well as to emphasize the necessity for and inevitability of change.

II

The assumption that current military thinking, strategies and concepts determine the development of new weapons and weapon systems is not always valid. For example, the U.S. massive retaliation strategy and the formation of air forces as separate armed services grew out of the advent of nuclear weapons and airplanes, not from expressed military requirements or strategies. Today missiles threaten the utility of the strategic concepts developed over the past generation—massive retaliation as well as flexible response. The improved accuracy of missiles and other technological advances cast doubt on the utility of the air force as a separate service. Progress in technology has in a few short years substantially altered some of the assumptions on which existing strategic and operational concepts, force structures, and the organization of military units and services are based.

The tank broke up static defense warfare and brought maneuver again to the battlefield when Hitler's generals visualized and then applied its potential in their famous blitzkrieg strategy so successfully employed against France in 1940. The tank came first to protect men, and then new ways of using it were devised. Now, antitank technologies of several kinds threaten to reduce or alter the role of tanks. Today's submarine calls into question the feasibility of large-scale sea transport during hostilities and current concepts for the defense of Europe. Highly accurate missiles now threaten tanks, airplanes, ships—any surface or airborne objects—as never before.

But any suggestion for significant changes in military systems or thought always raises a host of questions and leads inevitably to a series of investigations whose effect is often to study new proposals to death, thus preventing or interminably delaying their adoption. If it is possible to visualize in outline form the changes in military concepts that modern technology will eventually force upon us, perhaps the normal and essential study process can be focused and made more constructive. The first step is to examine some well-established technological trends.

Several of these can be identified in the field of conventional weaponry.[2] In sum, they (1) tend to put more and more destructive capability at the disposal of smaller and smaller units, and (2) make it possible for small units or even the individual soldier to operate more effectively. Individuals or small units that can call in firepower as needed or possess unprecedented levels of firepower conferred by highly accurate weapons, simple to operate and in many instances easily portable, can create more havoc than ever before. The trends in new weapons technology are favorable to small units, concealment, swift movement and rapid communications. The thrust in these directions comes from such technical developments as the following:

(1) More destructive energy in smaller packages. White the nuclear weapon is the most obvious example of this development, it applies to conventional explosives as well, albeit less dramatically.

(2) The revolution in delivery accuracy. For the first time in history, a weapon fired from a distance of a thousand miles can be as precisely targeted as one fired from a thousand feet.

(3) The revolution in delivery speed. Explosive charges, nuclear or conventional, small or large, can arrive on target over almost any distance in minutes or seconds rather than the hours, days, weeks or even months once required. It is technically possible to deliver explosive charges directly from factories to targets, if desired.

(4) Vastly improved mobility and communications. Mobility on land and sea and in the air continues to increase, and the same is true of facilities for command, control and communications. Night operations are more feasible than ever before.

(5) Enhanced ability to destroy quickly whatever can be located. This means that the side not initially prepared has little time avalaible to protect its forces, and the first battle in a future conflict may be decisive, especially if an offensive force possessing weapons incorporating high degrees of accuracy and high levels of firepower is able to destroy the opponent's forces in a surprise attack.

These trends will continue to have profound effects on the future conduct of warfare. If anything, the rapidity of technological change will accelerate. Newer technologies, such as lasers or charged particle beams, may modify existing trends somewhat, in ways that cannot now be easily foreseen. But the emerging technologies of both conventional and nuclear warfare can benefit the defense, provided defending units have adequate warning time, and prevent a surprise attack. Today, surprise can be more deadly than ever before.

A combination of technological, fiscal and political pressures over the next decade will force drastic, even revolutionary changes in military concepts and doctrines, force struc-

[1] Michael Howard, "NATO and 'the Year of Europe,'" *Round Table*, October 1973, p. 455.

[2] Nuclear issues, such as escalation and the best roles for tactical nuclear weapons have attracted so much thought and attention that major conventional possibilities have been largely overlooked until recently. A fuller understanding, and exploitation, of conventional potential may ease the nuclear problems that have proved so intractable to date.

tures and weapon systems. Such changes will occur in military forces throughout the world and in most types of warfare. While the principles of war based on the unchanging characteristics of human nature will hold firm, the conduct of war is likely to be modified significantly by new technologies.

For example, large-scale conventional wars may become so difficult or so expensive to wage as to remove the incentive for threats or actual aggression; or it may be that any aggression will have to be a quick-strike, disarming (conventional or nuclear) attack. Extended conventional hostilities, if any occur, will likely resemble those of the Vietnam war more than those of the two world wars. Terrorists and civil dissidents will further develop their power to disrupt our increasingly complex societies; their operations, if fully exploited, may be decisive in a future war.

III

Who benefits most from the new developments in weapons technology? As always, much depends on such intangible factors as relative skills in exploiting technology, and the morale, drive and levels of political will of opposing forces. But there seems to be some hope for the first time that, if the West skillfully exploits today's technological trends, the NATO-Warsaw Pact balance of forces can be tilted in favor of the Western allies—a balance within which Soviet massed forces and blitzkrieg tactics may count for less. The Atlantic alliance may be able to evolve an adequate defense capability within the resource limits its members are likely to allocate for their defense. In the future, sheer mass may be not only less effective than in the past, but dangerous for the side that concentrates its forces. They may be vulnerable to either conventional or nuclear attacks to a greater extent than before. The use of massed military force to overwhelm an opponent has been a favored Russian tactic for centuries.

This important change—stemming primarily from revolutionary advances in weapons delivery accuracy—must be taken into account by military planners. It has many important implications in addition to its threat to massed forces. For example, wherever it is possible to find and kill a soldier with a single shot, his elimination requires one bullet rather than the 30,000 fired to inflict a single casualty in World War II. His removal from battle does not require the use of a larger weapon, such as a 500- or 1,000-pound (or a kiloton) bomb to compensate for the normal miss-distances of many existing delivery systems. Therefore, fewer men, less ammunition, less complex and expensive logistic support systems will be needed to destroy some targets. There can be less of the unintended, undesired collateral damage that has proved so costly in political and fiscal terms in past wars. Because many weapons will be smaller or more portable or more accurate—or all of these—both parties will be compelled to devote greater effort to hiding targets, finding them, or preventing their formation.

While this simple example is in part theoretical, it serves to highlight the major gains to be realized as we approach the ultimate in delivery accuracy. We are moving rapidly in that direction. The accuracy and effectiveness of several weapon systems, such as the Soviet SAM-6 ground-to-air and Sagger anti-tank missiles supplied to Egypt and Syria, came as quite a shock during the October 1973 Middle East war. Today we routinely achieve one shot/one kill results at long distances on testing ranges. During the Middle East conflict, some weapons approached this level of efficiency several several times in actual combat. In little more than a week, the fighting consumed more than $2.5 billion worth of Israeli-U.S. equipment and probably an equal amount on the Arab-Soviet side. All this was attained with first-generation guidance systems.

In judging our rate of progress in this and other technical fields, we should keep in mind that scientists, engineers and military officers are naturally conservative in predicting the rapidity and extent of technological advances. The many technical obstacles to progress are usually most apparent to those trying to develop the technology, leading often to overly conservative estimates as to what can be achieved and how soon. In any event, we can anticipate that each new generation of guidance systems will improve on the previous one. Already some accurate night and all-weather guidance systems are on the horizon. It would be rash to underestimate the potential for rapid progress in the next decade.

Both NATO and Warsaw Pact countries could develop and fully exploit the new technologies for warfare. If the Soviets do, and the West does not, NATO will be in even worse straits than at present. But the situation is serious enough as it is. Most observers, including a majority of Europeans, regard present Soviet military power facing Western Europe as superior to that of NATO, at least in mass and numbers of men and weapons. U.S. attempts to reassure the Europeans concerning the NATO-Warsaw Pact military balance and the resolve of the United States in preserving European security have failed to alter this pessimistic assessment.

Consequently, the Soviet leadership may have little incentive to alter its present military concepts and forces—except to add to them—at least until it sees NATO introducing changes whose effect would be to nullify current Soviet advantages. The present Soviet force posture represents a heavy investment not likely to be abandoned or replaced without serious cause. Why should the Soviets give up large numbers of tanks, blitzkrieg capabilities and tactics so long as they seem to serve Moscow's political and military purposes in Europe? At the same time, the existing military situation, Soviet conservatism and new weapon technologies offer promising opportunities to NATO leadership.

More than 2,000 years ago, Chinese strategist Sun Tzu observed that the good general always remembers that his prime target is the mind of his opponent. He also said that the clever general wins without killing. The present Soviet leadership is mostly old, careful and conservative; the next generation of military leaders may inherit the deep-seated caution of its forebears. The deployment and skillful application of new technologies by NATO forces could serve to perpetuate and reinforce the inherent caution of Soviet military planners.

Under battlefield conditions created by new technologies, any aggressor must assume that even small defending forces could present a dangerous threat and put up stubborn resistance to an invading force. In addition to more destructive power directly available to smaller units, it will be possible to call in still more firepower to hit targets quickly and accurately from long distances. Thus, NATO could construct a defensive system that would present grave problems to any invader. An aggressor would not be certain of his ability to cope with all counterattacks before or even after his forces seized territory. Massing for an invasion would be more perilous for attackers and hence less feasible than at present, since their large, massed forces would provide excellent targets for a defender. Small units possessing highly destructive, accurate weapons will be able to move more rapidly and hide more easily than larger forces. Territorial or citizen reserve forces can assume more important roles in such a concept of operations and force structure. New combinations of such indigenous manpower defending home territories in conjunction with fewer, but better trained, standing military units would be equally effective and less costly than present NATO armies.

Even wiping the target area clean by means of high-yield nuclear explosives, or mini-nukes, would not assure success against a cleverly designed defense. Furthermore, the introduction of tacticaly nuclear weapons would risk nuclear escalation, confronting the aggressor with the possibility that the resulting destruction would outweigh the value of his original objective, or hurt him badly, or both. Occupation of a nuclear wasteland is not an attractive prospect, and such territory might not be easy to control for any length of time.

A nuclear aggressor must set out to decimate *all* opposing units and have plans for an alternative strategy if that effort fails. When counterattacks, either conventional or nuclear, can come from almost anywhere and from any distance, the planner faces serious problems. Uncertainties are multiplied for the aggressor as the defenders' access to and use of nuclear weapons becomes more feasible, and their presence and precise locations become less discernible. Some of the new technology can be used to enhance the safety, control and accuracy of nuclear weapons, even when they are widely dispersed.

Full exploitation of new technologies in conventional weaponry offers the real possibility of effective deterrence and defense, without primary reliance on nuclear weapons. The need for the early release of nuclear weapons for battlefield use would probably be much less pressing than many think it is today. But regardless of how effective conventional defense may seem to be, the presence of invulnerable nuclear capabilities is essential at all times to complicate planning by the other side.

IV

There is a great deal of discussion today about standardization of weapons and rationalization of roles in NATO. Although these are extremely important long-range goals, of even more importance and much greater potential impact is standardization of new concepts and doctrines to exploit fully the potential inherent in the new technologies—concepts and doctrines designed to take advantage of the traditional caution of the Soviet planner, enhance prospects for the deterrence of conflict in Europe, and instill hope in the NATO countries about the prospects for a favorable military balance. What we need most at this point is a commonly understood and accepted set of modern concepts and doctrines supported by all members of the Atlantic alliance. This is not an unrealistic goal; it can be attained once people visualize the true potential of modern technology to build effective defenses against traditional forms of military attack. With such agreed concepts as a first step, we can start building and deploying the new defenses. Without such agreement, we can move only fitfully in this direction, as we are now doing under the irresistible pressures of technology. We need a coherent framework of ideas and directives at this point to accelerate and coordinate our efforts. It is indeed a challenging task for our leadership.

There are encouraging signs that such agreed concepts may emerge in the years ahead. In a number of symposia and meetings being held on both sides of the Atlantic, leading statesmen and scholars are addressing the issues of the new technology and its implications. Fiscal pressures on defense budgets are mounting both in Europe and the United States, and some alliance leaders seem to appreciate the fact that changes are needed. If and when new doctrinal concepts emerge, a number of advantages inherent in new technologies will become evident:

(1) The existing NATO framework, which links independent nations still far from being united in a common cause, will be more

proficient in the conduct of its mission namely, to deter and, if necessary, repeal aggression. When each nation can more confidently assume responsibility for its own defense as well as contribute to the common defense, a loose association among Atlantic nations should serve the purposes of security better than the present system does. Nations not now a part of NATO, such as Sweden and Spain, can better provide for their own security and even contribute to NATO's deterrence and defense goals if they share a common defense doctrine with the alliance. Last, but not least, a new and mutually acceptable role for France will probably emerge.

(2) Rationalization and standardization problems may be eased if the traditional large armed forces involving several nationalities with their nationally produced armaments become less prominent in NATO planning. Under new concepts of defense and deterrence, accepted by all members, it may be easier to agree on types of weapons, relative roles, national contributions, and sharing for the production of a new generation of weapons based on the most advanced technologies for conventional and nuclear defense.

(3) Similarly, U.S.-European differences will be eased as we reach a clearer and more accurate understanding of what European nations can and will do to defend themselves, and how the United States can help. This would lead to a greater contribution by Europeans to their own defense and provide some relief for the United States to focus more on its own vital defense problems.

(4) Clearer European-American understandings on security issues will help to ease the other political and economic differences that always exist to some extent within NATO or any other alliance.

(5) The exposure of policymaking elites to the constructive potential of new technology is vital to the formation of agreed concepts for its best use and will disclose those areas that need additional funding for R&D and procurement. The resulting concentration of effort may save money and curtail duplication of national and international programs.

(6) Sounder guidance from political leaders to military officers can be expected, once the former better grasps the significance of the major technological trends and their potentially revolutionary impact on military forces and the conduct of warfare.

Some understanding of the impact of modern technology on existing military weapon systems may assist alliance members in reaching a broad consensus on new concepts and doctrines. Since current trends favor the submarine over the surface ship, smaller, faster, less vulnerable surface units with enhanced striking power will be needed, and in greater numbers. Serious doubts arise about the ability of any navy at any cost to keep open lengthy or numerous sea lanes, and of most oil dependent economies to operate for long without seaborne supplies. Oil moves in highly vulnerable 200,000-ton tankers. Exact movements of surface ships are not hard to follow, and the Soviets have large numbers of modern, elusive submarines. Conservation of energy in future military operations may be crucial. Some of the new technology offers better results with less energy expended.

In the air, technological trends operate in general against manned aircraft and in favor of stand-off attack and remotely-piloted airborne vehicles. The future utility of manned aircraft in hostile and increasingly lethal battlefield environments seems doubtful at best. To put men in airplanes is an expensive undertaking which presents formidable problems in design, added weight and reduced operational performance. Remotely-piloted vehicles and missiles may eventually replace manned aircraft in many missions now assigned to tactical airpower along the NATO central front. This, too, can mean substantial savings of energy and resources.

On land, today's technology tends to erode the utility of the tank as we know it and to favor a defense using small, numerous, accurate-firing and hard-hitting attack units of several kinds. New mines also can hamper tank operations. Moreover, the tank consumes large quantities of fuel, since it gets only three miles or less per gallon. The day of the massed tank assault against well-prepared defenses may be over, although the issue is by no means clear at this point. Nevertheless, growing doubts with regard to tank utility may serve to enhance deterrence even now.

Political leaders and military strategists must be prepared to ask basic, searching questions of those who advocate weapon systems that run counter to the visible technological and economic trends. To go against the stream of natural advance is not only costly but often futile and dangerous. This is not to say that we should *never* do so, only that we should realize what we are doing and have good reasons to back up our decision. The burden of proof must rest upon those who would challenge the nature or validity of technological trends and their logical implications. All exceptionally expensive systems should be particularly suspect, and it is not surprising that most "against the stream" systems are costly.

V

Although comprehensive, coherent and widely endorsed new defense concepts of the sort suggested here are now in sight, a number of legitimate questions will arise as these concepts move toward more general recognition and eventual adoption. A major area of concern is the cost of the new technology. Much can be done to keep it down. In every war fought by the United States, the enemy's weapons have been less sophisticated and elaborate, but their performance and reliability were often as good or better, and they were far less expensive. We have had time in previous conflicts to redesign weapons, mass produce them and eventually win. Our opponents, without the "handicaps" of wealth and sophisticated equipment, have performed quite well on the battlefield. The Soviets could do the same. Their less complex equipment is good.

Profligate habits stemming from 200 years of unbroken victories and decades of unprecedented affluence are hard to break. Because giant corporations often make large profits on vast projects, there is normally little incentive to develop or produce simple and cheap equipment. The "nothing is too good for our boys" syndrome has also pushed us in this direction. Over the past fifteen years the United States has spent about $120 billion on military R&D, and the expenditures of other NATO members bring this figure to a higher total for the alliance as a whole. We have vast technological resources waiting to be exploited, but to tap these resources requires a particular frame of mind seldom found in affluent societies. However, there always exist a few nonconformist individuals who can get effective technical results inexpensively by a "baling wire" approach: they combine several technical developments intended for different purposes to create products not visualized up to that time, and at relatively low cost. A considable amount of "baling wire" is stored in our mine of accumulated technology. All we need in order to use it is to develop the necessary frame of mind and find and encourage the right individuals. Tight money helps.

The process of technological transfer or "pick up" is easier and cheaper than original R&D. Each generation of technology makes its predecessors cheaper and easier to exploit, and by more people. Thus, the French nuclear weapon capability cost far less than the early American atomic program, and today almost any nation can afford to join the nuclear club if weapons-grade fissionable material is available to it. Also, by not insisting on the latest and best in every item of equipment, we could afford to procure many systems quite adequate for the purposes proposed in this article, and we could do it without vast outlays of money. There are encouraging signs of some movement in the direction of more resourcefulness and economy in our thinking about new weapons. Mass production and rationalization of production among our allies would offer additional savings.

In examining weapon budgets one should consider cost exchange ratios as well as actual costs. What gain does one secure in firing a certain weapon? What are the relative costs? A $15,000 missile that destroys a manned aircraft costing several million dollars is certainly cheap. In fact, much of the technology called for by the concepts outlined here will not be expensive in unit costs. Much of it will be well within the capacity of alliance members to buy or produce in quantities sufficient to preserve a deterrent relationship between NATO and the Warsaw Pact. Savings achieved in manpower could go to finance new equipment.

The question of how much the new concepts would save in money and manpower may be less pertinent today than the question of what to do when political and fiscal pressures force reductions in NATO forces. Do we then stretch the thin defensive line even thinner in the face of growing Soviet strength, after having declared for years that the line is already at the breaking point? Or do we adopt a new approach based on new technology to counter the USSR's massive forces and keep them in sufficient doubt as to potentially disastrous consequences should they move?

It is difficult to estimate costs and manpower requirements until we have laid out specific new concepts, doctrines and force postures. The first step must be the approved concept, and this is not yet in existence. Some governmental and private research groups are looking into a variety of operational concepts, force postures and their capabilities. Once agreement is reached on the concepts and doctrines, we can move quickly to the subsequent steps.

A number of technical problems require additional attention. Target location, identification and tracking, which have always been a problem, are high on the list of problem areas. The new technology compels both the offense and defense to avoid concentrations and detection of their forces. The validity of the new concept depends largely on the theory that aggressors cannot avoid detection and crippling attacks to the same extent that defenders can. If aggressors are forced to put more manpower and equipment in motion, the defenders, properly organized and equipped, are in a better position to locate and hit anything that moves. To monitor the aggressor's movements we have available such modern means as small, inexpensive, remotely-controlled vehicles equipped with television cameras. They are hard to detect electronically or visually and easy to operate. Stay-behind forces can be used, and surveillance satellites can provide vitally important data about the movement of enemy forces and activities behind his battle lines. As we put greater investments of talent and funds into R&D for surveillance, our capabilities, already formidable, will be vastly enhanced.

It is true that every measure has its countermeasure, but one can never predict when (or if) a countermeasure will appear. During the Yom Kippur war, the Israelis never fully countered the SAM-6 Soviet missile that destroyed so many Israeli planes. A measure/countermeasure struggle is a regular feature of conflict, but in many instances preparation of countermeasures cannot begin until actual hostilities are underway, and this

may be too late—especially in a short war. This is another factor of uncertainty that will complicate the calculations of both the aggressor and defender in future conflicts, and possibly discourage hostilities.

New concepts and doctrines need not be seen as perfect in all respects in order to represent major improvements over those in current use and to serve the basic purpose well. The problems that many see in the new approach are mostly somewhat different versions of existing problems and can be overcome through improvements brought about by intensive efforts. The speed with which changes can be introduced in present military force structures and equipment will depend on the strength of pressures applied. Major conventional hostilities, for instance, would bring about many changes within a year, if fighting lasted that long. Without hostilities, these changes might still occur, but very slowly. Technology and tight budgets will force them eventually, whether we like it or not. Inevitably, change will occur; the armored, steam driven battleship followed the wooden sailing ship, and the tank replaced the cavalryman, after some resistance and several tests in war.

VI

A decided change in national thinking and attitudes will accompany and tend to support the new concepts and advancing technology. Americans conditioned by 200 years of geographic invulnerability, capped by forty years or so of unprecedented power and affluence, have become accustomed to think in terms of certainty. Probably no other people would adopt a national policy of "assured destruction" or think in terms of assured war-winning capabilities. We too readily forget that uncertainty and surprise are the natural state of mankind and of conflict and that we cannot buy certainty or assurance with any amount of money or technology—though it seemed for a while that we might. We have overlooked the obvious fact that, with a judicious combination of wisdom, high morale, money and technology, we can create and maintain crucial uncertainties in the mind of any potential adversary at almost any level of hostilities. In this dangerous age, such a policy may be sufficient to preserve the peace. We may not need to instill certainty of unacceptable consequences in the adversary's mind so long as we create serious doubts about the eventual results.

Critical to the future of NATO are the morale and political will of our allies, and these attributes, in turn, are vitally affected by the credibility of our deterrence and defense concepts. Europeans have yet to shake the inferiority complex engendered by defeat in World War II and the persistent Soviet menace since the early postwar period. Given their postwar weakness and the U.S. willingness to participate heavily in the defense of Europe over the years, it is only natural that they have allowed this country to assume as much of the load as it would. The time has come to transfer much of the defense burden back to Europe and to help the Europeans do more for themselves.

Some observers maintain that the state of morale and political will in Europe is so low that a serious Soviet threat to invade (unlikely as that may be) would induce preemptive surrenders. If this estimate reflects the true condition, the United States could be wasting time and money by maintaining a military presence in Europe. On the other hand, there is a real possibility that modern defense concepts might offer more hope and raise morale and political will on the continent.

It is significant that the relatively poorly trained and inexperienced Egyptian infantry destroyed a number of Israeli tanks with the Soviet Sagger missile, and that this initial success—as success is likely to do—induced high morale and elation among Egyptian troops. There has been no similar experience in Europe, nor any apparent effort by either political or military authorities there to emphasize the implications of the 1973 Yom Kippur war for European antitank defense. If it were possible to convince Europeans that a soldier, firing a modern antitank weapon, could have a 90 per cent probability of hitting a tank, a 90 per cent chance of destroying it if it was hit, and only a 10 per cent chance of being killed himself as he disclosed his firing position, we might expect heightened morale and a stronger determination to resist invasion. After all, students threw Molotov cocktails at tanks in Budapest, knowing that they had little chance of knocking out the tanks, and a high probability of being killed. Wide discussion of the new technology and its advantages for the defense might go far to improve the psychological climate in Europe and thus strengthen deterrence. That climate at present is the weakest part of the European security system.

VII

It is customary to think of nuclear issues as the most difficult and intractable aspects of defense and deterrence in Europe. Yet it is entirely possible, and even probable, that nuclear roles will fall more naturally into place if current and long-term conventional defense potentials are fully and skillfully exploited. Conventional operations can now achieve some battlefield results that many observers once thought possible only by using nuclear weapons. Now conventional *and* nuclear capabilities tend to force dispersion and concealment on both sides and discourage troop concentrations. It has become much more difficult than before for either the offense or the defense to take advantage of mass formations. For the first time nuclear and conventional weaponry suggests congruent battlefield strategies, and the side that fails to take full advantage of both may be in serious trouble if a conflict erupts.

It is imperative for NATO to be fully prepared in both modes. The major obstacles to achieving this state of readiness are neither fiscal nor technical, but mental. The primary need is to develop and test several new concepts for European defense and deterrence, applying the latest conventional and nuclear weapon technologies in innovative ways. This can be done on a competitive and cooperative basis by several different institutions. U.S. and European military services can boast of many highly qualified individuals. Moreover, there are thousands of recently retired officers relatively free of the constraints that unavoidably limit freedom of thought and expression within any military system. A number of American "think tanks" are staffed with civilian analysts well qualified to participate in developing defense concepts, and several European equivalents are gaining solid reputations. There is no lack of expertise in the areas of defense and national security. All it takes is for senior government officials to decide that such studies should be undertaken and see that they are adequately funded and staffed. A task force approach has frequently proved successful in the past.

As soon as several versions of new concepts are in hand, they can be evaluated in light of existing or anticipated political and economic developments. The more promising concepts can be tested further. Technical performance can be checked through test ranges and military maneuvers. Polls and solicitation of the views of experienced political leaders can be used to assess political reactions to, and the feasibility of, the various concepts. Perhaps most important of all, financial estimates can be developed with some accuracy by costing out a complete military system and force posture for each concept. A systematic approach of this nature would have several advantages:

(1) It would provide for the allies' participation in working out the best ways to deter attack against their homelands and to defend them with modern technology in the event deterrence fails. For the United States to develop such concepts for Europe makes as much sense as it does for Europe to develop them for us.

(2) It would serve to focus and coordinate better the efforts of many groups working on defense issues in the United States.

(3) It would tend to improve Congressional/Defense Department relationships to the extent that Congress sees evidence of more coherent and systematic thinking that takes full account of new technologies. Congressional criticism probably stems in large part from intuitive feelings that defense thinking has changed little over the past thirty years, and hence is wasteful. Congress cannot legislate "progressive" thinking but is likely to recognize it if and when it appears.

(4) The public's understanding and support of new defense concepts would increase if it could be convinced that Congress was satisfied with them.

In contemplating any approach to big problems there is always the tendency to think big. Americans particularly are prone to "bigness" in studies, programs and the like. But such an approach would complicate these problems, which are difficult enough without adding unnecessary handicaps. The President should carefully choose three to five independent military and civilian experts, ask them to define the problem, assess the feasibilities, and work out procedures most likely to produce a report of practical value to Western defense stratetgists. A competent group would recognize the need for inputs beyond its own collective talents, and would be prepared to seek the assistance of others having the requisite political, economic, technological and military expertise.

If such an examination of NATO is successful, it might be prudent to extend the group's purview to treat defense problems in other parts of the world. Many of the findings relevant to NATO will surely be applicable elsewhere.

A fundamental reassessment of NATO's mission to defend Europe, and the strategies and capabilities needed to carry it out, is long overdue. While the flexible response called for by present NATO strategy is sound in principle, its implementation needs new thinking. It is dangerous to retain the current shaky defense structure indefinitely. The means for revamping it are present, thanks to new and emergent weapons technologies.

ANTINUCLEAR PETITION—DRIVE OVER 400,000 STRONG

Mr. GRAVEL. Mr. President, the Task Force Against Nuclear Pollution, Inc.—P.O. Box 1817, Washington, D.C. 20013—has collected, sorted, and computerized over 400,000 signatures on petitions asking Congress to keep nuclear power out of our lives.

The petition-drive, which is endorsed by Ralph Nader, is no ordinary petition-drive. When petitions are received, they are sorted according to congressional district, and the names are added to the task force's growing communication network. The petitions are never lost; they are taken to legislators at all levels of government over and over again.

Mr. President, I admire and appreciate the efforts of the thousands of citizens who, through the petition-drive, are

helping to make democracy work. Our generation, and all the generations that hope to follow us, should be grateful to these volunteers who are helping to protect us from the economic, environmental, moral, and safety hazards of atomic power.

The signatures are on petitions that read as follows, or are similar:

I petition my representatives in government to sponsor and actively support legislation to: (1) foster wide use of solar—including wind—power now, and (2) phase out operation of nuclear power plants as quickly as possible.

Mr. President, I ask unanimous consent that the June 1976 report of the task force listing numbers of signed petitions by congressional district be printed in the RECORD.

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

TASK FORCE AGAINST NUCLEAR POLLUTION

Congressmen listed by last name; Number: Congressional District; Un: Unidentified.

ALABAMA

1. Edwards	50
2. Dickinson	101
3. Nichols	106
4. Bevill	36
5. Jones	150
6. Buchanan	67
7. Flowers	197
Un	506
Total	1,213

ALASKA

At Large—Young	233

ARIZONA

1. Rhodes	529
2. Udall	1,226
3. Steiger	305
4. Conlan	252
Un	611
Total	2,923

ARKANSAS

1. Alexander	144
2. Mills	364
3. Hammerschmidt	1,963
4. Thornton	180
Un	1
Total	2,652

CALIFORNIA

1. Johnson	793
2. Clausen	2,798
3. Moss	2,100
4. Leggett	425
5. Burton (John)	1,258
6. Burton (Phillip)	1,169
7. Miller	683
8. Dellums [2]	3,661
9. Stark [2]	457
10. Edwards	423
11. Ryan [2]	444
12. McCloskey	153
13. Mineta	540
14. McFall	882
15. Sisk	1,029
16. Talcott	3,490
17. Krebs	1,079
18. Ketchum	143
19. Lagomarsino	951
20. Goldwater	779
21. Corman	361
22. Moorhead	348
23. Rees	1,266
24. Waxman	1,850
25. Roybal [2]	234
26. Rousselot	366
27. Bell	1,356
28. Burke	411
29. Hawkins	89
30. Danielson	131
31. Wilson (Chas.)	167
32. Anderson	333
33. Clawson	335
34. Hannaford	426
35. Lloyd	239
36. Brown	228
37. Pettis	296
38. Patterson	117
39. Wiggins	327
40. Hinshaw	889
41. Wilson (Bob)	922
42. Van Deerlin	483
43. Burgener	967
Un	988
Total	36,385

Footnotes at end of table.

COLORADO

1 Schroeder	1,046
2 Wirth	824
3 Evans	375
4 Johnson	843
5 Armstrong	368
Un	174
Total	3,630

CONNECTICUT

1 Cotter	1,036
2 Dodd	2,258
3 Giaimo	1,871
4 McKinney	1,344
5 Sarasin	1,001
6 Moffett [2]	221
Un	2,335
Total	10,116

DISTRICT OF COLUMBIA

At Large—Fauntroy	1,723

DELAWARE

At Large—duPont	4,249

FLORIDA

1 Sikes	180
2 Fuqua	689
3 Bennett	112
4 Chappell	222
5 Kelly	173
6 Young	266
7 Gibbons	116
8 Haley	191
9 Frey	109
10 Bafalis	534
11 Rogers	797
12 Burke	185
13 Lehman	272
14 Pepper	322
15 Fascell	706
Un	119
Total	4,993

GEORGIA

1 Ginn	90
2 Mathis	36
3 Brinkley	103
4 Levitas	475
5 Young	45
6 Flynt	129
7 McDonald	120
8 Stuckey	169
9 Landrum	105
10 Stephens	369
Un	408
Total	2,049

HAWAII

1 Matsunaga	489
2 Mink	200
Total	689

IDAHO

1 Symms	516
2 Hansen	200
Un	2
Total	718

ILLINOIS

1 Metcalfe [1]	91
2 Murphy	13
3 Russo	154
4 Derwinski	672
5 Fary	8
6 Hyde	342
7 Collins	23
8 Rostenkowski	30
9 Yates	84
10 Mikva	987
11 Annunzio	28
12 Crane	384
13 McClory	536
14 Erlenborn	295
15 Hall [1]	1,253
16 Anderson	640
17 O'Brien	135
18 Michel	71
19 Railsback	179
20 Findley	302
21 Madigan	658
22 Shipley	152
23 Price	182
24 Simon [1]	436
Un	1,425
Total	9,080

INDIANA

1 Madden	135
2 Fithian	239
3 Brademas	971
4 Roush	299
5 Hillis	186
6 Evans	66
7 Myers	1,673
8 Hayes	181
9 Hamilton	757
10 Sharp	372
11 Jacobs	162
Un	240
Total	5,281

IOWA

1 Mezvinsky [2]	2,364
2 Blouin [2]	1,120
3 Grassley	387
4 Smith	1,826
5 Harkin [2]	907
6 Bedell [2]	255
Total	6,859

KANSAS

1 Sebelius	733
2 Keys	550
3 Winn	708
4 Shriver	1,803
5 Skubitz	2,010
Un	58
Total	5,862

KENTUCKY

1 Hubbard	130
2 Natcher	318
3 Mazzoli	642
4 Snyder	157
5 Carter	259
6 Breckinridge	314
7 Perkins	118
Un	14
Total	1,952

LOUISIANA

1 Hébert	276
2 Boggs	649
3 Treen	55
4 Waggonner	650
5 Passman	16
6 Moore	571
7 Breaux	61
8 Long	125
Un	9
Total	1,827

MAINE

1 Emery	1,415
2 Cohen	1,117
Un	26
Total	2,558

MARYLAND

1 Bauman	295
2 Long [2]	253
3 Sarbanes	26

TASK FORCE AGAINST NUCLEAR POLLUTION—Continued

4 Holt	449
5 Spellman	457
6 Byron	286
7 Mitchell [2]	146
8 Gude	1,049
Un	776
Total	3,737

MASSACHUSETTS

1. Conte	6,345
2. Boland	1,376
3. Early	697
4. Drinan [2]	479
5. Tsongas	1,168
6. Harrington [2]	1,000
7. Unknown	204
8. O'Neill	711
9. Moakley [2]	283
10. Heckler	936
11. Burke	227
12. Studds [2]	655
Un	2,059
Total	16,140

MICHIGAN

1. Conyers	272
2. Esch	971
3. Brown	381
4. Hutchinson	513
5. Vander Veen	273
6. Carr	398
7. Riegle	61
8. Traxler	262
9. Vander Jagt	278
10. Cederberg	334
11. Ruppe	462
12. O'Hara	233
13. Diggs	219
14. Nedzi	327
15. Ford	251
16. Dingell	226
17. Brodhead	359
18. Blanchard	367
19. Broomfield	566
Un	15
Total	6,768

MINNESOTA

1. Quie	440
2. Hagedorn	490
3. Frenzel	122
4. Karth	1,144
5. Fraser	1,706
6. Nolan	311
7. Bergland	299
8. Oberstar	193
Un	75
Total	4,780

MISSISSIPPI

1. Whitten	15
2. Bowen	32
3. Montgomery	19
4. Cochran	153
5. Lott	332
Un	3
Total	554

MISSOURI

1 Clay	347
2 Symington	185
3 Sullivan	176
4 Randall	374
5 Bolling	170
6 Litton	274
7 Taylor	224
8 Ichord	635
9 Hungate	184
10 Burlison	54
Un	83
Total	2,706

MONTANA

1 Baucus	426
2 Melcher	213
Un	2
Total	641

Footnotes at end of table.

NEBRASKA

1 Thone	305
2 McCollister	108
3 Smith	96
Total	509

NEVADA

At Large—Santini	355

NEW HAMPSHIRE

1 D'Amours	1,202
2 Cleveland	1,620
Un	2
Total	2,824

NEW JERSEY

1 Florio	1,014
2 Hughes [1]	4,526
3 Howard	842
4 Thompson	1,008
5 Fenwick [2]	2,405
6 Forsythe	1,497
7 Maguire	2,174
8 Roe	962
9 Helstoski [2]	1,078
10 Rodino [2]	915
11 Minish	1,305
12 Rinaldo	1,176
13 Meyner	866
14 Daniels [2]	419
15 Patten	1,402
Un	3,549
Total	25,138

NEW MEXICO

1 Lujan	1,252
2 Runnels	175
Un	20
Total	1,447

NEW YORK

1. Pike	2,961
2. Downey	761
3. Ambro [1]	1,906
4. Lent	1,185
5. Wydler	1,296
6. Wolff [2]	738
7. Addabbo	34
8. Rosenthal [2]	103
9. Delaney	29
10. Biaggi	93
11. Scheuer [2]	282
12. Chisholm [2]	19
13. Solarz	58
14. Richmond [2]	41
15. Zeferetti	43
16. Holtzman [2]	37
17. Murphy	940
18. Kich	1,841
19. Rangel	940
20. Abzug [2]	1,782
21. Badillo [2]	17
22. Bingham	21
23. Peyser	2,280
24. Ottinger [2]	2,757
25. Fish [2]	5,511
26. Gilman	1,933
27. McHugh [2]	9,177
28. Stratton	1,057
29. Pattison [2]	7,575
30. McEwen	1,688
31. Mitchell	617
32. Hanley	1,691
33. Walsh	796
34. Horton	762
35. Conable	335
36. LaFalce	5,340
37. Nowak	1,970
38. Kemp	1,583
39. Lundine	1,696
Un	13,908
Total	75,790

NORTH CAROLINA

1. Jones	415
2. Fountain	1,903
3. Henderson	336
4. Andrews	1,339
5. Neal	620
6. Preyer	386
7. Rose	136
8. Hefner	671
9. Martin	477
10. Broyhill	323
11. Taylor	1,821
Un	504
Total	8,931

NORTH DAKOTA

At Large—Andrews	229

OHIO

1 Gradison	987
2 Clancy	621
3 Whalen	281
4 Guyer	149
5 Latta	332
6 Harsha	210
7 Brown	336
8 Kindness	70
9 Ashley	1,178
10 Miller	188
11 Stanton (J. Wm)	474
12 Devine	174
13 Mosher	428
14 Seiberling [2]	663
15 Wylie	133
16 Regula	144
17 Ashbrook	210
18 Hays	117
19 Carney	395
20 Stanton (James)	253
21 Stokes	163
22 Vanik	1,033
23 Mottl [2]	560
Un	170
Total	9,269

OKLAHOMA

1 Jones	2,205
2 Risenhoover	1,627
3 Albert	414
4 Steed	593
5 Jarman	253
6 English	671
Un	92
Total	5,855

OREGON

1 AuCoin	4,490
2 Ullman	969
3 Duncan	1,430
4 Weaver [2]	5,091
Un	52
Total	11,931

PENNSYLVANIA

1 Unknown	688
2 Nix [2]	1,020
3 Green	469
4 Eilberg	626
5 Schulze	777
6 Yatron	445
7 Edgar [2]	803
8 Biester	1,265
9 Shuster	286
10 McDade	2,955
11 Flood	4,400
12 Murtha	741
13 Coughlin	746
14 Moorhead	54
15 Rooney	1,213
16 Eshleman	1,850
17 Schneebeli	1,568
18 Heinz	83
19 Goodling	1,371
20 Gaydos	132
21 Dent	112
22 Morgan	208
23 Johnson	967
24 Vigorito [2]	438
25 Myers	175
Un	2,404
Total	25,796
Puerto Rico	11

RHODE ISLAND

1 St Germain	2,359
2 Beard	4,343
Un	2,011
Total	8,713

SOUTH CAROLINA

1 Davis	186
2 Spence	696
3 Derrick	194
4 Mann	222
5 Holland	505
6 Jenrette	54
Total	1,857

SOUTH DAKOTA

1 Pressler	79
2 Abdnor	57
Total	136

TENNESSEE

1 Quillen	155
2 Duncan	375
3 Lloyd	278
4 Evins	2,424
5 Fulton	4,998
6 Beard	565
7 Jones	50
8 Ford	65
Un	68
Total	8,978

TEXAS

1 Hall	35
2 Wilson	126
3 Collins	374
4 Roberts	75
5 Steelman	289
6 Teague	131
7 Archer	446
8 Eckhardt	95
9 Brooks	149
10 Pickle	5,297
11 Poage	185
12 Wright	110
13 Hightower	17
14 Young	63
15 de la Garza	104
16 White	51
17 Burleson	130
18 Jordan	212
19 Mahon	40
20 Gonzalez	1,654
21 Krueger	785
22 Casey	168
23 Kazen	563
24 Milford	114
Un	1,615
Total	12,828

UTAH

1 McKay	451
2 Howe	723
Total	1,174

VERMONT

At Large—Jeffords	6,054

VIRGINIA

1 Downing	191
2 Whitehurst	75
3 Satterfield	217
4 Daniel (Robert)	86
5 Daniel (Dan)	86
6 Butler	130
7 Robinson	941
8 Harris	437
9 Wampler	123
10 Fisher	1,071
Un	68
Total	3,423

WASHINGTON

1 Pritchard	3,113
2 Meeds	3,397
3 Bonker [2]	5,939
4 McCormack	1,073
5 Foley	429
6 Hicks	1,200
7 Adams	2,369
Un	650
Total	18,170

WEST VIRGINIA

1 Mollohan	198
2 Staggers	660
3 Slack	216
4 Hechler [2]	93
Total	1,167

WISCONSIN

1 Aspin [1]	2,159
2 Kastenmeier [1]	4,499
3 Baldus	6,063
4 Zablocki	108
5 Reuss	825
6 Steiger	1,270
7 Obey	11,492
8 Cornell	1,636
9 Kasten	1,565
Un	521
Total	30,138

WYOMING

At Large—Roncalio	182
Nationwide total	401,223

[1] Supports Moratorium on nuclear power.
[2] Moratorium bill cosponsor.

ARMY POSTPONES TANK SELECTION

Mr. CASE. Mr. President, I commend the administration for its wise decision to work toward greater standardization of major components in the new generation of NATO tanks.

The Army's announcement yesterday that it will delay final selection of the American XM-1 tank should help the efforts to obtain a higher level of standardization with the new West German tank.

The views of the Senate Appropriations Committee were expressed in the following language approved Wednesday for the report on the fiscal year 1977 Defense Department appropriation bill. The report language which I offered and which was modified at the suggestion of the Senator from South Carolina (Mr. THURMOND) said:

The Appropriations Committee is concerned about reports that there have been difficulties in working out an agreement on use of common components in the proposed new tanks for NATO forces. The Committee encourages the Defense Department to work out agreements on a mutual basis to standardize parts and components to the greatest extent feasible. This language is not intended to delay the U.S. XM-1 development program.

I do not think the delay until the end of the year is an undue one in view of the potential benefits in lowered costs and battlefield efficiency if standardization can be achieved on major components. The Army's decision was a good one and worthy of our support.

I ask unanimous consent to have printed in the RECORD two articles on the issue.

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

[From the New York Times, July 22, 1976]

ARMY POSTPONES TANK SELECTION—DECISION WILL ALLOW STUDY OF COMPONENTS COMMON WITH WEST GERMAN VERSION

(By John W. Finney)

WASHINGTON.—The Army, in what could develop into a major step toward standardization of weapons among the Atlantic allies, reluctantly and unexpectedly delayed today its selection of a new main battle tank.

The delay, directed by the defense department, is designed to give the Army time to study the possibility that West Germany and the United States could incorporate some common components, such as gun, turret or tracks, into their new tanks.

As recently as Tuesday, Army officials had fully expected that the long-awaited selection of a new main battle tank for the army, known as the XM-1 would be made. The choice, which had been scheduled to be announced on Tuesday afternoon, was between competing tanks developed by the General Motors Corporation and the Chrysler Corporation.

The Army had planned to buy 3,325 of the new tanks at a total cost of $4.9 billion.

At a Pentagon news conference today, however, Army Secretary Martin R. Hoffman announced that the selection of the winning tank was being delayed until late this year to permit the two companies to incorporate into their proposed design tank components common with the West German tank.

WOULD SUBMIT DESIGNS

The expectation was that the American companies would submit designs using some tank components developed in West Germany. Conversely, West Germany will study the possibility of incorporating some American-developed components in its new Leopard II main battle tank.

The delay in the American tank program was the latest turn in what has proved to be a rocky road toward getting the two major allies in the North Atlantic Treaty Organization to agree on a common tank, or at least common components. The tank has become a major symbol of whether the allies could make any tangible progress toward their oft-stated goal of standardizing their weapons, thus improving the efficiency and reducing the cost of their forces.

In 1974 the two allies agreed that there should be a comparative evaluation of the XM-1 and Leopard II tanks, with the understanding, at least at that time, that the winning tank would be adopted by the two nations. The German tank is scheduled to be delivered in September to the Army's proving grounds at Aberdeen, Md., for the four-month competition against the two American tanks. Mr. Hoffman held out the possibility that the two nations might still select the winner as their common tanks.

PRIDE INVOLVED

Because of institutional pride on both sides, however, it is now accepted by both American and West German defense leaders that it is unrealistic to expect that either army would adopt a tank developed by the other side. In recent months, therefore, the emphasis has shifted to adoption of common components for items that must be serviced or supplied in the field, such as engines, transmissions, guns and fire control systems.

The issue then shifted as to whether the common components should be adopted before or after tanks had gone into production.

The United States Army, which has repeatedly warned against delay, argued that common components could be agreed upon after its tank had gone into production in 1979. West German representatives expressed concern that, once the tank was in production, the American Army, if only because of

the expense involved, would be reluctant to incorporate common components.

In a meeting early this month at the Pentagon, Defense Secretary Donald H. Rumsfeld and West German Defense Minister Georg Leber agreed in principal that the two nations should move toward common components.

RUMSFELD EMBARRASSED

According to Pentagon sources, Mr. Rumsfeld was then embarrassed and annoyed by a subsequent article in The New York Times reporting that the Army was thwarting the move toward common components. According to these sources, Mr. Rumsfeld early this week directed the Army to seek new proposals from its contractors incorporating German-developed components in their tank designs.

At the same time he ordered Malcolm R. Currie, director of defense research and engineering, to go to Bonn to work out with Siegfried Mann, director of development in the West German Defense Ministry, a new memorandum of understanding calling for maximum possible standardization of the components.

[From the New York Times, July 14, 1976]

U.S. ARMY BLOCKS GERMAN TANK PROJECT

(By John W. Finney)

WASHINGTON, July 14.—The Army and its contractors succeeded earlier this month in blocking a plan, worked out between the Defense Department and the West German Defense Ministry, for the two nations to build common components for their new main battle tank, Pentagon sources said today.

The result has been new strains in the already complicated negotiations between the two major allies in the North Atlantic Treaty Organization over standardizing major weapons.

The issue may now be elevated to the highest level of the two governments when the West German Chancellor, Helmut Schmidt, arrives here tomorrow for meetings with President Ford. According to diplomatic sources, the tentative plan calls for Chancellor Schmidt to raise the tank issue with President Ford.

TWO TANKS IN COMPETITION

The new main battle tank has developed into a symbolic test of whether the two allies can standardize at least some of their weapons. At this point, each side is independently developing its own tank—in the United States the XM-1, which is being competitively developed by the General Motors Corporation and Chrysler Corporation, and the Leopard II being developed for the West German Army.

Under a 1973 agreement worked out by former Defense Secretary James R. Schlesinger, the Leopard II tank is to be tested by the United States Army this fall against the winner, to be chosen next week, of the competition between General Motors and Chrysler.

At the time the agreement was entered into, the understanding, at least in Mr. Schlesinger's mind, was that the winner of the competition between the American and German tanks would be selected as the common battle tank of the two countries.

Because of institutional pride and political pressures on both sides, it is now generally accepted by both German and American defense leaders that it is highly unlikely that the two nations can agree on a common tank. As a result, the discussions have shifted to the possibility of using common components of logistic importance on the battlefield such as the gun, engine and power train linking the engine to the tracks.

At a meeting in Brussels last month Defense Secretary Donald H. Rumsfeld and the West German Defense Minister Georg Leber, discussed the possibility of standardizing some components of their tanks. As a result of the discussions, Mr. Rumsfeld sent back a priority message to the Pentagon ordering the Army and the Defense Department Office of Research and Engineering to send experts to Bonn for further detailed discussions.

Norman R. Augustine, Under Secretary of the Army, and Robert N. Parker, Deputy Director of Defense Research and Engineering, met last month in Bonn with their West German counterparts.

In those discussions, according to Pentagon sources, the draft was agreed upon of a new memorandum of understanding calling for the two nations to use such common tank components as the gun, engine, and power train.

When Mr. Leber came to the Pentagon early this month for a meeting with Mr. Rumsfeld it was with some hope, according to West German sources, that the memorandum would be formally signed. Pentagon officials insisted, however, that there was no expectation on either side that the agreement would be approved so quickly.

At a meeting in the Pentagon July 2, Mr. Rumsfeld informed Mr. Leber, according to Defense sources, that the agreement could not be signed immediately because of legal and contractual complications. At that time, the Army had separate contracts running through Aug. 1 with General Motors, and Chrysler to develop competitive prototypes of a new main battle tank.

At an earlier meeting with Deputy Defense Secretary William P. Clements Jr., both General Motors and Chrysler representatives had reportedly protested any arrangement that would require German-developed components to be included in their tanks.

The profit in making tanks, industry sources noted, comes not from casting the steel that goes into the hull and turret but from the mechanical and electronic components for the tank.

In discussions within the Pentagon, Army officials also raised objections to any commitment to incorporate German-developed components in the new tank at the outset of its production.

U.S. ARMS SALES TO AFRICA: A DISTURBING TREND

Mr. PROXMIRE. Mr. President, with the current radical increase in U.S. arms sales, I believe we should take the time to analyze what effect these sales could have on recipient nations. An example of this growth can be seen in our sales to Ethiopia. In 1974 we sold $7.5 million in arms to Ethiopia. This jumped to $28 million in 1975 and $100 million in 1976. Parallels can be drawn from our sales to Ethiopia to other countries in Africa and the rest of the world.

In the past there has been little or no congressional oversight of arms sales. We now share the responsibility for arms races between underdeveloped nations that are in no position to allocate their present level of funding to defense without neglecting other social-economic duties.

Our responsibilities are both of a moral nature and a practical one. We must keep in mind the fact that we have no control over the arms after they are transferred. These arms could be used against neighboring governments, turned against a nation's own domestic population, transferred to nations or terrorist groups which oppose the United States, or used to stimulate local arms races. We must insure that these, and other considerations, are kept in mind before engaging in further sales.

Mr. President, I ask unanimous consent that two articles be printed in the RECORD. Both deal with African arms sales, one on a lighthearted note, the other, more sober.

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

[From the Chicago Sun-Times, July 8, 1976]

PENTAGON ARMS PITCH—SELL, SELL, SELL!

(By Art Buchwald)

WASHINGTON.—It was reported in the New York Times last week that the Pentagon has set as one of its highest priorities the sale of U.S. military equipment to foreign countries. Chief sales manager is Deputy Defense Sec. William P. Clements, and the Times reported he held a pep-talk breakfast meeting to tell his people the Pentagon sales program was one of the most important missions of the Defense Department.

I wasn't invited to the breakfast, but I like to think this is how it went:

"Gentlemen, we've moved $10 billion worth of arms this year, but I am disappointed in many of you. We were hoping to have a $12 billion year. Now, we're here to speak frankly. Why isn't the stuff moving?"

"I can only speak for Africa, sir, and my people have done a fine job there. We sold a squadron of F-5 fighters to Kenya, and tons of stuff to Zaire. Ethiopia is talking about buying a missile cruiser."

"What's holding up the sale?"

"Since she's landlocked, she doesn't know where to put it."

"I don't want excuses. I want sales. Your people should have figured out some way of persuading Ethiopia that it was essential for the Third World power to have a missile cruiser whether she was landlocked or not. They have lakes in Ethiopia, don't they?"

"Yes, sir."

"Then let them keep the cruiser in one of their lakes. All right now, what about the Seychelles Islands. Why haven't they bought anything from us?"

"They only got their independence last week. We're waiting for the prime minister to appoint a minister of defense."

"What are you pushing?"

"We thought we'd talk them into some aircraft carriers, submarine chasers and possibly antiaircraft guns."

"That's all? A country has just gained its independence, and all you're going to sell them is a couple of lousy carriers and a few sub chasers. What kind of a salesman are you?"

"Well, sir, it's a question of money. They want to put what little money they have into industry and agriculture.

"Your job is to persuade them that defense comes first. What good is it to have industry and agriculture if they can't protect themselves from an attack by Kenya."

"Kenya?"

"Listen, you tell them we just sold Kenya a squadron of F-5 fighters, and if the Seychelles don't buy a quadron of F-5 fighters, and if the Seychelles don't buy a squadron of our F-15s they'll never be able to repulse an attack."

"I got you."

"All right now, what about South America?"

"I left two samples of Trident missiles with Ecuador just to whet their appetites. I told them to try them, and if they didn't live up to their expectations, they wouldn't have to pay for them."

"What about Brazil?"

"We told Brazil that Ecuador is ordering the Trident missiles and advised them to order the anti-Trident missiles that could shoot them down.

"That's just a drop in the bucket. Why isn't Brazil ordering cruise missiles? I'll tell you why. Because you all think like Avon women. You make one sale and believe that's all you have to do. Well, let me tell you, gentlemen, the Pentagon is not going to stay in business unless we sell, sell, SELL! I want those warehouses emptied by Christmas, and if you people can't do it I'll find generals and colonels who can. All right now, take your order books and get out of here. The first man who sells a complete nuclear weapons system to a Third World power gets an all-expenses-paid trip to Bermuda."

"Woweeee!!"

[From the Chicago Sun-Times, July 12, 1976]

UNITED STATES IN AFRICA ARMS RACE TO COUNTER SOVIETS

(By David B. Ottaway)

ADDIS ABABA.—The United States is jumping head-on into the arms race in black Africa with plans to provide more than $330 million worth of modern weaponry to three countries facing hostile Soviet-backed neighbors.

The announced purpose of this new African policy, based primarily on the sale of arms, is to bolster America's traditional allies and to counter the expanding influence of the Soviet Union throughout this continent in the wake of the Angolan civil war.

The Ford administration is working out arms deals with Ethiopia, Kenya and Zaire that together could amount to more than $325 million in the sale of aircraft, tanks and other primarily defensive military equipment.

Ethiopia is scheduled to obtain between $175 million and $200 million worth of arms by the end of fiscal 1977; Kenya has just contracted to buy 12 supersonic jet fighters in a $75-million deal, and Zaire is reported to be negotiating for the purchase of around $50 million worth of military equipment, primarily armored vehicles, more C-130 transports and antitank weapons.

American officials and diplomats here in Africa explain the new policy on the basis of the Soviet arms buildup in Somalia, Uganda and Angola. In each case of the American arms deals, they say, the United States is responding—belatedly—to a massive accumulation of weapons in one of these three Soviet-backed countries. In no case, they insist, is Washington initiating the arms race.

Somalia has the biggest tank corps of any black African country; Uganda has more tanks—and, until the Israeli commando raid, had more jet fighters—than Tanzania and Kenya combined; and Angola has just gotten somewhere between $200 million and $300 million in Soviet arms, the largest single buildup anywhere on the African continent this past year.

By comparison, the countries the United States is selling arms to—Ethiopia, Kenya and Zaire—all have armed forces far inferior to those of their rivals. Kenya has one of Africa's smallest armies and no supersonic aircraft; Ethiopia stands at a one-to-three disadvantage in tanks and one-to-six in armored personnel carriers to Somalia; and Zaire now has far fewer armored vehicles than Angola and no air defense.

The governments of Ethiopia, Kenya and Zaire are all convinced that they have now become extremely vulnerable to military attacks from their hostile neighbors and have initiated the arms search themselves.

On Thursday the armed forces of both Kenya and Uganda were reported on high alert and fears grew that Uganda might strike against Kenya in retaliation for its alleged involvement in the Israeli raid.

CAPTIVE NATIONS WEEK

Mr. HRUSKA. Mr President, this week of July 19–23 marks the 18th observance by the American people of Captive Nations Week. All across our land Americans are pausing in their daily routine in order to reflect and pay tribute to the brave people of Eastern Europe. In so doing, we once again renew our expression of concern for the plight of these countless millions who are forced to live under the harsh realities of Soviet domination.

It is especially fitting that we observe Captive Nations Week so soon after the July 4 celebration of America's own Bicentennial. Our own independence was obtained only after a long, arduous struggle in which such men of Eastern European backgrounds as Thaddeus Kosciusko, Casimir Pulaski, both from Poland, and Freidrich von Steuben of Prussia, to name but a few, made such great contributions in the cause of freedom.

As I observed the tremendous outpouring of love for our country and fellow man displayed by our citizens 2 weeks ago, I could not help but think that this was, perhaps, the greatest tribute that America could give the people of the captive nations. For them, their Soviet masters, and indeed the world, it was a dramatic demonstration that the American experiment, born 200 years ago, carefully nurtured and at times sorely tested, is alive and as vigorous as ever.

Mr. President, the torch held high by the Statue of Liberty, still glows, casting its beam of hope from the American shores, through the darkness of oppression, into the hearts of those who yearn to be free. So long as we observe the sacred compact between our Founding Fathers and the Almighty, America will remain strong and free. This is the great hope of humanity.

UNLIKELY ASSASSIN

Mr. ABOUREZK. Mr. President, various theories have been set forth concerning the assassination of President John F. Kennedy. Many individuals have hypothesized that the assassination did not happen as reported by the Warren Commission, the investigative body responsible for examining President Kennedy's murder.

One suggestion which has surfaced in recent times is that Fidel Castro might have had a hand in Kennedy's assassination. This is one of the theories which was released by the Senate Select Committee on Intelligence, the so-called Church committee.

In an article entitled "Unlikely Assassin" which appeared in the July 3 and 10, 1976, issue of the New Republic, freelance writer Kirby Jones examines the possibility of Castro's involvement in the Kennedy assassination. Jones raises many interesting questions concerning this hypothesis. Jones asks:

Why would a small country like Cuba attempt the assassination of the President of the United States, when discovery and proof of that act would have meant certain and clear military action and probably destruction of Castro's Cuba.

Mr. President, I ask that the entire text of "Unlikely Assassin" be printed in the RECORD so that my colleagues might share in this most interesting article.

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

UNLIKELY ASSASSIN

Once again the "Cuban Connection" has been raised to explain the assassination of President John Kennedy. But this time it carries the imprimatur of the United States Senate. Senator Richard Schweiker released last week the report of the CIA subcommittee that investigated the killing of President Kennedy. The report is 106 pages long and deals with many of the current theories held by assassination buffs. I cannot deal with all of these, but want to shed some light on one raised by Schweiker.

Although the report comes to no clear conclusion, it does cite testimony, memos and material that raise the possibility that Castro might have ordered Kennedy's death in retaliation for CIA attempts on his life.

I do not want to defend or criticize the Schweiker report nor the various theories. I do want to put forth what Fidel Castro said about these theories. To my knowledge, in the last two years Castro has spoken five times about the assassination of President Kennedy—in July and September 1974, again in May and August 1975, and recently in April of this year when he proclaimed in a public speech in Havana that he had nothing to do with the killing of President Kennedy.

But his personal and private conversations during the 1974 and 1975 meetings are far more interesting and comprehensive, and reveal in greater detail his own thoughts and feelings, not only in the words but in the style and mood of the conversations.

In July 1974 Frank Mankiewicz and I spent four days with Castro, including 13 hours of formal interviewing in Castro's office, making a television documentary for CBS. During this interview and in private conversations, we talked with Castro about Kennedy and the assassination. We asked Castro point-blank whether John Kennedy was killed in retaliation for an attempt on his own life. Castro paused, reflected, puffed on his cigar and gave a clear and detailed answer—in part as follows: "I have not read this in any serious American publication . . . there are so many imponderables behind President Kennedy's assassination that it would be a good thing if this were known someday. I have heard that there are certain documents that will not be published until after 100 years and I ask myself why. What secrets surround the Kennedy assassination that these papers cannot be published? . . . We have never believed in carrying out this type of activity of assassination of adversaries . . . and our own background proves it . . . we fought a war . . . we were not trying to kill Batista. It would have been easier to kill Batista than to have fought the Moncada. Why? Because we do not believe that the system is abolished by liquidating leaders, and it was the system that we opposed . . . it went against our political ideas to organize any type of personal attack against Kennedy . . . we understood what the implications were, and we were concerned about the possibility that an attempt would be made to blame Cuba for what had happen, but this was not what concerned us most. In reality, we were disgusted, because, although we were in conflict with Kennedy politically, we had nothing against him personally, and

there was no reason to wish him personal harm."

In addition, Castro made another private point—one he repeated to Senator James been foolish to harm Kennedy," Castro said, "because Kennedy was thinking of changing his policy toward Cuba. Kennedy's negotiators were in Cuba at the time of the assassination."

Castro was referring to a November 1963 visit by French journalist Jean Daniel who, before he traveled to Cuba, was personally asked by President Kennedy to transmit messages to Castro. Castro described the meeting to me: "As I was listening to everything Daniel was telling me about his conversation with Kennedy, the news broke over the radio that an attempt had been carried out against Kennedy's life. In reality, I tell you personally, and I think I speak for all my fellow revolutionaries—we all felt a reaction of pain, of great displeasure . . . it was really such a shame, such a tragic ending to Kennedy's life."

As indicated in his discussions of July 1974, Castro has been sensitive to the fact that some people might want to make a connection between the Kennedy assassination and Cuba as a result of activity in the "Fair Play for Cuba Committee" and Oswald's application for a visa to Cuba. As Senator McGovern remembers the conversation, Castro "expressed dismay over a possible association and was frightened at the prospect of circumstantial evidence." In that conversation Castro said, "My God, if that [the visa application] had gone through, it would have looked terrible." In his conversation with me, Castro went into further detail: "It is very interesting that this man—Oswald—who was involved in the assassination, traveled to Mexico a few months prior to the assassination and applied for a permit at the Cuban Embassy to travel to Cuba, and he was not given the permit. We had no idea who he was. But I asked myself why would a man who committed such an act try to come here. Sometimes we ask ourselves if someone did not wish to involve Cuba in this, because I'm under the impression that Kennedy's assassination was organized by reactionaries in the United States, and that it was all a result of conspiracy.

"What I can say is that he asked permission to travel to Cuba. Now, imagine that by coincidence he had been granted this permit, that he had visited Cuba for a few days, then returned to the United States and killed Kennedy. That would have been material for provocation . . ." In a later conversation with Saul Landau, Castro added, "Luckily the bureaucratic process prevailed and our consular officer routinely denied Oswald's visa. We had never heard of him."

A look at the historical context seems to indicate that what Castro said has the ring of truth. Why would Castro kill Kennedy at the very moment that Kennedy had clearly indicated to personal messengers in Cuba on November 22 that the US wanted to start a new dialogue? At no time under Castro's rule has Cuba been accused of assassinating or plotting to assassinate its adversaries. During the fighting in the mountains there was never a reported Castro attempt on Batista's life. And lastly, why would a small country like Cuba attempt the assassination of the President of the United States, when discovery and proof of that act would have meant certain and clear military action and probably destruction of Castro's Cuba?

PALM OIL RESOLUTION

Mr. DOLE. Mr. President, the Senator from Kansas would like to express his support for Senate Resolution 487, as he did in the Senate Agriculture Committee. This resolution proposes actions to deal with rising palm oil imports.

This resolution is important to all sectors of U.S. agriculture.

Every segment of agriculture is deeply disturbed by the expanding but subsidized production of palm oil largely financed by international lending institutions such as the World Bank and the Asian Development Bank. This increasing production is being sold into the United States and other markets in severe competition with soybean, cottonseed, corn, and other oils to the detriment of the producers of those crops.

I would like to state several facts from Government statistics and reports that bear witness to the unhappy effects of these imports, and that led to this resolution.

UNRESTRICTED IMPORTS

First. During the period of October 1975 to April 1976, palm oil imports into the United States totaled 667 million pounds, almost twice the 350 million pounds imported in the same period a year earlier. While the USDA does not believe that this increased pace will continue, the import estimate for the 1975–76 marketing year is 975 million pounds compared with 757 million pounds in 1974–75 and 345 million pounds in 1973–74. So the 1975–76 imports, all duty free and unrestricted, will be almost three times the rate 2 years earlier.

Second. The USDA recently estimated that the carryover stocks on September 30, 1976, of soybean oil in the United States will be 1,355,000,000 pounds—more than double the 561,000,000 pounds on hand on September 30, 1975. The market displacement of soybean oil by palm oil imports is creating a tremendous strain on available storage facilities for soybean oil. The increase in carryover of soybean oil is about equal to the increase in palm oil imports in 1975–76 over the 1973–74 level.

Third. The indicated domestic utilization of palm oil will be about 900 million pounds and will exceed the domestic consumption of cottonseed oil by 425 million pounds for the first time in history.

Fourth. In May 1976, the economic research service of USDA published new data, showing estimates of production and exports of palm oil through 1980. I ask unanimous consent that the data from that report be printed in the RECORD at this point.

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

[In thousand metric tons]

Year	Production	Exports
1971	1907	967
1972	2143	1097
1973	2250	1218
1974	2610	1440
1975	2865	1735
1976	3175	2095
1977	3575	2425
1978	3945	2725
1979	4330	3100
1980	4700	3425

Mr. DOLE. Fifth. The downward pressure on world prices for all oils by these tremendous increases in palm oil exports will be very great and will adversely affect U.S. soybean producers and cottonseed producers. On March 18, 1976, Mr. John A. Bushnell, Deputy Assistant Secretary for Developing Nations of the U.S. Treasury, testified before the House Agriculture Committee as follows:

> Treasury's preliminary estimate is that imports of palm oil have contributed three to four cents of the twelve to fifteen cent drop in soybean oil prices from the 1974-75 level of about thirty-one cents per pound.

I estimate the loss to producers in prices received for the 1975 crops of soybeans and cotton seed is somewhere between $488 million and $650 million.

Sixth. There is also a very great matter of importance in this resolution from the standpoint of American consumers.

Let me quote from the economic research service of the USDA report of May, 1976:

> One inherent drawback of palm oil, even though it is a vegetable oil, is that it is a saturated oil. Consumer groups and health oriented groups are concerned about the possible increase in saturated fat intake raising the cholestorol level in the diet, and thereby endangering more people to heart attacks.

The expanded production and export of palm oil are the predictable results of substantial loans at low interest rates by the World Bank and similar international institutions.

INCREASED COSTS TO CONSUMER

By decreasing the amount that the soybean processor receives from the soybean oil fraction the price of soybean meal must be increased. This has already happened. Initially the costs will be borne by U.S. and foreign feeders of protein meals. Ultimately it must be reflected in the price of hogs, feed cattle, dairy products, poultry and eggs, to the detriment of our consumer food budget. In other words, U.S. taxpayers' money is being used to increase costs of production of basic foods.

I commend to the executive branch the three courses of action suggested in this resolution.

First. I urge that the United States eliminate its support for international financing arrangements that subsidize the production of palm oil.

Second. I urge that the United States negotiate a voluntary agreement with producing countries for a mandatory import quota. It would provide ample notice to producing countries that the United States will not indefinitely accept whatever quantities of palm oil others may choose to export to us free of duty.

Third. I recommend that the United States and multilateral developing agencies insure that the lending funds available for agricultural development in the developing nations of the world are directed primarily at the relief of hunger and malnutrition in those countries rather than the export of agricultural commodities in competition with American oilseed producers.

These actions should be taken because we have a public responsibility to fulfill. That is to assure that the ability of the oilseed industry to furnish needed protein for livestock feed is not weakened by trade in palm oil whose production we are indirectly subsidizing.

The recommendations in Senate Resolution 487 are realistic proposals. They can be implemented and they will have a positive effect. I urge that they be carried out.

The Senator from Kansas is aware that the resolution was adopted earlier this week. Regrettably, committee hearings on the very important tax reform bill prevented making these remarks at the time the resolution was considered. It is my feeling that these remarks may be helpful in making the record complete.

OTA FOOD INFORMATION SYSTEMS ASSESSMENT

Mr. HUMPHREY. Mr. President, today the congressional Office of Technology Assessment's report on food information systems was released. The report is in two volumes: "Food Information Systems, Hearings Before the Technology Assessment Board of the Office of Technology Assessment, Congress of the United States, Ninety-fourth Congress, First and Second Sessions," and "Summary and Analysis of Office of Technology Assessment Hearings on Food Information Systems."

As a member of the OTA Board and as the requester for the study, I have maintained a keen interest in the progress of the assessment. I am pleased to see that the findings and conclusions are geared to useful congressional action. Members of Congress no doubt recall the events of 1972 and 1973 that led to the apparent breakdown in the information systems which Congress has traditionally depended upon.

The information sources for food, agriculture, and nutrition information that Congress depends on are essentially noncongressional. Prior to 1972, we appeared to be well served by these sources. In mid-1972, however, the world food situation changed within a 2-month period as world food production declined for the first time in many years at a time of rapidly expanding demand. World food reserve stocks were reduced to a historically low level of less than a 30-day supply.

The events responsible for these cataclysmic changes have been well chronicled; they include:

Large purchases of wheat by the Union of Soviet Socialist Republics under conditions of semisecrecy.

Increased foreign demand for U.S. soybeans because of the failure of the Peruvian anchovy catch.

Increased U.S. food exports to all parts of the world, due in part to widespread inflation, U.S. dollar devaluation, and wide shifts in monetary exchange relationships.

The phenomenal increases in prices of grains and soybeans in the 1972–73 crop year were not predicted by analysts in the Department of Agriculture or land-grant universities. Members of Congress had no independent means for dealing with the food policy issues that arose at that time.

The events that led to sharp increases in the cost of food and farm inputs, resulted in shortages of such production supplies as fuel, protein meals, and fertilizers, raised questions that demanded answers. The most significant were:

Why had the U.S. food and agriculture information systems failed to give warning of the impending shortages?

Are existing food and agriculture information systems adequate? Do they meet today's needs,

Have appropriate steps been taken to correct the deficiencies that existed in 1972–73?

SCOPE

OTA identified, examined, and evaluated the key food information systems to determine:

First. The significant food information systems. This involved identifying key systems and determining how well they serve decisionmakers. These systems were probed in terms of the information they provided; for example, type and nature of the information, processes and procedures used to obtain information—including frequency, timeliness, quality, format, and availability—and use and dissemination practices.

Second. Deficiencies in existing information systems. This task focused on the gaps, deficiencies, redundancies, and bottlenecks that might impede decisionmaking. Identification of defects led to consideration of options for improvements.

Third. Options. This task identified and analyzed options that could improve existing information systems, taking into account the numerous recommendations made to OTA.

METHODOLOGY

The focal point of the study was the OTA Food Advisory Committee—FAC—chaired by Dr. Clifton R. Wharton, Jr., president of Michigan State University. The FAC and the OTA staff drew upon consultants and contractors to help prepare the preliminary definition of the study. The committee synthesized their findings and the information supplied by staff, consultants, and contractors to prepare a report entitled "Food, Agriculture, and Nutrition Information Systems: Assessment and Recommendations." The report was presented to the Technology Assessment Board and transmitted to me to chair 4 days of hearings. These hearings helped to answer many of the questions and issues that the FAC report raised.

OPTIONS

During the course of this study, a number of recommendations for correcting the deficiencies in the existing food information systems mere made to OTA. These recommendations helped to develop three options for congressional consideration:

First. Reliance on existing agencies to initiate improvements;

Second. Development of a single integrated world food information system; and

Third. Perfecting changes in existing systems.

Option No. 1: Reliance on existing agencies to initiate improvements.

This option would imply that the events that occurred in 1972–73 were unique and that countries and organizations were rapidly making the needed changes and adjustments. However, events exacerbating the world food situation have continued to occur. The margin of error in the world's food supply is now less than 5 percent, stocks have been reduced to less than a 30-day supply, and the number of most seriously affected countries has increased from 33 to 44. Likewise, although improvements are being made to the existing system, the OTA study participants felt that additional steps to correct deficiencies were needed.

Option No. 2; Development of a single integrated world food information system.

This option would require the development of a worldwide system within which a congressional unit, linked to a quasi-independent unit within USDA, would serve as the point of contact for the United States, with both linked to a world food information system.

The advantage of this approach is that "a system" would be idealized. However, this option has several disadvantages: the impracticality of its implementation in the near future; the political sensitivities to be encountered in getting such major participants as the Union of Soviet Socialist Republics and the People's Republic of China into the system; as well as the expected enormous cost of correcting existing deficiencies in order to make the system effective and efficient.

Option No. 3: Perfecting changes in existing systems.

Due to the fragmented nature of the system, it seems more practical to make perfecting changes in the key existing systems than to try to create a new system. Likewise, suggested improvements to subordinate systems will, in the long run, improve the world food information flow.

Synthesizing the principal findings, conclusions, and recommendations, OTA found that there were five major areas where specific opportunities for improvement might be considered. Within each of these, several specific opportunities exist for action. Some of these improvements require legislation, others do not. These five areas are:

First. Improving the accuracy and timeliness of U.S. food and agricultural information systems.

Second. Strengthening the U.S. role in a world food information system.

Third. Increasing congressional staff analytical capabilities.

Fourth. Increasing the integration of nutrition and the consumer.

Fifth. Accelerating the use of advanced technologies.

The impressive mix of individuals and groups—consumers, farm organizations, trade associations, food industry representatives, and executive branch personnal, both national and international—provided the opportunity to develop a well-balanced report, presenting a diversity of views and opinions on alternative approaches that might be taken to improve the food information systems.

The balance is seen from the fact that the report well notes the substantial progress that USDA and FAO have made

to improve their information resources since the 1973 breakdown. Participants in the OTA study, while noting the improvements made, felt that additional perfecting changes could be made. These recommendations number 46 and formed the basis for emphasizing these 5 areas.

ASSESSMENT HIGHLIGHTS

The highlights of the study provide a quick glimpse of the principal findings.

The major food information systems are operated by the United States Department of Agriculture—USDA—and the Food and Agriculture Organization of the United Nations—FAO. The systems maintained by individual countries, international organizations, and the private sector either are limited to their specific needs or use USDA and/or FAO data as their benchmark.

The Foreign Agricultural Service—FAS—Economic Research Service—ERS—Statistical Reporting Service—SRS—are the key USDA units responsible for operating national and worldwide systems. This study examines the improvements made in these units since the apparent breakdown of information in 1972–73. Some of these improvements are: modifying the agricultural attaché system; improving staff analytical competence; upgrading publications and eliminating duplication; attempting to get better information on the Soviet food situation; releasing more timely crop forecasts; collecting data from new areas; and using modeling and remote sensing technologies.

Deficiencies that perist are grouped into four categories: poor national systems, upon which USDA must depend; collecting of inadequate and/or obsolete data; inadequate analysis, especially by the overseas network of agricultural attachés; and USDA's fragmented organizational structure which hinders effectiveness and promotes institutional conflicts of interest.

Congressional interest in this study is evident from the use Congress has already made of the preliminary assessment materials. Before I note these uses, I would like to compliment the assessment process, which provides the flexibility of bringing to the requesting committees and to Congress preliminary study results. Some of the specific uses of this assessment material have been:

First, the U.S. congressional delegation was provided a background paper on world food information systems for the 1974 World Food Conference. The delegates used this material to develop the U.S. position on Conference Resolution XVI, which established an "early warning and agriculture information system."

Second, four congressional hearings drew heavily upon preliminary material in planning the hearings and preparing their final reports:

Subcommittee on Foreign Agriculture Policy of the Senate Committee on Agriculture and Forestry on "Implementation of World Food Conference Resolutions."

Subcommittee on Foreign Agriculture Policy of the Senate Committee on Agriculture and Forestry on "Improving the Coordination of U.S. and Foreign Agricultural Policy."

Subcommittee on Census and Population of the House Committee on Post Office and Civil Service on "The Need for Improvement and Coordination in Federal Government Statistics."

Senate Select Committee on Nutrition and Human Needs for a staff report on "The United States, FAO, and World Food Politics, U.S. Relation with an International Food Organization."

Third, H.R. 12397, introduced by Congressman NEAL SMITH, and S. 3215, which I introduced "to relieve the Secretary of Commerce of the responsibility for taking censuses of agriculture every fifth year and require the Secretary of Agriculture to collect comparable information using sampling methods," was based upon material prepared for OTA's Board hearings.

Action will not stop here. In addition, the chairman of the Senate Committee on Agriculture and Forestry and I, as chairman of the Joint Economic Committee, have asked Secretary of Agriculture Earl Butz to respond to suggestions made by participants in the Technology Assessment Board hearings, encouraging USDA to make certain improvements.

Further, I plan to call these report results, along with the suggestions for action, to the attention of relevant committees of Congress, such as the Senate Committee on Aeronautical and Space Sciences, the Senate Committee on Foreign Relations, the House Committee on International Relations, the House Committee on Agriculture, and the Senate and House Appropriations Committees.

As I noted at the OTA hearings:

> Information is a precious commodity. To be useful, it must be objective, timely, and reliable. Such information will not automatically ensure better decisions, but it will expose those decision makers who fail to use these resources.

SALT LAKE JOURNALIST WINS HONORS

Mr. MOSS. Mr. President, I take great pleasure in bringing to the attention of the Senate a Salt Lake City journalist who recently received two honors for his outstanding reporting and political commentary.

Rod Decker is a columnist and editorial writer with the Deseret News, the evening daily newspaper in Salt Lake. He is one of only 13 American journalists awarded prestigious Nieman Fellowships to study at Harvard University during the coming academic year. A few days after this announcement, Mr. Decker was named first place winner in a regional writing competition sponsored by the Associated Press. He was chosen for a recent column entitled "Smart Drunks Beat Utah Law," which described problems in enforcing Utah's drunk driving statute.

This column is typical of Mr. Decker's work on the Deseret News. He has the instinct and skill to cut through the superfluous, the trivial, and the titillating to expose important issues for his readers. He not only sets a high standard of journalism in Utah but also contributes to enlightened political debate.

Mr. Decker is a graduate of the University of Utah and has done graduate work at the University of Chicago. He served as captain of intelligence in Vietnam from 1968 to 1970. He joined the Deseret News in 1972. At 35, he has an extremely promising career ahead of him. I hope that he will choose to spend a good portion of it in Utah.

My point in bringing his accomplishments to the attention of the Senate is not merely to pat a fellow Utahan on the back but also to point out that fine journalism is not an exclusive property of the major cities, newspapers, or networks. We have excellent reporters all over the country in communities large and small. Their service is vital to the well-being of our democracy.

PROPOSED ARMS SALES

Mr. SPARKMAN. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million or, in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the chairman of the Foreign Relations Committee.

In keeping with my intention to see that such information is immediately available to the full Senate, I ask unanimous consent to have printed in the RECORD at this point the notification I have just received. A portion of the notification, which is classified information, has been deleted for publication, but is available to Senators in the office of the Foreign Relations Committee, room S-116 in the Capitol.

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

OFFICE OF THE DIRECTOR DEFENSE SECURITY ASSISTANCE AGENCY AND DEPUTY ASSISTANT SECRETARY (SECURITY ASSISTANCE), OASD/ISA,

Washington, D.C., July 22, 1976.

In reply refer to: I-5247/76

Hon. JOHN J. SPARKMAN,
Chairman, Committee on Foreign Relations, U.S. Senate,
Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act we are forwarding, under separate cover, Transmittal No. 7T-1, concerning the Department of the Navy's proposed amendment which will add $276.2 million to an existing Letter of Offer to Saudi Arabia.

Sincerely,

T. M. FISH,
Director, Lieutenant General, USAF.

TRANSMITTAL No. 7T-1

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b) of the Arms Export Control Act

a. Prospective Purchaser: Saudia Arabia.

b. Total Estimated Value: $276.2 million.

c. Description of Articles or Services Offered:

Amendment to provide additional funding for requirements identified during contract design for [DELETED] patrol gunboats.

d. Military Department: Navy.

e. Date Report Delivered to Congress: 22 July 1976.

PIONEER DAY

Mr. CHURCH. Mr. President, "they, the builders of the nation" certainly exemplified the pioneer spirit. On July 24, 1847, after 102 days on the trail, Brigham Young announced to his fellow Mormon pioneers, "It is enough. This is the place." The long search had ended and the Mormons settled in the valley of the Great Salt Lake.

The pioneers were not mountain men, experienced in the trials of the frontier. Instead, they were a conglomeration of farmers, storekeepers, artisans, and professional people. They had been driven from their homes in Missouri, New York, and Ohio and had set forth to establish themselves in the West where they sought freedom from persecution.

Their migration was particularly unique, as it encompassed the moving of whole families westward toward the frontier. Because the Mormons had received less than a fraction of the actual worth of their property, they had little money for their journey. Professional guides were thought a necessity, but the Mormons could not afford them. "There is no record of any other such large group of Western pioneers starting for the West, in which no one in the company had previously traversed the road." This statement alone instills a great respect for these courageous people—they had great faith in their leaders and themselves. They believed that God would see them safely through to the "Promised Land," and that they had no need to rely on others.

Vilate C. Raiele captured the character of these pioneers when he wrote:

They cut desire into short lengths
And fed it to the hungry fires of courage
Long after, when the flames had died,
Molten gold gleamed in the ashes.
They gathered it into bruised palms
And handed it to their children
And their children's children forever.

When these courageous American settlers arrived in the Great Salt Lake Valley, they observed the great desert stretching out in all directions. Cultivation of that land had been thought impossible. Yet, these innovators initiated farming by irrigation. The Great Salt Lake Valley began to "blossom like a rose."

The Mormon pioneers did not all settle in Utah. In 1855, Fort Lemhi was founded in my home State of Idaho; 1860 witnessed the establishment of Franklin as the first permanent Mormon settlement in Idaho.

To fulfill Brigham Young's dream of a free and thriving community, education became one of the foremost objectives. Brigham Young expressed his keen interest in education when he said:

Our education should be such as to improve our minds and fit us for increased usefulness; to make us of greater service to the human family.

Learn to be good for something.

Education is the power to think clearly, to act well in the world's work, and the power to appreciate life.

This precept has been devotedly reserved as Brigham Young University has evolved into the largest private institution in the country. Having just celebrated its centennial birthday, this year also marked the official dedication of the new J. Reuben Clark Law School.

The educational system of the L.D.S. Church in Idaho has steadily grown, since the first school was established in Franklin over 100 years ago. Ricks College in Rexburg Idaho, has expanded both structurally and academically and is now one of the finest junior colleges in the West.

Recently, Ricks College played a vital role in assisting the victims of the Teton Dam disaster. The college provided housing for the homeless, served over 30,000 meals daily, and assisted local towns in attending to the sick and the injured. Indeed, the whole LDS community pitched in to provide thousands of volunteers from elsewhere in Idaho, as well as from neighboring States, to assist in the disaster relief. Through an effective welfare and relief organization the church provided bedding, food, medicine, clothing and tools needed to care for the victims.

In addition to their educational and social activities, the LDS people have contributed significantly to the cultural life of the country. The Mormon Tabernacle Choir has long been acclaimed as one of the finest in the Nation. This world-famous choir sang at the inauguration of President Johnson in 1965 and, most recently, at the Bicentennial celebration in Washington.

The strict observance of a clean and moral life has won for the Mormon people the respect of the entire country. From the early days of persecution, the LDS people have worked their way up until they now hold key positions in all branches of government and indeed in all facets of our national life. Dedication to their religious convictions, faith and optimism combined with diligent work has produced their formula for success.

For these reasons, I recognize and pay tribute to these good and gallant people on their special day and thank them for their contribution to our great Nation. "Blessed Honored Pioneer," indeed.

THE GENOCIDE CONVENTION: TERMS

Mr. PROXMIRE. Mr. President, much has been said in reference to the Genocide Convention. I think it would be beneficial to briefly explore, point by point, the terms of the treaty.

The Convention contains 19 articles. Of these, the first nine are of a substantive character, the others being procedural in nature.

Article I asserts that genocide is a crime under international law. In this article, parties undertake to prevent and punish this 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, ethnic or religious group, constitutes the crime of genocide:

(1) killing members of one of the above groups

(2) causing serious bodily or mental harm to members of one of the above groups

(3) deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part

(4) imposing measures intended to prevent births within the group.

(5) forcibly transferring children of the group to another.

This article, then, requires that there must be the specific intent to destroy one of the above mentioned groups, either in whole or in part.

Article III specifies that five acts involving genocide shall be punishable.

These five genocidal acts are: First, the crime of genocide itself; second, conspiracy to commit genocide; third, direct and public incitement to commit genocide; fourth, attempt to commit genocide; fifth, 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 proport to require any party to enact such legislation not otherwise 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 in article III shall be tried by a court in the State in which 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 in American territory would be tried 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 necessary and appropriate under the charter for the prevention and suppression of genocide acts.

Last, article IX provides that disputes between 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 was mentioned earlier, the remaining articles are proceedural 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 continuing hope that by clarifying the technicalities involved, everyone 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 sincere hope that the United States

Senate will ratify the Genocide Convention in the near future.

DELIVERING THE MAIL

Mr. ABOUREZK. Mr. President, when H.R. 8603, the Postal Reorganization Act Amendments, comes before the Senate, I will be joining with the Senator from South Carolina (Mr. HOLLINGS) to return responsibility for Postal finances to the Congress.

Postal independence has not produced more efficient management or better service. What we have seen from the independent Postal Service is examples of arrogance, foolishness and insensitivity which are the result of insulation from the public.

The average citizen cannot vote with his or her consumer dollars to buy services through a choice of stamp purchases. There is only one Postal Service, and for people outside major cities, there will always be only one, because it is not profitable to deliver mail.

For the last 5 years, the congressional oversight of the Postal Service has been feeble, because there is no institutional mechanism for effecting any changes we might think should be made. Congress can now be a rather noisy public lobby on Postal policy, but we are not very coordinated or effective, and the Postal Service has freely exercised its option to ignore us, and the people for whom we are speaking.

The Government best serves these people to whom it is politically accountable, and I believe the best way to improve the Postal Service is to make it politically accountable as well.

I reject completely the idea that postmasters should be appointed for political reasons, or that there should be any hint of patronage in the operation of the Postal Service. That is not politics; it is favoritism, and it is wrong. Let us hope the era of patronage in the Post Office is behind us for all time.

But with that reservation, I find the article by Paul Dickson in the recent issue of Washington Monthly enlightening and compelling. He maintains simply that the postal system used to work, and can work again. With that hope and promise, I ask unanimous consent that "Delivering the Mail: We Did It Once and We Can Do It Again" from the July-August issue of Washington Monthly be printed in the RECORD.

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

DELIVERING THE MAIL: WE DID IT ONCE AND WE CAN DO IT AGAIN

(By Paul Dickson)

The major precedent for our sad and ever so unpopular Postal Service is one that dates back before 1776. At that time one of the complaints the colonists had against the King was a postal system that emphasized profits over service. Dissatisfaction with that business-like operation was, as many historians have stated, just the kind of thing that led to independence. "Instinctively, [the colonists] believed in postal service," one of these historians has remarked, "not postal profits."

This is not the beginning of a "Bicentennial Minute," but a recollection of the policy of a service-first post office which lasted five years short of a full 200. The policy ended in 1971 when a "business-like" postal corporation was created to make the system pay for itself.

At this moment, nostalgia for the old pre-1971 system is widespread; even the leaders of the tarnished Postal Service admit that things were better a generation ago. The nostalgia has many strains, ranging from those who fondly recall the single-digit first-class stamp, the less-than-a-nickel penny postcard, and the postmark that told you where your letter actually came from (not PA 217, which is postal newspeak for Upper Black Eddy, Pennsylvania) to the business patron who only has to think back a few months to the good old days before once-a-day delivery. But perhaps the most poignant bit of nostalgia is shared by liberals over 35 who recall cherished moments like this:

Conservative: How can you possibly call for the government to get involved in (*fill in the blank*)? You know what'll happen, don't you? They'll screw it up and the only people who'll be served by it are those who run it.

Liberal: But what about the . . .

Conservative: Besides they'll run out of things to do and start issuing oppressive guidelines and make our lives miserable.

Liberal: OK, but . . .

Conservative: I know. I know. You're going to tell me about the TVA.

Liberal: Actually all I wanted to do was to mention the Post Office.

Conservative: (Loud gulp.)

At this point our liberal went into a devastating disclosure about innovation (the first group to put the airplane to practical use, to string telegraph lines between cities, etc.), service, and the growth of commerce, culture, and education fostered by the beloved system which ties the nation together. Above all he praised the efficiency of the postal system as the ultimate proof that government could work.

As Wayne Fuller points out in his recent book, *The American Mail: Enlarger of the Common Life*. "Those who saw the abuses of unbridled capitalism . . . pointed with pride to the Post Office as an example of the benefits a government-owned business might bring to the people."

In 1976 both the Liberal and the Conservative huddle together in awe of a quasi-governmental disaster that disproves both the former's notion of effective goovernment ownership and the latter's urge toward business-like self-sufficiency. Both of them seem quite capable of telling and retelling horror stories to underscore how bad it is, but neither is certain about its meaning or solution.

There is more to their mutual unease than simply keeping the first-class letter rate below a quarter or testing different philosophies of government. Postal service is the one thing government provides that comes closest to being universally received and universally useful, the only outward and visible sign of the federal government that the average American comes in contact with every day. It is also one of the most easily comprehendible elements of government, in that it is all but impossible to gloss over or cover up deteriorating service.

For all these reasons, there is clearly more to the past triumphs and present failures of the U.S. Mail than the U.S. Mail. One needs no commission report or poll to conclude that most people's perception of the quality and efficiency of government is directly tied to postal services. This was cause for rejoicing in Washington not that many years ago. Typical were these lines from a 1931 book on postal policy by Rep. Clyde Kelly: "Those who see this institution as a great service enterprise may be sure that it has been one of the mightiest factors in American progress, paying dividends in enlightenment and mutual understanding beyond the power of money to express. It has been the nation's most profitable institution, inspiring fraternity of feeling and community of interest, and furnishing the surest guarantee of the stability and security of the Republic. . . ."

Despite factions in Congress which occasionally toyed with the notion of putting all or part of the system in private hands, the formula of "service first, worry about deficits later" was never significantly challenged, for the simple reason that it was working. By the 1920s there was ample evidence that the policy had worked to the extent that the nation was in proud possession of a system complete with all the postal services that a modern industrialized nation could ask for. Postage was cheap; rural free delivery was bringing service to every corner of the nation; and all the extras—postal savings, money order service, parcel post, airmail, special delivery, and more—were in place.

PATRONAGE AND POSTMASTERS

Here are some of the reasons why it worked: For one thing, the politics that were taken out of the Post Office in the name of reform in 1971 had their dark side, but they were also a major strength of the old system. For instance, even though local postmasters were assigned by political patronage, they were generally demanding, highly visible jobs which not only spotlighted the person in the job, but also the elected and party officials who got that person the job. Occasionally, the doltish brother-in-law of a congressman or party leader was given the local mail and postal service dukedom, but not often.

Another advantage of the political system was that it virtually guaranteed that management was local and therefore responsive to local needs and especially attuned to take pride in their work. As the old Post Office was being dismembered in favor of the new, old-timers fretted that reform would mean assigning big-city hot-shots to run things for a large rural county (or vice versa); these doubters were looked on as unprogressive types harboring outdated notions about "outside" managers.

Ironically, it was the politicians who turned against the political Post Office while others had a higher respect for it. In The American Mail, Wayne Fuller wrote, "Politics in the Post Office, like leaven, was the ferment that forced changes in the postal system, made the service responsive to the will of the people, and made the Post Office a mechanism for developing the nation's political system." (By the way, this is not nostalgia speaking. Professor Fuller wrote this in 1972, when hopes for the new corporation were still high.) One clue to why politicians were so willing to jettison politics in this realm may be in the way votes are obtained. Old-style postal patronage gathered few votes and a lot of complaints—compared to well-executed, 30-second spots. For the modern politician, the burden of responsibility for local appointments outweighed the potential benefit.

A more obvious ingredient in the successful recipe was the aforementioned policy of service first, accompanied by a wary eye, but not a phobia, for the postal deficit which has been with us for all but a few of the last 100 years. Save for the few who argued for breaking even, most modern legislators, Postmasters General, and Presidents were quite content with an agency of government which pleased the people and paid back the lion's share—85 per cent to 90 per cent—of its costs in revenues (this year under the new setup it will recover only 78 per cent). Think about that for a while. You as a taxpayer subsidized ten to fifteen per cent when it was a service. Now that it's supposed to be a profit-maker, you pay 22 per cent.

What a lesson for us! As we go forward to take on the task of bureaucratic reform—which is now inescapably necessary, not just for the Postal Service but for the govern-

ment as a whole—here are the simple truths we must remember:

(1) Government should *serve* the people. This, not profit or anything else, is its primary purpose.

(2) That the government will serve the people well is best assured by making it *politically* accountable to the people.

The era of civil service has produced a bureaucracy that is practically immune to the concerns of the public. The postmaster in Cedar Rapids need not fear the wrath of the local citizens if he is a career civil servant. But a congressman who was responsible for the appointment of the inept Cedar Rapids postmaster could have lost the next election.

A RACE WITH CATASTROPHE

How did we become so confused that we forgot that what we wanted from the postal system was not profit but service? We wanted the mail delivered. What we're getting is reduced mail delivery, which is producing not profit but more deficit, because poorer service means lower volume.

This is not to say that putting politics and service back into the postal system will necessarily solve all its problems. Obviously the postal system was having difficulties before it became a corporation. But it is important to emphasize that many of those difficulties were unique to the period 1945-70. During those boom years the volume of mail leaped from 37,917,000 pieces to 84,881,000, while a major element of the postal system, the railway mail service, was collapsing along with its sister, passenger service.

By 1966, problems began surfacing. Reports were reaching Washington of snafus all along the line, the most dramatic of which took place in October, when the main post office in Chicago gagged on 10 million pieces of mail and stopped functioning for almost three weeks. Meanwhile, on the fiscal front this was the first year in which the postal deficit reached the billion-dollar mark. This took place during the watch of Lyndon Johnson's Postmaster General Lawrence O'Brien, who took a look at things, made his famous remark about the Post Office being in "a race with catastrophe," and told Johnson that a major reorganization was in order. Johnson, in turn, created the blue-ribbon Commission on Postal Organization under the direction of Frederick Kappel.

The Kappel report was delivered in June 1968 and was clearly negative. The American Post Office was mismanaged, too political, technologically backward, inefficient, and in dire need of new equipment, buildings, and ideas. The report also projected a postal deficit of $15 billion by 1978 unless something was done. Its prime remedial suggestion was that the Post Office was a business and as such should be reorganized as a government corporation which in time would have no deficit.

WINDOW DRESSING

The new corporation took flight on July 1, 1971 when the anachronistic Pony Express symbol gave way to the stylized eagle. For the first 18 months, there was great optimism about the new Postal Service, a mood abetted by the encouraging statistics and announcements of innovations coming from the office of Postmaster General and Board Chairman Winton M. Blount. The press, which had almost universally supported the idea of a new organization during the debate, was primed to listen uncritically at the litany of new departures was presented: a new, fast, and damage-free parcel post service would be in place by 1975 . . . routine 24-hour air mail service to Great Britain was just around the corner . . . an ombudsman was now in his office ready to accept and rectify patrons' complaints . . . top-flight Madison Avenue ad agencies were being signed up to promote the use of air mail and other special services . . . all sorts of snazzy consulting firms and think tanks were being brought aboard to help tackle the most vexing problems inherited from the old Post Office.

All this hoopla was followed by a broad series of rate increases, with more to come; and then there was the death of *Look* magazine replete with a post-mortem that in part blamed new rates for the demise. Rep. H. R. Gross and several allies uncovered some cases of flagrant overspending and waste.

The Christmas 1972 mailing was a disaster. Congressmen, who had relinquished most of their power over the Service, were stunned. About all the individual legislator could do was stuff the Congressional *Record* with horror stories. When, for instance, the eight train carloads of mail which contained an emergency mass appeal from CARE for the relief of victims of Nicaragua's Christmas earthquake were lost for nine days, CARE officials maintained that great damage had been done to their urgent campaign. Within a few months no less than a half-dozen separate bills were calling for the abolition of the new organization and a return to the old.

The horror stories have continued to pile up, and what was called the "postal mess" in the late 1960s is now the "postal nightmare" of the 1970s. The only vindicated factions are those who feared the loss of rural post offices and the few who were convinced that creating a break-even postal corporation did not add up to true reform.

The situation is now bleak: a steadily rising deficit, now about $3 billion, talk of bankrutpcy, almost certain cutback to five-days-a-week delivery, the prospect of a 17-cent first-class letter rate by year's end. If anything, most of the touted solutions of the early days of the postal corporation have added to the problem. A few examples tell the tale:

Early retirement schemes cut the payroll to some extent but also weeded out some of the system's best and most experienced hands when they were needed most.

Not long after launching a major ad campaign to sell domestic air mail service, the Service itself discovered that first class was just as quick.

An expensive electronic system designed to monitor the comings and goings of mail delivery trucks has replaced a simple, index-card system that worked.

Postal workers have reported that mail is allowed to stack up for as long as 24 hours in order to get "uniform flow" for new canceling machines.

A new generation of machines have learned to eat packages and letters.

As *The Washington Post's* Ronald Kessler concluded after a stinging series of reports on the excesses and failures of the new Service, ". . . postal management has shown remarkable consistency. When faced with major decisions, it invariably chooses the wrong course."

BACK TO POLITICS

The big question is where do we take it from here?

The beginnings of the answer are simple enough. Back to politics and service. Not to a system that is solely political. There should be a balance between the continuity of expertise provided by a tenured civil service and the accountability of the political appointee. But the balance has shifted way too far in favor of the former.

Recently the Washington Star uncovered evidence that employees at the Washington Bulk Mail Center in Largo, Maryland, had been throwing away sizable amounts of mail almost daily. This was a new high in the "screw-you-buddy-I've-got-my-tenure" movement, but nonetheless indicative of where things are going. Perhaps you read in this magazine's Tidbits and Outrages column last month about how the Postal Service was auctioning off the contents of the parcels that are mangled by its machines? Your lost merchandise could be bought by your competitor at a discount. Such things simply couldn't happen if the postal system was accountable to the public.

Even the resigning head of a postal employee's union, James Rademacher, admits, "The trouble with many members is that they do not understand the give and take of collective bargaining. They want to take, but they don't want to give."

It's no wonder that most of the postal union members think that way. Since 1970, they've "bargained" successfully for a 60 percent increase in wages.

Ronald Kessler, in his Washington Post series, pointed out a simple but dramatic saving the post office could make:

"Many of the Postal Service's problems would be solved if it offered standard-size envelopes with preprinted boxes where mail users would write zip codes, according to Dr. James C. Armstrong, a former postal official who left to become corporate planning manager of American Telephone and Telegraph Co. Armstrong said the Postal Service could encourage the public to use these envelopes by charging lower postage if they are used. The standard-size envelopes and uniform zip codes could easily be read by relatively inexpensive machines, Armstrong said.

There is no reason to believe the public would not accept the use of such envelopes, particularly as an alternative to further deterioration of postal service, as readily as it accepted direct long distance dialing using area codes.

So politics will help, standardization will help, but nothing will help more than a return to service as the primary aim of the post office. When government forgets that its object is to "deliver the mail"—whether it is in the form of an efficient military, an excellent national park system, or a letter on your desk the next day—it's time to remind our elected representatives that they at least are accountable.

REMARKS OF ELLIOTT M. ESTES

Mr. BURDICK. Mr. President, I am pleased to share with my colleagues the remarks given at the Future Farmers of America Congressional Breakfast here in the Nation's Capital by Mr. Elliott M. Estes, the distinguished President of the General Motors Corp. I particularly point out his thoughts on the importance of American agriculture as we enter our third century.

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

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

REMARKS BY ELLIOTT M. ESTES

Thanks very much, Bobby, and good morning. It's good to see you all here. I'm especially pleased to see so many members of Congress. I know how busy you are, and I want to thank you for taking the time to join us this morning.

I'm also very pleased that my chance to come to Washington and talk to this important audience for the first time came when it did. Washington is always an exciting city, of course, and this breakfast has been an important annual event for GM for four years now. But it's especially exciting for me to be here with you in Washington in this Bicentennial year.

Because it is America's birthday, we—as a nation and as a people—are engaging in more retrospection than usual. That's not a particularly strong American characteristic most of the time. But right now, we're

spending a lot of time looking back—seeing where we have been and how we arrived at where we are.

This is certainly an appropriate time to do that. But it is also fitting—and much more important, I think—that we take time in this historic year to look forward—to consider the future and decide what we want this country to do . . . to be . . . to stand for in our third century of existence.

President Woodrow Wilson put it about as well as anyone when he said in 1917 that America—the country and the flag which flies over it as a symbol of our national power and pride and purpose—"has no other character than what we give it from generation to generation. The choices are ours."

Yes—the choices are ours. And now . . . today—at the start of America's third 100 years—we find ourselves being asked to make a particularly crucial judgment. We are being asked to decide whether this country is going to remain committed to a goal of world leadership by making as much progress as we can.

Opponents of technology, their protests as loud and shrill as any time I can remember, are urging us to adopt a national policy of "zero technology." They want us to stop trying to push back the frontiers of science and technology as much and as rapidly as we can. The efforts by opponents of nuclear power to stop its continued development for peaceful use is a timely example of what I'm talking about.

Obviously, nuclear power is the extreme example of a new technology that must be used carefully and after reasonable safeguards have been taken. But nearly every technical or scientific development that mankind has adopted to make his life better down through history has carried risks as well as benefits. That's been true ever since the first cavemen found that fire was great for cooking his food, warming his hands and lighting his cave, but that it could also blister his backside if he wasn't careful.

The question is, do the benefits outweigh the risks—are the risks acceptable? And in the case of nuclear generating plants the answer to both questions is a resounding, yes.

Now, oppostion to the new, the different, the unknown—particularly new technology—is not just a recent phenomenon. Down through history, some people have always been suspicious of—and downright afraid of—technological advances, and they fought to keep them from being put to use.

In 1798, for instance, workmen in England smashed a water-powered sawmill introduced into their country from Holland because they feared it might put them out of work. In 1779, an American, Charles Newbold, invented the cast iron plow. But farmers of that esa wouldn't use it; they claimed it poisoned the ground. As recently as 1919, Missouri farmer Fred Hoenemann sought a court order to keep airplanes from flying over his cows. And here in Washington, electric lights were installed in the White House for the first time in 1891. But the Benjamin Harrisons, who were living at 1600 Pennsylvania Avenue at the time, were afraid of them. They were so afraid, they wouldn't even touch the switches, and as a result they spent many a night sleeping with their lights burning brightly.

Those reactions seem naive today—even humorous. I'm pretty sure that the opposition to technology that is so prevalent today will also probably seem naive with the hindsight of 50 or 100 years—assuming of course, that the opponents of technology are not successful in limiting what we do.

And it is very important that they do not succeed. Ask yourself, where would we be if those who opposed technology in the past had prevailed? Where would America be if we did not have modern, high-volume manufacturing? . . . if we didn't have effective, integrated transportations systems? . . . if we didn't have extensive energy delivery grids? . . . if we didn't have up-to-the-minute agriculture?—agriculture that has made this country the greatest food producing factory in history.

We simply cannot afford to set some kind of arbitrary limit on technology; not now, not ever—not if we want to continue to have the kinds of lives we enjoy and the better ones we want for our children and their children.

I'm sure you leaders in the Future Farmers understand this as well as anyone. You know that without modern machinery; hybrid seed; new fertilizers, pesticides and herbicides; modern management methods; computers; cost accounting; irrigation and all the rest—the typical American farmer couldn't even come close to feeding the 56 people that he does today—43 of his fellow Americans and 13 other people who live somewhere overseas. Without those things, the American farmer would have a hard time just feeding himself and his family. And as physicist Edward Teller recently said in urging America not to turn its back on technology, "no environmental problem is more important, or hard to relieve, than worldwide poverty."

(slight pause)

On November 18, 1963—just four days away from his rendezvous with an assassin's bullet—John F. Kennedy said in a speech in Florida—and these are his own words, now—"there can be no progress if people have no faith in tomorrow."

We do need to have faith in tomorrow. We need to be confident and diligent—both in developing technology to solve the problems we face and in managing that technology so that it does not become a problem itself.

As a people, we need to be more like the American farmer—a man who is positive, optimistic and confident about the future—a man who then works like the dickens to make his optimism come true.

We either go forward or we slip backward. We cannot stand still. The choices *are* ours—and because they are, I'm confident that America's third century will be its greatest century. It's all up to us.

NATIONAL COUNCIL ON AGING'S LEGISLATIVE AGENDA FOR THE 94TH CONGRESS

Mr. WILLIAMS. Mr. President, the administration has pursued policies of retrenchment and "standpatism" for the elderly during the 94th Congress.

On example is the ill-advised proposal to saddle aged and disabled medicare beneficiaries with onerous out-of-pocket payments by imposing new coinsurance charges and increasing deductible payments for medical and hospital care.

Fortunately, this measure has little likelihood for passage now because 47 Senators have joined Senator CHURCH and me in sponsoring legislation to oppose any cutbacks in medicare coverage for the elderly and disabled.

In addition, the 94th Congress has won a number of notable victories for the aged, including:

Enactment of the Older Americans Amendments of 1975 which make major improvements and innovations in the Older Americans Act, the Older American Community Service Employment Act, and other legislation affecting the elderly.

A $55.9 million funding level for the title IX senior community service employment program. This appropriation will enable 15,000 low-income persons 55 or older to participate in the program.

Funding for the first time of the multipurpose senior centers program under the Older Americans Act.

The sum of $750 million in new lending authority for fiscal year 1976 for the section 202 housing for the elderly program. This amount will finance the construction of nearly 30,000 units for older Americans.

In addition, both Houses of Congress recently approved the Housing Authorization Act of 1976, which included my proposals to reduce the interest rate for section 202 loans and to provide an additional $2.5 billion in lending authority under this program over a 3-year period beginning with fiscal year 1977. This legislation is now awaiting the President's signature, and I am urging his prompt and favorable action.

But much more remains to be done on several fronts.

The National Council on Aging's board of directors recently adopted a nine-point legislative agenda for the 94th Congress to complete before adjournment.

Several of these recommendations, I am pleased to say, are either identical or similar to proposals I am now advancing.

For example, I have sponsored the Full Benefits Pass-Along Act, S. 2031, to prevent social security increases from causing a loss or reduction in food stamp, medicaid, or other Federal benefits. Also, I joined Senators EAGLETON, BROOKE, and CHURCH in winning approval of a $20 million funding level in order to continue the multipurpose senior centers program as part of the fiscal year 1977 Labor-HEW Appropriations Act. I am hopeful that this measure can soon be enacted into law.

Mr. President, the NCOA "Legislative Agenda for the 94th Congress" should be of interest to all the Members of the Senate.

For this reason, I ask unanimous consent that it be printed in the RECORD.

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

To: Members of the 94th Congress.

As the 94th Congress prepares to conclude its final session, the National Council on the Aging would like to call attention to several items of special significance to the aged which have, as yet, gone unresolved.

The National Council on the Aging is a private, nonprofit organization that has served for 26 years as a leader in the field of services to older people. Our members are individuals and organizations—both public and private at the national, state and local levels of government—who have devoted temselves to the goal of ensuring a decent and rewarding life for older citizens.

Because most of our members are in direct, day-to-day contact with the elderly, we are acutely aware of the critical problems they face. The attacher agenda addresses only a few of those problems, but legislation which could solve many of them is already before the Congress and requires immediate attention. We hope the Congress will recognize the need for action on these items and will respond appropriately to them.

LEGISLATIVE AGENDA FOR THE 94TH CONGRESS

The National Council on the Aging urges action on the following legislative priorities for older Americans which were adopted June 21 by the NCOA Board of Directors:

1. Adequate funding for all programs authorized under the Older Americans Act for fiscal 1977, including $20 million for Title V Multipurpose Senior Centers;

2. Rejection of proposals to increase the Social Security tax rate in favor of proposals that would increase the taxable wage base and that would introduce general tax revenues gradually into the system;

3. A Federal mandate to the States that cost-of-living increases in Supplemental Security Income benefits be passed on to program beneficiaries;

4. Rejection of cuts in the Medicare and Medicaid budgets, adoption of a plan for catastrophic coverage under Medicare which does not increase out-of-pocket expenses, and liberalization of Medicare benefits to encourage home and preventive care;

5. Approval of group eligibility for the provision of appropriate services to older people under Title XX of the Social Security Act and a cost-of-living increase in the Title XX ceiling;

6. A guarantee under the revenue sharing extension legislation that a fair share of funds will support programs benefiting elderly and poor people;

7. Prompt completion of authorizing legislation for the Section 202 Housing Program for the Elderly with adequate appropriations in fiscal year 1977;

8. A Food Stamp reform bill which does not adversely affect the aged poor through unreasonable eligibility standards, which sets a standard deduction of at least $125 for an older adult household and retains the current definition of elderly as 60 years and older, and which eliminates the purchase price requirement; and

9. Specific provisions in legislation reauthorizing the Law Enforcement Assistance Act aimed at reducing criminal victimization of older people.

SYLVIA PORTER ON THE SOCIAL SECURITY RETIREMENT TEST

Mr. CHURCH. Mr. President, the retirement test is one of the most complicated and misunderstood features of the social security program.

As things now stand, persons under age 72 have their benefits reduced by $1 for each $2 of annual earnings in excess of $2,760.

There is, however, an exception to this general rule. A beneficiary may receive benefits for any month in which his or her wages do not exceed $230, regardless of the amount of total annual earnings.

In addition, self-employed persons have a "substantial services" test applied to them. A beneficiary is generally considered to have performed substantial services by devoting more than 45 hours a month to a business. If an individual spends between 15 and 45 hours in connection with a business, this is ordinarily not considered to be substantial services unless the person is involved in a sizable business or highly skilled occupation. A beneficiary who devotes less than 15 hours a month in connection with self-employment is not considered to be engaged in substantial services.

The retirement test is different for people who work outside the United States. Any work in covered employment is considered under the regular test. But employment which is not covered by the Social Security Act is treated differently. In this case, a person under 72 will not be paid a benefit for any month in which he works during any part of 7 or more days.

Several arguments have been advanced for the inclusion of a retirement test in the social security program. Proponents point out that social security is a social insurance program to protect workers and their families from loss of earnings because of death, retirement, or disability. They argue that the basic principle of social security would be violated if an individual would be able to recieve full benefits upon reaching retirement age, although substantially employed. The purpose of the program, in their judgment, is to provide insurance against loss of earnings and not an annuity at a fixed age as in private insurance.

Advocates of an earnings limitation also emphasize that the vast majority of older beneficiaries would not be helped by elimination of the retirement test because:

They cannot work;

They earn less than $2,760; or

They are age 72 or older, and thus are exempt from the earnings limitation.

Proponents further stress that eliminating the retirement test would be costly and would primarily benefit upper income individuals who have never really retired. Only about one-tenth of all beneficiaries, they say, would be helped by the repeal of the earnings limitation. Moreover, they contend this would add to the short-term and long-range actuarial deficit of the social security program.

Opponents of the retirement test maintain that the earnings limitation causes a hardship for those who must work to supplement their benefits. This provision, they stress, imposes a major obstacle for older persons who want to continue to work or remain active. As a practical matter, the existing test is complicated and difficult for the ordinary person to understand.

Opponents also emphasize that the reasons leading to the adoption of the retirement test in the 1930's are not as valid in the 1970's. They argue that the policy of discouraging older persons from working past a designated retirement age originated during the depression when it was necessary to increase job opportunities for younger workers. Today, the retention of this test keeps many older persons from working, depriving our Nation of their skill, productivity, and experience.

Some persons also criticize the retirement test because it applies only to earned income and not other forms of income, such as interest, dividends, rents, pensions, or annuities. A Department of Health, Education, and Welfare report on the retirement test in 1969 gave this rationale for the application of the present test:

To include nonwork income in the earnings counted for retirement test purposes would be contrary to the purpose of a social insurance system—to insure against loss of earnings from work. Income from nonwork sources generally continues after retirement as it did before; retirement cannot be determined by measuring the presence or absence of nonwork income. Moreover, disincentives for the creation of private pension plans and savings for retirement would result from inclusion of nonwork income under the retirement test. Furthermore, doing so would make the retirement test similar to the means test used to determine eligibility for payments under public assistance programs, and would thus tend to subject the social security program to the same sort of criticisms that have been leveled at the assistance programs.

Sylvia Porter has recently written a series of articles about the social security earnings limitation.

Her accounts provide further important information on this issue in a clear and concise manner.

For these reasons, I ask unanimous consent that Sylvia Porter's articles on the retirement test be printed in the RECORD.

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

[From the New York Post, June 28, 1976]

THE RETIREMENT TEST?

(By Sylvia Porter)

Should there be any limit on how much you, an older person, can earn and still collect your Social Security benefits?

If so, how can a limit be set that will not penalize you if you work—and still be fair to other Social Security beneficiaries and to those of us who are working and paying Social Security taxes to finance the entire system?

These questions have been furiously debated since SS benefits first became payable 36 years ago. Back in 1940, under the so-called Retirement Test then in effect, an older person lost his entire SS benefit for any month in which his wages in work covered by SS amounted to one cent more than $14.99!

The law has been changed many times since, but the Retirement Test still remains—infuriating in its discriminations, inequities and inconsistencies, unduly complicated by past attempts to improve and liberalize its provisions.

Why is there a Retirement Test?

Because, its defendants claim, the basic purpose of SS retirement benefits is not to pay benefits because you reach a specified age, but rather to replace the earnings you lose when old age cuts off or drastically reduces your earning power. The test was devised to measure whether that loss of earnings has occurred.

(1) You do not have to stop work altogether to collect your benefits. If your earnings after you become eligible for benefits are $2,760 or less for the year, you get your full benefits for all 12 months. That $2,760 is called the "exempt amount" and it rises each year as average earnings levels under SS go up.

(2) Once you reach 72, you get all your benefits no matter how much you earn. Without this provision (added to the law in the 1950s), those who work for good pay well into their 70s might never receive any benefits despite years of SS tax contributions.

(3) If, as an SS beneficiary under age 72, you earn more than the exempt amount, you will lose $1 of benefits for every $2 by which your earnings for the year exceed $2,760. For instance, if you are getting the average single retired worker's benefit of around $200 a month, $2,400 for the year, and you take a year-round job for $5,000, you would give up $1,120 of your SS benefits for the year—

one-half the total by which $5,000 exceeds $2,760.

(4) Although the general rule is that you give up $1 of benefits for every $2 of earnings over and above the "exempt amount" of $2,760, there is an important exception. No matter how much you earn in a year, you will get your full benefit for any month in which your wages from employment are $230 or less (1/12th of the "exempt amount") and you do not perform substantial services in self-employment. Without this exemption, if you retired well into the year, after earning substantial amounts, you would not be able to collect any SS benefits until the beginning of the next year—even though you were completely retired during the year's final months.

(5) But this exception also works out to your advantage if you, an older person, want to take seasonal jobs for just a few months of each year. For instance, if you, a retired worker in the example above, do not work in all months of the year, or cut back on your work so that you earn $230 or less in some months, you would get your benefits for those months.

When I wrote about the Retirement Test last year, among the letters I received was from a reader who noted:

"You could be of tremendous help to the elderly who think that if they earn more than $2,520 (the exempt amount for 1975) they will lose their Social Security payments.

"Nothing could be further from the truth.

"I receive over $14,000 per year in salary, but do not work during the months of July and August and I collect full Social Security payments for those two months. Most elderly people don't know this is possible! Tell them."

I have told you.

[From the Washington Star, June 29, 1976]

SELF-EMPLOYED'S TEST FOR SOCIAL SECURITY

(By Sylvia Porter)

No other provision of the Social Security law is more infuriating or more loaded with inequities and inconsistencies than the so-called Retirement Test—that part of the law limiting how much you, a Social Security beneficiary, can earn and still collect some or all of your benefits.

If, as a Social Security beneficiary under 72, for instance, you earn over $2,760 for the year, you give up some or all of your benefits, depending on how much over $2,760 you earn.

But regardless of your total earnings for the year, it's possible for you to collect benefits for any months in which you earn $230 or less and do not perform substantial services in self-employment.

If you work as an employe, it doesn't matter when the wages actually were paid to you. The controlling factor is when you earned them—not the time when they were paid.

Similarly, if you are self-employed in a business of your own and will earn more than $2,760 this year, it is when you did the work that counts.

But unlike an employe who can tell how much he or she earns in each month, self-employed people often don't know until the end of the year whether they'll show a profit or loss. Too, the money may come in some time after the work has been done.

As a real estate broker, you may work every day throughout a month or several months. But you may receive the commission on a sale at a later time when you are inactive and, in fact, retired.

When you get the commission would not be a fair measure of whether or not you are retired.

Thus, under the Retirement Test, you, who are self-employed, get your Social Security benefits for any month in which you do not perform "substantial services," regardless of how much you earn for the year—and no matter when you actually get the money.

If your earnings are over $2,760 for this year, your excess earnings will serve to reduce your Social Security benefits for only those months in which you performed "substantial services"—and whether or not you had any profits at all in those months.

But how do you know whether you are performing "substantial services," if you are self-employed?

Generally, if you spend more than 45 hours a month working in your business, and that includes the time you spend on planning and managing as well as physical work and also time you spend away from your business related to business.

If you spend fewer than 15 hours a month on your business, your services are never considered to be "substantial services."

If you spend between 15 and 45 hours, your work usually is not considered to be "substantial services" unless you are involved in operating a sizable business or are in a highly skilled occupation (a physician, for instance). Where a decision based on time alone would be unreasonable, Social Security's representatives consider other factors.

If the work you are doing now is much less in amount and importance than you did before you "retired," that would be a sign that your services are not substantial.

You even may work more than 45 hours a month in self-employment and still be able to show that—considering what you did before retirement, the hours you put in and their importance to the business—the general rule should not apply to your services.

That would be a rare situation, though. The whole tale is so befuddled by undue complications that it's hard to decide whether the administration would determine your services are substantial, even though your work amounted to between 15 and 45 hours a month.

Questionable situations would be:

A moneylender who has $500,000 in outstanding loans and who makes the decisions on what loans are to be made;

A psychiatrist who devotes most of his time to consultations and charges $25 or more an hour;

A real estate salesperson who earns more than $1,000 a month, working 30 to 35 hours a month or less;

A farmer who grosses over $100,000 annually from a 2,000-acre farm; consulting regularly with his paid manager.

[From the New York Post, June 30, 1976]

THE RETIREMENT TEST: III

(By Sylvia Porter)

When you apply for your Social Security benefits, you will be asked three key questions: how much you have earned so far in the year; whether you plan to work in the remaining months: if so, how much you estimate you will earn.

Assuming you apply this year, the number of SS checks that will be paid to you for 1976 will rest on your answers. If you say that you expect to earn $2700 or less this year (or nothing at all) you will get all your monthly checks. If you say that your earnings will top $2760, some or all of your benefit checks will be withheld.

Under the general rule, you give up $1 of benefits for each $2 by which your earnings go over $2760. If, for instance, you already have earned $2000 and expect to earn another $2000, that will amount to $1240 more than $2760. One-half of $1240, or $620, will be withheld from your benefits.

Tip one: By Apr. 15, '77, if you earned more than $2760 in 1976, you must send in your annual report of earnings unless you were age 72 or older during this entire year or, if under age 72, had all your benefit checks withheld. That report is used to settle up accounts. If too much was withheld from your benefits, you will get the money back.

Tip Two: The Report of Annual Earnings is also the means of updating your estimate of what you expect to earn in the current year so that any benefits can be withheld while you are earning—far better than having to pay back amounts later on, when your earnings may have stopped. If, after you have given your estimate to the Social Security Administration, you find you earn more (or less) than you estimated, tell the agency so it can adjust your payments.

Tip Three: Here's one I haven't found in any of the Social Security booklets. Although beneficiaries who had all their benefit checks for the year withheld are not required to send in the Annual Report of Earnings, some of you should. You actually may have earned less during the year than the estimate of earnings that was the basis for withholding all your checks. Or there may have been months in which you did not work or earned less than $230 in wages.

Tip Four: In applying for benefits and in making your Annual Report of Earnings, indicate whether there will be any months in which you will not be working or, if working, will have wages of $230 or less. You are entitled to your full benefits for those months, no matter how much you earn for the year.

Tip Five: If you are self-employed in your own business, but will be working no more than 45 hours during any months, point out that fact when you give your earnings estimate. In general, you will get your check for any month in which you work no more than 45 hours.

Tip Six: If you are getting checks as a retired worker and your wife is also entitled to benefits based on your earnings under SS, her benefits—as well as yours—can be affected by your earnings. If your monthly benefit is $200, for instance, and your wife's is $100, and your earnings for the year are over $7560 (the point at which no benefits would be payable to you), deductions will be continued from your combined husband-wife benefits—at the rate of $1 of benefits for every $2 of earnings. With earnings of over $9960 for the year, none of your combined husband-wife benefits would be payable.

Tip Seven: If your wife goes to work, though, her earnings will result in deduction from only her own SS checks.

Tip Eight: Whether you are employed, self-employed, or both, certain types of income do not count because they are not earnings from work and will not reduce your SS checks. Among non-work income not affecting payment of your benefit checks:

Investment income in the form of dividends from stock, unless you are a dealer in securities; savings account interest; income from SS benefits, pensions, other retirement pay, VA benefits, annuities; gain (or loss) from sale of capital assets; gifts or inheritances; royalties received in or after the year you become 65 from patents or copyrights obtained before that year; with certain exceptions, rental income from real estate you own; and retirement payments to you if you are a retired partner.

[From the New York Post, July 1, 1976]

THE RETIREMENT TEST: IV

(By Sylvia Porter)

To me there is something almost obscenely unfair about a law that permits payment of full Social Security benefits to the wealthy resident of an apartment hotel, living on a generous corporation pension and income from stocks and bonds, while slashing or wiping out the benefits of the chambermaid.

And why? Because the chambermaid works but her employer "retired."

There is something terribly wrong, to my

mind, about an argument that holds elimination of the Retirement Test would violate a basic principle of the law.

That "basic" principle was geared to the depression era of the 1930s, more than a full generation ago. Since that time, it has been compromised and recompromised. At age 72, you are entitled to full benefits, for instance, regardless of your earnings. And under age 72, you are not penalized for the first $2760 of earnings in a year.

I freely confess a long-time bias. I always have detested the whole concept of the Social Security Retirement Test; have written repeatedly that an SS beneficiary who has earned retirement benefits should be entitled to them, whether or not working and whether or not earning a specified level. I resent the discrimination inherent in benefits paid or withheld on the basis of the sources of your income or the level of that income.

But, retort the defenders of the test, SS benefits never were designed to be annuities, payable automatically just upon your attainment of a certain age. The benefits are intended to protect workers and their families against the loss of earnings which comes with the death, disability, or retirement of a working member of the family. It would violate a basic principle of the program if you could collect your full benefits on reaching retirement age without showing you had suffered a loss of earnings. Further, SS tax rates have been calculated to cover only the cost of replacing lost earnings. To pay benefits as an annuity at age 65 would hike tax rates.

Eliminating the Retirement Test would add an estimated $7 billion to the cost of the program in 1976, according to the just released 1976 trustees report, and much more in the years ahead. That's equivalent to an increase of more than ¼ of 1 per cent each in the rates now paid by employers and employes.

Worse, the entire $7 billion would go to only about 10 per cent of the elderly on the SS benefit rolls—those able to work. Not one cent would go to the nine out of 10 too old or too sick to work, or who can't find jobs.

That's one of the very few arguments that silences me at this moment, for if we are to contribute $7 billion more in SS taxes, other improvements would seem to me to have more priority.

Another point the test's defenders make is that if it considered income other than earnings from work, it would be an income test akin to the means test in welfare programs—and individual thrift would be discouraged. And still a third is that private pension plans would be undermined. For if those pension payments counted toward the Retirement Test and resulted in the reduction of SS benefits, employers would have little incentive to keep or improve pension plans.

But why not continue to exempt income from pension payments, while setting a limit on other types of non-work income?

To make the program less discriminatory, narrow the distinction between the affluent collecting full benefits and the poor forfeiting benefits because they work to pad their incomes.

If such non-work income as dividends, interest, income from private insurance, gain from the sale of capital assets, and rental income from real estate totaled, say, $20,000 a year, the excess would be counted toward reducing the amount of benefits that would be payable for the year. If you had $20,000 of income independent of SS and had a company pension as well, a cut or loss of your Social Security benefits for a particular year would not drastically alter your lifestyle.

I still favor elimination of the test, but against the background of today's SS financial problems, adding another $7 billion to costs would make no sense at all. The modest proposal in this column would at least make the test more rational.

HOW PREPOSTEROUS CAN IT GET?

Mr. PROXMIRE. Mr. President, Friday morning's Washington Post carries a news story that demonstrates how preposterous is the so-called fairness doctrine—the law of the land that gives a governmental agency the right to second-guess what kind of information citizens get by radio and television.

The story tells of the reluctance by officials of the three big networks to carry a new series of Advertising Council public service announcements.

Some say, according to the Post's story, that the announcements violate the fairness doctrine. A spokesman for the Ad Council says no, that the new campaign—which combines TV messages with booklets advertised in the messages—does not violate the fairness doctrine. He cites a legal opinion.

So here we have it, a preposterous situation. A situation contrary to commonsense.

A newspaper is carrying a news story concerning a dispute over whether television networks may carry public service announcements without having to consider governmental regulations.

The newspaper, which is protected by the first amendment to the Constitution, is discussing a controversy over whether the promos suggested for television are controversial issues of public importance. For if promos could not be deemed to be so—controversial and of public importance—by the Federal Communications Commission then there would be no question of whether the fairness doctrine came into play.

And yet, the fact that there is a news story in a newspaper must answer those questions of public importance and of controversy.

It is a sure bet—from past performance—that the television network news shows nor local television news shows will carry anything about the controversy over the Ad Council's messages.

The networks will not and the local stations will not because they are regulated by the Federal Government.

The only reason the controversy is a news story is because of the conflict over the interpretation of the governmental regulation of broadcasting content—the so-called fairness doctrine. The broadcasters don't dare cover that news story.

The purpose of the first amendment is to promote wide-open, robust debate of public issues by making sure that the Government cannot control what is said about the Government. In other words, the first amendment with its protections of fundamental rights—including those of a free press and of free speech—is meant to prevent exactly what is happening with the Ad Council's messages.

How can the public decide about the messages without seeing them. But how can they be seen if the networks fear the consequences of governmental action should they televise them?

How more completely contrary to commonsense can you get?

How preposterous?

Oh, yes. The subject of the Ad Council's messages—our country's economic system.

Mr. President, I ask unanimous consent that the Post story be printed in the RECORD.

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

NETWORKS BALK AT AD CAMPAIGN

(By Jack Egan)

NEW YORK, July 22.—An Advertising Council public service campaign to educate Americans about this country's economic system has run into resistance at each of the three television networks because of concern at CBS, ABC and NBC that the campaign may be considered controversial and liable to provoke counter-commercials if aired.

In fact, the People's Bicentennial Commission—a polemical group that is paying less attention to the bicentennial these days and more to such issues as economic concentration and corporate misbehavior—already has served notice on the networks that it will demand equivalent rebuttal time for its more radical view of the U.S. economic system if the ad council commercials are put on.

CBS has asked the ad council to try to revise the commercials to make them more acceptable. ABC says it is reviewing the situation and NBC, which had intended to start running the public service spots this week, now says the question is "on hold" while it looks at "some new input" including the PBC request for counter-ad spots.

The controversy centers not so much on the commercials—which primarily involve the offer of a free 24-page educational booklet to viewers who send away ("Every American ought to know what this booklet says," states ad)—as on the booklet itself, a primer called "The American Economic System . . . And Your Part In It," which is illustrated by Charles Schulz, creator of the Peanuts comic strip.

"You can't separate the two," said Gene Mater, CBS vice president and assistant to the head of the broadcast group. "The booklet plus the spot and the way it's presented we look at as a discussion of one side of a controversial issue."

The ad council claims there is no advocacy involved in either the commercials or the booklet, but only an effort to provide more information to citizens who are basically ignorant about the economy so that they can better make up their own minds for themselves on economic issues. PBC director Jeremy Rifkin vehemently disagrees.

"It's absolutely an advocacy campaign, because they're explaining the capitalist economic system and how it functions in almost a chamber of commerce perspective," Rifkin said.

"Nowhere do they raise the issues of pollution or the flight of capital," he continued. "Nowhere do they discuss corporate policies that adversely affect the industrial health and safety of workers. Nowhere do they discuss the quality of products or services. Not only would we give a different description of this system, we do not believe that this is the only economic system that should be discussed," said Rifkin, whose group plans to soon change its name to the People's Business Commission.

"That's his opinion and I reject it utterly," responded ad council president Robert P. Keim. "We're not talking advocacy or Marxism versus capitalism in this campaign. The word 'capitalism' I don't think even appears in (the booklet) and we're not even calling it 'the free enterprise system.' "

Keim charged that the PBC was trying to "abridge our First Amendment right" of free speech by their request for a response. "Let

them get space and time on the merit of their own claims rather than trying to deny us the time."

The ad council president said he was "confident we'll be able to resolve the question of the networks," and said his group was "working on some modifications of what we've shown" in order to gain acceptance.

Mater of CBS said that, in his network's view, running the spots in their present form could violate not only the Federal Communications Commission "fairness doctrine" requiring television to air both sides of a controversy of importance, but also "our own policy neither to sell time or (sic) give time to controversial issues."

Similarly, ABC's director of broadcast standards, Richard P. Gitter, said his network was reviewing the ad council spots and the booklet and, "if indeed we decide it's controversial, it would violate an internal policy we have had which prohibits offering time in the form of public service announcements or commercials for the discussion of controversial issues of importance which we think are more appropriately discussed in news or public affairs programs."

"This is a tough one," said Herminio Traviesas, NBC's vice president for broadcast standards, who took a somewhat different tact. He said he found nothing controversial "in the message itself," and added that "I think the booklet, too, is a very fair job. In our judgment it doesn't take a position."

But Traviesas said he had to "look at all of the other things being done in this campaign" and "some new input has come in from two or three areas" in the last few days which caused his network to delay airing the commercials, but he wouldn't elaborate.

The ad council's Keim said his organization did not believe the commercials violated the FCC's "fairness doctrine," and cited a legal opinion from Hendrick and Lane, a Washington firm specializing in communications law.

The law firm said the series of announcements "does no more than encourage people to send for (and, of course, read) the booklet" and therefore does not involve the "meaningful" or substantive discussion that creates an obligation under the fairness doctrine as defined by the FCC.

The ad council campaign, developed by Compton Advertising, Inc., was announced in April and is scheduled to last between 3 and 5 years. It includes newspaper and magazine advertisements, billboard and bus displays, and commercials on local radio and television outlets, as well as the proposed network ads.

The ad council was formed by the advertising industry 34 years ago to coordinate production of public service ad campaigns and to get different media outlets to donate free space or time.

Among its better-known efforts are the Smokey Bear campaign against forest fires, advertising for U.S. Savings Bonds and the "help fight pollution" campaign which features the tearful American Indian.

CAPTIVE NATIONS WEEK

Mr. STEVENSON. Mr. President, this week is Captive Nations Week. It is a time to reflect on the dangers of Soviet imperialism and to salute the brave peoples of Lithuania, Estonia, and Latvia and other captive nations in Eastern Europe for their struggle against Soviet domination and their efforts in the face of overwhelming odds to maintain in their own homelands their rich cultural and historical heritage and traditions. It is also a time to salute those captive peoples who were forced to flee to this country and their descendants for the contributions they have made to the diversity and strength of the United States.

Captive Nations Week is a reminder of the need for constant vigilance in the defense of freedom. It is a reminder that détente is no substitute for the principles of human rights and self-determination. It is a time to salute the efforts of people everywhere to be free from foreign aggression. And it is time to reaffirm the support and dedication of the United States everywhere to those principles of independence and freedom which gave this country birth.

LABOR-MANAGEMENT COOPERATION

Mr. JAVITS. Mr. President, several weeks ago, during testimony before the Joint Economic Committee hearing on the economy's condition at midyear, Dr. Arthur Burns, Chairman of the Federal Reserve Board, stated his belief that labor-management job security and productivity committees could contribute to an improvement in the terms of the tradeoff between inflation and unemployment.

A few years ago, I was instrumental in the establishment in Jamestown, N.Y., of the Labor-Management Committee of Jamestown in association with Mayor, now U.S. Representative LUNDINE and others. I was convinced then that labor-management committees could be helpful in enlarging the community of mutual interests of management and labor and in achieving greater cooperation and peace. The experience at Jamestown and elsewhere since that time has served to confirm my conviction that such committees, established on a local and regional or industry basis throughout the Nation, can have significant positive effects.

A few months ago, the National Center for Productivity and Quality of Working Life, published an excellent report entitled, "Recent Initiatives in Labor-Management Cooperation." This report outlines clearly the great contribution that has been made by such committees in improving job security and productivity.

Labor-management cooperation in Jamestown, the report points out, has reversed a formerly insidious pattern of economic decline characterized by discordant labor relations. There was enmity and suspicion on both sides of the bargaining table until enlightened representatives of labor and management in Jamestown perceived that they actually had a commonality of interests; that job security, profits, higher wages, and productivity were all dimensions of the same objective: economic well-being. They realized, too, that recurring strikes, the out-migration of industry, persistent unemployment, and inadequate wages could be traced as an informant element to the same problem: a mutually destructive climate of hostility.

Establishment of the Jamestown Area Labor-Management Committee was intended to: First, improve labor relations; second, develop skilled manpower; third, assist industrial development programs; and fourth, achieve productivity gains in existing industries. Greater harmony, of course, was the natural byproduct of these objectives. That these objectives have been achieved is apparent from the fact that since the committee's inception, there has not been a single strike in the Jamestown manufacturing community.

The National Commission on Productivity and Work Quality sponsored a program which brought Dr. Eric Trist of the Wharton School and Dr. James McDonnell of Buffalo State University into the operations of the committee.

As a result of all these efforts the entire labor-management climate in the community improved, several plants were saved from liquidation, and, for the first time in 50 years, Jamestown attracted a major new company.

Labor-management committees have had success also on the industry level. In the steel industry, the joint Labor-Management Employment Security and Productivity Committee has made a significant contribution to the harmonization of labor relations.

My good friend I. W. Abel, Vice Chairman of the National Commission on Productivity and Work Quality and president of the United Steel Workers of America, is one of the truly enlightened statesmen of the American labor movement. He perceived that lagging productivity in the steel industry had placed American steel producers at a comparative disadvantage toward their foreign competitors and, therefore, that the jobs and incomes of many steelworkers were vulnerable. Abel was instrumental in the establishment of labor-management committees in the steel industry and in the commitment of the USW to the objective of job security through productivity improvement.

His able and forthright assistant, Mr. Bruce Thrasher, pointed out that:

> Where a mutual trust has developed, committees can go a long way toward solving such problems that face both parties in our country today. . . . We believe that joint committees on productivity can be a forum for improving productivity and the quality of work environment.

President Abel himself pointed out in his evaluation of the 1973 Experimental Negotiating Agreement and the Employment Security and Plant Productivity Committee, that—

> The parties have gradually established the maturity and respect for each other that justified this sort of advanced step in our collective bargaining relationship. I assure you that both parties are determined to make this a successful endeavor so that the people we represent can continue to enjoy substantial economic progress and the Nation can be assured of continued stability in this most essential industry.

The greatly improved economic situation in the U.S. steel industry that has developed since 1973 is, I believe, a direct result of these agreements. Productivity has improved, unit labor costs have stabilized, profits and the share of the domestic steel industry in the world market have increased, and job opportunities have been preserved. It is obvious

from the experience of the steel industry that labor-management committees have helped to secure the jobs of workers and to improve productivity in the industry.

The American steel industry is a shining example of the positive connection that exists between job security and plant productivity.

The United Steelworkers have laid to rest the anachronistic notion that productivity improvement must always lead to redundant workers and greater profits for management. In a climate of harmony, productivity improvement insures economic well-being and saves jobs. Profits become the source of capital for investment in modern technology, which in turn enables domestic industries to remain competitive in world markets. This basically recreative role of profits if handled jointly by workers and investors is clearly perceived by labor leaders such as I. W. Abel, and the members of the USW are fortunate beneficiaries of such perspicacity.

There are, of course, other enlightened labor leaders who have been in the forefront of these developments. United Mine Workers President Arnold Miller is partly responsible for the success of the Rushton Coal Mine experiment in worker participation. The National Quality of Work Center provided the technical assistance for the Rushton experiment, which was designed to enable miners to arrange flexibly their own work procedures and to allocate functional responsibilities independently of management.

Management of the Rushton Mining Co. agreed to give up the right to direct the work force at the coal face and to pay the top rate to all members of the group.

The Rushton experiment in worker management through autonomous worker groups has had remarkable success. The National Commission's report states:

> The men felt themselves respected by management as never before; they no longer felt tired when they got home from work. There was no longer the same stress on the job.

The sentiment underlying all of these experiments—at Jamestown, in the steel industry, and in the Rushton Co.—is that the community of interests between labor and management can be enlarged in an atmosphere of mutual respect, trust, and harmony. Tension and animosity are definitely hostile elements in the collective bargaining process. Where labor-management committees are formed in a spirit of mutual trust and understanding to protect jobs and to improve productivity, workers and owners can share equally in the profits of that cooperation.

Mr. President, I ask unanimous consent to have printed in the RECORD excerpts from the excellent report of the National Center for Productivity and Quality of Working Life.

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

RECENT INITIATIVES IN LABOR-MANAGEMENT COOPERATION

TODAY'S CHALLENGES

The essence of the challenge facing our working society, and therefore the whole Nation, is change—change that requires a new look at world trade, at our standard of living, at our productivity performance at the quality of working life and at our labor-management practices.

Leading representatives of industry, labor, and the universities voiced this theme over and over at all the Recent Initiatives Conferences they attended. Their prescription invariably is a greater degree of cooperation between labor and management.

President Ford, in a message to the conferences, keynoted the discussions with a description of today's challenges:

"Our Nation today faces problems that are unprecedented in this generation. We are being whipsawed by both inflation and recession and pressured by powerful foreign economic forces. In these troubled times, it is imperative that labor, management, and Government find ways of working together to bolster the strength of the American economy."

Donald C. Burnham, Vice Chairman of the National Commission on Productivity and Work Quality and a director-officer of the Westinghouse Electric Corporation, reinforced this theme, pointing out that "one of the keys to our past growth has been the persistent advance of productivity."

Productivity improvement means more jobs

"Gains in productivity are basic to the long-term future progress of our level of living," Burnham emphasized, in addressing the Washington Conference. Productivity improvement is "vital for meeting some of our most urgent short-term problems of providing more and better jobs and a less inflationary economy," he stated.

Mr. Burnham also reported that the Soviet Union is giving a high priority to productivity improvement. "They are moving away from the long-held concept that industrial expansion is the best way to improve productivity, and their 5-year plan leans toward greater efficiency."

Former Secretary of Commerce Frederick B. Dent, now the President's Special Representative for Trade Negotiations, in addressing the Decatur Conference, noted some "unprecedented economic challenges." The single most pervasive problem facing our economy today, Dent maintained, is the quadrupling of energy costs and the prospect for further increases.

As modernization of transportation has made the world smaller, national economies have become more interdependent. Since World War II, the industrial capacities of many nations have been fully rebuilt, and now are more modern and more efficient than ever before. Each of these nations, Dent noted, is determined to meet its own needs and aspirations through economic competition for world markets.

A further challenge as seen by Dent stems from the changing nature of work in our society. As greater mechanization is attained, as organizations grow larger, as computers become more and more pervasive in our everyday work lives, there has been a tendency, he said, to forget that the resourcefulness, skills, and spirit of people are still the keys to the success of any organization.

Bruce Thrasher, International Representative and Assistant to the President, United Steelworkers of America, expressed concern with lagging productivity in this country.

"I am sure you are aware that productivity in the country has not fared well in recent years. Output per man-hour experienced an unusually sharp drop beginning in 1973. And the rate of productivity growth during the post-World War II period as a whole has been showing signs of retardation."

Thrasher sees uncertainties ahead, particularly in view of the energy problems and the environmental considerations that impact on production. Slight retardation of productivity improvement can be serious in the long run, he said, as the effect accumulates from year to year, lowering the potential for improvement in the Nation's living standards.

Emphasizing that there is real urgency in the need for productivity improvement, Professor Martin Wagner of the Illinois Institute of Labor and Industrial Relations stated at the Danville Conference that while increase in productivity constitutes a worthwhile end in itself, the concern over quality of working life provides an opportunity for the men and women in the workplace to realize the potential of their education, of their interest, and of their enthusiasm "to make the workplace something other than simply a place to earn a living."

Professor Wagner added the plea: "If we are serious—and we really have no choice to be other than serious . . . we have some problems to attack, some issues to examine, and we need to experiment with them."

The challenge of achieving more labor-management cooperation in coping with mutual problems was stressed by I. W. Abel, Vice Chairman of the National Commission on Productivity and Work Quality and President of the United Stetelworkers of America.

In addressing the Washington Conference, Abel pointed up the vast changes that have taken place in the relationship between labor and management in the last four decades. In the great depression, when the President of the United States sought to bring steel management and labor together to agree on codes under the National Recovery Act, the steel management spokesman refused to sit in the same room with labor spokesmen, Abel recounted. He said:

"While the industry leaders believed then that they had all the answers and disregarded the workers other than to do manual labor, the leadership of the steel industry recognizes today that there is a contribution for labor to make. They understand that all the brains are not in the so-called white-collar areas: that the fellows on the floor can teach them a thing or two about operating the mills efficiently, increasing productivity, and increasing the profitability of the industry."

Mutual respect in the steel industry

Abel sees an open acceptance and a close working relationship by both management and labor as the significant key to labor-management relationships in the steel industry.

"We in the steel industry have come to know each other from across the table," Abel asserted. He pointed out that there is a recognition of the contribution of every labor-management committee in the industry, along with the development of a mutual respect for each other's integrity and interest "in this great endeavor."

Bruce Thrasher emphasized that such committees are not a substitute for nor an alternative to free collective bargaining. Successful committees, he pointed out, appear to require a mutuality of interest between labor and management and "serve to complement the collective bargaining process."

Thrasher described as appropriate for consideration by labor-management committees such areas as business conditions facing a firm, absenteeism, worker morale, safety and health, quality of work, equipment maintenance and downtime, saving of material and energy, reduction of rejects, waste, and scrap—"all of those things that go into making a contribution to the improvement of productivity." Thrasher said:

". . . We believe that where a mutual trust has developed committees can go a long way toward solving such problems that face both parties in our country today. . . . We believe that joint committees on productivity can be a forum for improving productivity and the quality of work environment."

W. J. Usery, Jr., Special Assistant to the President and Director of the Federal Mediation and Conciliation Service, reinforced this theme by saying:

"Only the people at the plant level can instill the spirit of improvement. Only the people at the plant level can develop the formula for improvement—and only the people at the plant level can make the changes necessary to create a more productive, a more rewarding workplace.

"All productivity plans, to succeed, must ride the same escalator—and that escalator must move from the floor up, as well as from the top down."

Former Secretary of Commerce Dent speculated that perhaps the best way to improve the quality of working life is to provide an effective and continuing means by which worker and management representatives can communicate their views in a nonadversary atmosphere. He suggested that joint labor-management committees provide the format for such a dialogue.

Formation of labor-management committees, he warned, should not be and cannot be mandated from Washington, but must involve "people who know and understand the real-world facts of life that exist in any particular company or organization."

Opportunities for progress exist

Secretary of Labor John T. Dunlop emphasized at the Washington Conference that while labor-management committees are not new, there is room for more national initiatives in encouraging their function.

Such initiatives, he suggested, could be taken at the firm or plant level, on an industry basis, on a collective bargaining basis.

"These initiatives, it is important to know, may be taken at any number of these levels," Dr. Dunlop stressed, indicating that some issues in labor-management relations lend themselves to solution at a paint or departmental level, while others can only be handled on a sector basis.

Dr. Dunlop feels labor-management relations and collective bargaining today are more mature than in earlier periods, but views current problems as more severe due to the high levels of unemployment and the intensity of international competition.

Methods that have proved useful in "pilot" arrangements established through joint labor-management committees should be extended to many more labor-management relationships, the Labor Secretary said.

"What is it about the leadership?" Dr. Dunlop asked. "What is it about the severity of the problem? What is there about the knowledge of technique? What is there about the relationship of the parties that their degree of maturity permits these kinds of relationships? I think times are so desperate that we ought to try to do the best job we can; better than we have ever done in the past to spread what we know to increasing numbers of relationships. And that, I think, is our real challenge today."

JAMESTOWN—A TOTAL COMMUNITY EFFORT TO REVIVE INDUSTRIAL ACTIVITY THROUGH LABOR-MANAGEMENT COOPERATION

Jamestown, New York, is an impressive example of how an industrial community reversed a trend toward industrial decadence and restored business and employment by establishing a greatly improved climate of labor-management relations.

As 1971 drew to a close Jamestown's industrial economy was in deep trouble. The absolute number of manufacturing jobs had steadily declined over an 18-year period; one of the largest manufacturers had recently closed due to insolvency, and its new million-square-foot manufacturing facility lay vacant; and efforts to attract new business were unsuccessful.

In the recent past there had been some long and sometimes bitter strikes, and the wood furniture industry, which had once been the bulwark of the manufacturing economy in Jamestown, was slowly moving to the South. The problem of company insolvency was spreading, and outside ownership of Jamestown industries led to decisions which had an adverse impact on the local economy.

The story of Jamestown's conversion from an industrially eroded area to a healthy, revived city was told by Mayor Stanley Lundine, the City's Ombudsman, Sam Nalbone, and union and employer representatives.

A STRIKE-HAPPY TOWN

Nalbone described the genesis in 1971 of the citywide plan: "We were considered a strike-happy town—a bad labor town. So the Mayor met with a labor leader and a representative of the manufacturers' association, and they decided to try to establish a labor-management committee by contacting top labor leaders and top manufacturers."

The Mayor met individually with representatives of organized labor—including the IBEW, Machinists, Steelworkers, Auto Workers, Ceramic Workers, Furniture Workers—and asked them if they would be willing to participate in a labor-management committee. He did the same in a separate meeting with the top executives of the manufacturing plants of the community. It was agreed that they would sit down together and listen to a presentation from a spokesman for the Federal Mediation and Conciliation Service.

The first joint meeting of the labor-management Committee of Jamestown—15 union officials and 15 company exceutives—was held in February 1972. In the beginning, sessions were marked with controversy and a degree of hostility. It was decided that an intensive effort would be made to determine the mutual interest of labor and management in order to unify the purpose of the two groups.

Four principal goals were established. The committee was to: (1) improve labor relations, (2) develop manpower, (3) assist industrial development programs, and (4) achieve productivity gains in existing industries.

PRODUCTIVITY MOST IMPORTANT

Productivity was singled out as the most important objective. The committee explained its viewpoint as follows:

"It was clearly stated that the productivity goal must be broadly defined and that there should be no job loss in any plant as a result of achieving productivity gains.

"The breadth of the definition was the only factor which allowed labor leaders to accept this primary objective. For example, reduction in absenteeism or the elimination of waste of materials during the manufacturing of products were primary productivity objectives. Unions had come to regard the word productivity as equated with 'speed-up' time-and-motion approaches which were so distasteful to their members.

"Upon analysis, the labor leaders came to a difficult conclusion that in the long-term, productivity must be a primary goal. The only way to improve the business conditions existing for companies was to make them more competitive. Continual complaints from manufacturers about high New York State taxes and other costs of doing business in this area had to be offset by higher levels of productivity. Furthermore, the best way to attract new industry and to deal with the new thrust of increasing foreign competition was to prove that Jamestown was a productive place in which to do business because of a good labor relations atmosphere."

Over the three-year period of the committee's life, the Jamestown Area Labor-Management Committee has at all times had a membership of about 36, representing all of the major companies in the area except the one large plant which has not been organized by any union. The balance between labor and management has been maintained, even though the membership on the committee has changed.

Companies represented on the committee range from large manufacturers, which are a part of international conglomerates, and large locally based companies, to very small but important local companies. They are largely engaged in four different types of manufacture—fabricated metal, engineering products, glass and ceramics, and wood furniture.

The actual business of the Jamestown Area Labor-Management Committee is conducted by a 10-member executive board, made up of four manufacturing executives, four labor leaders, the executive vice president of the Manufacturers' Association of the Jamestown area, and a representative of the AFL-CIO Central Labor Council. A labor representative and a business executive serve as cochairmen of the Board.

From time to time, a task force drawn from the membership of the committee has undertaken specific studies and action projects. The committee receives advice and guidance from the New York State School of Industrial and Labor Relations, the Labor Relations School at Cornell University, and the State University of New York at Buffalo.

DEFINITE PROGRESS REPORTED

At the end of the first year, the Jamestown Area Labor-Management Committee reported definite progress. There had not been a single strike in the manufacturing community, and one company had negotiated a new labor contract with wages tied directly to productivity increases.

In 1973 the effort gained considerable momentum. The Economic Development Administration allotted $22,500 to the committee program, which was matched by $7,500 in local funds for a demonstration labor-management committee project. The National Commission on Productivity and Work Quality agreed to fund this demonstration program. Labor-management committees were organized in individual plants.

Under a program sponsored by the National Commission on Productivity and Work Quality, Dr. Eric L. Trist of the Management and Behavioral Science Center of the Wharton School, University of Pennsylvania, was brought in to give the Jamestown program a broader operational concept. Dr. James McDonnell of Buffalo State University was recruited full time to implement the policies and programs of the labor-management committee.

During 1974, the committee increased its effort. For the first half of the year, Dr. McDonnell was its coordinator until July 1, when he returned to Buffalo State University; James Schmatz, a labor relations consultant from Buffalo, then became full-time coordinator.

"I operate as an ad hoc convener and resource person," Schmatz explained. "I get the in-plant committees started and I restart them when necessary. My 'quasi-mediation' role takes me to most of the in-plant committee meetings, where I help out in any way I can. When a plant group decides that training is necessary in a certain area, I locate someone to provide the training. Usually, they come from Cornell, although faculty from Jamestown Community College have been very helpful, too."

Partly through committee effort, and certainly as a reflection of the new labor-management climate in the community, several manufacturing plants were saved from intended liquidation; for the first time in 50 years, Jamestown attracted a major new company; and two companies announced major expansion programs. The 20-year slide in

the number of jobs in industry had finally been reversed: the number of persons employed in manufacturing increased absolutely and the unemployment rate dropped dramatically.

The active labor-management committee program was one of the key elements in the selection of Jamestown as an All-America City in 1974.

QUALITY OF WORK

Some of Jamestown's new initiatives include an experiment in improving quality of work. This effort is designed to raise levels of productivity and at the same time increase the satisfaction of workers in their jobs, by redesigning the plant system as well as improving the communitywide regard for the quality of work.

Another area of effort is in developing skills necessary to the continuing well-being of the area's manufacturers. The skill development program involves in-plant labor-management committees, which identify present or future skill need and then design a training program to assist persons who might fulfill such requirements.

"An in-plant committee that works effectively to build a training program has a good chance of working to solve a contract issue," Schmatz said. "An in-plant committee with a record of success at both those levels can then address the whole issue of productivity and benefits which may accrue to the workers from increased productivity."

Labor's reaction to the training efforts was expressed by Joseph Wells, the area's business agent for the United Furniture Workers. Wells said, "A few years ago we were going to management and saying, 'You have to have a training program setup.' They were talking about taking it out of the negotiated wage increase, but now, through the Labor-Management Committee, the company was listening, and between our coordinator and the executives, we've done something about it, and believe me, I am very proud of it."

Supplementing the skill development effort, a formal leadership training program provides management courses for first-line supervision, communication courses for union stewards, and joint labor and management training in contract administration and grievance processing.

The Jamestown program also sponsors continuing series of dinner meetings attended by labor and management. The unions pay for their representatives to attend the dinners, with the locals deciding whom they want to attend. The unions name their people, and management names theirs. Speakers address the group on such subjects as safety and new developments in labor relations.

OPERATION OF IN-PLANT COMMITTEES

In response to questions about the in-plant committees, Schmatz, Jamestown Labor-Management Committee full-time coordinator, replied:

"The in-plant committees—the plant-level committees—I see as the nuts and bolts of our activities. An in-plant committee may go along and have a meeting every two or three weeks for a while, dealing with an issue or a problem. Then something may occur to get in the way of that in-plant committee. It may move in the background, or the priorities may change—negotiations, grievances, big layoffs, whatever. So things happen.

"I think of an active in-plant committee as meeting a minimum of once a month. I would consider anything less than that inactive. We probably have some 20 to 25 companies involved in active participation at any one time and probably have no more than 10 active in-plant committees going at any one time. I think that it is my responsibility to keep things going. Finding out what the problems are.

"As to how the committee members are appointed. The unions name whomever they want. Each union operates differently. In some of the unions the president and two or three members of the bargaining committee will come to the meeting. Sometimes they will bring in two or three shop stewards.

"On the management side of the committee, the same thing prevails. One of the top management people along with his industrial relations man, the personnel manager, or some of the shop foremen will attend meetings."

Describing how labor worked through the committee structure to solve problems, Wells (of the Furniture Workers) explained the complaint and problem-solving process. Wells said, "When we first started our in-plant committees, the biggest complaint from the workers was that the company did not have any back-up men on high-skilled woodworking machinery. Jim McDonnell (of Buffalo State University), who used to sit in on the in-plant committees when we first started, and I brought this complaint back to the manufacturers' association through our meetings. The association admitted that when things are going good, they don't bother training anybody for certain jobs. But then they got into a pinch. So we started a training program after working hours through our labor-management committee and the Government. The company would pay the trainee to learn the skilled jobs, and the Government would pay for the instruction."

In response to a question on "failures" in the program, the Jamestown team responded that none of the labor-management committees has collapsed, but there have been some setbacks. Several times, the break-up or elimination of a particular committee has been threatened by failure to communicate the real objective and the impact of the labor-management committee. The understanding of the rank and file as to the need for collaboration is the heart of the process. To the extent that any labor leader who is involved in such a committee has difficulty with rank and file resistance, the entire program is jeopardized.

As to how the Jamestown effort can be measured, Schmatz concluded:

"It is not a panacea, it hasn't solved all the problems of the world, nor of Jamestown; however, it is making some inroads in that direction and we do have a great deal of enthusiasm for it."

STEEL INDUSTRY FORMS JOINT LABOR-MANAGEMENT COMMITTEES TO INCREASE PRODUCTIVITY

Because of the devastation throughout the world after World War II, the American steel industry was in a unique position. Able to sell all the steel it produced, it dominated the American market and, to a considerable degree, the world market.

Shortly after the onset of the 1960s, the situation changed. World steel capacity was rebuilt, expanded, modernized, and with foreign steel competitors able to replace American steel in foreign markets, our unique position in the world market was drastically reversed.

As the decade of the 1960s continued, the foreign steel producers were able to invade the American market and were able to outcompete producers in many product lines.

George Sirolli, International Representative, United Steelworkers of America, cited his own experience in the 1960s when he was representative of the Steelworkers for the Kaiser Steel Corporation and the surrounding plants on the West Coast:

"There is an iron ore mine in the California desert called Eagle Mountain Mine. Japan was buying millions of tons of iron ore, 150 miles out in the desert, shipping it to Los Angeles by train, putting it on ships and taking it to Japan, buying fuel also, and producing a finished product and delivering it to the United States cheaper than Kaiser Steel could produce that product. As an example, Japan was exporting three-quarter inch galvanized pipe and selling it from warehouses at 12 cents a foot. We had, at Kaiser Steel, a pipe mill. Kaiser Steel's product was selling at the warehouse for 15 cents a foot, and the quality was the same."

1971 CONTRACT

As a result of the troubles in the steel industry—for both management and labor—the basic steel corporations approached the United Steelworkers of America during the contract negotiations in 1971 with the problem of productivity.

Together they agreed that the poor competitive position of American steel within the steel industries of the world would have to be reversed, and that productivity in American steel would have to be greatly improved.

It was determined that productivity committees would be established throughout the 10 basic steel companies. These committees would address themselves to the general problems of productivity, encouragement of greater use of domestic steel, and other issues within the framework of the basic labor agreement. A clear understanding existed that the committees would not discuss issues which were in conflict with the collective bargaining agreement.

On the union side, the committees included the local union president, the chairman of the grievance committee, the secretary of the grievance committee, and the grievance committeeman who was most concerned with the particular problems to be taken up.

Objectives of the committee effort were to develop a more efficient use of time and facilities, reduce breakdowns and delays, improve quality of steel, eliminate waste of materials, supplies, and equipment, reduce excessive overtime, and improve safety.

Some 250 plant committees were established throughout the United States. Some of the committees have established subcommittees in the departments to take up specific problems right on the production floor.

Steelworker spokesmen believe that the closer the committees and discussions can be brought to the work force on the job, the more successful the cooperative effort will be.

Sirolli described how workers are being motivated through involvement in areas where labor-management committees are functioning effectively. He cited a case involving a customer who received a delivery of poor quality steel and who complained that the steel could not be used for fabrication. In the traditional course of action, someone from management would inspect the steel. With the cooperative effort in operation, management now invites a representative of the workers to inspect the steel, too.

Citing the value of such inspections, Sirolli explained:

"When that employee comes back and discusses the problem with the people he works with in the department, there is a greater possibility of acceptance than there is if someone in supervision would say to the employees, 'Well, we just had a complaint and we had to scrap X tons of steel and take it back and we lost a customer,' because the suspicion exists that maybe it did occur, and maybe it was production problems that the employees could not control and maybe it was not. Therefore the involvement of the worker in this situation has been very profitable in the area of educating the worker's attitude toward problems."

To reinforce such educational efforts, these seminars and conferences are used to convey the overriding message that in a competitive market, low productivity leads to fewer jobs.

PRODUCTIVITY AND JOB SECURITY

For this reason, the labor-management committees in steel have been named Em-

ployment Security and Productivity Committees to emphasize the message that increasing productivity does not mean increased profit with nothing in return for the workers.

A major factor in employee attitude, Sirolli pointed out, is job security. He expanded on this theme:

"Now, I can't emphasize too strongly that one of the goals is to establish secure employment, a greater opportunity for advancement for the employees within the industry. In addition, we all have a responsibility to create new jobs and more jobs for future workers who are constantly coming into the work force. And that is a very important point, because it is in the minds of many workers: 'Just what is there in it for me if I cooperate?'

"I explained to them that if we had a closed market and we had only one steel industry—the American steel industry—selling its product in that closed market with no competition, then I suppose the worker would have nothing at stake because whatever the needs were, that one employer—his employer—would sell the product. But since we have an open competitive market, if we cannot compete, that worker is laid off. That is what has occurred time and time again in the American steel industry and other industries.

"So we have a different situation from what we had immediately after World War II. It was really a closed market to a great extent and whatever capacity we had, we produced, we sold. But when you have an open market, a competitive market, a market where you are being undersold, you are faced with the possibility of layoff.

"You are on an escalator. The less competitive you are, the less jobs you have for the worker. And the less jobs you have, the more work is produced and the larger facilities are developed among our foreign competitors. This further increases their ability to undersell the American steel industry, and you continue down the escalator of lower employment in the American steel industry.

"So the philosophy we have today is that job security and productivity should be interrelated and should be expressed in the same breath when we are discussing it with our people, because you can't have one without the other."

COMMITTEE ACCOMPLISHMENTS

As to what labor-management committees in the steel industry have accomplished to improve productivity, Sirolli cited reports on day-to-day operations in the plants, showing: avoidance of quality defects, improved identification of warehoused steel, more efficient handling of scrap, energy conservation, more efficient phasing out of old equipment, and better care for new equipment.

In an assessment of the effectiveness of the Employment Security and Plant Productivity Committee operation in the steel industry, United Steelworkers President I. W. Abel credits the committees with establishing a foundation that enabled management and labor to enter into the historical Experimental Negotiating Agreement in 1973 which brought a stable peace to the steel industry.

In his evaluation, Abel pointed out:

"With 15 years of uninterrupted industrial peace in the steel industry, and with the work of the Employment Security and Plant Productivity Committees, the parties have gradually established the maturity and respect for each other that justified this sort of advanced step in our collective bargaining relationship. I assure you that both parties are determined to make this a successful endeavor so that the people we represent can continue to enjoy substantial economic progress and the Nation can be assured of continued stability in this most essential industry."

A COMPANY'S STORY

Reporting on one steel company's experience with labor-management committee operation from a management perspective, spokesman for the Alan Wood Steel Company, Conshohoeken, Pennsylvania, described some problems at the Washington Conference.

John J. Hannigan, Vice President for Operations, Alan Wood Steel Company, explained that his company was faced with the problem of improving productivity to offset an expected expenditure of from $13 to $15 million for pollution control equipment.

"It became obvious," Hannigan said, "that the survival of the company depended on improving productivity."

A Productivity Committee was formed in the Spring of 1972 after several meetings had been held between Hannigan and the local union president. During these meetings, according to Hannigan, it became obvious that the use of the word "productivity" in the committee's name was unacceptable to the union.

Hannigan explained:

"We found that one thing that seemed to be holding up the program was the worker's hostility to the word 'productivity.' To them it meant more work and less jobs. In other words, our major job was communications. We changed the committee name to 'Job Protection and Alan Wood Growth,' and gave some special training to supervisory union and company people."

STEERING COMMITTEE FORMED

With this initial stumbling block out of the way, Hannigan described the ensuing developments:

"A meeting was held between the local union and the company to form both a Steering Committee and a Working Committee. The Steering Committee was comprised of three management men and four union men, with the local union president and the Vice President of Operations as cochairmen. A working Committee was formed with seven individuals, four from the union and three from management, with a member of management and a member of the union serving as cochairmen.

"The Steering Committee was to meet at least every six weeks with the Working Committee and review their progress and problem areas, and give them direction on how to proceed. The problem areas were developed through a communication means we call Direct Line, in which hourly personnel, either signed or unsigned, presented what they thought were problem areas as far as efficient operation and general good workmanship were concerned. These areas were inspected by the Working Committee and a decision rendered as to what should be done.

"In order to bring members of both union and management together to set forth what the plan for this committee was, classroom attendance was required by first, the executive committee of the local union, and second, management personnel at the general manager level. It was pointed out what the principles of this committee were to be. It went a step lower by bringing foremen and shop stewards into separate classes for the same reason. After this indoctrination, local stewards and the superintendents attended classroom sessions together.

"From the classroom sessions it became evident that people wanted to participate with management in correcting problems they thought existed. This resulted in the development of what we call circle team efforts, made up of both supervisors and hourly personnel in specific areas. Teams attempted to work out bottlenecks they thought existed within a department. Some were very successful; others were not."

RUSHTON—AN EXPERIMENT WITH MINERS REGULATING THEIR OWN ACTIVITIES

Drawing on the experience in coal mines in the United Kingdom, where so-called autonomous groups have worked in coal face operations to improve productivity, an experiment has been under way at the Rushton Coal Mine, Philipsburg, Pennsylvania, to make professional miners competent in all the tasks in a mine section. The experiment was discussed by the president of the company and mine work force spokesmen at the Washington and Buffalo Conferences.

With shared competence, the miners could arrange their work flexibly and regulate their work in relation to each other. To make such an arrangement possible, the management gave up the right to direct the work force at the coal face and agreed to pay a common rate—the top rate—to all members of the group, since all would be taking equivalent responsibility and would be equally qualified to undertake all tasks involved in the mining operation.

The main thrust of the experiment was to achieve an improvement in work quality, with productivity gains reflected in such factors as lower costs, lower rates of absenteeism, and a lower accident rate. The experiment has been jointly sponsored by the Rushton Mine management and the United Mine Workers local, with technical assistance from the National Quality of Work Center. The National Commission on Productivity and Work Quality provided the initial grant for the exploratory phases of the experiment, while the Economic Development Administration of the Commerce Department has funded the continuing, operational aspects of the project.

Initially, a research team comprised of two faculty members of Pennsylvania State University and a faculty member of the University of Pennsylvania was formed to conduct action-oriented projects in work quality in the mining industry. Rushton Mining Company was chosen for the experiment.

COMMITTEE ORGANIZATION

Rushton Mine management agreed to the experiment. From the union side, Arnold Miller, president of United Mine Workers, also agreed, with the understanding that a local labor-management committee would approve everything that was done, and that any productivity gains should be shared in ways that would be jointly determined by management and labor. Approval and support for the project was obtained from the Federal and State agencies responsible for safety enforcement.

The next step at the Rushton Mine was to set up a local labor-management committee, known as the Steering Committee. This group first convened in August 1973. Membership included on the management side, the company president and other principal management executives, and on the union side, the officers as well as the members of the Mine and Safety Committees.

The Steering Committee and the research team met regularly every two weeks in daylong sessions which were held off the mine site. The goals, structure, and procedures of the project were shaped, with particular attention to ways in which the experiment could be reconciled with the union contract.

THE PLAN TAKES SHAPE

Details of the plan were eventually agreed upon, and the text of the agreement, known as the "document," was made available to everyone at the mine. Essentially, the document provided that:

1. An experimental section in the mine, to be comprised of 27 volunteers, 9 for each of three shifts, would be established:

2. Every man in the experimental section would be on top pay. (To some of the younger volunteer miners, this could mean an increase of up to five dollars a day; to others, it meant small or no increases.)

3. All members of each crew would be, or would be trained by the company to be capable of performing any job, from shuttle

car to machine operation—providing essentially full job-rotation capability. In addition, the entire crew would be given special training in State and Federal mine law to give all an understanding of what comprises a violation.

Each crew of the experimental section, therefore, would be an autonomous work team, with each man in the crew capable of performing any and all work functions involved in the underground production of coal. No craft or functional distinctions whatever, of either pay or job classification, would exist between crew members.

4. Each of the three crew foremen in the section would have responsibility solely for the safety of his crew and for planning. All former responsibility and authority for the production of coal was transferred from the foremen to the crew itself. The foremen's authority to give orders to the crew henceforth would be solely on safety-related matters. Grief by any member of each of the three crews would be dealt with by the crews themselves, without recourse either to foremen or the grievance committee for solution.

The union membership voted in favor of proceeding with the experiment at a meeting on October 7, 1973, with the understanding that either management or the union could withdraw at any time.

With the development of a work team whose members could perform all of the tasks required on a mine section, it was agreed that the foreman's responsibilities would shift from production to focus primarily on safety.

Improved safety was judged likely because a foreman responsible for both production and safety functioned in a dual role, while a foreman working with an autonomous group could devote most of his time and effort to safety. His additional responsibilities would cover on-the-job training and planning more effectively for supplies and maintenance.

COLLABORATION REPLACES COMPETITION

The operating plan was to have the autonomous group members work in an entire mine section in three shifts. A shift crew would consist of a miner-operator and a helper, 2 roof bolters, 2 shuttle-car men, a mechanic, and 2 support men, making a total crew of 9 and a total section group of 27. Members of each shift would become increasingly multiskilled with time, and would interchange their tasks more frequently. Production would be tallied on a 24-hour basis so that intershift competition could be replaced by intershift collaboration.

Volunteers were requested for each job billet, and the participants were selected from among them according to seniority. Their previous jobs were held open for 60 days so they could return to their original assignments if they did not like working autonomously.

After 60 days, they would have to join the general work force until an opening arose in their former classification. Only one man returned to his former work slot during the initial 60-day period, and none has since that time.

Following the organization phase of the experiment, the Steering Committee mapped a transitional phase of roughly three months before the designated mine section would be regarded as completely autonomous. During the first part of this period, the crews remained fully under foreman control while familiarizing themselves with the physical aspects of their tasks and the problems of working as a team. During the second half of this period, they remained partially under foreman control while continuing the familiarization process.

A six-session orientation period began in December 1973. The entire section of 27 men and 3 foremen met every Monday and Friday for all-day meetings over a period of three weeks in a classroom aboveground. Tuesdays, Wednesdays, and Thursdays were regular working days on the new section underground. During the orientation meetings, the text of the experiment agreement was reviewed, autonomous work group concepts were explained, and all job tasks reviewed. The men received a job safety analysis program, and the Federal and State safety laws were reviewed. There were exercises in group problem-solving as a part of the sessions.

There followed a period of several weeks during which the men worked at the jobs they originally opted for, but they were encouraged to begin learning the other jobs on the section. As the primary focus during this period was on learning, management agreed to a moratorium on pressure for production.

JOINT COMMITTEE IS FORMED

On February 26, 1974, the section elected one man from each crew to be a representative to what was called the Joint Committee. Two representatives from the local union leadership were also named to serve as the union representatives on the committee. Management appointed five members, and the Steering Committee then declared the section autonomous and withdrew from active involvement.

During the operational phase of the experiment, from March 1974 to March 1975, the autonomous effort continued, with the research team assisting with training and development and in resolving such conflicts as arose.

At approximately six-week intervals, the entire 27 members of the section and the foreman met in an aboveground classroom where operations over the previous six weeks were reviewed and the next six-week period planned. The men were paid their regular daily rate during these meetings, with the review and planning time considered as important as time on the job.

The Joint Committee met at irregular intervals through the spring and summer to settle disputes which arose in the autonomous section. The Joint Committee began to meet regularly in September to discuss sharing of gains. Issues that were raised included how gains were to be measured and how they were to be divided. The research team considered it important that these issues be explored before it was determined whether or not there were gains.

Twice each month, the three foremen, often with other members of management, met with the research team to discuss safety, training, labor-management relations, communications, and resolution of conflicts.

Higher-level management officials met irregularly at first to consider the progress of the experiment. Toward the end of the period, these meetings were held more regularly to discuss management's new philosophy in a relationship with autonomous working groups.

The research team was invited to attend all meetings in the union hall when the project was to be discussed.

PRELIMINARY RESULTS

There were fewer violations of the Federal Coal Mine Health and Safety Act in the mine section where the experiment was conducted than in the other two sections of the mine which continued to operate conventionally. The accident and absenteeism rates were less than in one other mine section and equal to that of the second conventionally operated section.

An evaluation team interviewed all the men working in the experimental section in December 1973, and again in June and October 1974, with preliminary data revealing that:

1. The men perceive themselves as making more decisions concerning how the work is divided, what they should do, and how to do it.

2. The men recognize their interdependence, and believe that their coworkers have many good ideas to contribute to improved performance.

3. They see their supervisors as making fewer decisions affecting how they should perform their work.

Warren H. Hinks, Jr., president of Rushton Mining, reported that the experimental process has increased workers satisfaction, lowered absenteeism and reduced accident rates. Hinks expressed his appraisal of the program:

"The average worker wants to make an intelligent and creative contribution. I know it may be difficult for some of you to believe, but miners like their work. They want to be involved in decisionmaking that affects them.

"In the new system, the men receive training which gives them the necessary information to make decisions. We believe that authority should go with this knowledge. Also autonomous work teams provide the worker with horizontal mobility—he can try a variety of assignments. Formerly, he had only vertical mobility—he had to wait for someone to resign or die before he could change jobs."

The report of the research team points out that members of the experimental section at the mine had a private meeting with officers of the international and district union to discuss their reactions to the project.

The men, it was reported, said they felt themselves respected by management as never before; they no longer felt tired when they got home from work. There was no longer the same stress on the job, and they did not quarrel as much or leave the workplace in a mess for the next shift.

Similar expressions of worker satisfaction were voiced by mine work force spokesmen at the Recent Initiatives Conferences.

One miner participant in the experiment, Mark Naylor, described his attitude by explaining that he had little interest in his work or the experiment, but volunteered to join the group because he was a shuttle car operator and might have taken years in the ordinary course of events for him to get top pay. Pay was his incentive in joining, plus an interest in being a machine operator, which his participation in the experiment permitted.

Naylor points out that he didn't give a "damn" about the company and that under the old system, when a machine broke down, a shuttle car broke, supplies were late, or the foreman wasn't present, the men would sit around and wait to be told what to do next.

Under the new working conditions, Naylor said, the crew felt that the machinery and the responsibility have somehow been transferred to their charge.

"Suddenly we felt we mattered to somebody. Somebody trusted us. And in a week or two we were busting our hump in a way I've never seen guys work underground before. When a machine busts down nowadays, most of the time we don't bother to call a maintenance man. We just fix it ourselves because, like I said, we feel it's as much ours as our own car at home."

SENATOR BUMPERS CHAIRS IMPORTANT HEARINGS ON ERDA'S PLAN FOR AMERICA'S ENERGY FUTURE

Mr. NELSON. Mr. President, the Energy Research and Development Administration—ERDA—was charged by Public Law 93–577 with the duty of preparing, by June 30, 1975, a "comprehensive

plan for energy research, development, and demonstration." The same law—the Federal Nonnuclear Energy Research and Development Act of 1974—directs ERDA to update the plan annually.

ERDA's original plan was transmitted to the Congress on June 30, 1975, just 5 months after the agency was established. The first update was filed in April of this year. The subject is nothing less than this country's energy future, which, of course, affects the shape of its entire future.

Now the Senate Committee on Interior and Insular Affairs is engaged in oversight hearings, reviewing these critically important reports. The proposal for the hearings was made by the Senator from Arkansas (Mr. BUMPERS). As not infrequently happens in the Congress, when someone comes up with a good idea he is told that it can go forward if he will do the work himself. So Senator BUMPERS, by designation of Chairman JACKSON of the full committee and Chairman CHURCH of the Subcommittee on Energy Research and Water Resources, and with the exceptional leave of the Senate leadership for the committee to meet while the Senate is in session, is chairing those hearings, which began on July 22 and will continue on July 28 and 29 and resume after the August recess.

In his opening statement, Senator BUMPERS stated:

I firmly believe that we cannot dally in the job of building a domestic energy infrastructure which can translate our famed American know-how and ingenuity into an effective program for producing energy alternatives.

He then expresses certain concerns about ERDA's national plan, among them the possibility that it may "rely on assumptions which bias the priorities of energy R. & D. toward high technology, capital-intensive supply alternatives."

That was of particular interest to me, in the light of similar concerns repeatedly expressed by witnesses before the Senate Small Business Committee's 1975 hearings on energy research and development and small business.

The Interior Committee's hearings are of vital importance and deserve to be followed closely by Congress, the press, and the public. All of our lives will be touched by the energy decisions which will be based, in part, on the planning done by ERDA.

Mr. President, I ask unanimous consent that the opening statement of Senator DALE BUMPERS of Arkansas, chairing hearings before the Senate Committee on Interior and Insular Affairs on July 22, 1976, on ERDA's planning function and reports, be printed in the RECORD.

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

THE ENERGY RESEARCH, DEVELOPMENT, AND DEMONSTRATION PLAN OF THE ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

(Statement by Senator DALE BUMPERS)

This morning the Subcommittee on Energy Research and Water Resources begins an in-depth examination of the energy research, development and demonstration plan prepared by ERDA and required by provisions of the Federal Non-nuclear Energy Research and Development Act. On July 28 and 29 this Subcommittee will reconvene for two additional days of hearings during which testimony will be received from experts who have examined the plan submitted by the Energy Research and Development Administration. After we have received testimony of our invited outside experts, then Dr. Seamans will be invited back a second time to discuss with us any findings we may have made about the plan.

If there are no objections I will submit for the hearing record the ERDA plan and the update to that plan.

Before we begin these hearings I think several facts should be highlighted to set the context within which this plan should be examined:

First: Foreign imports of crude oil are running at about 40 percent of our domestic needs. Prior to the 1973 embargo, 33 percent of our needs were supplied by foreign sources;

Second: In 1970 we paid about $3 billion for foreign oil; in 1975, after a 500 percent increase in the price of oil, the cost soared to $27 billion, and next year the cost may reach $35 billion;

Third: In spite of the critical shortages caused by the OPEC embargo, we are actually importing a greater percentage of our oil from these less-than-reliable sources than we did at the time of the embargo.

Summarized, our appetite for energy has not been diminished by either higher prices or greater dependence on foreign oil. The plain and simple truth of the matter is that too many in this country exhibit too little concern for the fact that energy has become our Achilles' heel.

I firmly believe that we cannot dally in the job of building a domestic energy infrastructure which can translate our famed American know-how and ingenuity into an effective program for producing energy alternatives.

ERDA was created as a positive reaction to the energy crisis; ERDA was commissioned to spearhead the development of alternative sources of energy, be they greater or alternative supplies or more efficient uses of the supplies we now have.

The national plan for energy research, development and demonstration is the blueprint for that action. ERDA's view for developing energy alternatives; the rate at which that development will take place; the emphasis to be placed on different approaches; the near-term versus far term impact of various energy options; all of these attitudes are embodied in this plan.

I am pleased to note that in drafting the second ERDA report on energy R&D the Agency has placed greater emphasis on the unique opportunities for energy conservation. It is my belief that energy conservation is absolutely central to an effective national energy efforts.

Everyone—even the Ford Administration—now agrees on this. To date, however, the full potential for saving energy, for using it more efficiently, remains substantially unfulfilled. And, to date, the national program to develop new conservation techniques has been pitifully weak in comparison to the lavish funding given exotic energy production technologies. Thus, while considering ERDA's budget request for fiscal year 1977, I am pleased to note that this Committee reflected this same concern by increasing ERDA's paltry energy conservation budget by more than any other ERDA program.

It is my hope that these hearings will permit this Subcommittee to examine other concerns which have been expressed about this energy plan. For example:

(1) The long-range plan is entitled "Creating Energy Choices for the Future", but for all the energy options under consideration, it appears to me that we are primarily examining different ways to create an all-electric society.

(2) Far too little emphasis, it would appear, has been placed upon an examination of energy systems versus particular energy technologies.

(3) This plan appears to rely on assumptions which bias the priorities of energy R&D toward high technology, capital-intensive supply alternatives.

(4) There is a gap between the priorities in this plan and the priorities exhibited in the annual ERDA budget. Examples are abundant: the plan states that enhanced oil and gas recovery will provide this nation with 10 years of time before a critical liquid fuel crunch is upon us, yet ERDA reduced their request for this program by $6 million below last year's budget; ERDA raised energy conservation to a top priority in its updated plan, yet the funding request for FY 1977 represented only a modest effort in this area.

If this plan is to be the pivotal point for this country's energy research, development and demonstration effort then the assumptions, priorities and goals expressed in the plan warrant scrupulous Congressional oversight.

We are here to examine ERDA's plan; to make this plan the Nation's energy R&D plan. Our witness is Dr. Robert Seamans, the Administrator of ERDA.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

CRIME CONTROL ACT OF 1976

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of S. 2212, which the clerk will state by title.

The assistant legislative clerk read as follows:

A bill (S. 2212) to amend the Omnibus Crime Control and Safe Streets Act of 1968, as amended, and for other purposes.

The Senate resumed the consideration of the bill.

The ACTING PRESIDENT pro tempore. Time for debate on this bill is limited to 2 hours to be equally divided and controlled by the Senator from Arkansas (Mr. MCCLELLAN) and the Senator from Nebraska (Mr. HRUSKA), with 30 minutes on any amendment, except an amendment to be offered by the Senator from Indiana (Mr. BAYH), on which there shall be 2 hours, and with 20 minutes on any debtable motion, appeal, or point of order.

Mr. MANSFIELD. Mr. President, what is the pending business?

The ACTING PRESIDENT pro tempore. The pending business is S. 2212, and the pending question is on the amendment of the Senator from Indiana (Mr. BAYH), numbered 2048, on which there shall be 2 hours debate.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum with the time taken out of neither side.

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

ORDER FOR THE CONSIDERATION OF S. 3219

Mr. MANSFIELD. Mr. President, in line with the promise made by the leadership to the Senate when it set aside the possible consideration of Calendar No. 685, S. 3219, a bill to amend the Clean Air Act, as amended, on yesterday, and to keep faith with the Senate, I ask unanimous consent that when the present business, the LEAA bill, is disposed of, the Senate then turn to the consideration of S. 3219, under the same provisions that it will be the first of a two-track legislative schedule with the tax bill coming up this afternoon, Monday afternoon, and enough afternoons as necessary to dispose of it.

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

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum with no time to be taken out of either side.

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

AUTHORIZATION FOR COMMITTEE ON PUBLIC WORKS TO MEET DURING SENATE SESSION TODAY

Mr. MANSFIELD. Mr. President, because of out-of-town witnesses who came for this purpose especially, I ask unanimous consent that the Committee on Public Works be allowed to meet during the session of the Senate today.

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

CRIME CONTROL ACT OF 1976

The Senate continued with the consideration of the bill (S. 2212) to amend the Omnibus Crime Control and Safe Streets Act of 1968, as amended, and for other purposes.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. BAYH. Mr. President, a parliamentary inquiry.

Will the Chair advise the Senate what the pending order of business is, please?

The ACTING PRESIDENT pro tempore. The pending order of business is the amendment by the Senator from Indiana that is the pending question, No. 2048. On this there are 2 hours of debate. The time is to be equally divided and controlled by the Senator from Arkansas (Mr. McCLELLAN) and the Senator from Indiana (Mr. BAYH).

Mr. BAYH. Mr. President, I ask unanimous consent that Howard Paster of my staff, and John Rector, Mary Jolly, and Kevin Faley of the staff of the Subcommittee To Investigate Juvenile Delinquency, be granted the privilege of the floor during debate and votes on S. 2212.

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

BAYH URGES SENATE TO MAINTAIN 19.15 PERCENT OF TOTAL CRIME CONTROL ACT FUNDS FOR JUVENILE CRIME PROGRAMS

Mr. BAYH. Mr. President, I have the good fortune of serving on the Judiciary Committee with the floor manager of S. 2212, the distinguished senior Senator from Arkansas (Mr. McCLELLAN). I know how hard he and other committee members, including Senators HRUSKA and KENNEDY, have labored to provide stronger and more effective crime control legislation.

The amendment I propose at this time is not designed to find fault with their efforts. Rather, it is designed to carry out my responsibility as chairman of the Judiciary Committee's Subcommittee to Investigate Juvenile Delinquency and as author of the 1974 Juvenile Justice and Delinquency Prevention Act (P.L. 93-415) which my colleagues in this body approved almost without objection in 1974 by a vote of 88 to 1. Today, I urge you to help assure that the long-ignored area of juvenile crime prevention remain the priority of the Federal anti-crime program.

The Juvenile Justice and Delinquency Prevention Act was the product of a bipartisan effort of groups of dedicated citizens and of strong bipartisan majorities in both the Senate and House—329 to 20—to specifically address this Nation's juvenile crime problem, which finds more than one-half of all serious crimes committed by young people who have the highest recidivism rate of any age group.

The most eloquent evidence of the scope of the problem is the fact that although youngsters from ages 10 to 17 account for only 16 percent of our population, they, likewise, account for fully 45 percent of all persons arrested for serious crimes. More than 60 percent of all criminal arrests are of people 22 years of age or younger.

This measure was designed specifically to prevent young people from entering our failing juvenile justice system and to assist communities in developing more sensible and economic approaches for youngsters already in the juvenile justice system. Its cornerstone is the acknowledgment of the vital role private nonprofit organizations must play in the fight against crime. Involvement of the millions of citizens represented by such groups, will help assure that we avoid the wasteful duplication inherent in past Federal crime policy. Under its provisions the Office of Juvenile Justice and Delinquency Prevention—LEAA—must assist those public and private agencies who use prevention methods in dealing with juvenile offenders to help assure that only those youth who should be are incarcerated and that the thousands of youth who have committed no criminal act—status offenders, such as runaway and truants—are never incarcerated, but dealt with in a healthy and more appropriate manner.

An essential aspect of the 1974 act is the "maintenance of effort" provision—section 261(b) and section 544. It requires LEAA to continue at least the fiscal year 1972 level—$112 million—of support for a wide range of juvenile programs. This provision assured that the 1974 act's primary aim, to focus the new office efforts on prevention, would not be the victim of a "shell game" whereby LEAA merely shifted traditional juvenile programs to the new office. Thus, it guaranteed that juvenile crime prevention was the priority.

Fiscal year 1972 was selected only because it was the most recent year for which current and reportedly accurate data were available. Witnesses from LEAA represented to the Subcommittee to Investigate Juvenile Delinquency in June 1973 that nearly $140 million had been awarded by the agency during that year ostensibly to programs for the improvement of the traditional juvenile justice system. It was this provision, when coupled with the new prevention thrust of the substantive program authorized by the 1974 act, which represented a commitment by the Congress to make the prevention of juvenile crime a national priority—not one of several competing programs administered by LEAA, but the national crime-fighting priority.

The subcommittee has worked for years to persuade LEAA to make an effort in the delinquency field commensurate with the fact that youths under the age of 20 are responsible for half the crime in this country. In fiscal year 1970, LEAA spent an unimpressive 12 percent; in fiscal year 1971, 14 percent; and in fiscal year 1972, 20 percent of its block funds in this vital area. In 1973 the Senate approved the Bayh-Cook amendment to the LEAA extension bill (H.R. 8152) which required LEAA to allocate 30 percent of its dollars to juvenile crime prevention.

Regrettably, some who had not objected to its Senate passage opposed it in the House-Senate conference where it was deleted.

Thus, the passage of the 1974 act, which was opposed by the Nixon administration—LEAA, HEW, and OMB—was truly a turning point in Federal crime prevention policy. It was unmistakably clear that we had finally responded to the reality that juveniles commit more than half the serious crime.

Unfortunately, in its zealousness to defeat both the 1973 Bayh-Cook-Mathias amendment for the improvement of the juvenile justice system and the bill which eventually became the 1974 act, the administration and its representatives grossly misrepresented their efforts in this area.

In hearings before my subcommittee last year, OMB Deputy Director Paul O'Neill, and other representatives of the administration finally admitted that the actual expenditure for fiscal year 1972 was $111,851,054 or $28 million less than

we had contemplated would be required to be spent each year under the maintenance of effort provision of the 1974 act.

The legislative history of the Juvenile Justice Act is replete with reference to the significance of this provision. The Judiciary Committee report, the explanations of the bill, both when introduced and debated by myself and Senator HRUSKA, as well as our joint explanations to this body of the action taken by the Senate-House conference on the measure each cite the $140 million figure and stress the requirement of this expenditure as integral to the impact contemplated by Congress through the passage of the Juvenile Justice and Delinquency Prevention Act of 1974.

Once law, the Ford administration, as if on cue from its predecessor, steadfastly opposed appropriations for the act and hampered the implementation of its provisions. When the President signed the act he ironically cited the availability of the "$140 million" as the basis for not seeking appropriations for the new prevention program.

Despite continued stifled Ford administration opposition to this congressional crime prevention program, $25 million was obtained in the fiscal year 1975 supplemental. The act authorized $125 million for fiscal year 1976; the President requested zero funding; the Senate appropriated $75 million; and the Congress approved $40 million. In January, President Ford proposed to defer $15 million from fiscal year 1976 to fiscal year 1977 and requested a paltry $10 million of the $150 million authorized for fiscal year 1977, or a $30 million reduction from fiscal year 1976. On March 4, 1976, the House, on a voice vote, rejected the Ford deferral and recently the Congress provided $75 million for the new prevention program.

Mr. President, while we have obtained, over strong administration opposition, about 50 percent of the funding Congress authorized for the new prevention program under the 1974 act, the administration has renewed its efforts to prevent its full implementation. In fact, the Ford Crime Control Act of 1976, S. 2212, would repeal the maintenance of effort provision of the 1974 act.

It is interesting to note that the primary reason stated for the administration's opposition to funding of the 1974 act prevention program was the availability of the very "maintenance of effort" provision which the administration seeks to repeal in S. 2212.

Mr. President, the same forked-tongue approach was articulated by Deputy Attorney General Harold Tyler before the Senate Appropriations Subcommittee. He again cited the availability of the maintenance of effort requirement in urging the Appropriations Committee to reduce by 75 percent, to $10 million, current funding for the new prevention program or in other words, kill it.

The Ford administration was unable to persuade the Judiciary Committee to fully repeal this key section of the 1974 act, but they were able to persuade a close majority to accept a substitute percentage formula for the present law, the effect of which would substantially reduce the total Federal effort for juvenile crime prevention. But, what the President seeks, and what his supporters will diligently pursue, is the full emasculation of the program. This intent is clearly evidenced in the original version of S. 2212 and even more importantly in the President's proposal to extend the 1974 act, for 1 year, which was submitted to Congress on May 15, after the percentage formula version was reported from the Judiciary Committee. This new proposal again incorporates sections repealing the key maintenance of effort provision. My subcommittee heard testimony on this measure on May 20 and it was clear to me that rather than an extension bill, it is an extinction bill.

It is this type of double-talk for the better part of a decade which is in part responsible for the annual record-breaking double-digit escalation of serious crime in this country.

Mr. President, I am not able to support the reported version of President Ford's Crime Control Act of 1976, S. 2212, because it—sections 26(b) and 28—repeals a significant provision of the Juvenile Justice and Delinquency Prevention Act of 1974 (P.L. 93-415). The formula substituted for present law—by a vote of 7 to 5, voting "nay": Senators BAYH, HART, KENNEDY, ABOUREZK, and MATHIAS and voting "yea"; Senators MCCLELLAN, BURDICK, EASTLAND, HRUSKA, FONG, THURMOND, and SCOTT of Virginia—represents a clear erosion of a congressional priority for juvenile crime prevention and at best proposes that we trade current legal requirements that retain this priority for the prospect of perhaps comparable requirements.

Under the approach recommended by the committee, rather than the level mandated by the 1974 act; namely expenditures for the improvement of juvenile justice systems for fiscal year 1972 represented to be $140 million, but in fact, about $112 million, 19.15 percent of the total allocation of LEAA parts C and E funds would be maintained annually. This percentage represents the relationship of actual fiscal year 1972 expenditures for juvenile justice improvement—$112 million—to total C and E allocation of $584 million for that year. Its application in fiscal year 1977 would require that less than $82 million of Crime Control Act moneys be maintained for juvenile justice system improvement. Thus, $30 million less would be allocated than in fiscal year 1975 or 1976. It is likewise important to recall that because of the misrepresentation regarding actual expenditures in fiscal year 1972, $28 million less than Congress had intended was allocated to juvenile crime in fiscal years 1975 and 1976. The cumulative impact of the administration's sleight of hand regarding the $140 million figure and the application of the percentage formula solely to LEAA parts C and E would reduce the act's congressional commitment by $114 million: $28 million in fiscal year 1975, $28 million in fiscal year 1976, and $58 million in fiscal year 1977. This is totally unacceptable.

On May 28, 1976, I introduced amendment No. 1731, which would strike the provisions of S. 2212 which substitute the narrow percentage formula approach for the extremely significant maintenance of effort requirement. The approach of amendment No. 1731, which favors current statutory language is identical to that taken by Chairman RODINO's House Judiciary Committee in S. 2212's companion bill, H.R. 13636. In addition to the pure merit of supporting the status quo, which retains juvenile crime prevention as the LEAA priority, it was my view that those interested in fundamentally altering the provisions of the 1974 act, as the reported bill clearly intends, reserve their proposals until next spring and work with the subcommittee in drafting legislation to extend the 1974 act. Our hearings to accomplish this extension began May 20, 1976. It was with this perspective that I introduced amendment No. 1731 to excise these unpalatable sections.

Since that time I have reviewed this matter and concluded that the flexibility provided by the percentage formula approach may be more equitable in that the maintenance level would increase or decrease in proportion to the actual allocation of funds each fiscal year, but that the allocation for juvenile justice improvement should be a percentage of the total Crime Control Act appropriation, not solely of LEAA part C and E funds. The commitment to improving the juvenile justice system should be reflected in each category or area of LEAA activity: technical assistance-research, evaluation and technology transfer; educational assistance and special training; data systems and statistical assistance; management and operations; and planning as well as the matching and discretionary grants to improve and strengthen the criminal justice system.

Today, therefore, I ask my colleagues' support for my new amendment. The amendment does not authorize any additional appropriations; it simply helps insure, consistent with the policy thrust of the 1974 act, that LEAA will allocate crime control funds in proportion to the seriousness of the juvenile crime problem. The amendment will require that 19.15 percent of Crime Control Act funds, in deference to the level recommended in the committee report, be allocated for the improvement of the juvenile justice system.

It should be recalled that in 1973 this body supported, without objection, the Bayh-Cook amendment to the LEAA extension bill which would have required that 30 percent of LEAA part C and E funds be allocated for improvement of the juvenile justice system. My amendment, today, is clearly consistent with that effort. Had the 30-percent requirement become law it would have required that nearly $130 million of Crime Control Act part C and E dollars—$432,055,000—be maintained during fiscal year 1977.

Coincidentally, the application of the 19.15-percent formula to Crime Control Act moneys for fiscal year 1977—$678,000,000—would require that an almost identical amount, $129,837,000, be main-

tained for the improvement of the juvenile justice system.

If we are to tamper with the 1974 act in a manner that will have significant impact, let us be assured that we act consistent with our dedication to the conviction that juvenile crime prevention be the priority of the Federal crime program. The GAO has identified this as the most cost-effective crime prevention program we have; it is supported by a myriad of groups interested in the safety of our citizens and our youth who are our future; and I am proud to say that this bipartisan approach is strongly endorsed in my party's national platform. My amendment will guarantee a continuity of investment of Crime Control Act funds for the improvement of the juvenile justice system; and when coupled with the appropriations obtained for the new office—$75 million for fiscal year 1977—we can truly say that we have begun to address the cornerstone of crime in this country—juvenile delinquency.

More money alone, however, will not get the job done. There is no magic solution to the serious problems of crime and delinquency.

Yet, as we celebrate the 200th anniversary of the beginning of our struggle to establish a just and free society, we must recognize that whatever progress is to be made rests, in large part, on the willingness of our people to invest in the future of succeeding generations. I think we can do better for this young generation of American than setting them adrift in schools racked by violence, communities staggering under soaring crime rates, and a juvenile system that often lacks the most important ingredient—justice.

The young people of this country are our future. How we respond to children in trouble, whether we are vindictive or considerate, will not only measure the depth of our conscience, but will determine the type of society we convey to future generations. Erosion of the commitment to children in trouble, as contained in S. 2212, as reported, is clearly not compatible with these objectives.

I urge my colleagues to support my amendment and help retain juvenile crime prevention as the national anti-crime program priority.

Mr. President, I ask unanimous consent to have printed in the RECORD a table showing the LEAA appropriations history from 1969 to 1977.

There being no objection, the table was ordered to be printed in the RECORD.

LEAA APPROPRIATIONS HISTORY, FISCAL YEARS 1969-76

[In thousands of dollars]

	1969 actual	1970 actual	1971 actual	1972 actual	1973 actual	1974 actual	1975 actual	1976 actual	1977 actual
Pt. B—Planning grants	19,000	21,000	26,000	35,000	50,000	50,000	55,000	60,000	60,000
Pt. C—Block grants	24,650	182,750	340,000	413,695	480,250	480,250	480,000	405,412	306,039
Pt. C—Discretionary grants	4,350	32,000	70,000	73,005	88,750	88,750	84,000	71,544	54,007
Total, Pt. C	29,000	214,750	410,000	486,700	569,000	569,000	564,000	476,956	360,046
Pt. E—Block grants			25,000	48,750	56,500	56,500	56,500	47,739	36,005
Pt. E—Discretionary grants			22,500	48,750	56,500	56,500	56,500	47,739	36,004
Total, Pt. E			47,500	97,500	113,000	113,000	113,000	95,478	72,009
Technical assistance		1,200	4,000	6,000	10,000	12,000	14,000	13,000	13,000
Community anticrime									15,009
Research, evaluation, and technology transfer	3,000	7,500	7,500	21,000	31,598	40,098	42,500	32,423	[1] 40,000
									27,020
LEEP	6,500	18,000	21,250	29,000	40,000	40,000	40,000	40,000	40,000
Educational development			250	1,000	2,000	2,000	1,500	500	500
Internships			500		500	500	500	250	300
Sec. 402 training			500	1,000	2,250	2,250	2,250	2,250	3,250
Sec. 407 training					250	250	250	250	250
Total education and training	6,500	18,000	22,500	31,000	45,000	45,000	44,500	43,250	44,300
Data systems and statistical assistance		1,000	4,000	9,700	21,200	24,000	26,000	25,971	21,152
Juvenile Justice and Delinquency Prevention Act (title II)							[2] 15,000	39,300	75,000
Management and operations	2,500	4,487	7,454	11,823	15,568	17,428	21,000	24,299	25,464
Departmental pay costs					14,200				
Total, obligational authority	60,000	267,937	528,954	698,723	841,723	870,526	[3] 895,000	810,677	753,000
Transferred to other agencies	3,000	182	46	196	14,431	149			
Total appropriated	63,000	268,119	529,000	698,919	855,597	870,675	895,000	810,677	753,000

[1] High crime area.

[2] An additional $10,000,000 previously appropriated for LEAA was reappropriated, to remain available until Dec. 31, 1975, to carry out title II of the Juvenile Justice and Delinquency Prevention Act.

[3] Does not reflect the $7,829,000,000 transferred to other Justice Department Agencies.

Mr. BAYH. Mr. President, the purpose of my imposing on the Senate at this rather early hour is directly related to efforts that the Senate Subcommittee on Juvenile Delinquency has been making over the last 6 years. As some of my colleagues will recall, in late 1970, when I had the good fortune of assuming that subcommittee chairmanship, we held extensive hearings and brought information to light which was informative and alarming. As one who had spent a good portion of his adult as well as young life involved in various kinds of youth activities, I thought I was relatively familiar with the situation. It was of grave concern to me to learn that, while most of our young people are those we associate with various youth groups and health activities—the kind that we now see swimming and running and performing miraculous feats as we watch the Olympics, unfortunately, there are a relatively small, although active, portion of our young people who truly threaten our welfare.

As we express our concern about the dramatic and continuing increase in the level of crime, we must be even more concerned about the findings of our subcommittee investigation: that of all the serious crimes, quarterly and annually reported by the FBI, more than 50 percent of all the serious crimes are committed by young people under the age of 20. When we envision criminal activity, many think of hardened adult criminals. The statistics show, however, that this is not the true stereotype. I am not talking about youngsters who take a car for a joyride or steal hubcaps, though I am not unconcerned about such acts; I am talking about the wide range of serious crimes, rapes, robberies, homocides, burglaries, half of which are committed by young people under the age of 20.

We undertook to develop a Federal response commensurate with these facts. The product of our labors was the Juvenile Justice Act, which was signed into law by President Ford on September 7, 1974. It was the product of reconciliation and compromise that is necessary to obtain passage of any significant piece of legislation. The distinguished Senator from Nebraska (Mr. HRUSKA), who is the ranking minority member of the Committee on the Judiciary, played an important role in reaching the compromise which is now law. The Senator from Nebraska and I did not agree on all the features of the bills that I had introduced (S. 3148 and S. 821), but I must say that I thought the way that he and I and our collective staffs worked together was as fine an example as I have seen of what can happen when men and women of good faith are determined to use the legislative processes to try to reconcile differences of opinion, and yet move toward making juvenile crime prevention a national priority of importance to all of our citizens.

The distinguished Senator from Arkansas, as the ranking member of the Committee on the Judiciary as well as chairman of the Criminal Laws and Procedure Subcommittee, also played an im-

portant role in this effort which resulted in the enactment of this landmark legislation.

What we are saying is that juvenile crime is a critical national problem. Everybody is against it, nobody is for it, but we have not been able effectively to bring adequate forces of Government and human concern to bear on this problem. Juvenile crime continues to escalate. No one has a magic formula for solving the problem of juvenile crime and delinquency. No one can pass a bill or make a speech and make crime disappear. But it was rather obvious that what we had been doing had failed and, hopefully, the new focus mandated in 1974 will be helpful in alleviating some of the problems. I think it is essential that we recognize past mistakes and avoid them.

One basic mistake in this area was the total lack of proper coordination and management. We found, rather surprisingly, that there were several dozen separate and independent Federal agencies and bureaus supposedly dealing with the problems of young people in trouble and juvenile crime. If a sheriff or chief of police or mayor or youth services director sought help from a Congressman's or Senator's office as to where they could go for assistance to fight juvenile crime in their communities, they needed a road map of the Washington bureaucracy.

One of the major steps we took in the Juvenile Justice Act was to establish one place in the Federal Government to meet these needs. We established a separate assistant administrator position in LEAA and, for the first time, placed authority in this one office for mobilizing the forces of Government to develop a new juvenile crime prevention program and to coordinate all other Federal juvenile crime efforts. That responsibility now rests in one clearly identified office, headed by a Presidential appointment, with advice and consent of this body.

In the management area, we made progress by eliminating wasteful duplication and directing that all resources be harnessed to deal more effectively with juvenile crime. We have provided that no Federal programs undermine or compete with the efforts of private agencies helping youths in trouble and their families.

We also required that private agencies including churches, YMCA, YWCA, and many others are involved in the program so that with their collective services and expertise they become an equal partner with government and family in the fight against juvenile crime.

Thus, for the first time this act made available Federal prevention funds to help private groups in local communities. To expand and assist if necessary but not to compete with community efforts.

Case in point: if the First Christian Church or the YWCA has established a runaway house it makes little sense for the Indianapolis city government or the State of Indiana or the Federal Government to establish a competing runaway service.

Now we are able to provide additional moneys to those private agencies so that they are able to provide several extra beds, or a new counselor, and continue with their work fashioned for that community, but which had been limited because of insufficient resources.

Another objective, which we have begun to accomplish, was reorder the LEAA spending priorities.

Many things have been said and written both by the investigative press and by some of our colleagues here on this floor relative to criticism directed at LEAA. I think some of that criticism is well founded and, perhaps, some of it is not. In the Judiciary Committee I found myself in rather a lonely position as the only member to vote against extending LEAA. I hope we can retain those reordered LEAA priorities here today so I can vote to extend LEAA. I think a number of those dollars have been well spent, and we have a lot of concerned, dedicated people out there—but, as I told my colleagues on the Judiciary Committee, more than $5 billion has been expended by LEAA.

During that period of time crime has gone up almost 50 percent. If we, as members of that committee, were on the board of directors of a corporation and spent $5 billion of the corporation's money, the stockholders would throw us out on our ears if we did not get better results.

That does not mean we are trying to be unreasonably stern with the people who are administering this money or certain people who are spending it, but I think they have been laboring under operational restraints that almost defy success. The biggest problem we have had is that we have not reordered our priorities so that we use this money to deal with the problems of young people before they become the problems of adults.

We take kids who run away or will not go to school, neither of which I am recommending for young people—but compared to robbing, murdering, and raping, and some of the things that go on in our streets I am sure we recognize that not going to school and running away is a relatively minor act—but we take kids involved in these kinds of activities and we put them in the county jail with adults who have performed every trick in the trade.

We take young first offenders and we incarcerate them with hardened criminals. I am not trying to apologize for young toughs, the fact of the matter is, I hate to say it, but it is true, that we have some young people as well as some adults whom we just have to get off the streets in order to protect society from them.

But it seems to me we need to be sophisticated enough to get those people who are preying on society off the streets, incarcerate them where they cannot do harm to themselves or to others, but not commingle them with young people whom we still have a chance to save. All too often however that is not how we operate our juvenile justice system. We put those first offenders in a prison environment with professionals, two- or three-time losers, and although we talk piously about rehabilitation and training, in most of our institutions today instead of being able to train young people for a wholesome, decent life, what we train them for is how to go out on the streets and prey on society.

Four out of five of those people that we put in a place to try to rehabilitate them are learning the kinds of things that guarantee they are going to be back in there again. In terms of our youth we have between a 75 and 85 percent recidivism rate, which means not that our police cannot catch them, not that our judges and our juries do not try to convict them, not that we do not have a place to put them, but that when we catch them, when we convict them, when we incarcerate them, we treat them in such a way that we guarantee they are going to be back in prison again.

Mr. President, one of the important provisions of the Juvenile Justice Act was to try to get more of our law enforcement resources into the system at a time and a manner so that we could actually keep young people from continuing to make the mistakes that escalate up the scale of seriousness and lead to a lifetime of lawlessness and all the problems that that means to them and to us generally.

If we are really going to do this job we have to insist that a larger share of law enforcement dollars go into the system at a time and in a manner that can actually do some good, do some preventing, and do some rehabilitating. That means we have to devote more money to improving our juvenile justice system.

I have great compassion for any human being who is incarcerated, whether that person has committed one, two, or three crimes. It is a tragedy. But we have to recognize society's right to be protected, and thus we have to keep these people in a place that makes society safe.

But I must say since we are operating in a world where we have only limited amounts of dollars which we have become increasingly aware of as we go through the new budget process—then, it seems to me, we have a responsibility to see that we spend those limited amounts of dollars in the areas where we get the greatest return on the investment not in just a traditional business sense but in terms of effectively dealing with human problems.

Mr. President, for someone who has been in a penal institution two or three times, the chances of rehabilitating that person are relatively remote, particularly compared to the chance of dealing with a child, preteens, or midteens or even a first offender teenager.

So, what we tried to do in the Juvenile Justice Act was to insist that we place more money, more resources, into the system to deal with the problems of young people. We asked the officials at LEAA and OMB how much they were spending on juvenile delinquency programs. Well, we were told various figures. When we finally nailed them down they said, "Senator BAYH, it is $140 million. One hundred and forty million dollars was the supposedly accurate figure which was the fiscal 1972 figure." That was the figure the administration told us was being spent in fiscal 1972 for juvenile delinquency programs. So in the Juvenile Justice Act we required LEAA to maintain at least that level of assistance. Although

the Senate passed, let me say, a measure which would have insisted that we put the level at 30 percent of the budgetary figure as a floor for juvenile delinquency programs. That passed the Senate. We could not get the House to agree to it, but that was the figure, 30 percent, which would have meant more assistance than the figure we are talking about today in my amendment.

I want to put this on the scales with the earlier figures we spoke about so that we can compare here the 30 percent that we are talking about with the 50 percent of the serious crimes committed by young people. But after the Juvenile Justice Act had passed, LEAA changed the numbers. They said, "Really, we did not spend $140 million in 1972." My colleague from Nebraska believed LEAA's original figure. If we look at the record, he was using the figure of $140 million because that is what LEAA told us; that they, out of that LEAA pie, were sending $140 million back to local communities, to deal with problems of young people and juvenile crime.

But when we really got down to wearing the shoe, instead of the $140 million it was actually $112 million. Well, $112 million is still not an insignificant amount of money. But it was $28 million less than the Senate thought they voted for in 1974. The law requires that $112 million of Crime Control Act dollars be spent to fight juvenile crime.

Frankly, I do not think that is nearly enough. It was the best we could do under the circumstances in 1974, and it is better than we would have been able to do if we had not established that floor, but it was not nearly enough. At least 19.15 percent of the moneys should go to a problem that is responsible for half the Nation's crime.

Mr. President, we are talking about less than 20 percent of LEAA money earmarked to deal with the problem of young people who are committing 50 percent of the crimes. It is not enough.

But lo and behold, when the administration sends the LEAA extension bill here, instead of extending it they tried to gut the Juvenile Justice Act and, in essence, kill everything we had accomplished.

They are trying to repeal the maintenance of effort section so that there would be no specific amount spent to help fight juvenile crime.

Because of the conversation and concern of some of our colleagues on the Judiciary Committee, and at least partially because some knew others rejected this there was going to be a heck of an outrageous proposal, they did leave some limitations in the bill, but at much too low a level, in my judgment.

Instead of the specified dollar amount, which in current law is $112 million, they said, "Well, the LEAA budget is going down, so to be fair to everybody and not allegedly penalize some of the program areas, we are going to eliminate the 74 percentage and require only 19.15 percent of C and E or $82 million; $82 million instead of $112 million—a reduction of $30 million.

Mr. President, I do not want to penalize anybody. I think many of these programs have some beneficial effect. But we have to recognize two important things: One, in terms of crime, young people are the most critical problem and if we are concerned about the continuing escalation of crime we better start dealing the the problem at a time when we can rehabilitate them, and make them productive citizens of society rather than adult criminals.

Two, from the practical standpoint if we invest resources in this area, we are going to be able to have a higher degree of success.

My amendment simply recognizes where the problem is and where the chances of success lie.

This amendment does not scrap any programs. No. We are not going to be unreasonable in the amounts of money we dedicate to juvenile crime. But very simply—we are going to require in the future that 19.15—less than 20 percent of the LEAA budget is allocated to this priority.

It ought to be for more. We have improved the situation somewhat because of Milton Lugar's guidance of the Office of Juvenile Justice and Delinquency Prevention. He is a good man, the program is just getting started but it provides us with a good measure of long-ignored prevention.

This last fiscal year we had $40 million going into that program and because of the efforts of people like the distinguished Senator from Rhode Island (Mr. PASTORE), Senator MCCLELLAN, Senator HRUSKA, and some others on that Appropriations Committee who have fought diligently, we have been able to up that figure to $75 million in the area of prevention for fiscal 1977 or 50 percent of the authorized level.

What I am asking the Senate to recognize is that it is one thing to say we have $75 million in a prevention program. It is another to require that across the board we meet a certain standard as far as the investment of our LEAA moneys is concerned. This is what the 1974 act required, both thrusts.

I am not asking the Senate and the Congress of the United States to require that half of the money of LEAA be spent for young people, although they are committing half of the crimes. I suggest that we would require in this amendment that we at least have the 19.15 percentage of LEAA moneys spent across the board for juvenile crime and delinquency.

Mr. President, if I were not such a realist, I would be ashamed to ask for only 20 percent when we have 50 percent of the crimes committed by young people. Realistically, I think that is the best we can do. When we take that 19.15 percent and increase that by the $75 million that we are getting into the area of prevention, then I think we can be proud of what we are doing.

But to suggest we will extend LEAA and, at the same time, vitiate what in my judgment is the most important long-range program of law enforcement that has passed this Congress, is totally irresponsible in my judgment.

The PRESIDING OFFICER. Who yields time?

Mr. MCCLELLAN. Mr. President, I yield myself 10 minutes.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. MCCLELLAN. Mr. President, at the outset I want to make it clear that this Senator in no way opposes juvenile delinquency programs or opposes appropriations therefor. Congress has singled out juvenile delinquency and passed the Juvenile Justice and Delinquency Prevention Act of 1974. That act is now law. We are appropriating money under that act—$75 million this year—for extraordinary attention and effort in the juvenile delinquency field.

Therefore, Mr. President, rather than do what the distinguished Senator is suggesting here—take more money from the overall criminal law enforcement program—a proper procedure and one that would not do damage to these other law enforcement programs would be to add it to the $75 million under that act. Increase the appropriations under that act, which is a special act, to deal with the extraordinary juvenile delinquency situation, instead of taking the money out of many other programs. If this amendment is adopted, Mr. President, other programs are going to suffer.

Mr. President, I ask unanimous consent to have printed in the RECORD at this point a memorandum explaining this amendment which I prepared this morning and which I hope to distribute to the Members of the Senate before they vote.

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

JULY 23, 1976.

DEAR COLLEAGUE: Attached you will find a very brief summary of the provisions of S. 2212, as reported by the Judiciary Committee, dealing with the funding of juvenile delinquency programs under the Safe Streets Act and the effect that the amendments proposed by Senator Bayh would have on those provisions.

I hope that you will take the time to read this summary and, after doing so, will be able to support the Committee's action.

With kind regards, I am,

Sincerely,

JOHN L. MCCLELLAN.

JUVENILE DELINQUENCY PROVISIONS OF S. 2212

1. Under present law, which the Committee proposes to change, a minimum of $111,851,054 must be expended for juvenile delinquency programs each year. [This figure represents the amount that was expended for juvenile delinquency programs in Fiscal 1972 and amounts to 19.15% of the total allocation for Parts C and E of the LEAA Act ($584,200,000) in 1972.]

2. Under the Committee proposal, LEAA must expend a minimum of 19.15% of the total appropriation for Parts C and E of the LEAA Act for juvenile delinquency programs each year. Based upon the Fiscal 1977 appropriation for Parts C and E ($432,055,000—a decrease of $152,145,000 since 1972), this amounts to $82,738,533. However, there has also been appropriated under the Juvenile Justice and Delinquency Prevention Act $75,000,000 for juvenile delinquency programs (these funds are also administered by LEAA). Thus, the minimum expenditures for juvenile delinquency programs for Fiscal 1977 under the Committee version would be $157,738,000.

19.15% of Parts C and E of LEAA Act	$82,738,533
Juvenile Delinquency Act	+75,000,000
Total	157,738,533

3. Under Senator Bayh's Amendment No. 1731, present law would be retained. This would require that LEAA spend a minimum of $111,851,054 for juvenile delinquency in Fiscal 1977 out of a total appropriation of $678,000,000. However, on top of this would be added $75,000,000 appropriated for juvenile delinquency purposes under the Juvenile Justice and Delinquency Prevention Act. Thus, the minimum expenditure for juvenile delinquency under Senator Bayh's Amendment No. 1731 in Fiscal 1977 would amount to $186,851,054. This would be $29,000,000 over and above what the bill reported by the Committee now provides.

Under the LEAA Act	$111,851,054
Juvenile Delinquency Act	75,000,000
Total	186,851,054

4. Senator Bayh's latest amendment (No. 2048) would require that 19.15 percent of the total LEAA appropriation each year (including administrative costs) be expended for juvenile delinquency programs. Out of a total LEAA appropriation for Fiscal 1977 of $678,000,000, this amendment would require that LEAA spend at least $129,837,000 for juvenile delinquency purposes this next (FY 1977) year. On top of this is added $75,000,000 already appropriated for these purposes under the Juvenile Justice and Delinquency Prevention Act. Under this amendment, then, the total minimum expenditure for juvenile delinquency programs in Fiscal 1977 would amount to $204,837,000.

19.15 percent of total LEAA appropriations	$129,837,000
Juvenile Delinquency Act	75,000,000
Total	$204,837,000

* * * * *

The objection to both of Senator Bayh's amendments is fundamental. In the past two years, as a reflection of the country's economic situation, LEAA's appropriation has suffered major reductions—from $880,000,000 in Fiscal 1975 down to $678,000,000 in Fiscal 1977, a drop of $202,000,000. In the face of these reductions, cutbacks must be made in all the programs funded by LEAA.

Senator Bayh's amendments would simply prevent juvenile delinquency programs from bearing an appropriate share in these cutbacks and require instead that these cutbacks be borne by the other programs funded by LEAA. Many of these programs are extremely worthwhile and equally as valuable as many of the juvenile delinquency programs.

Examples of the types of LEAA programs that could suffer as a result of the Bayh Amendments are:

1. Programs for the prevention of crimes against the elderly.
2. Indian justice programs.
3. Programs to prevent drug and alcohol abuse.
4. Programs to increase minority representation in criminal justice programs (such as minority recruiting in police, court, and correctional agencies).
5. Programs to train and educate police officers.
6. The establishment of Community Anti-Crime programs.
7. Career Criminal Programs.
8. Programs to divert offenders from the criminal justice system.
9. Court planning programs.
10. Programs to reduce court backlog.
11. Adult Correction and Rehabilitation programs.
12. Work release programs.
13. Prison industries programs.
14. Community-based corrections programs.
15. Training of judges and court administrators.
16. Upgrading of probation and parole programs.
17. Research into the causes of crime.

No one denies that juvenile delinquency programs are appropriate for LEAA funding—and at a substantial level. Indeed, under the Committee amendment, a minimum of $157,738,533 would be spent for juvenile delinquency programs in Fiscal 1977 alone. The point recognized by the Committee, however, is that there are many other programs besides juvenile delinquency programs that are worthwhile and valuable, that are now being funded, and that should continue to be funded by LEAA. The Committee simply feels that these programs should not be discriminated against and that cutbacks in LEAA appropriations should be borne proportionately by all segments of the criminal justice system and not just some. This is certainly true with respect to juvenile delinquency, which is already favored with a large percentage of these funds, plus the special appropriation of $75,000,000 which has already been made.

Mr. McCLELLAN. It is unfortunate that we have to legislate and discuss important legislative issues in an empty Chamber.

I do not say that to criticize any Member of the Senate. I am often absent, too. Our workload is such that it is impossible for us to be in the Senate Chamber and listen to debate all the time. But, Mr. President, I am certain that if the Members of this Senate understood this amendment, if they knew the burden it would impose on other valid, needed, criminal law enforcement programs, the Senate would turn this amendment down.

The Senator's amendment, if agreed to, will provide, in addition to the $75 million we have already appropriated for juvenile delinquency under the Juvenile Delinquency Act, $129,837,000 more to come out of all of the LEAA programs. It earmarks that much out of the LEAA appropriation for juvenile delinquency programs. This constitutes 19.15 percent of the total LEAA appropriation, including the administrative cost of this program.

Mr. President, nobody is against this program. My distinguished friend from Indiana spoke a few minutes ago about the shortage of funds. There is a shortage of funds. Appropriations for the LEAA program have decreased. In September 1974, the Juvenile Justice Act was enacted and earmarked about $112 million for the maintenance of the LEAA juvenile program under the Crime Control Act. This fixed dollar figure amounted to 19.15 percent of the total funds appropriated in 1972 for grants under parts C and E of the Omnibus Crime Control and Safe Streets Act of 1968. That is where the 19.15 percent originates. At the time, the appropriation for LEAA criminal justice programs for fiscal year 1975 were $880 million.

Mr. President, S. 2212 as reported by the Judiciary Committee leaves the percentage the same—19.15 percent of the total appropriation for those two parts of the LEAA Act.

Mr. President, since fiscal year 1975 the appropriations for the law enforcement assistance program have decreased by some $202 million. Thus, for all of these LEAA programs we are getting about 22 percent less in criminal justice appropriations today than we had in fiscal year 1975. What we undertake to do in this bill, and which I believe to be fair and just, Mr. President, is to make the juvenile delinquency program maintenance of effort provisions 19.15 percent of whatever is appropriate for parts C and E of the LEAA Act. This is the same ratio expended in 1972 on juvenile programs. Since 1974 we have given juvenile delinquency special treatment by appropriating an additional $75 million a year for fiscal year 1977 under the Juvenile Justice Act.

There are some things that are just and equitable. I might single out one particular program or effort in law enforcement as the best program of all. Someone else might think another program is the best. I hasten to agree that juvenile delinquency is an important program. But, Mr. President, I do not think that we ought to make this appropriation in the amount required by the Senator's amendment at the expense of, for example, the prevention of crime against the elderly. That program would have to be decreased under this amendment.

The PRESIDING OFFICER (Mr. ALLEN). The time the Senator has allotted to himself has expired.

Mr. McCLELLAN. I yield myself an additional 5 minutes.

Mr. President, the program to prevent drug and alcohol abuse is in this appropriation. The program to increase minority representation in criminal justice programs, such as minority recruiting in police forces and correctional agencies, is involved and there will be some adverse impact on them. The law enforcement education program would be affected. I think these are some of the best programs, Mr. President, we have had in this field.

There are also community anticrime programs; career criminal programs; programs to divert offenders from the criminal justice system; court planning programs; programs to reduce court backlogs; adult corrections and rehabilitation programs; work release programs; prison industries program; community-based correction programs.

There are others, Mr. President. I could go on. All of these would be affected, or most of them, certainly, because the money would be diverted to juvenile delinquency programs.

Mr. President, I have one other thought. The bill which is before the Senate is as it was reported originally by the subcommittee. In the full committee, the distinguished Senator offered an amendment that would simply perpetuate the amount of dollars—$112 million each year out of these funds—irrespective of the amount appropriated. That was the minimum.

That amendment, Mr. President, was rejected, as I recall by a vote of 7 to 5, by the full committee. Now the distinguished Senator from Indiana wants to

add on the floor an additional $17 million, over and above what the Committee on the Judiciary rejected. That, I believe, is the Senator's amendment.

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

Mr. McCLELLAN. I yield.

Mr. BAYH. The Senator is not suggesting the amendment I offer is not a proper amendment to offer at this time, is he?

Mr. McCLELLAN. I am not suggesting that. The Senator has a right to offer it for $100 million, if he sees fit.

Mr. BAYH. If the chairman will accept it, I am prepared to offer it for $100 million.

Mr. McCLELLAN. I think the Senator is already advised about my position.

Anyway, Mr. President, I point out that the full committee rejected the $111 million. Now the distinguished Senator wants $129 million.

Mr. President, if a case can be made for further expenditures for juvenile delinquency, let it be made under the special act to deal with juvenile delinquency. If Congress approves it then, it would not detract from and would not injure the other programs.

I am pursuaded, Mr. President, that if we keep cutting down on the moneys that go for the programs that I have enumerated and others, there will be a time, and it will come soon, when we might as well abandon the whole program. We have already had to reduce, but the distinguished Senator, notwithstanding $75 million extra on top under the Juvenile Justice Act, now wants to even take more under the Crime Control Act. $129 million.

Mr. President, I note that, besides the distinguished Senator from Indiana, the distinguished ranking minority member of the Judiciary Subcommittee, Mr. HRUSKA, and the occupant of the chair, there are no other Senators here to listen to this argument. Whether either the Senator from Indiana or I can convince these empty chairs that our position is right, I doubt. In any event, that is what we are confronted with. Because we have a Government today that is so big and so complicated, and democratic processes that take so much time, it is just a physical impossibility for Senators to be present where all of the action is all of the time. It is one of those things we have to deal with, Mr. President.

I submit for the RECORD that it will be a great injustice to other programs and to the LEAA as an agency, in my judgment, to go as far as the distinguished Senator from Indiana proposes that we go.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. McCLELLAN. I yield the distinguished Senator from Nebraska 10 minutes.

Mr. HRUSKA. May I have 15 minutes?

Mr. McCLELLAN. Fifteen minutes.

Mr. HRUSKA. Mr. President, the pending amendment submitted by the Senator from Indiana has to do with provisions in section 261(a) and 261(b) of the law. The Senator from Indiana should be commended for his zeal and his intense and persistent interest in advancing the cause and the activity of dealing effectively with juvenile delinquency, its prevention, and its control. All of us are sympathetic with that goal.

But in order to put the matter in perspective, Mr. President, I call attention to these facts:

It should be borne in mind that the total of LEAA funding is less than 5 percent of the total expenditure for law enforcement by all of the 50 States and their many political subdivisions. At stake here, as required by the Bayh amendment, is the figure of $205 million for juvenile delinquency and juvenile criminal justice. That figure, Mr. President, is just about 2.5 percent of the total moneys, nearly $15 billion annually, spent by the States and their political subdivisions for all facets of law enforcement.

Finally, it remains for the States and their political subdivisions to furnish the bulk of funds for law enforcement. The LEAA was not created nor is it expected to fund in a substantial way the law enforcement efforts of the States and localities of this Nation. That was not its purpose.

Its purpose was to serve as a catalyst in distinctly unique and innovative ways to strengthen and to encourage improvement of law enforcement, but not to serve as a vehicle or even to any degree as a substantial vehicle for the funding of these vast efforts to enforce the law.

Mr. President, the bill as written and reported by the Judiciary Committee does not prevent any community or any State from increasing its efforts in juvenile criminal justice over and above what they receive from LEAA. On the contrary, it encourages them to do so. That 1.5 percent, which is the percentage of the Senator from Indiana in his amendment, even under his extravagant figure of $205 million, comes from Federal funds. This means that 98.5 percent has to come from the States and localities. That is inescapable.

The addition of $47 million by reason of the amendment by the Senator from Indiana is neither going to make nor break, Mr. President, the juvenile delinquency prevention and control efforts in this Nation. But I will tell you what it will do: The increase of that $47 million will erode temporarily, if not totally impair, the block grant concept upon which the LEAA is founded.

The requirement that an additional $47 million be spent by LEAA on juvenile delinquency out of total available funds means that the achievement of comprehensive, balanced State plans to deal with law enforcement in all of its aspects will be substantially prevented.

The LEAA recognized that law enforcement is the chief and principal concern of State and local governments, and accordingly, that it is for them to determine priorities for law enforcement and criminal justice spending not the Federal Government. In order to improve the enforcement of the law in those areas, the Federal law, LEAA, requires the formation by each State of a comprehensive balanced State plan to deal with that problem. The disproportionate amount which is requested under amendment No. 2048 will interfere with the achievement of that goal.

The $205 million which would be available if the spending amendment is adopted is 30-plus percent of the total fiscal year 1977 appropriation for LEAA. Mr. President, that amount of $678 million in the present appropriation law for this purpose is meant to cover the many programs to which the Senator from Arkansas referred, including the discretionary fund grants to the States and cities, the programs for prevention of crimes against the elderly, Indian justice programs, the training programs and educational programs for officers, the establishment of community and crime programs, and so on. But by adopting this amendment, 30 percent of that money will be devoted to only one aspect, important and vital as it is, of the total law enforcement picture. That is not within the spirit of the LEAA law. We must reconcile ourselves to this idea and the fact that whatever amount is granted in this bill is still a very insignificant proportion and percentage of the total amount that must be appropriated and expended by State and local authorities.

If juvenile delinquency is going to be preferred to the extent of 30 percent it means, for example, the moneys available to improve the court system will be reduced. It means that those funding activities in LEAA for special meetings and conferences and other efforts to improve prosecutorial procedures and prosecutorial expertise and methodology, will be by the boards. Without the development of a well-rounded, well-balanced program the LEAA concept will not be achieved and it will not serve the maximum use to which it can be placed.

It is for these reasons that we should retain the percentage that is set out in the committee-approved bill, $47 million less for juvenile delinquency to be sure, but, nevertheless, assuring to those activities an ample amount for the purpose of demonstrating and getting off the ground, for the purpose of training, encouraging, and developing new techniques, new methods, new approaches to that problem.

The distinguished Senator from Indiana (Mr. BAYH) did not support S. 2212 as reported by the Judiciary Committee because of the modification of the maintenance of effort provision. His amendment (No. 2048) would strike the committee's modification contained in section 261(b). The amendment, in effect, mixes apples and oranges. It apparently proposes to take the percentage of funds allocated for part C and part E grants in fiscal year 1972 that were devoted exclusively to juvenile delinquency programs—19.15 percent of the total—and apply it to the total Crime Control Act appropriation for each fiscal year beginning with 1977. Thus, the amendment is both factually inaccurate and contradictory in its terms.

It seems clear to this Senator that if

19.15 percent of the grant funds allocated under parts C and E of the Crime Control Act in fiscal year 1972 were expended for juvenile delinquency programs, then maintaining that level of effort should require that the percentage be applied to the same source of available funds.

The application of the 19.15-percent figure to the total Crime Control Act allocation severely distorts the purpose of the percentage maintenance of effort provision proposed in the Judiciary Committee bill. Instead of expending a minimum of $82,738,533 of the total parts C and E allocation of $432,055,000 for fiscal year 1977, LEAA would have to maintain a level of $129,837,000 of the total Crime Control Act appropriation of $678 million. This entire $129,837,000—an increase of $47 million—would come from the parts C and E allocation, an amount in excess of 30 percent of the available funds for juvenile delinquency programs under the Crime Control Act.

This would not only destroy the desired flexibility, it would destroy the State planning process and turn the Crime Control Act into a juvenile delinquency program. If this is desirable, why did we pass a Juvenile Justice Act and appropriate $75 million for it in fiscal year 1977?

I must point out that the Judiciary Committee bill does not "repeal" the maintenance of effort requirement as was originally proposed by the administration bill. The repeal proposal was premised on a desire to "decategorize" Crime Control Act funds and return the planning-and-priority-setting role to the States. In addition, the administration desired to achieve funding flexibility in a period of uncertain appropriation levels.

The Judiciary Committee desired to provide flexibility while at the same time assuring that the purpose of maintenance of effort—guaranteeing that funds appropriated for the Juvenile Justice and Delinquency Prevention Act were not utilized in lieu of Crime Control Act funds—was retained. The committee bill fully achieves this goal through its percentage maintenance of effort requirement. The committee vote in favor of revision represents a bipartisan committee effort to strike a balance between differing interests.

The administration has been forthright in its reluctance to provide high levels of funding for the Juvenile Justice and Delinquency Prevention Act. In a time of economic recovery difficult decisions have had to be made in order to hold down Federal spending. Funding for many new programs, such as the Juvenile Justice Act program, have had to be curtailed. However, the President did sign the Juvenile Justice Act into law in 1974. Hopefully, his commitment to the act will result in increased appropriation levels as our Nation's economic recovery continues. In the meantime, funding levels under the Crime Control Act have similarly had to be curtailed.

Decreased appropriation levels for the Crime Control Act have put a great deal of pressure on LEAA and the 55 State planning agencies in the determination of funding priorities. Existing programs have had to be cut back. New and innovative programs cannot be funded. To add to these difficulties by either retaining a flat maintenance of effort level or an inaccurately applied percentage level would simply compound the problem. We cannot view one program area, such as juvenile delinquency programing, as inherently more important that others. Police, courts, corrections, public education, training, citizens' initiatives, and other program areas are all vital to the total effort to improve the law enforcement and criminal justice system. We cannot shortchange all of these important program areas in order to further one component of the system.

In fiscal year 1972 LEAA funds totaling $111,851,054 were expended for juvenile delinquency programs. The 1972 level was used as a base because it was the latest year for which plan allocation levels were available at the time the Juvenile Justice Act was passed. Subsequently, and in conformity with the maintenance of effort requirement, a detailed analysis by LEAA established the actual expenditure level. This level, 19.15 percent of available Parts C and E funds, is a reasonable share for juvenile delinquency programs in view of the fact that it includes only clearly identifiable juvenile delinquency programs and projects. Many programs and projects with juvenile delinquency components, or which included juveniles in the service population, or which clearly had an impact on delinquency prevention—such as police programs—were not included. Therefore, I must conclude that the level of 19.15 percent of Part C and Part E allocations is an adequate minimum level. Nothing prevents LEAA and the States from spending more than the minimum level, and, indeed, I hope they do so. However, Congress should not be a party to imposing either a flat level of expenditure requirement or an inaccurate percentage requirement which could stifle the basic priority-setting role which Congress has rightfully given to the States and which has the potential to disrupt the State planning process.

I submit that the proper vehicle for Congress to establish an increased emphasis on juvenile delinquency programs is increased funding of the Juvenile Justice and Delinquency Prevention Act. Congress has done this by appropriating $75 million for the act in fiscal year 1977. That act, still in its infancy, offers a wide variety of methods and techniques to combat delinquency. It is innovative and progressive in scope. LEAA has laid the groundwork, through its implementation of the act, for the first truly coordinated, comprehensive approach to meeting the needs of the Nation's youth through Federal leadership and funding.

The administration bill to extend the Juvenile Justice Act was submitted May 15, 1976, the day after the Judiciary Committee voted to modify the maintenance of effort provision through the percentage mechanism. On May 20, 1976, LEAA Administrator Richard W. Velde testified before the Senate Subcommittee To Investigate Juvenile Delinquency. Mr. Velde testified that the administration would support the percentage maintenance of effort level as proposed by the Judiciary Committee.

I am committed to an effective Federal effort to deal with the problem of delinquency. I am not, however, willing to risk the emasculation of the Crime Control Act and the needs of the entire law enforcement and criminal justice system in the United States, in order to achieve that objective.

Mr. President, by way of summary, I would like to reiterate the major points against this amendment:

ARGUMENTS AGAINST BAYH AMENDMENT TO INCREASE JUVENILE JUSTICE PROGRAMS

	Millions
Total LEAA funds (FY 77 appropriation)	$753
Committee Bill Allowance for Juvenile Justice Program	158
Bayh Amendments for Juvenile Justice	205

The latter figure is 30 percent of the total LEAA appropriation and would be greatly disproportionate to the entire criminal justice picture.

The amendment impairs and nearly destroys the block grant concept upon which LEAA is based.

It greatly hampers or even prevents achievement of "comprehensive" and balanced state plans required by the law.

Would greatly deprive the states to plan and use funds tailored to the needs within their respective borders.

The $47 million increase in funds between the Bayh amendment and committee bill must result in cutting other existing LEAA programs, some of which are:

1. Discretionary fund grants to states, cities, etc.
2. Programs for the prevention of crimes against the elderly.
3. Indian justice programs.
4. Programs to prevent drug and alcohol abuse.
5. Programs to increase minority representation in criminal justice programs (such as minority recruiting in police, court, and correctional agencies.)
6. Programs to train and educate police officers.
7. The establishment of Community anti-crime programs.
8. Career criminal programs.
9. Programs to divert offenders from the criminal justice system.
10. Court planning programs.
11. Programs to reduce court backlog.
12. Adult correctional and rehabilitation programs.
13. Work release programs.
14. Prison industries programs.
15. Community based correction programs.
16. Training of judges and court administrators.
17. Upgrade probation and parole efforts.
18. Research into causes of crime.

Mr. President, by way of summary, let me say that the total appropriations for fiscal year 1977 is $753 million, the committee bill allowances for the juvenile justice program are $158 million, and the Bayh amendment for juvenile justice would increase that to $205 million, which is an increase of $47 million. That figure of $205 million is 30 percent of the total appropriation for all activities of LEAA.

The amendment impairs and nearly destroys the block grant concept upon which LEAA is based. It greatly hampers and very nearly prevents achievement of that comprehensive and balanced State plan which each State is required by law to prescribe and submit.

Mr. BAYH. Mr. President, if the Senator will yield a moment for a question,

I do not wish to interrupt, but he said this will destroy the block grant concept. Unless I am wrong, we are talking about different things, because the bill now contains in it the same 19.15 percent mandatory level for juvenile programs as the Senator from Indiana suggested.

Mr. HRUSKA. The Senator from Indiana should remember that this involves a comprehensive plan, and the block grants, while they as such go unimpaired to the States, nevertheless, they would be reduced to the extent that they are part of the entire scheme. In my judgment, they are being reduced in their efficacy and in their applicability to such an extent that the most efficient use of the block grants will be greatly impaired. That is my contention.

Mr. BAYH. The Senator does agree that under the bill as recommended by himself and the Senator from Arkansas the same 19.15 percent level is required under block grants C and E to be devoted to juvenile delinquency as the Senator from Indiana is requiring. It is the same level of funding that will go to juvenile delinquency in block grants.

Mr. MATHIAS. Mr. President, while the Senator is pausing, will he yield for a unanimous-consent request?

Mr. HRUSKA. I yield.

Mr. MATHIAS. Mr. President, I ask unanimous consent that Mr. Robert Kelley of my staff be granted the privilege of the floor during the debate on this measure.

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

Mr. MATHIAS. I thank the Senator.

Mr. HRUSKA. It is not quite true. I understand the Senator to say that the 19.15 percent is the same in the committee bill as it is in the Bayh amendment. Is that correct?

Mr. BAYH. As far as block grants?

Mr. HRUSKA. Yes.

Mr. BAYH. The Senator said this decimates block grants.

Mr. HRUSKA. There is no question about it.

Mr. BAYH. All right.

Mr. HRUSKA. I did not say in my statement that the block grants were reduced. I said in my statement that the amendment impairs and would nearly destroy the block grant concept upon which LEAA is based, and I believe that to be true.

Mr. BAYH. I hope the Senator will explain to the Senate how sending the same amount of money back under his proposal and my proposal will destroy block grants.

Mr. HRUSKA. The Senator perhaps is playing fast and loose with 19.15 percent, Mr. President, because while the committee amendment applies that percentage to the total appropriations for parts C and E, as I read the amendment of the Senator from Indiana, that percentage is not confined to those funds; it is applied to the entire gross appropriation for LEAA.

Mr. BAYH. The Senator from Nebraska is absolutely right. The Senator from Indiana has not played fast and loose with it. I specified from the beginning what we were trying to accomplish. I simply differ with the Senator from Nebraska as to how broad the 19.15 percent should be. I apologize for interrupting, but when he tells the Senate it is going to decimate and destroy the block-grant concept and yet the dollars going back under his concept and mine are identical, it is difficult for the Senator from Indiana to understand how much destruction is going to result then.

Mr. HRUSKA. Let me proceed further to say. Mr. President, that this amendment would greatly deprive the States of the ability to plan and use funds tailored to meet the needs that actually exist within their respective borders. Instead of being able to have that increase amount of $47 million available for allocation to all aspects of law enforcement, they will be required to surrender their option as to 30 percent of that for a single cause, important, of course; vital, of course, and one of the most worthy objectives of anyone who is an advocate and champion of effective law enforcement. But, nevertheless, it throws it off balance, and it is at the expense of reducing too drastically other aspects of law enforcement which must be taken into consideration.

Mr. President, it is my earnest hope that the Senate will see fit to reject this amendment. The committee considered well and deliberately all of these aspects and came out wtih the conclusion that is found in the pages of the bill as now written and particularly as written in section 261(b) of the Juvenile Justice and Delinquency Prevention Act. It is my hope that the amendment will be rejected.

I yield back the remainder of my time, if any remains. I yield the floor.

The PRESIDING OFFICER (Mr. CHILES). Who yields time?

Mr. BAYH. Mr. President, I yield 10 minutes to the Senator from Maryland, who has been one of the most ardent supporters and architects of this legislation.

Mr. McCLELLAN. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. MATHIAS. I yield.

Mr. McCLELLAN. Mr. President, I ask unanimous consent that Mr. Sam Simon, of the staff of Senator DURKIN, be granted the privilege of the floor during this debate.

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

Mr. MATHIAS. Mr. President, I thank the Senator from Indiana for yielding me some time and for his generous remarks.

I reiterate my full support for the amendment which has been offered by the Senator from Indiana, of which I am a cosponsor, and I shall state the reasons why I feel compelled to support the amendment as strongly as I do.

This amendment requires that 19.15 percent of the total LEAA budget be spent to combat juvenile delinquency. It is vitally important that we maintain our efforts through the LEAA program to prevent juvenile crime and delinquency. The citizens of this country cannot help but be dismayed, discouraged, and upset by the astounding fact that, although youths from 10 to 17 years of age comprise only 16 percent of the national population, they account for more than 45 percent of all the people arrested for serious crime. Think about it: The criminal record of this group within our population is three times as great as its percentage of the population. They comprise 16 percent of the population, and they account for 45 percent of all people arrested for serious crimes.

I must report to the Senate that I am not speaking here just from the record. I am not just reporting from statistics, because, as a member of the subcommittee, I undertook some hearings on this subject.

I looked at the problems which have arisen as a result of inadequate resources for the juvenile justice system in my own State of Maryland. With the authority of the Juvenile Delinquency Subcommittee, I held hearings in Annapolis, Md., and in Baltimore, Md., because I wanted to find out just how effective the Juvenile Justice and Delinquency Prevention Act of 1974 has been, as it has been operating, and to see if more should be done than has been done.

During the course of these hearings, I found that, in spite of the 1974 act, Maryland's juvenile delinquency problem is very, very far from solved, and Maryland's problems are not unique. In fact, they are typical of the whole scene across the country.

In Anne Arundel County, one of our great, historic counties in Maryland, where Annapolis, our capital, is located, the number of juveniles arrested increased more than 100 percent in the last 4 years. That does not speak very well for the effectiveness of the programs that have been operated in the last 4 years. The number of juveniles arrested increased 100 percent.

Mr. Warren B. Duckett, Jr., who is the State's attorney for Anne Arundel County and is a distinguished Maryland lawyer, testified that we are "practically powerless to deal with most juvenile crime." He went on to specify that he was powerless because of "insufficient police, insufficient prosecutors, and insufficient staff in juvenile services."

As a result of these hearings, I can report that most of the juvenile crimes committed are thefts, burglaries, and acts of vandalism. But I also have to warn the Senate and warn the country that the number of violent crimes, crimes such as personal assaults, is on the increase among this group of young offenders.

Mr. Robert Hilson, the State director of the Youth Services Administration, testified before the subcommittee that the Juvenile Justice and Delinquency Prevention Act of 1974 has not helped Maryland's difficulties significantly "in part because of inadequate funding and in part because of all the procedures involved."

Mr. Richart Wertz, the executive director of the Maryland State LEAA, advised that if the spending limits authorized were actually appropriated for juvenile crime projects, we would still "not even begin to scratch the surface of the needs of the State." The funds that Maryland will receive for the next fiscal year, $510,000 will permit only a very severely limited set of programs, and I

am sure that other States find themselves in comparable situations.

We had testimony before the subcommittee from an 18-year-old former delinquent from Prince Georges County, Mr. Steven Walker, and he spoke about the communication gap between troubled young people and our society. His comment was:

They never even find out what teenagers think.

And that should be a warning. It should be a warning to all of us.

We must be particularly disturbed when a professor of law, an expert on juvenile crime, calls the juvenile justice system a "total absurdity" and a "big facade." That is exactly what Peter Smith of the University of Maryland Law School called it at the Annapolis hearings. As he testified, we must shift our emphasis from plea bargaining to rehabilitation programs, professional and peer counseling and, most important, prevention.

Ther are no simple solutions to these problems, and there is no single factor which can be held responsible for the dramatic increases in juvenile crime. I suppose that drug abuse; the breakdown of the home and the family; violence on television, as we have been told often by the distinguished Senator from Rhode Island (Mr. PASTORE); and the very high juvenile unemployment rate, especially unemployment among minority groups, are some of the factors contributing to the problem. However, the ineffectiveness of the courts exacerbates the situation; and all the problems—whatever they are, wherever they are—have to be dealt with if we are to combat the serious problem of juvenile crime.

Mr. President, I would not bring the problems of Maryland to the attention of the Senate if I did not know, as I said, that they are representative of the problems shared by every one of the other 49 States. The statistics may be a little different, they may vary slightly from State to State, but the problems are the same throughout the country.

I think it is clear that the Federal Government has to take a more active role in meeting the needs of troubled youth who, in the absence of effective help, are likely to become serious delinquents and, ultimately, accomplished criminals.

The PRESIDING OFFICER. The Senator's 10 minutes have expired.

Mr. MATHIAS. May I have 3 additional minutes?

Mr. BAYH. Yes, I yield.

Mr. MATHIAS. I am convinced, therefore, that the percentage proposed in this amendment—which is a reasonable one in relation to the size of the juvenile crime problem—deserves the support of the Senate. States have proved more than willing to initiate the programs offered under the Juvenile Justice and Delinquency Prevention Act of 1974, but they simply do not have the funds. A rejection of the amendment will in effect stagnate all efforts to deal with juvenile delinquency, which has now reached epidemic proportions.

A young man in a youth center in Arizona wrote a poem which ended with the following words:

My life was wasted the day I was born
My life, my heart, it was all torn.
Why did everything go wrong?

As a society, we must devote ourselves to ending this tragic waste of human lives and commit ourselves to restoring hope and purpose to the lives of young people in trouble. The amendment before us will move us toward this goal.

Mr. President, I ask unanimous consent that press reports of the recent hearings of the Juvenile Delinquency Subcommittee held in my State of Maryland be printed in the RECORD at this point.

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

[From the Baltimore Evening Sun, June 23, 1976]

SENATOR MATHIAS HEARS YOUTH CRIME WOES

(By Michael Wentzel)

ANNAPOLIS.—Senator Charles M. Mathias (R., Md.) heard nothing but bad news yesterday when he conducted a hearing here on the state of juvenile delinquency.

Witnesses told Senator Mathias of insufficient funding for programs and staffing, unequal justice for juveniles, and described a system that is virtually powerless in the face of increasing juvenile crime.

Senator Mathias, who conducted the hearing for the Senate Subcommittee on Juvenile Delinquency, said there was "an urgent need" to devote more money and more programs to juvenile justice problems.

He said that persons between the ages of 10 and 17 make up 16 per cent of the country's population but account for 45 per cent of the arrests in the country.

"Juvenile crime accounts for half of the country's crime problem," Senator Mathias said, "yet this is the area that is constantly shortchanged."

Warren B. Duckett, the Anne Arundel county state's attorney, gave the senator county statistics that showed that 2,646 juveniles were charged with crimes in 1971 while 5,384 were charged in 1975.

"We are practically powerless to deal with most juvenile crime," Mr. Duckett said. "We have inefficient police, insufficient prosecutors and insufficient staff in juvenile services."

Peter Smith, an attonrey and University of Maryland juvenile justice expert, told Senator Mathias, "The juvenile justice system is a failure, the battle for equal justice for juveniles is being lost and the battle for meaningful treatment for juveniles is being lost."

"We continue to fail to devote resources and talent to these problems, Mr. Smith said. We will spend much more on one B-1 bomber than on the state's entire budget for juveniles. This is absurd. Until we make a commitment to the meaningful things in life, we can go on having hearings like this that will be no good."

"In terms of national security, domestic tranquility and the common defense," Senator Mathias said, "the question of what is being done for the young poeple is of a greater concern."

The senator said that he has found that those "who use the rhetoric of law and order" usually are the ones that vote against programs to attack juvenile delinquency.

Richard C. Wertz, executive director of the Maryland Governor's Commission on Law Enforcement and the Administration of Justice, complained about the low federal funding of the Juvenile Delinquency Act of 1974.

Maryland received a total of $510,000 for implementation of the broad act.

"This means that we could pay for no more than 51 beds in group homes throughout the whole state," Mr. Wertz said. "How does that begin to approach the problem?"

Senator Mathias will conduct another hearing on juvenile justice Thursday at 9 A.M. in the Fallon Federal Office Building in Baltimore.

[From the Baltimore News American, June 23, 1976]

U.S. EFFORTS TO CURB JUVENILE CRIME CALLED FAILURE

(By Mark Bowden)

ANNAPOLIS.—A battery of state law enforcement and juvenile justice experts sharply criticized federal efforts to deal with increases in juvenile crime here Tuesday.

The experts testified to Sen. Charles McC. Mathias in the first of two hearings this week reviewing effects of the 1974 Juvenile Justice and Delinquency Prevention Act. They said more concern, efficiency and money would be needed to curb alarming increases in crimes committed by youths.

Anne Arundel County State's Atty. Warren B. Duckett, Jr. began the hearing with statistics reflecting growth of delinquency in that county. Arrest rates for youths had doubled in the last five years, Duckett said, jumping from 399 arrests in Annapolis alone during 1971 to more than 1,000 last year.

More than 200 of Arundel youths had criminal records totalling more than five arrests, Duckett said, and some youths have been arrested as many as 40 times.

Sen. Mathias quoted statistics showing youths between the ages of 10 and 17 account for only 15 per cent of the U.S. population, but commit 45 per cent of reported crimes. These indicators, along with tales of bureaucratic inefficiency, led Sen. Mathias to conclude that the federal effort had been a "spectacular failure."

Peter Smith, a law professor at the University of Md. Law School who specializes in juvenile justice, roundly criticized the growing bureaucracy of agencies and systems to handle problem youths. Smith said the system exists to serve itself, not the people who need it.

"A funding dilemma" accounted for the failure of federal efforts in this state, according to Richard C. Wertz, director of the Governor's Commission on Law Enforcement and the Administration of Justice. Appropriations did not match legislative commitments, Wertz said.

Maryland received only $510,000 last year from Congress to special programs for delinquent youths, which was enough, Wertz said, to house 51 boys in a group home for one year. He pointed out that his commission directed 25 per cent of its federal block grant funds to juvenile programs.

"Every program in Maryland that gives some kind of service to youth, from those associated with schools across the board, needs a thorough re-evaluation," said Robert C. Hilson, director of the State Dept. of Juvenile Services. "More money is not all that is needed. Given the same appropriation, a thorough reorganization would go a long way toward solving part of the problem.

"Right now we have ineffective programs that have become entrenched. It's just like with any other system, often programs outlive their usefulness and just soak up desperately funds. We have to be willing to establish new approaches when and wherever necessary, and lop off the ones that no longer measure up."

Hilson said trends in juvenile crime showed a steady increase in suburban communities and a slight decrease in rates inside Baltimore. He attributed this shift to increasing suburban populations and ineffective local efforts to develop recreational programs for youths.

"The kids out there have nothing to do," Hilson said. "They start hanging out at the shopping center when there's a temptation to shoplift or get involved with drugs."

[From the Hagerstown (Md.) Morning Herald, June 23, 1976]

MATHIAS BLASTS CRIME INACTION

ANNAPOLIS.—Citing a rising rate of juvenile crime, Sen. Charles McC. Mathias said Tuesday that government at all levels has done a "lousy job" of preventing juvenile delinquency.

The assessment of government programs was made by the Maryland Republican following the first of two hearings this week in Maryland by the Senate Juvenile Delinquency Subcommittee, of which he is the ranking GOP member.

Mathias' opinion was not challenged by any of the eight witnesses ranging from a prosecutor to a former teenage criminal who appeared before the panel to urge greater government spending to combat the juvenile crime problem.

"It's shocking to find in Anne Arundel county alone juvenile crime is up 100 per cent in five years," said Mathias, whose subcommittee is reviewing the operation of the Federal Juvenile Justice and Delinquency Prevention Act of 1974.

"If government can't do better than this, it surely is just a matter of time before the governed withdraw their consent altogether," he said, adding that the rising juvenile crime rate indicates the 1974 law and its funding program have been a "spectacular failure."

"We've done a lousy job of prevention of juvenile crime in the last five years," the senator said, adding that the chief emphasis should be on identifying potential juvenile offenders before they become criminals.

Peter Smith, a University of Maryalnd law professor specializing in juvenile justice, said that the juvenile justice system is a "total absurdity" because it is poorly funded and is last in line for anticrime appropriations.

"It's all a big facade," he charged. "The system is designed to serve the system. The people in the system are serving the system. They are not serving the victims. They are not serving the defendant."

State's Atty. Warren Duckett of Anne Arundel county said the normal juvenile justice system is filled with inefficiency and places more importance on processing of individuals than improving them.

Duckett said he is pleased with the operation of a pilot program in the county under which juvenile offenders voluntarily go before an arbitrator in their community for hearings instead of the formal judicial system. The arbitrator can order offenders to work for county agencies as punishment.

Duckett said the program has had a lower repeat offender rate than the normal juvenile justice system and for the first time has involved the victim of a juvenile crime in the adjudication process.

Mr. MATHIAS. Mr. President, I reserve the remainder of the time.

The PRESIDING OFFICER. Who yields time?

Mr. MATHIAS. Mr. President, I ask unanimous consent that Mr. Michael Klipper of the staff of the Subcommittee To Investigate Juvenile Delinquency have the privilege of the floor.

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

Mr. McCLELLAN. Mr. President, I yield 5 minutes to the distinguished Senator from South Carolina.

Mr. THURMOND. Mr. President, I rise in opposition to the amendment offered by the distinguished Senator from Indiana. Although I understand his concern for juvenile justice programs, I am of the opinion that the percentage maintenance of effort requirement proposed by the Committee on the Judiciary more effectively carries out the original intent of the maintenance of effort requirement.

In 1974, Congress included a maintenance of effort provision as section 261 (b) of the Juvenile Justice and Delinquency Prevention Act. We also amended the Crime Control Act at that time to include a maintenance of effort provision in section 520(b). These provisions required that LEAA maintain at least the same level of parts C and E expenditures for juvenile delinquency programs as was expended in fiscal year 1972.

The purpose behind these amendments was not to give juvenile delinquency programs a larger slice of the Crime Control Act pie. Rather, our purpose was to insure that the funds made available under the Juvenile Justice and Delinquency Prevention Act were used to expand both the scope and overall amount of juvenile delinquency programing at the Federal and State level. Congress was guarding against the potential danger of a decreased emphasis on juvenile delinquency programs funded under the Crime Control Act and the transfer of program and project funding from the Crime Control Act to the Juvenile Justice Act.

In fiscal year 1975, the first year of funding under the Juvenile Justice and Delinquency Prevention Act, LEAA issued guidelines, binding upon the States, that insure the maintenance of the fiscal year 1972 level of effort. An extensive audit of fiscal year 1972 expenditures by each State—parts C and E block—and by LEAA—parts C and E discretionary—indicated that $111,851,054 of the total parts C and E fund allocation of $584,200,000 was expended for juvenile delinquency programs. This represents 19.15 percent of the available funds. Only those programs and projects which were clearly directed to juvenile delinquency were included in this total expenditure figure. I point this out because the 19.15 percent may be considered by some to be an inadequate overall juvenile delinquency grant program effort. To be accurate, however, one would have to consider the fact that many programs and projects indirectly impact the delinquency problem. For example, drug abuse projects, public education projects, citizens initiative projects, and many others significantly impact on delinquency. Yet these are not counted. General police funding is not counted in the total although 50 percent could be counted based on the proposition that juveniles account for 50 percent of all arrests for serious crime.

The Juvenile Justice and Delinquency Prevention Act was intended to be a supplement to the Crime Control Act effort. Congress did not intend to increase the relative proportion of Crime Control Act funds dedicated to juvenile programs. In view of the many aspects of law enforcement and criminal justice which compete for Crime Control Act funds I do not believe that the almost 20 percent of funds expended for clearly identifiable juvenile delinquency programs from parts C and E allocations can be considered inadequate.

For these reasons, maintenance of effort in the juvenile delinquency program area should be based on a proportional or percentage basis applied to the same sources of available funding for grant programs from which the 19.15-percent figure was derived. This will insure that Crime Control Act funds continue to be used to maintain the same relative emphasis on juvenile programing. That level may be greater or less than that current level of $111,851,054, depending on the future judgments Congress makes with regard to Crime Control Act appropriations.

If an increased emphasis on juvenile delinquency programing in future years is desired, that emphasis can be best accomplished through increased funding of the Juvenile Justice and Delinquency Prevention Act. Otherwise, we run the risk of building inflexibility into and unnecessarily categorizing the Crime Control Act program.

Mr. HRUSKA. Yesterday, an amendment was passed which required LEAA to establish an organizational group within LEAA to deal with a community anticrime program and to enable community and citizen groups to form volunteer anticrime units. I supported the amendment because I think community anticrime programs can be extremely effective in dealing with crime.

There is one point I would like to emphasize. When we are talking about community anticrime programs, we are talking about the full range of programs carried out by individual neighborhood and community groups, but also programs benefiting communities funded through national organizations such as the Junior League, the Urban Coalition, and the AFL–CIO. It encompasses all the types of programs currently funded by LEAA under its citizens' initiative efforts.

The PRESIDING OFFICER. Who yields time?

Mr. HRUSKA. Mr. President, I suggest the absence of a quorum, which should not be charged to either side.

The PRESIDING OFFICER. Is there objection? Without objection it is so ordered, and the clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

Mr. MANSFIELD. Mr. President, will someone yield me some time so I can ask some questions?

Mr. McCLELLAN. I yield 5 minutes to the Senator on the bill.

Mr. MANSFIELD. Mr. President, I would like to ask the distinguished Senator from Indiana, just what are the specific and basic purposes of the amendment which he has placed before the Senate?

Mr. BAYH. The basic purpose of this amendment is to continue the thrust we established in the 1974 act.

In listening to my two distinguished colleagues describe our 1974 commitment, it is totally inconsistent, not only with the memory of the Senator from Indiana, but with the RECORD.

During the 1974 debate, in which the Senator from Nebraska was involved, on July 25, 1974, the CONGRESSIONAL RECORD, at page 25161, the two objectives of the act were set out:

One, to guarantee a Crime Control Act maintenance funding level for juvenile crime programs. We were told by LEAA and OMB that it was $140 million. The true figure of $112 million was revealed after passage of the act in cross examination at committee hearings.

Second, to establish a separate and new effort in LEAA pulling 39 different agencies together, under the Juvenile Justice and Delinquency Prevention Office, that effort is now being funded at $75 million. LEAA, now must assist prevent efforts.

The first year's authorization was $75 million. This year's authorization is $150 million. We are only getting 50 cents on the dollar that we contemplated when the bill was passed.

Contrary to the assertions made, my amendment is not going to harm any other program in LEAA.

I do not know how extensive an answer the leader wants here, but what we are talking about is mandating that we have at least a 20 percent, or 19.15 percent, level for juvenile crime throughout LEAA programs.

Mr. MANSFIELD. If the Senator will yield to me, he has answered my point, I believe.

He is calling for an increase to take care of the juvenile delinquency and criminality which seems to be becoming more apparent percentagewise.

Mr. BAYH. Fifty percent, as I am sure the Senator knows, of all serious crimes committed in America are committed by young people under age 20. Fifty percent, and we are proposing across the board, with prosecutorial training, police officer training, juvenile institutions, et al., at least 19.15 percent within each category be directed to that age group that is causing 50 percent of the trouble.

Mr. MANSFIELD. Mr. President, I thank the Senator.

I would like to ask the chairman of the subcommittee, if this increase is granted, what would happen to the rest of the program as reported out of committee and now pending before the Senate?

Mr. McCLELLAN. This extra money has to come out of the other programs.

I might point out to the distinguished Senator what has happened. He speaks of $150 million being authorized in this special, extraordinary program for juvenile delinquency; $75 million has already been appropriated for that.

It does seem to me that if there is to be additional money for juvenile delinquency, the increase should be added to the special program for juvenile delinquency and not taken out of all these other law enforcement programs. That is what we are doing. The appropriations bill was for the $75 million. There was an authorization of $150 million.

No amendment was offered, I do not believe, by the Senator on that to increase it.

That was the place for it. But now the distinguished Senator wants to take it out of these other programs.

I point out to the Senator that in 1975, the total appropriation for LEAA under the Crime Control Act was $880 million. This year, only $678 million.

We have undertaken in the bill to keep the percentage of whatever is appropriated the same for juvenile delinquency programs, notwithstanding the extra appropriations that have been given juvenile delinquency under the Juvenile Justice Act.

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

Mr. McCLELLAN. We are keeping the same percentage in this bill as in 1972.

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

Mr. McCLELLAN. We are just trying to keep it equitable.

Mr. BAYH. May I yield myself a couple of minutes on the bill?

The PRESIDING OFFICER. The Senator has no time on the bill.

Mr. BAYH. On the amendment, then.

The PRESIDING OFFICER. The Senator has 21 minutes.

Mr. BAYH. Here we have, I believe, a legitimate difference of opinion. But the fact of the matter is that when we passed the 1974 act, everybody participating in the debate knew that we were establishing a new office of delinquency prevention as well as maintain the Crime Control Act level for juvenile crime. That is where the $75 million was authorized.

The reason the Senator from Indiana did not ask for more money when it was in the Senate was that all of us supported a $100 million level. The Senate figure for delinquency prevention was $25 million more than the compromise. The Senate figure was $60 million more than that from the House and $100 million more than the administration. The track record of the Senate on the funding for juvenile justice has been good, with the help of the Senator from Arkansas and the Senator from Rhode Island. But it makes little sense to provide a good start for the delinquency prevention office with one hand and then eliminate or significantly reduce the Crime Control Act maintenance level with the other. One hand not knowing what the other is doing or by design acting inconsistently has been the trademark of this administration on the issue of juvenile justice.

Mr. McCLELLAN. That is what the Senator is doing.

Mr. BAYH. No. That is what the Senator from Arkansas would have us do in the bill as it now stands.

Mr. McCLELLAN. Will the Senator yield for a moment? Where is this extra money coming from, except out of these other programs?

Mr. BAYH. The Senator is talking about apples and oranges.

Mr. McCLELLAN. It must come from regular funds.

Mr. BAYH. The Senator is talking about different things. That is part of our problem. The Senator says we ought to do all the juvenile crime fighting only in the special juvenile delinquency prevention office and that that is where I should be asking for additional resources. What good does it do for me to ask for the $75 million that we now have for the juvenile delinquency prevention office when, if we accept his proposal, we will have $30 million less next year than we are spending this year for local communities C and E programs?

Mr. McCLELLAN. Will the Senator yield?

Mr. BAYH. I will be glad to yield.

Mr. McCLELLAN. We have an appropriation for LEAA already passed of $200 million less than we had in 1975. The appropriations are going down for these programs. The special juvenile program, however, was enacted to undertake to meet that particular crisis. When we did not get all the money the Senator wanted in that program, the Senator comes and says we will take it out of all of these other LEAA programs. That is the effect of it. It cannot be anything else.

Mr. BAYH. The Senator from Indiana did not ask for more money. We received $100 million when the Senate passed the bill. At that time we were operating under the 1974 formula, which would have also had $112 million Crime Control Act moneys going back to the local communities. The Senator from Arkansas is asking for only $82 million to go back to local communities.

Mr. McCLELLAN. The Senator is getting the same percentage of the total appropriation under this bill that he received in 1972. The trouble is the appropriations have been reduced by $200 million. The Senator does not want the juvenile delinquency program to bear any part of that loss, notwithstanding the fact that we have passed a law and appropriated $75 million extra for that program, in addition to this. I do not think these other programs should be penalized.

Mr. BAYH. What decline? In 1972, LEAA expended $698,919,000. In fiscal 1977, we have provided $753 million for LEAA. So LEAA has a larger budget this fiscal year than in 1972 when LEAA reported that they spent $140 million Crime Control Act funds for juvenile crimes. As we later found out, however, they were not spending $140 million. When we got right down to looking at the fine print they were only spending $112 million.

If everybody likes what is happening out here on the streets, if everybody likes these glaring FBI report figures, then maybe we ought to support the status quo approach. Then we ought to be willing to accept the same percentage and let the emphasis on juvenile crime be reduced as far as total dollars are concerned.

But I do not like what is happening. And I reject this approach.

I would like to point out what we are talking about here. The stark figures that reveal the human misery that we speak about this morning.

Here is the 1974 FBI report: Robberies committed by persons under age 10, 571; aggravated assaults, under age 10, 814; ages 11 to 12, 2,000 robberies, 1,600 aggravated assaults; ages 13 to 14, 7,300 robberies, 5,400 aggravated assaults; age 15, 7,000 robberies, 4,700 aggravated assaults; age 16, 8,800 robberies; age 17,

9,400 robberies and 7,000 aggravated assaults. On and on and on. We must have a Federal effort commensurate with the nature and extent of juvenile crime in this country.

We are talking about kids preying on society. What I am suggesting is we ought to do something about it.

What I am saying is that there must be some give. The amendment offered by the Senator from Indiana would require $17 million more of Crime Control Act funds than would be available under the present maintenance level for juvenile crime. That $17 million will be spent within the categories of other programs. We are talking about a 2-percent increased emphasis on juvenile delinquency. We are talking about using $17 million more out of $753 million for juvenile crime throughout the range of LEAA programs. I think that is a very good investment. It should be more. The Senate figure of $100 million which we passed to deal with juvenile delinquency prevention was the Senate level. Unfortunately, we had to compromise and give up $25 million of that.

In 1973, we mandated a 30-percent level. This Senate passed a requirement that 30 percent of C. & E. grants be devoted to juvenile delinquency programs. Those moneys would go back to the local communities. We required that 30 percent be mandated for juvenile programs.

Now I am being criticized because I suggest the whole program ought to be less than 20 percent.

Let us not spoil the Senate's record. We have been far ahead of the White House in trying to provide some leadership for the country, in emphasizing the importance of juvenile delinquency programs, and I hope we will stay there.

Mr. McCLELLAN. Mr. President, I yield myself 2 minutes.

I have not criticized the Senator. By the same token, he is criticizing me for trying to protect all these other programs. I do not consider it criticism.

I believe we have a right to disagree without calling it criticism.

Mr. BAYH. Let me change the RECORD to say that the Senator from Arkansas and his friend from Indiana disagree. We are not criticizing one another.

Mr. McCLELLAN. Not criticizing. Very well.

Mr. BAYH. And we are smiling while we are disagreeing.

Mr. McCLELLAN. We are what?

Mr. BAYH. We are smiling while we are disagreeing.

Mr. McCLELLAN. If the RECORD can reflect that, I agree that it may so show.

Mr. President, I yield 5 minutes to the distinguished Senator from North Dakota.

Mr. BURDICK. Mr. President, I rise in opposition to the amendment submitted by the Senator from Indiana. It is with some reluctance that I do so because I recognize that the Senator from Indiana has worked hard to fashion programs designed to alleviate the juvenile delinquency problems in this country. In recognition of the Senator's great interest in juvenile matters, when S. 2212 was considered in the Judiciary Committee, the committee agreed to one of his amendments which would sustain the level of funding under parts C and E of the LEAA program. Thus the bill as reported by the committee would allocate 19.15 percent of parts C and E funds for juvenile programs. I do not believe that the Senate should go beyond the provisions of the bill and mandate that the same percentage be allocated to juvenile programs under all other parts of the act.

My reasons for reaching this conclusion are simply these:

During its consideration of this bill the committee had to deal with the request of State courts systems that a fixed percentage—20 percent—of block grant funds be earmarked for State courts. While there were strong arguments for such a percentage to be allocated for courts, ultimately it was concluded that if each segment of the criminal justice system was able to obtain a specific percentage of the funds that there would be little, if any, discretion left either to LEAA or to the State planning agencies. In lieu of a fixed percentage, the present bill contains language requiring LEAA to see that State courts get an adequate share of the available funds.

If we are to deny to State courts systems a specific earmarking of funds, I do not see how we can grant such a specific allocation to juvenile programs beyond that which the committee has already agreed to under parts C and E.

My second reason in concluding to oppose this amendment is the fact that the appropriation for LEAA has been reduced from approximately $1 billion to approximately $678 million. This will necessarily mean that the police, the courts, corrections and all other segments of the criminal justice system will receive less funds than in previous years.

I am particularly concerned with corrections, because I happen to be chairman of the Judiciary Subcommittee on Penetentiaries. This would mean a reduction in the following programs, among others: adult correctional and rehabilitation programs, work release programs, prison industries programs, and community based correction programs.

If we have one problem in this country, it is the question of recidivism; and I would not want to see any lowering of the program in that particular area.

If at the same time we are reducing the overall funding we were to write into the law a specific percentage allocation for juvenile programs, this would cause an even greater reduction in the amount of funds available to police, courts, corrections and other segments of the criminal justice system. It may be that in some States it is necessary for the State planning agency to spend more money on courts or on juvenile programs, but basically this is a decision that should be left primarily to State authorities acting through the State planning agency.

For these reasons Mr. President, I wish to oppose the amendment offered by the Senator from Indiana.

Mr. McCLELLAN. Mr. President, I now yield myself 3 minutes.

I think we should get this in proper perspective. The question before us is, are we going to increase to the extent of this amendment, up to $129 million, the appropriation that must be expended for juvenile delinquency programs under the Crime Control Act?

Mr. President, just as the distinguished Senator from North Dakota has pointed out, to the extent that we further increase the funds that must be spent on juvenile delinquency programs in the pending bill, every dollar of that has got to come out of funds for administration and these other law enforcement programs to which the distinguished Senator from North Dakota has referred and several others which I have already placed in the RECORD.

I do think, in all fairness to the whole criminal justice system, and to every condition that prevails today in crime, that each program under the Crime Control Act should bear its fair share of budget cuts, including juvenile delinquency. I do not believe simply because the Senate appropriations bill for $100 million for programs under the Juvenile Justice Act was not able to prevail in conference with the House of Representatives, and was reduced to $75 million, that we ought to come back here now and take it out of the hide of these other programs. They have some value, too.

Juvenile delinquency is not the only problem in this country today in the enforcement of the laws. If there is a locality or a State where there is special need for more money to deal with juvenile delinquency, there is no reason why they cannot get it under part C or part E. But to simply say that we are going to take 30 percent—it actually figures out, I believe, to 27 percent—of all of the money appropriated this year and require it to be spent for one single program, to the exclusion of the others, in my judgment is not equitable. It will not serve the best interests of law enforcement. When the cities, municipalities, and States seek money for other purposes, it will not be available, and those programs will not be approved because we will have taken a disproportionate share of the funds, singled them out, and put them in one single program.

This does not increase appropriations. It all comes out of the total; and when you take it out of the total, you take it away from the other existing programs and from the potential approval of new programs that may be submitted by your State and local planning agencies.

It is a matter that addresses itself to Congress, of course. But, Mr. President, I do not believe, if the membership of this body fully understood this issue, they could conscientiously vote to penalize, in effect, the other programs in order to benefit this one, which has already received extraordinary special treatment to the amount of an additional $75 million.

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

Mr. BAYH. Before the Senator yields, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. McCLELLAN. I yield to the Senator from Maryland—for a question, or does the Senator wish to make a speech?

Mr. MATHIAS. No, I just wish to raise a question with the Senator, because I am impressed and disturbed at what he says.

The facts of this situation are not doubted. Half of our crime in this country is being committed by juveniles. It is on the increase. As I said earlier, in parts of Maryland juvenile arrests are up 100 percent in the last 4 years. So whatever we are doing we are either not doing enough of, or not doing it right.

The Senator says, and I cannot contest what he says, that this amendment would starve other programs.

Maybe—and this is the question I have—maybe what we have to face very frankly is that we are not mounting a sufficiently strong and adequate war against crime in this country across the board. Maybe we are approaching it with inadequate resources, and that is the answer.

Mr. McCLELLAN. Would the Senator agree with me that here we have a multiplicity of programs that we are trying to protect and take care of under this bill?

Mr. MATHIAS. Surely I do.

Mr. McCLELLAN. And we have a special act and a special authorization of $150 million thereunder for the area in which the Senator is demonstrating his interest and which this particular amendment would undertake to serve.

It does seem to me, as a matter of practical justice, equality, and fairness to the other programs, since we have the means to provide more money for this purpose under the Juvenile Justice Act.

All you have to do is ask for more appropriations under that act. I might support them.

But I hate to take it away from other programs that I know are good, because they have already been reviewed.

It is no answer to say that juveniles commit over 50 percent of the crimes in this country. The courts process juveniles' cases; we are taking that away from them. Correction facilities are used for custody of juveniles; we are taking that from them. The police must solve these crimes and arrest those who commit them; we are taking money from all of that.

And above all, if this program is to do any good at all, in my judgment we have to listen to the local governments, the local entities, the municipalities, who know their problems best, and who submit a plan which, if approved, these funds undertake to accommodate, under the Juvenile Delinquency Act there is an authorization for $150 million and the Senator could offer an amendment on an appropriation bill for additional funds for it. That is the place to get the money rather than take it away from these other programs. Those Senators who favor this still have the opportunity to offer an amendment to an appropriation bill to increase those funds. But if we are really trying to get the money, let us get it out of additional appropriations and not from these other valued programs.

Mr. MATHIAS. If I could respond very briefly, I think the Senator is so right when he says we have to consider what the people on the front lines—the local people who deal with the problem—suggest. I can only reflect that I went to the local people. We took the subcommittee to Annapolis, Md., where this problem is a serious one, and they are desperate for help. As much as I would like to think that we could resolve this problem on an appropriations basis, and I think the Senator may be right that may be the ultimate solution to it——

Mr. McCLELLAN. That is right.

Mr. MATHIAS. But that is a speculative solution.

Mr. McCLELLAN. Will the Senator agree with me, it would be the right procedure rather than to deal unfairly with the other programs?

Mr. MATHIAS. I agree that perhaps what we are doing here is trying to fight a major war with inadequate troops, and we really perhaps have to as a nation, not simply as a couple of Senators in an empty Chamber this morning, but as a nation we may have to decide that we are going to have to commit more funds, more of our national wealth, to this problem if we are going to get it resolved.

Mr. McCLELLAN. The Senator understands my position. I am not taking issue with him with respect to that at all. It is a question of procedure here and what we are going to do with these other programs.

Mr. MATHIAS. Right.

Mr. McCLELLAN. Are we going to weaken them or not.

Mr. MATHIAS. I think the Senator and I stand on the same ground really.

Mr. McCLELLAN. All right.

I hope then that this effort to secure more money for the juvenile delinquency program will be made in the proper way under the Juvenile Justice Act and under the appropriation for that act and not do injury to the other legitimate law enforcement programs by taking money away from them.

Mr. BAYH. Mr. President, I wish to deal with both of these points.

The PRESIDING OFFICER. Is the Senator yielding time on the amendment?

Mr. BAYH. Yes, I yield myself time.

I have reviewed these facts and figures, and I do not in any way question the good faith of any of our colleagues who disagree. I simply look at these facts and figures and arrive at a much different conclusion. We are trying to encourage expanded community participation, not less. That is the heart of the 1974 act.

I ask unanimous consent to print in the RECORD a letter from the American Legion, a resolution from the National Council of Juvenile Court Judges, a telegram from the president of the National Council of Jewish Women supporting No. 2042, and a resolution of the National Association of School Security Directors, recommendation of the IWY Commission, and a list of those groups that have local private agency constituencies as the Boy Scouts and Girl Scouts, Campfire Girls, the YMCA, YWCA, and the Boys Club, endorsing the Juvenile Justice and Delinquency Prevention Act of 1974.

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

THE AMERICAN LEGION,
Washington, D.C., July 21, 1976.

DEAR SENATOR: The American Legion urges your support of Senator Bayh's amendment to S. 2212, The Crime Control Act of 1976, which is scheduled for floor action Friday, July 23.

The Bayh amendment would require that the Law Enforcement Assistance Administration each year shall maintain from appropriations a minimum level of financial assistance for juvenile delinquency programs that such bore to the total appropriation for the programs funding pursuant to part C and E of this title, or 19.15 percent of the total LEAA appropriation.

It is believed this formula approach affecting every area of LEAA activities provides a more equitable means of allocating crime control funds more nearly in proportion to the seriousness of the juvenile crime problem.

It is interesting to note that while youths within the age group 10–17 account for only 16 percent of our population they represent 45 percent of persons arrested for serious crime. More than 60 percent of those arrested for criminal activities are 22 years of age or younger.

The American Legion believes that the prevention of juvenile crime must clearly be established as a national priority, rather than one of several competing programs under LEAA jurisdiction. Your support of the Bayh amendment would help assure this.

Sincerely,

MYLIO S. KRAJA,
Director, National Legislative Commission.

PROVIDENCE, R.I., *July 19, 1976.*

Senator BIRCH BAYH,
State Office Building,
Washington, D.C.

The National Council of Juvenile Court Judges at their annual convention in Providence Rhode Island on July 15, 1976 have instructed me to convey council's support to Senator Birch Bayh's amendment to S. 2212 which will require that 19 percent of the total LEAA appropriation be allocated for juvenile delinquency prevention and control program.

Hon. WALTER G. WHITLATCH,
President, National Council of Juvenile Court Judges.

NEW YORK, N.Y., *July 22, 1976.*

Hon. JAMES O. EASTLAND,
U.S. Senate,
Washington, D.C.

Urge you support Senator Bayh's amendment to Crime Control and Safe Streets Act of 1968. Juvenile crime prevention should be a priority of the Federal crime program and must have the necessary financial resources.

ESTHER R. LANDA,
National President,
National Council of Jewish Women.

RESOLUTION

In general assembly the National Association of School Security Directors on this 15th day of July 1976, does hereby resolve:

Whereas, juveniles account for the arrests involved in over half the serious crimes in the United States, and

Whereas, numerous schools in this country are suffering from serious and at times critical levels of violence and vandalism, and

Whereas, Congress has passed into law the Juvenile Justice and Delinquency Prevention Act which effectively addresses itself to these growing problems.

Resolved, therefore, that the National Association of School Security Directors supports the full implementation of the Juvenile Justice and Delinquency Prevention

Act and supports the retention of the maintenance of effort section of the Act.

INTERNATIONAL WOMEN'S YEAR

(48) Recommendation approved by Child Development Committee January 12, 1976; by IWY Commission February 27, 1976:

JUVENILE JUSTICE AND DELINQUENCY PREVENTION

The IWY Commission recommends that the Federal Government support full funding toward carrying out objectives of the Juvenile Justice and Delinquency Prevention Act of 1974.

Discussion

The Juvenile Justice and Delinquency Prevention Act (Public Law 93-415) was overwhelmingly passed by a vote of 88 to 1 in the Senate and 329 to 20 in the House of Representatives, then signed by President Ford in September 1974. This act was designed to assist communities in developing humane, sensible, and economic programs to help troubled youth and the estimated one million youngsters who run away each year. The majority of runaways are girls between the ages of 11 and 14.[1]

The act provides Federal assistance for local public and private groups to establish temporary shelter-care facilities and counseling services for young persons and their families. The act clearly has in mind—and this committee supports—facilities such as those recommended by the Juvenile Justice Standards Project, 1973-76,[2] which calls for

". . . voluntary community services, such as crisis intervention programs, mediation for parent-child disputes, and residences or 'crash pads' for runaways, as well as peer counseling, disciplinary proceedings or alternate programs for truants as responses to noncriminal misbehavior."

The Project Guidelines call for neglect or abuse petitions to be filed "where children are found living in conditions dangerous to their safety or welfare."

The Juvenile Justice and Delinquency Prevention Act of 1974 will enhance the visibility of the special problems of female offenders. Section 223(a)(15) requires that "States must provide assurance that assistance will be available on an equitable basis to deal with all disadvantaged youth including, but not limited to, females, minority youth, and mentally retarded and emotionally or physically handicapped youth."

The act requires that States participating in funding must, within 2 years, place status offenders in shelter facilities, rather than in institutions, and must avoid confining juveniles with incarcerated adults. Status offenses, the subject of the committee's recommendation on status offenders (page 158) include conduct that would not be criminal if committed by an adult; typical status offenses include running away, truancy, incorrigibility, and promiscuity.

Despite strong congressional support for the Juvenile Justice and Delinquency Prevention Act, there has been a lack of executive policymaking support, most graphically illustrated by executive branch efforts to defer expenditure of moneys appropriated to implement the act.

The Child Development Committee supports funding the act at the $40 million level, which would still be less than one-third of the funding level anticipated in the original legislation. It believes substituting new approaches for old "crimefighting" programs in the juvenile field could produce:

More culturally relevant programs designed by and for minority youth;

Programs in which young women in institutions can explore career training that goes beyond such traditional roles and skills as food services or cosmetology;

Expanded programs of education about law, as well as legal services, both aimed at juveniles so that they will be able for the first time to explain legal terms like "assault" or "larceny" for themselves and their peers;

Increased training for staffs of community programs that deal with juveniles to provide useful administrative techniques as well as basic knowledge about the growth and development of young people who may be in trouble;

Creative probation projects that avoid traditional approaches in which probation officers offer this limited admonition: "listen to me and report to me," and are frequently unable to offer needed services or supportive supervision:

Alternatives to the usual detention home or training school for minors who, because of learning or behavioral problems, need special education or supervision.

The Child Development Committee particularly would like to see funding under the act used to develop computerization of available shelter-care services for juveniles. The need was emphasized by Milton Luger, assistant administrator of the Juvenile Justice Office of the Law Enforcement Assistance Administration (LEAA):

"Mechanically, it always impressed me that I can get an airlines seat location in two minutes, and it takes two months to find an empty bed for a kid."

Centralized referral should be available to but independent of the juvenile justice system.

The Child Development Committee encourages support for the Federal Coordinating Council of LEAA in its efforts to coordinate all Federal programs and funding for delinquency prevention, treatment, and control, as these factors enhance normal child development. The interrelationships between child abuse, learning disabilities, poverty, malnutrition, and delinquency must be fully understood in order to resolve the problems.

INTERNATIONAL WOMEN'S YEAR

Report: ". . . To Form a More Perfect Union. . . ." Part II: Today's Realities—Parents and Children: Enriching the Future p. 88-89.

The Commission endorses these parenthood programs in the school, hoping that education will help to break the chain of social problems that is linked to immature and uninformed parenting practices.

Senator Birch Bayh, a member of the Commission and sponsor of the Juvenile Justice and Delinquency Prevention Act of 1974 (Public Law 93-415), has said:

"Clearly it is better economics to raise whole, functioning members of our society than it is to spend 35 times as much feeding the results of our neglect—crime and welfare—after the time for constructive action has passed."

ORGANIZATIONS ENDORSING THE JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT OF 1974 (PUBLIC LAW 93-415)

American Federation of State, County and Municipal Employees.
American Institute of Family Relations.
American Legion, National Executive Committee.
American Parents Committee.
American Psychological Association.
B'nai B'rith Women.
Children's Defense Fund.
Child Study Association of America.
Chinese Development Council.
Christian Prison Ministries.
Emergency Task Force on Juvenile Delinquency Prevention.
John Howard Association.
Juvenile Protective Association.
National Alliance on Shaping Safer Cities.
National Association of Counties.
National Association of Social Workers.
National Association of State Juvenile Delinquency Program Administrators.
National Collaboration for Youth: Boys' Clubs of America, Boy Scouts of America, Camp Fire Girls, Inc., Future Homemakers of America, Girls' Clubs, Girl Scouts of U.S.A., National Federation of Settlements and Neighborhood Centers, Red Cross Youth Service Programs, 4-H Clubs, Federal Executive Service, National Jewish Welfare Board, National Board of YWCAs, and National Council of YMCAs.
National Commission on the Observance of International Women's Year Committee on Child Development Audrey Rowe Colom, Chairperson Committee Jill Ruckelshaus, Presiding Officer of Commission.
National Conference of Criminal Justice Planning Administrators.
National Conference of State Legislatures.
National Council on Crime and Delinquency.
National Council of Jewish Women.
National Council of Juvenile Court Judges.
National Council of Organizations of Children and Youth.
National Council of Organizations of Children and Youth, Youth Development Cluster; members:
AFL-CIO, Department of Community Services.
AFL-CIO, Department of Social Security.
American Association of Psychiatric Services for Children.
American Association of University Women.
American Camping Association.
American Federation of State, County and Municipal Employees.
American Federation of Teachers.
American Occupational Therapy Association.
American Optometric Association.
American Parents Committee.
American Psychological Association.
American Public Welfare Association.
American School Counselor Association.
American Society for Adolescent Psychiatry.
Association for Childhood Education International.
Association of Junior Leagues.
Big Brothers of America.
Big Sisters International.
B'nai B'rith Women.
Boys' Clubs of America.
Boy Scouts of the USA.
National Council of Organization of Children and Youth, Development Cluster; members, continued:
Child Welfare League of America.
Family Impact Seminar.
Family Service Association of America.
Four-C of Bergen County.
Girls Clubs of America.
Home and School Institute.
Lutheran Council in the USA.
Maryland Committee for Day Care.
Massachusetts Committee for Children and Youth.
Mental Health Film Board.
National Alliance Concerned With School-Age Parents.
National Association of Social Workers.
National Child Day Care Association.
National Conference of Christians and Jews.
National Council for Black Child Development.
National Council of Churches.
National Council of Jewish Women.

[1] Senator Birch Bayh, author of the act and Chair of the Subcommittee to Investigate Juvenile Delinquency for the U.S. Senate Judiciary Committee.

[2] Sponsored by the Institute of Judicial Administration and the American Bar Association and headed by Chief Judge Irving R. Kaufman of the U.S. Court of Appeals for the Second Circuit.

National Council of Juvenile Court Judges.
National Council of State Committee for Children and Youth.
National Jewish Welfare Board.
National Urban League.
National Youth Alternatives Project.
New York State Division for Youth.
Odyssey.
Palo Alto Community Child Care.
Philadelphia Community Coordinated Child Care Council.
The Salvation Army.
School Days, Inc.
Society of St. Vincent Paul.
United Auto Workers.
United Cerebral Palsy Association.
United Church of Christ—Board for Homeland Ministries, Division of Health and Welfare.
United Methodist Church—Board of Global Ministries.
United Neighborhood Houses of New York, Inc.
United Presbyterian Church, USA.
Van der Does, William.
Westchester Children's Association.
Wooden, Kenneth.
National Federation of State Youth Service Bureau Associations.
National Governors Conference.
National Information Center on Volunteers in Courts.
National League of Cities.
National Legal Aid and Defender Association.
National Network of Runaway and Youth Services.
National Urban Coalition.
National Youth Alternatives Project.
Public Affairs Committee, National Association for Mental Health, Inc.
Robert F. Kennedy Action Corps.
U.S. Conference of Mayors.

Mr. BAYH. If it had not been for broad based grassroot support we never would have been able to enact the Juvenile Justice Act. Those at home who have been receiving assistance under the 1974 maintenance provision are the ones who are going to suffer under the committee bill.

I think the question of where local communities are on this issue is rather evident. They want us to continue to increase the priority for juvenile crime programs. I think we better.

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

Mr. BAYH. I yield.

Mr. McCLELLAN. There is no prohibition in this bill for using any part of part C and E funds for juvenile delinquency programs, notwithstanding all the other money that is specially appropriated under the Juvenile Justice Act. The State and local governments can submit plans for spending more money on juvenile delinquency programs. The Senator's amendment increases the amount of money that must be spent on juvenile programs whether the States and localities deem it wise or not.

Mr. BAYH. That is right.

Yes, both the pending bill and my amendment requires 19.15 percent be spent of C and E on juvenile programs.

I am sure that the Senator from Arkansas is as concerned, if not more so, than the Senator from Indiana about youth crime and juvenile delinquency. There is no question about that. But the fact of the matter is that if the committee bill formula is accepted there is going to be $30 million less available at home for local communities, YMCA's, boys' clubs, and local programing under C and E programing than is now required under the formula that we established in the 1974 act, the committee provision is not adopted, $30 million more will go to local communities.

Mr. McCLELLAN. Will the Senator yield on my time?

Mr. BAYH. I am glad to yield on the Senator's or my time.

Mr. McCLELLAN. Notwithstanding, juvenile delinquency will have less money mandated. These $30 million, as he says, would be available to all the programs, including juvenile delinquency, according to the priorities established by State and local governments. We are simply trying to equalize this thing. Even then, we have already given special treatment of $75 million to LEAA for juvenile programs under the Juvenile Justice Act. Under the Crime Control Act we are trying to keep it equitable so that no program will get seriously hurt.

Mr. BAYH. Let me explore that because I do not wish to damage other programs or categories and my amendment does not, but the fact of the matter is that the only LEAA programs that have had the percentage limitation or the dollar figure limitation have been the grant programs going back to local communities. As to administrative costs, research, technical assistance, court programs, training and other components, there is no priority for juvenile crime. Only the 1972 figure of $112 million was limited for local juvenile crime programs. Other programs are not going to suffer if a minimum of each within its own area must go for juvenile crime efforts. The Senator from Indiana is saying that there ought to be a minimum requirement for all programs. I think it is important for us to take a good, hard look—a realistic look—at what happened yesterday. Forty-five Members of this body vote to decrease the tenure of this bill. Only three votes kept the length of this bill from being decreased from 5 to 3 years. We are having significant criticism directed at LEAA, and I think the reason we have had criticism directed at LEAA is it has not been doing the job, especially with regard to juvenile crime. Many good judges and law enforcement officials are not getting adequate support and resources to deal with juvenile crime or to focus early enough in the life span of a would-be criminal. Too often assistance has only been available when we deal with repeat offenders instead of when we have a chance for change. We must make LEAA more responsive to juvenile crime.

When we passed the 1974 act, the record will show that, Congress intended to provide special moneys for special emphasis for the juvenile delinquency prevention program and also to require that at least $112 million be spent from other LEAA funds to fight juvenile crime. This is not any new and novel approach that the Senator from Indiana has just now suggested. That is what we decided in 1974. The law required it in 1975. Here we are in 1976 with some trying to repeal the dual thrust of the act.

I want us to look at what this means in resources. Now LEAA must maintain grants of $112 million for local communities. If the committee amendment is approved and the Senator from Arkansas is successful the maintenance level will be decreased by $30 million, a 26-percent decrease in the amount of block grant moneys we will send back to local communities to fight juvenile crime. We can ignore that fact. The committee bill will decrease, not maintain the status quo, C and E funds in this area by $30 million.

I shall deal with what I think is a legitimate concern that has been raised by the Senator from Arkansas. What about the other programs? What the Senator from Indiana tried to do in committee, as he knows and the Senator from Nebraska knows, was to retain the maintenance of effort level. The 1974 law requires $112 million of block C and E grants for local juvenile crime programs. Despite the fact the youths commit 50 percent of the crimes, we are struggling to maintain the existing level and the administration was lobbying to repeal the program altogether. I was defeated and I thought that perhaps another approach would satisfy concerns of others and still retain the priority on juvenile crime.

So if Senators are concerned about the amount of money that is going back to local communities for juvenile delinquency under C and E grants, the Senator from Indiana's percentage approach is identical with the percentage approach of the Senator from Arkansas. Not one cent more will go back to local communities under C and E grants if my amendment is successful than would be the case under the present bill. Both figures would be $82 million.

What the Senator from Indiana is saying is this: Let us have the same test apply to the other programs and categories.

A so-called sheet was distributed late yesterday to the Members. I am sure all Senators have a copy of the other programs that are allegedly to be destroyed—or at least damaged a little—by the Senator from Indiana's amendment. I should like to go down this list, because I think we are all trying to accomplish the same purpose.

Supposedly, programs for prevention of crimes against the elderly are going to suffer. Who do we think is preying on our older citizens? Not a cadre of 56-year-old persons. Not seasoned, old-time safe crackers. Professional cons are not beating elderly persons and stealing social security money. It is likely 17-year-olds, who have not learned better, who do not have jobs, often under circumstances where the swimming pool is closed, the playground is not available, and family problems are predominate.

If we do not emphasize the source of the problems and the culprits, we never are going to curb those who mug and assault our older citizens.

My amendment allegedly will hurt Indian justice programs.

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

Mr. BAYH. I yield.

Mr. McCLELLAN. If we are spending money to protect the elderly people, will not that money be spent to protect them from juvenile delinquents? If juveniles are committing 50 percent of the crimes, we are contributing to protecting them with respect to juvenile crime.

Mr. BAYH. I think that is what the Senator from Indiana just said. I have to say that I think my amendment will provide more protection for older people.

It is alleged that Indian programs will be hurt. My amendment recognizes that many native Americans in urban areas, on reservations alike are in desperate need of assistance of all varieties and would require of these Indian law enforcement programs funded by LEAA, that 19.15 percent should be directed for young Indians and those who will help assist Federal councils and others to prevent delinquency and fight juvenile crime. Surely because of past neglect the percentage to assist native Americans should if anything be higher.

It is claimed that drug and alcohol abuse programs will be hurt by my amendment. Whom are we kidding? Two-thirds of those with serious drug abuse problems are young people.

With respect to LEAA drug abuse programs, such as TASC, my amendment would require that 19.15 percent of the resources be focused on juvenile crime.

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

Mr. BAYH. I yield.

Mr. McCLELLAN. Will the Senator agree, then, that the money being spent in that program applies to youth, to try to prevent them from committing crime? So we are spending it on juvenile delinquency, to the extent that they are committing crimes, if we are spending it in trying to prevent drug abuse.

Mr. BAYH. That is not changed by the amendment of the Senator from Indiana. My amendment rather than destroying the alcohol and drug programs, would require that at least 19.15 percent of the funds be allocated for drug dependent youths on the juvenile justice system.

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

Mr. BAYH. I yield.

Mr. PASTORE. I am one who agrees with the Senator from Indiana. As a matter of fact, this has been an uphill struggle right along. The matter of juvenile delinquency and what part of the LEAA money goes to juvenile delinquency has been a struggle with which we have been grappling for some time.

The administration—it is beyond me to comprehend this—particularly the Justice Department, has been reluctant even to send up a budget estimate, and we have been prodding them time and time again to do so. Finally, the House, on its own initiative, suggested $40 million in the bill we have passed, and the President has signed it.

When the bill came before our committee, the subcommittee of which I am chairman—to the credit also of the Senator from Nebraska—we raised it to $100 million. We thought that the $40 million was only a token payment, because juvenile delinquency is rampant throughout the country.

Something should be done. As I have said before, an ounce of prevention is worth a pound of cure. So we raised it to $100 million. We went to conference, and there was a struggle there, also. Finally, we came out with $75 million.

It may well be that an argument can be made against the amendment of the Senator from Indiana inasmuch as he takes almost 20 percent of all the funds and puts them in one category. Perhaps the better way to have handled it would have been to have raised the authorization so that we would not take it from other areas.

Judges have been talking to us about more money. Police chiefs have been talking to us about more money. The various municipalities have been talking to us about more money. The fact remains that if we take a big chunk out in one direction and earmark it and dedicate it for that purpose, there is going to be a diminution of funds in other areas which are equally important, and I do not want to begin to put priorities here.

This struggle by the Senator from Indiana has been a perennial struggle. He has been trying time and time again, and I do not know how many letters I have received from him.

A short time ago, in my State, a conference of the juvenile justices from all over the country was held. Thirty-two States were represented. I was asked to keynote that particular convention, and I did. All I heard at that time from the judges was, "Please give us the facilities; give us the money to do something about it. We don't want to send these young offenders to jail. We don't want to put them in with hardened criminals. But you have to do something on a national level if you don't want to end up with a catastrophic situation."

I say to Senators that drug abuse has gone too far. How we ever are going to eradicate it, how we ever are going to prevent it, how we ever are going to educate our young people to do something about it is beyond me; but that is another problem.

This amendment may or may not be agreed to; but, so far as I am concerned, I do not think we are doing enough in the area of juvenile delinquency.

One of my responsibilities, as everyone in the Chamber knows, is as chairman of the Subcommittee on Communications. I have been trying to do something about violence on television.

In 1969, I wrote a letter to the Surgeon General, asking that he conduct a scientific study to establish whether or not there is a cause and effect as to the behavior of young children with relation to violence on television. We put up a million dollars. We had 23 independent studies made. By whom? By psychologists, anthropologists, psychiatrists, sociologists—the best minds in the country.

In 1972, the Surgeon General came before my committee and said that there is a causal relationship between violence on television and the behavior of young children.

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

The Senator from Arkansas has 5 minutes remaining.

Mr. PASTORE. Mr. President, will the Senator yield me 2 minutes?

Mr. McCLELLAN. I yield the Senator 2 minutes on the bill.

Mr. PASTORE. It grieves me to disagree with the distinguished chairman of the full committee. I know he has a responsibility here and I am not saying that he is wrong in his contention. I am merely trying to impress upon him as well that juvenile delinquency has gone out of bounds. Snatching handbags from women as they are going to church. Only the other day, they tell me, unprovoked, they picked up two little kids in front of their home and they put them in an automobile and one of the fellows that picked them up began to hit them with a hammer. What are we coming to? Has the country gone mad? Are we going to do something about this or are we not going to do something about this? This is what this is all about.

I repeat, again: It is too bad we had to do it this way. I hope that if the Senator from Indiana accomplishes anything, he emphasizes the need to do more in this area. We have been trying to do all that we possibly can. The best that I could do was $75 million this year. The President has signed that bill. I hope it helps and I hope that, in the future, whether this amendment passes or is defeated, we become conscious of our responsibility, because I am telling you that the worst scourge that can affict our society is not to do something about juvenile delinquency and to help these boys grow up to become law-abiding citizens.

I thank the Senator.

Mr. McCLELLAN. Mr. President, I yield myself 3 minutes.

I agree with practically everything that the Senator from Rhode Island has said. The only issue here is that we say we are not getting enough; I am not contesting that. I have supported the juvenile delinquency program all the way through and I am not opposing it now. My suggestion is that the best procedure for the Senate to provide more money for juvenile delinquency is to put it on an appropriation bill under the authorization of the Juvenile Justice Act. Do not put it on this and take money away, as the distinguished Senator from Rhode Island agrees that it would, from other valid, good programs.

As to the illustration the distinguished Senator gave about the two youngsters being picked up, it seems to me that is not juvenile delinquency unless they were picked up by juveniles.

Mr. PASTORE. They were juveniles.

Mr. McCLELLAN. If they were juveniles committing a crime, that is one thing. But the important thing is that we have to enforce the law as well as to try to prevent crime. I believe that the right way to increase expenditures on juvenile prevention programs would be to add more money to an appropriation bill for that purpose—there are other appropriation bills coming up—rather than take it away from these other pro-

grams. In my judgment, that is a better way to do it. I am fighting for the other programs, as well as this one. I am not opposing this one. But I am urging this body not to do an injustice on the one hand in order to serve what they believe to be justice on the other.

Mr. PASTORE. Will the Senator yield?

Mr. McCLELLAN. Yes, I yield.

Mr. PASTORE. Another thing that has bothered me, we have already passed an appropriation bill of $75 million and it is subject to the authorization bill being passed. I discussed this matter with the Senator from Indiana only yesterday. I am wondering, if his amendment does pass, whether that does not vitiate the $75 million? That is a serious thing. Then how do we cure that? We have already put in $75 million. We have already gone to conference. The conference has approved the $75 million, the President has signed the bill, but the appropriation is subject to authorization. If we change this authorization in another direction, what happens to the $75 million? Will that give this hesitating administration a reason to hold up even the $75 million? It might. I do not know. I hope we cure that.

Mr. BAYH. Would the Senator from Arkansas permit me 3 minutes on the bill to answer that question?

Mr. McCLELLAN. Yes.

Mr. BAYH. First, the Senator from North Carolina had a unanimous-consent request.

Mr. MORGAN. Mr. President, I ask unanimous consent that Bernard Nash of the Committee on the Judiciary be given floor privileges during the debate and vote on this bill.

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

Mr. BAYH. There is not a person in this body who has labored more diligently and been more vigorous in the area of juvenile delinquency than the Senator from Rhode Island. The Senator from Rhode Island had to drag this administration, kicking and screaming, into spending that first dime. Similarly, as I mentioned earlier, the Senator from Nebraska was a fundamental ingredient, a prime mover, in getting this bill passed. Yet when the President signed it he cited the availability of the $140 million which was really $112 million, of which he now seeks repeal, as the basis for opposing funding of the new preventation office. The Senator from Rhode Island ultimately obtained a compromise $25 million. The next year, he obtained a compromise $40 million. This year we provided, in the Senate, $100 million, and had to compromise on $75 million. The administration, especially OMB, fought every dollar, every step, citing the availability of the $112 million in the LEAA program, which their bill, S. 2212, would repeal.

The Senator from Rhode Island is saying, increase the juvenile justice program, and we got some increases partly through the effort of the Senator from Rhode Island. But the administration's response all along has been, "Don't do that, you have the money in the Crime Control Act. I say we have to look at the whole picture. The size of the whole pie that goes back to local communities under the maintenance provision and the new prevention program headed by Milt Lugen.

Mr. PASTORE. Is this money outside the LEAA?

Mr. BAYH. No.

Mr. PASTORE. That is what is bothering me, that the juvenile delinquency money is in the LEAA.

Mr. BAYH. On the specific question raised by the Senator from Rhode Island, the $75 million is not jeopardized because that is authorized through the juvenile justice program which does not expire until next year.

Mr. PASTORE. No, the money we got in the 1977 budget is subject to this bill that has to be passed.

Mr. BAYH. That is not so, I say to my friend from Rhode Island.

Mr. PASTORE. In other words, we are under authorization on the $75 million?

Mr. BAYH. We have obtained half the funding. The 1974 act was authorized at $150 million for fiscal year 1977.

Mr. PASTORE. Under that situation, I shall support the Senator's amendment.

Mr. BAYH. I thank the Senator from Rhode Island.

Mr. HRUSKA. Mr. President, this will put into perspective the remarks I made earlier, which bear petition. In America, the States and local governments spend for total law enforcement purposes in the range of $15 billion. The appropriation for the LEAA program, including title I of LEAA and title II of the Juvenile Justice Act, is three-quarters of a billion dollars. Forty-seven million dollars is the increase that the Senator from Indiana wants for his juvenile justice program. Forty-seven million dollars, as against a base of $15 billion, is miniuscule, but $47 billion is not minuscule when it is cast against the moneys that are available from Federal sources.

The answer is this, Mr. President, and the Senator from Arkansas has repeated it many times on this floor today: In order to give that $47 million increase to juvenile justice, we have to take it from other programs. When we try to reduce the program for the LEEP, the educational program for police officers—you talk about mail. We had mail by the bushel. They wanted that program restored to its previous levels of funding.

When the committee considered the amendments to establish judicial planning committees in the States we were asked for 30 percent of the entire appropriation to go to the courts and their programs. We could not do it.

Mr. BAYH. Will the Senator yield?

Mr. HRUSKA. My time is limited, I am sorry.

There are programs for the prevention of crime against the elderly, Mr. President. There are the discretionary funds by way of grants to States and cities. There is the program to reduce the court backlog. Each time we get into the matter of reducing those——

The PRESIDING OFFICER. The Senator's 2 minutes have expired.

Mr. HRUSKA. May I have 1 more minute?

The PRESIDING OFFICER. All time on the amendment has expired.

Mr. HRUSKA. May I have a minute on the bill?

Mr. McCLELLAN. Yes.

Mr. HRUSKA. Mr. President, it has been said that many witnesses appeared in favor of increasing the appropriation for juvenile justice. I wish it could be increased. I would vote for a larger appropriation for it, but not at the expense of reducing funds for other categories. Many of the witnesses who testified in favor of the juvenile justice program also testified in favor of some of these other programs. The question should have been put to each one of them: Now, then, if we have to cut $47 million, which of these other programs should we reduce, including the one that you are interested in?

I have an idea that the answer would be different. I have never see a dearth of witnesses in favor of an additional Federal grant of money. But when they are faced with the alternatives that Appropriations Committees are faced with, you have to choose by priority. It either goes one place or it is taken away from another place. We ought to let the appropriations remain at the $75 million level for juvenile justice under title II and the $83 million from title I of the Safe Streets Act, making a total of $158 million for this specific purpose, and allow the other programs to survive at their current levels.

Mr. HUMPHREY addressed the Chair.

The PRESIIDNG OFFICER. Who yields time?

Mr. HUMPHREY. I would like to ask a question, Mr. President, of the manager of the bill, if I might, just for purposes of information.

Mr. McCLELLAN. I yield myself a minute's time.

Mr. HUMPHREY. Might I ask the distinguished Senator from Arkansas is the authorization in this bill less or more than the budget request?

Mr. McCLELLAN. The authorization for the bill? The authorization is more.

Mr. HUMPHREY. Is more. How much more, may I ask the Senator?

Mr. McCLELLAN. The authorization is $1 billion, and the appropriation total $678 million.

Mr. HUMPHREY. I am talking about the administration's budget request, the administration's request.

Mr. McCLELLAN. For the whole bill is what I am talking about.

Mr. HUMPHREY. Yes, that is OK.

Mr. McCLELLAN. We have an authorization of $1 billion for fiscal year 1977.

Mr. HUMPHREY. In this bill?

Mr. McCLELLAN. Yes, for LEAA.

Mr. HUMPHREY. How does that compare with last year?

Mr. McCLELLAN. The authorization for last year was also $1 billion. The appropriations for fiscal year 1977 are about $100 million less than last year. That is our problem, may I say to the Senator. That is what is involved in here. The appropriations have gone down from $880 million in fiscal year 1975 to about $770 million in fiscal year 1976 to $678 million for fiscal year 1977. That rep-

resents a drop of almost 25 percent—$202 million.

Mr. PASTORE. Mr. President, will the Senator yield on that point? Last year we appropriated $809 million, including the Juvenile Justice Act program. The administration asked for $600 million for LEAA. We were ready to put in enough to go back to the amount that was appropriated in the previous year, the $809 million. In the meantime the House increased it by $140 million. When we went to conference we added another $15 million, so we are pretty close now to the efforts of Congress to the amount that was appropriated last year.

Mr. HUMPHREY. The point I make, and maybe the Senator can help me——

The PRESIDING OFFICER. The Senator's 1 minute has expired. Who yields time?

Mr. McCLELLAN. I yield 2 minutes on the bill.

Mr. HUMPHREY. If the amendment of the Senator from Indiana does what the distinguished Senator from Nebraska has said, in other words, takes $47 million from other programs—and I believe that is what the indication was—then the thing to do here, since we have got a problem of crime in this country that is second to none, and is a greater threat to our security than anything from external forces—the real problem that affects the people of this country today is the crime problem, and every citizen knows it—why do we not increase the authorization by $47 million. That is not going to bankrupt the budget.

We spend millions of dollars around here to protect us from the Russians. We have more problems with the people on the street than we do with the Russians.

Mr. HRUSKA. Mr. President, will the Senator yield? The appropriation bill for this item has been passed and enacted into law and, therefore, we have this ceiling and, hence, the necessity, if we increase one category we have to shift and reprogram the funds from many other programs to make up the increase in one category. That is our problem. If this were an appropriation bill the answer would be simple.

Mr. HUMPHREY. May I say to the Senator, we do have supplementals that come along, and the Senator and I have been here long enough so that we know the argument made here that the funds of the amendment of the Senator from Indiana will take money away from other essential programs——

Mr. McCLELLAN. That is right.

Mr. HUMPHREY. What the Senator is saying is that it would take money away because of the appropriation process. All I am saying here is to make it clear to the Appropriations Committee "if you increase the appropriations said amount when the supplemental comes up you can take care of it."

The PRESIDING OFFICER. (Mr. HOLLINGS). The Senator's time has expired.

Mr. McCLELLAN. There is $1 billion authorized, but we have appropriated this year $753 million, which includes $75 million specifically under the Juvenile Delinquency Act, not included in the moneys that will be available for other purposes.

Now, the amendment would earmark $129 million for juvenile delinquency programs, to the exclusion of other programs, in addition to the $75 million under the Juvenile Justice Act; am I correct?

Mr. BAYH. No, with all respect, my friend is not correct, and if I could have just a minute——

Mr. McCLELLAN. What is the amount, what does the Senator's amendment take?

Mr. BAYH. The present law requires, the law passed in 1974, when the figure we were spending for LEAA was $698 million less than the $753 million we now are spending.

Mr. McCLELLAN. But we have had these increases.

Mr. BAYH. When we decided in 1974 to change things, to start to reorder our priorities to match our needs, we said we were going to spend $140 million Crime Control Act priorities on young people through juvenile crime and delinquency programs.

Mr. McCLELLAN. That is correct.

Mr. BAYH. We are spending more now on LEAA than then.

Mr. McCLELLAN. That came to 19.15 percent, did it not, of the total expenditure for parts C and E that year?

Mr. BAYH. That is accurate.

Mr. McCLELLAN. That is what we are trying to continue.

Mr. BAYH. That is accurate. But what has happened, because of the way the Senator from Arkansas is approaching this, instead of spending $112 million he would have us spend $82 million, and the Senator from Indiana urges that we take that 19.15 percent figure that we decided was the minimal amount we were going to spend back in 1972, and let us——

Mr. McCLELLAN. May I say to the Senator, to get the record straight, it was September 1974 when the Juvenile Justice Act was enacted when this figure was fixed at a minimum; not in 1972?

Mr. BAYH. The Senator is absolutely correct. As the author of the Juvenile Justice Act, I assure the Senator that it was passed in 1974. But the figure we decided on in 1974, when the bill was passed, was the latest figure we had from LEAA, which was the 1972 figure.

Mr. McCLELLAN. But in fiscal year 1975—the first time the $112 million came out of any money under the maintenance of effort provision—we had an appropriation of $880 million.

Mr. BAYH. Yes.

Mr. McCLELLAN. Now we are down to $753 million.

Mr. BAYH. Yes. But we were using the juvenile component of the 1972 figure.

Mr. McCLELLAN. All right. Now, in addition to that, since then the Juvenile Justice Act has been enacted, and appropriation made of $75 million for 1977 under that act over and above the $112 million.

Mr. BAYH. But, may I say to my colleague, that was part of the 1974 agreement.

Mr. McCLELLAN. It was not an agreement. We are talking about facts.

Mr. BAYH. Well, the agreement I just read in the RECORD shows that we said we were going to put that floor under juvenile delinquency programs at $140 million, and then, in addition to that enact and fund the prevention programs that the Senator from Rhode Island has strongly supported.

Mr. McCLELLAN. On the basis of the appropriation that we were spending then that was agreed to. The pending bill would continue the same percentage, but not the same dollar amount. This is only fair to the other programs as funds available drop.

Now, let me make this observation. The Senate can do what it wants to do. It is not my provision. It belongs to all of us, but I do not want to do an injustice to these other programs, in order to do more justice, if we want to call it that, to the juvenile delinquency program.

The Senators can correct this situation in the proper way with a supplemental appropriation bill when it comes along. Just increase the appropriation for the juvenile delinquency program. Then you do not do injury, you do not do injustice, to these other criminal justice programs.

Mr. PASTORE. If we do that will we be within the authorization?

Mr. McCLELLAN. Yes. We have $150 million as an authorization for juvenile delinquency.

Mr. PASTORE. In other words, this would be the responsibility of the Appropriations Committee?

Mr. McCLELLAN. Yes. You have $150 million authorized; you only have appropriated $75.

Mr. PASTORE. I will not be here after January, but if that supplemental comes up before January I will put it in.

Mr. BAYH. The Senator from Rhode Island can cite to us how his efforts on behalf of these programs have been fought every step of the way by those in this administration who say "We do not need any money in your prevention program, Senator PASTORE, Senator BAYH, because we have it in the LEAA Crime Control Act program." In other words, it is now you see it and now you do not.

Mr. McCLELLAN. Mr. President, I am simply suggesting that we should not do an injustice to good programs here in order to do a little more for something else, when the opportunity to do more for the other is still available. We can use the appropriation process if we want to. I think that is the way to handle this. I have suggested it from the beginning of this discussion, and I still think that that is the way it should be handled.

Mr. BAYH. Mr. President, will the Senator permit me to deal with that particular point on the bill's time just briefly? Will the Senator permit me a couple or 3 minutes to deal with that?

Mr. McCLELLAN. I believe I have 10 minutes left on the bill. I have been yielding time on the bill.

Mr. BAYH. The Senator has been very kind.

The PRESIDING OFFICER. The Senator has exactly 10 minutes.

Mr. McCLELLAN. How much time?

The PRESIDING OFFICER. Ten minutes.

Mr. McCLELLAN. I yield 3 minutes.

Mr. BAYH. I think it is important—to emphasize that I do not want to penalize these other programs and my amendment will not penalize other programs, but it will require these existing programs to devote some of their efforts to juveniles.

The fact of the matter is the law now requires $140 million—in effect only $112 million—out of LEAA moneys plus $75 million out of the prevention program established by the Senator from Rhode Island and the Senator from Indiana. That is what the law is right now. Now we have to decide whether we are going to step back from the progress we made in 1974.

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

Mr. BAYH. It is important to point out that my amendment will not damage other programs, but merely require them to devote 19.15 percent of their efforts toward juvenile delinquency.

Mr. McCLELLAN. If the Senator wants to increase it $17 million over and above what the law is now——

Mr. BAYH. Just a minute. The money earmarked by my amendment is going to be attributable to these other programs that the Senator from Arkansas thinks are going to be injured. We are going to say to these other programs, when you are involved in the training of judges spend at least 19.15 percent to train juvenile judges; in training police officers spend at least 19 percent to train police officers to better handle juvenile crime; spend 19 percent of court reform funds on juvenile courts so that we do not have to have juveniles who have been arrested, for serious violent crimes on a regular basis out roaming the streets because of overcrowded courts, or judges faced with inadequate facilities in which to place juveniles.

I do not want to destroy these other categories.

Mr. HUMPHREY. Will the Senator yield?

Mr. BAYH. Yes.

I appreciate the Senator from Arkansas' patience.

Mr. HUMPHREY. This is a very difficult issue for us because there are arguments on both sides. As the Senator from Arkansas has pointed out, there is another solution.

The amendment of the Senator from Indiana, as I understand it, would amount to a sum total of $129 million.

Mr. BAYH. The money is already available, but it would mandate that amount for juvenile delinquency programs.

Mr. HUMPHREY. The bill, as reported by the Senator from Arkansas, provides $82 million.

Mr. BAYH. That is accurate.

Mr. HUMPHREY. The Senator has been getting $112 million.

Mr. BAYH. That is accurate. We thought the 1974 act provided $140 million.

Mr. HUMPHREY. Why not settle for $112 million for 1 year?

Mr. McCLELLAN. That does an injustice to these other programs.

Mr. HUMPHREY. It does less.

Mr. BAYH. I tried to get it adopted in the committee.

Mr. HUMPHREY. Why not try here? It permits, again, the process to work, which I think the Senator from Arkansas is correct on, the appropriations process.

Mr. PASTORE. Will the Senator yield?

Mr. HUMPHREY. Yes.

Mr. PASTORE. If we follow the Senators' plan, do we take away anything from other categories?

Mr. HUMPHREY. Yes; some.

Mr. PASTORE. Why do we not add that to the authorization?

Mr. McCLELLAN. We already have the authorization.

Mr. HUMPHREY. I found out in my colloquy with the Senator from Arkansas, there is adequate authorization.

Mr. McCLELLAN. A billion dollar authorization for this program.

Mr. PASTORE. Is this an authorization bill we are talking about or is it an appropriation bill?

Mr. McCLELLAN. An authorization bill.

Mr. HUMPHREY. That is what I understood.

Mr. PASTORE. If the Senator's plan does not take away from anybody else——

The PRESIDING OFFICER. The 3 minutes have expired.

Does the Senator from Arkansas yield time?

Mr. HUMPHREY. There is time on the bill.

Mr. McCLELLAN. I have 8 minutes left on the bill.

The PRESIDING OFFICER. There are 7 minutes left.

Mr. McCLELLAN. Seven now, for all other amendments.

Mr. HUMPHREY. Well, 1 minute will take care of this.

Mr. McCLELLAN. Yes.

Mr. HUMPHREY. Is it not a fact that if we add $47 million to the authorization, using the line of argument of the Senator from Rhode Island, it takes care of all problems insofar as the authorization is concerned ?

Mr. McCLELLAN. We already have the authorization.

Mr. HUMPHREY. The Senator said we have a new authorization bill.

Mr. PASTORE. The Senator says the authorization would take it away from somebody else, so raise it so that it will not.

Mr. McCLELLAN. The appropriation takes it away, not the authorization. The appropriation has already been made.

The PRESIDING OFFICER. The 1 minute has expired.

Mr. PASTORE. May we have another minute?

Mr. HUMPHREY. I shall be offering an amendment to add $47 million to the total authorization.

Mr. PASTORE. So why do we not extend a bit of time here and do it in an easier way?

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Indiana. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CANNON (after having voted in the negative). On this vote I have a pair with the distinguished Senator from Indiana (Mr. HARTKE). If he were present and voting, he would vote "yea." If I were at liberty to vote I would vote "nay." I withdraw my vote.

Mr. ROBERT C. BYRD. I announce that the Senator from California (Mr. CRANSTON), the Senator from Colorado (Mr. GARY HART), the Senator from Indiana (Mr. HARTKE), the Senator from Montana (Mr. METCALF), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Rhode Island (Mr. PELL), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. PELL) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from New York (Mr. BUCKLEY) and the Senator from Arizona (Mr. GOLDWATER) are necessarily absent.

I also announce that the Senator from Pennsylvania (Mr. HUGH SCOTT) is absent on official business.

The result was announced—yeas 61, nays 27, as follows:

[Rollcall Vote No. 408 Leg.]

YEAS—61

Abourezk	Gravel	Muskie
Bayh	Hart, Philip A.	Nelson
Beall	Haskell	Packwood
Bellmon	Hatfield	Pastore
Biden	Hathaway	Pearson
Brock	Hollings	Proxmire
Brooke	Humphrey	Randolph
Bumpers	Inouye	Ribicoff
Byrd, Robert C.	Jackson	Roth
Case	Javits	Schweiker
Chiles	Johnston	Sparkman
Church	Kennedy	Stafford
Clark	Leahy	Stevens
Culver	Long	Stevenson
Dole	Magnuson	Stone
Domenici	Mathias	Symington
Durkin	McGee	Taft
Eagleton	McGovern	Weicker
Fong	McIntyre	Williams
Ford	Morgan	
Glenn	Moss	

NAYS—27

Allen	Garn	Nunn
Baker	Griffin	Percy
Bartlett	Hansen	Scott, William L.
Bentsen	Helms	Stennis
Burdick	Hruska	Talmadge
Byrd, Harry F., Jr.	Huddleston	Thurmond
Curtis	Laxalt	Tower
Eastland	Mansfield	Young
Fannin	McClellan	
	McClure	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Cannon, against.

NOT VOTING—11

Buckley	Hartke	Pell
Cranston	Metcalf	Scott, Hugh
Goldwater	Mondale	Tunney
Hart, Gary	Montoya	

So Mr. BAYH's amendment (No. 2048) was agreed to.

Mr. ROBERT C. BYRD subsequently said: Mr. President, I ask unanimous consent that my vote on the Bayh amendment No. 2048 may be changed from "nay" to "yea."

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

(The foregoing rollcall vote has been changed to reflect the above order.)

Mr. BAYH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BIDEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Mr. FORD). Who yields time?

Mr. McGOVERN. Mr. President, will the Senator from Arkansas yield me about 3 minutes?

The PRESIDING OFFICER. The Senator will suspend. The Senate is not in order. Senators will please take their seats and take their conversations to the cloakroom.

The Senator from Arkansas.

Mr. McCLELLAN. Mr. President, on behalf of the Senator from California (Mr. TUNNEY), I ask unanimous consent that Mr. Benjamin Pollock be accorded the privilege of the floor for the purpose of monitoring this bill.

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

Mr. McGOVERN. Mr. President, will the Senator now yield to me for a brief colloquy?

Mr. McCLELLAN. Mr. President, I ask unanimous consent that this colloquy be considered a discussion of an amendment. I have yielded so much time on the bill that I only have 6 or 7 minutes left. I ask unanimous consent that the colloquy be considered a discussion of an amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. McGOVERN. Mr. President, first of all, I commend the committee, and particularly the distinguished chairman, for having taken what I think is an important step toward recognizing that rising crime rates are not confined to our major cities alone, but that smaller towns and even rural areas have also experienced an alarming increase in crime in recent years. In many instances, local authorities do not have the resources to cope effectively with these new problems.

I am pleased to note that the language of section 408, the so-called high crime impact grant provisions, seems clearly intended to insure that smaller communities and predominantly rural jurisdictions which experience rising rates of crime shall also be eligible for assistance under this program.

If my interpretation of the committee's intent is correct, these smaller jurisdictions should be able to compete on an equal footing with the major cities for high impact assistance, and I think the same considerations ought to be made by LEAA administrators when they are promulgating the guidelines under which these grants are made.

If I am correct, LEAA administrators ought to be aware that there should be no discrimination against smaller communities in the procedures established to evaluate applications and award grants under the section.

I believe that it is most important to make this intent clear because I am aware that at least some proponents of this program wish to earmark the funds for the exclusive use of a few major cities. Earmarking of this kind would make over half the States and all of our nonurban communities ineligible for high crime impact assistance, regardless of what their circumstances might be.

I will say to the Senator from Arkansas that I do not deny that larger urban areas need assistance, and I am a strong supporter of programs to revive and strengthen the cities, but at the same time I could not support discrimination against the millions of Americans who reside in smaller cities, smaller towns, and rural areas, where crime is also a very serious problem.

So I would like to direct two questions to the Senator from Arkansas, to make sure I have not misunderstood the intent of the committee in framing the language of section 408.

First of all, I shall ask the chairman if, in his view, I am correct in assuming that eligibility under this section will be of a general nature, and there is no intent on the part of the committee to exclude jurisdictions from eligibility simply on grounds of population.

Mr. McCLELLAN. I say to the distinguished Senator so far as the committee is concerned, and so far as the language of the bill is concerned, his assumptions are correct. There is certainly no intent of which I know and I believe I can disclaim any intent on the part of any member of the committee to single out only the larger cities.

Is that what the Senator has in mind?

Mr. McGOVERN. Yes.

Mr. McCLELLAN. If that had been our intent, we would have so specified. We would have said "high crime areas in cities above certain population." As the provision is now, there is nothing to prevent the administrator from finding that a high crime situation exists in any county or city without regard to population or location.

I assume it would be so administered. However, I would assume that attention under this provision will generally be given to those larger cities where there is a high incidence of crime. But there is certainly nothing in the measure as written that would prevent the administrator from finding that there was a high incidence of crime in any locality or community, and approving a grant accordingly.

Mr. McGOVERN. Mr. President, I am glad to be reassured by the chairman that my interpretation of the provision was correct.

That being the case, does the chairman also concur in my view that the LEAA should be expected to take into account these broad considerations of eligibility when they are promulgating regulations, definitions, and guidelines and when it comes time to make the grants? Does the Senator see any reason why smaller communities that have a high crime problem should be excluded in the way the guidelines are drawn or in the way the grants are processed?

Mr. McCLELLAN. I think, to be practical, we know that there is a substantial incidence of crime almost everywhere throughout the country. What places the administrator will select for grants under this special provision, of course, I do not know. All I can do is assure the Senator there is nothing in this law, in my judgment, that prevents the administrator from approving an application or a grant in any community under this program where there is established to his satisfaction that there is a high incidence of crime. Any community where there is a high incidence of crime is eligible under this bill. That is all I can assure the Senator.

Mr. HUMPHREY. Mr. President, will the Senator from South Dakota yield?

Mr. McGOVERN. Yes, I yield to the Senator.

Mr. HUMPHREY. I appreciate very much the colloquy the Senator from South Dakota entered into with the distinguished Senator from Arkansas because it does help build legislative history. We always have attention given to the high rates of crime in the so-called metropolitan areas. One of the reasons for it is they have daily newspapers, investigative reporters, and they generally have more accurate statistical information in the metropolitan police departments. But more recent reports from the Federal Bureau of Investigation reveal that the rise in crime in America is in the smaller towns and the rural areas, that there has been an outflow, so to speak, of crime.

I simply wish to build this legislative record to this point, that there will be those of us here watching to see how this program is administered.

I live in a county that is 40 miles west of Minneapolis. The incidence of crime in that county has gone up considerably in the last 5 to 10 years and in part because of increased population pressure and changes in the type of economy, and I simply wish to be sure that the counties in my State, which are not all metropolitan—we only have three metropolitan areas, Duluth, Minneapolis, and St. Paul, the immediate region—the administrator of this program keeps in mind what the trend is in crime, and the trend in crime is that there is a more rapid growth rate in crime in the so-called smaller communities, in rural areas, than there is in the large urban areas.

I think that is what the Senator from South Dakota is getting at.

Mr. McGOVERN. That is precisely the assurance that I was trying to get and I think the Senator from Arkansas, the chairman of the committee, has made clear that there is no way under the terms of this legislation that the administrator of this program is being invited to exclude smaller communities.

When we talk about the high impact of crime we are not only talking about the cities. We are talking about every State in the Union. We are talking about the modest-sized communities, the small communities, and the rural areas. It is very important to make the legislative history very clear that those administrators of this program would be in clear violations, as I understand the committee's intent, if they were to establish some arbitrary population figure and say, "We are just going to help the 50 largest cities," or "We are just going to help the 25 largest cities." This is a national pro-

gram to deal with the problem of crime in every State in the Union, and I am very grateful to have the assurances on this point.

Mr. DOLE. Mr. President, will the Senator from South Dakota yield?

Mr. McGOVERN. Yes; I yield to the Senator from Kansas.

Mr. DOLE. The Senators from South Dakota and Minnesota expressed concern to me because they are Senators representing small urban areas and rural areas. I have not taken time to read the same arguments made by the distinguished Senator from South Dakota. But based on the colloquy with the distinguished chairman, I am satisfied it cannot be interpreted that way. I am satisfied with the response of the distinguished Senator from Arkansas, and I appreciate the Senator from South Dakota raising the question.

Mr. President, the Senator from Kansas wishes to clarify a provision in S. 2212, the Crime Control Act of 1976. It is my understanding that the definition of the term "high crime areas" in section 408 is not necessarily restricted only to large metropolitan areas.

HIGH CRIME AREAS

It is my understanding that about $40 million is authorized for high crime impact grants during fiscal year 1977 under section 408, and that the guidelines for these grants are to be drawn up by LEAA—The Law Enforcement Assistance Administration.

Top-ranking law enforcement officials in Kansas are concerned that there is an assumption on the part of Federal officials that high crime areas are only in large metropolitan areas. They are concerned that in the guidelines drawn up by LEAA, predominantly rural areas which may have a high crime rate will be excluded.

LIMITED RESOURCES

Any assumption that only large metropolitan areas are high crime areas would certainly not be valid. For, as Kansas law enforcement officials have pointed out, crime rates are not necessarily related to total population.

In Kansas for example, we have 14 cities with a population of over 20,000 and one city with a population of over 200,000. Yet Kansas law enforcement officials indicate to me that the crime problem in many of our smaller urban areas is comparable to that in large metropolitan areas, except that smaller cities have fewer resources to deal with the problem.

In Lawrence, Kans., last year there was an increase in the crime rate of 23 percent over the previous year. The per capita crime rate in Junction City, Kans., was 105.1 per thousand in 1975 and it was 98.9 per thousand in Kansas City, Kans., in the same time period.

These per capita crime rates in Kansas compare to 73.7 per thousand in Chicago, Ill.; 93.1 per thousand in Atlanta, Ga.; and 99.1 per thousand in Dallas, Tex. These are three of the eight metropolitan areas which have previously received grants under the high crime impact section.

So clearly, based on these crime rates, it is possible for the smaller cities to have a larger crime problem than major urban areas. On the basis of these facts it seems self-evident to the Senator from Kansas that small cities and predominantly rural areas should not be excluded from high crime impact grants.

The high incidence of crime in less densely populated areas appears to be rising. On the average, smaller towns and rural areas in Kansas are experiencing more of an increase than the larger metropolitan areas.

One of the reasons why crime is moving out of the city and into the rural areas is apparently because more Federal funding goes to large cities for law enforcement. People who commit crimes tend to do so where they are less likely to get caught.

Until the small towns and rural areas are able to hire more law enforcement agents, crime will continue to gravitate to those less protected areas, and the crime rate in those areas will continue to rise. That is why the definition of "high crime areas" in section 408 should not be narrowly construed or limited to large cities only.

COURT CASELOAD

Small cities are also at a disadvantage in the matter of court congestion and backlog. Only in the large metropolitan areas are there more than one assistant county attorney to present cases to the court. This situation, combined with the high crime rates in some smaller cities, may contribute to a tremendous overload to both the court system and the law enforcement agency in a smaller urban area.

Section 408 specifies that high crime impact grants may be made to those areas where assistance is needed to help cope with heavy court loads. This is another reason why the inclusion of small cities in the definition of high crime areas is important.

Mr. President, again, it is my understanding that it is not the intent of section 408 to exclude small urban areas from the definition of "high crime areas." Perhaps the managers of the bill would like to comment on this.

Mr. McGOVERN. Mr. President, I thank the Senator from Arkansas and the distinguished chairman.

Mr. McCLELLAN. As I recall, we have $50 million authorized for this program, and there is $40 million in the appropriation bill that was passed this year. I do not know how far $40 million will go. But certainly there is enough from that $40 million for some smaller communities and rural cities, rather than in the metropolitan area, to have some participation in this program where there is high incidences of crime.

Mr. McGOVERN. I thank the Senator, and I appreciate the chairman's assurance.

The PRESIDING OFFICER. The bill is open for further amendment.

UP AMENDMENT NO. 237

Mr. STEVENS. Mr. President, I call up my amendment which is at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Alaska (Mr. STEVENS) proposes unprinted amendment No. 237.

Mr. STEVENS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 34, after section 28, add a new section as follows:

"Sec. 31. Section 225 of the Juvenile Justice and Delinquency Prevention Act of 1974 is amended as follows:

"(a) After section 225(c)(6) add a new paragraph:

"(7) The adverse impact that may result from the restriction of eligibility, based upon population, for cities with a population greater than 40,000, located within States which have no city with a population over 250,000."

"(b) Add a new subparagraph (d) as follows:

"(d) No city should be denied an application solely on the basis of its population."

Mr. STEVENS. Mr. President, at present the Juvenile Justice and Delinquency Prevention Act of 1974 regulations restrict cities with a population of under 250,000 from applying directly for certain special emphasis discretionary grants.

In Alaska the total population of the State is about 330,000 as of the 1970 census. About 180,000, or over one-third of the entire State population resides in Anchorage, the largest city in Alaska. While the population is comparatively small, the cities in Alaska are not exempted from juvenile delinquency problems. In the past 2 years, Alaska has experienced a major population growth directly related to the building of the trans-Alaska pipeline. A major impact of this population increase has been experienced in Alaskan cities where unemployment and high prices create a condition which fosters crime.

The applicant eligibility restriction is not unique to Alaska. There are 21 States in the Nation which have no city with a population over 250,000 as of the 1970 census. Therefore, all are restricted, as Alaskan cities, from applying directly for these LEAA grants.

Mr. President, I ask unanimous consent that a list of these 21 States, with the major city in each, be printed in the RECORD.

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

Alaska—Anchorage	189,000
Arkansas—Little Rock	132,403
Connecticut—Hartford	158,017
Delaware—Wilmington	80,386
Idaho—Boise	74,990
Iowa—Des Moines	201,404
Maine—Portland	65,116
Mississippi—Jackson	153,960
Montana—Billings	61,581
Nevada—Las Vegas	125,787
New Hampshire—Manchester	87,754
New Mexico—Albuquerque	243,751
North Carolina—Charlotte	241,178
North Dakota—Fargo	53,365
Rhode Island—Providence	179,116
South Carolina—Columbia	113,542
South Dakota—Sioux Falls	72,488
Utah—Salt Lake City	175,885
Vermont—Burlington	38,633
West Virginia—Huntington	74,315
Wyoming—Cheyenne	40,914

Mr. STEVENS. Mr. President, I have been in contact with the Justice Depart-

ment on this matter, but my appeals to have these regulations changed have been rejected. The Office of Juvenile Justice and Delinquency Prevention stated in a June 22, 1976 letter to me that their priorities have "developed out of pressing juvenile crime concern, such as youth gangs, which are particularly acute in large cities."

I am certainly aware of the gang problem that exists in the Nation's major metropolitan areas, however, our priorities must also take into account the juvenile crime that is most evident in the small cities of the Nation. Again, I maintain that a small population does not eliminate juvenile delinquency.

I am quite concerned at this time that this population requirement will continue to restrict many deserving cities in many States. I propose that this requirement may be waived in cities with a population of 40,000 or more in States which have no city over 250,000 in population. These cities should be allowed to apply directly to LEAA for juvenile delinquency special emphasis programs, authorized by the Juvenile Justice Delinquency Prevention Act of 1974.

Again, I emphasize that my amendment does not mandate that these people be given money. What it does is to eliminate the arbitrary restriction that currently prevents any city in 21 States from applying directly to LEAA. It would permit the city of Cheyenne, which has just over 40,000 population and is the largest city in the State of Wyoming, to make a direct application to LEAA.

There should be at least one city in each State that participates in this program. That is the intent of this amendment.

I have discussed the amendment with the managers of the bill and those involved. I hope the managers of the bill will see fit to accept the amendment.

Again I call the attention of the Senator from Arkansas to the fact that this amendment does not mandate any grants to these cities. It means that they can apply directly to LEAA—at least one city from each State can do so—for this type of assistance.

In my State, for example, with a large population center, they are required to apply through the State, under present regulations. As the State has to deal with all the cities, the possibility of one major area being able to get assistance is removed. I think Congress intended eligibility for the program in the larger metropolitan areas in each State, even though our large metropolitan areas in relation to cities such as New York, Chicago, and Los Angeles, are quite small.

I hope the managers of the bill will accept my amendment, which I think is reasonable in context.

The PRESIDING OFFICER. Who yields time?

Mr. McCLELLAN. Mr. President, I understand that the Senator has conferred with the Senator from Indiana with respect to this amendment. It does have some impact, I believe, on the Juvenile Justice Act of 1974 which was processed by the subcommittee chaired by the Senator from Indiana. Am I correct?

Mr. STEVENS. That is correct.

Mr. McCLELLAN. This applies to the Juvenile Delinquency Act alone.

Mr. STEVENS. Yes.

Mr. McCLELLAN. Those funds are administered by LEAA, so it does have an impact on this program.

Mr. STEVENS. Yes, it does.

Mr. McCLELLAN. I have no objection to the amendment, if it is simply a matter of trying to protect the Senator's State, to make certain that regulations do not regulate it out of the program. That is what I understand he is trying to do.

Mr. STEVENS. That is correct. I have discussed it with the Senator from Indiana and with the Senator from Nebraska and his staff. I hope the amendment will be accepted.

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

Mr. McCLELLAN. I yield.

Mr. HRUSKA. Mr. President, the amendment and its rationale have been presented to this Senator and members of my staff. It is not a mandatory situation at all. It is a matter of adding a new element which can voluntarily be taken into consideration in the distribution of the special emphasis funds under the Juvenile Justice Act.

It meets a real problem in the 21 States that do have the limited population to which the Senator refers.

I have no objection; I think it would be well to adopt the amendment, and I shall vote for it.

Mr. McCLELLAN. Mr. President, unless there is some other discussion, I am perfectly willing to accept the amendment.

Mr. STEVENS. Mr. President, I yield back the remainder of my time.

Mr. McCLELLAN. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Alaska.

The amendment was agreed to.

UP AMENDMENT NO. 238

Mr. DURKIN. Mr. President, I ask unanimous consent that the three amendments I have at the desk be considered en bloc and that they be in order at this time.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The amendments will be stated.

The assistant legislative clerk read as follows:

The Senator from New Hampshire (Mr. DURKIN) proposes unprinted amendments en bloc numbered 238.

Mr. DURKIN. Mr. President, I ask unanimous consent that reading of the amendments be dispensed with.

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

The amendments are as follows:

On page 10, line 23, immediately after the word "State", strike the language inserted by unprinted amendment No. 228, and insert the following: "or a judicial agency authorized on the date of enactment of this Act by State law to perform such function, provided it has a statutory membership of at least 75% judges."

On page 11, line 2, immediately after the word "report", strike the language inserted by unprinted amendment No. 228, and insert the following: "or a judicial agency authorized on the date of enactment of this Act by State law to perform such function, provided it has a statutory membership of at least 75% judges."

On page 11, line 22, immediately after the word "resort", strike the language inserted by unprinted amendment No. 228, and insert the following: "or a judicial agency authorized on the date of enactment of this Act by State law to perform such funtion, provided it has a statutory membership of at least 75% judges."

Mr. DURKIN. Mr. President, yesterday, the Senator from Georgia (Mr. NUNN) offered three amendments en bloc. The three amendments that are now before the Senate make a technical change in those amendments. The amendments have been cleared with the Senator from Georgia. It is my understanding that they have been cleared with the staffs of the floor managers.

With respect to the State planning agency, the amendment of the Senator from Georgia provided that it could add the language which would allow it to be any judicial agency authorized by State law to perform the function as well as the chief justice, because in Georgia the State Judicial Council is the proper group.

My amendments would do two things. They woud provide that the judicial agency to perform the functions must have a statutory, specified membership of at least 75 percent court members and that they must be in existence and have that authority as of the date of the act. This is to insure that no new agency be created and that the judicial planning function remains with the judiciary.

(At this point, Mr. HASKELL assumed the Chair.)

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

Mr. DURKIN. I am happy to yield.

Mr. McCLELLAN. If I correctly understand, the three amendments are the same but they have to be placed in three different places in the bill. They simply would rewrite the amendments offered yesterday by the distinguished Senator from Georgia, which were accepted. Am I correct?

Mr. DURKIN. Yes.

Mr. McCLELLAN. Has the Senator from New Hampshire conferred with the Senator from Georgia about this?

Mr. DURKIN. Yes; my staff has conferred with his, I have talked with the Senator from Georgia, and he concurs in the language.

Mr. McCLELLAN. Mr. President, I accepted the amendment offered by the distinguished Senator from Georgia yesterday and this does not do any violence to that amendment. It broadens it, as I understand it. Is that correct?

Mr. DURKIN. Right. The effect is that the Judicial Planning Agency, if there is to be a judicial council, would have to be 75 percent judges in existence and have the statutory authority as of the effective date of the act.

Mr. McCLELLAN. I wanted to be sure that the Senator from Georgia has been consulted and has no objection to it.

Mr. DURKIN. He has no objection to it.

Mr. McCLELLAN. Mr. President, I say to the Senator from Nebraska that I am

perfectly willing to accept the amendment if the Senator is. It is just a rewriting of the amendment accepted yesterday.

Mr. HRUSKA. Mr. President, I am willing to accept it.

Mr. McCLELLAN. Mr. President, I am willing to accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

UP AMENDMENT NO. 239

Mr. BIDEN. I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. BIDEN. I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 25, between lines 20 and 21, insert the following:

SEC. 18. (a) Section 453 of such Act is amended by—

(1) striking out "and" at the end of paragraph (11);

(2) striking out the period at the end of paragraph (12) and inserting "; and" in lieu thereof; and

(3) adding at the end thereof the following:

"(13) sets forth minimally acceptable physical and service standards to construct, improve or renovate State and local correctional institutions and facilities funded under this part."

(b) Section 454 of such Act is amended by adding at the end thereof the following: "The Administration shall, in consultation with the States, develop minimally acceptable physical and service standards for the construction, improvement and renovation of State and local correctional institutions and facilities funded under this part.".

On page 25, line 21, strike out "Sec. 18." and insert in lieu thereof "Sec. 19.", and redesignate the succeeding sections of the bill accordingly.

Mr. BIDEN. Mr. President, the present bill, S. 2212, to authorize the extension of the Law Enforcement Assistance Administration—LEAA—retains the section introduced in 1970 known as part E, which earmarks Federal funds for correctional institutions and facilities.

Under the amendment which I propose, State and local governments seeking funds under part E would have to incorporate, within their proposed State plan, minimum physical and service standards for their prisons.

In other words, these governments would have to tell the LEAA what kind of standards they were attempting to meet in seeking the funds.

Hopefully, the LEAA would be tough here and make sure that no plan was approved without standards which meet minimum concepts of human decency and justice.

All potential recipients of funds for the construction, improvement, and renovation of correctional facilities would incorporate minimal standards in their development plans for the approval by the administration or be ineligible for part E funding.

The House Judiciary Committee has included similar provisions in its version of the bill.

Mr. President, the need for this amendment has become abundantly clear when we recognize the central role our prisons play in our criminal justice system.

Recently, many of us have been talking about making our sentencing structure fairer. We have been talking about the need to restore the concept of accountability to those convicted of crime; about the idea of "just deserts" for criminal offenders.

We have been talking about identical sentences for identical crimes.

We have been talking about equal justice for all.

We have been talking about mandatory minimum sentences.

In short, we have been talking about the need to toughen our approach to the criminal justice system. Yet, all of us must remember that just talk does not do a whole lot. First, it seems to me, Mr. President, that we must talk about the conditions within prisons, whether they are humane and whether, if they are not humane, judges are going to refuse to sentence people to those prisons—not that they do not deserve to go to prison but because we have not set up the structure to incarcerate them if sent there.

Mr. President, all of this must remain just talk until we have decent, humane prisons in which to sentence people.

When I first looked at the bill before us today, S. 2212, I considered offering an amendment to provide a greater authorization for prison construction and prison renovation.

But, when I looked at what happened to the money we have already spent in this area, some $500 million over the last 5 years, it became clear to me that we could not simply throw more money at this problem, because so far, we are not getting our money's worth.

The General Accounting Office, in a report dated April 5, 1976, concluded that some jails, despite having received LEAA funds, were in such poor condition that they appeared similar to other jails which had been closed by courts because of their condition.

I am not talking about minor cosmetic defects or standards just short of unrealistic luxury.

The fact is that physical conditions in some jails which have benefited from LEAA funds border on the barbaric.

This GAO report calls for, and dramatizes the need for, minimum standards.

My amendment would assure that a sense of worth and human dignity is preserved in correctional institutions while at the same time we are deciding that we have to build more prisons and put more offenders, who should be accountable for their actions, in those prisons.

As countless studies have shown, nothing is so dangerous as the conditions which dehumanize the prisoner. Overcrowding, idleness, unsanitary living quarters, and eating facilities, inadequate diets, inadequate hygiene facilities and the like, breed hostility, contempt, and unrest, and can turn the detainee in a local jail, a possible first offender, into an embittered criminal of the most hardened nature.

We must work to correct this.

The means to such improvement are not contained in piecemeal projects which leave prisons in a substandard state, or in State-designed proposals for substandard prisons.

We cannot afford to continue funding projects which result in facilities which are still unacceptable. That is both inhuman and a serious waste of money.

We must insure that what work will be done will be substantial and will be significant enough to upgrade correctional facilities and institutions in accordance with minimally agreed standards.

This amendment will not detract from one of the advantages of LEAA—the flexibility it provides in coping with the myriad criminal justice problems which vary from State to State and from locality to locality.

It does not expropriate power away from the States.

It does not reorder State spending priorities.

It merely writes into law a provision which has been tacitly acknowledged if not actually implemented, a provision which is long overdue.

The feasibility of written standards has been endorsed by many correctional study groups: The National Clearinghouse for Criminal Justice Planning and Architecture; the National Sheriffs' Association; the National Advisory Commission on Criminal Justice Standards and Goals, by the American Correctional Association, and others.

The Congressional Select Committee on Crime, in its June 26, 1973, report "Reform of our Correctional Systems," applauded the National Advisory Commission findings and recommended the implementation of their findings.

Furthermore, LEAA itself has commented that in its judgment, the National Clearinghouse for Criminal Justice Planning and Architecture and the National Advisory Commission on Criminal Justice Standards and Goals have provided the cornerstone for the States to develop jail standards.

The groundwork for minimal standards has already been laid.

It only remains for the States, in consultation with the LEAA, to develop written standards which must be abided by if the States are to receive Federal moneys.

In the past, LEAA has provided guidelines for State plans in the areas of prison construction or improvement.

However, while reviewing State plans, LEAA has not forced them to meet minimum standards, nor kept close watch on how the funds have been spent.

Little effort, in my opinion, has been made to discern whether jail projects are going for minor, low-priority improvements, or for redressing depersonalizing conditions. This must be changed.

If States wish to address minor problems with their own funds, this, however regrettable in my opinion, is their prerogative.

But, as the GAO has pointed out, "the Federal Government has some obligation to bring about improvements when its funds are spent."

LEAA and the States should insure

that block grant funds are used to bring local jails up to certain minimum standards for physical conditions and programs to assist inmates.

LEAA cannot allow its funds to cover minor projects when improvements leave the facilities in a consistently substandard state.

Nor can LEAA provide stop-gap building funds if long-term problems such as structural collapse appear possible.

The specific standards need not be unreasonable.

And they will not be as the products of joint efforts on the part of the administration and the States.

Indications are that their aims will be successful.

It has been argued that some less progressive States, unwilling to raise the matching funds mandated by LEAA for specified prison improvements up to minimum standards, might choose to opt for no improvements at all.

While this is a possibility, I feel the chances of total inaction are slight.

Recent court rulings have shown that where the legislature fears to tread the judiciary does not.

U.S. District Court Judge Frank N. Johnson, in a ruling last January, ordered the State prison system of Alabama to meet specific minimum standards within 2 years or close.

His logic was simple: The severe overcrowding and unsanitary conditions in Alabama prisons was evidence of "cruel and unusual punishment" and consequently, unconstitutional.

In 1974, a New York magistrate, following similar reasoning, found the conditions at the Men's House of Detention in Manahattan to be so poor as to be unconstitutional.

As a result, this old structure, known widely as the Tombs, was closed.

Case law in other jurisdictions substantiates my belief that there is an increasing willingness on the part of the bench to insure that prison operations meet minimally humane requirements, and make sure that prisoners are deprived of only those rights expressly or by necessary implication, taken from them by law.

Very frankly, Mr. President, I do not know how anyone could argue against this amendment.

It will not merely assure that our prisons begin to meet standards of decency and justice, it will also assure that our LEAA funds are well spent.

It gives us the best of both worlds.

In conclusion, Mr. President, if we do not upgrade the prisons in the State and local jurisdictions, very shortly the judiciary will begin to follow the lead in Alabama and New York and begin to impose a prohibition on the use of the prisons.

In short, the desire of most of us is to insure that people, who, after having full advantage of all due process procedures and all the appeals, are convicted of committing serious crimes do, in fact, go to jail. In other words, we want to make sure they are meted out a punishment that has some concept of just deserts in it.

Implicitly, judges are saying, "We are not sending people to prison because of the conditions of those prisons," and they are putting them on probation. Explicitly, some courts are now saying, "We will not put people in jail and we are going to close them because you have not met minimal standards."

Finally, Mr. President, it is a waste of Federal money for us not to do something substantive about a problem that we all recognize exists.

I reserve the remainder of my time.

Mr. McCLELLAN. Mr. President, I have examined the amendment and I have no objection to it.

Mr. HRUSKA. Mr. President, if the Senator will yield me 3 minutes, I would like to make a comment or two about it.

Mr. McCLELLAN. I yield to the Senator from Nebraska.

Mr. HRUSKA. I have no objection to the amendment. In fact, I would like to commend the Senator from Delaware in his efforts with respect to part E of the LEAA bill. Part E was not a part of the basic statute until several years after the original version was adopted in 1968.

My understanding of the amendment is that there will be another element added to section 453, which will constitute another consideration for the administration to take into account in making a grant for the purpose of constructing, improving, or rehabilitaing correctional facilities nationwide.

It is not a requirement on the part E program, it is only one of the optional elements and, as modified by the Senator from Delaware, I see no objection to it, and I would be happy to vote in its favor.

Mr. BIDEN. I would like to thank the managers of the bill for accepting the amendment, and I yield back the remainder of my time.

Mr. McCLELLAN. I yield back my time.

The PRESIDING OFFICER. All time being yielded back, the question is on agreeing to the amendment of the Senator from Delaware.

The amendment was agreed to.

UP AMENDMENT NO. 240

Mr. PERCY. Mr. President, I send to the desk an unprinted amendment.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Illinois (Mr. PERCY) proposes unprinted amendment No. 240.

Mr. PERCY. Mr. President. I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 34, after section 28, add the following new section:

SEC. 29. Subsection (c) of section 5108 of title 5, United States Code, is amended by:

(a) repealing paragraph (8); and

(b) substituting in lieu thereof the following new paragraph:

"(8) the Attorney General, without regard to any other provision of this section, may place a total of 32 positions in GS-16, 17, and 18;"

SEC. 2. Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following new paragraphs:

"(105) Commissioner of Immigration and Naturalization, Department of Justice.

"(106) United States attorney for the Northern District of Illinois.

"(107) United States attorney for the Central District of California."

"(108) Director, Bureau of Prisons, Department of Justice.

"(109) Deputy Administrator for Administration of the Law Enforcement Assistance Administration."

SEC. 3. Section 5316 of title 5, United States Code, is amended by:

(a) repealing paragraph (44);

(b) repealing paragraph (115);

(c) repealing paragraph (116);

(d) repealing paragraph (58); and

(e) repealing paragraph (134).

Mr. PERCY. This amendment would raise from Executive Level V to Executive Level IV certain high level Federal Government positions. These positions are Commissioner of Immigration and Naturalization, U.S. attorney for the Northern District of Illinois, U.S. attorney for the Central District of California, Director of the Bureau of Prisons, and Deputy Administrator for Administration of the Law Enforcement Assistance Administration.

In addition this amendment would enable the Attorney General to place 32 positions in GS-16, GS-17, and GS-18 personnel slots. One of these positions would be in the Bureau of Prisons and the other 31 could be allocated by the Attorney General to meet critical needs throughout the Department of Justice.

Mr. President, I yield back my time unless it is necessary to have any time to respond to any comments made by the manager of the bill.

Mr. McCLELLAN. I yield myself 3 minutes. I had no advance knowledge of this proposed amendment.

Mr. PERCY. Mr. President, will the Senator use his microphone so the Senator from Illinois can hear him?

Mr. McCLELLAN. Mr. President, as I started to say, I had no advance knowledge of this amendment. In addition, this is an amendment that raises salaries. It would not even come under the jurisdiction of the subcommittee that processed this bill. The salaries that are involved, the positions that are involved, are something which possibly should have study by some other committee. My present view is that this should not be done on the floor of the Senate.

I am not at the moment raising an issue but I do not think it is germane. I am not sure the Senator should propose nongermane amendments to this bill, especially where this subcommittee had no jurisdiction of the subject matter.

Mr. PERCY. Mr. President, the distingished Senator said he had no advance knowledge. It is the understanding of the Senator from Illinois that the Senator's staff has discussed it with the staff of the distinguished Senator from Arkansas and that it was accepted and recognized as a highly desirable position taken by the Department of Justice, desired by the Attorney General, and that this would be an appropriate time to do it. I understood there would be no objection to it.

Mr. McCLELLAN. Well, I can tell the Senator that I never agreed to not interpose an objection to it. It may have been left with the staff here. Maybe they considered it nongermane and did not present it to me.

I would be glad to support it in a separate bill.

I say this in all candor and kindness,

once we start taking nongermane amendments to this bill—and I have tried to be most generous, Mr. President, in taking amendments that had any merit that were germane—we are inviting some amendments that would be very difficult and very distressing to try to deal with in the processing of this legislation.

I hope that my distinguished friend from Illinois will cooperate with us to that extent and not press for the enactment of a nongermane amendment.

I favor the substance of his amendment. I would strongly support it as a separate bill. As I said, if this were the only amendment that could come up that is nongermane, I would be tempted to accept it. But I am confronted with other possibilities and probabilities that are not pleasant to contemplate in terms of processing this legislation.

Mr. PERCY. If the Senator from Illinois modified the amendment to confine it to the 32 positions, GS–16, GS–17, and GS–18, which it is the understanding of the Senator from Illinois would be germane, if we so modified the amendment, would the Senator from Arkansas consider accepting it then?

Mr. McCLELLAN. I will ask the Parliamentarian.

I have no objection to taking any part that is germane.

If I understand the Senator, that would be subparagraphs (a), (b), and (8); in other words, section 1 of his amendment? I would like to ascertain if the first part of the amendment is germane.

The PRESIDING OFFICER (Mr. HASKELL). The title which the Senator seeks to amend is title V dealing with compensation of certain employees of the United States, and this is under the jurisdiction of another committee, the committee headed by Senator McGEE of Wyoming; and one of the tests of germaneness is whether or not the amendment, if introduced as a bill, would be referred to the committee that is now handling the bill before the Senate.

The amendment also introduces a subject not in the bill.

For these reasons, the Chair would rule the Senator from Illinois' amendment is not germane if a point of order is raised.

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

The PRESIDING OFFICER. The clerk will call the roll.

Mr. McCLELLAN. I suggest the time not be taken out of either side.

The PRESIDING OFFICER. Without objection, and 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. PERCY. Mr. President, I ask unanimous consent to withdraw the pending amendment.

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

AMENDMENT NO. 2060, AS MODIFIED

Mr. MORGAN. Mr. President, I send to the desk a modified version of amendment 2060, providing for grants through the Justice Department to States which need to establish or to improve their antitrust law enforcement capability. The modified amendment adds a new section to part C of the Crime Control Act of 1976 instead of part G.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from North Carolina (Mr. MORGAN) proposes amendment numbered 2060, as modified.

Mr. MORGAN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment, as modified, is as follows:

On page 24, between lines 19 and 20, insert the following:

SEC. 16. Part C of title I of such Act is amended to include the following new section—

"SEC. 309. (a) The Attorney General is authorized to provide assistance and make grants to States which have State plans approved under subsection (c) of this section to improve the antitrust enforcement capability of such State.

"(b) The attorney general of any State desiring to receive assistance or a grant under this section shall submit a plan consistent with such basic criteria as the Attorney General may establish under subsection (d) of this section. Such plan shall—

(1) provide for the administration of such plan by the attorney general of such State;

(2) set forth a program for training State officers and employees to improve the antitrust enforcement capability of such State;

(3) establish such fiscal controls and fund accounting procedures as may be necessary to assure proper disposal of and accounting of Federal funds paid to the State including such funds paid by the State to any agency of such State under this section; and

(4) provide for making reasonable reports in such form and containing such information as the Attorney General may reasonably require to carry out his function under this section, and for keeping such records and affording such access thereto as the Attorney General may find necessary to assure the correctness and verification of such reports.

(c) The Attorney General shall approve any State plan and any modification thereof which complies with the provisions of subsection (b) of this section.

(d) As soon as practicable after the date of enactment of this section the Attorney General shall, by regulation, prescribe basic criteria for the purpose of establishing equitable distribution of funds received under this section among the States.

(e) Payments under this section shall be made from the allotment to any State which administers a plan approved under this section. Payments to a State under this section may be made in installments, in advance, or by way of reimbursement, with necessary adjustments on account of underpayment or overpayment, and may be made directly to a State or to one or more public agencies designated for this purpose by the State, or to both.

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

(g) Whenever the Attorney General, after giving reasonable notice and opportunity for hearing to any State receiving a grant under this section, finds—

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

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

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

(h) As used in this section the term—

(1) "State" includes each of the several States of the United States, the District of Columbia, and the Commonwealth of Puerto Rico;

(2) "attorney general" means the principal law enforcement officer of a State, if that officer is not the attorney general of that State; and

(3) "State officers and employees" includes law or economics students or instructors engaged in a clinical program under the supervision of the attorney general of a State or the Assistant Attorney General in charge of the Antitrust Division.

(i) There are authorized to be appropriated to carry out the purposes of this section not to exceed $10,000,000 for the fiscal year ending September 30, 1977; not to exceed $10,000,000 for the fiscal year ending September 30, 1978; and not to exceed $10,000,000 for the fiscal year ending September 30, 1979.

Mr. MORGAN. Mr. President, the language in this amendment remains the same. What it would do is to add $10 million a year for 3 years to be used for seed money to help the various States create or build divisions of antitrust enforcement in the various offices of the State attorneys general.

I want to point out, Mr. President, that the amendment carries its own authorization and will take no funds from any LEAA program. We need not fear any difficulty with our budget resolution because this same measure, or substantially this same measure, has already been passed by the Senate as a part of S. 1136. The bill received very substantial support in the Senate, but the House Judiciary Committee has been rather slow to act. Therefore, I think it behooves us to repass this legislation.

The amendment is entirely appropriate to the Crime Control Act because it does attack crime—crime which robs the consumer, crime which robs the small businessman and taxpayer, as surely as a thug with a gun robs them. It encourages States, through their attorneys general, to make sure that the small businessman's livelihood, and the consumer's hard-earned money, are not taken from them by illegal acts. The antitrust laws were created to preserve the free enterprise system from those who would wreck it by naked restraint of trade. They were created to save the small businessman from the monopolist, and to keep alive the chance that any responsible person may enter the marketplace as his own boss.

Mr. President, in my opinion, as a former attorney general, this is one of the most important ways the Federal Government can be of assistance to State law enforcement efforts and thereby of assistance to consumers and small businessmen.

I am convinced that this is the area

in which antitrust law enforcement may be carried out by elected officials close to the people, without giving the appearance of a powerful Federal Government harassing business.

The cases of antitrust violations at the State levels are clear and can be grasped by the average person. He can see exactly how lawbreakers rob him in the marketplace and he needs someone to go to bat for him. Clearly, the Federal Government is too far removed to do this in most cases. It takes the Justice Department's manpower to go after the huge giants reaching for complete monopoly power.

It is going to take the State to stop the erosion of the free enterprise system when the erosion takes place on a smaller level.

Let me mention one example: A constituent of mine in North Carolina, a small businessman, contacted me recently. He was about to be run out of business in a general area of our State by a national company which had moved into the area with false, cutrate prices. What the national company was doing was charging far less for its services and goods than it charged in any of its territories anywhere else in the United States. Of course, we all know that once it could force the local operators out of business, it could charge what it wanted.

This kind of thing not only hurts consumers, leads directly to inflation, and defeats small business. But could the U.S. Justice Department, which would do well to hold its own against the giants, go to court to save this small business or the thousands across the country? Of course they could not. They simply do not have that kind of manpower.

In my particular case, I told the man to go to the North Carolina attorney general's office because when I was an attorney general I was able to get funds from the legislature to build antitrust enforcement capacity. It was obvious that there was a need for antitrust enforcement in North Carolina, and there is a need in every State of the Union. But it is very hard to get legislators to vote money to set up antitrust divisions. They are made weary by the propaganda machines of those who oppose law enforcement in the area of antitrust.

That propaganda tries to hang the label of "antibusiness" on those who favor enforcing the very laws made to protect free enterprise.

But those State legislators are going to see who is really against business when their attorney general sues to protect small, local businesses from the predatory and illegal attacks of out-of-State giants. And they will see where the public interest is really served, when the State no longer has to pay with the taxpayers' money for asphalt or concrete pipe on which the price has been fixed.

In North Carolina, we were able to attack price-fixing in contracts for milk sold to the schools, at a savings to every parent in the State who sends his children off to school with lunch money.

Mr. President, the effects of sound State-level antitrust enforcement are immediate. We need more of it.

I might add that we have recently passed a bill setting forth strict procedures by which the States may sue price-fixers for damages to consumers living within their jurisdictions. We have created a mechanism by which, for the first time, an elected official close to the local scene can prevent price-fixers from keeping the take from thousands of illegal overcharges involving small items.

Antitrust enforcement benefits the consumer, the small businessman, and any honest businessman. But to achieve that enforcement takes more than statutes. It takes staff. Almost all States have good antitrust laws. I am proud to say that North Carolina's antitrust law predates the Sherman Act, and it is model law.

But almost all States are lacking in trained staff to carry out the law. Let me refer to a 1974 study by the National Association of Attorneys General, State Antitrust Laws and their Enforcement.

> Legislation alone does not insure antitrust enforcement . . . Antitrust activity depends upon available staff, and staff depends upon available funds . . . . Data obtained by the Committee on the Office of Attorney General indicates that the amount of staff and the amount of funding for antitrust are severely restricted in most states.

The publication provides a chart of antitrust staffing and funding for each State, and I ask unanimous consent that it be printed in the RECORD.

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

TABLE 3.—ATTORNEY GENERALS' ANTITRUST BUDGETS AND OTHER ANTITRUST FUNDS

	Current annual antitrust budget	Is there a revolving fund?
*Alabama	(No separate budget)	No.
*Alaska	do	No.
*Arizona	$112,759	Yes.
*Arkansas	(No separate budget)	No.
*California	$350,000	No.
*Colorado	$22,000 [1]	No.
**Connecticut	$52,041 (estimate)	No.
*Delaware	(No separate budget)	No.
*Florida	do	No.
*Georgia	do	No.
**Hawaii	do	No.
*Idaho	None	No.
**Illinois	$175,000 (estimate)	No.
**Indiana	(No separate budget)	No.
*Iowa	$125,000	No.
Kansas	(No information)	
*Kentucky	(No separate budget) [2]	No.
Louisiana	(No information)	
Maine	do	
*Maryland	$50,000	Yes.
Massachusetts	(No information)	
*Michigan	(No separate budget)	No.
*Minnesota	$190,000	No.
Mississippi	(No information)	
*Missouri	$40,000	Yes.
**Montana	$6,000 (estimate)	No.
*Nebraska	$100,000 (estimate)	No
*Nevada	(No separate budget)	No.
**New Hampshire	do	No.
*New Jersey	do	Yes
*New Mexico	do	No.
*New York	do	No.
*North Carolina	$125,000	No.
*North Dakota	(No separate budget)	No.
*Ohio	$300,000 (approximate)	Yes.
*Oklahoma	(No separate budget)	Yes.
*Oregon	$75,000	Yes.
*Pennsylvania	$75,000	No.
*Rhode Island	(No separate budget)	No.
*Samoa	do	No.
South Carolina	(No information)	
**South Dakota	$2,560	No.
*Tennessee	(No separate budget)	No.
*Texas	$50,000 (estimate)	No.
*Utah	(No separate budget)	No.
*Vermont	do	No.
*Virgin Islands	do	No.
*Virginia	$40,000 (estimate)	No.
*Washington	$171,030 (July 1, 1973–June 30, 1975).	No.
**West Virginia	$22,000 (estimate)	No.
*Wisconsin	$218,000	No.
*Wyoming	(No separate budget)	No.

[1] Colorado: Supplemental by $18,000 from Governor's fund.
[2] Kentucky: All antitrust litigation is on a contingent fee basis.
*1974.
**January 1973.

TABLE 4.—ATTORNEY GENERALS ANTITRUST STAFFS

	Attorneys	Secretary clerical	Law clerks	Other
Alabama	[2] 1	0	0	0.
Alaska	0	0	0	0.
Arizona	[2] 2	[2] 2	0	2 part-time investigators.
Arkansas	0	0	0	0.
California	[3] 8 [2] 1	[3] 5 [2] 5	0	2 full-time paralegal (plus 1 part-time); 1 full-time economist, 1 full-time auditor.
Colorado [1]	[3] 1 [2] 1	[4]	0	5 (law students for research).
Connecticut [5]	[2] 2	[2] 1	0	0.
Delaware [1]	[2] 1	[2] 1	0	0.
Florida [1]	[2] 3	[2] 3	0	1 full-time administrative assistant.
Georgia [1]	[2] 2	[2] 2	0	0.
Hawaii [5]	0	0	0	0.
Idaho [1]	0	0	0	0.
Illinois [5]	[3] 5	[3] 3	0	1 full-time investigator.
Indiana [5]	0	[2] 1/3	[2] 1/3	0.
Iowa [1]	[3] 4	[3] 1 0	[2] 1	3 full-time investigators.
Kansas	[3] 2	0	0	0.
Kentucky [1]	[2] 1	[2] 1	0	0.
Louisiana [1]	[3] 3	[3] 2	0	0.
Maine (no information).				
Maryland [1]	[3] 2	[3] 1	[2] 2	1 full-time investigator.
Massachusetts (no information).				
Michigan [1]	[3] 1	[2] 2	0	1 researcher.
Minnesota [1]	[3] 1 [2] 1	[2] 1	[2] 1	0.
Mississippi (no information).				
Missouri [1]	[3] 2	[2] 2	0	0.
Montana [5]	[2] 1	[2] 1	0	0.
Nebraska [1]	[3] 1	[2] 1	0	0.
Nevada [1]	[2] 1	[2] 1	0	0.
New Hampshire [5]	[2] 1	[2] 1	0	0.
New Jersey [1]	[3] 10	[3] 9	0	13 full-time investigators, data experts; accountants; microfilm operators, economists.
New Mexico [1]	0	0	0	0.
New York [1]	[3] 9	[3] 2	[3] 2 [2] 4	4 full-time investigators.
North Carolina [1]	[3] 4	[3] 3 [2] 1	[2] 2	2 full-time economists; 1 full-special agent (plus 3 part-time).
North Dakota [1]	[2] 1	[2] 1	0	0.
Ohio [1]	[3] 10	[3] 5	[3] 3	1 full-time investigator; 1 full-time data analysist, 1 full-time administrative assistant.
Oklahoma [1]	[3] 1	0	0	0.
Oregon [1]	[3] 1	[3] 1	[2] 1	1 full-time executive assistant.
Pennsylvania [1]	[2] 1	[2] 2	0	2 part time investigators.

Footnotes at end of table.

TABLE 4.—ATTORNEY GENERALS ANTITRUST STAFFS—Continued

	Attorneys	Secretary clerical	Law clerks	Other
Puerto Rico [6]	[3] 5	[3] 7	0	3 full-time economists; 1 full-time accountant.
Rhode Island [1]	[2] 1	[2] 1	0	0.
Samoa [1]	0	0	0	0.
South Carolina (no information).				
South Dakota [1]	[2] 2	0	0	0.
Tennessee [1]	[2] 3	[2] 3	0	0.
Texas [1]	[2] 3	[2] 1	[2] 1	0.
Utah [1]	0	0	0	0.
Vermont [1]	0	0	0	0.
Virgin Islands [1]	[2] 1	[2] 1	0	0.
Virginia [1]	[3] 1 [2] 1	[3] 1	[3] 1	0.
Washington [1]	[3] 1	[2] 1/4	0	0.
West Virginia [3]	[2] 1	[2] 1	0	0.
Wisconsin [1]	[3] 6	[3] 2 [2] 1	[2] 2	3 full-time investigators
Wyoming [1]	[3] 1 [2] 1	0	0	0.

[1] Data from 1974 COAG questionnaires.
[2] Part time.
[3] Full time.
[4] Use AG secretarial pool.
[5] Data from January 1, 1973 COAG memorandum.
[6] Data from 1971 COAG publication.

Mr. MORGAN. Mr. President, I believe these charts show very clearly what is needed. They show just how inadequate our enforcement effort is, contrary to the claims of those who want to depict small businessmen as reeling under the attack of a huge governmental antitrust machine.

This amendment will improve that situation, and it will do so in a manner agreeable to all those of us who believe strongly in the principles of States' rights. The States are ideally situated to protect the rights of the consumer, the small businessman, and the honest businesman of any size. By means of this amendment, we will give the States the funds to make a beginning.

I want to point out that the authority to make these grants is given the Attorney General, not only because that is the way the Senate passed S. 1136, but also because several States have tried to use LEAA funds and found it does not work. LEAA is not structured to fight white collar crime, and cannot render the assistance the States would need. The Justice Department has the expertise. Besides, in order to get Federal help for antitrust development, the States have had to get their grants under the organized crime division of LEAA. That is a subterfuge, and in one case it has resulted in a former narcotics specialist, on loan to LEAA, attempting to help a State antitrust department. The Justice Department is better equipped to handle this, unles we amend the LEAA act itself to provide for antitrust.

Mr. President, I yield back the remainder of my time.

Mr. HRUSKA. Will the Senator yield me 3 minutes on the amendment?

Mr. McCLELLAN. I yield.

Mr. HRUSKA. Mr. President, I believe the Senator from North Carolina is to be complimented for his interest in antitrust enforcement. A good many of us know of the prominent place he occupied in the antitrust enforcement field when he was attorney general for his home State of North Carolina.

We are, however, Mr. President, functioning under a rule of germaneness. I have observed that both the contentions and the reasons given by the Senator for adopting this amendment are that it would not be effective to have it under the auspices of LEAA as a fund granting agency.

It would come directly under the Attorney General. I also observe that it would create a new activity in the LEAA under part G, as proposed, which embraces not only criminal activity, but civil enforcement as well.

I wonder if, under those circumstances, it would not be well to ascertain whether or not this amendment is germane in that situation, and perhaps for other reasons.

The PRESIDING OFFICER. Has the Senator made a point of order?

Mr. HRUSKA. No, I am asking the Parliamentarian whether—I do not know that I would be qualified to ask for a point of order at this time, since the time has not expired.

Mr. MORGAN. I agree.

The PRESIDING OFFICER. The Chair then assumes that the Senator is making a parliamentary inquiry as to the germaneness of this provision.

Mr. HRUSKA. I, therefore, make a parliamentary inquiry, Mr. President, as to whether or not the pending amendment is germane.

The PRESIDING OFFICER. The Chair observes that part C, appearing on page 15 of the bill, deals with grants for law enforcement. The amendment does the same thing, adding a new one, and for that reason the Chair thinks that the amendment is germane.

Mr. HRUSKA. Mr. President, I did not get the reference to the page. Page 16 of the bill?

The PRESIDING OFFICER. Page 15 of the bill, part C, the title of that part being "Grants For Law Enforcement Purposes."

Mr. HRUSKA. However, Mr. President, under the printed amendment, a new part is sought to be created, part G, and it embraces not only criminal law enforcement but civil law enforcement as well.

The PRESIDING OFFICER. The Chair would inform the Senator that the amendment has been modified to add the item as a subsection under part C.

Mr. HRUSKA. But, Mr. President, may I call the Chair's attention to the fact that the Law Enforcement Assistance Administration is not involved in the amendment? It speaks in terms of grants to be made by the Attorney General.

The PRESIDING OFFICER. The Chair is aware of that, but considers the amendment germane for the reasons previously stated.

Mr. HRUSKA. I temporarily yield the floor, Mr. President, so that I may consult further with my staff.

The PRESIDING OFFICER. Who yields time? The Senator from Arkansas has time remaining on the amendment; does the Senator yield time?

Mr. McCLELLAN. Mr. President, I can hardly reconcile the Chair's ruling with respect to the germaneness of this amendment. I think it is an erroneous judgment. I have no particular objection to the objective of the amendment. I have taken the position that I hoped to avoid any nongermane amendments to this bill.

The Chair may rule, of course, that it is germane. However, it deals with a different program outside LEAA to be administered by the Attorney General and even deals with civil matters, which are not covered by the bill; it is pretty hard for me to reconcile it as being germane.

I do not know whether a point of order will be made. I do not think a point of order is in order until all the time has been used up by the proponent of the amendment. So I will wait and see what develops.

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

Mr. McCLELLAN. I yield.

Mr. MANSFIELD. How has the Chair ruled, or has the Chair ruled?

The PRESIDING OFFICER. The Chair stated in response to a parliamentary inquiry that he thought it was germane.

Mr. McCLELLAN. The Chair, I believe, ruled that it was germane.

Mr. MANSFIELD. I see. Has the Chair ruled?

Mr. McCLELLAN. Well, he has indicated he would so rule.

Mr. MANSFIELD. It was a parliamentary inquiry?

Mr. McCLELLAN. Yes, but the ruling has not been——

Mr. MANSFIELD. Formalized?

Mr. McCLELLAN. Yes. I just do not want to get this bill opened up to nongermane amendments.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, if the Senator will yield me 1 minute, to fill the gap, I ask unanimous consent that the Senate go into executive session to consider the nominations of two judges on the calendar.

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

THE JUDICIARY

The assistant legislative clerk proceeded to read the nominations of William A. Ingram, of California, and William W. Schwarzer, of California, to be U.S. District Judges for the northern district of California.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed en bloc.

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

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

LEGISLATIVE SESSION

Mr. MANSFIELD. I ask unanimous consent that the Senate return to the consideration of legislative business.

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

CRIME CONTROL ACT OF 1976

The Senate continued with the consideration of the bill (S. 2212) to amend the Omnibus Crime Control and Safe Streets Act of 1968, as amended, and for other purposes.

Mr. BEALL. Mr. President, I rise in support of S. 2212 which would, if enacted, better enable the Law Enforcement Assistance Administration to provide continued and better assistance to every branch of State and local government in the organized war against crime in the United States.

In 1968 the Congress recognized the critical need for the Federal Government to take positive action to reduce crime in our Nation. As a result of that concern the LEAA was created by the Omnibus Crime Control and Safe Streets Act of 1968. Recognizing that law enforcement and crime prevention is best addressed at the State and local levels of government, Congress established a Federal administration whose primary responsibility was to funnel huge sums of money—over $4.1 million through July 1975—with only a minimum of control from Washington. Over the years LEAA has been successful in many respects; however, in other respects it has been noticeably deficient. The bottom line is that despite the untiring efforts of Federal, State, and local officials crime has not been reduced. Indeed, it has increased by epidemic proportions.

Some critics point to increased crime rates and suggest that the LEAA be abolished. Mr. President, I believe that to abandon the program would undoubtedly be a mistake; but, to simply reauthorize it without remedying its shortcomings would also be a mistake.

I am extremely pleased, therefore, that my colleagues have accepted my amendment to require each State planning agency to include in their annual comprehensive plans provisions for the development of programs and projects for the prevention of crimes against the elderly unless the SPA makes an affirmative finding that such a provision is unnecessary in that State. In addition, I believe it is important to note the incorporation in S. 2212 of major provisions from S. 3043, cosponsored by me earlier this session. Among those adopted are the following:

First, the bill would allow for the voluntary establishment of judicial planning committees—JPC's—to represent State judiciaries in the formulation of comprehensive State plans. Under this approach, the court of last resort of each State may create a JPC and be responsible for choosing its members.

By establishing judicial planning committees, the proposed bill would better enable local circuits and districts to participate in the planning process, thereby insuring that a more appropriate share of grant funds will be spent for the judiciary to alleviate the critically congested and backlogged caseloads confronting judges, court administrators, and prosecutors.

Although some progress is being made through implementation of the Speedy Trial Act, we must do more to insure that the court system is able to increase its capability to deal with the problem. I believe that the establishment and funding of judicial planning committees will be a great asset because it will allow courts to hire additional personnel and also provide the impetus for more efficient planning.

Second, under the provisions of the proposed bill, cities, urban counties or local government units would be authorized to submit comprehensive plans to State planning agencies—SPA's. Once approved by the SPA, a "mini block grant" would be awarded to the local agency without the need for further action on each individual project application. This important feature will do two things: First, it would provide local planning offices with adequate participation in the development of the comprehensive planning for a particular area. Through this process, local agencies can develop plans, set priorities, and evaluate programs which are tailor made to meet the needs of the particular community. At the same time the SPA's will retain the responsibility for insuring comprehensiveness from a regional and statewide standpoint; and second, as a practical matter this new system would eliminate an incredible amount of redtape.

No longer would it be necessary to file grant applications on a one-by-one basis for projects which have been previously approved by the SPA and the LEAA in the State's comprehensive plan. The existing system is extremely cumbersome, totally unnecessary and should be amended.

Third, provisions are made in the proposed bill for the continuation of LEAA funds previously directed to areas of the country suffering from particularly high crime rates. We have been advised by local criminal justice officials that although the LEAA's high impact anticrime program represented only a small percentage of impacted areas' crime budgets the benefits of the program have been highly significant. The major localities who have participated in the program, such as Baltimore, Md., have indicated that the funds have been successfully used in the fight against stranger-to-stranger crimes—homicides, rapes, robberies, and aggravated assaults—but are concerned that existing funding levels have expired. S. 3043 would insure the continuation of this successful LEAA program.

Fourth, the proposed amendments deal with the administrative deficiencies under the current law by requiring LEAA for the first time to establish followup procedures to monitor the effectiveness of the State programs. In essence the LEAA would be responsible for conducting both programmatic and fiscal audits of each plan to determine the impact and value of such programs in reducing and preventing crime.

The problem with the present setup is that the comprehensive plans, once approved by LEAA have become an end unto themselves without followup reviews to determine whether or not the plans were implemented as approved or if in fact the programs have had an impact on the crime rates.

If these changes are made you and I, as taxpayers, will get more for our money and the chances of reducing crime will be greatly enhanced.

Fifth, because of the continued risk of further problems with the overall program, I believe that the inclusion in the bill of extensive congressional oversight authority provisions is extremely important to monitor the progress of the program. The oversight authority would be accomplished by requiring LEAA to submit an annual report detailing its policies and priorities for reducing crime, its evaluation procedures, the number of State plans approved and disapproved, and other criteria which will clearly indicate the amount and quality of work by the administration.

Mr. President, while I recognize that enactment of this LEAA reauthorization bill cannot be expected to result in the complete subsidence of violence in our society, it does represent a significant step toward that goal. With the inclusion of those provisions which I have discussed, I believe we will be getting the most for our tax dollars while at the same time turning the tables on the criminal by returning credibility to the old adage that "crime does not pay."

Mr. NELSON. Mr. President, it is only with serious reservations that I will vote for S. 2212, extending the authorization of the Law Enforcement Assistance Administration (LEAA).

The reservations stem from the fact that LEAA's performance has been extremely disappointing since its creation and this legislation does not fully resolve some of the basic problems besetting the Agency. The decision to vote for the legislation reflects my belief that S. 2212 is a good faith response to some of the perceived problems and moves in the right direction, although in an ad hoc, incomplete fashion.

LEAA has been in existence since 1968. Obviously, an agency that has expended over $4 billion has some positive accomplishments to show for it. However, there is little doubt that LEAA has been an Agency with serious problems. In introducing legislation to reform LEAA, Senator KENNEDY called LEAA "one of the worst managed agencies in the U.S. Government." This description has been verified by the GAO and OMB which have frequently criticized those LEAA programs which have been studied. Two independent studies of LEAA have been conducted, both highly critical of the Agency. A study by the Twentieth Century Fund recommended wholesale changes in the program and a greatly reduced role for the Agency. A study by the Center for National Security Studies, which has not yet been released to the press, called for the program to be completely discontinued.

There is widespread agreement about

the reasons for LEAA's failings. At a time when crime as a political issue was most volatile, LEAA was presented, amidst great fanfare, as the Federal Government's war on crime. Through efforts like the high impact cities anticrime program, LEAA created unreasonable public expectations that crime could be reduced quickly, by massive expenditures in the law enforcement area. The overselling of LEAA focused public attention on crime statistics, glossed over the complexity of crime and the criminal justice system, and inevitably caused public disillusionment when swift improvements were not forthcoming.

LEAA has continued to suffer from the inability of Congress or the Agency itself to define its mandate: Is the Agency's principal goal to reduce crime or to upgrade the criminal justice system? Victor Navasky, an astute analyst of the law enforcement issues, addressed this problem in the background paper for the Twentieth Century Fund's report:

> The distinction between the goal of reducing crime and that of improving the criminal justice system may be a mere semantic quibble. But it also may reflect a profound difference in priorities and perspectives between the traditional, hardline, punitive law enforcement agenda and a more adventurous criminal justice strategy. The failure of both Congress and LEAA to resolve the question of mandate has resulted in confusion within and about the agency, in the formulation of conflicting criteria for resource allocation (hence, in a wasteful use of resources), and in abrupt policy shifts on the part of successive administrators.

The problem of the Agency's mandate relates closely to a second basic problem: establishing a relationship between the Federal and State governments. Because crime and law enforcement have traditionally been an area handled at the State and local level, Congress concluded that LEAA should distribute most of its funds in the form of block grants to permit States and localities to address their own problems in their own ways.

However, appealing the theory, in practice, Congress has not been willing to distribute billions of dollars in Federal funds without placing strings on the money. In 1971, seeing that the police had received 66 percent of the LEAA action money in its first years of operations while correctional institutions received only 10 percent. Congress passed legislation earmarking an amount equal to 20 percent of the LEAA action money to corrections. In 1974, troubled that the LEAA was slumping on the juvenile justice concerns, Congress passed the Juvenile Justice Act, establishing within LEAA an entire administrative structure to insure that juvenile issues received more attention and funding.

This year, the same pattern is being followed. The hearings clearly established, and the Twentieth Century Fund report agrees, that the courts have been badly shortchanged under LEAA. S. 2212 responds to these findings by insuring greater judicial participation in the State planning process and requiring LEAA to examine States' master plans to insure that they "provide an adequate share of funds for court programs"—section 303(d).

The passage of S. 2212 leaves these dilemmas partially unresolved. This bill does not clearly articulate the mandate of LEAA, nor is it a final determination of whether State or Federal priorities will ultimately govern LEAA. But the direction of S. 2212 is clear. By taking steps which will increase funding for the State courts, the Senate is again saying—as it did in the areas of juvenile justice and corrections—that the States have not allocated the funds in a way acceptable to Congress. S. 2212 represents another step moving LEAA away from its early overwhelming concern with funding law enforcement efforts—with its preoccupation with crime statistics and glamor police hardware—to an overall effort to upgrade the criminal justice system. This movement is encouraging and deserves support.

One other problem deserves mention. In the past 8 years, LEAA has funded literally thousands of programs. It is universally agreed that for the most part the Agency has no idea what has worked successfully and what has not. The Agency has not made a rigorous review of State proposals at the outset when they are submitted and has conducted no effective valuation of the programs as they progress.

Because there is no simple solution to the crime problem, the chief value of a program like LEAA is that it permits experimentation with a wide range of different approaches to the problem. This value is negated when no serious attempt is made to evaluate the programs and separate the wheat from the chaff. Fortunately, there is increasing recognition within Congress and LEAA of the importance of monitoring and evaluating the programs funded. According to the Judiciary Committee report on S. 2212, "pursuant to the provisions of the Crime Control Act of 1973, LEAA has undertaken a serious evaluation effort that is just now beginning to show its effect * * *."

As part of this effort, for example, in 1975, the LEAA prepared a compendium of selected criminal justice programs, describing more than 650 programs, summarizing their reported impact on crime or the criminal justice system and pinpointed one-third of those deemed especially innovative. S. 2212 further spells out the LEAA's obligations to evaluate and monitor approved programs. The bill provides that "prior to its approval of any State plan, the administration shall evaluate its likely effectiveness and impact"—section 303(b)—and requires LEAA to "establish such rules and regulations as are necessary to assure the proper auditing, monitoring, and evaluation by the administration of both the comprehensiveness and impact of programs * * *"—section 501.

I am hopeful that the changes required by S. 2212 will help LEAA correct past deficiencies. At present, the major flaws in the program have produced the worst of both worlds: an unwieldy Federal bureaucracy snarling the States in regulations and redtape without playing a meaningful oversight role. Yesterday, the Senate by a narrow vote rejected a Biden amendment to cut the reauthorization of the program from 5 years to 3. Three years would give LEAA and the States ample time to plan programs and show Congress whether the reforms of S. 2212 have taken hold, and it is my hope that the legislation as it emerges from conference will reauthorize the program for not more than 3 years.

Mr. MATHIAS. Mr. President, crime is one of many problems in metropolitan areas that shows no respect for jurisdictional lines. Criminals, as well as the social and economic problems that breed them, are not confined by city, county, or even State lines. In our major urban areas, crime is not simply a central city problem or a suburban problem; it is a metropolitan problem.

The Crime Control Act of 1976 would continue programs of financial assistance to State and local governments. While S. 2212 recognizes the States and general purpose local governments as the primary units for addressing the crime problem, funds can also be awarded to combinations of local governments. In this light, I hope that LEAA will continue to support cooperative efforts by the many jurisdictions in metropolitan areas to coordinate their criminal justice planning and implementation activities.

There are 38 metropolitan areas in the Nation which cross State boundaries. These 38 areas contain almost 55 million people and the ability of our Federal programs to operate effectively in interstate metropolitan areas has an impact on one quarter of the Nation's population. With this in mind, I hope that the programs we are considering today will be administered with special attention to the needs of interstate metropolitan areas. Specifically, by making grants available to regional councils of governments I believe that the LEAA program can help to address the metropolitan crime problem on a metropolitan basis.

STATEMENT ON MORGAN AMENDMENT NO. 2060 TO S. 2212

Mr. PHILIP A. HART. Mr. President, I support the amendment of the distinguished Senator from North Carolina (Mr. MORGAN). With one exception, the amendment is identical to section 4 of S. 1136 which passed the Senate on December 12, 1975. The exception substitutes fiscal year 1979 for the year 1976 because that fiscal year is now over.

S. 1136 has widespread bipartisan support. It was introduced by Senator HUGH SCOTT and myself, and is cosponsored by Mr. ABOUREZK, Mr. BAYH, Mr. BIDEN, Mr. BROCK, Mr. BROOKE, Mr. CHILES, Mr. CHURCH, Mr. CLARK, Mr. CRANSTON, Mr. DOLE, Mr. DOMENICI, Mr. EAGLETON, Mr. GARN, Mr. GRAVEL, Mr. GARY W. HART, Mr. HARTKE, Mr. HASKELL, Mr. HATHAWAY, Mr. HUDDLESTON, Mr. HUMPHREY, Mr. JACKSON, Mr. JAVITS, Mr. JOHNSTON, Mr. KENNEDY, Mr. LEAHY, Mr. MATHIAS, Mr. MCGEE, Mr. MCGOVERN, Mr. MCINTYRE, Mr. MAGNUSON, Mr. MONDALE, Mr.

MORGAN, Mr. MOSS, Mr. MUSKIE, Mr. NELSON, Mr. PASTORE, Mr. PERCY, Mr. PROXMIRE, Mr. RIBICOFF, Mr. HUGH SCOTT, Mr. STEVENSON, Mr. TUNNEY, Mr. WEICKER, and Mr. WILLIAMS.

The Judiciary Committee report on this provision stated:

C. ASSISTANCE TO STATES

To supplement the Federal antitrust enforcement effort, the bill authorizes a 3-year program of assistance and grants to States to improve their antitrust capabilities. S. 1136 would authorize to be appropriated not to exceed $10 million annually for fiscal years 1976, 1977, and 1978, and not to exceed $2.5 million for the transition period ending September 30, 1976. These funds are intended as seed money, and the program will terminate at the expiration of fiscal year 1978 (i.e., September 30, 1978).

D. ASSISTANCE TO STATES

S. 1136 establishes a program of assistance and grants to States to improve their antitrust enforcement capabilities. The States represent an untapped source of substantial potential in the antitrust area. State interest is high, and a number of States have formed special antitrust units. Others are utilizing existing State personnel. Presently, however, the overall number of personnel committed is inadequate due to budgetary constraints and lack of training, although most States desire to increase their antitrust efforts. Section 5 of S. 1136 would provide seed money and is designed to get State antitrust efforts off the ground. The funds could be used for training, for clinical programs in cooperation with law schools, for additional personnel, for cases, or for whatever approach a State wishes to take to enhance its antitrust capability provided it is in compliance with the section 5(b) plan and section 5(d) regulations. Its efforts could be carried out under Federal or State antitrust statutes, and could be criminal or civil in nature.

After 3 years the seed money will cease. It is hoped that the States will then have a viable antitrust program to supplement the Federal effort. This can be especially useful to combat local price fixing, local customer or territory allocations, local boycotts, and other local anticompetitive conduct effectively beyond the reach of the Federal Government. It can also serve to supplement the Federal effort against nationwide conspiracies and monopolies.

Mr. President, at the annual meeting of the National Association of State Attorneys General, the following resolution was passed unanimously:

RESOLUTION XI. S. 1136

Whereas, the National Association of Attorneys General recognizes the vital importance of vigorous enforcement of the antitrust laws to a freely competitive economy and the consumers' interests therein; and

Whereas, this Association believes that enforcement of the antitrust laws on the state level is a significant and emerging force toward this end; and

Whereas, this Association recognizes that antitrust enforcement requires substantial resources because of the highly technical nature thereof; and

Whereas, this Association believes that Federal financial assistance to state enforcement is appropriate in light of the direct impact on the national economy of intensified enforcement; and

Whereas, S. 1136, pending in the United States Senate, would authorize appropriation of $10,000,000 to state attorneys general offices for assistance in antitrust enforcement; Now therefore, be it

Resolved That:

1. This Association strongly endorses passage of S. 1136, and

2. This Association urges the Congress to act promptly on this legislation; and

3. This Resolution be communicated to the appropriate committees and Members of Congress; and

4. The Association's Washington Counsel is authorized and directed to take all reasonable and appropriate steps to communicate this Association's strong support for passage of S. 1136 and to inform members of this Association of the progress and results thereof; and

5. The Special Subcommittee on Legislation of this Association's Antitrust Committee shall monitor and coordinate efforts of the Washington Counsel and members of the Association in regard to said legislation.

Mr. President, this amendment is necessary because S. 1136 is hopelessly bogged down in the House. In my judgment, the LEAA amendment route represents the only realistic possibility of securing the enactment of even part of S. 1136 this Congress. The amendment does not change the LEAA authorization contained in S. 2212; nor does it take funds from other LEAA programs. It does not violate the congressional budget resolution. It merely repasses part of a bill (S. 1136) already passed by the Senate. I hope my colleagues will support the amendment and I thank Senator MORGAN for raising this issue.

Mr. President, I ask unanimous consent that I be added as a cosponsor to the amendment introduced by the distinguished Senator from North Carolina (Mr. MORGAN).

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

ORDER LAYING ASIDE FURTHER CONSIDERATION OF S. 2212 UNTIL MONDAY, JULY 26, 1976

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the pending business be laid aside until Monday morning.

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

TAX REFORM ACT OF 1976

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate now turn to the consideration of H.R. 10612, the Tax Reform Act of 1976.

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

The Senate will now resume consideration of the unfinished business which will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 10612) to reform the tax laws of the United States.

The Senate resumed the consideration of the bill.

Mr. MANSFIELD. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MANSFIELD. Is there an amendment pending?

The PRESIDING OFFICER. Committee amendment No. 18 is pending.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislatvie clerk proceeded to call the roll.

Mr. LONG. 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. LONG. Mr. President, I was not in the Chamber at the time the Senate voted on titles V, VI, and VII. They were agreed to by voice vote.

Now, Mr. President, title V as well as title I involve very substantial changes in the tax laws for the better, in my judgment. They involved both simplification and a great deal of reform. I know I want to be recorded for those titles, and I think most Senators who participated in any respect whatever would like the privilege of being on record on that matter.

So I ask unanimous consent that we might reconsider title V and vote on it.

The PRESIDING OFFICER (Mr. FANNIN). Is there objection?

Mr. HASKELL. Reserving the right to object——

Mr. LONG. That is, vote on it without amendment, just vote on the title.

The PRESIDING OFFICER. Is there objection?

Mr. HASKELL. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HASKELL. Does that mean we are going to reopen title V?

Mr. LONG. No. I said without amendment. I am not planning to reopen it.

If any Senator wants to offer an amendment at some later date, it is perfectly all right with me to give him consent. That is not the problem.

I just want to vote for the tax simplification by rollcall, rather than voice vote.

Mr. HASKELL. I have no objection.

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

Mr. LONG. Mr. President, I ask for the yeas and nays on the title.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to committee amendment No. 15, title V. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from California (Mr. CRANSTON), the Senator from Colorado (Mr. GARY HART), the Senator from Indiana (Mr. HARTKE), the Senator from Montana (Mr. METCALF), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Rhode Island (Mr. PELL), the Senator from California (Mr. TUNNEY), the Senator from Arkansas (Mr. BUMPERS), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. PELL) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from New York (Mr. BUCKLEY), the Senator from Hawaii (Mr. FONG), the Senator from Arizona (Mr. GOLDWATER), the Senator from Idaho (Mr. MCCLURE), the Senator from Illinois (Mr. PERCY), and the Senator from Ohio (Mr. TAFT) are necessarily absent.

I also announce that the Senator from Pennsylvania (Mr. HUGH SCOTT) is absent on official business.

The result was announced—yeas 82, nays 0, as follows:

[Rollcall Vote No. 409 Leg.]

YEAS—82

Abourezk	Garn	McIntyre
Allen	Glenn	Morgan
Bartlett	Gravel	Moss
Bayh	Griffin	Muskie
Beall	Hansen	Nelson
Bellmon	Hart, Philip A.	Nunn
Bentsen	Haskell	Packwood
Biden	Hatfield	Pastore
Brock	Hathaway	Pearson
Brooke	Helms	Proxmire
Burdick	Hollings	Randolph
Byrd,	Hruska	Ribicoff
Harry F., Jr.	Huddleston	Roth
Byrd, Robert C.	Humphrey	Schweiker
Cannon	Inouye	Scott,
Case	Jackson	William L.
Chiles	Javits	Sparkman
Church	Johnston	Stafford
Clark	Kennedy	Stevens
Culver	Laxalt	Stevenson
Curtis	Leahy	Stone
Dole	Long	Symington
Domenici	Magnuson	Talmadge
Durkin	Mansfield	Thurmond
Eagleton	Mathias	Tower
Eastland	McClellan	Weicker
Fannin	McGee	Williams
Ford	McGovern	Young

NAYS—0

NOT VOTING—18

Baker	Hart, Gary	Pell
Buckley	Hartke	Percy
Bumpers	McClure	Scott, Hugh
Cranston	Metcalf	Stennis
Fong	Mondale	Taft
Goldwater	Montoya	Tunney

So committee amendment No. 15 (title V) was agreed to.

Mr. LONG. Mr. President, I ask unanimous consent, in order that we might have a rollcall vote on title VI, regarding business related individual income tax provisions, on which the Senate agreed by a voice vote, I ask unanimous consent to reconsider that vote, in order that I might ask for a rollcall.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Louisiana? Without objection, it is so ordered.

Mr. LONG. Mr. President, I ask for the yeas and nays on title VI.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. STEVENS. Mr. President, I ask unanimous consent that a member of my staff, Susan Alvarado, be accorded the privilege of the floor.

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

Mr. FORD. Mr. President, may we have order? We would like to know what is going on.

The PRESIDING OFFICER. The Senator from Kentucky is correct. The Senate will be in order. Senators will please take their seats.

Mr. LONG. Mr. President, I ask unanimous consent that this vote be a 10-minute vote.

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

The question is on agreeing to title VI. 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 Indiana (Mr. BAYH), the Senator from Arkansas (Mr. BUMPERS), the Senator from California (Mr. CRANSTON), the Senator from Colorado (Mr. GARY HART), the Senator from Indiana (Mr. HARTKE), the Senator from Wyoming (Mr. MCGEE), the Senator from Montana (Mr. METCALF), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Rhode Island (Mr. PELL), the Senator from Mississippi (Mr. STENNIS), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. PELL), would vote "yea."

Mr. TOWER. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from New York (Mr. BUCKLEY), the Senator from Nebraska (Mr. CURTIS), the Senator from Hawaii (Mr. FONG), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from Idaho (Mr. MCCLURE), the Senator from Illinois (Mr. PERCY), and the Senator from Ohio (Mr. TAFT), are necessarily absent.

I also announce that the Senator from Pennsylvania (Mr. HUGH SCOTT) is absent on official business.

The result was announced—yeas 77, nays 1, as follows:

[Rollcall Vote No. 410 Leg.]

YEAS—77

Abourezk	Gravel	Muskie
Allen	Hansen	Nelson
Bartlett	Hart, Philip A.	Nunn
Beall	Haskell	Packwood
Bellmon	Hatfield	Pastore
Bentsen	Hathaway	Pearson
Brock	Helms	Proxmire
Brooke	Hollings	Randolph
Burdick	Hruska	Ribicoff
Byrd,	Huddleston	Roth
Harry F., Jr.	Humphrey	Schweiker
Byrd, Robert C.	Inouye	Scott,
Cannon	Jackson	William L.
Case	Javits	Sparkman
Chiles	Johnston	Stafford
Church	Kennedy	Stevens
Clark	Laxalt	Stevenson
Culver	Leahy	Stone
Dole	Long	Symington
Domenici	Magnuson	Talmadge
Durkin	Mansfield	Thurmond
Eagleton	Mathias	Tower
Eastland	McClellan	Weicker
Fannin	McGovern	Williams
Ford	McIntyre	Young
Garn	Morgan	
Glenn	Moss	

NAYS—1

Biden

NOT VOTING—22

Baker	Griffin	Pell
Bayh	Hart, Gary	Percy
Buckley	Hartke	Scott, Hugh
Bumpers	McClure	Stennis
Cranston	McGee	Taft
Curtis	Metcalf	Tunney
Fong	Mondale	
Goldwater	Montoya	

So committee amendment No. 16 (title VI) was agreed to.

Mr. LONG. Mr. President, I ask unanimous consent that there be a rollcall vote on title VII, Accumulation Trusts, which was agreed to previously by a voice vote.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. LONG. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. LONG. Mr. President, I ask unanimous consent that a summary explaining title VII be printed in the RECORD. This is the title that simplifies and reforms the law with regard to accumulation trusts.

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

TITLE VII—ACCUMULATION TRUSTS

Under present law, income of a trust that is currently distributed to its beneficiaries is taxed to the beneficiaries and not to the trust. However, the trust is taxed on income that is accumulated and not distributed currently. In order to prevent the use of a trust to avoid tax by using the trust's lower progressive rate structure, the Code presently contains a number of rules, known as the "accumulation distribution" or "throwback" rules, which taxes a beneficiary on distributions of income that originally was accumulated in a trust as if the income of the trust had been distributed when earned by the trust.

In the Tax Reform Act of 1969, these rules were substantially revised to provide an unlimited throwback with respect to all accumulation distributions. Under the Tax Reform Act, the tax to the beneficiary is computed under one of two different methods: the "exact method" under which the accumulated income is thrown back to the same years of the beneficiaries in which the income was earned or the "short-cut method" in which the tax is computed on an average basis. Under the Tax Reform Act, the throwback rules were applied to distributions of accumulated capital gains as well as distributions of accumulated ordinary income.

Because of a number of administrative problems with the rules provided by the Tax Reform Act of 1969, the House bill makes a number of amendments to the throwback rules. First, it deletes the exact method. Second, it modifies the short-cut method to make it more equitable and easier to administer. Third, it provides an exemption to the throwback rules for minors since it would be unlikely that there would be any tax abuse. Fourth, it provides a special rule to deal with multiple trusts. Fifth, it repeals the capital gains throwback rules. However, in order to prevent abuse through the transfer of appreciated assets to a trust to be immediately sold by the trust, the House bill contained a rule which treated any "built-in" gain arising from the sale of property as short-term capital gain if the sale

occurred within two years of the transfer of the property to the trust.

The Finance Committee amendment adopts all of the amendments made by the House bill except one. Because the committee believes that the two-year holding period is arbitrary and would not provide the correct result, the committee has substituted, for that rule, a rule which taxes the "built-in" gain arising from the sale of assets occurring within two years of their transfer to the trust at the grantor's tax rate brackets. Thus, it is not possible under the committee amendment to avoid tax by simply transferring appreciated property to a trust for sale by the trust.

Mr. LONG. Mr. President, I ask unanimous consent that this be a 10-minute rollcall vote.

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

The question is on agreeing to the title VII. 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 Arkansas (Mr. BUMPERS), the Senator from California (Mr. CRANSTON), the Senator from Colorado (Mr. GARY HART), the Senator from Indiana (Mr. HARTKE), the Senator from Montana (Mr. METCALF), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Rhode Island (Mr. PELL), the Senator from Mississippi (Mr. STENNIS), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that, if present, and voting, the Senator from Rhode Island (Mr. PELL) would vote "yea."

Mr. TOWER. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from New York (Mr. BUCKLEY), the Senator from Nebraska (Mr. CURTIS), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from Idaho (Mr. MCCLURE), the Senator from Illinois (Mr. PERCY), and the Senator from Ohio (Mr. TAFT) are necessarily absent.

I also announce that the Senator from Pennsylvania (Mr. HUGH SCOTT), is absent on official business.

The result was announced—yeas 81, nays 0, as follows:

[Rollcall Vote No. 411 Leg.]

YEAS—81

Abourezk	Eagleton	Laxalt
Allen	Eastland	Leahy
Bartlett	Fannin	Long
Bayh	Fong	Magnuson
Beall	Ford	Mansfield
Bellmon	Garn	Mathias
Bentsen	Glenn	McClellan
Biden	Gravel	McGee
Brock	Hansen	McGovern
Brooke	Hart, Philip A.	McIntyre
Burdick	Haskell	Morgan
Byrd, Harry F., Jr.	Hatfield	Moss
	Hathaway	Muskie
Byrd, Robert C.	Helms	Nelson
Cannon	Hollings	Nunn
Case	Hruska	Packwood
Chiles	Huddleston	Pastore
Church	Humphrey	Pearson
Clark	Inouye	Proxmire
Culver	Jackson	Randolph
Dole	Javits	Ribicoff
Domenici	Johnston	Roth
Durkin	Kennedy	Schweiker
Scott, William L.	Stevenson	Tower
	Stone	Weicker
Sparkman	Symington	Williams
Stafford	Talmadge	Young
Stevens	Thurmond	

NAYS—0

NOT VOTING—19

Baker	Hart, Gary	Percy
Buckley	Hartke	Scott, Hugh
Bumpers	McClure	Stennis
Cranston	Metcalf	Taft
Curtis	Mondale	Tunney
Goldwater	Montoya	
Griffin	Pell	

So title VII was agreed to.

Mr. HANSEN. Mr. President, I move to reconsider the vote.

The PRESIDING OFFICER. The motion to reconsider is not in order. The vote has been reconsidered.

AMENDMENT NO. 1873

Mr. HANSEN. Mr. President, I call up my amendment No. 1873 as modified and ask that it be stated.

The PRESIDING OFFICER. the amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. HANSEN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 211, line 25, insert the words "and storage" after the word "moving".

On page 213, strike line 8 and insert therefor "apply to the moving and storage expenses which are furnished in kind incident to those orders".

Mr. HARRY F. BYRD, JR. Will the Senator yield?

Mr. HANSEN. Yes, indeed.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that this amendment be considered as part of title V.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. HANSEN. What my amendment does is provide that when a permanent change of station has been ordered by the military, the military may be permitted to pay storage expenses for those goods and effects which would be required to be placed in storage by the affected personnel and members of their family. That is essentially what it does. I think that the manager of the bill is prepared to accept it.

Am I right about that?

Mr. HARRY F. BYRD, JR. Mr. President, may I say to the able Senator from Wyoming the committee had this under consideration and deferred action. Since the committee did not affirmatively act on the matter, I am not in a position to speak for the committee.

I have consulted with the chairman of the committee. He is prepared, and so is the acting chairman, to accept the amendment offered by the Senator from Wyoming and take it to conference.

The only thing it does is to include storage expenses as a part of the moving expenses for those on active duty in the military, acting under military orders. I personally see no objection to it, but I cannot speak for the committee as a whole.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Wyoming.

The amendment was agreed to.

Mr. HANSEN. I thank my distinguished colleague.

Mr. HARRY F. BYRD, JR. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that the Senate now proceed to title IX, which would be out of order on the bill, but it could be under unanimous consent.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. HARRY F. BYRD, JR. Mr. President, title IX continues the small business tax reductions.

Prior to the 1975 Tax Reduction Act, corporate income was subject to a 22-percent normal tax and a 26-percent surtax—for a total tax rate of 48 percent. However, the first $25,000 of corporate income was exempt from the surtax and taxed at 22 percent.

In the Tax Reduction Act of 1975 the surtax exemption was increased to $50,000 and the normal tax was reduced to 20 percent on the initial $25,000 of taxable income. This results in a 20-percent tax rate on the first $25,000 of income, a 22-percent tax rate on the next $25,000, and a 48-percent rate on that part of income in excess of $50,000. These changes were extended through June 30, 1976, by the Revenue Adjustment Act of 1975.

The House bill extends these cuts through December 31, 1977.

The committee amendment makes permanent the increase in the surtax exemption and the reduction in the normal tax rate on the first $25,000 of corporate income to 20 percent. In addition, the bill makes these provisions applicable to mutual insurance companies in order to correct an oversight in the Tax Reduction Act of 1975.

The temporary changes in the corporate surtax exemption provided by the 1975 Tax Reform Act were initially adopted for two reasons: First, to grant tax relief to small businesses which are not likely to derive substantial benefits from the liberalizations in the investment tax credit because they are not capital intensive; and second, to provide temporary tax relief for small business as part of a program of tax reduction designed to help sustain the economy and promote economic recovery. In making these changes permanent, the committee assures that the improvement in equity for small businesses is permanent, and that the stimulus to the economy from small business will continue as well.

Mr. FANNIN. Mr. President, the distinguished Senator from Virginia is correct. That has our favorable support of his proposal.

Mr. HARRY F. BYRD, JR. I thank the distinguished Senator from Arizona.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to committee amendment No. 19. 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 Arkansas (Mr. BUMPERS), the Senator from California (Mr. CRANSTON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Colorado (Mr. GARY HART), the Senator from Indiana (Mr. HARTKE), the Senator from Vermont (Mr. LEAHY), the Senator from Montana (Mr. METCALF), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Rhode Island (Mr. PELL), the Senator from Mississippi (Mr. STENNIS), the Senator from Illinois (Mr. STEVENSON), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. PELL) would vote "yea."

Mr. TOWER. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from New York (Mr. BUCKLEY), the Senator from Nebraska (Mr. CURTIS), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from Nevada (Mr. LAXALT), the Senator from Idaho (Mr. MCCLURE), the Senator from Illinois (Mr. PERCY), the Senator from Ohio (Mr. TAFT), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I also announce that the Senator from Pennsylvania (Mr. HUGH SCOTT) is absent on official business.

I further announce that, if present and voting, the Senator from Ohio (Mr. TAFT) would vote "yea."

The result was announced—yeas 76, nays 0, as follows:

[Rollcall Vote No. 412 Leg.]

YEAS—76

Abourezk	Domenici	Javits
Allen	Durkin	Johnston
Bartlett	Eagleton	Kennedy
Bayh	Fannin	Long
Beall	Fong	Magnuson
Bellmon	Ford	Mansfield
Bentsen	Garn	Mathias
Biden	Glenn	McClellan
Brock	Gravel	McGee
Brooke	Hansen	McGovern
Burdick	Hart, Philip A.	McIntyre
Byrd, Harry F., Jr.	Haskell	Morgan
	Hatfield	Moss
Byrd, Robert C.	Hathaway	Muskie
Cannon	Helms	Nelson
Case	Hollings	Nunn
Chiles	Hruska	Packwood
Church	Huddleston	Pastore
Clark	Humphrey	Pearson
Culver	Inouye	Proxmire
Dole	Jackson	Randolph
Ribicoff	Sparkman	Talmadge
Roth	Stafford	Thurmond
Schweiker	Stevens	Tower
Scott, William L.	Stone	Williams
	Symington	Young

NAYS—0

NOT VOTING—24

Baker	Hart, Gary	Pell
Buckley	Hartke	Percy
Bumpers	Laxalt	Scott, Hugh
Cranston	Leahy	Stennis
Curtis	McClure	Stevenson
Eastland	Metcalf	Taft
Goldwater	Mondale	Tunney
Griffin	Montoya	Weicker

So committee amendment 19 (title IX) was agreed to.

Mr. HATHAWAY. Mr. President, I ask unanimous consent that Mr. Larry Gage, a member of the subcommittee staff, be accorded the privilege of the floor during the remainder of debate on this bill.

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

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

Mr. HATHAWAY. I yield.

Mr. LONG. I hope that we might dispose of the real estate investment trust provisions before we vote on the matter that the Senator from Maine has in mind.

Mr. President, I have made an effort to see if we could dispose of the real estate investment trusts title today. I believe we can. If Senators wish to offer amendments involving real estate investment trusts, I am sure we could handle them this afternoon and, in addition to that, we could vote on this title, at least, from the indications I receive from sounding out Senators.

TITLE XVI—REAL ESTATE INVESTMENT TRUSTS—COMMITTEE AMENDMENT 26

So, I ask unanimous consent, Mr. President, that the Senate proceed to consider title XVI, the real estate investment trusts in the bill.

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

The Senate will proceed to consider title XVI, and committee amendment No. 26 will be stated.

The assistant legislative clerk read as follows:

On page 927, line 1, strike all through page 952, line 23, and insert in lieu thereof:

The amendment is as follows:

TITLE XVI—REAL ESTATE INVESTMENT TRUSTS

SEC. 1601. DEFICIENCY DIVIDEND PROCEDURE.

(a) IN GENERAL.—

(1) Part II of subchapter M of chapter 1 (relating to real estate investment trusts) is amended by adding at the end thereof the following new section:

"SEC. 859. DEDUCTION FOR DEFICIENCY DIVIDENDS.

"(a) GENERAL RULE.—If a determination (as defined in subsection (c)) with respect to a real estate investment trust results in any adjustment (as defined in subsection (b)(1)) for any taxable year, a deduction shall be allowed such trust for the amount of deficiency dividends (as defined in subsection (d)) for purposes of determining the deduction for dividends paid (for purposes of sections 857(b)(2)(B) and 857(b)(3)) for such year.

"(b) RULES FOR APPLICATION OF SECTION.—

"(1) ADJUSTMENT.—For purposes of this section, the term 'adjustment' means—

"(A) any increase in the sum of

"(i) the real estate investment trust taxable income of the real estate investment trust (determined without regard to the deduction for dividends paid (as defined in section 561) and by excluding the excess, if any, of the net long-term capital gain over the net short-term capital loss), and

"(ii) the excess of the net income from foreclosure property (as defined in section 857(b)(4)(B)) over the tax on such income imposed by section 857(b)(4)(A),

"(B) any increase in the amount of the excess described in section 857(b)(3)(A)(ii) (relating to the excess of the net long-term capital gain over the sum of the net short-term capital loss and the deduction for capital gains dividends paid), and

"(C) any decrease in the deduction for dividends paid (as defined in section 561) determined without regard to capital gains dividends.

"(2) INTEREST AND ADDITIONS TO TAX DETERMINED WITH RESPECT TO THE AMOUNT OF DEFICIENCY DIVIDEND DEDUCTION ALLOWED.—For purposes of determining interest, additions to tax, and additional amounts—

"(A) the tax imposed by this chapter (after taking into account the deduction allowed by subsection (a)) on the real estate investment trust for the taxable year with respect to which the determination is made shall be deemed to be increased by an amount equal to the deduction allowed by subsection (a) with respect to such taxable year.

"(B) the last date prescribed for payment of such increase in tax shall be deemed to have been the last date prescribed for the payment of tax (determined in the manner provided by section 6601(c)) for the taxable year with respect to which the determination is made, and

"(C) such increase in tax shall be deemed to be paid as of the date the claim for the deficiency dividend deduction is filed.

"(3) CREDIT OR REFUND.—If the allowance of a deficiency dividend deduction results in an overpayment of tax for any taxable year, credit or refund with respect to such overpayment shall be made as if on the date of the determination 2 years remained before the expiration of the period of limitation on the filing of claim for refund for the taxable year to which the overpayment relates.

"(c) DETERMINATION.—For purposes of this section, the term 'determination' means—

"(1) a decision by the Tax Court, or a judgment, decree, or other order by any court of competent jurisdiction, which has become final;

"(2) a closing agreement made under section 7121; or

"(3) under regulations prescribed by the Secretary, an agreement signed by the Secretary and by, or on behalf of, the real estate investment trust relating to the liability of such trust for tax.

"(d) DEFICIENCY DIVIDENDS.—

"(1) DEFINITION.—For purposes of this section, the term 'deficiency dividends' means a distribution of property made by the real estate investment trust on or after the date of the determination and before filing claim under subsection (e), which would have been includible in the computation of the deduction for dividends paid under section 561 for the taxable year with respect to which the liability for tax resulting from the determination exists, if distributed during such taxable year. No distribution of property shall be considered as deficiency dividends for purposes of subsection (a) unless distributed within 90 days after the determination, and unless a claim for a deficiency dividend deduction with respect to such distribution is filed pursuant to subsection (e).

"(2) LIMITATIONS.—

"(A) ORDINARY DIVIDENDS.—The amount of deficiency dividends (other than deficiency dividends qualifying as capital gain divi-

dends) paid by a real estate investment trust for the taxable year with respect to which the liability for tax resulting from the determination exists shall not exceed the sum of—

"(i) the excess of the amount of increase referred to in subparagraph (A) of subsection (b)(1) over the amount of any increase in the deduction for dividends paid (computed without regard to capital gain dividends) for such taxable year which results from such determination, and

"(ii) the amount of decrease referred to in subparagraph (C) of subsection (b)(1).

"(B) CAPITAL GAIN DIVIDENDS.—The amount of deficiency dividends qualifying as capital gain dividends paid by a real estate investment trust for the taxable year with respect to which the liability for tax resulting from the determination exists shall not exceed the amount by which (i) the increase referred to in subparagraph (B) of subsection (b)(1) exceeds (ii) the amount of any dividends paid during such taxable year which are designated as capital gain dividends after such determination.

"(3) EFFECT ON DIVIDENDS PAID DEDUCTION.—

"(A) FOR TAXABLE YEAR IN WHICH PAID.—Deficiency dividends paid in any taxable year shall not be included in the amount of dividends paid for such year for purposes of computing the dividends paid deduction for such year.

"(B) FOR PRIOR TAXABLE YEAR.—Deficiency dividends paid in any taxable year shall not be allowed for purposes of section 858(a) in the computation of the dividends paid deduction for the taxable year preceding the taxable year in which paid.

"(e) CLAIM REQUIRED.—No deficiency dividend deduction shall be allowed under subsection (a) unless (under regulations prescribed by the Secretary) claim therefor is filed within 120 days after the date of the determination.

"(f) SUSPENSION OF STATUTE OF LIMITATIONS AND STAY OF COLLECTION.—

"(1) SUSPENSION OF RUNNING OF STATUTE.—If the real estate investment trust files a claim as provided in subsection (e), the running of the statute of limitations provided in section 6501 on the making of assessments, and the bringing of distraint or a proceeding in court for collection, in respect of the deficiency established by a determination under this section, and all interest, additions to tax, additional amounts, or assessable penalties in respect thereof, shall be suspended for a period of 2 years after the date of the determination.

"(2) STAY OF COLLECTION.—In the case of any deficiency established by a determination under this section—

"(A) the collection of the deficiency, and all interest, additions to tax, additional amounts, and assessable penalties in respect thereof, shall, except in cases of jeopardy, be stayed until the expiration of 120 days after the date of the determination, and

"(B) if claim for a deficiency dividend deduction is filed under subsection (e), the collection of such part of the deficiency as is not reduced by the deduction for deficiency dividends provided in subsection (a) shall be stayed until the date the claim is disallowed (in whole or in part), and if disallowed in part collection shall be made only with respect to the part disallowed.

No distraint or proceeding in court shall be begun for the collection of an amount the collection of which is stayed under subparagraph (A) or (B) during the period for which the collection of such amount is stayed.

"(g) DEDUCTION DENIED IN CASE OF FRAUD.—No deficiency dividend deduction shall be allowed under subsection (a) if the determination contains a finding that any part of any deficiency attributable to an adjustment with respect to the taxable year is due to fraud with intent to evade tax or to willful failure to file an income tax return within the time prescribed by law or prescribed by the Secretary in pursuance of law.

"(h) PENALTY.—

"For assessable penalty with respect to liability for tax of real estate investment trust which is allowed a deduction under subsection (a), see section 6697."

(2) The table of sections for such part II is amended by adding at the end thereof the following new item:

"SEC. 859. Deduction for deficiency dividends."

(b) PENALTY.—

(1) Subchapter B of chapter 68 (relating to assessable penalties) is amended by adding at the end thereof the following new section:

"SEC. 6697. ASSESSABLE PENALTIES WITH RESPECT TO LIABILITY FOR TAX OF REAL ESTATE INVESTMENT TRUSTS.

"(a) CIVIL PENALTY.—In addition to any other penalty provided by law, any real estate investment trust whose tax liability for any taxable year is deemed to be increased pursuant to section 859(b)(2)(A) (relating to interest and additions to tax determined with respect to the amount of the deduction for deficiency dividends allowed) shall pay a penalty in an amount equal to the amount of interest for which such trust is liable that is attributable solely to such increase.

"(b) 50-PERCENT LIMITATION.—The penalty payable under this section with respect to any determination shall not exceed one-half of the amount of the deduction allowed by section 859(a) for such taxable year.

"(c) DEFICIENCY PROCEDURES NOT TO APPLY.—Subchapter B of chapter 63 (relating to deficiency procedure for income, estate, gift, and certain excise taxes) shall not apply in respect of the assessment or collection of any penalty imposed by subsection (a)."

(2) The table of sections of such subchapter B is amended by adding at the end thereof the following:

"SEC. 6697. Assessable penalties with respect to liability for tax of real estate investment trusts."

(c) LATE DESIGNATION AND PAYMENT OF CAPITAL GAIN DIVIDEND.—The first sentence of subparagraph (C) of section 857(b)(3) (defining capital gain dividend) is amended by inserting before the period at the end thereof the following: "; except that, if there is an increase in the excess described in subparagraph (A)(ii) of this paragraph for such year which results from a determination (as defined in section 859(c)), such designation may be made with respect to such increase at any time before the expiration of 120 days after the date of such determination".

(d) DEFINITION OF DIVIDEND.—Subsection (b) of section 316 (relating to the definition of dividend) is amended by adding a new paragraph (3) at the end thereof, to read as follows:

"(3) DEFICIENCY DIVIDEND DISTRIBUTIONS BY A REAL ESTATE INVESTMENT TRUST.—The term 'dividend' also means any distribution of property (whether or not a dividend as defined in subsection (a)) which constitutes a 'deficiency dividend' as defined in section 859(d)."

(e) CARRYOVER OF DEFICIENCY DIVIDEND.—Section 381(c) (relating to carryovers in certain corporate acquisitions) is amended by adding a new paragraph (25) at the end thereof, to read as follows:

"(25) DEFICIENCY DIVIDEND OF REAL ESTATE INVESTMENT TRUST.—If the acquiring corporation pays a deficiency dividend (as defined in section 859(d)) with respect to the distributor or transferor corporation, such distributor or transferor corporation shall, with respect to such payments, be entitled to the deficiency dividend deduction povided in section 859."

(f) TECHNICAL AMENDMENTS.—

(1) Section 6422 (relating to certain cross references) is amended by adding a new paragraph (14) at the end thereof to read as follows:

"(14) For credit or refund in case of deficiency dividends paid by a real estate investment trust, see section 859."

(2) Section 6503(i) (relating to certain cross references) is amended by adding a new paragraph (4) at the end thereof, to read as follows:

"(4) Deficiency dividends of a real estate investment trust, see section 859(f)."

(3) Section 6515 (relating to certain cross references) is amended by adding a new paragraph (8) at the end thereof, to read as follows:

"(8) Deficiency dividends of a real estate investment trust, see section 859."

SEC. 1602. TRUST NOT DISQUALIFIED IN CERTAIN CASES WHERE INCOME TESTS WERE NOT MET.

(a) DISQUALIFICATION NOT APPLIED.—Section 856(c) (relating to limitations) is amended by adding at the end thereof the following new paragraph:

"(7) A corporation, trust, or association which fails to meet the requirements of paragraph (2) or (3), or of both of such paragraphs, for any taxable year shall nevertheless be considered to have satisfied the requirements of such paragraphs for such taxable year if—

"(A) the nature and amount of each item of its gross income described in such paragraphs is set forth in a schedule attached to its income tax return for such taxable year;

"(B) the inclusion of any incorrect information in the schedule referred to in subparagraph (A) is not due to fraud with intent to evade tax; and

"(C) the failure to meet the requirements of paragraph (2) or (3), or of both such paragraphs, is due to reasonable cause and not due to willful neglect."

(b) IMPOSITION OF SPECIAL TAXES.—

(1) Section 857(b) (relating to method of taxation of real estate investment trusts, etc.) is amended by redesignating paragraph (5) as paragraph (7) and by inserting after paragraph (4) the following new paragraph:

"(5) IMPOSITION OF TAX IN CASE OF FAILURE TO MEET CERTAIN REQUIREMENTS.—If section 856(c)(7) applies to a real estate investment trust for any taxable year, there is hereby imposed on such trust a tax in an amount equal to the greater of—

"(A) the excess of—

"(i) 95 percent (90 percent in the case of taxable years beginning before January 1, 1980) of the gross income (excluding gross income from prohibited transactions) of the real estate investment trust, over

"(ii) the amount of such gross income which is derived from sources referred to in section 856(c)(2); or

"(B) the excess of—

"(i) 75 percent of the gross income (excluding gross income from prohibited transactions) of the real estate investment trust, over

"(ii) the amount of such gross income which is derived from sources referred to in section 856(c)(3),

multiplied by a fraction the numerator of which is the real estate investment trust taxable income for the taxable year (determined without regard to the deductions provided in paragraphs (2)(B) and (2)(E), without regard to any net operating loss deduction, and by excluding the excess, if any, of the net long-term capital gain over the net short-term capital loss) and the denominator of which is the gross income for the taxable year (excluding gross income from prohibited transactions; gross income and gain from foreclosure property (as defined in section 856(e), but only to the extent such gross income and gain is not described

in subparagraph (A), (B), (C), (D), (E), or (G) of section 856(c)(3)); long-term capital gain; and short-term capital gain to the extent of any short-term capital loss)."

(2) Section 857(b)(2) (relating to real estate investment trust taxable income) is amended by inserting after subparagraph (D) (as redesignated by section 1606(a) of this Act) the following new subparagraph:

"(E) There shall be deducted an amount equal to the taxes imposed by paragraph (5) for the taxable year."

SEC. 1603. TREATMENT OF PROPERTY HELD FOR SALE TO CUSTOMERS.

(a) ELIMINATION OF HOLDING FOR SALE RULE AS QUALIFICATION REQUIREMENT. — Section 856(a) (defining real estate investment trust) is amended by striking out paragraph (4).

(b) TAX ON INCOME FROM PROPERTY DESCRIBED IN SECTION 1221(1) THAT IS NOT FORECLOSURE PROPERTY.—Section 857(b) (relating to method of taxation of real estate investment trusts, etc.) is amended by inserting after paragraph (5) (as added by section 1602(b)(1) of the Act) the following new paragraph:

"(6) INCOME FROM PROHIBITED TRANSACTIONS.—

"(A) IMPOSITION OF TAX.—There is hereby imposed for each taxable year of every real estate investment trust a tax equal to 100 percent of the net income derived from prohibited transactions.

"(B) DEFINITIONS.—For purposes of this part—

"(i) the term 'net income derived from prohibited transactions' means the excess of the gain from prohibited transactions over the deductions allowed by this chapter which are directly connected with prohibited transactions;

"(ii) the term 'net loss derived from prohibited transactions' means the excess of the deductions allowed by this chapter which are directly connected with prohibited transactions over the gain from prohibited transactions; and

"(iii) the term 'prohibited transaction' means a sale or other disposition of property described in section 1221(1) which is not foreclosure property."

(c) TECHNICAL AMENDMENTS.—

(1) So much of paragraph (3) of section 856(c) (relating to limitations) as precedes subparagraph (A) thereof is amended to read as follows:

"(3) at least 75 percent of its gross income (excluding gross income from prohibited transactions) is derived from—".

(2) Section 856(c)(2) (relating to limitations) is amended by inserting before the semicolon in subparagraph (D) thereof "which is not property described in section 1221(1)".

(3) Section 856(c)(3) (relating to limitations) is amended by inserting before the semicolon in subparagraph (C) thereof "which is not property described in section 1221(1)".

(4) Section 856(e)(1) (defining foreclosure property) is amended by adding at the end thereof the following sentence: "Such term does not include property acquired by the real estate investment trust as a result of indebtedness arising from the sale or other disposition of property of the trust described in section 1221(1) which was not originally acquired as foreclosure property."

(5) Section 857(b)(2) (relating to real estate investment trust taxable income) is amended by adding a new subparagraph (F) immediately after subparagraph (E) (as added by section 1602(b)(2) of this Act), to read as follows:

"(F) There shall be excluded an amount equal to any net income derived from prohibited transactions and there shall be included an amount equal to any net loss derived from prohibited transactions."

SEC. 1604. OTHER CHANGES IN LIMITATIONS AND REQUIREMENTS

(a) INCREASE IN 90-PERCENT GROSS INCOME REQUIREMENT TO 95 PERCENT.—Section 856(c)(2) (relating to limitations) is amended by striking out "90 percent of its gross income" and inserting in lieu thereof "95 percent (90 percent for taxable years beginning before January 1, 1980) of its gross income (excluding gross income from prohibited transactions)".

(b) APPORTIONMENT OF RENTAL INCOME AND CHARGES FOR CUSTOMARY SERVICES; CHANGE IN DEFINITION OF INDEPENDENT CONTRACTOR.—Subsection (d) of section 856 (defining rents for real property) is amended to read as follows:

"(d) RENTS FROM REAL PROPERTY DEFINED.—

"(1) AMOUNTS INCLUDED.—For purposes of paragraph (2) and (3) of subsection (c), the term 'rents from real property' includes (subject to paragraph (2))—

"(A) rents from interests in real property,

"(B) charges for services customarily furnished or rendered in connection with the rental of real property, whether or not such charges are separately stated, and

"(C) rent attributable to personal property which is leased under, or in connection with, a lease of real property, but only if the rent attributable to such personal property for the taxable year does not exceed 15 percent of the total rent for the taxable year attributable to both the real and personal property leased under, or in connection with, such lease.

For purposes of subparagraph (C), with respect to each lease of real property, rent attributable to personal property for the taxable year is that amount which bears the same ratio to total rent for the taxable year as the average of the adjusted bases of the personal property at the beginning and at the end of the taxable year bears to the average of the aggregate adjusted bases of both the real property and the personal property at the beginning and at the end of such taxable year.

"(2) AMOUNTS EXCLUDED.—For purposes of paragraphs (2) and (3) of subsection (c), the term 'rents from real property' does not include—

"(A) except as provided in paragraph (4), any amount received or accrued, directly or indirectly, with respect to any real or personal property, if the determination of such amount depends in whole or in part on the income or profits derived by any person from such property (except that any amount so received or accrued shall not be excluded from the term 'rents from real property' solely by reason of being based on a fixed percentage or percentages of receipts or sales);

"(B) any amount received or accrued directly or indirectly from any person if the real estate investment trust owns, directly or indirectly—

"(i) in the case of any person which is a corporation, stock of such person possessing 10 percent or more of the total combined voting power of all classes of stock entitled to vote, or 10 percent or more of the total number of shares of all classes of stock of such person; or

"(ii) in the case of any person which is not a corporation, an interest of 10 percent or more in the assets or net profits of such person; and

"(C) any amount received or accrued, directly or indirectly, with respect to any real or personal property if the real estate investment trust furnishes or renders services to the tenants of such property, or manages or operates such property, other than through an independent contractor from whom the trust itself does not derive or receive any income.

"(3) INDEPENDENT CONTRACTOR DEFINED.—For purposes of this subsection and subsection (e), the term 'independent contractor' means any person—

"(A) who does not own, directly or indirectly, more than 35 percent of the shares, or certificates of beneficial interest, in the real estate investment trust; and

"(B) if such person is a corporation, not more than 35 percent of the total combined voting power of whose stock (or 35 percent of the total shares of all classes of whose stock), or, if such person is not a corporation, not more than 35 percent of the interest in whose assets or net profits is owned, directly or indirectly, by one or more persons owning 35 percent or more of the shares or certificates of beneficial interest in the trust.

"(4) SPECIAL RULE FOR CERTAIN CONTINGENT RENTS.—Where a real estate investment trust receives or accrues, with respect to real or personal property, any amount which would be excluded from the term 'rents from real property' solely because the tenant of the real estate investment trust receives or accrues, directly or indirectly, from subtenants any amount the determination of which depends in whole or in part on the income or profits derived by any person from such property, only a proportionate part (determined pursuant to regulations prescribed by the Secretary or his delegate) of the amount received or accrued by the real estate investment trust from that tenant will be excluded from the term 'rents from real property'.

"(5) CONSTRUCTIVE OWNERSHIP OF STOCK.—For purposes of this subsection, the rules prescribed by section 318(a) for determining the ownership of stock shall apply in determining the ownership of stock, assets, or net profits of any person; except that '10 percent' shall be substituted for '50 percent' in subparagraph (C) of sections 318(a)(2) and 318(a)(3).".

(c) COMMITMENT FEES.—

(1) IN GENERAL.—Paragraphs (2) and (3) of section 856(c) (relating to limitations) are each amended by striking out "and" after the semicolon at the end of subparagraph (E), by inserting "and" after the semicolon at the end of subparagraph (F), and by adding at the end thereof the following new subparagraph:

"(G) amounts (other than amounts the determination of which depends in whole or in part on the income or profits of any person) received or accrued as consideration for entering into agreements (i) to make loans secured by mortgages on real property or on interests in real property or (ii) to purchase or lease real property (including interests in real property and interests in mortgages on real property);".

(2) CONFORMING AMENDMENT.—Section 857(b)(4)(B) (relating to net income from foreclosure property) is amended by striking out "(D), or (E)" in subdivision (i) and inserting in lieu thereof "(D), (E), or (G)".

(d) INCOME FROM SALE OF MORTGAGES HELD LESS THAN 4 YEARS.—Section 856(c)(4) (relating to limitations) is amended to read as follows:

"(4) less than 30 percent of its gross income is derived from the sale or other disposition of—

"(A) stock or securities held for less than 6 months;

"(B) section 1221(1) property (other than foreclosure property); and

"(C) real property (including interests in real property and interests in mortgages on real property) held for less than 4 years other than—

"(i) property compulsorily or involuntarily converted within the meaning of section 1033, and

"(ii) property which is foreclosure property within the definition of section 856(e); and".

(e) OPTIONS TO PURCHASE REAL PROPERTY TREATED AS INTERESTS IN REAL PROPERTY.—Section 856(c)(C) (relating to limitations) is amended to read as follows:

"(C) The term 'interests in real property' includes fee ownership and coownership of land or improvements therein, leaseholds of land or improvements thereon, options to acquire land or improvements thereon, and options to acquire leaseholds of land or improvements thereon, but does not include mineral, oil, or gas royalty interests."

(f) REAL ESTATE INVESTMENT TRUSTS MAY BE INCORPORATED.—

(1) IN GENERAL.—So much of subsection (a) of section 856 (defining real estate investment trust) as precedes paragraph (3) thereof is amended to read as follows:

"(a) IN GENERAL.—For purposes of this title, the term 'real estate investment trust' means a corporation, trust, or association—

"(1) which is managed by one or more trustees or directors;

"(2) the beneficial ownership of which is evidenced by transferable shares, or by transferable certificates of beneficial interest;".

(2) EXCEPTION FOR FINANCIAL INSTITUTIONS AND INSURANCE COMPANIES.—Section 856(a) (defining real estate investment trust) is amended by inserting after paragraph (3) the following new paragraph:

"(4) which is neither (A) a financial institution to which section 585, 586, or 593 applies, nor (B) an insurance company to which subchapter L applies;".

(3) CONFORMING AMENDMENTS.—

(A) So much of section 856(c) (relating to limitations) as precedes paragraph (1) thereof is amended by striking out "A trust or association" and inserting in lieu thereof "A corporation, trust, or association".

(B) The second sentence of section 857(d) (defining rents from real property) is amended by striking out "a domestic unincorporated trust" and inserting in lieu thereof "a domestic corporation, trust,".

(g) INTEREST.—Section 856 (relating to definition of real estate investment trust) is amended by adding after subsection (e) the following new subsection:

"(f) INTEREST.—For purposes of paragraphs (2)(B) and (3)(B) of subsection (c), the term 'interest' does not include any amount received or accrued, directly or indirectly, if the determination of such amount depends in whole or in part on the income or profits of any person except that:

"(1) any amount so received or accrued shall not be excluded from the term 'interest' solely by reason of being based on a fixed percentage or percentages of receipts or sales, and

"(2) where a real estate investment trust receives or accrues any amount which would be excluded from the term 'interest' solely because the debtor of the real estate investment trust receives or accrues any amount the determination of which depends in whole or in part on the income or profits of any person, only a proportionate part (determined pursuant to regulations prescribed by the Secretary) of the amount received or accrued by the real estate investment trust from such debtor will be excluded from the term 'interest'.

The provisions of this subsection shall apply only with respect to amounts received or accrued pursuant to loans made after May 27, 1976. For purposes of the preceding sentence, a loan is considered to be made before May 28, 1976, if such loan is made pursuant to a binding commitment entered into before May 28, 1976."

(h) CERTAIN DIVIDENDS.—The first sentence of section 858(a) (relating to dividends paid by real estate investment trust after close of taxable year) is amended—

(1) by inserting "(and specifies in dollar amounts)" after "to the extent the trust elects in such return", and

(2) by striking out "paid during such taxable year" and inserting in lieu thereof "paid only during such taxable year".

(i) ADOPTION OF ANNUAL ACCOUNTING PERIOD.—

(1) Part II of subchapter M of chapter 1 (relating to real estate investment trusts) is amended by adding at the end thereof the following new section:

"SEC. 860. ADOPTION OF ANNUAL ACCOUNTING PERIOD.

"For purposes of this subtitle, a real estate investment trust shall not change to or adopt any annual accounting period other than the calendar year."

(2) The table of sections for such part II is amended by adding at the end thereof the following:

"Sec. 860. Adoption of annual accounting period."

(j) CHANGE IN DISTRIBUTION REQUIREMENTS.—Section 857(a)(1) (relating to requirements applicable to real estate investmen trusts) is amended to read as follows:

"(1) the deduction for dividends paid during the taxable year (as defined in section 561, but determined without regard to capital gains dividends) equals or exceeds—

"(A) the sum of—

"(i) 95 percent (90 percent for taxable years beginning before January 1, 1980) of the real estate investment trust taxable income for the taxable year (determined with out regard to the deduction for dividends paid (as defined in section 561) and by excluding the excess, if any, of the net long-term capital gain over the net short-term capital loss); and

"(ii) 95 percent (90 percent for taxable years beginning before January 1, 1980) of the excess of the net income from foreclosure property over the tax imposed on such income by subsection (b)(4)(A); minus

"(B) the sum of—

"(i) the amount of any penalty imposed on the real estate investment trust by section 6697 which is paid by such trust during the taxable year; and

"(ii) the net loss derived from prohibited transactions, and".

(k) MANNER AND EFFECT OF TERMINATION OR REVOCATION OF ELECTION.—

(1) IN GENERAL.—Section 856 (relating to definition of real estate investment trust) is amended by adding after subsection (f) (as added by section 1604(g) of the Act) the following new subsection:

"(g) TERMINATION OF ELECTION.—

"(1) FAILURE TO QUALIFY.—An election under subsection (c)(1) made by a corporation, trust, or association shall terminate if the corporation, trust, or association is not a real estate investment trust to which the provisions of this part apply for the taxable year with respect to which the election is made, or for any succeeding taxable year. Such termination shall be effective for the taxable year for which the corporation, trust, or association is not a real estate investment trust to which the provisions of this part apply, and for all succeeding taxable years.

"(2) REVOCATION.—An election under subsection (c)(1) made by a corporation, trust, or association may be revoked by it for any taxable year after the first taxable year for which the election is effective. A revocation under this paragraph shall be effective for the taxable year in which made and for all succeeding taxable years. Such revocation must be made on or before the 90th day after the first day of the first taxable year for which the revocation is to be effective. Such revocation shall be made in such manner as the Secretary shall prescribe by regulations.

"(3) ELECTION AFTER TERMINATION OR REVOCATION.—Except as provided in paragraph (4), if a corporation, trust, or association has made an election under subsection (c)(1) and such election has been terminated or revoked under paragraph (1) or paragraph (2), such corporation, trust, or association (and any successor corporation, trust, or association) shall not be eligible to make an election under subsection (c)(1) for any taxable year prior to the fifth taxable year which begins after the first taxable year for which such termination or revocation is effective.

"(4) EXCEPTION.—If the election of a corporation, trust, or association has been terminated under paragraph (1), paragraph (3) shall not apply if—

(A) the corporation, trust, or association does not willfully fail to file within the time prescribed by law an income tax return for the taxable year with respect to which the termination of the election under subsection (c)(1) occurs;

(B) the inclusion of any incorrect information in the return referred to in subparagraph (A) is not due to fraud with intent to evade tax; and

(C) the corporation, trust, or association establishes to the satisfaction of the Secretary that its failure to qualify as a real estate investment trust to which the provisions of this part apply is due to reasonable cause and not due to willful neglect."

(2) CONFORMING AMENDMENTS.—

(A) Section 856(c)(1) (relating to limitations) is amended by striking out the semicolon at the end and inserting in lieu thereof ", and such election has not been terminated or revoked under subsection (g);".

(B) Section 857(a) (relating to requirements applicable to real estate investment trusts) is amended by striking out "(other than subsection (d) of this section)" and inserting in lieu thereof "(other than subsection (d) of this section and subsection (g) of section 856)".

SEC. 1605. EXCISE TAX.

(a) IMPOSITION OF TAX.—Subtitle D (relating to miscellaneous excise taxes) is amended by adding at the end thereof the following new chapter:

"Chapter 44—REAL ESTATE INVESTMENT TRUSTS

"Sec. 4981. Excise tax based on certain real estate investment trust taxable income not distributed during the taxable year.

"SEC. 4981. EXCISE TAX BASED ON CERTAIN REAL ESTATE INVESTMENT TRUST TAXABLE INCOME NOT DISTRIBUTED DURING THE TAXABLE YEAR.

"Effective with respect to taxable years beginning after December 31, 1979, there is hereby imposed on each real estate investment trust for the taxable year a tax equal to 3 percent of the amount (if any) by which 75 percent of the real estate investment trust taxable income (as defined in section 857(b)(2), but determined without regard to section 857(b)(2)(B), and by excluding the excess, if any, of the net long-term capital gain over the net short-term capital loss) for the taxable year exceeds the amount of the dividends paid deduction (as defined in section 561 but computed without regard to capital gains dividends as defined in section 857(b)(3)(C) and without regard to any dividend paid after the close of the taxable year) for the taxable year. For purposes of the preceding sentence, the determination of real estate investment trust taxable income shall be made by taking into account only the amount and character of the items of income and deduction as reported by such trust in its return for the taxable year."

(b) TECHNICAL AMENDMENTS.—

(1) Paragraph (6) of section 275(a) (relating to denial of deduction for certain taxes) is amended by striking out "and chapter 43."

and inserting in lieu thereof ", chapter 43, and chapter 44."

(2) Section 857 (relating to taxation of real estate investment trusts and their beneficiaries) is amended by adding at the end thereof the following new subsection:

"(e) CROSS REFERENCE.—

"For provisions relating to excise tax based on certain real estate investment trust taxable income not distributed during the taxable year, see section 4981."

(3) Section 6103 (relating to publicity of returns, etc.) is amended—

(A) by striking out "and chapter 41" in subsection (a)(2) and inserting in lieu thereof "chapter 41, and chapter 44", and

(B) by striking out "and 6" in subsection (b)(2) and inserting in lieu thereof "6, and 44".

(4) Section 6161(b)(1) (relating to extensions of time for payment of tax) is amended by striking out "42 or 43" and inserting in lieu thereof "42, 43, or 44". The second sentence of section 6161(b) is amended by striking out "or chapter 43" and inserting in lieu thereof "43, or chapter 44".

(5) Section 6201(d) (relating to deficiency proceedings) is amended by striking out "and chapter 43" and inserting in lieu thereof "chapter 43, and chapter 44".

(6) Section 6211 (defining deficiency) is amended—

(A) by striking out "42 and 43" in subsection (a) and inserting in lieu thereof "42, 43, and 44",

(B) by striking out "42 or 43" in subsection (a) and inserting in lieu thereof "42, 43, or 44", and

(C) by striking out "42 or 43" in subsection (b)(2) and inserting in lieu thereof "42, 43, or 44".

(7) Section 6212 (relating to notice of deficiency) is amended—

(A) by striking out "42 or 43" in subsection (a) and inserting in lieu thereof "42, 43, or 44",

(B) by striking out "or chapter 43" in subsection (b)(1) and inserting in lieu thereof "chapter 43, or chapter 44",

(C) by striking out "chapter 43, and this chapter" in subsection (b)(1) and inserting in lieu thereof "chapter 43, chapter 44, and this chapter", and

(D) by striking out "of chapter 43 tax for the same taxable years," in subsection (c) and inserting in lieu thereof "of chapter 43 tax for the same taxable years, of chapter 44 tax for the same taxable year,".

(8) Section 6213 (relating to restrictions applicable to deficiencies and petition to Tax Court) is amended by striking out "42 or 43" in subsection (a) and inserting in lieu thereof "42, 43, or 44".

(9) Section 6214 (relating to determinations by Tax Court) is amended—

(A) by striking out "42 or 43" in the heading of subsection (c) and inserting in lieu thereof "42, 43, or 44", and

(B) by striking out "42 or 43" each place it appears in subsection (c) and inserting in lieu thereof "42, 43, or 44", and

(C) by striking out "42 or 43" in subsection (d) and inserting in lieu thereof "42, 43, or 44".

(10) Section 6344(a)(1) (relating to cross references) is amended by striking out "42 or 43" and inserting in lieu thereof "42, 43, or 44".

(11) Section 6512 (relating to limitations in case of petition to Tax Court) is amended by striking out "42 or 43" each place it appears and inserting in lieu thereof "42, 43, or 44".

(12) Section 6601(c) (relating to suspension of interest in certain income, etc., tax cases) is amended by striking out in the heading thereof "42 or 43" and inserting in lieu thereof "42, 43, or 44".

(13) Section 7422 (relating to civil actions for refund) is amended by striking out "42 or 43" in subsection (e) and inserting in lieu thereof "42, 43, or 44".

(c) CLERICAL AMENDMENT.—The table of chapters for subtitle D is amended by adding at the end thereof the following:

"CHAPTER 44. Real estate investment trusts."

SEC. 1606. ALLOWANCE OF NET OPERATING LOSS CARRYOVER.

(a) ALLOWANCE OF DEDUCTION.—Section 857(b)(2) (relating to real estate investment trust taxable income) is amended by striking out subparagraph (E) and by redesignating subparagraph (F) as subparagraph (D).

(b) YEARS TO WHICH LOSS MAY BE CARRIED.—Section 172(b)(1) (relating to years to which a net operating loss may be carried) is amended by adding a new subparagraph (H) at the end thereof, to read as follows:

"(H) In the case of a taxpayer which has a net operating loss for any taxable year for which the provisions of part II of subchapter M (relating to real estate investment trusts) apply to such taxpayer, such loss shall not be a net operating loss carryback to any taxable year preceding the taxable year of such loss and shall be a net operating loss carryover to each of the 8 taxable years following the taxable year of such loss, except, in the case of a net operating loss for a taxable year ending before January 1, 1976, such loss shall not be carried to the 6th, 7th, or 8th taxable year following the taxable year of such loss unless part II of subchapter M applied to the taxpayer for the taxable year to which the loss is carried and for all intervening taxable years following the year of loss. A net operating loss shall not be carried back to a taxable year for which part II of subchapter M applied to the taxpayer."

(c) DETERMINATION OF THE AMOUNT OF THE NET OPERATING LOSS AND THE CARRYOVER.—Section 172(d) (relating to modifications in computing net operating loss) is amended by adding a new paragraph (7) at the end thereof, to read as follows:

"(7) In the case of any taxable year for which part II of subchapter M (relating to real estate investment trusts) applies to the taxpayer—

"(A) the net operating loss for such taxable year shall be computed by taking into account the adjustment described in section 857(b)(2) (other than the deduction for dividends paid described in section 857(b)(2)(B)); and

"(B) where such taxable year is a 'prior taxable year' referred to in paragraph (2) of subsection (b), the term 'taxable income' in such paragraph shall mean 'real estate investment trust taxable income' (as defined in section 857(b)(2))."

(d) CONFORMING AMENDMENTS.—

(1) Section 172(b)(1) (relating to years to which a net operating loss may be carried carrybacks and carryovers) is amended by striking out "and (G)," in subparagraph (A)(i) and inserting in lieu thereof "(G), and (H)," and by striking out in subparagraph (E) "and (E)" and inserting in lieu thereof "(E), and (H),".

(2) Subparagraph (B) of section 857(b)(2) (relating to real estate investment trust taxable income), as redesignated by section 1607(b), is amended by striking out "subparagraph (F)" and inserting in lieu thereof "subparagraph (D)".

SEC. 1607. ALTERNATIVE TAX IN CASE OF CAPITAL GAINS.

(a) ALTERNATIVE TAX.—Section 857(b)(3)(A) (relating to definition of capital gain divided) is amended to read as follows:

"(A) ALTERNATIVE TAX IN CASE OF CAPITAL GAINS.—If for any taxable year the net long-term capital gain of any real estate investment trust exceeds the net short-term capital loss, then, in lieu of the tax imposed by subsection (b)(1), there is hereby imposed a tax (if such tax is less than the tax imposed by such subsection) which shall consist of the sum of—

"(i) a tax, computed as provided in subsection (b)(1), on the real estate investment trust taxable income (determined by excluding such excess and by computing the deduction for dividends paid without regard to capital gains dividends), and

"(ii) a tax of 30 percent of the excess of the net long-term capital gain over the sum of the net short-term capital loss and the deduction for dividends paid (as defined in section 561) determined with reference to capital gains dividends only."

(b) CONFORMING AMENDMENTS.—

(1)(A) Section 857(b)(2) (relating to method of taxation of real estate investment trust taxable income) is amended by deleting subparagraph (A) and redesignating subparagraphs (B), (C), and (D) as subparagraps (A), (B), and (C), respectively.

(B) Subsection (e)(2) of section 46 (relating to investment credit) is amended—

(i) by striking out "857(b)(2)(C)" in subparagraph (B) and inserting in lieu thereof "857(b)(2)(B)", and

(ii) by inserting "determined without regard to any deduction for capital gains dividends (as defined in section 857(b)(3)(C)) and by excluding the excess, if any, of the net long-term capital gain over the net short-term capital loss" immediately before the period at the end of the last sentence thereof.

(C) Section 443(e)(5) (relating to cross reference) is amended by striking out "857(b)(2)(D)" and inserting in lieu thereof "857(b)(2)(C)".

(2) Subparagraph (B) of section 857(b)(2) (relating to real estate investment trust taxable income), as redesignated by paragraph (1) of this subsection, is amended by striking out "shall be computed without regard to capital gains dividends and".

(3) Section 857(a)(3)(C) (relating to definition of capital gain dividend) is amended by inserting after the second sentence thereof the following: "For purposes of this subparagraph, the excess of the net long-term capital gain over the net short-term capital loss shall be deemed not to exceed the real estate investment trust taxable income (determined without regard to the deduction for dividends paid (as defined in section 561)) for the taxable year."

SEC. 1608. EFFECTIVE DATE FOR TITLE.

(a) DEFICIENCY DIVIDEND PROCEDURES.—The amendments made by section 1601 shall apply with respect to determinations (as defined in section 859(c) of the Internal Revenue Code of 1954) occurring after the date of the enactment of this Act. If the amendments made by section 1601 apply to a taxable year ending on or before the date of enactment of this Act:

(1) the reference to section 857(b)(3)(A)(ii) in sections 857(b)(3)(C) and 859(b)(1)(B) of such Code, as amended, shall be considered to be a reference to section 857(b)(3)(A) of such Code, as in effect immediately before the enactment of this Act, and

(2) the reference to section 857(b)(2)(B) in section 859(a) of such Code, as amended, shall be considered to be a reference to section 857(b)(2)(C) of such Code, as in effect immediately before the enactment of this Act.

(b) TRUST NOT DISQUALIFIED IN CERTAIN CASES WHERE INCOME TESTS NOT MET.—The amendment made by section 1602 shall apply to taxable years of real estate investment trusts beginning after the date of the enactment of this Act. In addition, the amendments made by section 1602 shall apply to a taxable year of a real estate investment trust beginning before the date of the enactment of this Act if, as the result of a determination (as defined in section 859(c) of the Internal Revenue Code of 1954) with respect to such trust occurring after

the date of the enactment of this Act, such trust does not meet the requirements of section 856(c)(2) or section 856(c)(3), or of both such sections, of such Code as in effect for such taxable year. In any case the amendment made by section 1602(a) requiring a schedule to be attached to the income tax return of certain real estate investment trusts shall apply only to taxable years of such trusts beginning after the date of the enactment of this Act. If the amendments made by section 1602 apply to a taxable year ending on or before the date of enactment of this Act, the reference to paragraph (2)(B) in section 857(b)(5) of such Code, as amended, shall be considered to be a reference to paragraph (2)(C) of section 857(b) of such Code, as in effect immediately before the enactment of this Act.

(c) ALTERNATIVE TAX AND NET OPERATING LOSS.—The amendments made by sections 1606 and 1607 shall apply to taxable years ending after the date of the enactment of this Act, except that in the case of a taxpayer which has a net operating loss (as defined in section 172(c) of the Internal Revenue Code of 1954) for any taxable year ending after the date of enactment of this Act for which the provisions of part II of subchapter M of chapter I of subtitle A of such Code apply to such taxpayer, such loss shall not be a net operating loss carryback under section 172 of such Code to any taxable year ending on or before the date of enactment of this Act.

(d) OTHER AMENDMENTS.—

(1) Except as provided in paragraphs (2) and (3), the amendments made by sections 1603, 1604, and 1605 shall apply to taxable years of real estate investment trusts beginning after the date of the enactment of this Act.

(2) If, as a result of a determination (as defined in section 859(c) of the Internal Revenue Code of 1954), occurring after the date of enactment of this Act, with respect to the real estate investment trust, such trust does not meet the requirement of section 856(a)(4) of the Internal Revenue Code of 1954 (as in effect prior to the amendment of such section by this Act) for any taxable year beginning on or before the date of enactment of this Act, such trust may elect, within 60 days after such determination in the manner provided in regulations prescribed by the Secretary of the Treasury or his delegate, to have the provisions of section 1603 (other than paragraphs (1), (2), (3), and (4) of section 1603(c)) apply with respect to such taxable year. Where the provisions of section 1603 apply to a real estate investment trust with respect to any taxable year beginning on or before the date of enactment of this Act—

(A) credit or refund of any overpayment of tax which results from the application of section 1603 to such taxable year shall be made as if on the date of the determination (as defined in section 859(c) of the Internal Revenue Code of 1954) 2 years remained before the expiration of the period of limitation prescribed by section 6511 of such Code on the filing of claim for refund for the taxable year to which the overpayment relates,

(B) the running of the statute of limitations provided in section 6501 of such Code on the making of assessments, and the bringing of distraint or a proceeding in court for collection, in respect of any deficiency (as defined in section 6211 of such Code) established by such a determination, and all interest, additions to tax, additional amounts, or assessable penalties in respect thereof, shall be suspended for a period of 2 years after the date of such determination, and

(C) the collection of any deficiency (as defined in section 6211 of such Code) established by such determination and all interest, additions to tax, additional amounts, and assessable penalties in response thereof shall, except in cases of jeopardy, be stayed until the expiration of 60 days after the date of such determination.

No distraint or proceeding in court shall be begun for the collection of an amount the collection of which is stayed under paragraph (3) during the period for which the collection of such amount is stayed.

(3) Section 856(g)(3) of the Internal Revenue Code of 1954, as added by section 1604, shall not apply with respect to a termination of an election, filed by a taxpayer under section 856(c)(1) of such Code on or before the date of enactment of this Act, unless the provisions of part II of subchapter M of chapter I of subtitle A of such Code apply to such taxpayer for a taxable year ending after the date of enactment of this Act for which such election is in effect.

Mr. LONG. Mr. President, under present law, real estate investment trusts or REIT's, as they are called, are provided with the same general conduit treatment that is applied to mutual funds. Therefore, if a trust meets the qualifications for REIT status, the income of the REIT which is distributed to the investors each year generally is taxed to them without being subjected to a tax at the REIT level—the REIT being subject to tax only on the income which it retains and on certain income from property which qualifies as foreclosure property. Thus, the REIT serves as a means whereby numerous small investors can have a practical opportunity to invest in the real estate field. This allows these smaller investors to invest in real estate assets under professional management and allows them to spread the risk of loss by the greater diversification of investment which can be secured through the means of collectively financing projects.

Although the provisions have been amended from time to time, until 1974 the basic rules with respect to REIT's have remained the same since their enactment in 1960. Since 1960, the REIT industry has grown enormously in size and is responsible for a large portion of the investment in the real estate field in the United States today. There are, however, certain problems that have arisen with respect to the REIT provisions which could significantly affect the industry if these provisions are not modified.

In the 1974 law, Congress dealt with one of these problems, that is, the difficulty which a REIT may have in meeting the income and asset tests if it must foreclose on a mortgage that it owns or reacquire property which it owns and has leased. Under that act, in general, a REIT is not disqualified because of income it receives from foreclosure property, since acquisition of property on foreclosure generally is inadvertent on the part of the mortgagee. At the election of a REIT, a 2-year grace period—generally subject to two 1-year extensions—is allowed so that the REIT can liquidate the foreclosed property in an orderly manner or negotiate changes, for example, in leases on the property so that income from the property becomes qualified. However, during the grace period the REIT must pay the corporate tax on the otherwise nonqualified income received in the property acquired.

Certain other problems remain in this area, however. Basically, these problems relate to the fact that, under present law, if a REIT does not meet the various income, asset, and distribution tests, the REIT will be disqualified from using the special tax provisions even in cases where the failure to meet a test occurred after a good faith, reasonable effort on the part of the REIT to comply. Disqualification would have the effect of not only changing the tax status of the REIT itself, subjecting its income to tax at corporate rates, but also could adversely affect the interest of the public shareholders of the REIT. The committee believes that it is not appropriate to disqualify a REIT in such circumstances.

Mr. President, this measure both reforms the law with regard to REIT's and takes care of some unintended hardships, and I really know of no objection to the committee amendment.

I ask for the yeas and nays on the committee amendment, Mr. President.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. FANNIN. Mr. President, I wish to commend the distinguished Senator from Louisiana, the floor manager of the bill, and I concur with what he has said.

We have a great need to reform the tax law with respect to real estate investment trusts in order to correct the unintended hardships which the present law brings about.

This legislation that he has been covering is of great value in correcting those inequities and it should be supported.

Mr. LONG. I thank the distinguished Senator.

TIME LIMITATION ON ROLLCALL VOTE

Mr. President, I ask unanimous consent that this next rollcall vote be a 10-minute vote.

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

The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from Arkansas (Mr. BUMPERS), the Senator from California (Mr. CRANSTON), the Senator from New Hampshire (Mr. DURKIN), the Senator from Mississippi (Mr. EASTLAND), the Senator from Colorado (Mr. GARY HART), the Senator from Indiana (Mr. HARTKE), the Senator from Vermont (Mr. LEAHY), the Senator from Montana (Mr. METCALF), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Rhode Island (Mr. PELL), the Senator from Mississippi (Mr. STENNIS), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. PELL) would vote "yea."

Mr. TOWER. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from New York (Mr. BUCK-

LEY), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from Nevada (Mr. LAXALT), the Senator from Idaho (Mr. MCCLURE), the Senator from Illinois (Mr. PERCY), the Senator from Pennsylvania (Mr. SCHWEIKER), the Senator from Ohio (Mr. TAFT), the Senator from Connecticut (Mr. WEICKER), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I also announce that the Senator from Pennsylvania (Mr. HUGH SCOTT) is absent on official business.

The result was announced—yeas 74, nays 0, as follows:

[Rollcall Vote No. 413 Leg.]

YEAS—74

Abourezk	Garn	Morgan
Allen	Glenn	Moss
Bartlett	Gravel	Muskie
Bayh	Hansen	Nelson
Beall	Hart, Philip A.	Nunn
Bellmon	Haskell	Packwood
Bentsen	Hatfield	Pastore
Brock	Hathaway	Pearson
Brooke	Helms	Proxmire
Burdick	Hollings	Randolph
Byrd, Harry F., Jr.	Hruska	Ribicoff
Byrd, Robert C.	Huddleston	Roth
Cannon	Humphrey	Scott, William L.
Case	Inouye	Sparkman
Chiles	Jackson	Stafford
Church	Javits	Stevens
Clark	Johnston	Stevenson
Culver	Kennedy	Stone
Curtis	Long	Symington
Dole	Magnuson	Talmadge
Domenici	Mansfield	Thurmond
Eagleton	Mathias	Tower
Fannin	McClellan	Williams
Fong	McGee	
Ford	McGovern	
	McIntyre	

NAYS—0

NOT VOTING—26

Baker	Hart, Gary	Percy
Biden	Hartke	Schweiker
Buckley	Laxalt	Scott, Hugh
Bumpers	Leahy	Stennis
Cranston	McClure	Taft
Durkin	Metcalf	Tunney
Eastland	Mondale	Weicker
Goldwater	Montoya	Young
Griffin	Pell	

So the committee amendment 26 (title 16) was agreed to.

AMENDMENT NO. 2002

Mr. HATHAWAY. Mr. President, I call up my printed amendment No. 2002.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Maine (Mr. HATHAWAY) proposes an amendment.

At the end of title XIII add the following new section:

SEC. 1326. ALCOHOLISM TRUST FUND.

(a) Section 5001(a)(1) of the Internal Revenue Code is amended by inserting "(A)" after "(1)" and inserting at the end thereof the following:

"(B) There is hereby imposed a surtax of 2.5 percent on the tax imposed under subparagraph (A) for the purpose of carrying out section 5067 of this chapter."

(b) Section 5041(a) of the Internal Revenue Code is amended by inserting "(1)" after "(a)" and by inserting at the end thereof the following:

"(2) There is hereby imposed a surtax of 2.5 percent on the taxes imposed under paragraph (1), as determined at the rates shown in subsection (b), for the purpose of carrying out section 5067 of this chapter."

(c) Section 5051(a) of the Internal Revenue Code is amended by inserting "(1)" after "(a)" and by inserting at the end thereof the following:

"(2) There is hereby imposed a surtax of 2.5 percent on the tax imposed under paragraph (1), for the purpose of carrying out section 5067 of this chapter."

(d) The Internal Revenue Code is amended by redesignating section 5067 as section 5068 and by inserting the following new section:

"SEC. 5067. ALCOHOLISM TRUST FUND.

"(a) There is hereby established in the Treasury of the United States a trust fund to be known as the Alcoholism Trust Fund (hereinafter in this section referred to as the 'Trust Fund'), which shall consist of such amounts as may be appropriated or credited to the Trust Fund as provided in this section.

"(b) There is authorized to be appropriated to the Trust Fund, out of any money in the Treasury not otherwise appropriated, amounts equivalent to the surtaxes collected pursuant to section 5001(a)(1)(B), section 5041(a)(2), and section 5051(a)(2) of this chapter.

"(c)(1) It shall be the duty of the Secretary of the Treasury to hold the Trust Fund and to report to the Congress each year on the financial condition and the results of the operations of the Trust Fund during the preceeding fiscal year and on its expected condition and operations during each fiscal year thereafter, and to invest such portion of the Trust Fund as is not, in his judgment, required to meet current withdrawals, with the interest on such investments to be credited to the Trust Fund.

"(d)(1) Amounts in the Trust Fund shall be available, as provided by appropriation Acts, for withdrawal by the Secretary of Health, Education, and Welfare (hereinafter referred to in this section as the Secretary), acting through the National Institute on Alcohol Abuse and Alcoholism (hereinafter referred to as the Institute), for the purpose of paying 50 percent of the cost of occupational alcoholism programs, pursuant to regulations which shall be prescribed by the Secretary.

"(2) For the purpose of this section, 'occupational alcoholism programs' shall be defined as programs operated primarily for the diagnosis or treatment, or both, of alcohol abuse and alcoholism in employed persons and their dependents. Such programs may include, but shall not be limited to, intervention, diagnosis, counseling, referral, treatment, and rehabilitation, and may be conducted by public or private employers, labor organizations, or consortiums of such employers or labor organizations or both, or by individuals or organizations under contract to any such entities.

"(3) Any public or private individual or organization which desires to receive funds pursuant to this section shall submit an annual application for such funds, which shall be approved by the Secretary, acting through the Institute and with the advice of a special labor-management program review committee. The annual application shall be approved if it contains a description of the program to be carried out, and contains assurances of—

"(A) the availability of funds, from sources other than the Trust Fund, to pay at least 50 percent of the cost of the program;

"(B) the professional capability to carry out the program described in the application;

"(C) the need for such a program, including the lack of adequate services currently available to the population intended to be served;

"(D) the use of such funds for the establishment of new programs, or to supplement, and not replace, funds already being expended by the applicant for programs described under this section;

and such additional assurances as the Secretary may reasonably require.

"(4) Once an initial application for funding has been approved by the Secretary, subsequent applications by the same individual or organization for the same or similar purpose shall not be disapproved by the Secretary except in cases where such individual or organization is determined not to have complied with assurances made in the application.

"(5)(A) Up to 10 percent of the amounts allocated to the Trust Fund in any fiscal year shall be available for administration of the Trust Fund, including the processing and consideration of applications for funding under paragraph (3); evaluation of, and research into, the effectiveness of occupational alcoholism programs; and the training of occupational alcoholism program personnel."

"(B) In any year in which funds withdrawn by the Secretary from the Trust Fund, pursuant to appropriation Acts, exceed the amount required to fund all approved applications for occupational alcoholism programs, the remainder of such funds may be expended by the Secretary, acting through the Institute, to provide treatment and prevention services to other currently underserved populations, such as racial and ethnic minorities, native Americans, youth, female alcoholics, and individuals in geographic areas where such services are not otherwise adequately available."

(e) EFFECTIVE DATE.—The amendments made by this section shall be in effect on and after October 1, 1977.

Mr. LONG. I ask unanimous consent, Mr. President, that the amendment may be added at the end of the bill.

The PRESIDING OFFICER. Is there objection?

Mr. JAVITS. What is the request, Mr. President?

Mr. LONG. I ask unanimous consent that the Hathaway amendment be added at the end of the bill with the miscellaneous sections.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. HATHAWAY. Mr. President, I send a modification of the amendment to the desk.

The PRESIDING OFFICER. The clerk will state the modification.

The legislative clerk proceeded to read the modification.

Mr. HATHAWAY. Mr. President, I ask unanimous consent that further reading of the modification be dispensed with.

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

The amendment, as modified, is as follows:

At the end of title XIII add the following new section:

SEC. 1326. ALCOHOLISM TRUST FUND.

The Internal Revenue Code is amended by redesignating section 5067 as section 5068 and by inserting the following new section:

"SEC. 5067. ALCOHOLISM TRUST FUND.

"(a) There is hereby established in the Treasury of the United States a trust fund to be known as the Alcoholism Trust Fund (hereinafter in this section referred to as the 'Trust Fund'), which shall consist of such amounts as may be appropriated or credited to the Trust Fund as provided in this section.

"(b)(1) It shall be the duty of the Secretary of the Treasury to hold the Trust Fund and to report to the Congress each year on the financial condition and the results of the operations of the Trust Fund during the preceding fiscal year and on its expected

condition and operations during each fiscal year thereafter, and to invest such portion of the Trust Fund as is not, in his judgment, required to meet current withdrawals, with the interest on such investments to be credited to the Trust Fund.

"(c)(1) Amounts which may be credited to the Trust Fund shall be available, as provided by appropriation Acts, for withdrawal by the Secretary of Health, Education, and Welfare (hereinafter referred to in this section as the Secretary), acting through the National Institute on Alcohol Abuse and Alcoholism (hereinafter referred to as the Institute), for the purpose of paying 50 percent of the cost of occupational alcoholism programs, pursuant to regulations which shall be prescribed by the Secretary.

"(2) For the purpose of this section, 'occupational alcoholism programs' shall be defined as programs operated primarily for the diagnosis or treatment, or both, of alcohol abuse and alcoholism in employed persons and their dependents. Such programs may include, but shall not be limited to, intervention, diagnosis, counseling, referral, treatment, and rehabilitation, and may be conducted by public or private employers, labor organizations, or consortiums of such employers or labor organizations or both, or by individuals or organizations under contract to any such entities.

"(3) Any public or private individual or organization which desires to receive funds pursuant to this section shall submit an annual application for such funds, which shall be approved by the Secretary, acting through the Institute and with the advice of a special labor-management program review committee. The annual application shall be approved if it contains a description of the program to be carried out, and contains assurances of—

"(A) the availability of funds, from sources other than the Trust Fund, to pay at least 50 percent of the cost of the program;

"(B) the professional capability to carry out the program described in the application;

"(C) the need for such a program, including the lack of adequate services currently available to the population intended to be served;

"(D) the use of such funds for the establishment of new programs, or to supplement, and not replace, funds already being expended by the applicant for programs described under this section;

and such additional assurances as the Secretary may reasonably require.

"(4) Once an initial application for funding has been approved by the Secretary, subsequent applications by the same individual or organization for the same or similar purpose shall not be disapproved by the Secretary except in cases where such individual or organization is determined not to have complied with assurances made in the application.

"(5)(A) Up to 10 percent of the amounts allocated to the Trust Fund in any fiscal year shall be available for administration of the Trust Fund, including the processing and consideration of applications for funding under paragraph (3); evaluation of, and research into, the effectiveness of occupational alcoholism programs; and the training of occupational alcoholism program personnel."

"(B) In any year in which funds withdrawn by the Secretary from the Trust Fund, pursuant to appropriation Acts, exceed the amount required to fund all approved applications for occupational alcoholism programs, the remainder of such funds may be expended by the Secretary, acting through the Institute, to provide treatment and prevention services to other currently underserved populations, such as racial and ethnic minorities, native Americans, youth, female alcoholics, and individuals in geographic areas where such services are not otherwise adequately available."

OCCUPATIONAL ALCOHOLISM TRUST FUND

Mr. HATHAWAY. Mr. President, the modified amendment I am offering at this time would permit the use of excise taxes on alcoholic beverages for the treatment of persons suffering from alcohol abuse and alcoholism. Specifically, the amendment would create a new Alcoholism Trust Fund, the proceeds of which would be available for the diagnosis, treatment, and rehabilitation of employed alcoholics, and their dependents, through programs operated by or through their employers, their unions, or both.

This amendment involves a modification of an earlier amendment I submitted, which would have required a 2.5-percent increase in the excise taxes on alcohol.

I originally offered it in the Finance Committee during the session in which we considered committee amendments. At that time, the tax increase proposed in my amendment was 5 percent. At the specific suggestion of the distinguished chairman of the committee, I agreed to modify the proposal by cutting it in half. After making that modification, I was extremely gratified that the committee voted unanimously to agree in principle with my proposal, and to support me when I offered the amendment on the floor.

I am also pleased to note the support of the distinguished chairman of the Committee on Labor and Public Welfare, Senator WILLIAMS, who has worked so long and hard for an increased Federal commitment in this area.

At this time, I have agreed to further modify my amendment by eliminating the tax increase feature altogether, pending hearings into the best method of financing the trust fund.

I am well aware that the concept of dedicated taxes and the creation of trust funds has always been a complicated one in the Congress. However, I am firmly convinced that such a concept is nowhere more appropriate than in the area of alcoholism and alcohol abuse.

Our Government and our society now sanction, even encourage, the legal sale of alcoholic beverages, and collects billions of dollars per year in tax revenues from them. Yet the consumption of alcohol directly results in one of our three largest health problems in America, along with heart disease and cancer. And indirectly, when you consider such factors as alcohol-related deaths in auto accidents, other kinds of accidents, and lost productivity to the American economy, alcohol may very well be the largest of those three.

Yet our Federal support for research, diagnosis, treatment, and rehabilitation for alcoholism lags painfully far behind those two major health areas, and many others as well.

During fiscal 1976, for example, the Federal Government spent $762,647,000 on cancer research alone, and $370,347,000 on heart and lung diseases. In contrast, alcoholism, with over 9 million victims, received a total of just $155,000,000 to cover research, treatment and rehabilitation, prevention, and several other functions.

Somehow, the societal stigma that has always attached to the disease of alcoholism continues to be attached to efforts to fund an adequate program to alleviate the problems it causes. In the year and a half since I assumed the chairmanship of the Senate Subcommittee on Alcoholism and Narcotics, I have become increasingly convinced that the only way we are ever going to make further progress toward solving these problems is through innovative methods like the one I am proposing today.

There is nothing particularly novel about the notion of earmarking a small portion of the tax on alcohol for treatment and rehabilitation programs. Many foreign countries have set up complete alcoholism research and care systems, using money collected from alcohol taxes. And nearly a third of our States allocate the proceeds of various specific alcohol taxes to treatment funding.

Included among those States are Alabama, Washington, D.C., Florida, Indiana, Kentucky, Michigan, North and South Carolina, Ohio, South Dakota, Utah, Vermont, Virginia, Washington State, West Virginia, and Wisconsin.

The amount of money required by my amendment is expected to be quite insignificant, in comparision with the total amounts collected from such taxes every year. In 1975, for example, the Federal Government alone raised nearly $6 billion from all its alcohol taxes—making alcohol revenues second only to the income tax in amounts raised in this country.

The amount would also be quite small in comparison to the overall price tag of a bottle of booze. If just 2½ percent of the tax is set aside, the portion per fifth of liquor will be just 5 cents. On a case of beer, only 1½ cents. And on a gallon of wine, less than a penny. That's hardly a sacrifice for drinking Americans, in comparison with the scope of the need for treatment—especially when you consider that some researchers have estimated that fully half of all the alcohol in this country is consumed by our 9 million active alcoholics.

Yet the money raised by such a small earmarking, if used effectively for diagnosing and treatment of present and future victims of alcohol abuse, can have a profound effect on this health problem and the human and economic destruction it leaves in its wake.

For while alcoholism is indeed a serious health problem, it is unique among such problems in that it is both preventable and treatable. And there is no better place to commence a major new effort to do both than in the occupational setting.

I have chosen occupational alcoholism diagnosis and treatment programs as the primary designated recipient of these funds, for the present. While such programs are currently underfunded and underutilized, they offer the strongest hope for identifying and treating the alcoholic while he or she is still capable of functioning in society.

We already spend a considerable sum of money to treat the alcoholic who has

"hit bottom," who seeks treatment for his or her disease because there is nowhere else to go. Yet the so-called skid row types which most clearly represent this stage of the illness comprise only 3 to 5 percent of all active alcoholics.

On the other hand, over 90 percent of all male alcoholics are currently employed, and a high percentage of women as well. Taking the figures another way, the National Council on Alcoholism estimates that 5.3 percent of the work force, or over 5 million people, are currently alcoholics. Another 10 percent are estimated to have serious drinking problems.

This represents an almost incalculable cost to American industry—in absenteeism, accidents, reduced productivity, faulty decisions, and personnel turnover. Dollar estimates range from $15 to $25 billion, not including intangible loss in personal and company investment in training an employee. The NCA estimates the average annual per-employee cost at $3,000, and this seems to be a conservative estimate.

This profound effect is demonstrable, because numerous studies have now shown that the alcoholic, compared to other workers, has: 2.5 times as much absenteeism; 3.5 times the work absence due to off-the-job accidents; twice the incidence of respiratory and cardiovascular diseases; three times the incidence of digestive disorders.

Other studies have shown that 23 percent of alcoholics are disabled 15 days or more per year, as opposed to 10.3 percent of other employees; 12.8 percent for 30 days or more—compared to 6.5 percent—and 3.8 percent for 90 days or more—compared to 0.6 percent. Also, alcoholic employees have a death rate 3.22 times nonalcoholic employees. In this regard, researchers found that an alcoholism program would reduce insurance premiums by 1.7 percent and claims costs by 1.9 percent, not including workman's compensation savings, which leads us to the second major reason for emphasizing occupational programs.

OCCUPATIONAL ALCOHOLISM PROGRAMS WORK

Occupational alcoholism programs are generally recognized today as being among the most effective substance abuse treatment programs around. The National Council on Alcoholism reports an average recovery rate—abstinance for 1 year—of 75 percent in 16 labor-management programs, versus a 25 percent rate among unemployed alcoholics.

Many organizations with successful rehabilitation programs for problem drinking employees have documented substantial savings. The success rate for rehabilitation of problem drinking employees is very high. This indicates that the possibility of job loss is an incentive for employees to seek rehabilitation.

In addition, after problem drinkers are rehabilitated, there is a great reduction in their utilization of health and sickness benefits. Such reductions in utilization of health benefits due to rehabilitation of problem drinkers significantly contributes to decreasing the cost of group health insurance.

Because they are successful, employers making use of such programs often find they save far more in training costs for new employees than they spend on the programs. The annual cost of average industrial programs is actually quite low. A small study currently being conducted by the NIAAA shows the following average programs costs for different size companies:

Number of employees	*Average annual cost*
Less than 5000	$16,343
5,000–10,000	48,600
10,000–20,000	65,056
20,000–30,000	75,500
30,000 and over	62,384

Taken another way, the data shows an average cost for manufacturing companies of $36,294; for service companies of $40,252.

Many large companies have thus underwritten their own programs with little or no assistance from the Federal Government. Du Pont and Eastman Kodak were the first, in 1943 and 1944 respectively, and today 60 out of the 400 largest corporations in America have programs, including Bethlehem Steel, General Motors—with the UAW—Hughes Aircraft, Illinois Bell, Kemper Insurance, Kennecott Copper, and Scovill.

The success rate for rehabilitation and the reduction of health benefit utilization by problem drinking employees has been proven to be significant in those companies which have programs.

I would like to give some brief summaries of some of these companies and their findings:

General Motors—(Oldsmobile Division) a study of its "recovery and rehabilitation" program showed a 50 percent reduction in lost man hours; a 30 percnt reduction in sickness and accident benefits paid; a 56 percent drop in leaves of absence; a 78 percent reduction in grievances filed by the group; a 63 percent decrease in disciplinary problems; and an 82 percent drop in job-related accidents.

Scovill Manufacturing Company in Waterbury, Connecticut employs 6,500 employees.

The Scovill programs processed 180 employees over a three year period. They estimate their annual savings at $186,550. Importantly, 78 percent of those problem drinking employees referred for treatment were rehabilitated.

Economics Laboratory, Inc. of St. Paul, Minnesota has an employee population of 3,500 in the United States. They have a rehabilitation success rate of 80 percent for employees and 50 percent for dependents of the employees. In addition, the Company reduced treatment costs 60 percent to 65 percent by utilizing nonhospital facilities such as alcoholism treatment centers.

The De Paul Industrial Alcoholism Project of Milwaukee, Wisconsin receives referrals from twenty-three companies in the Milwaukee area. This population is composed primarily of blue-collar, skilled and unskilled factory workers. In conducting a nine month follow-up study of problem drinkers treated, 46 percent reported total abstinence and 25 percent essential abstinence, for a total of 71 percent significantly improved.

Illinois Bell Telephone Company studied 402 employees for five years prior to referral and for five years after. The job rehabilitation rate was 72 percent. In addition, these 402 employees had 602 cases of sickness disability before rehabilitation and 356 cases after rehabilitation. This is a reduction of 46 percent in sickness disability, indicating a tremendous decrease in utilization of insurance plans.

The Philadelphia Fire Department established a referral program for its 3,410 employees in 1972. For those problem drinkers referred to outpatient care, sick leave was reduced by 55 percent. Injuries were reduced by 67 percent; both of these factors indicating a significant decrease in health insurance utilization.

Kennecott Copper Company found sickness and accident costs for alcoholics compared with the average to be more than 5 to 1; hospital, medical and surgical costs were more than 3 to 1. Yet, after a 12½ month involvement in the program, hospital, medical and surgical costs decreased 55.35 percent.

Ontario Hydro—(Canadian utility) reports 60 to 70 percent success rate.

8 May Street Industrial Alcoholism Program in Toronto (a consortium) indicates an 81 percent success rate among blue collar and mid-management personnel referred from industry.

Given this record of glowing accomplishments, with the concomitant savings to employers utilizing such programs, it might well be asked why more companies do not set up programs themselves—that is, why is the Federal Government needed in this area at all?

There are several reasons for the Government's interest.

In the first place, I would emphasize again that many large companies are setting up such programs, including 60 of the largest 400 in the Nation.

But the problem is, only the larger companies really have the ready resources to start up such programs, and yet a large percentage of employees in the Nation are in companies with fewer than 500 employees; 97 percent of all companies in America are considered "small businesses" under the Small Business Act, accounting for 53 percent of all private sector employment.

Additional impetus is needed to involve those companies, because for most of them the only workable mode of treatment will be through consortiums, made up of a number of companies or labor unions or both.

It should be noted that the commitment of the private sector would still have to be a significant one, under the procedures set up by this amendment. In order to get maximum effect from the dollars raised by this new tax, at least 50 percent of the cost of programs funded will have to be paid from non-Federal sources, although those could include health insurance plans and other third-party payors.

In addition, this program will be available to governmental agencies as well as private employers, to enable them to establish or improve their alcoholism treatment programs. Current Federal law requires Federal agencies to provide alcoholism treatment programs for civilian employees. However, as recent hearings held by the House Committee on Government Operations demonstrated, few such programs have been set up, and fewer still have been as effective as many of the private sector programs. Government agencies—including State and local agencies—would also be required to meet the 50/50 matching requirement, but it

is hoped that many more of them will be stimulated by this program to set up effective occupational programs.

I should also point out that there are other major Government interests at stake in this area, in addition to the potential savings to industry and the economy in lost productivity. Signs of alcoholism and other problems occur earlier in the workplace than they do elsewhere, enabling earlier intervention and treatment for the abuser. This will almost certainly result in savings to the Government in unemployment compensation costs, welfare payments, medicare and medicaid, food stamps, and all the other costs that are attendant upon a person dropping out of the labor force.

I think the need for more and better treatment of our Nation's alcoholics in general, and occupational programs in particular, was addressed quite eloquently in oversight hearings before my subcommittee by Adolph J. Sullivan, a top executive of Standard Oil of California.

Mr. Sullivan said:

Industry is not interested in government dollars. But in this particular field of occupational alcoholism, we do need to buy time. . . .

If you are talking about 9 million alcoholics, there are a lot of people to be helped and a lot of programs needed. I do not know the total number of U.S. corporations, but we only have about 200 viable corporate programs, so that the amount of work remaining to be done is a little scary.

One other number that popped into my head as I was sitting in the back of the room this morning was with regard to how much money we should spend at the government level.

After all, I am a conservative, and think about these things.

I began to realize that there are 9 million alcoholics by anybody's standard, and even if we look at $100, that is $900 million.

I do not think $100 per head is very much money to try to solve a fatal disease.

Even if you went to $200, who is going to say? I do not think we are extremists . . .

Mr. President, I feel safe in saying that congressional adoption of this concept and this program would be a revolutionary breakthrough for alcoholism diagnosis, treatment, and rehabilitation in America. Since every indication is that we are sadly in need of such a breakthrough, I urge my colleagues to support me in the adoption of my amendment.

I ask unanimous consent to have printed in the RECORD at this point a brief section-by-section analysis of my amendment, along with a table showing the amount of money I estimate would be raised by the tax increase involved.

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

SECTION-BY-SECTION ANALYSIS

PROVISIONS OF AMENDMENT

1. *Creation of trust fund*—The excise tax on alcohol or from some other source, will be specifically earmarked by the future acts of Congress for the creation of an Alcoholism Trust Fund. This would not be a "true" trust fund, like the Highway Trust, but rather would require an annual appropriation act to become and remain operative.

2. *Structure of trust fund.*—The Alcoholism Trust Fund would be administered by the Secretary of Health, Education, and Welfare, acting through the National Institute on Alcohol Abuse and Alcoholism, with the advice of a special labor-management review committee.

3. *Expenditure of funds.*—Money earmarked for the trust fund will be dispersed, on a 50/50 matching basis, commencing in the fiscal year 1978, for the purpose of creating and administering occupational alcoholism programs, pursuant to regulations promulgated by the Board. The programs so funded—

(A) Would have to be primarily for the benefit of employed individuals and their dependents;

(B) Could involve diagnosis, intervention, counseling and referral, or treatment and rehabilitation, or any combination of these and other services;

(C) Could be operated by or through public or private employers, labor organizations, consortia of employers or labor organizations or both, or private service providers under contract to such entities.

(D) Would have to be a new program, or supplementary to, and not a replacement of, funds already being spent by the applicant for such services.

4. *Administration and evaluation.*—Up to ten percent of the money earmarked by the ATF may be set aside for administration and evaluation, and to conduct a training program for occupational alcoholism program personnel.

However, it should be emphasized that is intended that the administration of this program be as streamlined and efficient as possible. No large bureaucracy is envisioned, and the use of existing governmental personnel and expertise is to be encouraged wherever possible. As large as proportion of the funds as possible should be channeled directly to the programs, with as few restrictions as possible, in order to encourage innovation.

5. *Additional use of funds.*—In addition to funding occupational programs, any money left over after funding all approved occupational programs may be spent by the Secretary for programs serving other currently under-served populations, such as racial or ethnic minorities, native Americans, youth, women, and persons in rural areas.

ALCOHOLISM TRUST FUND

[Approximate revenues from 2.5 percent earmark of current excise taxes under secs. 5001, 5041, and 5051 of the Internal Revenue Code, based on 1975 taxable gallonage]

	Current tax rate	1975 taxable quantity	Effect of 2.5 percent earmark [1]	Revenue yield
Distilled spirits	$10.50 per proof gallon	295,000,000 gal	26.25 cents per proof gallon	77,500,000
Beer	$9 per barrel (31 gal)	147,000,000 bbl	27.5 cents per barrel	33,000,000
Wine (Tax depends on alcohol content—2 largest given here).	(a) 17 cents per gallon	207,000,000 gal	0.425 cents per gallon	1,000,000
	(b) 67 cents per gallon	80,000,000 gal	1.675 cents per gallon	1,500,000

[1] These earmarks are of the equivalent of 5 cents per fifth of liquor, 1½ cents per case of beer and less than 1 cent per gallon of wine.

Note: Total yield for fund, $113,000,000.

Mr. HATHAWAY. Mr. President, my original amendment had a specific tax provision in it, as I mentioned before. After consultation with the chairman of the Labor and Public Welfare Committee and the chairman of the Committee on Finance, we decided that it would be better simply to establish the trust at this time, but not to earmark specific revenues for it. We would then hold hearings in both the Labor and Public Welfare Committee and the Finance Committee, so that the people in the alcoholic beverage industry, the Bureau of Alcohol, Tobacco and Firearms, the National Institute on Alcohol Abuse and Alcoholism, the Alcoholism Treatment Community, and employers and labor unions, would have an opportunity to testify and give their input with regard to this amendment. Thus, the amendment simply establishes a trust fund at this time, with no tax or earmark to put money into it. Hopefully, in the near future, we can hold hearings to determine just how much of a tax is required and how much of an appropriation would be necessary to carry out the purposes of the fund. I would hope the fund can become fully operational by October 1, 1977.

I am happy to yield to my friend from Louisiana.

Mr. LONG. Mr. President, it is my understanding that we in the committee discussing this matter had tentatively agreed to it and that the Senator was asked to draft his amendment in written form so we could see what it looked like, and that he had done that. As the Senator said, this merely establishes a fund. It does not provide revenue for it. With no revenue, obviously, no money can be spent from it. But we hope, next year, to either find a way to transfer some of the existing revenues over to the fund, or else we would undertake to provide a tax to put some revenues into the fund so that this very needed work of redeeming persons who have been victims of alcoholism can be advanced.

The Senator is to be applauded for his efforts in this regard. I want to assure him that he will have my cooperation and, I am sure, the cooperation of most of us here in his effort to curb alcoholism. I think it is a very worthy undertaking and, in due course, we shall try to find a way to provide the funds for it.

Mr. McCLELLAN. Will the Senator yield?

Mr. LONG. Yes.

Mr. McCLELLAN. As I understand it, we are only creating a fund in this amendment?

Mr. LONG. That is right.

Mr. McCLELLAN. There is no provision in this amendment that makes any disposition of that fund?

Mr. LONG. That is right.

Mr. McCLELLAN. The Senator pointed out that in the future, the Committee on Finance will consider disposition of the fund. I should like to ascertain whether it is the purpose now to bypass the Appropriations Committee and make this another fund over which Congress would have no further jurisdiction?

Mr. LONG. I shall have to direct that to the Senator from Maine.

Mr. HATHAWAY. I assure the Senator from Arkansas that it is not our purpose to bypass the Committee on Appropriations at all. With regard to the original amendment, which entailed a tax of 2.5 percent, we were mindful that even if it passed, we would still have to go to the Committee on Appropriations to get an appropriation of the money before it could be spent for the purposes set out.

Mr. McCLELLAN. It is not in the Senator's original amendment, because he appropriated the money equal to all of the tax raised in his amendment. That is what I am concerned about. That is no longer part of it, I understand.

I wanted to raise the question. I personally think it is a pretty bad policy to continue back-door spending. I think we ought to have the matters—I am not speaking for an indefinite period because I shall not be here in the Senate all the years in the future; that is certain. But as we deal with these problems, we should remember and take into account and consider whether we want to move toward establishing funds, tax funds, placing them in a trust fund and then having no further control over them. Congress, just by establishing the fund, then lets the fund and whoever administers it take all the money as it comes in and spend it whatever way he wants to. I am of the opinion—and I could be wrong, but I am thinking in terms of the best policy for Government; that is for Congress to keep funds under control for appropriation purposes. I even feel that way about revenue sharing. I was outvoted on that when the Senate did that. But when we come to periods of economic distress, where we undertake to cut expenditures—these moneys come in as taxes, either direct or indirect. They come from the people. When we come to the point where we may need to reduce, to retrench, they are beyond the control of the Congress. I am suggesting that Congress should keep control of public revenues and that they should be appropriated.

There can be exceptions and sometimes, an exception works all right. But if we start the practice, if we are not careful, we will fall into the practice where, every time we want to do something like this, we put it in a fund and take it out of control of Congress in the future.

I am not opposing this amendment. I just wanted to make this brief comment about it, because I would have been compelled to oppose the printed amendment in the form it was in. Since that has been changed, I shall not oppose it.

Mr. LONG. Mr. President, as long as the Senator from Arkansas, JOHN McCLELLAN, is the chairman of the Appropriations Committee, I shall be delighted for the Appropriations Committee to handle it. As long as his ranking member is chairman of that committee, if I should survive that long, I would be delighted for him to handle it or the next man in order on that committee, because all those men, great Senators that they are, realize the need to do something about the problem of alcoholism. About the only time that this Senator tends to want to bypass a committee is when the situation is such that he is afraid the chairman might not be sympathetic to the program. I know that the Senator is for anything that can be done to bring alcoholism under control.

Mr. JAVITS. Mr. President, I have some questions I would like to ask the Senator. I ask them very sympathetically because the Senator knows that, with Senator Moss of Utah, I was the author of the first alcoholism bill which became law here, and I would also like to say to Senator McCLELLAN, when I was a member of the Judiciary Committee, very effective provisions were written into the law dealing with this question.

First, does the Senator in his amendment include research also or is this confined to the effort to abate the excess abuse of alcohol by the individual?

Mr. HATHAWAY. This is to abate the abuse of alcoholism and treat its victims. Proceeds of the trust fund are designed to be used primarily for industrial programs. We have found out statistically that industrial treatment programs, both in this country and Canada, and in other foreign countries, have worked out better than most other programs. Some of them have a success rate as high as 75 percent, as I noted in my earlier remarks.

It is my intention that the money allocated to the trust fund would be disbursed on a 50–50 matching basis, provided the employer or union, or both, conforms to certain basic standards set out in the amendment.

Mr. JAVITS. That is very important, the last. The Senator has said a 50–50 matching program. That is by the employers of labor in other businesses. The Senator is not talking about the alcohol industry; is that correct?

Mr. HATHAWAY. That is correct.

Mr. JAVITS. All right.

Now that brings me to this point: Has any effort been made to enlist the alcohol industry itself in this kind of a program by opening up in the fund the possibility of contributions by them?

I will tell Senators why I ask that question. This 2½-percent tax the Senator talks about, obviously not in the bill, but the bill contemplates a relationship between taxes and the fund. That comes right out of the consumer. The alcohol industry, which I happen to know a little about, has made a big point about devoting itslf to temperance, and some of the leading firms in the business have engaged in advertising campaigns respecting temperance.

I would hope, may I say to the Senator, and I think this is an excellent idea—and, mind you, I do not decry it in any way and I give the Senator credit for the initiative that he has taken—but I hope in the amendment the Senator would allow for the possibility of some agreement with the industry itself because that would be out of profits and it would not come, as the tax surely will, right out of the consumer, and I think the Senator ought to think about that in his own interest.

I mean in the structure of what the Senator is doing he ought to consider accommodating that possibility because they have made a big point of it that they are interested in temperance. They do not want to get themselves into a situation of where they are driven to the wall because their situation is even worse than it is, and you and I know how bad it is even now.

Mr. HATHAWAY. That is correct. I think the Senator's suggestion is an excellent one. We have not conferred with the alcohol industry as yet, but certainly they will be called in to testify, both before the Labor Committee and the Finance Committee, with regard to this matter. Your proposal should be made to them at that time for their response.

Mr. JAVITS. Does the amendment accommodate that possibility?

Mr. HATHAWAY. Yes, it does. We are not locked into any particular funding mechanism at this time.

Mr. JAVITS. In other words, it will be possible by agreement to get contributions into this fund?

Mr. HATHAWAY. The Senator is correct.

Mr. JAVITS. I thank my colleague very much.

Mr. WILLIAMS. Mr. President, the amendment offered by the Senator from Maine (Mr. HATHAWAY) would establish an alcoholism trust fund. This fund would be used to provide 50 percent of the cost of occupational alcoholism programs operated primarily for the diagnosis or treatment of alcohol abuse and alcoholism in employed persons and their dependents.

While serious reservations exist about the entirety of this approach, I agree with the Senator from Maine that if an earmarked trust fund is ever justified, there is no area more worthy of such consideration.

Alcoholism is one of the most serious and the most tragically neglected health problems in this Nation. In 1969, recognizing the enormity of the problem, the Labor and Public Welfare Committee—which I now chair—created a new Subcommittee on Alcoholism and Narcotics to study alcoholism and other drug problems and to recommend legislation to help alleviate these problems. I have served on the subcommittee from its creation and joined with its first chairman, Senator HAROLD E. HUGHES of Iowa, in authoring the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970.

The National Institute on Alcohol Abuse and Alcoholism, created by that act, has done a creditable job against difficult odds in responding to the mandate of that act.

Mr. President, it is known that less than 5 percent of the Nation's alcoholics are on skid row. The vast majority are

either in the work force or are dependents of employed persons. More than 5 percent of the work force is alcoholic. Estimates of the cost to our economy range as high as $25 billion annually, with loss to business-industrial production at approximately $9.5 billion. It was therefore recognized that the effort called for by the Alcoholism Act to develop programs and services for employed alcoholics would be among the most important and effective of the institute's activities and would make good economic sense as well.

S. Pell and C. A. D'Alonzo reported in the Journal of Occupational Medicine in 1973 that "the cost of alcoholism to industry is made up of several components, including loss of efficiency, absenteeism, lost time on the job, faulty decisionmaking, accidents, impaired morale of coworkers, and the cost of rehabilitation programs. A large significant portion of the economic impact of alcoholism also includes premature disability and death, resulting in the loss of many employees in their prime who have skills that are difficult to replace."

The institute has given emphasis to the development of occupational programs. An Occupational Alcoholism Branch was created within the institute to encourage employers—both public and private—to develop programs to identify for treatment those employees whose job performance was impaired as a result of alcohol abuse. Grants have been made available to each State for two trained occupational consultants. Training has been provided for these consultants, and experts on the staff of the institute provide guidance and technical assistance.

Industrial alcoholism project grants have supported development of services in industry capable of reaching employed problem drinkers early in the course of their illness. Although this effort has been relatively inexpensive it has resulted in at least a tenfold increase in programs adopted by business to assist employees with alcohol-related problems. Recovery rates of over 80 percent are now being reported.

As in most other diseases, the chances of effectively treating alcoholics are considerably greater if the disease is diagnosed in its early stages. Occupational alcoholism programs have proved an effective means of identifying alcoholics at an early stage and encouraging them to accept treatment.

The fact that occupational alcoholism programs provide a humanistic approach to a disabling illness would seem obvious. The fact that occupational programs reap tangible benefits from management, community and Government perspectives is gaining widespread acceptance. In a recent statement at the National Alcoholism Forum of the National Council on Alcoholism, George F. Killeen, commissioner of Wayne, Mich., stated:

> The problem of alcoholism has grown beyond ten million victims and continues to grow and called for a "national emergency program" to combat what he called "an epidemic—a national public health emergency." Killeen further stated that "we are talking about something that makes sense to the taxpayer—namely, fiscal responsibility."

Mr. President, support for occupational alcoholism programs has come from both labor and management. A joint statement issued by James M. Roche, director and former board chairman of General Motors, and George Meany, AFL–CIO president, observed:

> Some of the most influential union and business leaders in the United States are joining forces through the labor-management committee of the National Council on Alcoholism to combat this disease.

Despite the apparent progress in this important area and the growing recognition of the soundness of the approach, much remains to be done. Ross A. Von Wiegand, director of Labor-Management Services for the National Council on Alcoholism and a pioneer in this field, cautioned recently:

> It must be noted that a recent survey indicated that only 700 of the approximately 1,500,000 companies in the United States have employee alcoholism programs. Of those 700 I have been able to identify no more than 25 to 50 which were anywhere near approaching their maximum potential.

Mr. Von Wiegand urged a much greater effort to reach employed alcoholics, especially those in companies or agencies considered too small to justify alcoholism programs.

Cooperative programs offer a means for small businesses or agencies to provide effective employee alcoholism programs. One such "consortium" in Greensboro, N.C., has identified and referred to treatment 702 alcoholic employees in the last 6 years. The General Accounting Office, in recent testimony before a House subcommittee, pointed to four possible advantages to such an aproach if implemented by Federal agencies:

Availability of trained personnel to handle cases and make referrals to community based treatment facilities.

Removal of the program from personnel offices sometimes held in suspicion by employees.

Less reluctance on the part of employees to contact someone outside their work group.

A focal point for training and educating supervisors and nonsupervisors.

Mr. President, the Senator from Maine and I are in clear agreement with respect to the need for and the effectiveness of employee alcoholism programs. Because we have been able to work together to make appropriate changes in the Senator's original proposal in order to alleviate some concerns which I had and concerns expressed to me by some representatives of the alcoholism constituency, I am happy to support this amendment.

The Senator has agreed to delay the effective date for all provisions of the amendment to October 1, 1977, to allow time for extensive hearings to obtain the views of labor, management, the alcoholism constituency, and others.

The original proposal would have established a board of trustees to approve expenditures from the trust fund, consisting of nine members appointed by the President, with the advice and consent of the Senate. The chairman of the board of trustees would have appointed a director and such additional staff as deemed necessary.

I was concerned that this would result in duplication of the Federal alcoholism effort now being conducted by the National Institute on Alcohol Abuse and Alcoholism and hamper efforts to obtain adequate appropriations for the many other programs authorized under the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act. I was particularly concerned about the possible negative effect on underserved populations such as minority groups, native Americans, women, youth, and those living in rural areas.

The Senator from Maine has amended his proposal so that the funds would be administered by the Secretary of Health, Education, and Welfare, acting through the National Institute on Alcohol Abuse and Alcoholism, and to provide that any funds remaining in the trust fund at the end of any fiscal year, after all approved applications for occupational programs had been funded, would be used to serve these other populations.

Mr. President, in our effort to identify and help employed alcoholics, I considered it important to remember that the Federal Government is the Nation's largest employer. The Senator from Maine therefore agreed to include public as well as private employees in the programs authorized by this amendment.

Title II of the comprehensive alcoholism legislation of 1970 requires the Civil Service Commission to develop and maintain prevention, treatment and rehabilitation programs and services for Federal civilian employees—as well as requiring the Secretary of Health, Education, and Welfare, acting through the Institute, to foster similar programs and services in State and local governments. No special funds have been authorized for the Civil Service Commission to carry out its responsibilities under title II. Since funds and staff to operate these programs must come from existing agency moneys and manpower, resources devoted to them are unevenly distributed. Where there has been understanding and interest on the part of top agency management, adequate resources have been provided and good programs have resulted. Unfortunately, as has been indicated in recent studies by the General Accounting Office and by Dr. Harrison Trice, of Cornell University, in the majority of agencies such has not been the case.

On June 25, in a statement to the Subcommittee on Manpower and Housing of the House Committee on Government Operations, Gregory J. Ahart, Director of the Human Resources Division of GAO, said that 42 of 74 coordinators interviewed by his staff advised that they spent 5 percent or less of their time on alcoholism program activities. Only two coordinators spent 100 percent of their time on alcohol related matters, while seven others were full time administrators of "troubled employee" programs.

On the other hand, GAO cited two installations as examples of effective programs. One, a western Army installation with a workforce of 2,800 civilians

had budgeted $43,200 for its program during fiscal year 1975 and utilized a full-time counselor, and a secretary and chaplain on a part-time basis. The other, the Government Printing Office in Washington—with 8,000 full-time and 600 part-time employees—has a full-time administrator with extensive prior experience in the alcoholism field with an annual budget of $36,000.

In both of these installations, resources were forthcoming because of top management support. Other sections of the GAO report indicate that in many other installations an extensive job of training and education is necessary before any similar degree of support will be evidenced.

Dr. Trice's testimony to the subcommittee on the same day, indicated similar problems of lack of resources and lack of top management support. According to Dr. Trice, "most of these coordinators operate with only the most meager resources, if any at all. Almost one-third as of mid-1974, had no official time allocation at all; the remainder averaged just under 4 hours per week that was formally allocated to the alcohol policy." Dr. Trice also found that the effectiveness of agency programs could be increased significantly with only minimal additions of staff help.

Even these minimal additions of resources, however, are unlikely to be forthcoming without a significant increase in the willingness of installation heads, managers and supervisors to utilize the CSC policy. Such willingness, according to Dr. Trice, is directly related to "familiarity" with the policy and what he terms "learning time." All of this can be affected by a training effort. None of it can be brought about by CSC direction, since the Commission lacks effective sanctions to implement the program and must rely instead upon "persuasion."

In view of the failure to properly implement title II due to lack of sufficient funds and the need to properly train installation heads, managers, and supervisors, a specific portion of the trust fund should be allocated for programs for Federal and other public employees. Such funds could be used for consultation and training and for support of local installation programs and for pilot consortia to serve small agencies.

I would also hope that some research could be conducted with these funds. I am concerned that there is virtually no research being conducted on alcoholism in women, yet it is becoming apparent that alcoholism in women is much higher than previously assumed. Edith S. Gomberg, Ph. D., University of Michigan, in a paper she delivered before the National Council on Alcoholism's Forum in Milwaukee last year, deplored the lack of research on the employed female alcoholic. She indicated that one survey of an occupational alcoholism program in an automobile industry indicates that women constitute both 8 percent of the work force and 8 percent of those referred the company programs for problem drinking—a one to one ratio. Dr. Gomberg said the same survey suggests that the problem could be even larger: "When a woman begins to progress into alcoholism she usually 'voluntarily retires' from the work force and goes home to become a 'better' wife and mother—she becomes the hidden drinker."

Mr. President, it is understood that all expenditures from this fund will be approved by the National Advisory Council on Alcohol Abuse and Alcoholism, with the advice of a special labor-management program review committee as provided in this amendment.

Mr. President, I commend the Senator from Maine for his fine work on behalf of our alcoholic citizens and for the innovative manner in which he has used his membership on the Finance Committee in this cause. I am happy to join him in urging approval of this amendment.

Mr. LONG. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Is the Senator requesting a 10-minute rollcall vote?

Mr. LONG. I ask unanimous consent that the vote be a 10-minute vote.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered. It will be a 10-minute vote.

The question is on agreeing to the amendment (No. 2002), as modified, of the Senator from Maine.

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 Delaware (Mr. BIDEN), the Senator from Arkansas (Mr. BUMPERS), the Senator from California (Mr. CRANSTON), the Senator from Iowa (Mr. CULVER), the Senator from New Hampshire (Mr. DURKIN), the Senator from Mississippi (Mr. EASTLAND), the Senator from Colorado (Mr. GARY HART), the Senator from Indiana (Mr. HARTKE), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Vermont (Mr. LEAHY), the Senator from Washington (Mr. MAGNUSON), the Senator from Montana (Mr. METCALF), the Senator from Minnesota (Mr. MONDALE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Wisconsin (Mr. NELSON), the Senator from Rhode Island (Mr. PASTORE), the Senator from Rhode Island (Mr. PELL), the Senator from Mississippi (Mr. STENNIS), the Senator from Illinois (Mr. STEVENSON), and the Senator from California (Mr. TUNNEY) are necessarily absent.

I further announce that, if present and voting, the Senator from Washington (Mr. MAGNUSON), the Senator from Rhode Island (Mr. PELL), and the Senator from Rhode Island (Mr. PASTORE) would each vote "yea."

Mr. TOWER. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from New York (Mr. BUCKLEY), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from Nevada (Mr. LAXALT), the Senator from Idaho (Mr. MCCLURE), the Senator from Illinois (Mr. PERCY), the Senator from Pennsylvania (Mr. SCHWEIKER), the Senator from Ohio (Mr. TAFT), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I also announce that the Senator from Pennsylvania (Mr. HUGH SCOTT) is absent on official business.

The result was announced—yeas 69, nays 0, as follows:

[Rollcall Vote No. 414 Leg.]

YEAS—69

Abourezk	Ford	McIntyre
Allen	Garn	Morgan
Bartlett	Glenn	Moss
Bayh	Gravel	Muskie
Beall	Hansen	Nunn
Bellmon	Hart, Philip A.	Packwood
Bentsen	Haskell	Pearson
Brock	Hatfield	Proxmire
Brooke	Hathaway	Randolph
Burdick	Helms	Ribicoff
Byrd, Harry F., Jr.	Hollings	Roth
Byrd, Robert C.	Hruska	Scott, William L.
Cannon	Huddleston	Sparkman
Case	Humphrey	Stafford
Chiles	Inouye	Stevens
Church	Jackson	Stone
Clark	Javits	Symington
Curtis	Johnston	Talmadge
Dole	Long	Thurmond
Domenici	Mansfield	Tower
Eagleton	Mathias	Williams
Fannin	McClellan	Young
Fong	McGee	
	McGovern	

NAYS—0

NOT VOTING—31

Baker	Hartke	Pell
Biden	Kennedy	Percy
Buckley	La alt	Schweiker
Bumpers	Leahy	Scott, Hugh
Cranston	Magnuson	Stennis
Culver	McClure	Stevenson
Durkin	Metcalf	Taft
Eastland	Mondale	Tunney
Goldwater	Montoya	Weicker
Griffin	Nelson	
Hart, Gary	Pastore	

So Mr. HATHAWAY'S amendment, as modified, was agreed to.

Mr. LONG. Mr. President, for the information of Senators, I do not think there will be any more votes today. In fact, there will be no more rollcalls. If I have the power to assure it, there will not be any more votes.

I do want to talk about a number of matters, but anyone who has something else to do can read it later.

Mr. MANSFIELD. Will the Senator yield?

Mr. LONG. Yes.

(At this point the legislative program was stated. The program is printed later in today's RECORD prior to adjournment.)

COMMITTEE MEETINGS

Mr. MANSFIELD. Mr. President, I am about to make a unanimous consent request, but before I do, I would like to inform the Senate that the standing committee chairmen met this afternoon in my office to discuss the question of committee meetings. On June 22, the Democratic Policy Committee voted unanimously to prohibit committee meetings except for nominations and "extraordinary" legislation. This action was concurred in by the minority leadership and has been in effect since that date.

Today, it was agreed that in addition to hearings on nominations, that oversight hearings will be permitted as this is a continuing function of the Senate, throughout the year. Hearings to be held to an absolute minimum are those dealing with reporting of new legislation to

the Senate floor. Substantive legislation should have been completed prior to May 15 under the new budget procedures, and the period from now until the end of this Congress will be primarily devoted to appropriations bills, the tax bill, and those matters considered extraordinary.

During the chairmen's meeting, it was suggested that committees could meet beginning at 8 in the morning, after the Senate has adjourned for the day, and on weekends, if necessary.

The chairmen have unanimously agreed to review their requirements for meetings and hold them to an absolute minimum. This, of course, does not include the Finance Committee, the Appropriations Committee, or the Budget Committee. Requests to the leadership will come from the chairman of the full committee only rather than from subcommittee chairmen as has been the case in some instances.

UNANIMOUS-CONSENT AGREEMENT—COMMITTEE MEETINGS

Mr. MANSFIELD. Now, Mr. President, and this has been cleared on the other side, I ask unanimous consent that the Refugee Subcommittee of the Judiciary Committee be permitted to conduct an oversight hearing on Thursday, July 29; that the Committee on Interior and Insular Affairs be permitted to conduct oversight hearings on August 3 and 4 on the Alaska pipeline situation; that the Subcommittee on Near Eastern and South Asian Affairs of the Committee on Foreign Relations be permitted to conduct an oversight hearing on Monday, July 26; that the Committee on the Judiciary be permitted to meet on July 28 to consider pending nominations, immigration matters, and a bill to amend the Federal Trade Commission Act; that the Committee on Commerce be permitted to meet on July 28 for the purpose of considering certain nominations; that the Subcommittee to Investigate Juvenile Delinquency of the Committee on the Judiciary be permitted to meet on July 28 and August 5 to consider the Narcotics Sentencing and Seizure Act of 1976; that the Subcommittee on Parks and Recreation of the Committee on Interior and Insular Affairs be permitted to meet on July 26, 27, and August 2; that the Health Subcommittee of the Committee on Labor and Public Welfare be permitted to meet on July 28 to consider S. 2910; that the Committee on Foreign Relations be permitted to meet on July 27 to consider international commodity agreements, which has a time factor to contend with; and that the Committee on Public Works be permitted to meet on July 29 to markup the Water Pollution Act and on August 5 to consider the omnibus water resources bill.

The PRESIDING OFFICER (Mr. STONE). Is there objection? Without objection, it is so ordered.

Mr. MANSFIELD. I thank the Senator.

TAX REFORM ACT OF 1976

The Senate continued with the consideration of the bill (H.R. 10612) to reform the tax laws of the United States.

Mr. LONG. While the majority leader is here, Mr. President, I would like to make a request of him that he try to schedule a single track on the tax bill after next week, assuming next week he has a double track schedule. If we continue the rate of progress we are making now we will still have a lot of work to do by the time of the Republican Convention because we have a lot of amendments on which to vote, both committee amendments and amendments to be offered from the floor by Senators. I hope he will try to put us on a single track. After next week I hope we can start getting unanimous consent to limit time to perhaps 1 hour apiece.

Mr. MANSFIELD. Absolutely. I look forward to such a procedure because I think that would be the best way to expedite and conclude consideration of the pending bill. I certainly would be most happy to do so.

Mr. LONG. I thank the distinguished Senator.

Mr. HANSEN. Will the Senator yield?

Mr. LONG. I yield.

Mr. HANSEN. I do not know what the distinguished chairman of the Finance Committee would have in mind, but I would ask, without his losing the right to the floor, if I might make a few observations?

Mr. LONG. Yes.

Mr. BARTLETT. Will the Senator yield for a unanimous-consent request?

Mr. LONG. I yield.

PRIVILEGE OF THE FLOOR—S. 2212 AND H.R. 10612

Mr. BARTLETT. Mr. President, I ask unanimous consent that Ed King, of my staff, be granted the privilege of the floor during the consideration of both the LEAA bill and the tax reform legislation.

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

DEATH OF HENRY S. HIBBARD

Mr. HANSEN. Mr. President, in the Great Falls Tribune of July 15, 1976, is a news story relating to the tragic and untimely death of Henry S. Hibbard, former State legislator and owner-operator of one of Montana's best known ranches, the Sieben Livestock Co. Mr. Hibbard and a 17-year-old ranchhand from Great Falls were killed in the crash of a light plane.

Henry Hibbard was a third generation ranch operator, as I understand, of the Sieben Livestock Co., a family corporation founded in 1868. I am certain that is well known to many of our friends here in the Nation's Capital.

I share with his many friends the feeling of sadness in the loss of this distinguished legislator and livestock man. I ask unanimous consent that the article as it appeared in the Great Falls Tribune be printed in the RECORD.

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

[From the Great Falls (Mont.) Tribune, July 15, 1976]

EX-LEGISLATOR, HENRY HIBBARD, RANCHHAND DIE IN PLANE CRASH

Henry S. Hibbard, 56, former state legislator and owner-operator of one of Montana's best-known ranches, and a 17-year-old ranchhand from Great Falls were killed Tuesday in the crash of a light plane on the Sieben Ranch 30 miles south of Cascade.

The Great Falls victim was Wayne Pursley, son of Mr. and Mrs. Allan Pursley, Route 2 S. He had recently completed his junior year at C. M. Russell High School. (See story on page 10)

In another light plane crash, four persons died Wednesday near Kalispell. Story on page 8.

Hibbard and Pursley died when Hibbard's single-engine Piper Super Cub struck a thick guy wire supporting a Montana Power Co. transmission tower five miles from the main Sieben ranch place.

Authorities said the crash occurred at 8:26 p.m. while Hibbard and Pursley were searching for a lost bull along the middle fork of Hound Creek. The site of the crash was just north of the Middle Creek reservoir in Cascade County.

County authorities at the scene said they believe the aircraft was caught in a downdraft and Hibbard was unable to bring the plane out of a dive before it struck the guy wire beneath the power lines.

The plane struck the guy wire with its nose cone and plummeted straight down into the ground, according to officials. The guy wire was severed by the impact and apparently swung upwards and shorted out one of the power lines. The power line did not fall but electric power was knocked out over a wide area for several hours, they said.

Authorities said that when Hibbard and the youth failed to return at dark a ground search party was organized. Searchers found the wreckage early Wednesday morning, the bodies inside the plane. The sheriff's office here received the report of the missing plane at 11:37 p.m. from a Sieben Ranch employe.

A Mamlstrom AFB helicopter with Coroner Dr. C. E. Magner as a passenger went to the scene to bring out the bodies. The coroner said electric power went out in the ranch area at 8:26 p.m. and it is believed that is when the crash occurred.

Hibbard was president and principal owner of Sieben Livestock Co., a family corporation founded in 1868 and which has holdings both in Cascade and Lewis and Clark counties. He has operated the company since 1946.

Hibbard, who lived in Helena, was a Republican member of the Montana House of Representatives from 1961–65 and the Montana Senate from 1965–72. He lost a bid to unseat U.S. Sen. Lee Metcalf in 1972.

He was president of Montana Woolgrowers Association in 1962–63 and a past vice president of the National Woolgrowers Association. He had been chairman of the wool committee of the American Sheep Producers Council and headed that council from 1971–74. He had served on numerous state and national boards dealing with sheep and wool.

He was born in Helena, received his degree in agricultural economics from Montana State University and a master's degree in business administration from Harvard University. He and his wife, Jane, have three sons, Chase, of Berkeley, Calif., Scott and Whit, both of Missoula.

Hibbard's mother, Mrs. A. T. Hibbard, the former Margaret T. Sieben, lives in Helena. His father died in 1968.

Memorial services for Hibbard will be Friday at 2 p.m. in the Helena Episcopal Church.

Memorials to St. Peters Hospital are suggested. Arrangements are being handled by the Retz Funeral Home.

Mr. MANSFIELD. Mr. President, I wish to join the distinguished Senator from Wyoming in expressing my personal condolences on the passing of Henry Hibbard, and my sympathy and my family's sympathy goes to his family. He does come from an old Montana family. He did have one of the best ranches in the State, the Sieben ranch. He was interested in politics and he was a candidate against my colleague, Senator LEE METCALF in Lee's last senatorial campaign.

He was a man of good character; of rugged individuality. It was a clean campaign and both candidates did credit to Montana.

It was with a deep sense of sadness that I read in the Tribune and other Montana papers that one of our best known and most beloved citizens, Henry Hibbard, had died in a plane accident along with a 17-year-old boy from Great Falls, while he was undertaking an inspection tour of his ranch in the area between Wolf Creek and Great Falls.

I join the distinguished Senator and again I wish to express m y deepest sympathy and my family's sympathy to the family of Henry Hibbard.

Mr. HANSEN. I thank my distinguished chairman.

TAX REFORM ACT OF 1976

The Senate continued with the consideration of the bill (H.R. 10612) to reform the tax laws of the United States.

Mr. LONG. Mr. President, I send to the desk amendments to be printed. I submit these amendments on behalf of the Senate Committee on Finance and ask that they be printed. I also send a report accompanying the amendments, explaining them. They will be available to all Senators on Monday.

Mr. President, I believe it well to explain what some people undoubtedly did not understand. I believe the RECORD should show this and Senators should know it, if they did not know it already.

We on the Finance Committee have the great fortune of having two good staffs work with us and advise us. We have the staff that has the greatest competence in tax measures, which is admired and respected by all, both in the legislative branch and in the press, for their competence and their expertise, the Joint Committee on Internal Revenue Taxation; and we have available to us also a staff which I have been working to build as a very able and fine group, our staff of the Senate Committee on Finance.

I believe it would be well for the record to show that, in putting together the Finance Committee staff and employing good lawyers there, I have instructed them that they are to second-guess Mr. Woodworth, the enormously competent chief of the Joint Committee staff. Any time he suggests something that they do not think it is right they are to tell either someone on the majority side or the minority side, depending upon which side they are most closely concerned with, that they do not necessarily think that is a good idea, that we ought to consider doing it a different way or maybe not do it at all.

So we have two good committee staffs, one checking on the other, on these tax measures.

When we moved rather expeditiously a few days ago in considering amendments, the press accounts did not reflect the fact that those amendments on which we were voting had been carefully considered by these two committee staffs, and the able men on those staffs felt that those amendments were meritorious and deserved to be considered by the Senate; and even though we moved rather expeditiously on the last day we were acting on the bill itself, and even though we moved with similar dispatch on the last day we were acting on amendments when we met in sessions thereafter, it should be known that those amendments had been carefully considered, that those on the two committee staffs felt that they followed all the requisites of accuracy, fairness, and justice in good tax legislation, and insofar as they had some doubts about an amendment, they undertook to let the members of the Senate Committee on Finance know that they were concerned about them, that the amendments might not be good if they in fact did vote to accept them.

That was not reflected in press stories, perhaps because some people simply did not know the traditions of the committee and the way our staffs have related one to the other and to the Senators themselves.

We have had some unfortunate publicity. I really believe that in the end, when things work for the best, we ought to look upon them as good fortune rather than bad fortune, because it will undoubtedly improve our committee procedures.

In the meetings that we held, both when we were adopting amendments to the bill that is on Senators' desks as well as the amendments which I have now sent to the desk, the Senator from Louisiana stated that if anyone in the press or anyone in the room who was connected with Mr. Ralph Nader's group or any of the other public interest groups knew or could find a reason why any of these amendments should not be agreed to, they should advise us of that, and that would be considered.

The Committee on Finance has used a procedure somewhat different from other committees. I am very proud of it myself, although some who at this moment do not understand it may not be.

We have, through the years, moved expeditiously to make decisions rather than defer them. Any time we could make a decision, we would say, "We will tentatively agree to this," and it was always understood that the sponsor of an amendment had no advantage whatsoever by that tentative decision because any time someone else wanted to move to reconsider, he could do so. If someone had a suggestion, we would tentatively agree to it to dispose of it for the moment, but it was always understood that any time any single Senator wanted to reconsider it, he did not have to have a majority vote of the committee or anything like that, all he had to do was say, "I want to reconsider it," and we would reconsider the vote, just as though we had never voted on it before.

If subsequently someone who had not been there, or who had changed his mind, wanted to reconsider the same thing again, we would cover the same ground again. We found that was a way to make progress, because Senators would feel free to vote on something if they could be sure in their own minds they were not locked in, if they felt that upon further reflection or further education they could vote on the matter again; there would be no pressure on them, and it was simply understood that if he had more time to consider the matter, had more information, and felt he was a wiser man than the first time, he could change his vote.

That procedure has made it possible for the Finance Committee to work far more rapidly than before. I recall the first time I used that procedure in the committee, President Johnson was complaining that no progress was being made on the bill; it was a very controversial bill, I believe a bill involving health. It was making very little headway; in fact we had about 400 amendments to consider, and were voting on about two amendments a day, and it would have taken 200 days to dispose of the measure at the rate we were going.

One morning when the chairman of the committee asked me to take charge, I used this type of procedure, and we managed to dispose of 50 or 60 items by unanimous consent, using the procedure I have been outlining. So we felt we could make good progress. It was unfortunate that at that point we did not have a reporter present keeping a record, because it would show the standards we applied; if anyone could show any good reason why the amendment should not be agreed to, we would reconsider it.

Incidentally, in this case the Senators who raised protests were not there to see what was going on, and were not familiar with our way of doing business. We had so much business to do that if we had taken the amount of time that committees usually take to hear witnesses, that could have delayed the consideration of this bill for 3 weeks. We limited each witness to 5 minutes, but let them submit as much information for the record as they cared to present; so we will have some rather voluminous hearings coming in that we managed to hold over a 3-day period.

Having done so, we discovered that the majority of the amendments were meritorious, that they should be agreed to, they should be accepted, and we will ask the Senate to agree to them. A great number of amendments had no objection presented at the hearings, the Treasury favored them, no objection was voiced by any public interest group, nor was any objection made by any Senator.

We thought more carefully about matters with regard to which there is a Treasury objection, and we felt that in

cases where these were broader public issues that must be decided, they should be laid before the Senate and the Senate should decide them, controversial though they be. That would be amendments such as those that relate to the tax treatment of the entire railroad industry, one that relates to the tax treatment of the entire shipping industry, something which is of broad future consequence to people across the country. We felt such matters should be decided by the Senate one way or the other. That is what the Senate is here for, and it should not adjourn without deciding those things.

I do not think we will have much difficulty getting the Senate to vote on them one way or the other. One such is an amendment involving the tax treatment of tips for people who work in hotels, motels, and restaurants across this country; it involves 500,000 employees at a minimum, and involves the entire hotel, motel, and restaurant industry. We ought to vote on that issue.

Now, with regard to the more narrow type amendment, generally speaking, our decision was that if only one or a few taxpayers are the subject of what we believe to be an inequity or an injustice, if the Treasury objects, and if some public interest group indicated an objection at the hearings, we should, in most cases, defer that for the time being, though we would like to bring the provision to the Senate for consideration before this session is concluded on some other bill. We believe we could do that in connection with 20 other tax measures that will be sent to us if they are not already here from the House of Representatives. And there are a few fairly narrow amendments that we are satisfied that Senators would insist on offering as individual Senators on this floor, even if the committee tried to ask them not to offer them; and that being the case, we thought that out of respect to those Senators who would offer the amendments anyway, since they thought they were good amendments, we ought to place the support of the committee behind them, and we did.

But, generally speaking, with regard to our own amendments, those of them that members of the committee offered, we felt that if there was a Treasury objection and some other objection, generally speaking we would not insist on it, we would defer consideration until a later date.

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

Mr. LONG. I yield to the distinguished Senator.

Mr. CURTIS. Mr. President, I commend the distinguished chairman of the Finance Committee for his statesmanlike manner in handling this entire bill. I commend him for his fairness not only to members of the Committee on Finance, but to all of the members.

Few people can realize the difficulty in writing a tax bill. Nobody likes a tax collector. When our Lord picked out one of them who happened to be a tax gatherer he was ridiculed for it, and all through history nobody likes a tax gatherer. It is not the easiest job at times. Many of us enjoy it and we are not complaining. We are not. We were not drafted to run for the Senate. I do not mean it that way. But the job is difficult. I happen to hold the view that if one taxpayer is suffering an injustice he is entitled to be heard; he is entitled to have his matter brought before the committee.

The object of all tax legislation is to do justice. Sometimes that is in favor of the Treasury; sometimes it has to be in favor of the taxpayer. But that is what we should do.

But it does invite oftentimes the unkind comment of perhaps well-meaning reporters who do not know anything about what they are talking about. There is also a temptation for some politicians to think here they can pound their chest and say, "I am pure, but here somebody did something for an individual taxpayer." Maybe that individual taxpayer was suffering an injustice and was entitled to something.

I commend the chairman for his procedure of letting members of the committee, and others, present matters that should be considered.

In this recent procedure, here is what it amounts to as I see it:

There are many tax problems. We have a lot of taxpayers. The amount of revenue involved is a great amount. And for the people involved all of these things are urgent. Our bill is quite voluminous.

We were faced with a question as to how many things can we carry along in one bill, do justice, and be able to have it manageable in the conference, and also can we move with sufficient dispatch so that the pending tax reductions can be met on schedule and the bill not include so many things that a statesmanlike job cannot be done. I remind Senators that the drafting of the language and the drafting of the report is a tremendous job on our staff, and there have been times that I have felt that we have actually been inhuman and cruel on the load we placed upon these fine individuals, who make up the staffs upon which we have called to do this work. Consequently, what has happened in this recent procedure is that certain things that have the approval of the committee and have the approval of practically everyone who has listened to the presentation, were deferred to be considered another time.

Throughout all of this, our distinguished chairman has been patient and fair. At times when false and unjust accusations were made about the committee and about the chairman, he has still gone on in a cheerful attitude and carried on the work of that committee. I commend him for it, and I hope that he will have the cooperation of every Member of the Senate in this difficult, highly technical, and complex task of writing the tax laws.

After all, Mr. President, our people have to live under these laws. They have to be interpreted. The Treasury Department and the Internal Revenue Service are entitled to a well-written law so that without difficult, ambiguity, and so on, it can be administered.

The burden for getting such a law falls upon the committees that handle it. Therefore, I hope that when today's RECORD is read by Members of the Senate they will join me in pledging their support and cooperation to our chairman, to the end that the best possible bill can be written. I commend the chairman and I thank him for his unfailing cooperation and kindness.

Mr. LONG. I thank the distinguished Senator from Nebraska.

Mr. President, I really feel that I am a very fortunate man in a great many ways. One of those ways is that it is my privilege to serve with the very able, competent, fair, and articulate Senator from Nebraska. The Senator is a perfect gentleman in every respect. He has been as helpful and as fair as anyone can be to others, even when he finds himself somewhat at odds with them in what their objective may be. He will go the extra mile to accommodate people when they have a problem.

I express my gratitude to all my colleagues who, during this period, have indicated that they have understood the problem that we had and that they wanted to help us do what is right which is, after all, what we all ought to be trying to do. None of these issues should be decided based on who is right. They ought to be decided based on what is right.

We will modify our procedure in the future to do what we are doing right now. We will have a reporter in the room at all times. It will help prove a point from time to time as to what someone did say or someone did not say, and it will help make more certain what the legislative history is.

It might upset some who do not understand that and perhaps find it odd that Senators might josh one another from time to time in their business as they work on these technical matters, but I honestly think that it would be dull to tears if in working on this tedious tax work we did not kid one another from time to time, and that might give some cause for concern that the tax bills are not properly being considered.

I simply do not know if I could stay at this job long if we did not josh each other a little bit from time to time as we go along through the tedium of this tax legislation.

I shall submit for the RECORD some statements, which I think I will read at least in part, which explain clearly what the people of this country perhaps do not understand as a result of the kind of news releases they may have been reading about the activity of our committee. One is led to believe that when we draw a narrowly drafted provision we are favoring some rich person at the expense of all the others. That simply does not happen to be true, Mr. President, and I shall read the testimony before our committee in this last session of two of the very ablest men who ever worked in the Treasury as to what the problem is with regard to narrowly drawn legislation on the tax issue.

I read from the testimony of Mr. Edwin S. Cohen, former Assistant Secretary for Tax Policy of the U.S. Department of the Treasury, appearing as a

lawyer before our committee, representing a client:

Chairman LONG. Mr. Cohen, you have done more to advocate specific tax reforms than anybody else in this room. You were the Treasury expert who sat in the committee room day in and day out and also who participated in the conference and many times you stood up and spoke out vehemently against the suggestions that Senators made that might help some of their constituents where you thought that relief was not justified. Now you are testifying with regard to provisions that can be regarded as narrowly drafted amendments.

Incidentally, Mr. President, when I said he sat in the room and participated in a conference, I was referring to the sessions on the Tax Reform Act of 1969.

I continue to read:

Would you explain, from a purely philosophical point of view—and I would like you to relate this to your experience in the Treasury—why, if at all, it is necessary to draft amendments limited to a single taxpayer or to a small number of taxpayers?

Mr. Cohen. Well, there are various reasons, Mr. Chairman. As I think is obvious, the Internal Revenue Code itself is divided into various sections or parts that apply to specific industries, and that fact in itself causes need for amendments that affect particular industries.

As an illustration, we have sections or parts of the code with series of provisions that apply to banks, to life insurance companies, to regulated investment companies, to real estate investment trusts, provisions relating to the extractive industries, provisions in this bill that apply to professional sports; so there is no way to avoid having many provisions apply to specific industries and that, of itself, results in application of provisions to a limited number of persons. The code is constructed that way because industries differ.

Secondly, when you have provisions that deal with one specific set of facts that are not going to recur, I think the draftsmen, both in the Treasury and on your staff—not only the draftsmen but those who make the policy decisions—see the merits and the equity of the speed with which they have to act, whether the provision should be made broadly applicable without knowing all the facts that might exist nationwide, and time does not permit obtaining all of those facts.

You cannot have a set of special hearings on each provision in a large bill, so I think the natural tendency of those who are convinced of the equity of a particular provision is to say: "Yes, that is all right, but let's limit it for the present purpose and then we will look at it later when someone else requests a change." I think that is the way it comes about.

I might say that where there are specific statutory revisions in particular cases, the procedures the House has followed in the last year seems to have satisfied a lot of criticism; and, while I don't see the need for it to be done in both branches of the Congress on the same provision if there have not been objections on the House side, it is a model with which one can start.

Chairman LONG. In other words, when you were there in the Treasury someone could come up and show where he was being treated unfairly and it was a situation that deserved remedial legislation?

Mr. COHEN. Yes.

Chairman LONG. Now sitting there as a representative of the Administration, you would, then, find yourself inclined to say: "Well, applied to this situation, I agree that that is not fair and that something should be done about it; but if we are too broad in what we do, we might find that we create a loophole for a lot of people that was never intended, and so we will draw this narrowly."

Now, is it not also true that in some cases in seeking to close a tax loophole, you might have done something more than you intended, you might have clobbered somebody when you didn't intend to do so, and that would require legislation to reduce the burden that you might have placed on a person that went beyond what you had in mind?

Mr. COHEN. This is frequently a problem. I think this is one of the reasons why, from the standpoint of drawing regulations under the Administrative Procedure Act, since 1946 we have had provisions for notice of proposed rulemaking so that people can come in and say, "Well, you have hit me unintentionally," and very often you acknowledge that you have done that and you make the correction.

Even then, you have a problem that, in making the correction, the very act of making the correction may hit someone else who was not hit before; and so you never know whether you should have the regulation republished for further comment.

There comes a time when you have to act, but you do find that in some cases in good faith you thought a generalized provision was warranted, without knowing of circumstances that are later called to your attention that merit a correction, and you then take action to correct it. I think that you do the best you can with the problem in good faith.

Chairman LONG. Now with regard to the theoretical problem, suppose you find that an injustice exists but it involves only a single taxpayer. Should the Congress or the Administration act to recommend something if it involves only a single taxpayer but it is a patent injustice?

Mr. COHEN. I must say, Mr. Chairman, that injustices should be corrected and the mere fact that it involves a single taxpayer does not seem to me to be a bar to the correction of an injustice. If everybody is agreed that it is an injustice and people on both sides have an opportunity to be heard, I do not see why an injustice should not be corrected.

Chairman LONG. The courts would do it, wouldn't they? You have a right to go to court on behalf of a single client.

Mr. COHEN. There are occasions, Mr. Chairman, in which the court gets the problem of whether the provision can possibly be construed in a way which would eliminate the injustice, or whether the language is so specific and so tight that the court feels powerless to do so; in that event, there is no place to go except to the Congress for the correction of the injustice.

Chairman LONG. Now I have one further point that I think you might want to comment on.

Mr. COHEN. Yes, sir.

Chariman LONG. It was suggested on yesterday that taxpayers should exhaust all of their remedies before we consider providing relief in legislation. Now, here is a type of thing that I know has happened and the staff doing the technical work would be the first to agree that that is the case.

In some cases, doing the best they can, they fail to draft the amendment so it does precisely what the committee has in mind. Then an aggrieved taxpayer goes to court seeking redress of his grievance and he finds that the unfortunate part about it is that the problem is with the language drafted in error by the committee staff or by a Senator, and the only way he is going to get that corrected is not to proceed further in the judicial area but to go back to Congress and ask them to change the provision to the way it should have been drafted to begin with. Are you familiar with that problem?

Mr. COHEN. I am indeed, Mr. Chairman, because I have made those mistakes myself; I think we all do. With the speed at which one has to work in government, there is no way to avoid such a problem and, if you have made an error, it seems to me the proper thing to do is to acknowledge it and correct it.

Mr. President, we have the good fortune that one of our able writers for a nationwide publication can hear my response to a problem that seems to trouble him.

If a person has been done an injustice, it does not make any difference whether he has contributed to someone's campaign or has not contributed to someone's campaign. If it is a patent injustice on the face of it, it should be corrected, whether he supported a man for office or did not support a man for office.

One of the achievements of this Senator in which he took great pride was to help correct an unfortunate tax situation that existed with regard to a person who had been one of the leaders against this Senator's father and against this Senator himself, a man who was a pillar of the community, but who was desperately ill and could not deduct the enormous costs of the medical expenses that were wiping out his estate.

People should do what is right, whether the beneficiary is one who supported him or did not support him.

Mr. President, it was my good fortune on some occasions to carry parishes that my father never carried. I carried one of the largest parishes in my State by a 95-percent vote some years ago, a parish which my father never carried. I think one reason was that I had demonstrated that whether someone was for me or not for me, I was going to try to represent those citizens because I represent all of them, just as I feel that as a U.S. Senator, I have a duty toward all of the people of the United States.

Mr. President, we have a statement from Mr. John Nolan, on this same subject. I shall ask that it be printed in the RECORD, except for one point that I want to read here. It indicates the further problem of drafting the amendment narrowly. Sometimes, it is a mistake not to draft an amendment narrowly. Let me give an example. This is quoting from my own statement on that occasion.

Let us talk about the problem you can have if you draft an amendment too broadly. I would like to refer you to a situation which you are familiar with where a lady in Philadelphia decided to join a religious order. She became a nun. She was an heir to a large amount of wealth. Someone on her behalf sought an amendment to the tax law to say that all this income which had been left to her could be given to charity, to her religion, and that she would not be taxed on it because she had renounced all worldly gains.

Having drafted this amendment for the benefit of this lovely Philadelphia nun, we subsequently found that 23 percent of the people who are reporting gross adjusted income of $5 million are paying no Federal income tax, the great majority of them because they are taking advantage of the provision that was drafted for this lady who became a nun by renouncing all earthly wealth and taking a vow of poverty. That was the biggest loophole in the entire tax law, done originally for one single person who wanted to take a vow of poverty and devote her life to religion.

That is what can happen by drafting a

provision too broadly. If that provision had been drafted narrowly, you would have saved what subsequently became the biggest subject of tax avoidance by millionaires in the entire tax code. Are you familiar with that?

Mr. Nolan. Yes, Mr. Chairman I certainly am. I completely agree with you that in the long run in these areas it is much preferable to draw these provisions as narrowly as possible to solve the problem that Congress has in mind and then if it turns out that there are inadvertent burdens or benefits created which come to light subsequently, to deal with those when they do come to light.

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

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

TESTIMONY OF JOHN S. NOLAN

Chairman LONG. Mr. Nolan, I can recall the days when you were invited to be the only person who was not either a member of the committee or the staff to sit in that room while we would explain and discuss amendments to major tax measures. Many times I have invited you and others have asked you to explain the view of the U.S. Treasury on some legislative proposal. Many times you fought a lonely battle all by yourself to explain why something that a Senator thought should be done should not be done. I felt a great sympathy for you the many times you were trying to fight a battle against something that the Committee seemed to want to do when you didn't have a vote and didn't have the right even to speak unless invited to do so.

You certainly understand the procedure and what the proper way to go about amending the tax law would be. Would you mind explaining to us how you look at the same problem I asked Mr. Cohen about? You had a similar responsibility and did similar work for the President and the Treasury Department. How do these problems involving a single taxpayer or a single company or a few companies arise, and why is it necessary to draft a limited amendment, which we are now tagged with calling a special interest amendment, to meet a specific problem?

Mr. NOLAN. Mr. Chairman, we have a tremendously complex economy in this country. We have over a long course of years attempted to build an equitable tax system which takes into account all of those complexities. That in turn has led to a complex tax law, but it is complex because it is basically designed to be an equitable tax law and to take into account the special circumstances of each industry, each type of business, each particular taxpayer group.

Now when you build that kind of tax law you build an extremely complex and difficult set of provisions, and nobody can foresee all of the possible ramifications of a provision. Furthermore, the committee is and the Treasury Department are, in tax legislation, always working under the most extreme kind of deadlines so that the result, as Mr. Cohen said, has been that you try to draw the provisions in any particular area to solve only the particular problem but not any broader than is necessary—in other words, restrict their application as much as you can so as to solve the particular problem that Congress wants to deal with.

When you do that, not being clairvoyant on everything, you necessarily are going to inadvertently overlook some circumstances. There will be companies that are inadvertently benefitted and there will be companies that are inadvertently hurt by the provision.

Now those matters are brought to the attention of these committees, this committee and the Ways and Means Committee, and they are brought to the attention of the Treasury Department from time to time. It is the job of the Joint Committee staff and the staff of this committee, the staff of the Ways and Means Committee and the Treasury Department, to make decisions whether those are appropriate changes or not and report to this committee.

They do that, and they do it very well. These matters are very carefully considered by those staffs. It is absolutely inevitable that in these circumstances there will be cases that arise that are not properly dealt with by the legislation, where the Congressional intent is not carried out, where there are unintended benefits on the one hand or unintended burdens on the other hand. It is absolutely necessary in my judgment that the committee periodically hear from the taxpayers who are affected, deal with these problems, and solicit the views of the Treasury Department. The Committee has always taken into account the views of their own staff and acted to achieve the right result irrespective of how many taxpayers a particular provision applies to.

Chairman LONG. I am happy Senator Haskell is here. I would like him to hear what I have to say.

Let us talk about the problem you can have if you draft an amendment too broadly. I would like to refer you to a situation which you are familiar with where a lady in Philadelphia decided to join a religious order. She became a nun. She was an heir to a large amount of wealth. Someone on her behalf sought an amendment to the tax law to say that all this income which had been left to her could be given to charity, to her religion, and that she would not be taxed on it because she had renounced all wordly gains.

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Chairman LONG. That was the number one loophole that I have seen while I have been a member of this committee, and that has been a long time—24 years—and we have attempted to close that loophole which arose when someone drafted too broadly a statute to try to look at the tax problem of a lady who had renounced all earthly gains and sought to donate all of her income to charity, specifically her religion.

Sometimes by not drafting a provision narrowly in seeking to do justice for someone, you could very well provide a very big tax loophole. You have had to study that problem, have you, with the Treasury?

Mr. NOLAN. Yes, Mr. Chairman, we have many times.

Mr. LONG. Mr. President, the point is that there are problems: Sometimes you should draft a provision broadly to affect a broad class of people. Sometimes, when you do it, you live to regret it. Sometimes you should draw it narrowly and when you do, many times you will have people come and say, "Well, now, I have been subjected to an inequity because you took care of that taxpayer, but you did not take care of me; you should generalize the relief." So we do.

We ought to keep in mind, Mr. President, that there is nothing static about this country. That is one reason it is great. This is a very complex economy. This tax law is drafted to fit that complex economy somewhat like you would try to fit a glove to one's hand. Because the economy changes, the law must change. So we can consider changing it, if we want to. Perhaps someday we might decide to tax on a gross receipts basis rather than on a net income basis. But so long as we tax on a net income basis, we are going to have a very complicated tax law, particularly if we do some things which I think are wise—such as provide an incentive for people to do good work, provide an incentive for someone to make a contribution to charity, provide an incentive for someone to start a new enterprise and hire people and create new employment and move his community ahead. When we create an incentive for people to better their communities by founding great universities, advancing the arts, and the many other things that people think worthy, that makes a rather complicated law. But I submit that, notwithstanding all that, it is a part, and a vital part, of America—which is the greatest country on the face of the Earth, and it has not kept us from being greater than all the others. I was talking to an Englishman a while back who said that the law in England is far more complicated than ours is here. I asked him why and he said because they have been at it longer than we have been at it.

So one will find when we solve some problems, we tend to create others. Perhaps next year, if President Ford retains control of the White House, Secretary Simon will send down a vast reform of the code to make it far simpler than it is now. If so, I wish him luck. I do not know whether I shall be for it or against it, but I have seen many reforms that left us worse off than we were before.

Mr. CURTIS. Will the Senator yield there?

Mr. LONG. I yield.

Mr. CURTIS. One of the problems with simplification is that it is so complicated.

Mr. LONG. Right. I am told that if Jimmy Carter becomes President, he is going to reform the tax code. I thought I heard him say on television that he was going to have the code reformed in a single year, "you can depend on it." I did not see him when he spoke to the business community at the 21 Club the other day, but the way I read it, and perhaps the reporter heard him wrong, it sounded like he said he is going to spend a year studying this thing.

Perhaps he will begin to become aware of what some of us here know already; that is, if we are to try to simplify all these problems and try to do better justice than we find we have at the moment,

it is just not as easy when we become familiar with it as it is before we become familiar with it.

Mr. President, I believe that we should conclude further consideration of this tax bill at this time. In the event someone might want to make a further statement, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

ADDITIONAL SUPPORT FOR THE SCHOOL INTEGRATION INNOVATION ACT OF 1976

Mr. GLENN. Mr. President, on April 14, 1976, I introduced S. 3319 the School Integration Innovation Act of 1976. S. 3319 extends the Emergency School Aid Act through August 31, 1978, at an authorized funding level of $1 billion per year. The bill also amends the ESAA by clarifying and adding to the activities for which ESAA funds acn be used by communities implementing both court ordered and voluntary desegregation plans. These activities are:

First. The construction and/or operation of "magnet" schools.

Second. The pairing of schools and programs with specific colleges and universities and with leading businesses.

Third. The construction and development of educational parks and neutral site schools.

Fourth. Educational programs especially designed to improve the quality of education in inner city schools.

My bill provides that nothing in this act shall be construed in a manner that is inconsistent with the full enforcement of the 5th and 14th amendments of the Constitution and of title VI of the Civil Rights Act of 1964.

The text of S. 3319 has been introduced in the House of Representatives as H.R. 14700 by my colleagues from Ohio, Mr. SEIBERLING and Mr. WHALEN. I am very pleased that congressional leaders from Ohio are taking the initiative in providing constructive approaches to the school desegregation problem. It is my hope that these measures will help our State and others avoid some of the recent turmoil experienced in desegregating communities.

I am also very pleased to note that in addition to the authors of H.R. 14700 there are already 16 cosponsors including the distinguished Congresswoman from California (Mrs. YVONNE BURKE) chairperson of the Congressional Black Caucus. Here in the Senate, I am pleased to add the distinguished Senator from Colorado (Mr. GARY HART), the distinguished Senator from Massachusetts (Mr. KENNEDY), and the distinguished Senator from Minnesota (Mr. HUMPHREY) as cosponsors. I am hopeful that our efforts with S. 3319 and H.R. 14700 mark the beginning of a broad effort to bring an end to the divisive and dangerous rhetoric over busing.

I introduced S. 3319 because I wanted to provide a positive direction and some practical solutions in the overheated area of school desegregation. Public and national debate on this issue has too often deteriorated to irrationality and emotionalism when the discussion should be on how best to provide a good education for all students and at the same time desegregate our schools under the law.

S. 3319 makes no claim of "solving" the "busing problem." The purpose of the bill is to help provide for and encourage a range of desegregation remedies, suited to locales, that when properly implemented would improve schools in both black and white neighborhoods to the point that school integration would occur more naturally. We could have avoided much of the turmoil we have today if school authorities years ago had recognized that they had to desegregate under the law and determined creative ways of doing so—without waiting for courts to impose busing.

Increased use of the methods authorized in S. 3319 could significantly cut down our reliance on busing to achieve desegregation. I believe, and documentation mentioned in my April 14, 1976 statement indicates, that desegregation is possible with a minimum amount of busing. The thrust of S. 3319 is to provide communities with the specific tools and funding necessary to achieve this result.

S. 3319 is a direct and positive approach in an area that has often been muddled in this highly political year by misguided and unfortunate efforts to roll back the clock on civil rights protections, undermine constitutionally protected remedies and place restrictions on court jurisdiction.

Will the methods authorized in S. 3319 work? Are they educationally sound? My staff has assembled a selection of materials, particularly on "magnet schools." These materials represent a good cross-section of commentary on various cities' experiences and success with innovative methods of school integration. It should be stressed that only sound local community planning and administration can bring these methods to full fruition as successful educational programs that also help accomplish desegregation.

I ask unanimous consent that a series of articles and letters pertaining to the activities authorized in S. 3319 and H.R. 14700 be printed at this point in the RECORD.

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

EXCERPTS FROM REP. BARBARA JORDAN'S INTRODUCTORY REMARKS TO THE NATIONAL CONFERENCE ON MAGNET SCHOOLS IN HOUSTON, TEX.

SIMPLE JUSTICE REQUIRES AN ALL OUT EFFORT TO FOSTER INTEGRATION AND QUALITY EDUCATION

As I was coming in from Washington, I began to read a book by the title, Simple Justice. It's a big book. The book is all about the decision of Brown versus the Board, what that decision means and how it was arrived at.

The cover of the book is very interesting. On it are two photographs. One of the Warren Court and one of Linda Brown, the plaintiff in the case. And as I began to reflect on that cover, I thought about what the photographers went through as they tried to capture that subject matter for the cover of the book. They probably had a sturdy tripod. They probably spent several minutes trying to decide which combination of speed and distance and aperture setting would be useful in bringing the subject matter into focus and providing the best photographs.

Well we, I think, are like those photographers in a way. We have a tripod—three legs. The first is the constitution. It is a constitution which requires each generation to struggle to preserve the American idea of equality. There is a second leg, the courts. The courts have acted as the conscious of the nation when people have been denied their legitimate rights. The third leg: the support integration receives from the people.

If you notice the latest polls in the west, and Texas is included, 64 percent of the people favor desegregation of our schools. And like those photographers, we must determine a way to approach the subject. Just as the different aspects of the camera have to be brought into focus—distance, speed, adjustment—setting, so we must adjust all integration tools to bring into focus the subject matter. Magnet schools, pairing, cluster, busing, others. Work with them. Bring them into focus. Try to get the proper arrangement so that somehow we can meet the requirements of each particular school district. Our dilemma is we don't know how to approach the subject. We don't know how to bring that subject into focus. How can we best adjust the tools which are available to us?

Well you are here in Houston to talk about the magnet school concept and how it can be made to work better. How you can work it in conjunction with other integration tools to bring into focus the subject matter which is quality education. It is an important task that brings all of you here. It is a task which forces us to focus on the most enduring problem of America—equality. There is no problem more enduring facing society than equality. It's a much used word in this year of celebration.

It is to some people just words on dried parchment in the national archives, that people can pass by and gawk at in the Declaration of Independence. It's familiar words, "We hold these truths to be self evident that all men are created equal." Equal. One sentence and that one sentence seems to capture the lifeblood and spirit of America.

Equality is an abstract term. It can only be given meaning through the efforts of each generation. For the first 97 years of this country, black people were treated with indifference. And then in the second 91 years, we have tried to reverse the trends set in 1896 in Plessy versus Fergurson and separate versus equal or separate but equal. Ninety one years of indifference highlighted by Plessy. And then in 1954, Brown versus the Board.

[Materials from National Conference on Magnet Schools in Houston, Tex.]

EXCERPTS FROM A SPEECH BY DR. GORDON CAWELTI, EXECUTIVE DIRECTOR, ASSOCIATION FOR SUPERVISION AND CURRICULUM DEVELOPMENT, WASHINGTON, D.C.

WE CAN MAKE EDUCATION MORE PALATABLE THAN IT NOW IS THROUGH ALTERNATIVES, RESPECT FOR OTHERS

Today's trend toward alternative and magnet schools and voluntary programs contrasts with the historic position of American education as it related to the melting pot theory. What a change from the traditional concept when we see the schools across the

land offering such a wide range of choices which never existed before. What a contrast to James B. Conant's recommendations of the late fifties advocating the comprehensive high school—where the blue-collar kids went with management kids—to the present support for alternatives to the traditional.

Yes, we have moved from the melting pot concept, and it took some trauma in America to begin to realize the pluralistic idea; that we must indeed respect the many, many different persons that are Americans. I commend those who planned this conference and I hope that we are stimulated to redesign American education.

For the past few years I have watched as the scholars at Harvard and other places have sorted out data with which they almost have convinced Americans that schools don't make any difference. The so-called productivity studies seemed to indicate that it didn't make any difference whether faculty members had masters' degrees, a lot of instructional materials or good buildings. None of these factors accounted for more than a one or two percent differential in output. As you and I know, that is a vast oversimplification—and I hope you will speak out in defense from, if nothing else, your own experience on the efficacy of schooling. But I do think that the critics have many people—board members and the public—fully convinced. So, some are saying that we ought to abandon secondary education for a while, lower the compulsory school age to 14, shorten the school day to two or three hours. This reflects a lack of confidence.

An alternative, it seems very clear to me, is to dare to say that we can make instruction much more palatable than it now is. The programs shown at the conference demonstrate that when you create an environment in which there is a specialty, instead of transmitting the cultural heritage by programming the same thing for all youngsters, a more powerful program results.

I am more and more convinced that the media with such wonderful potential, the medium of television, has created a vast change in the minds of young people. The impact it has had on schooling is vastly underestimated. It has much to do with problems of reading. Kids just don't read very much any more in many homes. It has much to do with the decline in reading scores and with the ability to write. If children don't read, they don't write as much nor as well, and it certainly has had an impact on conversation. But TV has power in other ways, as when kids turn from a compelling television program to a bland lecture or hour-long drill in the classroom. Should we be surprised that they are not turned on by school?

That path, from Plessy to Brown, was piled high with difficulties and still is. The concept of equal education only gradually entered the consciousness of America. Very gradually. It was the results of courts, governors, legislative bodies, all of these entities, pushing into the consciousness of America the idea of equal educational opportunity. So. Almost 22 years from the day of Brown, and we meet, trying to fulfill that promise, that goal of equality. It's very perplexing. Our schools are supposed to be the entities which teach the goals of America and yet the schools have had more difficulty than any other institution it seems in coming to grips with the translation of equality from rhetoric to fact.

Like any complex problem of this magnitude, there are no easy answers. And if you look for them, you'll be disappointed. I like this magnet school concept because it satisfies two necessities. First, leadership and understanding second. People are required under the magnet school concept to understand each other: To understand the community in which it is located. It understands that black and white people remain suspicious of each other. That there are some blacks who still say that all of the problems of black America are occasioned by white racists and that there are some whites who say that all of the problems of white America are occasioned because all blacks are criminals. Understanding cuts through such generalizations. Leadership, local leadership, is available under this concept.

The community leaders must decide what mixture of the integration tools will best fit the needs of their community. In a city the size of Houston, this concept appears to be working very well. All of the other tools remain available. Tools of first resort and tools of last resort. But the leadership under this concept has to come from the local community. And leadership does not always need to come from Washington. Leadership does not always have to come from the courts of this land.

It is very fashionable to attack any attempt on the part of Washington to provide leadership. But that too it ducking and dodging the issue. It's too facil. Franklin Roosevelt once said, "Better the occassional force of a goverment that lives in a spirit of charity, love, understanding—than one consistently guilty of omissions because of its indifference."

Congress may be of some help. We try to be of help but we need positive signals. We need positive signals from the people in charge of running the programs so that we don't simply kneejerk on the issue of whether to cut off funds or not under HEW guidelines because one is or is not in violation of the law. This conference gives to the Congress a positive signal. Magnet schools: an integration tool. You can assist us. If you understand this tool, you can assist those of us in the Congress in the accomplishment of our task. There are bills pending in the House now which would bring some new approaches and new insights into how to bring about this intermixture of students.

We have a lot to learn in Congress and I assume you have a lot to learn about magnet schools. One thing we know is that the magnet school concept answers the charge that integration means a leveling down and not a leveling up. You show that integration is accomplished by a leveling up. And that's important.

The questions you will answer these next few days I hope will be these:

How can magnet schools best be used with other integration tools?

How can the concept be extended so that all students participate?

How should students and parents participate in the planning for these schools?

How much career counseling is necessary for the students and the parents?

In the end, it is simple justice which requires a concerted effort on the part of all of us to find a national answer to a big problem.

Don't forget what Justice Warren said in Brown. "To separate children from others of similar age because of their race generates a feeling of inferiority as to their status in the community that may affect their hearts and minds in a way unlikely to ever be undone."

Here in Houston, our goal still remains equal educational opportunity of quality. You have the tripod. You have to determine the time, the distance, the speed, the lighting, the setting, the focus to bring it all into a reality-oriented subject matter.

I hope you are successful. I hope your camera adjustments are successful. Because each generation is required to interpret equality for succeeding generations. I want succeeding generations to say those people who took care of things in 1976 really knew what they were doing.

Representative Barbara Jordan set the stage in a superb way. In seeking quality and equality for everyone, perhaps the most difficult thing for most communities to realize is that we all have a responsibility to overcome or remediate the violation of the civil rights of one class of citizens. A lot of people will say yes, it's all right to have integration—but I don't want to pay the penalty now, today, because of some errors in my forefathers' day and the way they treated certain people then. Everyone has a responsibility to see that injustice is overcome, but most simply do not recognize this even though the courts are full of people whose rights have been violated on matters other than civil rights—on money matters and everything else.

Permit me to recall a bit from my own experience. I believe every community is quite unique in how it approaches the school integration matter. There have been a series of events in most communities, depending upon when they first begin to think about integrating, or the Justice Department first began to think about it for them, leading up to how it is handled. The earliest idea in my community seemed quick and slick: close a minority school. Then the minority leaders rose up to say we're not going to have one social injustice remedied by another one. Next we kind of turned to neighboring low-income groups paired with some low-income white communities nearby. It was logical—reduce the travel time.

Property values of low-income folk near minority neighborhoods suffered and people fled. That didn't work, and today where there is an ounce of leadership among minority persons in the community they don't stand for either one of these as the solution to school integration.

Thus it becomes more and more a matter of total community involvement and participation. Community attitudes vary greatly. My impression is that in almost every instance where a school board has fought to the dying gasp and played to the politicians, young people suffer, as opposed to the communities in which leadership moves to solve the difficult problems.

In the late sixties when the Justice Department filed suit on behalf of a class of citizens in Tulsa, a community of some 80,000, the superintendent and the board became the bad guys. You become too conservative for some and too liberal for others. The turning point in our community of 110 schools and 555 churches was when integration ceased to be the board's, superintendent of staff's plan and became the community's. It took a long time and a lot of shouting, screaming and misunderstanding. We made some mistakes, but we learned a lot.

The first idea, for example, was to set up a parkway, a school without walls, right alongside a black school. The parkway school had 75 blacks and 75 whites. It was an abject failure: You simply cannot mix a standard kind of school with its regimentations alongside one with unbridled freedom, if you will. That kind of integration did not work in Tulsa.

The thing that did work was very simple, very clean and very straightforward. It was a school with a super faculty which was put there voluntarily.

After wrestling with the problems of integration for many, many months, I conclude that if students will travel all the way across the country to get distinguished professors at an institution such as Texas Southern University, they certainly will ride several miles across town to reach a super teacher. And in Tulsa they surely did. That school today is half black and half white—and all of the students and faculty are there voluntarily, with a waiting list.

The idea was to recruit teachers from our own ranks and a few from the outside, beginning with the principal. In fact, the principals of the previously all-black high school and the most prestigious silk-stocking white high school changed places. That shook a few people up, I might say, but if you are going

to eliminate racial identity, an awfully good place to start is with the leadership.

The most difficult job, the one in which you need to be the most patient and persistent, is in the initial recruiting. You can't sell a bar of soap without having a brand-name product for most people. If you have an institution with no reputation, it takes a lot of people spending hours and hours meeting with the community to win their support and understanding. I call it marketing the school, because that's exactly what it was.

But the payoff is in facing the court and asking, "Is this all right?" In this case the judge said, "That's fine, if it works." We were given the latitude to go ahead and try, and I think it surprised everybody. The voluntary program saved millions of dollars.

By contrast, the school that was closed brought community reaction to set up a freedom school until the school board relented. With the help of Model Cities funds and the board's commitment, a low-income, bad-conditioned junior high school was transformed into one of the most modern middle schools. It now has one principal in charge of instruction and another in charge of management. That's the way if you want to focus on instruction—give principals time to be in the classroom working with teachers who are committed.

Very often we get involved with severe time limitations in setting up new programs. Failure to consider some of the design aspects can be devastating. One of the fundamentals is grouping practices. If you set up a magnet school for integration purposes, and then end up with racially isolated classes within the school, you haven't served anybody very well. There is no easy answer except to say that there must be a good mix of students in classes and in their other school experiences. There may be some few classes that are exceptions, but the data shows that it is advantageous to have students mix.

We must spend more time and more money in staff development for those teachers who are left as well as those who move because they are regarded as superior teachers. The superior teacher is one who does two things well: interests kids in the subject matter and helps organize knowledge—by deciding what to teach. Teachers more and more need a great deal of help with these.

A COMPREHENSIVE LOOK AT THE HOUSTON PLAN

(By Kelly Frels, of the Law firm Bracewell & Patterson, Houston, Tex.)

The Magnet School Plan for the Houston Independent School District was adopted by United States District Judge James Noel after a public hearing on July 10–11, 1975. The Magnet School Plan was submitted by the Houston Independent School District as an alternative to the pairing of 22 elementary schools ordered paired by the Fifth Circuit Court of Appeals on August 25, 1970. Through the Magnet School plan, the district also seeks to supplement its total integration efforts.

The Magnet School Plan has as its objective the achievement of racial and ethnic integration by providing quality educational programs. Magnet schools are utilized as integration techniques in four respects. The first is to reduce the one raceness of a particular school by providing a special educational program which will attract students of the appropriate race in sufficient numbers to integrate the school. Secondly, a magnet school provides an opportunity for students from one race, or nonintegrated schools, to be brought together in an integrated environment at a school outside their attendance zones.

Thirdly, magnet schools provide an approach to locating new facilities in a one race area where additional capacity is required. A fourth reason for the magnet schools is to retard white flight by providing quality educational programs which could not be secured elsewhere. These programs also bring new families into the district. Magnet schools, therefore, can be used to reduce the number of one race schools and to increase the number and percentage of students attending integrated schools.

Other school districts throughout the United States have utilized the magnet schools as an educational tool for many years; however, it is only with the addition of certain constraints on enrollment by race and ethnic origin together with providing free transportation, extensive publicity and community contact and other safeguards that the magnet school becomes an approach to achieve integration. Without these constraints, safeguards, and additional educational components, the integration objective would be difficult, it not impossible, to achieve. Unless these constraints are included, magnet schools can become unintentionally segregated. Boston's college preparatory school was predominantly white, while the vocational school was predominanty black. Magnet schools do not offer the total answer to integration, but when used in conjunction with strict nondiscretionary zoning and other desegregation techniques, it will work in school districts of various sizes. A magnet school may also be helpful in building new facilities.

There are several important elements which contributed to the Magnet School Plan's acceptance by the court. Foremost among these was the involvement of all ethnic and racial elements within the school community. Inherent in this involvement was the opportunity for these racial and ethnic components to serve on the Community Task Force appointed on November 25, 1974, which recommended the magnet school concept and the tri-ethnic Administrative Task Team which developed the Magnet School Plan adopted by the court.

All communities of interest were granted access to numerous public forums where their opinions and feelings were expressed. Additionally, during the process of formulating this desegregation plan, all other parties to the existing suit were kept fully informed of the activities and were allowed to participate within the parameters of legal ethics. The court-appointed bi-racial committee, composed of five blacks and five whites and responsible to the court as a watchdog over the desegregation process, was consulted and its input was sought on all aspects of the plan and its development. All parties to the lawsuit were kept fully informed of the progress of the plan's development.

The Magnet School Plan's success is predicated upon providing a quality educational program which will attract students of all ethnic and racial backgrounds to attend a centrally located school. These schools can take three basic forms. The first is an unzoned campus which has no specific attendance zone but accepts students from all attendance zones within the district.

The second basic form of school is a zoned school which has an attendance zone from which the basic student body is drawn but has additional student positions available to attract students from all schools within the district. A third form is a cluster center which provides a part time program for students from selected schools throughout the district. The Magnet School Plan of Houston utilizes all three basic approaches with variations of each.

TOTAL SCHOOL—NO ATTENDANCE ZONE

These schools are established on new school campuses at schools which have been closed to regular school attendance. No students are specifically zoned to the school, and students are recruited on a districtwide basis. This magnet was first implemented in 1969 with the conversion of San Jacinto High School from a regular school to a vocational-technical high school, Houston Technical Institute. Other disrictwide total school magnets include the High School for the Performing and Visual Arts (1971) and the High School for the Health Professions (1973).

TOTAL SCHOOL—ATTENDANCE ZONE—ADD ON PROGRAMS AND SEPARATE AND UNIQUE SCHOOLS

These total school programs are achieved by making the entire school a magnet program by emphasizing a particular educational approach or by adding an educational emphasis to the school. The entire student body of the school is affected by the educational program, and its primary purpose is to attract a sufficient number of students of other racial and ethnic groups from other schools to integrate a one race school. Separate and Unique Schools and Add On Programs are also designed to stabilize the ethnic composition of an integrated school, encourage people to move into the school's attendance zone, and discourage flight from the attendance zone and the district. These programs also offer various options for students who have special abilities. An example of the Separate and Unique School is the fundamental school, and examples of the Add On Programs are the fine art and music academies.

SCHOOL WITHIN A SCHOOL

The Houston Plan also includes School Within a School magnets which are separate schools housed on an existing school campus. The School Within a School students are attracted districtwide and have a separate curriculum from that offered on the existing school campus whose students come from a particular attendance zone.

School Within a School students have the separate curriculum for approximately 60% of the day, but share approximately 40% of their academic time with the existing school students. One hundred percent of the School Within a School students' non-academic school time, e.g., recess, lunch and assembly programs, is shared with the existing school students. Students are recruited for the School Within a School's magnet and admission is predicated upon achievement of the racial composition of the students districtwide; therefore, the School Within a School students attend an integrated environment for the entire school day. Many School Within a School programs have been placed on school campuses which are of one race; therefore, whenever the School Within a School body is integrated with the existing student body for the shared time, the existing student body also becomes integrated. The results of such an arrangement are two-fold; School Within a School students attend an integrated school for the entire day, and when placed with the existing school students, the entire school becomes integrated on a part time basis.

CLUSTER CENTERS

The five Cluster Centers of the Houston Plan provide an integrated curriculum for students on a part time basis. Seven thousand elementary students will attend the Children's Literature Center for two-thirds of one school day per year. Five thousand five hundred different students will each attend two-thirds of four school days at Anson Jones (People Place), Port Houston (International Trade Center), and Sinclair (Career Orientation Center) for a total of two-thirds of twelve school days per student per year. Eight thousand different students will participate in a minimum four-day outdoor curriculum at the various locations of the Outdoor Education Learning Center. To insure that the integration objective is achieved, the students participating from these centers will be selected from schools 90% or greater white or black or brown combined and other schools which are predominantly of one

ethnic or racial group. The students participating will be grouped in the programs at the centers so that each student will be integrated with those from other ethnic and racial groups.

The Magnet School Plan of Houston has safeguards and coercive regulations, guidelines and on-going evaluation requirements written into it which will contribute substantially to its probability of success.

The addition of these factors distinguishes the Houston Plan from other magnet school programs. It is only through the addition of these elements that assurances are given that the plan is designed to increase integration in the district in addition to serving an educational function. It is essential to the success of the plan as an integration technique and acceptance by the courts that these constraints and safeguards be included in any magnet school plan offered for the purpose of achieving integration.

LOWER PUPIL-TEACHER RATIO

A needs assessment survey conducted by the district in 1974 reflected a districtwide desire for a lower pupil-teacher ratio than currently exists in the district's schools. In response, the Magnet School Plan provides for a teacher-pupil ratio of 1-to-20-25 for the magnet schools and the schools in whose buildings a magnet School Within a School is located. It is anticipated that parents and students alike will seek this environment which will afford them a closer association with the teacher. Since many magnet Schools Within a School are located on one race school campuses, it was projected and anticipated that parents and students will utilize the district's tri-ethnic transfer policy to attend the regular school program which also has a reduced teacher-pupil ratio, thereby contributing to the integration efforts through the reduction of the number of students attending one race schools. This has happened. The tri-ethnic transfer policy is designed to prevent ethnic and racial isolation by allowing a student whose race at his or her zoned school is above the districtwide average to transfer to any other school where his or her race is below the districtwide average. If requested, the student is provided transportation at the district's expense.

Another reason for reducing the pupil-teacher ratio at the school where the School Within a School is housed is to provide all teachers in the building with similar pupil loads. With all teachers being treated similarly, a more pleasant administrative and professional climate should exist.

SELECTION OF SCHOOL SITES

The schools which were chosen to become magnet school sites were carefully chosen by the Administrative Task Team appointed by the Board of Education to develop the Magnet School Plan and prepare for its implementation. The selection of programs and locations was initiated by the six area superintendents through a survey of all principals in the district. A list of the programs suggested by the Community Task Force which recommended the development and implementation of the magnet school concept was given to each principal. The principals were encouraged to study the list, to discuss it with teachers, parent-teacher associations, parent advisory committees, and community leaders. The principals also reviewed the 1974 community needs assessment survey applicable to their schools. Requests for magnet school programs based on these data originated within each administrative area.

Final determination of the program sites was made by the Administrative Task Team, the area superintendents, and the general superintendent. These decisions were based on the following criteria: (1) requests from principals which had been approved by the area superintendents; (2) community projected program interests; (3) qualified staff already in the school; (4) locations easily accessible by freeways and main thoroughfares; (5) programs which were within the educational, integration, and location guidelines established by the Community Task Force; and (6) facts and inferences from the needs assessment survey. Some schools simply will not function as magnets—students will not be attracted, so do not choose them.

RESTRICTIVE STUDENT TRANSFER AND ATTENDANCE REGULATIONS

The most significant safeguard and coercive factor in the Magnet School Plan involves restrictions on student transfer and attendance. This is also the most unpopular aspect of the plan with the community because it does restrict some students from leaving their zoned school. The student transfer restrictions limit student transfers to a magnet school if the specific transfer will reduce the percentage of integration at the student's zone school below 10% black, brown, or white or combined black and brown. This restriction will prevent a school from becoming segregated because of transfers from the school to magnet schools; i.e., the restraint does not allow the magnet school to become a haven for those students whose race is in the minority at the school to which they are zoned. Where there are two districtwide magnet schools offering the same program for all students who attend the school, a student transfer will not be permitted when the student's ethnic percentage at the magnet school for which he or she seeks admission exceeds that student's ethnic percentage districtwide; i.e., the provisions of the district's tri-ethnic transfer policy will apply to the receiving magnet schools.

RECRUITMENT OF STUDENTS

Each magnet School Within a School has a predetermined number of students which the program can accommodate. Since the goal is to have the participants reflect the racial composition of the district by instructional level (elementary, junior high, and senior high), qualified students will be admitted to reflect the districtwide ethnic ratios of the particular instructional level. If the enrollment goal for each ethnic group is not met by the beginning of the second school semester, the positions may be filled by students from other ethnic groups, provided that 10% of the originally designated vacancies for each ethnic group will remain open for students of the particular ethnic group. The district will continue to recruit students from the appropriate ethnic groups to fill the designated vacancies. By waiting to fill vacancies until the beginning of the second semester, by holding a certain percentage of positions open, and by making an effort to recruit students to fill the vacancies, the Plan offers greater promise than the ethnic enrollment goals can be realized.

Students who meet the qualifications for admission to a particular program will be admitted on a "first come, first served" basis so long as the ethnic goals permit the transfer. When a student is ineligible for a particular program or school because the ethnic goals have been filled, the student and his or her parents will be advised of similar programs where the student's ethnic goals have not been fulfilled and the student is eligible for admission. The personnel of the district will give the student's parents the necessary assistance to aid in the enrollment of the student in the alternative program. Once a student has been admitted to the program, he or she is assured of continued attendance until the program has been completed.

FREE TRANSPORTATION

The Magnet School Plan provides that each student transferring to a magnet school in another attendance zone will be guaranteed free transportation by the district through the first semester of the 1975–76 school year. For the remainder of the year, new requests for free transportation for magnet school transferees will be granted when transportation is available on an established bus route. By providing free transportation, the major economic impediment to the student's transferring from his or her zone school is removed. This is a must.

STAFF SELECTION AND TRAINING

A crucial factor in the success of any school program is the ability of the professionals to work with the children and administer the program. That factor is particularly important in the magnet school. No school was chosen as a magnet school site without the concurrence of the principal and his or her area superintendent. The teachers who will be chosen to work with the boys and girls in the classroom in the magnet school program will be those with special competencies; however, teachers will be chosen in such a manner that no school will lose a large percentage of its most experienced or competent teachers. Teachers will be chosen through the application of a set of criteria based on interest, aptitude, personality, and "success" traits of those who have been innovative and effective. Teachers will be offered incentives to participate in the programs and they will be exposed to extensive staff development programs. The magnet schools will be staffed in such a manner that each teaching staff reflects the percentage of black, white, and brown teachers employed districtwide on each instructional level. The variances of 10%, above and below the actual percentage, at the elementary level and 15%, above and below the actual percentage, at the junior high and senior high school levels will be applied.

EVALUATION SYSTEM

Another important element is that the Magnet School Plan will be continually evaluated and monitored by the district to insure the program's successful operation as an educational concept and as an integration technique. Reports of this evaluation will be made to the United States District Court through the Bi-racial Committee in the district's bi-annual report.

[Material From National Conference on Magnet Schools, Houston, Tex.]

LOCAL INDUSTRY NEEDS MORE THAN A FEW GOOD MEN

Students attending Milby's Petrochemical Careers Institute will receive training for either entering college or begininng a career directly after high school.

The program is geared toward preparing students for careers in the petrochemical industry, answering a local need says Principal Claude H. Brinkley, Jr.

Brinkley said his school is an ideal site for this magnet because of its location at 1601 Broadway, just west of a massive industrial complex on the Houston Ship Channel.

And although these industries are not within the Houston Independent School District, they are easily accessible to Milby. This will be a clear advantage later when students in the Petrochemical Institute do on-the-job training as part of their course requirements. But on-the-job training does not come until the senior year.

The school, which had an opening enrollment of 35 sophomores and will add an additional 35 each year, will admit students with better than "C" averages who have a flair for science and math, the core of most petrochemical-related fields.

The science-laced curriculum includes toughies like biology, algebra, geometry, inorganic chemistry, drafting, physics, analytical geometry, trigonometry, economics, cal-

culus and Fortran programming for computers. These are spread over three years and other required courses will be taken.

"Industry is telling us our students are not prepared to go into their fields. A student who can go through this and is interested can go right into the industry. What makes it so good is that he has a choice."

[Material from National Conference on Magnet Schools, Houston, Tex.]

CENTER FOCUSES ON WORLD TRADE, OTHER CULTURES

Port Houston Elementary is a choice example of using an environment to its best advantage. It is at the same time a magnet school for bilingual and multicultural education and a center for studying world trade.

The International Trade Center, says Port Houston Principal Emily Cole, "is designed to improve the student's awareness of the international environment. This is done by exposing students to international communications, imports, exports, geography and economics." And it is all done in miniature.

The ITC is equipped with four laboratories where students get a realistic glimpse of the world scene. Students spend several days at this cluster center meandering through the map skills and money exchange lab, products and transportation, communication and port and industry labs. They do fun things like plot time changes in different parts of the world or pick up a few words of another language in the language lab.

The ITC is replete with field trips and other outside-the-center wanderings. Because the schools namesake (the Port of Houston) is in easy access, there is always the possibility of a foreign ship being docked in the channel.

On the surface, suggests Cole, the ITC is an enlarged show-and-tell. But the subtle points it makes is that other cultures are important and the prospects for living and working among these are limitless.

[From the Dayton Daily News, May 2, 1976]

INTEGRATION PROPOSAL OFFERS ALTERNATIVES TO BUSING

The proposal probably doesn't stand a snowball's chance in the current congressional session, but for the record, Sen. John Glenn (D-Ohio) has made a potentially valuable contribution to the school desegregation muddle.

Indeed, as its opponents say, busing really isn't the best way to get school integration in many circumstances, though it is hardly the terror eager fright-mongers and closet racists like to make it out to be. But for both moral and practical reasons, the challenge of getting over the deep racial crack that divides Americans like an earthquake fault-line remains among the most urgent social necessities.

Sen. Glenn has offered a sensible middle course. It would not create total school integration, and it would be no redress at all for the outright Jim Crow segregation that busing was first designed to wipe out. But his approach could seed substantial school integration—enough to free many communities from the necessity of busing.

The senator has introduced legislation that would provide about $1 billion annually in federal aid for school districts undertaking projects that would result in significant voluntary integration.

The funds could be used to develop and build "magnet" schools that attract students from a broad base because of the schools' special educational offerings. It would aid vocational or college preparatory courses sponsored either by businesses or universities. It would help with the construction of new schools in racially mixed areas, and it would aid the construction of multi-school complexes called "educational parks."

All the approaches are, first, educationally sound and enriching, and where they have been well designed and conscientiously administered—as even in Dayton, to a limited degree—they have proved they can attract and hold stable, racially integrated enrollments. And, happily, they achieve integration without the kind of busing that has become the demagogues's best friend.

Alas, most senators and congressmen would rather harangue against busing than shell out hard money for alternatives that seek the same racial justice. Perhaps in time, Sen. Glenn's approach or some enlarged version of it will win the place in national policy that it deserves.

Certainly the persons who say they are against busing but favor school integration would be doing themselves and their nation a favor by rallying to this flag instead of seething in aimless frustration or taking out their emotions in pointless, often dangerous demonstrations.

[From Cleveland Plain Dealer, May 11, 1976]

BRIGGS OK'S GLENN INTEGRATION BILL

(By George P. Rasanen)

WASHINGTON.—Paul W. Briggs, superintendent of Cleveland schools, yesterday endorsed a $1 billion school integration bill proposed by Sen. John H. Glenn, D-O.

Briggs and Glenn discussed the bill for about an hour, especially provisions allowing federal aid to set up special schools, called magnet schools, because they would draw a mix of white and black pupils from the entire district.

Glenn's bill for the first time would provide federal aid to finance methods other than busing to integrate neighborhood schools.

Briggs promised to provide Glenn's aides with a detailed analysis of how the bill would work in Cleveland.

"It would work very well in Cleveland," Briggs said after meeting with Glenn. He envisions 30 to 40 different educational programs set up in magnet schools.

"The centers would be in neutral sites, probably in downtown Cleveland," Briggs said. "We'd bus from the East Side and West Side."

The discussions, however, appeared to be overly optimistic. It is unlikely that the Congress has enough time to pass Glenn's bill this session although aids insist there is a possibility.

URBAN-SUBURBAN INTERDISTRICT TRANSFER PROJECT,
Rochester, N.Y., April 30, 1976.

Senator JOHN H. GLENN, Jr.,
U.S. Senate,
Washington, D.C.

DEAR SENATOR GLENN: We are very encouraged by your introduction of "The School Innovation Act of 1976", S. 3319, which would amend section 707(a) of the Emergency School Aid Act to expand the list of eligible activities.

I am enclosing a copy of our proposal which is attempting to establish the kind of school you appear to have in mind. Actually we have established such a school, and we were quite successful in accomplishing the objectives you are seeking. (See attached articles.)

Despite our success, we have experienced considerable difficulty in obtaining ESAA grants for our innovative voluntary program. The ESAA guidelines make it very difficult for an interdistrict program like ours which represents a voluntary alternative to busing.

It is our hope that with legislation such as that you, Representative Richardson Preyer, and Representative Udall are proposing we shall find a positive way to deal with the sensitive problem of school integration. If I can help, please call (716) 544-8605.

Cordially,

NORMAN N. GROSS, Ed., D.
Project Administrator.

WAUKEGAN PUBLIC SCHOOLS,
Waukegan, Ill., June 8, 1976.

DEAR ———: In our process of trying to integrate the Waukegan Public Schools it becomes a problem of money.

It would appear that a recent bill submitted by Senator Glenn from Ohio has much merit in the area of Desegregation. Senator Glenn's proposal in S. 3319 the School Integration Innovation Act of 1976 would make funds available for construction of building or upgrading sites for the purpose of aiding desegregation.

We feel strongly that S. 3319 needs your attention as a means of helping in desegregation of schools. We urge you to consider this bill closely. Should you need further information from us on how this bill might affect our district, please feel free to call or write.

We thank you for your consideration of our request.

Sincerely,

HARRY S. BOWEN.

CINCINNATI COUNCIL OF PARENT-TEACHER ASSOCIATIONS,
Cincinnati, Ohio, June 6, 1976.

Hon. JOHN H. GLENN,
Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR GLENN: The Cincinnati Council of PTA's recently voted unanimously to support S. 3319 which you introduced as the "School Integration Innovation Act of 1976".

As you are well aware, forced integration causes disruption, is expensive, and does nothing to insure quality education or encourage educational options which meet the varying needs of students.

In addition to a wide variety of vocational programs, many alternative programs have been started in the Cincinnati Public School system. They range from bilingual programs to a school for creative and performing arts. These programs not only provide a choice for those students who desire other than the traditional approach, but have voluntarily reduced racial isolation in the district since these programs must be racially balanced.

Many students, parents, and teachers in our district are excited about these innovative methods of reaching students. Many programs have waiting lists, but there is a limited amount of funds that can be used to expand present programs and add new ones. Staff and curriculum development and start-up costs the first year require more funds than regular programs. With school districts facing severe financial problems, funds from other sources are needed to develop programs which will integrate the schools and raise the achievement level of students.

We hope that your bill will pass quickly and are urging our members to write to Senator Taft to ask him to push the bill through the Education subcommittee.

We greatly appreciate your interest in the urban school districts and hope that other members of Congress can be persuaded to see the educational and integration benefits which can be provided by S. 3319.

Very truly yours,

ANN PATTY,
Legislative Chairman.

OPENING THIS FALL IN HOUSTON, TEXAS

With the first year of HISD's comprehensive Magnet School program completed, the district's 34 programs will be increased to 49 this fall under Magnet Phase II.

Many of the 15 new programs are extensions of existing ones like the four additional Vanguards for academically able students. New Vanguards are scheduled for Windsor Village, Oak Forest, and Hayes Road (under construction) elementaries. A first this year will be a senior high school Vanguard at Jesse Jones.

Students attending Cornelius Elementary will be allowed entry into a concentrated program of math and science with a careers' component.

Creative arts will be the key to programs at Longfellow Elementary an Fleming Junior High. These will feature music, drama, speech, art, dance and gymnastics.

Crawford, J. Will Jones and Hayes Road elementaries will have extended day classes from 3–5:30 p.m. The schools will be set up to offer three 45-minute enrichment classes that range from speech, drama, art and physical education to regular academics. There are even activities, like storytelling, for students in primary grades.

Following the successful lead of Burrus Elementary, Roberts Elementary will become a Physical Development academy this fall providing experiences for students in health and physical education. Special emphasis will be placed on lifetime sports activities like dance and aquatics.

Another program which is an outgrowth of an existing one will be the Contemporary Learning Center for students in grades six through eight. The CLC has been an overwhelming success on the high school level.

HISD's new Montessori School, at Dodson Elementary, will accommodate 85 four to seven-year-olds in the first year. The Montessori curriculum aims to improve the natural development of these youngsters using learning habits which include independence, responsibility, coordination order and concentration.

M. C. Williams High School will open a new magnet school of communications. The curriculum, which will include radio and television communications and training in theater arts, will be wrapped around a strong speech education component. The speech department at Williams has consistently fared well in state University Interscholastic League competitions either winning or placing near the top in one-act play competition.

Finally, Lincoln Community High School will provide educational alternatives to students who find little motivation in regular high school programs. Students will be allowed to pursue programs of independent study in their areas of interest.

[Material from National Conference on Magnet Schools in Houston, Tex.]

DISNEY LAND A BIG ATTRACTION IN CHICAGO TOO

On the edge of Uptown, one of Chicago's bleakest neighborhoods, is one of Chicago's most exciting investments in the future—the Walt Disney Magnet School. A prepossessing glass structure along Marine Drive, with a magnificant view of the lakefront, it houses the inner-city's first major experiment in non-graded education, planned integration and magnet enrollment. All this at once, and on a large scale—1,800 children.

Such an ambitious project could not, and did not, spring forth fully grown. A 1967 report from the U.S. Office of Education detailing the implications of the Civil Rights Act led the Board of Education to hire Stanton Leggett's educational consultant firm. Two years and many meetings later, a 170-student experiment—the larval stage of Disney—was initiated. Under the direction of Dr. Lorraine La Vigne, now Disney's principal, it operated in an old U.S. Marine Hospital, converting wards into structional pods.

The experiment was a success and now Chicago has what is intended to be the first of seven magnet schools. The magnet concept means that children are drawn from all over a city area and then bused to and from. Disney is open to elementary age children from the northern third of Chicago. Interested parents apply to the school and the choice of who gets in is made by computer to reflect the racial/ethnic balance of the community.

The idea here, of course, is to avoid the hostility and fear bred by unstable neighborhoods, and the crux of the plan is that parents choose to send their children to an integrated school. Pouring into the education process are the efforts of consultants, teachers, Northwestern University's education school, the Parents Advisory Council, and the Community Education Council—representing community organizations. It is this active, pluralistic input that imbues the project with such hope.

The open-plan, non-graded approach to education allows each child to progress at his own rate and to pursue his own interests. Disney has incorporated all the usual—but not for inner-city Chicago—techniques of open planning: team-teaching, paraprofessional aides, flexible space and learning resource center.

The 245,000-sq.-ft., $10 million complex, designed by Perkins & Will, is set on 11 acres along the lakefront. Six acres are occupied by buildings—including the school, a communication center and an 80-car underground garage. The remaining five acres, still being developed, will be both playground area for the school and a public park for the community. In addition, the roofs of the garage and the arts center will be playground plazas.

The school building has three levels, each for a different age group. Each level contains three 8,000-sq.-ft. pods (a pod serves 200 children), administrative area, gymnasium, dining multi-use area and teacher training space arranged around the centrally located faculty planning room. Shared facilities include the multi-media library, art and music workshops, science and math labs and health service suites.

The plan—sort of a geometric figure eight—was dictated by the need to make the faculty planning area the hub of each level and the desire to give each pod a view of the lakefront. Corridors are kept to a minimum by having exits lead directly from the pods—with red-painted doors for easy identification.

Openness is paramount in this building. Classroom walls, of course, have been abandoned, but even administrative and conference rooms turn glass sides to the children in the pods. The two outside walls of each pod are floor-to-ceiling clear glass, creating a continuum from inside to outside—a physical corollary to the rich, unrestrictive environment provided by the educational approach. The danger of vandalism is bypassed by the use of unbreakable polycarbonite for exterior glazing.

On the facades, the poured-in-place concrete frame is extended beyond the window plane. This cagework has the practical advantages of screening the sun and simplifying window washing, although its rationale was primarily sculptural. The architects just did not want another box.

But perhaps the key to this school is its 600-person communication arts center. This "one acre under one roof" houses a theater-in-the-round and flexible space for every kind of art studio from music, dance and painting to weaving and photography. Besides providing open-ended possibilities for the school, it is intended for community groups, adult education and supplementary programs by other schools.

The program for the school was a joint effort of the Board of Education, the Public Building Commission and Perkins & Will.

VARIETY FLOURISHES UNDER DALLAS' SKYLINE

As the result of the cooperation of many elements of the Dallas community, Skyline Center is designed to change the scope of education in one of the largest metropolitan areas of the United States. It is a multi-purpose facility intended to provide maximum educational opportunity to the citizens of the Dallas Independent School District. Its educational components include the High School, Career Development Center, and the Center for Community Services. Skyline Career Development Center is organized into Career Clusters, Each Cluster encompasses several families of careers.

The student body of Skyline Center is composed of four types of students: (1) those who live within the Skyline High School attendance zones, (2) those who transfer to Skyline High School as full time students in order to take advantage of Career Development courses, (3) those who attend the Career Development Center on a part-time basis and remain enrolled at their local school, and (4) adults or other part-time students who enroll in the Community Service Program. In September of 1975, more than 4,200 students were enrolled in the day school. The Community Services offered programs for more than 3,000 students.

Skyline Center was financed by a local school bond and continues to be operated by local school district funds from the Dallas Independent School District.

The evaluation program is implemented through the District Research and Evaluation Department which is a component of the skyline Center program. All curriculum is wrtiten and implemented on a competency performance base. Each Career Cluster has a Community Advisory Committee for curriculum evaluation and involvement.

The Center's Career Development Cluster programs are intended to enable each student to maintain a balance of academic and career education. The curriculum is designed to provide each CDC student with (1) a high school diploma, (2) the preparation to enter college or technical school, (3) and career skills to be used for future employment or to put the student a step ahead in advanced education.

The Career Development Clusters are business and management technology, the study of man and his environment, computer technology, world languages, horticulture, higher sciences, higher mathematics, metal technology, world of construction, electronic sciences, climate control technology, advanced English, speech, and journalism, aeronautics, plastics technology, transportation services, aesthetics, dramatic arts, photographic arts, graphics technologies, advanced music, television arts, world of fashion, beauty culture, food management, child and youth related professions, health-medical and dental technologies.

The curriculum is under continuous revision and improvement. Teachers, curriculum writers, and research and evaluation teams work together to improve the instructional opportunities for all students involved. Several of the clusters in the Career Development Center are being implemented in other high school areas of the Dallas Independent School District. The in-service training and staff development programs continue to assist teachers and staff in developing not only curriculum materials, but offer opportunities for community involvement with Advisory Committees from industry.

To accomplish these goals, the staff of Skyline Center is pledged to foster an atmosphere conducive to creative growth and development of concepts, skills, and personal relationships.

[Material from National Conference on Magnet Schools in Houston, Tex.]

NORFOLK'S OLDEST HIGH SCHOOL: REJUVENATION PROJECT PROMPTS CHANGES BOTH INSIDE AND OUT

In the fall of 1971, staff members in Norfolk City's oldest high school, Mathew Fontaine

Maury, were busy designing a new project which would result in a completely reorganized curriculum. The new design would provide for the individual needs of the students that formed the diversified student body. The school, in its role of leadership in education and in the community, appropriately named the three-year project "Regeneration: Inner-City School Survival."

Today the program, originally financed by a grant from Title III of the Elementary and Secondary Education Act, is nationally recognized as a model for other high schools. Recognition as a national model was announced for 1975–76 following a third-year evaluation made in the spring of 1974 by representatives of the State Department of Education and the United States Office of Education.

The broad curriculum which includes every phase of high school education provides opportunities for students to pursue individualized programs. In addition to providing an academic program suitable to their present and future lives, the students are given instruction and opportunities to help them assume responsibility for their learning, and to develop behavioral patterns which do not disrupt the learning processes of other students. Assistance is given to students so that their levels of intellectual achievement will be raised and the vocational skills required for employment will be upgraded.

Students may select from more than 350 courses, of which approximately 200 are taught regularly during each of the nine-week periods into which instruction is divided. Six to eight subjects are taken by students during each nine weeks, more than are taken by students in traditional school programs. Each course developed by staff members meets specific performance objectives. A curriculum guide, containing full information about each course, is available to students for planning their educational programs.

All courses are phase-elective with no restrictive requirements for enrollment. However, a few of the courses by necessity have prerequisites, and for some other courses students are required to have a certain number of credits in order to be eligible for graduation according to state standards.

Classes at Maury High School do not carry grade level identifications in order to provide greater opportunities for students to take courses which meet their needs and their interests.

Operational funds have been provided by the Norfolk City School Board since July 1, 1974, and grants for 1974–75 and 1975–76 made by the Department facilitate the dissemination of information about the project throughout the country.

Change also has affected the area around the school. When the staff members decided that broad reorganization of the instructional program was needed, the community, formerly composed of churches, privately owned homes, small duplex apartment houses, and neighborhood businesses, had deteriorated. The buildings have been moved and the former 6-acre campus has been expanded to 26 acres and surrounded by park areas.

As soon as planning began, project staff members set about laying the foundation for community involvement and acceptance of the new program by establishing contacts with parents, students, and the community at large. Various forms of communication were used to inform the public about the project and to promote understanding about its potential for success.

Minor renovations made to the school building during 1971–72, the first project year, converted the available space to usable, more flexible units. Some of the larger rooms were divided and other areas were combined. In some instances, space arrangements were especially designed according to curriculum needs.

That first year also was spent by project leaders and staff members researching and writing an instructional program for Maury's students. Special methods and materials were developed to implement the program. In the fall of 1972 the new courses were introduced into Maury's classrooms where they now are the basic curriculum.

A staff of 118 persons—106 teachers and the remainder administrators and counselors—operates the program. Since students are given an opportunity to select courses on a nine-week basis, increased administrative effort is required. In addition, everyone on the staff works harder in this student-centered environment than in the traditional setting.

Another innovative idea used at Maury provides for the cafeteria to remain open throughout the school day to serve breakfast, lunch, and snacks. The cafeteria area is supervised and many students gather there when they do not have classes. They study or prepare class assignments and participate in informal discussions and group work, as well as snack. This part of the program continues under close evaluation. While many students seemingly do not use their unscheduled time wisely, it becomes questionable if assigning them to study rooms would help them.

Many challenges have arisen in the project; however, the degree of commitment to the program by Maury's staff members and administrators is credited with having contributed significantly to its success.

"Regeneration: Inner-City School Survival" has been accomplished at Maury—in the school and in the community. Maury's prestige as a leader has continued. In the field of education its influence is nationwide the second time around.

[Materials From National Conference on Magnet Schools in Houston, Tex.]

CINCINNATI SCHOOLS TRY TO BLEND THE BEST OF CONSERVATIVE, LIBERAL POINTS OF EDUCATION

"What did you learn on the river today?"

Aunt Polly might have asked this of Tom Sawyer and his friend, Huck Finn. In the last quarter of the twentieth century, Cincinnati parents will be repeating the question. A new program in Inland Waterways Occupations, complete with operating craft, is part of Cincinnati's expanding effort to provide educational options for elementary and secondary students.

More than 11,000 students in the Cincinnati Public Schools are enrolled in full-time, optional courses of study this year. These programs are available at no cost to all students in the school district. Even free transportation is provided. Estimates indicate that by 1980 alternative programs will include over 20,000 students, 40 percent of the projected enrollment of the school system.

Unlike life on the Mississippi, education in Ohio's riverfront city keeps its emphasis on academic learning. Basic skills are a consistent concern of every alternative program. Alternative schools combine the best of both conservative and liberal philosophies of education. They are conservative in that they conserve the best of traditional education: emphasis on basic skills and academic achievement. They are liberal in their assumption that parents and their children know best what their educational needs and interests are.

Secondary students may choose from a variety of full-time vocational offerings, like the watercraft operations program. Or many of the district's students choose to enroll at Walnut High School, the city's oldest alternative school. Several other options are available to junior and senior high school youth. At the elementary level the school system has nine distinct alternative programs, some of which are offered in several schools.

Alternatives to traditional public schools have always existed. These have ranged from religious schools and other private institutions to the extreme alternative of no school at all. The 1960's saw a proliferation of parent-controlled free schools. For some middle-class drop-outs, free schools provided a hopeful alternative. For other youth in the inner-city, storefront schools and street academies emerged—usually supported by businesses or philanthropic organizations.

For the most part, however, the alternative schools movement had low priority and limited growth until the present decade. In large urban school districts the movement has gained momentum, and the range of alternatives has widened.

Cincinnati has been among the leaders in this development. No other major city has moved so far to provide a wide range of options to all students.

One area of expansion is college preparatory programs. Walnut Hills, founded in 1918, is Cincinnati's six-year college preparatory school. A comparable program is now offered in the neighborhood high schools for qualified students who prefer to attend school nearer their homes. The junior high college preparatory program now provided a strong academic background for qualified students in grades seven, eight, and nine, as well as an alternative program to upgrade students in basic skills.

Vocational options have also expanded dramatically. The birthplace of cooperative education, Cincinnati has traditionally been looked to as a frontrunner in offering programs that stress career preparation. The recent addition of modern vocational wings to district high schools has increased the variety of programs and made them more available to students. Students may now study Horticulture, Communications Electronics, Medical Lab Assisting, Millwork and Cabinetry, and more. These are offered in addition to the Inland Waterways Program and a program at the Zoo which offers instruction in animal care and habitats.

Another secondary option is the City-Wide Learning Community. This program provides a community-resource curriculum that combines learning with practical urban life experiences. It uses the metropolitan area and its resources to help students immediately see practical applications of the subject matter they are learning. Students may work with businessmen, artists, farmers. They can learn to build sets at the Playhouse in the Park, help get a newspaper out, or work alongside a city councilman. One student even spent a year as "assistant" to the Superintendent of Schools.

The Cincinnati Academy of Mathematics and Science provides an opportunity for students to concentrate in science and math, with rich field experiences and in-depth laboratory study. Lectures and demonstrations permit the student to learn from scientists and mathematicians in the community.

The School for Creative and Performing Arts has gained national recognition in only three years. This program, which includes grades four to nine and will ultimately go to grade twelve, combines strong basic skills instruction, courses in humanities, sciences, foreign language, as well as studies in visual arts, instrumental and vocal music, dramatics, dance, and creative writing. It now has 556 students with 372 on the waiting list. Although it has existed in temporary locations for the past two years, the students look forward to going to school in the historic Union Terminal in 1977.

Elementary bilingual programs are available in French, German, and Spanish. Each of these alternatives is offered in two schools. Including only primary grades at present, the bilingual alternatives will add one grade each year. The programs seek to develop listening, speaking, reading, and writing skills in a second language; students will be speaking two languages fluently by grade six.

These schools will ultimately continue to grade 12.

Three schools—Burton, Covedale, and Roselawn—have elementary college preparatory programs. This option is for students who need the special challenge of accelerated and enriched curricula along with basic skills development. Offered to intermediate students, this program will help prepare students to progress into the secondary college preparatory program—perhaps Walnut Hills, perhaps another college prep alternative.

Children's House is Cincinnati's Montessori school. Children from five to eight years of age participate in an all-day program of classic Montessori instruction. A second Montessori school—Children's House West—will open in September, 1976. In three other schools, selected Montessori equipment is combined with other readiness materials and manipulative learning aids in an interracial primary program.

Millvale and Parham Schools have Reading Intervention Centers, to which students with reading difficulties may elect to go for special diagnosis and instruction. The staff at these centers seek to determine why children with normal intellectual ability do not read well. After diagnoses, the reading teachers prescribe specific instructional programs for each child.

Another kind of option is the fundamental school. Some parents and students prefer a highly traditional school, and some students learn more readily in a tightly controlled environment. The Fundamental Academy stresses reading, language, mathematics, and science, along with such traditional American values as patriotism, good manners, personal grooming, and proper behavior. The program emphasizes structure, organization, and discipline in learning and self-control.

Magnet Schools are neighborhood schools which are open to students outside the neighborhood.

Three magnet elementary schools—Eastwood, Kennedy, and North Avondale—offer the Individually Guided Education (IGE) program developed by the Wisconsin Research and Development Center for Cognitive Learning. Another magnet (Clifton) has a strong multi-age, nongraded program of team teaching and individualized instruction.

In Cincinnati and throughout the country, the touchstone of the alternative school plan is flexibility. Schools are adapting both to the diverse needs of students and to the ever-changing requirements of society. The approach differs from traditional concepts of education primarily in that the school system is seen as responsible for suiting the program to the student's needs, rather than forcing the student to change in order to fit into the program.

Basic to the success of alternatives is a more effective match between teaching and learning styles. Alternative schools generally attract teachers with similar instructional styles who work together to create a given kind of learning environment. Each student tends to choose the school whose environment most suits him or her.

Most educators believe that alternative schools offer a new hope that urban school systems can keep their promise of serving every student. No single curriculum can possibly capitalize on the talents and abilities and satisfy the needs of all students. Imposing a monolithic system of education on all students denies and stultifies individual and group differences, which are a crucial part of the nation's strength.

Respect for individual students and cultures is the core of the rationale for alternatives. These programs address diversity of learning styles, modes of living, cultural aspirations, value systems, and growth patterns.

Allowing students and parents to choose what best suits them from among the range of options is one of the primary reasons Cincinnati has adopted the alternative programs. The programs also improve racial balance, keep the present students, and attract new students to urban public schools.

Cincinnati school administrators are convinced that alternative schools offer a more publicly acceptable, more cost-effective means of improving racial balance in schools than any other approach. Strong alternatives attract students to integrated school settings; they draw suburban youngsters to urban public schools.

By contrast, in large cities mandatory desegregation plans usually promote segregation rather than integration. Families who resist integration flee to the suburbs.

How well are Cincinnati's alternatives accomplishing their purposes? So far, very well. Within one year 1,076 white students have returned to Cincinnati public schools from private and parochial schools. Coupled with the open enrollment policy, alternatives have done much to further integration in the schools. By definition, alternatives (other than vocational or magnet programs) are racially balanced. Open enrollment allows students to select any school in the district where their membership will improve racial balance.

The other purpose of alternatives is to make choices available to students and parents. Participation in Cincinnati's diversified options is high. This year about a thousand students applied for open enrollment. 1,500 for full-time vocational programs, 2,800 enrolled at Walnut Hills, 450 elected the special college preparatory program at neighborhood junior high schools, and 4,210 applied for other alternatives. Of those who enrolled in alternatives, ninety percent remained in their selected programs.

Another evidence of interest is student attendance. For the first quarter of the current year, attendance rates for alternative programs averaged ninety-five percent, compared to ninety-two percent for the school district as a whole.

There is another kind of achievement that alternatives are making possible for many students. This is the success that comes from attaining goals and gaining recognition in areas that correspond to one's strongest interests and talents. There is not systematic data on what such achievement does for self-imagine, but educators agree that it is beneficial.

In the Creative and Performing Arts school, for instance, students have had the opportunity to gain national recognition of their talents. They have appeared in national and local television productions, toured with drama companies, and participated in every facet of the arts.

With all this, are there no disadvantages to alternatives? As with all programs involving change, the alternative school plan presents some new problems and challenges. Declining enrollments, attributable to declining birth rates as well as to alternative school transfers, have made it difficult to maintain a full range of program offerings in several neighborhood schools. Often the soundest educational decision is to close the neighborhood buildings and absorb the students in surrounding schools, but this sometimes causes adjustment problems for the community.

Also, many of the district's most knowledgeable and strongly motivated parents are choosing to send their children to the alternative programs. Some families have as many as five children attending five different programs. Often the brightest and most talented students elect to leave their neighborhood schools.

This tends to remove school leaders from their former schools and disperse them throughout the district. There is, however, wholesome competition developing in neighborhood schools to improve their programs and to increase their appeal to students and parents.

Overall, the advantages of alternative learning opportunities far outweigh the disadvantages. Cincinnati school children have more educational options than any other students in the nation. Even Huck Finn might envy the student who climbed aboard a riverboat every morning for school—and learned water transportation, marine biology, and engine repair in the bargain.

WHAT PORTLAND DID TO CHANGE THE COMPLEXION OF A ONE-RACE SCHOOL

Martin Luther King School was built in 1927 to serve the needs of Kindergarten through eight grade students. After World War II King School's racial composition changed rapidly, reaching 97 percent minority in the year of 1970 and serving a student body of 1,100. Portland Public Schools recognized the racial isolation of this school and instituted a volunteer busing program, which allowed minority students open enrollment to any school in the district that was composed of a majority population. This reduced the population of King School from 1,100 to 550 students. Although the population was reduced, the racial composition remained 97 percent minority. While the program was successful in integrating 550 minority students into other schools, a solution was still needed to correct the racial isolation at King School.

Planning began in 1973 by staff and community to design a program that would attract majority students to King School. The result of this planning was the development of a magnet program called the "Martin Luther King, Jr. 4–11 Continuous Progress Program."

To insure a total learning environment, the King staff was organized into teaching teams supported by instructional specialists. The underlying philosophy in curriculum development was to help each child develop within himself the concept of becoming a positive learner and to emphasize that the reward is in what the child gains from experience itself. Basic skills are interwoven and reinforced throughout the curriculum. The educational needs are based on previous performance and successes through a continuous scope and sequence record-keeping system. Activities are geared to what the child is ready to learn rather than what he or she must learn. The 4–11 skill continuum is not only unique and innovative in developing positive learners, but is designed to bring children of different backgrounds into an educational setting to learn about other cultures.

In order for the program to be successful, staff applicants were carefully screened for qualities to meet these basic philosophies. The new program was initiated in the school year of 1975–76 with great success. The enrollment was open to majority students from the entire district. Quotas were rapidly filled and a waiting list was maintained. The racial composition changed from 97 percent to 72 percent.

Recognizing the desirability of a facility to meet these program needs, architectual services were contracted to plan with staff and community. The school year 1975–76 was spent in designing this remodeling facility. The architects met with individual teaching teams, staff members, parents and administration to design this facility to be compatible with the magnet programs, teaching styles and total school philosophy. Included in this design planning were educational specifications such as controlled open space, team teaching areas, utilization of wasted space, redesigned restroom facilities, motor perceptual skills areas, a mall for more efficient use of office space and a parent meeting room. Also, a central multimedia center incorporating the library, teacher resource center and the video studio, reading lab area,

science and math areas, a conference room and new playground design.

Included in the changes was the updating of the physical plant.

The new facility will be ready the fall of 1976, with long waiting lists. Racial balance for 1976–77 school year is predicted to be 65 percent minority and 35 percent majority.

MAGNET SCHOOLS HERE STEP UP INTEGRATION

(By Elmer Bertelsen)

Seven months ago, with approval from a federal judge, the Houston public schools began an experiment calculated to improve education and increase integration: the magnet program.

The objective was to encourage integration on a voluntary basis by offering at certain schools special programs not available elsewhere in the district.

For instance, a student interested, and possibly talented in music could enroll in a special music program in a distant school and get free transportation there.

Magnet schools were available for those interested in such subjects as ecology, fine arts, creative writing, science and mathematics.

For students interested in special careers, there were magnet programs in engineering, petrochemistry or aerodynamics, to name a few.

Houston Supt. Billy Reagan said at the time that such programs might slow white flight to the suburbs while stabilizing racial balance in the district.

The program was controversial but the U.S. Department of Justice agreed that it could be tried as a substitute for an unsuccessful pairing program that had yielded little integration and much controversy from blacks and browns.

When it began, administrators predicted that 75,000 of the district's 211,000 children would participate.

So far, only 25,204 students are enrolled in 34 magnet programs at 28 schools.

But the program has stepped up integration.

Since September, 11 more schools in the district have qualified as legally integrated schools. A legally integrated school is one with a student body of less than 90 per cent of one race.

This is twice as many schools as the district was able to integrate in each of the previous five years.

Today, there are 181, an increase of 27 since 1970. The 11 that achieved integration this school year compared with 16 for the previous five years, an average of about three per year.

John Brandstetter, assistant superintendent for the magnet program, says that integration is not the sole objective of the magnet program.

Magnet programs are intended to improve the quality of education in the district.

Evaluation of academic progress of children in the programs hasn't been made yet, he said.

The magnet plan replaced the pairing of 22 schools ordered in 1970 by the U.S. Fifth Circuit Court of Appeals.

The pairing order sought to achieve a better racial balance by moving or "pairing" students from one school to the same class in another school.

At that time, browns were not considered to be a minority race in the eyes of the law.

In many cases in the court-ordered pairing, a predominantly black school was paired with a predominantly brown one.

Many of the few white families in the paired areas moved to other neighborhoods to avoid the program. So the student bodies of the paired schools included less than 3 per cent white students.

The minorities protested and the magnet plan was suggested as a substitute.

Houston schools still use another program to stimulate integration, the majority to minority transfer.

Under this plan, a student who is in a majority in his neighborhood school may transfer to another school in which he would be in the minority.

Like the magnet plan, it is voluntary and the student is furnished transportation. Brandstetter says it is working with about 3,000 students exercising this option.

A total of 3,267 children in magnet schools are bused to a school out of their neighborhood. That figure includes 1,398 blacks, 1,353 whites and 516 browns.

In addition to these children, many children attending their own neighborhood school choose to enroll in the magnet programs.

The racial makeup of the student body today is 78,412 or 37 per cent white, 90,034 or 42.6 per cent black and 42,962 or 20.3 per cent brown.

Total enrollment in the district, on the decline for a number of years, stabilized this year.

Brandstetter said he believes an improved school program and a tight economy may be factors in this stabilization.

An example:

Enrollment of white students at Poe Elementary, 5100 Hazard, jumped this year.

A check shows that a number of these pupils, new at Poe, were in private school last year. Brandstetter said he doesn't know whether conversion of Poe to a totally magnet school with fine arts emphasis prompted the increase of white students or whether it was the crunch of inflation that brought private school children to Poe. He said he did not have the specific number of the children now at Poe.

The number of whites at Poe, in a predominantly white southwest area, increased from 197 last year to 272 this year. The number of blacks is 208, one less than last year.

In most magnet schools, Brandstetter said attraction of white children to schools in predominantly black neighborhoods and blacks to schools in predominantly white neighborhoods, has been sufficient to bring significantly more integration than in the past.

He cited as examples schools in predominantly white areas with magnet programs: Bellaire High, Rice at Maple; Lanier Junior High, 2600 Woodhead, and River Oaks Elementary, 2800 Kirby.

Bellaire, with a foreign language academy, had an increase of blacks from 79 last year to 118 this year.

Lanier with a special program for bright children, called vanguard, had an increase of blacks from 457 last year to 489 this year.

River Oaks, also a vanguard school, increased its black enrollment from 123 last year to 173 this year. It now has 79 browns compared with 53 last year. Its majority race, the whites, dropped from 314 last year to 279 this year.

This same change has occurred in the predominantly white northwest area.

For instance, Wainwright Elementary, 5330 Milwee, which has a magnet program in science studies, increased its black enrollment from 31 last year to 72 this year and its brown enrollment rose from 65 last year to 70.

Changes also are occurring in predominantly black areas as more white children enroll in magnet programs there.

Roosevelt Elementary, 6700 Fulton, which has a vanguard program, experienced an increase in white pupils from 47 last year to 134 this year. Roosevelt is in a predominantly black-brown neighborhood.

MacGregor Elementary, 4800 LaBranch, increased its white enrollment from 6 last year to 88 this year. It has a magnet program in music.

"We believe this program is working for two reasons," Brandstetter said. "First, transfer to a magnet school is voluntary and second, we are providing a better opportunity for those who choose the programs by transferring.

"There will always be people who do not want to integrate and they are not forced to do so in the magnet programs. But as time passes, more and more people accept integration. Especially when they realize their children are learning more in magnet programs."

The magnet program is expensive. Generally the pupil-teacher ratio in magnet program schools is lower than in other schools. It is costing more than $1 million to bus children to the special programs.

To stimulate interest in magnet programs, the district furnishes transportaion Monday through Friday from the district's central offices, 3830 Richmond, to one or more magnet schools for any interested citizen. The buses leave at 9 a.m. and are back at the central offices by 1:30 p.m.

NATIONAL MODELS

Cincinnati Alternative Programs—Dr. Donald R. Waldrip, Consultant on Alternative Programs, Cincinnati Public Schools, 3986 Rose Hill Avenue, Cincinnati, Oh. 45229.

Minneapolis Central High School Magnet Program—Dr. Joyce T. Jackson, Principal, Central High School, 3416—4th Avenue South, Minneapolis, Mn. 55408.

Portland Martin Luther King, Jr., Early Childhood Center—LeRoy Moore, Principal, Martin Luther King, Jr., Early Childhood Center, 4906 Northeast 6th Avenue, Portland, Or. 97211.

Dayton Magnet Programs—William M. Scott, Executive Director, Secondary Education, Dayton Public Schools, 348 West First Street, Dayton, Oh. 45402.

Norfolk Maury High School—Harrison G. Dudley, Dissemination Project Director, Maury High School, 322 Shirley Avenue, Norfolk, Va. 23517.

Chicago Disney, Young and Jones Commercial Magnet Schools—C. William Brubaker, Senior Vice President, Perkins & Will, 309 W. Jackson, Chicago, Ill. 60606.

Dallas Skyline Career Center—Ralph Burke, Director of Instruction and Coordinator of Staff Development, Skyline Center, 7772 Forney, Dallas, Tx. 75227.

ORDER FOR PERIOD FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS AND FOR CONSIDERATION OF S. 2212 THEREAFTER ON MONDAY, JULY 26, 1976

Mr. ROBERT C. BYRD. I ask unanimous consent that on Monday, after the two leaders or their designees have been recognized under the standing order, there be a period for the transaction of routine morning business of not to exceed 20 minutes, with statements therein limited to 5 minutes each, at the conclusion of which the Senate will resume consideration of the LEAA bill.

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

PRIVILEGE OF THE FLOOR ON MONDAY, JULY 26, 1976—S. 3219

Mr. ROBERT C. BYRD. Mr. President, on behalf of my distinguished colleague (Mr. RANDOLPH) I ask unanimous consent that during consideration of and voting on S. 3219, the Clean Air Amendments of 1976, the following staff members of the Committee on Public Works

be granted the privilege of the floor: M. Barry Meyer, John W. Yago, Philip T. Cummings, Richard M. Harris, Leon Billings, Richard Grundy, Karl Braithwaite, Charlene Sturbitts, Haven Whiteside, Trenton Crow, Bailey Guard, Harold Braymen, Richard Herod, James Range, Mike Hathaway, and Lee Rawls.

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

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, the majority leader has already stated the program for Monday. I ask unanimous consent that that statement of the program appear at this point in the RECORD, just prior to the motion to adjourn.

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

(The program, stated earlier, is as follows:)

PROGRAM

Mr. MANSFIELD. Mr. President, if I may have the attention of the Senate, I would like to announce the legislative schedule for next week.

There will be no further votes today.

ORDER FOR VOTE ON PASSAGE OF S. 2212 ON MONDAY

On Monday, July 26, the Senate will convene at 10 a.m., continue with LEAA, and, if third reading is reached prior thereto, I ask unanimous consent that the vote on final passage—not on amendments thereto, but on final passage—occur at the hour of 1:45 p.m.

The PRESIDING OFFICER. Is there objection?

And with rule XII waived?

Mr. MANSFIELD. Yes.

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

Mr. MANSFIELD. It will be followed by Calendar No. 685, S. 3219, the Clean Air Act, and at 2 p.m., we will return to Calendar No. 891, H.R. 10612, the tax reform bill.

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

ORDER FOR CONVENING OF SENATE NEXT WEEK

Mr. MANSFIELD. Mr. President, I ask unanimous consent that on Tuesday, Wednesday, Thursday, and Friday of next week, the Senate convene at 9 o'clock.

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

Mr. MANSFIELD. So, coming in at 9 o'clock on Tuesday, July 27, the Senate will continue with Calendar No. 685, S. 3219, the Clean Air Act, and 2 p.m. return to the tax reform bill.

On Wednesday, Thursday, and Friday, the Senate will convene at 9 a.m. and the following bills are scheduled, in the order listed, each to be debated in turn until completion: Calendar No. 685, S. 3219, the Clean Air Act; Calendar No. 915, H.R. 8603, Postal Service reform; Calendar No. 983, H.R. 14262, Defense appropriations; and possibly Calendar No. 839, H.R. 12987, Comprehensive Employment and Training Act.

At 2 p.m. on each of those days, the Senate will return to Calendar No. 891, H.R. 10612, the tax reform bill.

That is the schedule for next week.

Mr. WILLIAM L. SCOTT. Will the Senator yield?

Mr. MANSFIELD. Yes.

Mr. WILLIAM L. SCOTT. Do I understand correctly that except for the tax bill, after the completion of the LEAA we are going to stay on the clean air bill a part of every day until it is completed?

Mr. MANSFIELD. That will be done the first track every day.

Mr. WILLIAM L. SCOTT. I thank the Senator.

ADJOURNMENT UNTIL 10 A.M. MONDAY, JULY 26, 1976

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 10 o'clock on Monday morning.

The motion was agreed to; and at 5:50 p.m. the Senate adjourned until Monday, July 26, 1976, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate July 23, 1976:

IN THE ARMY

The following-named officers for appointments in the Regular Army of the United States to the grade indicated, under the provisions of title 10, United States Code, sections 3284 and 3306:

To be brigadier general

Brig. Gen. David E. Grange, Jr. [redacted], Army of the United States (colonel, U.S. Army).

Maj. Gen. Arthur J. Gregg [redacted], Army of the United States (colonel, U.S. Army).

Maj. Gen. James L. Kelly [redacted], Army of the United States (colonel, U.S. Army).

Maj. Gen. Albert B. Crawford, [redacted], Army of the United States (colonel, U.S. Army).

Maj. Gen. Thomas U. Greer, [redacted], Army of the United States (colonel, U.S. Army).

Maj. Gen. Bennett L. Lewis, [redacted], Army of the United States (colonel, U.S. Army).

Maj. Gen. Robert G. Gard, Jr., [redacted], Army of the United States (colonel, U.S. Army).

Maj. Gen. Paul F. Gorman [redacted], Army of the United States (colonel, U.S. Army).

Maj. Gen. John A. Wickham, Jr., [redacted], Army of the United States (colonel, U.S. Army).

Maj. Gen. Wallace H. Nutting, [redacted], Army of the United States (colonel, U.S. Army).

Brig. Gen. Robert J. Lunn, [redacted], Army of the United States (colonel, U.S. Army).

Maj. Gen. William W. Palmer, [redacted], Army of the United States (colonel, U.S. Army).

Maj. Gen. Richard G. Trefry, [redacted], Army of the United States (colonel, U.S. Army).

Maj. Gen. James M. Lee, [redacted], Army of the United States (colonel, U.S. Army).

Maj. Gen. Volney F. Warner, [redacted], Army of the United States (colonel, U.S. Army).

Maj. Gen. Charles F. Means, [redacted], Army of the United States (colonel, U.S. Army).

Maj. Gen. John J. Koehler, Jr., [redacted], Army of the United States (colonel, U.S. Army).

Maj. Gen. Eivind H. Johansen, [redacted], Army of the United States (colonel, U.S. Army).

Brig. Gen. William R. Todd, [redacted], Army of the United States (colonel, U.S. Army).

Brig. Gen. Fred C. Sheffey, Jr., [redacted], Army of the United States (colonel, U.S. Army).

IN THE NAVY

The following-named (Naval Reserve Officers Training Corps candidates) to be permanent ensigns in the line or staff corps of the Navy, subject to the qualifications therefor as provided by law:

Bruce A. Graham

Richard D. Hayes, III

The following-named (U.S. Navy officer (ret.)) to be reappointed from the temporary disability retired list as a permanent lieutenant commander in the U.S. Navy, subject to the qualifications therefor as provided by law:

Lcdr Paul R. Avery, USN (ret.)

The following-named (chief warrant officer (ret.)) to be reappointed from the temporary disability retired list as a permanent chief warrant officer, W–2, in the U.S. Navy, in the classification indicated, subject to the qualifications therefor as provided by law:

Sonar technician

CWO3 Donald E. Henrikson, USN (ret.)

The following-named enlisted candidates to be appointed temporary chief warrant officers, W–2, in the U.S. Navy, in the classification indicated, subject to the qualifications therefor as provided by law:

Operations technician (surface)

*Larry J. Guthrie.

*Raymond F. Karpinski.

Del R. Parker.

*Richard T. Worman.

Ordnance technician (surface)

*Robert J. Rustenbach.

Aviation maintenance technician

*Frederick E. Pasch.

Aviation electronics technician

*Larry E. Sharkey.

Aviation operations technician

*Beuford B. Wentworth.

The following-named enlisted candidates to be ensigns in the Medical Service Corps, in the U.S. Navy, for temporary service, subject to the qualifications therefor as provided by law:

HMC Fred R. White, USN.
HMC William B. Mackie, NSN.
HM1 Francis C. Brown, USN.
HMC Tyrone P. Cormier, USN.
HM1 Ronald J. Carroll, USN.
HMC David H. Hofflinger, USN.
HM1 Michael R. McKenna, USN.
HM1 Charls F. Megown, USN.
HMC William L. Mitchell, USN.
HM1 Tommy J. Little, USN.
HM1 John D. Marshall, USN.
DTGC Thomas L. Brown, USN.
HM1 Gary F. Hunnicutt, USN.
HMC James W. Libby, USN.
MH1 Edward E. Karelin, USN.
HM1 Kenneth L. Roeder, USN.
HMC Edmund A. Niec, USN.
HM1 Ronald L. Adams, USN.

*Appointment sent out Ad Interim (During the recess of the Senate).

HM1 Kenneth L. Orloff, USN.
DTGC Hugh C. Sullivan, USN.
HMC Lawrence D. Byerly, USN.
HM1 Jesse D. Harrahill, USN.
MH1 Ronald J. Zuber, USN.
HM1 Jonathan S. Hudson, USN.
DTGC Ellis E. Hodges, USN.

The following-named (chief warrant officer (ret.)) to be reappointed from the temporary disability retired list as a temporary chief warrant officer, W-3, in the U.S. Navy, in the classification indicated, subject to the qualifications therefor as provided by law:

Sonar technician

CWO3 Donald E. Henrikson, USN (ret.).

The following-named (ex-U.S. Army officers) to be appointed permanent commanders in the Medical Corps in the Reserve of the U.S. Navy, subject to the qualifications therefor as provided by law:

David B. Kessler.
Suryanarayan M. Putcha.
Edgardo P. Villamater.

The following-named (ex-U.S. P.H.S. officer) to be appointed a temporary commander in the Medical Corps in the Reserve of the U.S. Navy, subject to the qualifications therefor as provided by law:

Merrill S. Chernov.

The following-named officers to be appointed temporary commanders in the Medical Corps in the Reserve of the U.S. Navy, subject to the qualifications therefor as provided by law:

Cdr. Clive R. Charles, MC, USN.
Cdr. William J. Gallagher, MC, USN.

The following-named officer to be appointed a temporary commander in the Dental Corps in the Reserve of the U.S. Navy, subject to the qualifications therefor as provided by law:

Cdr. Jimmie L. Burk, Jr., DC, USN.

CONFIRMATIONS

Executive nominations confirmed by the Senate July 23, 1976:

COMMUNITY SERVICES ADMINISTRATION

Robert C. Chase, of Virginia, to be Deputy Director of the Community Services Administration.

The above nomination was approved subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

THE JUDICIARY

Cecil F. Poole, of California, to be U.S. district judge for the northern district of California.

William A. Ingram, of California, to be U.S. district judge for the northern district of California.

William W. Schwarzer, of California, to be U.S. district judge for the northern district of California.

EXTENSIONS OF REMARKS

NO ROSE BED

HON. BILL ARCHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 22, 1976

Mr. ARCHER. Mr. Speaker, one of my constituents recently brought to my attention the following column by a distinguished columnist with the Houston Post, Mr. Lynn Ashby, which I ask be reprinted here for the benefit of my colleagues in the House of Representatives:

[From the Houston Post. May 27, 1976]

NO ROSE BED

(By Lynn Ashby)

Being an abject coward, with absolutely no desire for or ability in the martial arts, I feel extremely well qualified to jump into the mounting discussion over Marine recruit training, brutality, drill instructors (DIs), pugil sticks and the future of it all. Indeed, I was somewhat of an expert at lying flat on my back and gazing glassy-eyed up at my bayonet instructor, who kept asking if I didn't want to defect.

The subject of brutality has come up over the death of a young Marine recruit Pvt. Lynn McClure of Lufkin, who died after—from all testimony—being senselessly beaten during a hand-to-hand combat drill. It has refocused attention in Congress on the way the U.S. Marine Corps trains its men, and whether such training has any place in a 20th century democracy.

First, speaking as a Marine Lance Corporal (ret.), I would like to note that the Marines screwed up again and again in this tragedy. There is no point in apologizing, or excusing, or defending what happened. I don't think anyone who really cares about the Marines could, for one moment, condone the death of a recruit.

There is no reason to go around saying, "These things happen," because these things are not *supposed* to happen. They are preventable. There are systems and people and equipment and time and money and effort used to keep them from happening. The Marines have screening processes which should have kept Lynn McClure out of the Corps. From all indications, he had the heart but not the mind or body to qualify for entrance. But the system broke down. McClure got in. And the whole thing reeks to high heavens. Some recruiter wasn't doing his job, and heads should roll.

But the Marines also screen their drill instructors. In the Corps, it is considered a good job, a challenging job, to be a DI. My own DIs were not what you'd call Rhodes Scholar material, but they were fair, and honest, and the hardest-working Marines I ever knew. They were tough, but not brutal. Angry, but not violent. Demanding, but not degrading. Daddy Webb, the leader of the lot, was a huge, foul-mouthed, stomping, cigar-chewing slave driver. All he demanded was excellence, and Platoon 351 let him down at every turn. These many years later it would be only right to say that, really, Daddy Webb was a loveable ol' Marine with a heart of gold beneath that crusty exterior. But that would be a lie. He was not loveable. He did not have a heart of gold, or of any other kind. I dislike him then and I dislike him today, which would probably make him relatively happy. He was, however, good at his job and if he had been in charge of Pvt. McClure's platoon, I wouldn't have to be writing about McClure today.

Now we come to the next step: The congressional investigation. OK, there's nothing wrong with that. There should be an investigation. The military needs to be reminded every now and again that civilians run this country, pay the freight, and send their young men and women off to fight the wars. In these hearings there are angry accusations that Marine training is inhuman, barbaric, outdated, undemocratic and terrible. And these accusations are absolutely correct.

But now we come to the sticky point because, you see, Marine training is supposed to be inhuman and barbaric. It is so by design. For 200 years the Marines have taken the Fonzies off the street corners and sent them ashore at Tripoli and Tarawa and Inchon, and a good many of them have come back. They have come back because they were challenged and shoved and flattened by the Daddy Webbs of the Corps. They have come back because, quite simply, they were trained to be meaner than the fellow they fought.

It is not pretty. It is not happy. It is not, in any stretch of the imagination, fun to get banged about by a pugil stick. I still have a scar on my right index finger where a pugil stick sliced me open. And I do not look at it with warm memories. But it teaches a lesson, and the lesson is less rigorous than the test. San Diego and Parris Island are not the playing fields of Eton. They are hot and humid sweat machines run by foul-mouthed, cigar-chewing Daddy Webbs whose job is not to kill Marines, but to save them.

It is a good system, crafted with psychology that would make the shrewdest shrink take notes in amazement. And over these 200 years, for most of the time, it is a system that works wonderfully well. To jettison it, or even to weaken it ever so little, is not doing anyone any favors. Far from it, this is a dangerous move, whose end result will be tallied up in body bags. The Marine Corps puts it all down in perfect no-nonsense prose in its recruiting posters: "We never promised you a rose garden." "No one likes to fight, but somebody has to know how."

A few sadists have sneaked into the system, and they should be dealt with posthaste, for they bring dishonor and shame to a few good men whose heavy-handed methods have saved countless lives. The Marine Corps has been dealt a setback never envisioned by the stoutest enemy, and—like a good trooper—the Corps should stand up and take its lumps. There is no getting around the fact that Lynn McClure should never have been allowed in the Marines, and his DIs should never have been allowed to be DIs. The system broke down. It will do no good to sound the bugles, wave the flags and send John Wayne running up the beach. But it will do even less good to allow breast-beating congressmen to garner headlines with can-you-top-this horror stories from Marine boot camps. Marine recruit training is, and should continue to be, as hard and tough and undemocratic as the Daddy Webbs of today can make it. And it should not be weakened, for there is no such thing as being just a little bit dead.

NEWSPAPER POLL ON NATIONAL LEADERSHIP

HON. JEROME A. AMBRO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 22, 1976

Mr. AMBRO. Mr. Speaker, I take a great deal of pride in pointing out to my colleagues the following newspaper poll which indicates the opinions on our national leadership that are held by Long Islanders.

Newsday, our highly respected Long Island daily newspaper, found that more than three-fourths of Long Islanders believe Congress reflects the views of the American people, while only 15 percent of our residents believe the President speaks for them.

Even more interesting is the finding

that only 24 percent of enrolled Republicans feel the President reflects public opinion better than Congress.

The people of Nassau and Suffolk Counties have rejected the rhetoric regularly emanating from the White House.

I believe the poll should be enlightening, and more than mildly encouraging for many of us who, at times, feel this institution responds too slowly to our national needs although clearly we may move too slowly in some areas.

I think findings such as these should cause the present administration to rethink its approach to national leadership:

WHO BEST REFLECTS AMERICANS' VIEWS, THE PRESIDENT OR CONGRESS

[In percent]

President	15
Congress	78
Undecided	7

Although the political spotlight has focused almost exclusively on the presidential election this year, Americans will also be choosing a new House of Representatives and many U.S. senators in November. Coverage of the White House and its occupant often obscures the activities of the legislative branch even during normal periods. But is the attention given the presidency in line with the public's view of that office? How does the presidency compare with Congress in the mind of the electorate?

To find out, the LI Poll asked a random and representative sample of 525 Nassau and Suffolk telephone subscribers, "Who do you think more adequately reflects the views of most Americans, the President or Congress?"

The surprising results were that only 15 per cent said the President, while full 78 per cent said Congress and seven per cent was undecided.

According to Prof. Stephen Cole, a sociologist from the State University at Stony Brook who analyzed the data,the only demographic, or background, characteristic that had any influence on opinions about this issue was political enrollment. As one might expect, given the makeup of the presidency and Congress, Republicans were more likely than Democrats or independents to say that the President best reflects the views of most Americans.

However, Cole reported, even among enrolled Republicans only 24 per cent said that the President more adequately reflected public opinion, while 71 per cent said that it was Congress and five per cent were undecided. Among enrolled Democrats, only nine per cent said that it was the President, while 85 per cent said that it was Congress and six per cent were undecided. Among independents, 10 per cent said the President, 79 per cent said Congress and 11 per cent were undecided.

To further explore the public's conception of the relationship between the governmental branches, the LI Poll asked respondents whether they thought the government works better when the President is from the same party that controls Congress. Fifty-six per cent said yes, 36 per cent said no and eight per cent were undecided. Surprisingly, Cole said, political enrollment had virtually no influence this time. Fifty-nine per cent of enrolled Republicans, 58 per cent of enrolled Democrats and 52 per cent of independents agreed that the government works better when only one party controls both the presidency and the Congress.

One question that has intrigued politicians, political scientists and political observers alike is whether the appropriate role of a congressman or senator is to reflect the views of his constituency or to exercise his own judgment; that is, was he elected to act as a conduit for those who put him into office, or because the voters had confidence in him to take the best positions.

Long Islanders were quite united on this issue. Seventy-nine per cent said that the most important function of a legislator was to reflect the views of those he represents. Only 19 per cent said his most important role was to express his own views, while two per cent was undecided. The only demographic that had any effect on this opinion was political orientation. It indicated that conservatives were slightly more likely than middle-of-the-roaders to feel that a legislator's principal function is to reflect his constituency's attitudes; at the same time, middle-of-the-roaders were slightly more likely to feel this way than were liberals.

Finally, the LI Poll asked those interviewed to evaluate the quality of congressional candidates in recent years. Thirty-four per cent said that they felt the quality of such candidates had declined, 48 per cent said that it was about the same, 15 percent said that it had improved and three per cent were undecided. Then these answers are compared with responses to a similar question asked about the quality of presidential candidates, it is clear that Long Islanders are more satisfied with their congressional candidates than their presidential candidates. On the presidential candidate question, 56 per cent said that the quality had fallen, 33 per cent said that it was the same, nine per cent said that it had improved and two per cent were undecided.

The sociologist said that residents who are more alienated from the political process, based on their responses to questions dealing with their view of their own impact on the system, were more likely than those who feel influential to downgrade recent congressional candidates. He said also that older people were more likely than younger people to have negative opinions of recent congressional candidates.

WHEN IN THE COURSE OF HUMAN EVENTS—

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 22, 1976

Mr. HARRINGTON. Mr. Speaker—

I am not an advocate for frequent changes in laws and constitutions, but laws and institutions must go hand in hand with the progress of the human mind. As that becomes more developed, more enlightened, as new discoveries are made, new truths discovered and manners and opinions change, with the change of circumstances, institutions must advance also to keep pace with the times.—Thomas Jefferson.

Mr. Speaker, while the observance of our Nation's Bicentennial has been marked by celebrations, optimism, and high spirits, it has also been severely marred by critical distortions of this Nation's past, by empty echoes of future promise, and by the inculcation of a set of values and goals which are unrelated, if not contrary to the foundations upon which the republic was built. We deceive ourselves in celebrating our 200-birthday solely through self-adulation for the fruits of past labors. Our real concern and priority must be the rekindling of the spirit and the purpose belonging to the revolution. Ironically, we applaud the aftermath of that event while ignoring the thoughts, values and ideals underlying its causes. In the July 10 issue of Saturday Review, in an editorial entitled "Forgotten Revolution," Norman Cousins describes the American failure to confront the purpose behind the revolution in terms of the 20th century. Cousins offers his own thoughts as to what that purpose would be in the context of international relations.

On our Bicentennial we have practiced unconscionable avoidance of the most fundamental question—the impetus for revolutionary change. I commend Mr. Cousins' piece to my colleagues.

The text of the editorial follows:

FORGOTTEN REVOLUTION

It is doubtful whether any event in the nation's history has been heralded more resoundingly than the 200th birthday of the Declaration of Independence. For more than three years all sorts of official committees have staged ceremonials and special events. It is difficult to name a community that has not been immersed in Bicentennial activities. Numberless commercial products have attempted to ride into public favor on the momentum of the national observance.

Yet something is missing. The nation has celebrated everything except the Revolution itself. Our minds have been fixed on an auspicious outcome rather than on the reasons behind it. The result has obscured the cause. The vocabulary of rebellion has been curiously muted. It seems as though we are editing our memories, deleting those passages that no longer fit the temper or style of a nation separated from its revolutionary origins.

Has the passion for respectability overtaken the passion to right wrongs? The Founding Father, most of them, were not men of reticence and venerable gentility; they were young, full-blooded radicals who had a vision of a better world. They saw America as a good place in which to begin the fulfillment of that vision. We hear a great deal about Thomas Jefferson these days but are not reminded that he was fond of saying that "the tree of liberty must be refreshed from time to time with the blood of tyrants. It is its natural manure." We lavish all sorts of recogntion on the distinguished John Adams, but we give singularly little attention to the firebrand Sam Adams, an insurrectionist whom the English ministry called the "Machiavelli of Chaos" but whom Jefferson regarded as "truly the Man of the Revolution." As for the impassioned Tom Paine, judging by the infrequency with which his name is mentioned, it would seem he has become the forgotten man of the Bicentennial.

The American Revolution has ignited more political and philosophical change in the world than has any other doctrine or ideology, Marxism not excepted. Yet the irony today is that the quest of the Founding Fathers for a new society is perhaps better understood by other peoples than it is by Americans. When the newly independent nations of Asia and Africa came together in 1955 to observe their new station in history, the keynote speaker said he could find no more appriprate theme than "The Midnight Ride of Paul Revere." Yet the United States government shunned an invitation to send an observer, thinking the event too radical.

It is tragic—tragic for us—that we seem to find fulfillment of our national purpose in out-denouncing our detractors. We ought to be rallying people to a great design for managing our planet in the common interest. The proper place for America is at the head of the parade, beating out the rhythms of the future. Instead, we seem to be trailing history, doing the one thing the Founding Fathers were determined that America should never do—separate itself from the majority. The result is that the developing nations in the world today are inspired by our past but not by our present.

Nothing should be more natural today than for the United States to be the champion of the continuing struggle for freedom in the world. But we tend to define freedom not as Franklin defined it—that is, as a dynamic and ongoing obligation—but as a posture or stance. We become detached all too easily from the kinds of human issues that burned in the bellies of the early Americans. We seem to be more interested in maintaining a world balance of power than in creating an interdependent world order. The result is that we have allowed ourselves to become juxtaposed against revolutionary movements in the world. Are revolutions acceptable only when they are neatly tucked away in archieves? Do we owe nothing to a heritage? Has the world become so tranquil, so free of abuse, so congenial to life in human form, so shielded in its environment, so abundant in its seed and its fields, that no special tending is necessary?

Does anyone doubt that the American Founding Fathers would urge on the world today a companion doctrine to go along with the one now being celebrated—and that they would call it "A Declaration of Interdependence"? Is there any question that they would regard the anarchy among nations as the principal threat to human freedom? Is it not likely that they would attempt to persuade us that national independence in today's world is possible only in a condition of world interdependence? And that, even though interdependence may not be achievable in our time, the articulation of that goal is where true security begins?

That is why the finest and most significant single thing that has come out of three years of preparation for the Bicentennial is Henry Steele Commager's draft for "A Declaration of Interdependence," prepared under the auspices of the World Affairs Council of Philadelphia. He has transported the spirit of 1776 to 1976. All the beautiful sounds that same out of that Revolution and out of the Philadelphia Constitutional Convention have been adapted to our time in the Commager draft. There are also clear echoes of Lincoln and Wilson and F.D.R. The central thrust of the document is that the world today is in need of a great unifying idea at a time of clearly visible common dangers and common needs.

To read Commager's "Declaration of Interdependence" is to realize that the core of the problem today is that we tend to think of security in terms of the number of bombs at our disposal instead of the number of people who are willing to entrust us with their hopes. Do we need to be reminded that the phrase "a decent respect for the opinions of mankind" came with the birth of this nation?—N.C.

HOUSE OF REPRESENTATIVES—*Monday, July 26, 1976*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

I am the vine, ye are the branches; he that abideth in Me and I in him, the same bringeth forth much fruit.—John 15: 5.

Almighty God, in whom we live and move and have our being, in this quiet moment we pray that Thy spirit may come anew into our hearts that we may serve our Nation worthily and well this day. May moral virtues and spiritual values reign in our personal lives and rule our public labors that genuine patriotism and sound religion may come to new life in us.

Speak to us of courage, faith, and vision. Save us from littleness in a day which demands greatness, from low pettiness in a time which calls for high principles and from a narrow spirit in a period which cries out for wide concerns.

Bless our country with responsive leaders and responsible citizenship that we may be one people under Thee with liberty and justice for all. Through Jesus Christ our Lord. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 2943. An act for the relief of the estate of James J. Caldwell.

The message also announced that the Senate having proceeded to reconsider the bill (H.R. 12384) entitled "An act to authorize certain construction at military installations and for other purposes," returned by the President of the United States with his objections, to the House of Representatives, in which it originated, it was resolved that the said bill do not pass, two-thirds of the Senators present not having voted in the affirmative.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 8410) entitled "An act to amend the Packers and Stockyards Act of 1921, as amended, and for other purposes," disagreed to by the House; agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. TALMADGE, Mr. HUDDLESTON, Mr. MCGOVERN, Mr. HUMPHREY, Mr. CLARK, Mr. DOLE, Mr. CURTIS, and Mr. BELLMON to be the conferees on the part of the Senate.

The message also announced that the Senate disagrees to the amendments of the House to the bill (S. 3052) entitled "An act to amend section 602 of the Agricultural Act of 1954," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. TALMADGE, Mr. HUMPHREY, Mr. MCGOVERN, Mr. DOLE, and Mr. BELLMON to be the conferees on the part of the Senate.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 495. An act to establish certain Federal agencies, effect certain reorganizations of the Federal Government, and to implement certain reforms in the operation of the Federal Government recommended by the Senate Select Committee on Presidential Campaign Activities, and for other purposes; and

S. 3369. An act to amend the Small Business Act to increase the authorization for certain small business loan programs.

PERMISSION FOR SUBCOMMITTEE ON ENVIRONMENT AND THE ATMOSPHERE OF COMMITTEE ON SCIENCE AND TECHNOLOGY TO MEET DURING 5-MINUTE RULE ON THURSDAY, JULY 29, 1976

Mr. BROWN of California. Mr. Speaker, I ask unanimous consent that the Subcommittee on Environment and the Atmosphere of the Committee on Science and Technology be permitted to meet on Thursday next, July 29, 1976, at 10 a.m. and 2 p.m., despite the fact that the House may be in session and proceeding under the 5-minute rule.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

PERMISSION FOR SUBCOMMITTEE ON ADMINISTRATIVE LAW AND GOVERNMENTAL RELATIONS OF COMMITTEE ON THE JUDICIARY TO SIT TODAY DURING 5-MINUTE RULE

Mr. DANIELSON. Mr. Speaker, I ask unanimous consent that the Subcommittee on Administrative Law and Governmental Relations of the Committee on the Judiciary be permitted to sit this afternoon, notwithstanding the 5-minute rule.

The SPEAKER. Is there objection to the request of the gentleman from California?

Mr. BAUMAN. Mr. Speaker, I withdraw my reservation of objection.

Mr. DANIELSON. I thank the gentleman.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

RULEMAKING REVIEW

(Mr. DEL CLAWSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DEL CLAWSON. Mr. Speaker, the criticism of the wielding of rulemaking powers which came in an announcement this weekend by the Secretary of Health, Education, and Welfare provided a welcome reinforcement for the point that many of us in the Congress have attempted to make regarding the lack of public input into the decisions of the bureaucracy. We understand that the Secretary shared our concern, and while we do not have the details of his proposals, it appears that he is attempting