zation or, if they are qualified, they may eventually own their own dealerships. In either case, their success benefits both them and the Corporation. We are determined to continue and expand these programs.

These are some of our efforts. By themselves, they are not much. But taken together with the work of the entire business community they can make an imprint for the better on life in America.

There is much, much more for each of us to do, working with government, with other companies, in our communities and in our own companies. The problem of minority enterprise challenges each of us greatly. We should not think of it too narrowly. We can help meet the objectives of minority enterprise if we can find ways to encourage our minorities to invest—as stockholders—in established businesses. Thus even those of modest means could acquire a stake in our economy, or as President Nixon put it, "a piece of the action". Greater stock ownership among minorities would be a means of immediately putting the system to work for those who most need its benefits.

Minority enterprise requires and deserves our fullest efforts. Every businessman who owes some of his success to free enterprise should feel obliged to help others to enter and to compete for the rewards of enterprise.

Let us focus always on the fuller freedom of opportunity that is implicit in the idea of minority enterprise. Let us focus on opportunity and recognize how our individual efforts can help fulfill the promise of America. Let us resolve that the opportunity for business ownership shall be open equally to every American, and then we can say—with pride—that we helped to make free enterprise really free.

[From the Detroit Free Press, Jan. 23, 1970]

ROCHE URGES MINORITY AID—FREE ENTERPRISE NOT FREE

WASHINGTON.—General Motors chairman James M. Roche Thursday urged American business to "give the most serious consideration" to helping minority groups develop opportunities in business.

Addressing conference here on minority enterprise sponsored by the U.S. Chamber of Commerce, Roche said free enterprise is not as free as it ought to be.

"Almost all American businesses—more than 97 percent—are owned by those who are white. And these account for better than 99 percent of the total receipts.

"The owners of the other three percent of American business—some 150,000 establishments—are found among the 30-million black, Spanish-speaking or Indian Americans.

"These are the minority Americans who constitute 15 percent of our population . . . who for one reason or another—have less than an equal chance to own a business."

Roche said GM is currently providing employment opportunities, supporting educational institutions and giving financial assistance to community housing projects in an effort to alleviate the problems of minority groups.

Approximately 15 percent of GM's more than 600,000 hourly workers in the U.S. are from minority groups, primarily blacks. GM also has been increasing jobs for minorities among its salaried people. These have climbed from 1,785 in 1965 to 5,093 currently, a 185.3 percent rise in the five years compared with an overall increase of 3.8 percent in GM's salaried ranks.

A GM spokesman noted that the corporation has 1,329 "officials and managers" from minority groups, a 38 percent increase since 1968.

Roche mentioned purchases of glove compartment boxes from Watts in California, rubber production parts from Cleveland and metal stampings in Detroit as examples of "a wide variety of goods and services" bought by GM from "young companies owned by minority citizens."

Roche cited difficulties GM is encountering in getting qualified minority-group candidates for local automobile dealerships. "Unfortunately very few . . . have had the necessary experience in managing the merchandising aspects of the automobile business. Nevertheless we are intensifying our efforts to locate potential new dealers."

GM signed up its first two black dealers in 1967. Since then it has added five more.

He cautioned his audience about the problems inherent in assisting minority enterprises. "It must be made plain," he said, "that being in business for yourself is not a guarantee of success," he reminded them that only one of two new businesses survives as long as 18 months and that only one of five would still be in business in ten years.

"We must always keep in mind," Roche continued, "that we do not do any man a favor if we allow him to enter business unprepared.

"Every businessman who owes some of his success to free enterprise should feel obligated to help others to enter and to compete for the rewards of enterprise."

[From the Washington Post, Jan. 23, 1970]

NOT A "PANACEA"—MINORITY BUSINESS BACKED

(By Jan Nugent)

The chairman of General Motors Corp. yesterday urged the corporate community to be more resourceful and venturesome in finding ways to encourage minority-owned businesses.

"We must not be bound in by precedent, but rather be flexible and alert to new ways of making the system work for our cause and not against it," GM Chairman James M. Roche said.

At a conference on minority enterprise sponsored by the U.S. Chamber of Commerce here, Roche warned that minority-owned businesses were not a panacea for the country's social problems.

But there is this to be said for minority entrepreneurship, he continued: "Those who advocate it expect too much from it; and those who belittle it fails to see how essential it is to the better America we must all work together to build."

It is clear that, in America today, free enterprise is not as free as it ought to be, the GM official said. The task of opening the field to minorities is "a job cut out for business," Roche asserted.

General Motors has taken steps to use minority businesses as suppliers, and purchases a variety of goods and services from these companies, he continued.

Commerce Secretary Maurice Stans plugged the Administration's minority enterprise program, while admitting it suffered from a credibility gap he contended was undeserved.

Stans insisted President Nixon was deeply committed to the concept. The Commerce Secretary said little or nothing had been accomplished in the field of minority business in the past. "At least now we have a program," he noted.

To buttress his point, Stans ticked off government programs which encourage minority business; increased loans by the Small Business Administration; federal government procurement pledges; and firm commitments from franchisers to set up minority entrepreneurs in business.

MINORITY BUSINESS

WASHINGTON.—The head of General Motors said today the nation's urban and racial problems will not be solved simply by helping blacks and other minorities start their own businesses.

But GM Chairman James M. Roche said, the effort must be made to redeem the underlying promise of free enterprise.

Roche, addressing a U.S. Chamber of Commerce conference on minority enterprise, told fellow businessmen that Americans affirm the principle that "Every man deserves an equal right to try—and an equal right to fail."

"We say, in effect, that free enterprise should be free," Roche said in his prepared address. "It should be open to all with the capacity and willingness to venture, to stake capitol on their ability and judgment, to risk in the hope of profit."

Citing statistics showing that 97 percent of U.S. businesses with 99 per cent of the receipts are owned by whites, Roche said. "It is clear that in America today, free enterprise is not as free as it ought to be."

Roche warned against the use of minority enterprise "to further segregation or separatism"—to simply encourage black ownership of ghetto businesses.

"Every business in the ghetto should not be owned by those unfortunate enough to live there—no more than any business outside the ghetto should be closed to them," he said.

Overlooking "the need for experience and background" in business will lead to "only another disillusionment, another shattered dream" for the nation's minorities, Roche said.

But despite the hazards, he said, American businessmen who have succeeded in the system "should feel obliged to help others to enter and to compete for the rewards of enterprise."

THE HUMAN ELEMENT INVOLVED IN "DELIBERATE SPEED"

Mr. HOLLINGS. Mr. President, the chaos caused in the public schools by the Alexander "integration now" decision has taken on an aspect of the war in Vietnam—to the Nation generally, it is somebody else's problem. Just as long as you disrupt Mississippi and South Carolina and the South and leave us alone in New York and Chicago, then fine business. This leaves the people of my region not only distraught but also bitter. An orderly elimination of the dual school system, and a consequent legal elimination, can not be obtained with this bitterness and misunderstanding.

The reason for "deliberate speed" was the human element. We are dealing with humans in our public schools—the parents, the teachers, the legislators who draw up the budgets, the Governor and administrators who set the policy, and the taxpayers who pay the budgets. We must work together if an effective educational program is to be maintained. Judges can not run schools, and I doubt if any of our Justices have had any experience in operating a public school system. Certainly, they did not use it in the Alexander decision, for they showed no awareness for the contracts made for teachers for the school year, that busing and physical facilities are planned by the school year, that it is just as difficult to change a teacher or a pupil from his district as it is to assign a judge a case out of his district.

The schools of South Carolina have been moving with deliberate speed.

Mr. BYRD of West Virginia. Mr. President, will the Senator yield?

Mr. HOLLINGS. I am glad to yield to

Because this dream has been so widely shared, the American system of free enterprise was born, and has prospered beyond man's imagining. Our system has produced more wealth—and shared this wealth more widely—than any other economic arrangement the world has seen. Yet, its more than dollars. To all who take part in it, free enterprise offers the chance to fulfill human instincts: to innovate, to compete, to build and to own.

We Americans affirm this principle: that every man who is qualified to begin or sustain a business should have the opportunity to do so. We say, in effect, that free enterprise should be free. It should be open to all with the capacity and willingness to venture, to stake capital on their ability and judgment, to risk in the hope of profit.

Yet it it clear that, in America today, free enterprise is not as free as it ought to be. Almost all American businesses—more than 97%—are owned by those who are white. And these account for better than 99% of the total receipts. The owners of the other 3% of American businesses—some 150,000 establishments—are found among the 30 million black, Spanish-speaking, or Indian Americans. These are the minority Americans who constitute 15% of our population. These are they who—for one reason or another—have less than an equal chance to own a business. These are the Americans this program intends to help.

Minority enterprise has many aspects. Some see it as an effort to create and locate new business in the inner cities. Others regard it as a means to assure that more businesses in the inner city will be owned by those who live there.

These attitudes confuse and distract from the moral issue of minority enterprise. They lead into discussions of black power and green power, and the whole dialogue of division. Minority enterprise should not be used to further segregation or separatism. Every business in the ghetto should not be owned by those unfortunate enough to have to live there—no more than any business outside the ghetto should be closed to them.

Instead, the opportunity should be open to every man to begin a business wherever he thinks it can best succeed. Any man who is willing to risk the considerable hazards of failure against the possible benefits of success has the right to the opportunity of starting his own business. Business ownership carries no guarantee of success. But every man deserves an equal right to try—and equal right to fail.

Minority enterprise should be another means of breaking down barriers of inequality. In business ownership, as in employment the housing and education, every man's opportunity must be made equal to another's. In minority enterprise, unfortunately, the opportunities for business ownership today are not equal. We must all work to make them equal. The task before us is as simple and as difficult as that.

There is this to be said about minority enterprise: those who advocate it expect too much from it; and those who belittle it fail to see how essential it is to the better America we must all work together to build.

Minority enterprise is not a total solution to our urban and racial problems. It is not a quick solution. Nor is it a permanent solution. And to the few businessmen for whom it will mean new competition, it is not even a pleasant solution.

Many of its advocates forget the harsh arithmetic of business failure as written in Dun and Bradstreet. Only one out of two new businesses survive as long as eighteen months. Only one out of five will still be in business in ten years. These are stiff odds, especially to those among our minorities who are already handicapped by lack of education or business experience. These facts must be explained to them, for our minorities have had enough of unfulfilled expectations.

It must be made plain that being in business for yourself carries as much chance of failure as of success. In the competitive world of business, there is hardly any substitute for experience. Only by experience, for example, will a businessman earn a reputation that will inspire customer loyalty and attract investment capital.

Some of the strongest advocates of minority enterprise overlook the need for experience and background. They would have us assist minority entrepreneurs almost without regard for their readiness to compete against others in business. For many, for who failures would be inevitable, minority enterprise will be only another disillusionment, another shattered dream.

Yet, the encouragement of minority enterprise is essential if every man is to have an equal opportunity to prove himself against the disciplines of a free market. Minority enterprise must be fostered if we are finally to fulfill the promise of our Declaration of Independence.

So, for us in the business community, the course is clear. It is for us, who have worked within and gained from the free enterprise system, to help others to share in it. It is for us, who most cherish the freedom in free enterprise, to assure that it is freely open to everyone.

Obviously, not everyone who wants to be in business for himself can be—or should he be. Some are more qualified by education and experience than others, and for these the chances of success are better. There are also lingering conditions of discrimination in our society that favor one man over another. This is what we must change—discrimination must be erased.

As we encourage minority enterprise, we must always keep in mind that we do not do a man any favor if we allow him to enter business unprepared. The bitter result will likely be failure, a waste of his capital, his years, his reputation in the community, and most tragic, his belief in himself.

This places upon us, as we work to give our minorities their equal chance, a responsibility to seek out those who are best qualified and best motivated for business. Beyond this, we must train and nurture others, equipping them with the knowledge and the experience they will need to be able to compete on equal terms.

The time and effort required to prepare a man for business ownership is considerably greater than that needed to train him for a particular job within a company. The difficulties of this preparation process must be kept in mind, both by the businessman who is helping and by the prospective entrepreneur.

We must approach the task with an openness of mind, and a positive desire to help. We need not give any man an unfair advantage, but we must give every man an equal chance. We need not resort to any bad or unjustified business practice, but we must display a greater willingness to risk, a greater resourcefulness in finding ways within established practices. We must not be bound in by precedent, but rather be flexible and alert to new ways of making the system work for our cause and not against it.

This approach to fostering minority enterprise clearly calls for extraordinary steps. It requires ingenuity, imagination, patience and—most of all—a bit of courage. It may not be the easy way, but I know it is the right way. I know it is the best for all concerned, and certainly the best for the America we are concerned about.

All of you whose companies are involved in the JOBS program and know the story. The little extra help, the right steer, the word of encouragement, the demonstrated belief—all have worked to pay dividends in good employes. So it can be with minority enterprise. This, too, will be a modern American success story if enough of us care enough to go the extra mile to help.

If we are willing, ways will be found. This morning we received booklets prepared by the Chamber. These spell out some "Corporate Options for Increasing Minority Participation in the Economy". I commend them to your attention.

General Motors, like other major corporations, is becoming increasingly involved in programs to alleviate the problems of our minorities. We are active in providing employment opportunities, supporting educational institutions, and giving financial assistance to community housing projects.

With regard to encouraging minority enterprise, every company, every industry, will have its own special opportunities such as we have found at General Motors. Our varied needs and widespread operations lend themselves to an active search for existing minority businesses as new suppliers. They also enable us to develop new minority businesses that can supply quality goods on a competitive basis. Every company of any size is also the purchaser of a wide range of services, from simple landscaping to sophisticated computer services. These also offer opportunities for small specialized businesses. At General Motors, we have examined our purchasing policies, for both goods and services, to assure ourselves that they provide the framework within which we can help qualified enterprises in their start-up phase.

We have already taken significant initiatives to help develop minority enterprises as GM suppliers. We now purchase a variety of goods and services from young companies owned by minority citizens. For example, we buy glove-compartment boxes in Watts in California, rubber production parts in Cleveland, and metal stampings in Detroit. We are proud that more and more minority enterprise is found among our General Motors suppliers.

In addition, many businesses like General Motors have extensive distribution facilities. We have, for example, thousands of local dealers and distributors for the products we make. Ownership of these outlets, scattered across the nation, provides additional opportunities for qualified new entrepreneurs.

A familiar measure of the difficulty of minority enterprise is that only a small fraction of automobile dealers are members of minority groups. This is a revealing indication of the obstacles that confront our efforts. Ownership of an auto dealership requires an extraordinary amount of initial investment. Even a small dealership is a good-sized business in most communities. It is a high-risk, intensely competitive business, and clearly not for the inexperienced manager.

General Motors, for some time, has been searching for qualified candidates for local dealerships. Unfortunately, very few members of minority groups have had the necessary experience in managing the merchandising aspects of the automobile business. Nevertheless, we are intensifying our efforts to locate potential new dealers, persons with recognizable qualities of business aptitude, enthusiasm, aggressiveness and the willingness to risk, sacrifice and learn.

More than forty years ago, General Motors established the Motors Holdings Division. Its purpose is to provide substantial assistance in capital financing for retail dealers and distributors of GM products. Thus, General Motors stands ready to join qualified entrepreneurs as a partner in their enterprise through capital investment.

While we contine to seek those already qualified, at the same time we take promising individuals and place them within the system so they will acquire the necessary experience and background that may, in time, qualify them for dealerships. We do this within the General Motors organization, and we also encourage our dealers to put promising future entrepreneurs in jobs where they can learn.

These practices offer advantages both to the Corporation and to the individuals. For they may progress higher within the organi-

The sideshow at the White House on Tuesday illuminated Scott's remark as nothing else could.

Any real push to begin revitalizing rural areas is no farther along than it was in 1966, when the White House conference "To Secure These Rights" adjourned with a long list of recommendations about what needed to be done.

Many of the proposals have been embodied in legislative proposals. A bill granting the rural areas tax incentives which the task force said should be explored was introduced 13 months ago by Sens. Fred Harris D-Okla., and James Pearson, R-Kan. So far, Secretary Hardin's department has not been allowed to even comment on it.

A long range study of the need for balanced population growth, another recommendation in the Nixon task force report, was proposed in a bipartisan resolution passed in 1967 and against last year in the Senate.

The whole range of revitalization thrusts which would be necessary to make the countryside an acceptable alternative to the cities was exhaustively outlined in September, 1967, in the report "The People Left Behind," issued by the President's National Advisory Committee on Rural Poverty. Ironically, University of North Carolina Vice President Ed Bishop, who headed that task force's study, was on the Nixon task force and made the same recommendations.

So the words continue to masquerade as decisions, and flurries of activity—hasty White House news conferences in order to forestall leaks of 60-day-old reports—masquerade as progress.

MILITARY EQUIPMENT FOR FOREIGN GOVERNMENTS

Mr. HARRIS. Mr. President, last week I spoke against what I considered to be an ill-advised proposal to loan three submarines to Taiwan. Since that time, more information has come to light on Defense Department practices in providing military equipment to foreign governments, indicating to me that the Congress must direct much closer scrutiny to this matter.

A particular problem exists with respect to materiel that has been declared surplus by the Pentagon. Unlike military assistance grants or military credit sales, this materiel can be disposed of abroad by sale or gift without congressional authorization or limitation. The only current requirement is that such transactions be reported when the Defense Department comes to the Congress for its annual appropriation. This after-the-fact informational requirement is hardly a control, and even within the executive branch the Department of State has had a great deal of difficulty in establishing interagency mechanisms which would insure that such surplus transactions are in the national interest and that they are compatible with our overall foreign policy. Since it has been estimated that $3.4 billion dollars worth of surplus equipment has been given away in the past 19 years, this is no small scale operation. It must be brought under close control, just as the Congress did with military credit sales in 1968.

Mr. John W. Finney of the New York Times recently wrote a very important article outlining many of the problems in this area, giving particular attention to the $157 million worth of material given to Nationalist China alone last year. Since the details of these transactions were discovered only after the fact by the perceptive questioning of Representative CONTE of Massachusetts, emphasis is given to the need for better control mechanisms. In the Senate, the subcommittee headed by the distinguished senior Senator from Missouri (Mr. SYMINGTON) has been probing the details of such transactions, but the State Department has not yet seen fit to declassify information provided in its hearings last fall. I strongly support the efforts of this subcommittee, and hope that its work will result in the Congress being able to exert more effective control over the nature and limits of U.S. commitments and military support activities abroad.

I ask unanimous consent that this article by Mr. Finney be printed in the RECORD so that it may be more widely available.

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

[From the New York Times, Mar. 29, 1970]

TAIWAN GIVEN MANY ARMS IN SECRET BY UNITED STATES IN 1969

(By John W. Finney)

WASHINGTON.—The United States secretly presented Nationalist China last year with fighter planes, cargo planes, destroyers, antiaircraft missiles, tanks and rifles reportedly worth $157-million.

Except for approximately $1-million paid for four destroyers, the Government of President Chiang Kai-shek in Taiwan received the weapons free out of stocks that had been declared surplus by the Defense Department.

Such large-scale use of "surplus" weapons as an indirect form of military assistance is a relatively new development and is raising unresolved policy questions within the State Department and Congress.

With the reduction of the United States military forces and withdrawal of troops from South Vietnam, billions of dollars' worth of weapons are being declared surplus by the military services. A study by the staff of the Senate Foreign Relations Committee suggests that the total may come to $10-billion, although State Department officials believe this estimate is too high.

The Defense Department never announced, either publicly or to Congress, the transfer of the weapons to Taiwan, and the gift would probably have gone unnoticed if some questions had not been raised in a recent meeting of a House appropriations subcommittee by Representative Silvio O. Conte, Republican of Massachusetts.

At a closed-door hearing, Representative Otto E. Passman, Democrat of Louisiana, the subcommittee chairman, was once again raising the possibility of providing $54-million so the Government in Taiwan could buy a squadron of F-4 Phantom jet planes. A similar proposed grant in the military-assistance program was approved last year by the House, but blocked by the Senate.

As the debate in the foreign aid subcommittee warmed up, Lieut. Gen. Robert H. Warren, Deputy Assistant Secretary of Defense for military assistance and sales, broke in and was said to have observed: "I want you to know we have given them quite a bit." Then, under questioning by Mr. Conte, the details of the military goods supplied to the Chinese Nationalists were disclosed by General Warren.

During floor debate last week, when the House approved legislation lending three submarines to Taiwan, Mr. Conte listed some of the "military goodies" that were included in what he described as the "beautiful Christmas present" for the Chiang Government. In an interview, he listed additional items that had been included in the package.

ITEMS ARE LISTED

These included four 20-year-old destroyers that had been decommissioned by the Navy; equipment for a Nike Hercules missile battery that had been installed in Hawaii; more than 35 F-100 Super Saber jets, which are relatively old supersonic interceptors; more than 20 F-104 Starfighters, which are supersonic fighter planes still in use by the United States Air Force and the North Atlantic allies; more than 30 C-119 flying boxcars, which are 15-year-old troop and cargo transports; some 50 medium tanks, and about 120 Howitzers and thousands of M-14 rifles.

On the basis of the Warren testimony, Mr. Conte placed the total cost of the package at $157 million.

In response to inquiries, the Defense Department declined to confirm or deny the details of the package described by Mr. Conte. The explanation offered by a department spokesman was that the Pentagon normally does not discuss the transfer of arms to foreign allies and furthermore that the information gets to "the order of battle" of the Chinese Nationalist armed forces.

State Department officials, who were not so reluctant to discussion the transaction, said the transfer had been worked out in negotiations last summer and fall. Confirming the general outlines of the package, these officials said the weapons were needed to modernize Taiwan's air defense and to replace obsolete ships in the navy.

SEOUL ALSO GOT ARMS

State Department officials described the transaction as part of a general program of using surplus arms to bolster the defenses of such "forward defense" countries as South Korea, Turkey and Taiwan. In recent months, for example, the Defense Department has transferred 790,000 used rifles, carbines and submachine guns to South Korea for use by its home defense reserve forces.

Within the last year or so, the Pentagon has embarked on a major program to use surplus weapons to supplement its military assistance program, which has been sharply reduced in recent years.

This was a principal justification offered by State Department officials for the major shipment of surplus arms to Nationalist China.

Since the end of World War II, Nationalist China, known formally as the Republic of China, has received $2.7 billion in military assistance from the United States, primarily in arms provided as grants. But in recent years, this direct military assistance has been drastically curtailed, falling from $117 million in fiscal 1968 to about $25 million in the current fiscal year, which ends June 30.

"One reason we provided the Republic of China with so much in such a short time," a State Department official explained, "is that grant assistance was dropping drastically but at the same time China, as an exposed forward-defense country, had unfulfilled military requirements."

The policy question now being raised by the Senate Foreign Relations Committee is what controls, either by the executive branch or by Congress, are being exercised over the Pentagon's use of its growing stockpile of surplus weapons as a form of foreign military assistance.

In other areas of military assistance, Congress and the executive branch have established tight controls over the Pentagon.

Direct military grant assistance, for example, is subject to annual authorizations and appropriations by Congress, which thus sets a limit on how much aid can be provided country by country.

In the area of military sales—an area in which the Pentagon used to have complete latitude with its own "revolving fund" to finance credit sales of arms—Congress in the last three years has imposed tight controls. Under legislation first enacted in 1968 and now up for renewal, the Pentagon must obtain Congressional authorization for credit sales and Congress in turn imposes an annual ceiling on the amount of the sales.

As a result of an investigation by the Senate Foreign Relations Committee three years ago, the executive branch also ordered tighter interdepartmental coordination over Pentagon sales of arms. Such sales are now subject to formal approval by the State Department.

But in the disposal of surplus arms abroad—through sale or gift—the Pentagon needs no Congressional authorization and faces no Congressional limitation. The only requirement is that the Defense Department report the surplus arms transactions annually when it appears before Congress for its military-assistance appropriations, but as one Foreign Relations Committee staff member observed: "The reporting usually comes considerably after the fact."

Within the executive branch, the Pentagon in principle has to obtain State Department clearance for the disposal abroad of any major item of surplus equipment. But State Department officials acknowledge that the controls over surplus equipment are not as tight as those that have been worked out for sales of military equipment.

SYMINGTON HELD HEARINGS

One of the current efforts within the State Department's Bureau of Politico-Military Affairs, therefore, is to establish tighter interagency controls over the disposal of surplus weapons. A corresponding effort to establish stricter Congressional controls is certain to be made by the Senate Foreign Relations Committee as it considers extension of the military sales legislation, already approved by the House.

A foreign relations subcommittee, headed by Senator Stuart Symington, Democrat of Missouri, got its first insight into the Pentagon's growing use of surplus weapons as a form of military assistance when it held still-secret hearings last fall into United States military arrangements with Nationalist China.

One of the operations discovered by the subcommittee was that Maj. Gen. Richard G. Ciccolella, chief of the United States Military Assistance Advisory Group in Taiwan, had sent a special team to South Vietnam with the mission of finding used or damaged equipment that could be turned over to the Nationalist Government.

The subcommittee also determined, according to Congressional sources, that General Ciccolella had arranged for establishment of a military equipment repair facility in Taiwan.

The repair facility, according to these Congressional sources, was proving profitable to the Nationalist Government in two respects. First, it was receiving money to repair equipment under contracts with the Defense Department. Second, it was receiving free equipment by taking over weapons that had been declared irreparable by the United States.

General Ciccolella had been scheduled to testify before the Symington subcommittee last fall, but his appearance was postponed when he was hospitalized with a back ailment. The general has now been reassigned to Fort Meade in Maryland, and the subcommittee plans to have him testify before closing the Taiwan phase of its investigation.

THE POPULATION CRISIS—I

Mr. TYDINGS. Mr. President, I am gratified to report that over the past 6 months there has been a sudden surge of interest in the Senate in the critical population problem confronting the Nation and the world. The legislation I introduced last year with 26 cosponsors to lay the foundation for a voluntary national family planning policy and to provide the resources for much-needed contraceptive research has an excellent chance of being enacted this year. In addition, a very healthy dialog is underway regarding what steps we as a nation must consider beyond family planning if we are to deal successfully with our overall population growth problem.

In response to the many requests my office receives on both the domestic and international dimensions of the population explosion, I shall attempt periodically to place in the RECORD magazine articles, monographs, and newspaper clippings that provide information and insight into this pressing problem. An emphasis will be placed on readibility and brevity, with occasional academic pieces sandwiched in for those who wish to approach the population problem in greater depth.

I would like to begin this series of background inserts with an explanation by Prof. Charles F. Westoff of Princeton University of an extremely interesting study he and several colleagues conducted to measure the incidence of unwanted births in the United States. Of perhaps greatest significance, this study indicated that a national family planning program, such as the one invisioned in S. 2108, would have had a dramatic impact on the amount of U.S. natural population increase—the difference between births and deaths which is the major determinant of U.S. population growth. Dr. Westoff reports:

> For the nine years from 1960 through 1968, we estimate that between 35 and 45 percent of the natural increase that occurred in the U.S. could be attributed to unwanted fertility.

In other words, a national family planning program with the capacity to prevent all unwanted births would have gone far to substantially slow our population growth and reduce the financial burdens on communities forced to provide for increased services such as highways, school construction, and welfare.

Mr. President, I ask unanimous consent that Professor Westoff's discussion of his findings be printed in the RECORD.

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

PLANNED PARENTHOOD—THE EXTENT OF UNWANTED FERTILITY IN THE UNITED STATES

(Remarks by Charles F. Westoff, Ph. D. Office of Population Research, Princeton University, at annual meeting of Planned Parenthood-World Population, October 28, 1969)

The Planned Parenthood organization has set as one of its major objectives participation in the emerging national discussion on population policy for the United States. A national organization such as yours has a unique opportunity, indeed a responsibility, to carry on educational activities which will bring to the American public a clearer, more balanced picture of the nature of the problem and the effects of alternative population policies on this and future generations. Many of the issues involved are quite complex and there are quite a few potential dangers in uniformed action. This only reinforces the necessity for careful study and thoughtful discussion by citizens' groups such as yours, as well as by government officials and population scholars. Presumably this is the sort of thing which the Commission on Population Growth and the American Future, recommended by the President, will encourage.

It is my task to place this subject in the context of our knowledge of American fertility patterns. As a result of studies particularly in the last fifteen years, we know a good deal about the fertility patterns of American couples in all classes—their aspirations, the ways in which they seek to control their fertility, and the extent to which they succeed or fail. I do not mean that there are no significant questions about American fertility which remain unanswered, nor do I mean that our knowledge permits us to make definitive predictions about the future course of demographic events in the U.S. I do mean, however, that deliberations on appropriate population policy should be based on as accurate an assessment of the American fertility picture as our knowledge permits.

In the emerging discussion, as in other policy discussions, it becomes extremely important to define the nature and components of the problem accurately. For example, if we as a nation decide that our recent rates of population growth have been too high—or too low—in terms of accepted social or cultural objectives, then we must assess, as best we know how, what have been the elements making up the rate which we find socially objectionable. To oversimplify for clarity, if all of our growth were due to migration, then one set of remedial policies would ensue; if all of our growth were due to wanted babies born to couples who already practice modern contraception, then another set of policies would be indicated while if all of our growth were accounted for by unwanted pregnancies among couples who practice no contraception or inadequate contraception, then a third, and quite different set of policies would be suggested. U.S. population growth in recent years has not been due to only one of these factors but to a mixture of all of them. In determining the directions for societal action, it is critically important to determine, as best we can, the proportions of U.S. population growth due to each of these factors.

At the behest of Planned Parenthood, Dr. Larry Bumpass and I have reanalyzed the data from the 1965 National Fertility Study in order to estimate one of the components of U.S. population growth—the extent of unwanted fertility in the United States. As you know, the 1965 study was based on a comprehensive survey of a representative national sample of married women in their childbearing years. The findings which I am about to present are based on our first report which deals with births which the respondents to the 1965 study stated were unwanted at any time either by the father, the mother or both. In our study, these briths are classified as "excess fertility" and provide a basis for estimating the number of births that would not have occurred if the couples had had access to perfect contraception. In the next several months, Dr. Bumpass and I will extend the analysis to estimate the demographic effects of "timing failures"—births which the parents stated were wanted but which occurred before the parents desired them.

The findings of the first part of our analysis may be summarized as follows:

1. A substantial proportion of recent births to married couples was unwanted. Two to two percent of all births were unwanted by at least one spouse. As would be expected, the percent unwanted increased rapidly by birth order: 5 percent of first births, 35 percent of fourth births and more than half of

Negotiations over new labor agreements would be expected to begin ninety days before the expiration of existing agreements. There would be a statutory guarantee of final and binding third party arbitration to resolve negotiating impasses after a ninety day cooling-off period, during which time an outside fact-finding panel would try to assist the parties in reaching agreement. Opportunities for mediation and conciliation would also be provided.

All postal employees would retain their full benefits under the Civil Service retirement system and under the existing Federal workmen's compensation laws. The provisions of the Veterans Preference Act would apply, as would the provisions of Title VI of the Civil Rights Act of 1964. The labor standards provisions to which Government contracts generally are made subject would be applicable to contracts entered into by the new Postal Service to the same extent as elsewhere in the Government.

Finally, the right of every postal employee to petition Congress would be expressly preserved by statute.

III. POSTAL PAY

In many parts of the country—particularly in our great urban areas—the pay of postal employees has lagged seriously behind the pay received for comparable work by employees in private industry. the general 6% increase has alleviated that problem for most employees of the Federal Government, but it fails to take into account two important considerations that are unique to the Postal Service:

—The need to offset the limited opportunities for job advancement that most postal workers have traditionally faced.

—The need to allow postal workers to share the benefits of the increases in efficiency and productivity that should be attainable under a properly reorganized postal system.

These factors played an important part in the thinking of the postal negotiators during their discussions on the pay question.

I propose an additional pay increase of 8% for the postal employees, effective immediately upon enactment of the reorganization law, with prompt collective bargaining over pay schedules under which the time required for rank and file postal employees to reach the top pay step in their respective labor grades would be compressed to not more than eight years.

IV. POSTAL RATES

As the new Postal Service will be self-contained, so should it be self-supporting; as it will be non-profit, so should it be non-loss.

If the pay increases that the postal negotiators have agreed to recommend are put into effect promptly, and if postal rates were to remain where they are today, postal expenditures would exceed postal income in 1971 by approximately two and one-half billion dollars.

A postal deficit of this magnitude would be indefensible at any time; during a period when inflation is threatening the economic well-being of every American family, such a deficit would be totally irresponsible.

Less than two weeks ago I proposed a plan for raising first, second and third class postage rates to a level that would bring postal income fully into balance with anticipated postal expenditures. This plan included a proposal for increasing the price of the first class stamp to ten cents. Understandably, the proposed increase met with limited enthusiasm, and I am not insensitive to the widespread concern that this proposal evoked. Nevertheless, the need for the additional revenue exists, and the proposal highlighted the true cost to the user of our mail service.

In the course of negotiations, the parties considered an alternative proposal that would provide a transitional rate policy designed to cushion the immediate effect of the application of the principle of pay-as-you-go on the users of the mail. The alternative approach, to be incorporated in the reorganization bill, would require the general taxpayer to pay 10% of the total cost of the new postal service in the first year. The percentage of taxpayer support would decline each year until the end of 1977, when the mails would be completely self-supporting except for continuing appropriations to reimburse the Postal Service for revenue lost on mail carried for non-profit organizations and other groups entitled by law to use the mail free or at specially reduced rates.

Though the goal would be delayed, acceptance of the principle of a true pay-as-you-go postal service—even in stages—is a fundamental breakthrough.

I would prefer an immediate end to general subsidization of the taxpayer; but since the principles of pay-as-you-go and postal reform are of basic importance, I am ready to accept this gradual but steady approach to that goal.

I would also prefer the method of raising most of the needed new revenues from the business organizations that are the principal users of first class mail. Again, however, I consider the principles of pay-as-you-go and postal reform to be overriding, and I am willing to make adjustments in my original proposal so as to raise more revenues from other classes of mail.

In the interest of making realistic progress toward the objective of bringing postal expenditures into balance with postal revenues, I now propose to

—Increase the price of the first class stamp by one third, from six cents to eight cents.

—Keep the price of the air mail stamp at ten cents.

—Increase the average second class postage by one half.

—Increase third class bulk and single piece rates by one third (the same percentage increase as first-class).

These rate increases would generate additional revenues of more than $1.5 billion—enough, with the temporary 10% contribution by the Federal taxpayer, to put the new, independent United States Postal Service on the road to a sound, pay-as-you-go operation.

V. TOWARD POSTAL EXCELLENCE

Mail users, postal employees and the nation as a whole have gone through a long ordeal in reaching the threshold of basic postal reform—but we have come a long way.

The Congress is now presented with an opportunity to pass legislation that will bring a new measure of fairness to postal employees, a new efficiency to the system itself, and long overdue equity to the taxpayer.

Neither better pay nor better organization will, in and of itself, guarantee better mail service.

Laws do not move the mail, nor do dollars. What moves the mail is people—people who have the will to excel, the will to do their work to the very best of their ability.

The United States is fortunate to have such people in its postal system today. As the Postmaster General has urged, these people must be retained; in the years ahead, more like them must be recruited. This legislation would represent an important step toward that end.

Enactment of the legislation that I now propose would give our postal employees the means to attain a goal they have never before had the means of attaining—the goal of building, in America, the best postal system in the world.

That is a goal worth striving for. With this postal reform legislation, it is a goal that can be achieved. I hope the Congress will lose no time in enacting the laws that are needed to let our postal people get on with the job.

RICHARD NIXON.

THE WHITE HOUSE, *April 16, 1970.*

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer (Mr. EAGLETON) laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

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

EMERGENCY HOME FINANCE ACT OF 1970

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 764, S. 3685.

The PRESIDING OFFICER (Mr. EAGLETON). The bill will be stated by title.

The ASSISTANT LEGISLATIVE CLERK. A bill (S. 3685) to increase the availability of mortgage credit for the financing of urgently needed housing, and for other purposes.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its consideration.

Mr. SPARKMAN. Mr. President, the bill before us today, S. 3685, the proposed Emergency Home Finance Act of 1970, is intended to increase the availability of mortgage credit for the financing of urgently needed housing. It is a package bill bringing together four bills introduced by me, S. 2958, S. 3442, S. 3508, and S. 3555, and one bill, S. 3503, introduced by Senator PROXMIRE. Each of these bills would, in one way or another, help improve the availability of mortgage credit for home financing.

S. 3544

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the second sentence of section 49(a) of the Arms Control and Disarmament Act, as amended (22 U.S.C. 2589(a)), is amended by inserting immediately after "$18,500,000", the following: ", and for the two fiscal years 1971 and 1972, the sum of $17,500,000,".

The PRESIDING OFFICER (Mr. BYRD of Virginia). Without objection, the title will be appropriately amended.

MESSAGES FROM THE PRESIDENT—APPROVAL OF A BILL

Messages in writing from the President of the United States were communicated to the Senate by Mr. Geisler, one of his secretaries, and he announced that on April 15, 1970 the President had approved and signed the act (S. 3690) to increase the pay of Federal employees.

REORGANIZATION OF THE POST OFFICE DEPARTMENT—MESSAGE FROM THE PRESIDENT (H. DOC. NO. 91-313)

The ACTING PRESIDENT pro tempore (Mr. BURDICK) laid before the Senate the following message from the President of the United States, which was referred to the Committee on Post Office and Civil Service:

To the Congress of the United States:

My message of April 3 outlined the preliminary agreement that the Government reached with its postal employees after the end of the recent postal work stoppage.

In that agreement, the Post Office Department and the postal employee organizations affiliated with the AFL–CIO undertook to negotiate and jointly sponsor a postal reorganization and pay bill to be recommended to the Congress as a measure that could ultimately lead to a cure of the problems that have been festering for years in the postal system.

The negotiations went forward in an atmosphere of good will and good faith on both sides, and they have now culminated in agreement on a legislative proposal that would:

—Convert the Post Office Department into an independent establishment in the Executive Branch of the Government, freed from direct political pressures and endowed with the means of building a truly superior mail service.

—Provide a framework within which postal employees in all parts of the country can bargain collectively with postal management over pay and working conditions.

—Increase the pay of postal employees by 8%, over and above the Government-wide increase of 6%, and shorten the time required to reach the top pay step for most postal jobs.

I support the proposed legislation that has been agreed to in the negotiations between the Post Office Department and the postal unions, and in transmitting it to the Congress I urge that it be given prompt and favorable consideration.

The Secretary of Treasury is sending to the Congress shortly the detailed legislative proposals necessary to accelerate the collection of estate and gift taxes which will pay for the 6% government-wide pay raise.

I. THE UNITED STATES POSTAL SERVICE

The negotiators quickly agreed that the structure of the nation's postal establishment should be one that would permit the postal system to operate on an independent, self-contained basis. This means that for the first time in generations, the Post Office would be run by people whose authority would be commensurate with their responsibilities; it means that the Post Office would carry its own burden and not be a burden to the taxpayer; and it means that the Post Office would serve the public interest of all Americans and not the political interest of any individual or group of individuals.

Fourteen months ago, I pledged that this Administration would do its best to end the system of political patronage that has plagued the Post Office for the better part of the past two centuries. We have kept that promise. Looking to the future, however, I believe that only basic changes in the system can provide permanent insurance against a rebirth of partisan politics in the Post Office.

The proposed legislation that the postal negotiators have agreed upon, and that I now endorse, would build a permanent firewall between postal affairs and political patronage.

I propose that the Post Office Department be reorganized as an independent establishment known as "The United States Postal Service." The new establishment would be organized in a way designed to make it at least as free from partisan political pressure as are such presently existing independent establishments as the Board of Governors of the Federal Reserve System, the Securities and Exchange Commission, and the National Aeronautics and Space Administration.

The Postmaster General would no longer be a member of the Cabinet, under this proposal, and the Postal Service would be insulated from direct control by the President, the Bureau of the Budget and the Congress.

Instead of being appointed directly by the President, the Postmaster General would be selected by nine public members of a bipartisan Commission on Postal Costs and Revenues. These nine Commissioners—not more than five of whom could be from the same political party—would serve 9-year statutory terms, under appointment by the President with the advice and consent of the Senate. The Postmaster General, who would hold office at the pleasure of the Commissioners, would be vested with full authority to manage the day-to-day operations of the Postal Service.

The legislation would provide the new Postal Service with the means of achieving:

—Continuity of top management, with the tenure of the Postmaster General based on performance and not on politics.

—Appropriate control over postal rates, with a Postal Rate Board holding full and fair hearings on rate changes proposed by the Postmaster General, and with either House of Congress being empowered to veto proposed rate changes by a two-thirds vote.

—A self-supporting postal system.

—A workable method of raising necessary funds by borrowing from the Treasury Department or from the general public.

—Collective bargaining over wages, hours and, in general, all working conditions that are subject to collective bargaining in the private sector.

A proposal for massive reorganization of a Government organization as important as the Post Office Department should, obviously, receive careful study before it is adopted. Fortunately, the question of postal reform has been receiving intensive scrutiny, both in Congress and in the country at large, ever since my basic postal reform proposal was sent to the Congress last May. During that time the need for fundamental reform of the postal system has come to be almost universally recognized, and I suggest that further delay in starting on the road toward postal excellence would be indefensible.

II. POSTAL EMPLOYEE-MANAGEMENT RELATIONS

The negotiators have agreed that there should be a statutory framework for collective bargaining in the postal establishment resembling that of private industry.

The people of this nation cannot and will not submit to the coercion of strikes by employees of the Federal Government. Since strikes by employees of the new Postal Service must be prohibited, a workable alternative to strikes must be provided—an absolutely impartial means of resolving differences between postal management and postal employees without the public being subjected to interruptions in the postal service. That is what the proposed legislation agreed upon by the postal negotiators provides.

I propose that the new United States Postal Service be empowered to engage in collective bargaining with recognized employee organizations over wages, hours, and working conditions generally, with negotiating impasses being finally resolved, if necessary, by binding arbitration.

Determination of national collective bargaining units, recognition of collective bargaining representatives and adjudication of unfair labor practice charges would be handled by the National Labor Relations Board under procedures similar to those that have long been followed in the private sector.

In addition to wages and hours, matters that are subject to collective bargaining would include such things as grievance procedures, final and binding arbitration of disputes, seniority rights, holidays and vacations, life insurance, medical insurance, training and promotion procedures. Employee benefits enjoyed today would be carried forward, and, in the case of rank and file postal employees, any change in such benefits would be subject to the collective bargaining process.

The bill is designed to encourage and expedite the construction and financing of a substantial number of new and existing homes. It seeks to attain these ends by first, authorizing $250 million to be appropriated to the home loan bank system to reduce interest charges on advances by the Federal home loan banks to savings and loan associations and other members; second, by establishing both within the Federal National Mortgage Association and within the Federal home loan bank system new secondary mortgage market facilities; third, by reallocating and removing restrictions on funds previously authorized to the Government National Mortgage Association—GNMA—so that the funds would be made available under terms acceptable to the President for the purchase of special assistance mortgages; fourth, by authorizing the Federal Home Loan Bank Board to raise capital during tight money periods by issuing up to $3 billion a year in certificates to be purchased by the Federal Reserve Board; and fifth, by establishing a new dual FHA–VA interest rate ceiling procedure and other related mortgage credit provisions.

ECONOMIC CONDITIONS

It is obvious to the committee that economic conditions in this Nation are approaching a critical level, and that immediate action is necessary if we are to avoid a further drop in the economy and possibly a serious recession by the end of the year.

Our present economic indicators show important parts of our economy are either declining or are increasing at a slower pace. The last two quarters have shown no real gain in the GNP. In the last quarter of calendar year 1969, the GNP grew at an annual rate of 4 percent but, after applying the price deflator, the real growth was negative. Similarly, the preliminary figures for the first quarter of calendar year 1970 indicate that the growth in GNP was wiped out by inflation.

The fear of many economists is that our economy is facing a period of price inflation accompanied by a mild recession.

The committee recognizes, of course, that the most important single factor causing our present dilemma is "inflation."

Unfortunately, the policies currently being used by the administration to fight inflation are having an extremely disastrous effect on housing and, unless something substantial is done right away—at the beginning of the 1970 homebuilding season—to bring relief, a far worse housing crisis than is presently being experienced will occur later this year.

HOMEBUILDING

Housing starts in 1969 dropped sharply each month from a seasonally adjusted annual rate of 1.9 million in January to a 1.3 million rate in December. The first 2 months of 1970 continued at the year-end low level and it is expected that a further drop will occur in March and subsequent months. Secretary Romney of HUD predicted an annual start level of 1.4 million for the year of 1970. Many of the witnesses testifying before the committee indicated that, unless significant support is given to the housing program, out total production for the year will be far below the 1.4 million level.

This dropoff in housing starts is coming at a time when the demand for housing is at its highest level since the end of World War II. Vacancy rates are at their lowest rate since World War II, and the demand for new housing resulting from rising incomes is at its highest rate in recent years.

Concurrent with this downward trend in production, interest rates on home mortgages are at the highest they have been since the Civil War. Interest rates on Government-supported mortgages—FHA's and VA's—are presently 8½ percent with as many as 6 to 10 points being demanded in some areas. Conventional mortgage loans are being made at even higher rates—as high as 9¼ percent.

One of the unique results of the shortage and high cost of mortgage credit is the nearly "death blow" given to housing for middle-income families. Shortage of mortgage credit has resulted in such high interest costs that a middle-income family is squeezed out of the opportunity of acquiring new housing. In many places, the only housing being built is low-cost subsidized housing for low-income families and high-priced housing—above $30,000—which only the upper-income families can afford.

MORTGAGE CREDIT SHORTAGES

During 1969, the mortgage credit squeeze became worse each month as the year progressed. The early months of the year show a slight softening of the tight money policy and a leveling off of interest rates but no relief for mortgage credit needs for sometime to come.

Disintermediation, the name given to the redirection of the flow of savings away from such financial intermediaries as savings and loan associations into direct investments, has been a serious factor affecting mortgage credit flows in recent months. In January 1970, $1.4 billion of savings and loan funds was withdrawn in excess of new deposits. February figures were better with a net inflow of only $207 million and, a sample survey of March deposits, indicates a further improvement.

Last year was a crisis year for many in the savings and loan industry. The savings and loan associations ended the year with a net increase in savings deposits of approximately $4 billion. This compares with nearly $7½ billion in 1968 and $10.7 billion in 1967. With savings deposits down, the associations maintained their level of mortgage loans during 1969 by increasing their borrowing from the home loan banks by $4 billion.

The FHA and VA mortgage credit market received a similar boost in 1969 by a sharp increase in secondary mortgage activity by the Federal National Mortgage Association, amounting to $4.1 billion.

Mortgage interest rates continued to climb reaching an intolerable level of 8.35 percent as an effective rate charged to purchasers of new homes in January 1970.

As funds become more and more limited and the interest rates continued to rise, low and middle income families were finding it increasingly difficult to finance the purchase of a new home. The median purchase price of all new homes financed moved to a new high of $36,200 in January 1970.

Instead of meeting our Nation's goal of 2 million housing units in 1969, we produced only 1.5 million and, at our present rate, we will be lucky to meet a level of 1.4 million in 1970.

Higher prices started their upper climb when the Federal Reserve Board began in December 1965 to apply its tight money policy. In a scant 4-year period, the price of mortgage money has risen over 2 percent, and the average price of a new home has risen $10,000, from a median level of $26,200 in 1966, to $36,200 in 1970. In interest charges alone, today's median price borrower is committing himself to pay nearly $50,000 over the 25-year life of a mortgage.

A few higher income families can afford this, and others make sacrifices of necessities to scrape through, but the great masses of low- and middle-income families cannot afford such prices.

This situation reflects poorly on the money managers of our economy. We seem to have plenty of money for office buildings, new plants, and for all kinds of consumer frivolities, but not for homes.

At the peak of our affluence, we are unable to build homes that the vast bulk of our people can afford. We have to resort to subsidies and to artificially contrived market devices to wean capital away from more lucrative but less essential uses into one of the basic needs of our society—decent housing.

This is an intolerable situation, and I believe we must direct our efforts to come up with better answers.

The bill before us provides some answers and, once implemented, would be very helpful in increasing the mortgage credit supply for home financing.

I would like to point out, however, that this bill still does not go to the root of our present difficulty. It is an emergency bill to meet the present crisis caused by high interest rates. For the most part, its purpose is to ease the burden and provide temporary relief until we get back to normal.

We all know that most of our trouble in home financing emanate from the tight money and high inteerst policy of the Federal Reserve Board in controlling inflation. This policy has gotten us into difficulties, I believe five times, since World War II, and it is about time that we learn how to avoid such serious economic blows to housing.

I have great confidence in the new Chairman of the Federal Reserve Board, Mr. Arthur Burns, who has assured me he will give serious study to this matter and provide us with better solutions.

Mr. President, in this connection, I should like to point out a statement made several times by Governor Maisel of the Federal Reserve Board that in the 1966 money crunch which was similar to the one we are in now, housing, even though it consists of only about 3½ percent of the gross national product, absorbed 70 percent of the impact of the Federal Reserve Board's tight-money policy. I

would guess that during the present tight-money situation it would be a similar impact.

Now let me explain briefly the provisions of the bill.

EXPLANATION OF THE BILL

Title I of the bill authorizes an appropriation not to exceed $250 million to be used by the Federal Home Loan Bank Board to reduce the interest rates charged by Federal home loan banks on short- and long-term loans to member associations to promote an orderly flow of funds into residential financing. Disbursement of funds pursuant to this section will be made under such terms and conditions as the Federal Home Loan Bank Board shall prescribe consistent with the purposes of the bill.

It is the intent of this legislation that the Board shall administer the program to assure that funds are used to assist in the provision for housing for low- and middle-income families and that such families share fully in the benefits resulting from the disbursement of such funds. No borrower from a Federal home loan bank may receive such funds if the effective rate of interest on any loan involving such funds exceeds by more than 1 percentage point the effective rate of interest payable by such member association or other borrower.

Title II of the bill would expand the purchase authority of the Federal National Mortgage Association to include conventional mortgages, in addition to the federaly underwritten mortgages it now purchases and sells. These purchases would be limited to mortgages with a loan-to-value ratio of not more than 75 percent. This restriction would not apply to any mortgage if the seller retains a participation in the mortgage of at least 10 percent, if the seller agrees to repurchase or replace the mortgage in the event of a default within 3 years, or if the excess above such 75 percent is privately insured or guaranteed. These limitations are for the purpose of having the association avoid the purchase of high-risk mortgages and thus assure the continued integrity of FNMA's portfolio. Also, of course, these purchases would have to meet the test already required by FNMA's Charter Act, that the mortgages meet, generally, the purchase standards imposed.

In the committee bill, the intent is clear that FNMA was set up primarily for FHA and VA mortgages and that conventional mortgage purchasing should in no way diminish its support of the FHA and VA market.

Title III of the bill would authorize the establishment of a secondary mortgage market facility, called the Federal Home Loan Mortgage Corporation, under the direction of the Federal Home Loan Bank Board.

The Corporation would have authority to purchase residential mortgages from any Federal home loan bank, the Federal Savings and Loan Insurance Corporation, any member of the Federal Home Loan Bank System, or any other financial institution—the deposits or accounts of which are insured by an agency of the United States.

Title V of the bill provides a new program for channeling low cost mortgage credit to middle income homebuyers through the facilities of the Federal Reserve discount window, the Federal Home Loan Bank Board, and the Nation's private financial institutions.

Title VI of the bill—miscellaneous—would carry out the recommendations of the Commission on Mortgage Interest Rates.

Section 601 would establish, through January 1, 1972, a dual market system for FHA and VA mortgages. Under one part of the dual system, the existing authority of the Secretary of Housing and Urban Development to set maximum interest rates at a level he finds necessary to meet the mortgage market would be extended from October 1, 1970, to January 1, 1972. Under these extensions, the market would continue to operate much as it does now, with FHA and VA mortgages originated at interest rates limited by ceilings set by the Secretary of Housing and Urban Development and the Administrator of Veterans' Affairs.

Under the other part of the dual system, the rate on an individual FHA–VA mortgage would be determined in the marketplace, without regard to any administrative or statutory ceiling, provided the mortgage originator or lender neither charges nor collects any discount from any party in connection with the transaction. An origination fee would still be permitted—under regulation—and discounts would still be permitted in the secondary market where existing mortgages are sold.

Section 602 of the bill would direct the Secretary of Housing and Urban Development and the Administrator of Veterans' Affairs, after consultation with each other, to prescribe standards governing the amounts of settlement costs allowable in any area in connection with the financing of FHA- and VA-assisted housing. The FHA and VA standards for loans would be consistent with each other and would be based on the Secretary's and the Administrator's estimates of the reasonable charge for necessary services involved in closings.

The Secretary and the Administrator would also be directed to undertake a joint study and to make recomendations to the Congress, no later than one year after the enactment of this bill, as to legislative and administrative actions to reduce and standardize settlement costs.

Section 603 of the bill would create a Special Advisory Commission on Housing which would, no later than November 1 of each year, recommend to the Congress specific housing goals for the next fiscal year and proposals to achieve these goals. The Commission's recommendations would be considered and discussed in the annual housing report required to be submited by the President pursuant to title XVI of the Housing and Urban Development Act of 1968.

Section 604 of the bill would amend the Home Owners Loan Act of 1933 to liberalize the statutes governing the activites of the savings and loan associations.

Section 605 of the bill would liberalize the real estate lending statutes governing the activities of the commercial banks.

Mr. President, I ask unanimous consent that a section-by-section summary of S. 3685 be printed in the RECORD.

There being no objection, the section-by-section summary was ordered to be printed in the RECORD, as follows:

SECTION-BY-SECTION SUMMARY

TITLE I—REDUCTION OF INTEREST CHARGES FOR MEMBERS OF THE FEDERAL HOME LOAN BANK SYSTEM

Section 101 of the bill would authorize an appropriation of $250 million to be used by the Federal Home Loan Bank Board for disbursements to Federal home loan banks for the purpose of providing funds for mortgage financing at reduced rates of interest to home buyers and other borrowers. The disbursements of the funds shall be administered to assist in the provision of housing for low- and middle-income families. In no case may the lending institution use the funds for a loan with an effective interest rate greater than 1 percent above the effective rate of interest payable by the lending institutions to the Federal home loan bank for such funds. The maximum mortgage loan assisted with such funds may not exceed the comparable ceilings under section 203 (b) (for sales housing) and section 207 (for rental housing) of the National Housing Act. No more than 20 percent of funds appropriated may be disbursed to any one Federal home loan bank district.

TITLE II—AUTHORITY FOR THE FEDERAL NATIONAL MORTGAGE ASSOCIATION TO PROVIDE A SECONDARY MARKET FOR CONVENTIONAL MORTGAGES

Section 201(a) of the bill would expand the purchase authority of the Federal National Mortgage Association to include conventional mortgages, in addition to the Federally underwritten mortgages it now purchases and sells. These purchases would be limited generally to mortgages with a maximum loan-to-value ratio of 75 percent; the restriction would not apply (1) if the excess above such 75 percent is privately insured or guaranteed, (2) if the seller agrees to repurchase or replace the mortgage in the event of a default within 3 years, or (3) if the seller retains a participation of at least 10 percent.

There could be no advance commitments to purchase conventional mortgages in cases where the seller retains a participation in the mortgage. No more than 10 percent of all purchases of conventional mortgages may be of mortgages more than 1 year old at time of purchase. Also, mortgages over 1 year old could be purchased only from sellers continuing in the mortgage lending business. Lastly, the maximum dollar limits on mortgages purchased could not exceed comparable limits applicable under sections 203(b) (for sales housing) and 207 (for rental housing) of the National Housing Act. Section 201(b) would exclude from the limitations on obligations of National Banks those resulting from sale of mortgages to FNMA or the Federal Home Loan Mortgage Corporation.

TITLE III—FEDERAL HOME LOAN MORTGAGE CORPORATION

Section 301 provides that title III may be cited as the "Federal Home Loan Mortgage Corporation Act."

Section 302 contains definitions of terms used in title III.

Section 303(a) creates the Federal Home Loan Mortgage Corporation, to be under the direction of a board of directors composed of the members of the Federal Home Loan Bank Board, the chairman of which would be the chairman of the board of directors.

Section 303(b) sets forth the powers of the Corporation and gives it authority to incur expenditures and employ personnel without regard to certain statutory restrictions.

Section 303(c) provides for the investment of funds of the Corporation, which may be

"'(d) Interest subsidy payments shall be on mortgages on which the mortgagor makes monthly payments toward principal and interest equal to an amount which would be required if the mortgage bore an effective interest rate of 7 per centum per annum including any discounts or charges in the nature of points or otherwise (but not including premiums, if any, for mortgage insurance) or such higher rate (not to exceed the rate specified in the mortgage) which the mortgagor could pay by applying at least 20 per centum of his income toward homeownership expenses. As used in this subsection, the term "monthly homeownership expense" shall include the monthly payment for principal, interest, mortgage insurance premium, insurance, and taxes due under the mortgage.

"'(e) The interest subsidy payments shall be in an amount equal to the difference as determined by the Secretary, between the total amount of interest per calendar quarter received by the investor on mortgages assisted under this section and purchased by them and the total amount of interest which the investor would have received if the yield on such mortgages was equal to the sum of (a) the average costs (expressed as an annual percentage rate) to them of all borrowed funds outstanding in the immediately preceding calendar quarter, and (b) such per centum per annum for administrative and other expenses as the Secretary determines is necessary and appropriate.

"'(f) Procedures shall be adopted by the Secretary for recertifications of the mortgagor's income at intervals of two years (or at shorter intervals where the Secretary deems it desirable) for the purpose of adjusting the amount of the mortgagor's payments pursuant to subsection (d).

"'(g) The Secretary shall prescribe such regulations as he deems necessary to assure that the sales price of, or other consideration paid in connection with, the purchase by a homeowner of the property with respect to which assistance payments are to be made is not increased above the appraised value on which the maximum mortgage which the Secretary will insure is computed.

"'(h)(1) There are authorized to be appropriated such sums as may be necessary to enable the Secretary to make interest subsidy payments under contracts entered into under this section. The aggregate amount of contracts to make such payments shall not exceed amounts approved in appropriations acts, and payments pursuant to such contracts shall not exceed $60,000,000 during the first year of such contracts prior to July 1, 1971, which amount shall be increased by an additional $60,000,000 during the first year of an additional number of such contracts on July 1 of each of the years 1971 and 1972.

"'(2) No interest subsidy payments under this section shall be made after June 30, 1973, except pursuant to contracts entered into on or before such date.

"'(i) In determining the income of any family for the purposes of this section, income from all sources of each member of the family in the household shall be included, except that the Secretary shall exclude income earned by any minor person.

"'(j)(1) The Secretary is authorized, upon application by the mortgagee, to insure a mortgage executed by a mortgagor who meets the eligibility requirements for assistance payments prescribed by the Secretary under subsection (b). Commitments for the insurance of such mortgages may be issued by the Secretary prior to the date of their execution or disbursement thereon, upon such terms and conditions as the Secretary may prescribe.

"'(2) To be eligible for insurance under this subsection, a mortgage shall meet the requirements of section 221(d)(2) or 234(c), except as such requirements are modified by this subsection.

"'(3) A mortgage to be insured under this section shall—

"'(i) involve a single-family dwelling which has been approved by the Secretary prior to the beginning of construction or a one-family unit in a condominium project (together with an undivided interest in the common areas and facilities serving the project) which is released from a multifamily project, the construction of which has been completed within two years prior to the filing of the application for assistance payments with respect to such family unit and the unit shall have had no previous occupant other than the mortgagor;

"'(ii) involve a single-family dwelling whose appraised value, as determined by the Secretary, is not in excess of $20,000 (which amount may be increased by not more than 50% in any geographical area where the Secretary authorizes an increase on the basis of a finding that the cost level so requires).

"'(iii) be executed by a mortgagor who shall have paid in cash or its equivalent on account of the property (a) 3 per centum of the first $15,000 of the appraised value of the property (b) 10 per centum of such value in excess of $15,000 but not in excess of $25,000, and (c) 20 per centum of such value in excess of $25,000.'

"CONFORMING AMENDMENTS

"SEC. 503. Section 238 of the National Housing Act is amended by—

"(a) striking out 'section 235(i), 235(j)(4), or 237' each place it appears in subsection (a) and inserting in lieu thereof 'section 235(i), 235(j)(4), 237, or 243'; and

"(b) striking out '235, 236, and 237' each place it appears in subsection (b) and inserting in lieu thereof '235, 236, 237, and 243'.

"AMENDMENT TO THE FEDERAL NATIONAL MORTGAGE ASSOCIATION CHARTER ACT

"SEC. 504. Section 304(a)(1) of the National Housing Act is amended by adding at the end thereof the following: 'Nothing in this title shall prohibit the corporation from purchasing, and making commitments to purchase, any mortgage with respect to which the Secretary of Housing and Urban Development has entered into a contract with the corporation to make interest subsidy payments under section 502 of the Emergency Home Finance Act of 1970'."

Mr. PROXMIRE. Mr. President, title V provides up to $3 billion a year in 7-percent mortgage credit to lower and middle income homebuyers through the facilities of the Federal Reserve System, the Federal Home Loan Bank Board and the Nation's private financial institutions. This would help 150,000 families a year to purchase homes at rates they can afford to pay. The amendment would achieve the same objectives but without the use of Federal Reserve bank credit.

Before describing the amendment, I would like to outline the basic rationale behind the existing title V and my proposed amendment. Title V includes the main features of S. 3503, the Middle Income Mortgage Credit Act, which I introduced on February 25 along with 24 cosponsors. Our basic purpose was to help the middle income family buy a home whenever interest rates become abnormally high due to monetary policy.

The average homebuyer did not create inflation; and yet he is being called upon to pay almost all of the cost of cooling off the economy. Monetary policy uniquely discriminates against the homebuilding industry and the homebuyer.

The Senator from Alabama (Mr. SPARKMAN), the chairman of the committee, has just referred to a study by Sherman Maisel, the Chairman of the Federal Reserve Board.

According to Sherman Maisel, a member of the Federal Reserve Board, the housing industry accounted for 60 to 70 percent of the cutback dictated by the 1966 tight money policy. A similar pattern was evident in 1969.

In Milwaukee, for example, we have 20 to 30 percent of the people in the construction trades out of work right now in spite of the fact that we have the worst housing shortage in Milwaukee and around the country that we have had in 20 years. It is a ridiculous situation. It is caused because of the impact of the high interest rates on housing. The program is moving along to some extent because the well-to-do can afford to buy more expensive homes and can afford to pay higher interest rates.

When an industry comprising only 3 percent of GNP bears 70 percent of the burden of fighting inflation something is drastically wrong with the way in which we carry out economic policy. Housing starts have skidded from an annual rate of 1.8 million units in January of 1969 to 1.3 million units in February of 1970. The administration is forecasting only 1.4 million housing starts in 1970 even with its program of housing assistance.

Many housing experts predict housing starts will decline to even lower levels in 1970. Homebuilders predicted at one point that a decline below 1 million starts would be a serious depression for that industry. We should be building close to 2 million housing units to meet the housing goals outlined by Congress in the 1968 Housing Act. Our average in the present 10-year period should be 2.6 million housing starts a year, so we are far below that number.

In addition to a reduced level of new home construction, the home buyer has been forced to pay higher and higher interest rates to purchase a home. Mortgage interest rates on new homes averaged 8.62 percent in January compared to 7.5 percent a year before and 6.55 percent in 1967. An increase of two percentage points on a $20,000, 30-year mortgage increases the monthly payments by $28. The extra $28 a month in interest will total more than $10,000 over the life of the mortgage. This is an extremely high price for one family to pay for its share of the fight against inflation.

When a large corporation is required to pay higher interest it can easily pass the extra cost on to the consumer. However, a home buyer has no one he can charge. Higher interest payments must come out of his own family budget. Thus there is a basic and inherent inequity in the way monetary policy works. Those who are hit the hardest are the very ones who can afford it the least.

Not only is the entire housing industry clobbered by tight money but within the housing sector the type of housing cut the hardest is housing for middle-income families. During 1969, the sale of new homes priced over $35,000 actually increased by 10 percent over 1968. Likewise, the production of federally sub-

sidized housing for low-income families increased 26 percent in fiscal year 1969 over 1968. However, nonsubsidized housing for middle-income home buyers was hard hit. The sale of homes in 1969 priced under $25,000 fell 18 percent from the year before.

In other words we have upper-income housing up 10 percent; low income subsidized housing up 26 percent; but middle-income housing is down 18 percent.

The chief victims of tight money are not the very rich or the very poor, but the middle class—the average, quiet, hardworking citizen who pays his taxes but who has been virtually ignored by our housing programs. These are the people who pay most of the taxes to support our housing programs but who have received very few of the benefits. Their hard-earned tax dollars are sent to Washington on a one-way ticket marked "no return."

The plight of the middle-class family was aptly described by Secretary George Romney when he pointed out that a few years ago 40 percent of American families could afford to buy a new home but today only 20 percent can. Four out of five families have been priced out of the new housing market due to tight money and rising prices.

In January of this year, the average purchase price of new housing was $36,000 whereas as recently as 1966 it was $26,000. In 3 short years the average cost of a new home increased by $10,000.

A family would have to have an income of at least $14,000 a year to afford the average new home being constructed. Only one family in five has attained this level of affluence.

Although there are a number of constructive elements in the administration's emergency housing program, it seems to me the one element most lacking is relief for the middle-income home buyer. Many of the proposals are aimed at increasing housing starts. I agree we need to increase our total housing starts. But we also need to be concerned with the composition of housing starts. More $40,000 housing starts are of little comfort to the hard-pressed middle-income family who cannot even obtain a loan at a rate he can afford to pay on a $25,000 home.

We need to bring down interest rates as well as increase housing starts; and we need to refocus more of the resources of the housing industry on the middle-income market.

It is for these reasons that I introduced the Middle-Income Mortgage Credit Act. The middle-income home buyer did not create inflation yet he is being asked to shoulder all of the burden. The Government has a responsibility to alleviate at least part of the damage it creates through high interest rate policies. The cost of high interest should be spread as widely as possible and not centered on one small segment of the population.

We need a mechanism to reduce interest rates for middle-income home buyers during period of tight money. Since the Federal Reserve is the chief architect of tight money, it is altogether fitting and proper that the Federal Reserve Board be called upon to undo some of the damage it creates. Just as the full cost of pollution should be borne by the polluter so the full cost of or the full responsibility for the monetary policy should be borne by the formulators of that policy.

The proposal first contained in S. 3503 and title V of the committee bill seems admirably equipped to help stablize the mortgage market. It authorizes the Home Loan Bank Board to borrow up to $3 billion a year from the Federal Reserve at 6 percent. The funds would then be advanced to savings and loan associations and other mortgage lenders on the condition that they be used for making loans at a rate of interest not in excess of 7 percent. The loans would be limited to homes costing less than $20,000 in low-cost areas or costing up to $30,000 in high-cost areas.

This proposal is strongly opposed by the Federal Reserve Board, although I believe the Board is mistaken that it would somehow weaken their independence in determining monetary policy. Under title V, the Board would have complete freedom to control the aggregate supply of money and commercial bank reserves. The purchase of $3 billion of obligations from the Home Loan Board could be easily offset by purchasing $3 billion less in Treasury securities. In effect, the Federal Reserve would merely substitute one form of Government paper for another.

I am a firm believer in the independence of the Federal Reserve from the executive branch of our Government. However, under the Constitution and the Federal Reserve Act, the Fed is independent of the executive branch but not the Congress. If Congress determines the Federal Reserve should have a role in the mortgage market, one cannot legitimately argue that the independent role of the Federal Reserve somehow prevents it from carrying out the policies of the Congress.

Nevertheless, I recognize the depth of feeling which Federal Reserve Board officials have about this proposal. Moreover, Chairman Arthur Burns has assured me that the Federal Reserve fully recognizes the discriminatory impact of monetary policy on the housing industry. He also indicated the Fed has launched a comprehensive study of ways to alleviate the impact of monetary policy on housing and improve the flow of mortgage credit. I understand this study will be completed sometime next fall.

On the basis of the cooperative and nondogmatic approach to the problem thus far shown by Chairman Burns, I am prepared to submit an amendment withdrawing title V and offer a substitute in its place.

Mr. President, the amendment at the desk would withdraw the provision requiring $3 billion to be provided at 6-percent interest to the Federal Home Loan Bank Board. The amendment would take the Fed out of the act. Chairman Burns has assured me that in his view the alternative approach is practical and workable, although he cannot, of course, adequately comment on the technical details.

I am very much encouraged by a speech by Governor Brimmer of the Board of Governors of the Federal Reserve System who proposed that by using low reserve requirements for banks lending money for housing they would be able to channel money into housing without the controls they might otherwise have. This is their hope.

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

Mr. PROXMIRE. I yield.

Mr. TOWER. Mr. President, I might say Chairman Burns also gave me the same assurance he has given the Senator from Wisconsin about his concern over the discriminatory effect of the fiscal policy as it has operated under Fed in the past. Therefore, I think we can expect a sympathetic ear from him.

Mr. PROXMIRE. Mr. President, I thank the Senator from Texas who feels so strongly about the need in this area.

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

Mr. PROXMIRE. I yield.

Mr. JAVITS. Mr. President, I do not think the Senator should move so quickly past his most statesmanlike and constructive action which he has developed with the new Chairman of the Federal Reserve Board in respect to title V of this bill.

The Senator has made very clear, and his whole work has made very clear the critical impact of high interest rates on the housing supply of this country notwithstanding our protestations in that regard with respect to those rates and some of the whiplash resulting from the struggle from inflation. I deeply sympathize with the need and I want to do something about it.

The Senator has developed an ingenious idea with regard to the utilization of the Federal Reserve Board. I know it was an idea developed out of the exigencies of the situation rather than out of choice. However, many, including our leading bankers, saw in it grave dangers to the concept of the Federal Reserve System, which has been sustained with such remarkable fidelity during all these years.

This was quite a collision between the very ingenious utilization of the unique kind of authority the Federal Reserve System has, and a very legitimate and deep disquiet by some of the most responsible people we have in this country, including the Chairman of the Federal Reserve Board, as to opening the door to other uses of the Federal Reserve System which adversely might affect the institution.

I think the solution of the problem which has been worked out should be marked as a signal service to the future stability of our economic system and the future utilization of the Federal Reserve Board as the remarkable instrument and the flexible instrument for both expansion and contraction which it represents—the instrument which got us away from the slavery of gold domestically and utilized the power of production and credit in order to fuel our fantastically rich economy.

The Senator from Wisconsin has performed an historic service, as has Arthur Burns and everyone else who had anything to do with the solution. It was im-

portant to find a way to serve the burning, urgent needs in the housing field, at the same time not running the risk—the Senator thought it was not there, but others whom he respects thought it was—of compromising the unusually useful instrument of the financial policy of the United States.

I think it should be commented on, and noted that the executive branch made its contribution but, essentially it was a result of the efforts of the Senator from Wisconsin (Mr. PROXMIRE) and the new Chairman of the Federal Reserve Board, Arthur Burns, joined by Secretary Romney and his associates. I congratulate them. I think they have rendered a signal service to the country in working this matter out.

Mr. PROXMIRE. Mr. President, I deeply appreciate the observations of the Senator from New York. I think no one in the Senate has had more experience in this field than the Senator from New York. He is the ranking minority member of the Joint Economic Committee, and has been for many years. He served on the Committee on Banking and Currency with great distinction. He represents the biggest city of the Nation, which has had acute problems in this area, and which is also the center of our financial institutions. He makes that representation with extraordinary ability. He thoroughly understands the Federal Reserve Board, how it operates, the problems it has in connection with this, and the deep need we have in housing.

Coming from the Senator from New York, I am especially grateful and appreciative of the gracious remarks he has made.

During the hearings on housing credit, those who objected to giving the Federal Reserve a role in the mortgage market argued that a direct approach would be preferable. For example, in referring to the housing crisis, the distinguished Senator from Utah said:

> I recognize the problem, I recognize the seriousness of it. I think if it is to be solved, Congress should solve it in terms of appropriations, rather than an invasion of the responsibility of its chief monetary authority.

My amendment does just that. It relies upon Congress and annual appropriations for the funds rather than the Federal Reserve System. It removes any ideological objections one might have over using the Federal Reserve System to achieve social objectives, however worthy they might be. It permits Congress to consider the end objective on its merits without clouding the issue with arguments about the independence of the Federal Reserve System.

Under the alternative approach, the objective of providing 150,000 mortgage loans at 7 percent interest to lower- and middle-income homebuyers would be retained. That is provided by the amendment which is at the desk and which we are about to act on. However, the cost would be financed through annual appropriations rather than through the Federal Reserve System. Private mortgage lenders would make 7-percent mortgage loans on homes costing less than $20,000 in low-cost areas or less than a maximum of $30,000 in higher-cost areas. These mortgages would then be sold by the lender to the Federal National Mortgage Association—FNMA—or the newly created Federal Home Loan Mortgage Corporation.

FNMA and the Federal Home Loan Mortgage Corporation were established by Congress as quasi-private corporations to provide a secondary market for mortgages. Both agencies finance their mortgage acquisitions by issuing bonds and their operations are expected to be fully self-supporting. Therefore they could not be expected to purchase 7-percent mortgages unless they were reimbursed for the difference between their net earnings on the 7-percent mortgages and their current average cost of borrowing, which is close to 8 percent.

Under the proposed amendment, the difference would be made up by quarterly subsidy payments from the Department of Housing and Urban Development. These payments could extend over the life of the mortgage; however, if interest rates and the cost of borrowing decline, the subsidy payments would be correspondingly reduced. Since administration officials are forecasting that mortgage interest rates wil drop to 6 percent by 1973, there would only be a temporary cost to the Federal Government.

HUD would be given the authority to contract to make the subsidy payments over the life of the mortgage for as long as the difference in net mortgage yields and average borrowing costs existed. However, the amount of contract authority could not exceed the amounts approved in annual appropriations acts. In addition, the amendment would restrict payments in fiscal year 1971 to $60 million, which amount would be increased by $60 million in each of the next 2 fiscal years. The $60 million subsidy payment would be sufficient to assist 150,000 families a year to purchase a home at reasonable rates.

In order to obtain the benefit of a 7-percent mortgage loan, a prospective homebuyer would have to allocate at least 20 percent of his income to the cost of housing, as is required under the section 235 program. If the family's income increased, it would be required to continue applying 20 percent of its income to housing expenses. Thus a rise in income would require that the homebuyer gradually increase his interest payments up to the contract rate on the mortgage. This would increase the yield of FNMA or the new mortgage corporation on the mortgage and thus reduce the required subsidy payments.

To illustrate how this would work, let us assume a family making $10,000 a year purchases a $25,000 home with a $23,000 mortgage. In order to qualify for the 7-percent interest rate, the family would have to pay at least 20 percent of its income, or $167 a month on housing. Since the monthly payments for principle, interest, taxes, and insurance on such a home at 7 percent interest would run $213, the family would qualify.

Now let us further assume that 2 years later, the family's income has increased to $15,000. Using the 20 percent of income formula, the family could now afford to pay $250 a month for housing expenses. If the original contract rate on the mortgage were 8½ percent, the rise in the family's income would permit it to pay the full market rate since the monthly payments for principle, interest, taxes, and insurance would come to about $237 at 8½ percent. The cost of the subsidy would be eliminated.

Under the amendment, interest reduction payments could be made on both federally insured and conventional mortgages. However, all mortgages not insured under the program would have to meet comparable requirements under rules and regulations of the Secretary.

Mr. President, the distinctive feature of this amendment is the specific relationship of the cost of the subsidy to changing interest rates. If interest rates go down, as the administration predicts, the cost of the subsidy goes down. On the other hand, existing HUD programs bear no relationship to changes in interest rates. For example, under the 235 program, the Federal Government makes subsidy payments to a private mortgage lender to pay the difference between the current market rate and an interest rate as low as 1 percent depending on the buyer's income. If interest rates drop, the subsidy payments to the lender do not correspondingly decline. He continues to enjoy the benefit of the higher rate over the life of the mortgage.

My proposal is intended to operate at the peak of cyclical fluctuations in interest rates. When interest rates are temporarily high due to monetary policy the program would be activated. When rates decline to more normal levels the program would be phased out. Unlike the 235 program, the Federal Government would not commit itself to subsidizing high interest rate mortgages over a 30- or 40-year period.

The arguments for this approach may be summarized as follows:

First. It provides a source of low-cost mortgage credit to middle-income home buyers at rates they can afford to pay when interest rates are abnormally high;

This seems to me to be exactly what we need right now, according to every analysis I have seen of this trouble with housing.

Second, it achieves maximum leverage per dollar of Federal funds. The first year's authorization of $60 million would stimulate $3 to $4 billion in mortgage credit from private sources;

Third, it automatically phases out when interest rates decline below 7 percent;

Fourth, the cost of the subsidy declines as future interest rates decline or as the income of the family increases;

Fifth, it avoids any argument over the use of Federal Reserve Bank credit so that the Fed is out of the action; and

Sixth, it retains adequate safeguards through the regular appropriations process.

In summary, Mr. President, my amendment would bring back the middle-income family to the mortgage market. It would enable 150,000 families a year to become homeowners, who, under today's high interest rates, cannot afford to buy a home. It will help alleviate the

heavy burden inflicted on the middle-income family by fiscal and monetary policy. It will stimulate the severely depressed housing industry and help us meet our national housing goals. I urge its adoption by the Senate.

Mr. TOWER. Mr. President, I, of course, support the amendment offered by the Senator from Wisconsin, because I think it is a far better provision than the original title V, and it does meet most, in fact virtually all, of the objections raised to title V in its original form.

I think it would give us a bill that can achieve conscientious support, and therefore I urge the adoption of the amendment of the Senator from Wisconsin and wish, on behalf of the minority members of the committee, to state our acceptance of it.

Mr. SPARKMAN. Mr. President, I join with the distinguished Senator from Texas in that statement. I opposed title V in the committee; and I know there has been a lot of work done on arriving at this amendment. I believe it cures the objections we had to title 5, and I hope the Senate will adopt it.

Mr. WILLIAMS of Delaware. Mr. President, I think this amendment is a great improvement over the provision of the bill, which would have destroyed the functioning of the Federal Reserve as an independent agency. Some of us felt very strongly about this point, and I am glad that the amendment does delete certain objectionable provisions of the bill.

But I ask the Senator from Wisconsin this question: I notice that the amendment provides that the assistance shall be accomplished through interest subsidy payments to Federal National Mortgage Association or to the Federal Home Loan Mortgage Corporation.

The Federal National Mortgage Association, as I understand it, is a privately owned, stock company, and its stock is listed over the counter; is that correct?

Mr. TOWER. It will become such in May.

Mr. WILLIAMS of Delaware. That is right, and the stock has been advancing substantially in recent weeks in prospect of some of the assistance they are expetcting from Congress.

The question is as to the avisability of Congress passing a bill providing an interest rate subsidy payment for a privately owned corporation. As far as the Fedetral Home Loan Mortgage Corporation is concerned, it is in a different category; but for FNMA, which is to be privately owned and which is listed over the counter as selling yesterday at $173—that is about 30 percent, as I understand it, higher than it was in recent weeks—how would this subsidy be handled as far as it is concerned?

Mr. PROXMIRE. This, I think, is an excellent question, but I think the answer is that there is a precedent for this. We do the same thing with banks and other private financial institutions under the 235 program. We have to do this, as I stated in my remarks, because of the difference between the 7-percent rate and the rate FNMA has to pay for its money.

But we recognize, as the Senator from Delaware so properly points out, that FNMA will be a private corporation; but in this respect it is no different from any other private corporation that takes part in work for the Government under some of our other programs.

Mr. WILLIAMS of Delaware. Except that this privately owned corporation has the advantage of having 100 percent Government guarantees on its investments, and in addition to that we now propose to subsidize their interest.

Personally I think we made a mistake, on an agency like this that operated as a public function, when we turned it over to private industry, when it almost, by legislation, cannot lose money. So we keep pouring the subsidies in, so it can continue to make more and more money.

Its stock is now selling substantially above its original offering price.

Mr. PROXMIRE. This particular program would not increase FNMA's profit. The subsidy would cover the difference in the rate they earn on the 7-percent mortgages and their cost of borrowing plus their administrative expenses. So, whereas the Senator raises a perfectly proper point, that this is a private institution and, second, it is an institution which still has a great deal of Federal money in it, I cannot see that there is any serious problem involved, because it is an arrangement whereby nobody makes any profits out of it, although the people who run it have adequate protection.

Mr. WILLIAMS of Delaware. I recognize that there may be some argument for this, and many of us would like to support the provision of the amendment striking title V. I wonder if we could not have separate votes on it because I certainly agree that it is the lesser of two evils. I would support most of this proposal except that part whereby we would, for the first time, practically give a blank check to a privately owned corporation where we can subsidize their interest income almost in its entirety, for this is almost their entire interest.

Mr. PROXMIRE. This is not going to make any profits for stockholders. What they make goes back to the Federal Government.

Mr. WILLIAMS of Delaware. Oh, no, or at least the stockholders are not intending it that way.

Mr. PROXMIRE. The point I make is that this would be handled by a mathematical calculation that, it seems to me, would be very easy to determine, as to what the rate of interest actually is in the market, what Fannie Mae is paying for its money, and their interest rate would on the mortgages be 7 percent; so they can determine precisely what the cost is, and the cost is all Fannie Mae would get out of it. They would not be in a position to profiteer out of it at all.

Mr. JAVITS. In other words, Fannie Mae would not make its money out of this type of transaction.

Mr. WILLIAMS of Delaware. I agree that Fannie Mae might not make its money out of this deal alone, but this provision is of substantial advantage to the corporation.

Mr. PROXMIRE. What we are doing is providing a subsidy for the middle-income home buyer. We are not providing any subsidy for Fannie Mae or anyone in it. This is a matter of providing the cost, period. The benefit goes to the home buyer.

Mr. JAVITS. Mr. President, will the Senator yield for a question?

Mr. PROXMIRE. The Senator from Delaware has the floor.

Mr. WILLIAMS of Delaware. I yield.

Mr. JAVITS. I notice the amendment says, on page 2:

> The interest subsidy payments authorized by this section shall cease when (1) the mortgagor no longer occupies the property which secures the mortgage.

The question I should like to ask the Senator is, suppose that the property passes to another eligible mortgagor? That is one question.

Second, I am advised—and the Senator will correct me if I am wrong—that in previous efforts to deal with this problem, a reservation has been made of some percentage—I understand it was 10 percent—to deal with the problem of mortgages already outstanding for eligible borrowers.

Could the Senator give us some idea on either or both of those points?

Mr. PROXMIRE. The answer on the first is that this program is limited to new construction, so it could not pass to a subsequent mortgagor.

Mr. JAVITS. I understand. However, the property could be sold to a second mortgagor; and, according to these terms, the interest subsidy would cease when the first mortgagor disposed of the property, while the successor owner—whom I called the mortgagor, which technically he is not—could be a person who would also be eligible as a mortgagor under the amendment.

Is the Senator conscious of the fact that this would cut off the subsidy? For example, suppose a person died, and the estate took over the property. The mortgagor might no longer occupy the property; the family might sell the property to a very eligible person, who could have been a mortgagor. Will that subsidy be cut off?

Mr. PROXMIRE. It would be cut off.

Mr. JAVITS. It would be?

Mr. PROXMIRE. This is a subsidy providing for housing starts, covering home construction, providing a greater inventory of homes. It would be cut off under those circumstances. There are some inequities involved, conceivably, under certain circumstances, but it would be cut off.

Mr. JAVITS. What does the Senator think about perhaps making some percentage reservation to deal with problems and contingencies of that character—that 10 percent of the authority should be reserved for contingencies of that character?

Mr. PROXMIRE. I think that sounds reasonable, offhand. I would like to have the help of the chairman of the committee and of Senator TOWER before I would proceed with it. But, offhand, it sounds reasonable to me.

Mr. JAVITS. Let us think it over in the next half hour or so.

Mr. PROXMIRE. All right.

Mr. SPARKMAN. Mr. President, may I interject this thought?

It will be recalled that this subject of tieing interest subsidies to properties was discussed in the committee. In general this is a bad practice. However, we have allowed a certain percent of the funds to go for existing housing. If this subsidy were to become a property right, if it were to be attached to the property, it might push up the price that the owner would ask for the property. It is something that would be difficult to deal with, as I see it.

Mr. JAVITS. That is, even a 10-percent reservation for existing mortgages?

Mr. SPARKMAN. Personally, I would not mind setting a 10-percent exception, that is, giving the Secretary of Housing and Urban Development the right to allocate a small percent of the subsidy funds for existing housing.

Mr. JAVITS. I thought he just could be given a 10-percent authority for existing mortgages, and then he could be permitted to use it at his discretion. If he wants to use it, he will; and if he does not want to, he will not.

Mr. SPARKMAN. I would not object.

Mr. TOWER. I would not object.

Mr. SPARKMAN. And make it under the control of the Secretary, and not an automatic right.

Mr. JAVITS. In his own discretion.

Mr. PROXMIRE. It is my understanding that the Senator from Alabama and the Senator from Texas would agree that this would be a reasonable provision. It would be discretionary with the Secretary.

Mr. TOWER. Provided it is wholly discretionary.

Mr. PROXMIRE. Will the Senator draft that proposal?

Mr. JAVITS. I will do that.

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

Mr. PROXMIRE. I yield.

Mr. CURTIS. I should like to ask the distinguished chairman of the committee, who is in charge of the bill, if there is going to be a lapse of a little time to draw an amendment. I wonder if we could proceed with another amendment.

Mr. TOWER. We are now considering an amendment offered by the distinguished Senator from Wisconsin.

Mr. CURTIS. I understand there is going to be the drafting of an amendment to his amendment.

Mr. JAVITS. That will just take 2 minutes.

Mr. TOWER. I have some questions to ask on this, and we would like to dispose of this amendment first, if we may, if that is agreeable to everybody.

Mr. CURTIS. All right.

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

Mr. PROXMIRE. I am happy to yield.

Mr. TOWER. The Senator's amendment provides for a subsidy of $60 million for payments to FNMA and the Federal Home Loan Mortgage Corporation. How are these funds to be allocated or divided?

Mr. PROXMIRE. I expect that the Secretary will divide the funds more or less equally between the Federal Home Loan Mortgage Corporation and FNMA, to the extent that both would equally be able to utilize the funds. If they were not, he would have to accommodate himself to the practical situation.

Mr. TOWER. The Secretary will be responsible for promulgating the rules and regulations for the implementation of this title. Will he be required to consult with FNMA or the Federal Home Loan Mortgage Corporation?

Mr. PROXMIRE. It is certainly my intention that there be full consultation.

Mr. TOWER. I believe he is not required to do so under this provision.

Mr. PROXMIRE. That is correct.

Mr. TOWER. Does not the Senator think it would be wise to make legislative history to the effect that this is our intent?

Mr. PROXMIRE. The Senator from Texas is absolutely correct. There is no requirement in the law, but it is the intention of this Senator that there be consultation; it is my strong intention.

Mr. CURTIS. Mr. President, will the Senator yield for a question?

Mr. PROXMIRE. I yield.

Mr. CURTIS. Could it be said that this is extending the principle of section 235 to a higher income group not served by section 235?

Mr. PROXMIRE. The Senator is correct. The principle would be applied. However, in this case, as distinct from the present section 235 program, as interest rates drop, the subsidy would decline and disappear.

Mr. CURTIS. Would the subsidy go as far as section 235? I understand that in some instances the borrower pays only 1 percent.

Mr. PROXMIRE. The Senator is correct. In this case the borrower would have to pay at least 7 percent as well as 20 percent of his income. In this case, the borrower would have to pay at least 7 percent.

Mr. CURTIS. So there would be no such thing as subsidizing clear down to 1 percent?

Mr. PROXMIRE. That is correct.

Mr. CURTIS. That answers my question.

Mr. TOWER. Mr. President, has the Senator yielded the floor?

Mr. PROXMIRE. Mr. President, I yield the floor.

Mr. TOWER. Mr. President, before making my general remarks on the measure, I did want to wait until the offer of the amendment by the Senator from Wisconsin, which I think now is assured of adoption.

I am most pleased to support the bill now before the Senate the Emergency Home Financing Act of 1970, and I likewise urge the support of all Senators.

This measure is indeed an emergency response to the distressed situation this nation's homebuilding industry finds itself in today. More significantly, the many thousands of families who want, and need, to purchase their own homes, or otherwise secure decent housing, are the real victims of today's unfortunate restraints on homebuilding activity.

The lag in housing production is attributable to many key factors, but essentially, the basic cause is inflation. Practically everything related to homebuilding has of late risen in cost—land, labor, materials, and of particular concern to us today, money. Just as inflation can generally be identified as the base cause for the current restraints on building activity, the basic restraint on a family's ability to purchase a home is the lack of, and cost of, money. If there is no money attracted into mortgage investment, no mortgages can be made. It is that simple.

This is why inflation is the real culprit. Its effect is to force mortgage interest rates up as investment money is attracted to other, more remunerative, alternatives. In other words, the more scarce mortgage funds are, the higher the interest rates charged. Thus, the natural law of supply and demand, triggered off in the instance of housing by inflation, has been working overtime against housing construction, and the consumer families who so desperately need housing.

The administration is pledged to the implementation of fiscal and monetary policies necessary to reverse the inflationary spiral that had come to be accepted as a way of life in recent years. But as this battle is carried forward, the administration has pledged its utmost efforts to turn around the disproportionate burden carried by the homebuilding industry as an aftermath of both inflation and anti-inflationary measures.

Mr. President, this Emergency Home Financing Act of 1970 is just what the title implies, an attempt to provide additional mortgage financing during this period of high interest rates and relatively tight monetary policy. Some provisions in the bill have a long-range goal to assist mortgage financing, while others are temporary in nature and have the primary goal of providing immediate assistance to the homebuilding industry and to those who are seeking to purchase a home.

The provisions of S. 3685 have already been outlined and I do not want to burden the Senate with additional discussion on all of the provisions. I would like to say, however, that title V in the bill reported by the committee was not acceptable because of its effect on the Federal Reserve System. As pointed out in our minority views when the bill was reported, title V would have extended executive branch control over the Federal Reserve System and in my view the assistance which could have been provided under title V did not warrant such drastic action.

We now have been able to work out a substitute for title V which some have called a compromise proposal. Actually, it is a compromise in the sense that it has been agreed upon by individuals who have differing views on some of its provisions. It is not a compromise so far as use of the Federal Reserve System to provide subsidized housing is concerned. The substitute for the present title V has no connection with the Federal Reserve System and does not in any way limit the Federal Reserve Board's independence as was the case with title V as reported by the committee. It is fortunate not only for the home building industry but for

the country as a whole that the approach suggested in the committee bill has been abandoned.

The new title V proposal is one which requires appropriations. It is a limited program and contains provisions which are workable. It is certainly far superior to the approach approved by a majority of the committee of using "back-door" financing through the central banking system.

There are contained in this measure other provisions which hold the promise of providing as early relief as can be expected by pursuing the legislative process. That which is workable in the bill will hopefully be drawn upon at the earliest possible time after enactment.

Thus, I urge the favorable passage of this bill, so that there will be available as many practical alternatives as possible to be utilized in the production of housing for our citizens under the presently existing emergency situation. I do want to comment that I have serious reservations over expanding the concept of subsidizing middle-income families as title V would do. I cannot in my mind resign myself to embracing the idea that the only housing hope for every one of our citizens is increasing reliance on direct Government involvement.

I do support those actions by Government that encourage an environment conducive to the full involvement of the private sector and private finance. This is how we will ultimately meet those housing goals that we set for ourselves, for this is where the true resources are.

Mr. PROXMIRE. Mr. President, I modify my amendment as follows, and this is a suggestion of the distinguished Senator from New York:

On page 5, line 3, strike out the period, insert a semicolon and "*Provided, however,* That in the discretion of the Secretary 10 per centum of this authority covered by this section and subject to all the terms thereof may be used for mortgages in existing housing."

The PRESIDING OFFICER (Mr. EAGLETON). The amendment is so modified.

Mr. TOWER. Mr. President, I hope we will support the amendment as modified by the Senator.

Mr. JAVITS. Mr. President, the suggestion was brought about, and I make this publicly, to see if the Senator is agreeable to it, that perhaps we should have a voice vote on striking title V and then have rollcall votes on the insertion of new amendments. Is that agreeable?

Mr. PROXMIRE. We have worked very hard with the administration. The administration supports my amendment. If we divide this now, it would be unfortunate. It will put many Senators in a position of voting against homebuilding, and I do not think anyone wants to be put in that position.

Mr. TOWER. This is in the nature of a substitute so that if it fails the Senator can still go to title V.

Mr. JAVITS. It seems to me the Senator from Delaware has made clear his position for the record. If this were a matter before the Senate, the Senator could vote to strike title V. He is not bound by whatever we wish to insert.

Mr. SPARKMAN. That is the position of many of us. That is the reason the substitute was left out. Adoption of the substitute wipes out the original title V.

Mr. HATFIELD. Mr. President, as we consider S. 3685, I will not repeat what I have stated many times previously about my State's close relationship with the housing industry. One out every five trees harvested comes from Oregon, and when the homebuilding is healthy, so is my State's lumber industry.

Recently, however, the reverse has been true. As the number of new home starts has dropped, the lumber industry has been in the doldrums. The forest product industry touches nearly every Oregonian indirectly, and is the economic lifeblood of thousands.

When I visit Oregon, everyone with whom I talk expresses hope that we can do something in Congress to stimulate this vital segment of our economy. I agree completely, and the goals set out in the National Housing Act in 1968 should be attained.

On Monday, April 6, I addressed this body regarding Oregon's lumber industry and relationship to interest rates. As the interest rates rise, lumber production drops. At that time, I introduced a recent article from the New York Times which detailed the situation in Oregon.

I did not rise today, however, to repeat what I often said here before. I rise to comment on S. 3685, and in particular, title V of this bill. My introductory remarks point out that, while my State wants to increase homebuilding, we have a direct tie to inflation. Inflation takes its pound of flesh from my State before it is felt in most other places. The gains which appear to be beneficial at first glance in title V must be weighed against their inflationary effects.

We must not appear to help the mortgage situation with one hand, while at the same time, prod inflationary pressures with the other.

I earnestly hope that a workable compromise can be reached so that the mortgage situation can be helped without stimulating inflationary pressures.

Some very worthwhile comments on this are contained in a letter from Ralph J. Voss, president of the First National Bank of Oregon pertaining to title V and its inflationary effects in Oregon. I ask unanimous consent that his letter be printed in the RECORD.

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

FIRST NATIONAL BANK OF OREGON,
Portland, Oreg., April 9, 1970.

Hon. MARK O. HATFIELD,
Senate Office Building,
Washington, D.C.

DEAR MARK: A release from the National Chamber's Congressional Action Bulletin states that President Richard M. Nixon may veto the omnibus bill to stimulate the home mortgage market unless provisions are deleted that would compel the Federal Reserve Board to make loans totaling $3 billion to home buyers. This provision is an adoption of S. 3503, introduced on February 25.

We agree with President Nixon's comments and think it particularly unfortunate that the above provision was included. It is necessary for housing to be helped in 1970 and despite our efforts in Oregon for diversification in our economy, the wood products industry is our major industry. We urge legislation to alleviate the current pressures in the mortgage market but direct Federal Reserve lending to the Home Loan Banks would be back-door financing of the worst sort.

In practice, this procedure would either be highly inflationary, thus further driving the cost of living up, or it would discriminate strongly against other worthy borrowers, such as state and local governments, small businesses, farmers etc. This is because each dollar loaned by the Federal Reserve banks would provide the basis for a multiple expansion in bank credit and the money supply. Federal Reserve dollars are high powered dollars. They constitute the reserves of the banking system and, on a fractional basis, back up the nation's money and credit supply.

The $3 billion reserve creation for housing could be "neutralized" by Federal Reserve sales of Government securities in the open market—the System, in effect, could wipe out with its left hand the money it puts in with its right hand. But this action would inevitably drive up the rates on Government securities. As these rates rose, rates on other types of bonds would also rise, as would loan rates for small businesses, farmers, and others.

The net result, if inflationary expansion in bank reserves is to be avoided, would be higher costs and tighter supplies of loans for a host of worthy borrowers, many of whom (such as state and local governments) have been hit just as hard, or harder, than housing in the recent tight money period.

There is plenty of help for housing in the committee bill without this undesirable and unfair provision. The $250 million subsidy to the Home Loan Banks, through multiplier effect, will be especially effective. HUD estimates this subsidy could assist financing for some 240,000 housing units.

The controversial provision should be dropped and the remainder of the legislation passed as soon as possible. Until that happens, the restoration of vigor to the housing market can only be delayed.

Federal Home Loan Bank Board Chairman, Preston Martin, in a letter to Senator Wallace F. Bennett stated that the provision would provide "preferential aid for a limited number of home purchasers and would be of no benefit to the apartment rental market where the demand for housing is particularly great."

Special interest considerations and subsidies are not an appropriate role for the Federal Reserve. I urge your support to delete this provision.

Sincerely,

RALPH.

The PRESIDING OFFICER (Mr. EAGLETON). The question is on agreeing to the amendment of the Senator from Wisconsin, as modified.

The amendment, as modified, was agreed to.

Mr. TOWER. Mr. President, I move that the vote by which the amendment, as modified, was agreed to be reconsidered.

Mr. PASTORE. Mr. President, I move that the motion to reconsider be laid on the table.

The motion to lay on the table was agreed to.

ONE-HALF OF ALL AMERICANS CAN NO LONGER AFFORD A NEW HOME

Mr. HARTKE. Mr. President, I support S. 3685, the Emergency Home Finance Act of 1970. I also wish to express my support and intention to vote for the amendment offered by the distinguished

senior Senator from Wisconsin, providing a subsidy for middle and low-income housing. This amendment is designed to carry out the intent of the Middle-Income Mortgage Credit Act which I joined Senator PROXMIRE in sponsoring on February 25 of this year. The amendment's approach is different but its goal is the same. Both attempt to provide some credit for the prospective middle income and low-income homebuyer.

The housing crisis must be met now, or the housing industry will suffer irreparably. The housing crisis has reached the dimensions of a social disaster. Monetary policies of the last year and a half, while failing to halt inflation, have effectively foreclosed the average American from purchasing a home. This is the tragedy of the present situation; it cannot be overstated. Because of misdirected monetary policies, not just poor Americans, but middle-class Americans as well can no longer afford decent housing. It has been estimated that 28 million American families, or 101 million of our citizens, cannot purchase a decent home. A home has become a luxury item, available for the wealthy only.

Advocates of the high interest, tight money policy justify this theft of the average American's home on the grounds that excess demand must be controlled to limit inflation. This purblind policy, however, disregards three economic truths:

First, high interest rates do not limit the available credit along rational or socially desirable lines, but rather channel it to those most able either to pay or to transfer the cost. Credit is available for the wealthy, but not for the average American. For example, recently one of the biggest banks in this Nation invested in a Bahamian Island enterprise, whose principal business is gambling. Money is available for the gamblers, but not for the homeowner.

Second, the demand for housing is comparatively inelastic. If a man cannot purchase a home, he must rent, and monetary policy forcing up prices of new homes also drives up rents. High interest rates force young married couples not to purchase their dream home—but to continue to live in a cramped apartment at ever-increasing rents or to double up with their parents. By persuing the present policy of high interest rates, we can force this young couple to live in a cave, or with their in-laws, but surely this should not be the goal of a civilized society.

Third, prices for housing have risen not because of excessive demand, but because of inadequate supply. Secretary of Housing and Urban Development George Romney has testified that in the last 5 years, new housing fell at least 1.2 million units behind the number needed just to keep pace with population growth and losses from fires, storms, and the bulldozer.

The fundamental problem of the housing industry is inadequate supply. The United States, the richest country in the world, is behind almost every Western European country in the level of construction per captia.

As I previously mentioned, Secretary Romney estimates that in the past 4 years, we fell more than 1 million units behind our need. We will fall even further behind in the coming years. From 1969 to 1999, the Census Bureau projects that our population could grow from 200 million up to over 360 million. For this population growth, we will need to build on the average of 2.5 million units per year, and yet we are limping along with only about 1.5 million units being built each year.

Clearly, the housing industry is bearing a disproportionate burden in the shrinkage of credit caused by the present monetary policy. The homebuilder and the homeowner bear this unfair burden, not because they in any way caused or contributed meaningfully to the present inflation, but because, like the innocent victims of a raging murderer, they were there.

The homebuilder is no stranger to hard times. In fact, the housing industry has suffered five recessions in 15 years. Most recently, during the severe restriction of the money supply in 1966, housing absorbed 70 percent of the inevitable cutback in lending. Reeling from this first blow in 1966, builders were hit again in 1969. On February 19, the Bureau of Labor Statistics reported that housing starts for January stood at 1,166,000. This is a 6.5-percent decline from December, which was not a good month. Since January of 1969, housing starts have plummeted by 40 percent. Mr. President, that figure is accurate—a 40-percent decline. Our present level of housing construction has now declined to the level of 1946 when our population was approximately 140 million. Today, with a population of over 200 million and with many more young people, the present administration is building not homes, but rather this administration is building a housing shortage of unprecedented severity.

For the rest of 1970 the situation will worsen, not improve. New building permits in January declined 23 percent from the previous month—the largest drop in recorded history. The 950,000 permits issued in January 1970 compare with 1,400,000 permits issued in January of 1969.

All housing analysts agree that a decline in permits foreshadows a further worsening of housing construction in the months ahead. The housing industry, having suffered recession in the past, faces disaster in the future.

The sorry state of housing is clearly revealed when compared with the rest of the economy. Though our GNP has increased 236 percent since 1950, housing's share of the GNP has actually declined from 6.7 percent to 3.5 percent, or a decline of half. Housing production has, therefore, declined not only relatively but in absolute terms.

A high interest rate policy, while not attuned to the economic facts of the housing industry, has significantly added to the cost of housing. As a result, the price of housing has risen almost twice as fast as the overall cost of living. The average new house in the United States now costs about $26,000, compared to only $20,000 in 1966. The home price at $25,000 a year ago is now selling for $27,500. These are average figures and in many parts of the country the prices and the increases have been higher. The end result of this policy is that the forgotten American must forget his dream house.

With the housing industry facing extinction, and the average American unabel to buy a home, the measure we are considering today deserves immediate passage and wholehearted support of the U.S. Senate. We must take measures now to insure an adequate supply of mortgage money for the average-income family at reasonable rates of interest. Conditions are too urgent to wait for the end of inflation. Even when interest rates are lowered the greater part of the excess credit will not flow automatically into the housing industry but will be invested in areas of greater return than housing. This legislation, therefore, meets a need but does not solve the problem. We must devise measures that change the boom-bust cycle which has been the history of the housing industry. Our advanced society seems unable to provide adequate and continuous supply of financing for this basic industry. We must work for structural changes in our arrangements of residential financing so that the housing industry can meet the needs of a growing society.

Only by changing the persent chaotic and archaic methods of residential construction financing will we be able to met the goals of the Housing Act of 1949—a decent home for every American family.

Mr. CURTIS. Mr. President, I send my amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The ASSISTANT LEGISLATIVE CLERK. At the end of the bill insert a new section as follows:

EMERGENCY RELIEF FROM INTEREST RATE CONFLICT BETWEEN FEDERAL LAW AND STATE LAW

SEC. 606. Notwithstanding any other law, from the date of enactment of this Act until July 1, 1972, loans to local public agencies under title I of the Housing Act of 1949 and to local public housing agencies under the United States Housing Act of 1937 may, when determined by the Secretary of Housing and Urban Development to be necessary because of interest rate limitations of State laws, bear interest at a rate less than the applicable going Federal rate but not less than 6 percent per annum.

Mr. CURTIS. Mr. President, I will make just a brief statement of explanation.

The Federal law requires that loans by the Federal Government for urban renewal or for public housing must carry an interest rate at least equal to the going Federal rate, which is now 6⅜ percent. Most of the State enabling laws for these programs restrict the interest rate on the loans of the local agencies to 6 percent. In two of these States—North Carolina and Missouri—the attorney generals of the States have held that these limitations apply even though the borrowing is from the Federal Government, and the attorney generals of other States may hold likewise. I might say, Mr. President, that the attorney general

of Nebraska has held likewise. Under these circumstances, it is not possible to make additional loans in such States for either urban renewal or public housing.

The amendment I am offering is temporary and would permit the Secretary of Housing and Urban Development, where necessary because of the State law limitation, to charge a rate of 6 percent—instead of a higher rate as now required by Federal law—until such time as the State legislatures have an opportunity to amend the applicable State laws, that is until July 1, 1972.

Mr. President, this matter is of great concern to my State and I wonder whether the distinguished Senator from Alabama will be willing to accept the amendment.

Mr. SPARKMAN. Mr. President, I have talked about this with the Senator from Nebraska, and I have read the amendment. I think it is a reasonable proposal. In fact, I hardly see any way around it, under the circumstances.

I am willing to accept the amendment.

Mr. CURTIS. Mr. President, this involves not only housing for the elderly, but also involves housing on Indian reservations at three different locations where it is very badly needed.

Mr. TOWER. This in no way would mean Federal intervention in the police power of a State to regulate interest rates under the State usury law?

Mr. CURTIS. No. Instead of being bound by the 6⅜ percent, it would be 6 percent until the legislatures convened; that is all.

Mr. TOWER. Yes, I thank the Senator.

The PRESIDING OFFICER (Mr. EAGLETON). The question is on agreeing to the amendment of the Senator from Nebraska.

The amendment was agreed to.

Mr. CURTIS. Mr. President, I move that the vote by which the amendment was agreed to be reconsidered.

Mr. SPARKMAN. I move that the motion to reconsider be laid on the table.

The motion to lay on the table was agreed to.

Mr. JAVITS. Mr. President, I have an amendment at the desk which I ask to be stated.

The PRESIDING OFFICER. The amendment will be stated:

The ASSISTANT LEGISLATIVE CLERK. On page 22, between lines 9 and 10, insert the following:

SEC. 402. The second sentence of section 302(b)(1) of the National Housing Act (as redesignated by section 201 of this Act) is amended by inserting after "(1)" the following: "is insured under section 236 or".

Mr. JAVITS. Mr. President, the amendment I have offered for myself and Senator GOODELL would permit the Government National Mortgage Association to purchase section 236 mortgages (rental assistance program adopted in 1968) in excess of the Association's statutory limits—$22,000—where they also have the benefit of local tax abatement programs. Presently, section 221(d)(3) projects are excepted from these unit cost limitations under such circumstances. The amendment is necessitated because this program of interest subsidies is gradually replacing the 221(d)(3) program as the primary Federal program for low- and moderate-income housing. However, the Congress has not amended the GNMA legislation so as to extend its power to purchase 236 mortgages in excess of the statutory cost limitations when the project receives tax abatement. Unless this oversight is corrected the private financing and the construction of these projects in high-cost areas, where tax abatement programs are established, will be inhibited, for it will not be possible for GNMA to purchase these mortgages from private lenders.

Present construction costs are so high in many high-cost areas that the present $22,000 per unit limit will preclude GNMA from purchasing section 236 mortgages in these areas and will seriously inhibit the flow of funds into the construction of low- and moderate-income housing under this important Federal program.

For example, construction costs in New York City are generally in excess of $30,000 per unit. Unless this amendment is accepted, GNMA would be unable to purchase these mortgages and the plans of New York City to construct almost 9,000 units under this program will be jeopardized. This is undoubtedly true in many other areas of the country.

Mr. President, the sole purpose of the amendment is to conform the situation in section 236 mortgages to the present situation in section 221(d)(3) mortgages which allow a higher cost limit to be utilized in the acquisition of mortgages when tax abatement by the municipality is involved. This is critically important to my State, especially to the city of New York, and will allow 9,000 more units to be constructed under section 236.

I hope very much that the amendment will be agreed to.

Mr. SPARKMAN. Mr. President, I have discussed this with the Senator from New York and other Senators, and I think it follows our general rule of giving recognition to high-cost areas.

I am happy to accept the amendment.

Mr. TOWER. Mr. President, I am happy to accept the amendment of the Senator from New York.

The PRESIDING OFFICER (Mr. SAXBE). The question is on agreeing to the amendment of the Senator from New York.

The amendment was agreed to.

Mr. TOWER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. SPARKMAN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WILLIAMS of Delaware. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. WILLIAMS of Delaware. Mr. President, are we still in the period controlled by the rule of germaneness?

Mr. MANSFIELD. Mr. President, if the Senator will yield, that period expires in 2 minutes.

Mr. WILLIAMS of Delaware. Mr. President, the reason I asked the question was that I had a few brief remarks to make that are not germane to the bill. However, I wanted to make them at this time.

I will suggest the absence of a quorum, if I may, without losing my right to the floor.

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

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

Mr. MANSFIELD. Mr. President, after yielding to the distinguished Senator from Rhode Island, with the permission of the senior Senator from Delaware, it is my intention to put in a quorum call, and it will be a live quorum call.

Mr. President, I yield to the Senator from Rhode Island.

Mr. WILLIAMS of Delaware. Mr. President, this is without my losing my right to the floor.

Mr. MANSFIELD. The Senator is correct.

Mr. PASTORE. Mr. President, I merely want to say that the legislation we are considering today which is being managed by my distinguished colleague, the Senator from Alabama (Mr. SPARKMAN), is a landmark measure to remedy a serious situation which confronts our people on this matter of housing.

Housing in our country—and I regret to say this—is absolutely inadequate. The interest rates have gone up. The costs of building have gone up. And the purchase or the building of a home has almost become prohibitive.

I think this bill is a step in the right direction. It has my complete support.

I supported the amendment of the distinguished Senator from Wisconsin (Mr. PROXMIRE), as amended by the Senator from New York (Mr. JAVITS).

I supported the amendment of the Senator from Nebraska (Mr. CURTIS), which was accepted by the committee.

I congratulate both the Senator from Alabama (Mr. SPARKMAN), the manager of the bill, and the Senator from Texas (Mr. TOWER), the ranking Republican member, for doing what I think is a yeoman job at a propitious time in the interest of our country.

Mr. WILLIAMS of Delaware. Mr. President, for the interest of the Senate, a quorum call will be requested, following which I shall discuss the question raised in recent days concerning the manner in which tax returns are being used by the White House and the manner in which they were used heretofore.

CALL OF THE ROLL

Mr. WILLIAMS of Delaware. Mr. President, I suggest the absence of a quorum, and it will be a live quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll, and the following Senators answered to their names:

[No. 137 Leg.]

Allen	Harris	Percy
Allen	Hart	Proxmire
Allott	Holland	Ribicoff
Baker	Hughes	Saxbe
Boggs	Inouye	Schweiker
Byrd, Va.	Javits	Scott
Cook	Jordan, Idaho	Smith, Maine
Curtis	Mansfield	Sparkman
Dole	Metcalf	Stennis
Dominick	Moss	Talmadge
Ellender	Murphy	Tower
Fong	Muskie	Tydings
Gore	Packwood	Williams, Del.
Gurney	Pastore	Young, N. Dak.
Hansen	Pearson	Young, Ohio

The PRESIDING OFFICER. A quorum is not present.

Mr. MANSFIELD. Mr. President, I move that the Sergeant at Arms be instructed to request the presence of absent Senators.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Montana.

The motion was agreed to, and the Sergeant at Arms is directed to execute the order of the Senate.

After a delay the following Senators entered the Chamber and answered to their names:

Bellmon	Goodell	McGovern
Bible	Griffin	Miller
Burdick	Hartke	Mondale
Byrd, W. Va.	Hatfield	Nelson
Cannon	Hollings	Pell
Case	Hruska	Prouty
Cooper	Jackson	Randolph
Cotton	Jordan, N.C.	Smith, Ill.
Cranston	Kennedy	Spong
Eagleton	Long	Stevens
Ervin	Magnuson	Williams, N.J.
Fannin	McCarthy	
Fulbright	McClellan	

The PRESIDING OFFICER. A quorum is present.

COMMITTEE MEETINGS DURING SENATE SESSION TODAY

Mr. MANSFIELD. Mr. President, I forgot to ask permission at the beginning of the session for all committees to meet during the session of the Senate today. I make that request now.

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

PRACTICE BY EXECUTIVE BRANCH OF EXAMINING INDIVIDUAL TAX RETURNS

Mr. WILLIAMS of Delaware. Mr. President, I wish to discuss a matter which has been raised in the press and the Halls of Congress in the past few days, and on which there appears to have been a certain element of misunderstanding. I shall, to the best of my ability, review it from the beginning to show how the practice of examining tax returns by the executive branch has been conducted during the preceding administrations as well as the manner in which it is being conducted under this administration.

This statement is going to be made as nearly as possible without trying to project the argument into the political arena. I think such projections are most unfortunate on a question which is so vital to so many people. But now that it has been projected on a false basis before the public I think it should be clarified. That is the reason I ask the Senate to bear with me for just a short period of time, during which time I shall review the procedure followed by the executive branch during the present as well as the past two administrations.

This argument started on April 12, 1970, and I am going to read the press release as it was then given by Mr. O'Brien. The press release, dated Washington, D.C., April 11, 1970, reads:

O'BRIEN CHARGES VIOLATION OF FEDERAL LAW BY NIXON ADMINISTRATION IN MOLLENHOFF ACCESS TO INCOME TAX RETURNS

WASHINGTON, D.C., April 11, 1970.—Lawrence F. O'Brien, Chairman of the Democratic National Committee, today charged that the Nixon Administration's practice of turning over confidential federal income tax returns to a White House aide violates federal law and Treasury regulations governing the confidentiality of tax returns.

"Federal law and regulations protect the individual taxpayer's right to privacy and such indiscriminate access by a political operative in the White House is a clear violation of the legal rights of American citizens," O'Brien said.

"I call upon President Nixon to terminate immediately this illegal access of his personal staff to confidential tax returns of 80 million Americans," O'Brien said.

"If this action is not taken voluntarily," O'Brien added, "we are prepared to initiate legal action that will end this practice."

O'Brien's statement was based on a legal opinion signed by Mortimer M. Caplin and Sheldon S. Cohen, former commissioners of the Internal Revenue Service, and Mitchell Rogovin, former Assistant Attorney General for Tax Division and former Chief Counsel Internal Revenue Service.

The full text of the legal opinion submitted by Caplin, Cohen, and Rogovin to O'Brien is attached.

"I asked for this opinion upon learning of the Internal Revenue Service's practice of turning over confidential income tax returns to Clark Mollenhoff, special counsel to the President, on a 'need-to-know' basis," O'Brien said. "The views of these recognized tax experts leave little doubt as to the illegality of the procedures which now are being followed."

"It is particularly troublesome to learn of this practice when so many millions of Americans are at this moment poring over their individual income tax returns and are candidly disclosing personal information of the utmost sensitivity," O'Brien said.

"Only immediate action by President Nixon to stop these illegal procedures will restore the American people's confidence in the Internal Revenue Service, as well as demonstrate the willingness of the Nixon Administration to obey federal law and regulations in the conduct of its own affairs," O'Brien concluded.

I repeat one quotation of Lawrence O'Brien's release:

"I call upon President Nixon to terminate immediately this illegal access of his personal staff to confidential tax returns of 80 million Americans," O'Brien said.

"If this action is not taken voluntarily," O'Brien added, "we are prepared to initiate legal action that will end this practice."

O'Brien's statement was based on a legal opinion signed by Mortimer M. Caplin and Sheldon S. Cohen, former commissioners of the Internal Revenue Service, and Mitchell Rogovin, former Assistant Attorney General for Tax Division and former Chief Counsel, Internal Revenue Service.

I now read the letter which was attached to Mr. O'Brien's April 11 statement. The letter is dated April 9, 1970. It is addressed to Mr. Lawrence F. O'Brien, the chairman of the Democratic National Committee, 2600 Virginia Avenue NW., here in Washington:

APRIL 9, 1970.

Mr. LAWRENCE F. O'BRIEN,
Chairman, Democratic National Committee, Washington, D.C.

DEAR MR. O'BRIEN: It has been reported that an aide to the President currently has access to federal income tax returns upon his written request. You have asked for a legal opinion on whether this reported arrangement with the Internal Revenue Service comports with existing law and regulations. It is our legal opinion that such access is not in conformity with existing law and regulations relating to disclosures of tax returns.

Section 6103 of the Internal Revenue Code sets up the statutory procedures necessary to insure that tax returns and the confidential information appearing thereon are not made available to people who have no legitimate interest in the return. First enacted in 1910, this central provision of our present law provides that returns will be open for inspection "only upon order of the President and under rules and regulations prescribed by the Secretary or his delegate and approved by the President." The inviolate nature of tax information is fundamental to our tax system, not only in the name of privacy, but also to insure increased and more accurate taxpayer compliance. As to the latter, more accurate reporting on income tax returns appears to bear a close relationship to the degree of confidence in which the information is held by the Internal Revenue Service.

The regulations promulgated under section 6103 provides in detail, the manner and circumstances under which tax returns may be legally inspected by the public, state tax officials, Treasury officials, Executive Department officials, U.S. Attorneys and Department of Justice attorneys, Executive Branch agencies, and Cnogressional Committees. Specific requirements for inspection of federal income tax returns have been prescribed in the regulations to intentionally make it burdensome to secure inspection of such returns. This is in order to maintain the confidentiality of such returns except in unusual circumstances, melding the legitimate needs of government with the right to privacy of the individual. For example, with respect to inspection of returns by executive departments' officials other than the Treasury Department, the request must be in writing, it must be made by the head of the Agency requesting the opportunity to inspect the return, the request must relate to a matter officially before the Agency head, it must specify the taxpayer's name and address, the kind of tax reported, the taxable period covered, the reason why inspection is requested, and the name and official designation of the person by whom inspection is to be made.

The federal official in the news report is Special Counsel to the President and as such, he is an employee of the Executive Office of the President. Reg. Sec. 301.6103(a)-1(f) covers access to tax returns by such an employee. Under this regulation, the President would be the only Executive Branch official with the authority to request the Commissioner to make tax returns available to employees of the Executive Office of the President. Such a Presidential request would presumably have to comply with the various requirements of the regulations detailed above.

It has been suggested that since the employee in question acts as agent for the President in matters of investigation, no written request by the President is required. We are unaware of any theory of law which would support such an argument. Indeed, this type of argument has been speecifically rejected by the very language of the regulation.

The criminal sanction relating to the disclosure of confidential tax information is found in section 7213 of the Code. It makes it a misdemeanor for any federal employee to divulge tax information except as provided by law.

If tax returns are made available in a manner not in conformity with section 6103 of the Code and the regulations, it would appear that such divulgence of tax information is not as provided by law.

A copy of section 6103 and the pertinent regulations are attached for your convenience.

Sincerely,

MORTIMER M. CAPLIN.
SHELDON S. COHEN.
MITCHELL ROGOVIN.

As I mentioned earlier, Mr. Caplin was the Commissioner of Internal Revenue under the Kennedy administration; Mr. Cohen was the Commissioner of Internal Revenue under the Johnson administration; and Mr. Rogovin was an employee, first in Treasury and then in Justice, under both administrations.

When this dramatic statement was made by Mr. O'Brien there was understandably a lot of concern expressed by members of the press, by Members of Congress, and by millions, I daresay, of American citizens as to what was happening here in Washington and whether the Internal Revenue Service was being turned into a Gestapo, as the allegation of the chairman of the Democratic National Committee would indicate.

The chairman of the Joint Committee on Taxation, the Senator from Louisiana (Mr. LONG), called the Joint Committee on Taxation together to explore these charges, and we asked Commissioner Thrower to appear before our committee.

This meeting was at 3 o'clock on Tuesday of this week. Having read this statement I felt we should go beyond and see what the precedents were. So I directed this wire early on Monday morning, April 13, to the Honorable Ralph W. Thrower, the Commissioner of Internal Revenue, Department of the Treasury, in Washington:

In connection with your meeting tomorrow with the Joint Committee will you please have available information regarding the number of times tax returns were requested by the Executive Branch during each of the administrations since 1960. Signed, John J. Williams, Senator from Delaware.

Later I supplemented that and asked that he furnish the various regulations or rules which were discussed in the committee.

Commissioner Thrower has furnished and I received these yesterday—a series of the regulations which have governed the executive branch on the handling of these tax returns over the years beginning with the Kennedy administration.

I might say first, however, before going to that that I asked the staff of the joint committee, under the direction of Larry Woodworth, with whom all of us are acquainted, to prepare a memorandum as to the various branches of Government to whom tax returns are available and the manners in which the returns could be examined. I shall read his memorandum first. This is entitled, "Provisions of the Statute and Regulations Relative to Publicity of Income Tax Returns":

STATUTORY PROVISIONS ON PUBLICITY

The Code provides (section 6103(a)) that generally income tax returns are to be open to inspection only upon order of the President under rules and regulations prescribed by the Secretary of the Treasury or his delegate and approved by the President.

Four exceptions are made to the above limitation as to the publicity of returns. Income tax returns may be made available to:

(1) State income tax officials for the purpose of administering the State income tax law or to obtain information to be furnished local taxing authorities. The inspection may be made only upon request of the governor and only for State tax administration or, upon his request, can be made availble to local tax administrators.

(2) In the case of corporate income tax returns, to shareholders having an interest of 1 percent or more.

(3) The Committee on Ways and Means, the Senate Finance Committee, the Joint Committee on Internal Revenue Taxation, and any select committee authorized to investigate tax returns, and

(4) The persons who filed the returns.

He then lists the various regulations regarding disclosure, and I ask unanimous consent that all of these regulations be printed in the RECORD at this point.

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

REGULATIONS

The existing regulations (Reg. § 301.6103 (a)–1(f)) contain a general authority regarding inspection of returns by the executive departments. They specify that if the head of an executive department (other than the Treasury) or any other establishment of the Federal Government desires to inspect, or have an employee of his inspect, an income tax return he may do so if:

(1) it is in connection with some matter officially before him;

(2) there is a written application signed by the head of the executive department or other Government establishment desiring the inspection; and

(3) the application states the name of the person for whom the return was made, the kind of tax, the year, the reason why the inspection is desired, and the name and official designation of the person by whom the inspection is to be made.

PENALTIES

If the provisions of the regulations referred to above are not fully complied with, Section 7213 of the Internal Revenue Code relating to unauthorized disclosure of information applies. This provides for a fine of not more than $1,000 or imprisonment for not more than 1 year, or both, for improper release of information on tax returns. Also, if the offender is an officer or employee of the United States Government the section provides that he is to be dismissed from office or discharged from employment.

Mr. WILLIAMS of Delaware. As I stated, I had asked the Commissioner to go back and outline from the beginning just how this problem had been administered throughout the years by the various Presidents.

The first official record was a memorandum dated May 23, 1961, addressed to the Honorable Robert H. Knight, the General Counsel of the Treasury, and the subject is "Inspection of Returns by Congressional Committees." This memorandum is signed by Mortimer Caplin, the Commissioner of Internal Revenue under the Kennedy administration and one of the men who signed the memorandum which I read earlier and upon which Mr. O'Brien based his statement of April 11.

I shall put the entire memorandum into the RECORD, but I shall move over page 3 of it first. The first part of it relates to the manner in which congressional committees can obtain access to tax returns; but on page 3, under item c, Mr. Caplin outlined the rules under which a representative of the Kennedy administration could examine tax returns.

At this time I am quoting Mr. Caplin, who was then the Commissioner of Internal Revenue:

C. INSPECTION OF RETURNS AND FILES BY MR. CARMINE BELLINO

On January 26 Mr. Bellino, Special Consultant to the President, called at my office and requested permission to inspect our files on ——— and others. Although we had no precedent to guide us, we decided that Mr. Bellino, in his capacity as a representative of the President, could inspect our files without a written request.

I underscore that point—"without a written request."

This reflects the view that Section 6103 of the Code specifically provides that returns shall be open to inspection upon order of the President, and since Mr. Bellino's official capacity constitutes him the representative of the President, the action taken is regarded as conforming to law. Based on this decision, we permitted Mr. Bellino to inspect the files relating to ———. Since that time we have also permitted him to inspect tax returns and related documents pertaining to other persons.

Mr. CURTIS. Mr. President, will the Senator yield for a question?

Mr. WILLIAMS of Delaware. I yield.

Mr. CURTIS. Whom is the Senator quoting?

Mr. WILLIAMS of Delaware. I am quoting Mortimer Caplin, the Commissioner of Internal Revenue under the Kennedy administration and the same man who signed the letter to Larry O'Brien saying that it was a violation of the law for anybody in the executive branch to examine these returns except by written request.

It is fantastic how some of these bureaucrats can change positions after they leave office.

Yes, I am quoting from Mr. Caplin's own regulation which was issued under date of May 23, 1961. I would point out again the significant part of it, that on January 26 Mr. Bellino, as President Kennedy's special consultant, was given permission to examine any tax return without any written request.

This was 6 days after the administration took office and this ruling that they did not have to have any written request was made by Commissioner Caplin.

Mr. CURTIS. How many returns did he let Mr. Bellino see?

Mr. WILLIAMS of Delaware. No one knows. I asked for the number of tax returns which were requested by each administration. I was advised that there were seven requests under the Nixon administration signed by Mr. Mollenhoff involving nine tax returns. I will not outline the procedure followed by the Nixon administration, but they were all with a written request.

The Commissioner was asked how many returns had been inspected by the previous administration so that we could get a comparison, and they said that there were no written requests apparently no records were kept or—if there were they cannot be found—they were unable to answer. However, the Commissioner did say that their records show that Mr. Bellino was in the Treasury Department examining the tax returns of various individuals and the language he used was "days on end." There must have been a very large number involved.

I will continue quoting from Mr. Caplin's May 23, 1961, ruling relating to this subject:

Further, in a letter dated January 26, and received January 30, Attorney General Robert F. Kennedy asked that Mr. Bellino be permitted to review all files, records, and documents requested by him in order to coordinate the investigation of certain individuals being conducted by the Internal Revenue Service, the Justice Department and other Government agencies. Permission was granted for Mr. Bellino to inspect such files in a letter dated February 1, 1961.

Additionally, Senator John L. McClellan, in a letter dated March 24, designated Mr. Bellino as a staff member of the Senate Permanent Subcommittee on Investigations, a subcommittee of the Committee on Government Operations, authorized to inspect returns pursuant to Executive Order 10916. As such, he is authorized to inspect those docuents made available to the Subcommittee under requests made pursuant to this Order.

In the interest of providing a more detailed statement there is attached a Technical Memorandum prepared in the office of the Chief Counsel, which sets forth the historical background of (1) the requirement of a committee resolution, and (2) the executive policy against supplying photocopies of returns to Congressional Committees. If you should desire additional information please let me know.

Signed, "Mortimer Caplin, Commissioner of Internal Revenue."

I move now to the next letter we have, showing how the Nixon administration handled it. I do not find any correspondence or ruling under the Johnson administration thus far which changed this practice. However, I find that when the Nixon administration took over, this loose practice of the Kennedy administration wherein tax returns were examined by White House staff was corrected. What procedure does this administration follow?

Mr. Thrower stated that when he assumed office in 1969 he was advised by the White House that Mr. Mollenhoff would be assigned to a position comparable to that which Mr. Bellino held under the Kennedy administration, and Commissioner Thrower felt that in the interest of orderly procedure the manner of allowing anyone from the executive branch to examine a tax return of any individual without having a written request or having it in writing for future reference was wrong. The Commissioner conferred with the White House, and this is a memorandum of procedure they worked out under date of September 18, 1969.

This is the memorandum addressed to the Honorable Clark R. Mollenhoff, Deputy Counsel to the President, signed the Commissioner of Internal Revenue, and the subject is inspection of tax returns and related files. These are the rules agreed upon at that time:

SEPTEMBER 18, 1969.

Memorandum to: The Honorable Clark R. Mollenhoff, Deputy Counsel to the President.

From: Commissioner of Internal Revenue.

Subject: Inspection of Tax Returns and Related Files.

Following through on our recent luncheon conversation, I have been thinking about ways that we can meet those situations in which you may want to inspect tax returns or other Internal Revenue Service files while at the same time carrying out our responsibilities under the disclosure statutes.

As you know, the basic rules governing disclosure of tax return information are set forth in 26 U.S.C. 6103 et seq., and the penalty provisions themselves are in 26 U.S.C. 7213 and 18 U.S. 1905

I would suggest that every time you have occasion to inspect a tax return, application for exemption, or other Internal Revenue file, you send me a memorandum briefly setting forth the nature of the request. Naturally, we will infer in every case that the request is either at the direction of, or in the interest of, the President. I have taken the liberty of drafting a suggested format that you may wish to consider. If you want to look at the returns or files of more than one person or organization, you may list all of them in one memorandum.

After receiving your request, we will make arrangements for the files to be assembled in my immediate suite of offices here and we will notify you as soon as they are ready for inspection. Since most of the matreial in which you will be interested will be located in one of our regional or district offices, it will be necessary for us to obtain it and bring it to Washington. If, after inspection of the files, you want copies of any of the material inspected, we will be happy to make them for you.

I trust this arrangement will be satisfactory and look forward to a mutually rewarding relationship between our respective offices.

Signed, "Randolph W. Thrower."

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

Mr. WILLIAMS of Delaware. I yield.

Mr. GORE. The able Senator has referred to the conference with Commissioner Thrower and has now read a memorandum which was denied to the Joint Committee on Internal Revenue. I trust that it will be in order to make a few remarks about it.

Mr. WILLIAMS of Delaware. If the Senator will yield for a moment, the Senator is in error. This memorandum was not denied to the joint committee. They have this information, and the Senator is a member of that committee. It was also sent to me because I was the one who originally requested it. But I specifically requested that the full report be sent to the joint committee, and it was delivered to them first. They acknowledged receipt of it. The Senator is a member of the committee, and it is available; but I have a copy of it if he wishes to see it.

Mr. GORE. I appreciate the correction.

I requested this memorandum, and Mr. Thrower said he would have to obtain permission from the President to supply it.

I had not been advised that it had been supplied to the committee. I am glad that it has. I congratulate both the President and Commissioner Thrower upon supplying it.

Now, would the Senator from Delaware yield further?

Mr. WILLIAMS of Delaware. I yield.

Mr. GORE. To begin with, I am not acquainted with the details of what happened in previous administrations. It is only recently that I became a member of the Joint Committee on Internal Revenue. I am aware of what has happened here. Commissioner Thrower is a fine man and I do not wish in any way to be unkind to him.

However, in fairness to the Senate, I must state that I question the propriety and discretion, or lack thereof, of his action in supplying and in agreeing to supply Mr. Mollenhoff in an open ended arrangement with tax returns and copies of tax returns without a direct communication from the President of the United States, either verbally or in writing.

Commissioner Thrower testified that he had neither from the President. He relied entirely upon the representations of Mr. Clark Mollenhoff whose veracity I do not question.

Mr. WILLIAMS of Delaware. The point I want to get into the record straight is that Commissioner Thrower did not say——

Mr. GORE. I beg the Senator's pardon?

Mr. WILLIAMS of Delaware. I want to get the record straight. Again the Senator from Tennessee is in error. Commissioner Thrower said he did not rely entirely upon the statement of Mr. Mollenhoff. He said he was told by an official representative of the President that Clark Mollenhoff was being designated for this position and that the arrangement was to be made with Mr. Mollenhoff to work out procedures. He did not identify the other individual. I doubt if all of those men are in direct communication with the President any more than they were under preceding administrations.

I thought we should keep the record clear. I do not think there is any question in the minds of anyone but that Mr. Mollenhoff is the deputy counsel to the President, and he did hold the same official position that was held by individuals in preceding administrations who had access to the tax returns. We should give Commissioner Thrower the credit—I also give credit to the Nixon administration—for recognizing the danger in the loose manner in which it had been handled heretofore under the Democratic administrations where they were freely examined by White House employees without any written requests. Commissioner Thrower arranged that Mr. Mollenhoff would sign on the line the name of the taxpayer and at the same time be ready to justify why they needed that return. And I think they should. I am amazed that Commissioner Caplin had handled this same situation so loosely. If there is abuse I will join the Senator or anyone else in cleaning up abuses; but

let us remember that the law provides that the President can get these returns, and the law provides, and it is intended to provide, that the Ways and Means Committee, the Finance Committee, and the Joint Committee on Taxation, operating independently of each other, any one of them can request and get a tax return. These committees have gotten them over the years with or without the consent of the President and even over the objections of the Commissioner when they needed to.

That is the law and has been over the years, and every President and every authorized committee has utilized this authority.

Surely the Senator from Tennessee, who is an able lawyer, was aware of that fact, and I cannot imagine just what Mr. Caplin was thinking about when last week he signed a letter denouncing his own decisions made as a Commissioner of Internal Revenue as having been illegal.

The President and the congressional committees must have this authority, but at the same time we must see that it is not abused.

I emphasize that we must have this authority. For example, I go back to my experience in the exposure of corruption in the Internal Revenue Service in the 1950 period. This corruption was at a high level. The then Senator from Virginia Mr. Harry Byrd, and the Senator from North Carolina Mr. Hoey, and myself, were appointed by Senator George of Georgia as a subcommittee to examine the allegation that certain high officials in the Revenue Service had abused their public offices. We needed certain tax returns to proceed with this investigation.

We had a situation where the former Commissioner of Internal Revenue went to the penitentiary. A Deputy Commissioner of Internal Revenue serving at the time was indicted. A chief counsel of the Alcohol Tax Unit was also subsequently indicted.

Therefore, we could not expect cooperation from the executive branch or from the Internal Revenue. Our committee had to have that authority. I want to review this because this is very important background as to why we have to have this authority. The question may be asked, why did we not go to the Department of Justice? I did go to the Department of Justice during that period and tried to get their cooperation. I did not get it. Later I found out why.

One of the chief counsels, an Assistant Attorney General acting in the Tax Division of the Department of Justice, was likewise involved in this conspiracy and later went to jail.

Then one might ask, why did we not go to the President? I was unable to get a conference with President Truman. I tried hard at that time to do so. I wanted to report these allegations to the executive branch and get their assistance at the time I could not understand, why I was unable to get an appointment with President Truman.

I resented that very much at the time, although I understood later why I did not get that appointment.

I want to say here, first, lest there be any misunderstanding, that during all that investigation—and there was a lot of corruption exposed—never was there one single instance where one could point a finger at Harry Truman or any member of his family as having done anything dishonest. I want to emphasize that. But at the same time, there was a lot of corruption in his administration which needed cleaning up.

I found out later why I could not get an appointment with President Truman. The man I had to go through to get the appointment was Mr. Matt Connelly, the White House staff man, and President Truman's representative. I told him I wanted to talk about the alleged corrupt situation in the St. Louis revenue office and the Washington office. Later, Mr. Connelly himself was indicted.

Thus we had the situation where the Department of Justice, the Internal Revenue, and the White House aide were all involved in a conspiracy to fix tax cases.

In a situation such as that, the only other recourse, in order to protect the taxpayers, was that at least we had someone or some committee in Congress which would act. The Finance Committee, with the assistance of the Senator from Virginia, Mr. Harry Byrd, as well as Senator Hoey from North Carolina, took an active interest in this matter, so that in spite of—I emphasize in spite of—getting no cooperation from the executive branch we were able to expose that corrupt regime. We were not getting much cooperation from the Treasury in the various 64 district offices, the reason being 12 of them were indicted, and eight of them went to the penitentiary at that time. Altogether, there were 100 some odd revenue employees who went to the penitentiary during that era.

Fortunately, we had the situation where the congressional committees could function. We did have access to these returns, with or without the permission of the executive branch.

Now I want to make a hypothetical reversal of that situation. Hypothetical and on the assumption that it will never happen. But it could happen.

For example, there are three congressional committees which can get tax returns without any consent from the Treasury Department. We can get them. The Senator knows that both the Finance Committee, of which he is a member, and the joint committee, of which he is also a member, can get the returns no matter what the President says and no matter what the Commissioner of Internal Revenue says because the law says that we can get them.

Suppose the time ever came—and God forbid that it would come—when we would have the top echelon of the Finance Committee and the top echelon of the Ways and Means Committee, which comprise the joint committee, all of them went crooked at one time. Then, without the President's authority where would there be the check to protect the American taxpayers?

I want to say that this is not any suggestion as to what can or will happen. I do not think it will happen. But I would not have thought it would happen simultaneously before where we would find the Bureau of Internal Revenue here in Washington, the top echelons of the Department of Justice, and someone connected with the White House, all engaged in this same type of conspiracy.

But suppose it did? Then the law provides that there is a check wherein the President of the United States could move in, and he would take action to protect the American people.

These safeguards were included as checks. At the same time I fully realize and I support the fear of Senators that there could be abuse in this matter. Certainly there can be abuse. I recognize that. I recognize the danger.

But if any man can show me where this privilege has been abused, I do not care whether it is in the executive branch or the legislative branch, I will lead the fight against it. But let us not defeat the practice here on a lot of political innuendoes and assumptions.

What I am pointing out is that over the years it has been historical that the President could under the law have access to tax returns, and that covers the agent he designates. We know that the President of the United States—Jack Kennedy, Lyndon Johnson, or Richard Nixon—are not personally going to examine the returns. He delegates that authority.

The senior Senator from Tennessee delegates responsibility in his office. He has to. The Senator from Tennessee is a member of the Joint Committee on Taxation. Our joint committee has the authority to obtain tax returns. We get tax returns. We have had access to several tax returns in the last 12 months, and we have delegated our chief of staff, Larry Woodworth, and his assistants to examine them.

I do not think that I have seen one. I do not think the Senator from Tennessee has seen one. We have delegated authority to our staff and we did not do it in writing.

But that does not mean there has been abuse.

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

Mr. WILLIAMS of Delaware. I yield.

Mr. GORE. Mr. President, I thank the Senator for his generous references. As the Senator knows, the Senator from Delaware and I vote together frequently on matters of tax preference. On matters like this we nearly always vote together.

When the committee met with respect to that matter, it was on the motion of the senior Senator from Delaware, seconded by the senior Senator from Tennessee, that the President supply to the committee a copy of the memorandum with respect to individual returns which Mr. Mollenhoff requested and also a request to the President to inform the committee whose tax erturns had been supplied to Mr. Mollenhoff and why.

I will state this to make it perfectly plain, that this is no contention between the senior Senator from Delaware and the senior Senator from Tennessee. I said etrlier, I am not referring to the procedure of previous administrations.

Mr. WILLIAMS of Delaware. Mr. President, if the Senator will yield, I understand that we cannot be in the Chamber all the time. I do not think he was here when I read the memorandum signed by Mortimer Caplin, Commissioner of Internal Revenue.

The memorandum is dated May 23, 1961. It describes the procedures under which he operated. I would like to read that again if I may.

Mr. GORE. I think I heard some of it.

Mr. WILLIAMS of Delaware. I want the Senator to hear all of it. That is what we are talking about, but first let me again correct the Senator from Tennessee. It was his motion that the committee ask for the names of the tax returns examined by Mr. Mollenhoff. My motion broadened this request to cover the names of all taxpayers whose returns were examined by all the administrations since 1960.

It was Mr. Caplin, the Commissioner of Internal Revenue under the Kennedy administration, who raised this question as to the procedure that the Nixon administration was following, and I pointed out that this administration is insisting upon signed letters before any returns are made available.

Now let us see how Mr. Caplin handled this when he was in office.

I again quote from Mr. Caplin's May 26, 1961, regulation:

C. INSPECTION OF RETURNS AND FILES BY MR. CARMINE BELLINO

On January 26 Mr. Bellino, Special Consultant to the President, called at my office and requested permission to inspect our files on ——— and others. Although we had no precedent to guide us, we decided that Mr. Bellino, in his capacity as a representative of the President, could inspect our files without a written request.

I emphasize that. There was no written request for these tax returns by Mr. Bellino or the President or anyone else, who was working at the White House at that time.

Commissioner Thrower said he could not tell us how many returns were examined by the Kennedy representative but that they did spend days and days examining them.

I read further from the Caplin 1961 regulation:

This reflects the view that Section 6103 of the Code specifically provides that returns shall be open to inspection upon order of the President, and since Mr. Bellino's official capacity constitutes him the representative of the President, the action taken is regarded as conforming to law. Based on this decision, we permitted Mr. Bellino to inspect the files relating to ———. Since that time we have also permitted him to inspect tax returns and related documents pertaining to other persons.

Mr. Caplin must have had his tongue in his cheek when he signed the O'Brien letter last week charging anyone who had allowed a White House representative to examine a tax return without a written request to be in violation of the criminal code.

Mr. President, I ask unanimous consent that the entire ruling of Mr. Caplin under date of May 23, 1961, be printed at this point in the RECORD.

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

MEMORANDUM FOR THE HONORABLE ROBERT H. KNIGHT, GENERAL COUNSEL OF THE TREASURY

SUBJECT: INSPECTION OF RETURNS BY CONGRESSIONAL COMMITTEES

In the Treasury staff meeting on March 31st it was pointed out that Mr. Carmine Bellino, Special Consultant to the President, had objected to certain regulations and Service policies affecting Congressional Committees authorized to inspect returns by Executive Orders. Specifically, he objected to (A) the regulations requiring the adoption of a resolution by a full Congressional Committee before its representatives may obtain permission to inspect tax returns and (B) the policy against allowing Congressional Committees to obtain photocopies of returns. It was suggested that we would submit our views concerning possible changes in present rules and procedures respecting these matters.

A. Requirement of a resolution by a full congressional committee

The requirement for a resolution adopted by the committee is contained in Treasury Decisions 6132 and 6133. The decision to require a full committee resolution for the inspection of returns was made by officials of the Treasury Department and approved by the President. Prior to the issuance of these Treasury Decisions in May 1955, a Congressional Committee authorized by Executive Order to inspect returns was permitted to do so solely upon the written request of the chairman of the committee or of a subcommittee thereof. No resolution of the committee was then required.

Mr. Bellino objected to the "committee resolution' requirement of the regulations because the task of assembling a quorum of a full committee for this purpose is very inconvenient, particularly where the membership is large. He stated that this is a burdensome requirement. For example, in April 1960, the Special Committee on the Federal Aid Highway Program, a Subcommittee of the House Committee on Public Works, requested permission to inspect certain returns. That request was denied because a resolution had not been passed by the full committee, consisting of thirty-two members, as required under the regulations.

Relief from the situation described may be provided by amendment of the regulations to permit, in the alternative, acceptance of a resolution adopted by a subcommittee, and signed by its chairman. This alternative should eliminate the problem but would retain a system of control needed by the Service.

B. The policy against allowing congressional committees to photocopy or obtain photocopies of returns

Under our present policy representatives of Congressional Committees are not supplied or permitted to make facsimile or photocopies of returns or related documents. However, they are permitted to inspect returns and certain related documents on premises of the National Office or a field office of the Service. Blank returns and other forms are furnished for transcribing data contained in the file opened for inspection. Access is granted not only to returns but also to administrative files, including revenue agent and special agent reports, with the exception of certain confidential documents.

This policy has been approved in the past by President Eisenhower, Secretary Humphrey, and Commissioners Andrews, Harrington, and Latham. The reasons for the policy apparently include the following:

1. It is essential to maintain the confidential nature of tax returns except insofar as the inspection of such returns is required in the public interest. Our tax collecting process depends upon the voluntary response of millions of taxpayers and they are entitled to rely on the statutory protection which safeguards the confidential nature of the information they furnish the Service. The use of photocopies exposes such confidential information to a greater extent than present methods of inspection. Improper or indiscreet disclosures could reduce public confidence in the Service and have adverse effects on the collection of revenue. While the use of photocopies might be advantageous to a committee, it would not appear to be essential to the discharge of the committee's functions.

2. The possible disclosure of tax returns or related data at committee sessions held as public hearings, and the accompanying risk of disclosures to unauthorized persons, including the press, have been matters of continuing concern to the Service.

3. When a Congressional Committee expires, its files may not be destroyed and the possibility of unauthorized disclosure may be increased.

However, our practice of not furnishing photocopies of returns to these committees is difficult to defend for the following reasons:

1. Section 6103(a)(3) of the Code provides that whenever a return is open to inspection a certified copy shall be furnished upon request.

2. Section 301.6103(a)-2 (T.D. 6546) of the related Regulations on Procedure and Administration provides that a copy of a return may be furnished any person who is entitled to inspect such return, upon request.

3. Our present policy provides distinctive treatment to such Congressional Committee requests since taxpayers, States, and Agencies of the Executive branch of the Federal Government may be furnished copies of returns upon receipt of a proper application.

Notwithstanding the above, we would like to retain the present policy since it provides, a degree of protection against improper and indiscreet disclosures. However, if it is determined that this policy should be liberalized, we shall, of course, be guided accordingly. No amendment of regulations would be required to affect a change.

C. Inspection of returns and files by Mr. Carmine Bellino

On January 26 Mr. Bellino, Special Consultant to the President, called at my office and requested permission to inspect our files on ——— and others. Although we had no precedent to guide up, we decided that Mr. Bellino, in his capacity as a representative of the President, could inspect our files without a written request. This reflects the view that Section 6103 of the Code specifically provides that returns shall be open to inspection upon order of the President, and since Mr. Bellino's official capacity constitutes him the representative of the President, the action taken is regarded as conforming to law. Based on this decision, we permitted Mr. Bellino to inspect the files relating to ———. Since that time we have also permitted him to inspect tax returns and related documents pertaining to other persons.

Further, in a letter dated January 26, and received January 30, Attorney General Robert F. Kennedy asked that Mr. Bellino be permitted to review all files, records, and documents requested by him in order to coordinate the investigation of certain individuals being conducted by the Internal Revenue Service, the Justice Department and other Government agencies. Permission was granted for Mr. Bellino to inspect such files in a letter dated February 1, 1961.

Additionally, Senator John L. McClellan, in a letter dated March 24, designated Mr. Bellino as a staff member of the Senate Permanent Subcommittee on Investigations,

a subcommittee of the Committee on Government Operations, authorized to inspect returns pursuant to Executive Order 10916. As such, he is authorized to inspect those documents made available to the Subcommittee under requests made pursuant to this Order.

In the interest of providing a more detailed statement there is attached a Technical Memorandum prepared in the office of the Chief Counsel, which sets forth the historical background of (1) the requirement of a committee resolution, and (2) the executive policy against supplying photocopies of returns to Congressional Committees. If you should desire additional information please let me know.

MORTIMER CAPLAN,
Commissioner.

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

Mr. WILLIAMS of Delaware. I will in a minute. I am reviewing this record for the benefit of the Senator from Tennessee and not to point the finger at the Kennedy administration. I am not raising any question of impropriety with respect to the man who was in the White House. I do not think that anyone has raised a question that Mr. Mollenhoff has acted improperly with respect to handling these tax returns except by implication.

If any Senator knows of impropriety in this matter let us put our foot on it quick.

If there are any charges of improper use of these returns by Mr. Mollenhoff speak out, do not just cast doubts by these wife-beating questions as to what could happen.

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

Mr. WILLIAMS of Delaware. I yield.

Mr. GORE. Neither two wrongs nor a multiplicity of wrongs constitute a right.

I do not wish to allege any illegal act. I have not researched this law to that extent. But I say to the Senator in all seriousness that I think it is indiscreet, injudicious, and unwise, and I will go so far as to say improper for the Commissioner of Internal Revenue to make an open-ended arrangement with a political operative without direct orders or instructions from the President himself.

It throws uneasiness into the minds of millions of Americans concerning the confidential nature of the tax returns.

If nothing else comes from this, regardless of what may have occurred in past or present administrations, I will join with the senior Senator from Delaware in trying to formalize protection to preserve the privacy of the American citizen in his tax return.

This is not to question the right of a congressional committee with a need to know, with a need to have access to tax returns.

The Senator from Delaware wondered if I had ever seen one. I do not think I have seen but one tax return in the 12 years I have been on the Finance Committee. And this was requested by the committee emblematic of a question on legislation, not with respect to the wrongdoing of a taxpayer.

I think it ought to be formalized. I repeat, for a Commissioner of Internal Revenue to make an open-ended arrangement for an agent, whoever he may be, whatever his name is, whatever his role is, without an instruction from the head of the agency is of questionable legality.

I do not say it is illegal.

I had thought it was, but I am not prepared to say positively that it is. I have an adviser on my staff who says that it is. But I am not prepared to say so in view of what the Senator says.

Mr. WILLIAMS of Delaware. The Mollenhoff arrangement is not open ended. The Senator's criticism can more properly be directed toward the procedure under his own administration. Let us be fair with our criticism.

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

Mr. WILLIAMS of Delaware. In just a moment. The only open ended arrangement that I know of around here in the matter of tax returns involves the committee of which he and I are members. We voted open ended authority to our staff. The Joint Committee staff can examine the returns. That is open ended authority. We do not put it in writing. Perhaps the Senator and I should look at our inner selves and see if we are operating properly.

Mr. GORE. Mr. President, I agree.

Mr. WILLIAMS of Delaware. I think we should face the facts.

The suggestion was made in Mr. O'Brien's statement that there was an indiscriminate examination of tax returns under the Nixon administration.

That is not true. The President has said that no such use has been made. I would certainly hope that this would be the basis of the examination of tax returns in all administrations; namely, in situations where questions are raised as to the propriety of conduct of some public official or someone in the administration.

Certainly, if he considers appointing a member to the courts he can, or at least he should, get that person's tax returns and have them examined before he sends the nomination to the Senate for confirmation. If, on the other hand, an allegation comes in that Joe Doaks, who is already a member of the executive branch or maybe even on the White House staff, is doing something improper the President should examine it, and if it is true, take the appropriate steps. If he needs the man's tax returns to get this information he should have the authority.

The Senator is well aware of the fact that the Commissioner said he knew of no instance where this authority has been abused. I am going to cite one case to point out why I think this authority is important.

Mr. GRIFFIN. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. WILLIAMS of Delaware. Mr. President, I am going to cite one case to point out why I think this authority is important. I am not going to reveal the name; however, this is not a hypothetical case. In this instance the allegation was received from some fellow who had been before the courts, and he had received what he thought was an exceptionaly heavy sentence. He was angry and his complaint was, "Why should this judge be so rough on me as a delinquent taxpayer"—not that he was innocent—"when he is more guilty than I am." Certainly that situation needs investigation. It was referred to proper channels at the White House. What did they find? They found that for 8 out of the 9 years prior to the time this man was appointed to the Federal bench he had not filed or paid his Federal income taxes. I repeat that. For 8 to 9 years prior to the time he was appointed as a judge and confirmed by the Senate he had not paid his Federal income taxes or filed any return. Just before being confirmed, apparently thinking he was going to get the appointment, he filed belated returns for all those years; and in a matter of months he was nominated and confirmed, and he is serving today.

The only way the President can now get rid of him would be to ask him for his resignation unless we in the Senate say that we will back him in removing this particular judge. I am sure the President will furnish the name of the man if the Senate wishes to act. Why should he not investigate such a charge?

If there are abuses of public trust that is what we are talking about. Certainly, allegations which oftimes cannot be supported do come in with respect to John Doe. When I was working with the Senator from Virginia allegations came in with respect to many Joe Does. We would get his tax returns and we would find nothing to substantiate those allegations. This is a very delicate matter and must be handled with discretion.

The very suggestion that the tax return of Joe Doe has been requested by a congressional committee or by the executive branch in itself constitutes a damaging indictment against the individual. It is unfair to publish these names unless guilt is established.

The Senator knows that he and I and every other member of the Joint Committee were assured by Commissioner Thrower that no request had been received from this administration since he has been in office involving an elected official, nor any on the basis that they were going to be examined to determine if John Doaks had paid the proper income tax. The amount of taxes to be paid is the job for the Commissioner of Internal Revenue and not the job of a congressional committee or the White House.

Mr. President, as a Senator I often have had people write to me that Joe Doaks is not paying his income tax. I have one standard form letter which states: If you have any information in that regard, you should write directly to the Director of Internal Revenue in your area or to the Commissioner and send him that information. To handle these otherwise would be wrong. I have directed my attention toward procedures.

I would be the first to rise in this Chamber and criticize the executive branch or any representative of it if they indiscriminately started to get tax returns of the average taxpayer. That statement applies to congressional committees. That is the job of the Commissioner of Internal Revenue. If it is ever

departed from under this administration, either at the congressional or at the legislative level or if it is shown to have departed from by other administrations I shall be the first to rise in this Chamber.

But they have a responsibility when these allegations involve propriety to take some action. Why should they not look at them and find out if this charge against some official of Government is true? I would not want a judge on the Federal bench who might be judging me when he has not paid his income taxes for 8 or 9 years.

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

Mr. WILLIAMS of Delaware. I shall yield to the Senator in a moment.

If this screening process had been in practice at that time the nomination of that judge would not have been sent to the Senate for confirmation.

Of just what are Senators afraid?

There seems to be general agreement that no instances of impropriety of the handling of this authority has as yet been cited, yet there seems to be a fear.

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

Mr. WILLIAMS of Delaware. I yield.

Mr. GRIFFIN. Is the junior Senator from Michigan correct that under existing law and the law that has been in effect the Governors of the several States which have income tax laws have the right to inspect Federal tax returns?

Mr. WILLIAMS of Delaware. The Governors, or they can delegate the authority.

Mr. GRIFFIN. That is my next question. Does it have to be the Governor or can he designate?

Mr. WILLIAMS of Delaware. He can and he does designate someone in his behalf in practically all situations. Some States that do not have income taxes may not use the authority. I understand 42 or 43 States do designate.

Mr. GRIFFIN. Would it not be a peculiar situation if the Governors of all States can designate someone to examine Federal tax returns when they have a question, and a question is raised about the President of the United States having designated a representative to do the same thing?

Mr. WILLIAMS of Delaware. Not only that, but it would be ridiculous to say the Governor has to do it personally or that the President has to do it personally. Certainly that is ridiculous.

I commend the Nixon administration for having laid down these sounder rules. Maybe they need to be tightened up more. Maybe Congress needs to examine our own procedures.

The Senator from Tennessee referred to the fact that the White House is a political organization. Congress is a political organization. I respect that fact. There is nothing wrong with that. The White House is part of the political arm of Government, but by the same token we in Congress on occasion have been known to be somewhat political. Who is to say a congressional committee is any less honorable or any less political than the man in the White House?

As I emphasized earlier, I am not questioning the manner in which the Kennedy administration operated, even though they had no written request; but at the same time let us not put a halo around Mortimer Caplin's head on the basis that his suggestions apply to everybody else but him. His later position is just a little bit ridiculous. I shall be looking forward to his comment on his own regulations of 1961.

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

Mr. WILLIAMS of Delaware. I shall yield in a moment.

But if Mr. Caplin really thinks that he was in violation of the law to allow examination of these tax returns in 1961 without written orders and really wants to go to the Department of Justice to plead guilty maybe they would render assistance. I am reminding him of his own regulations in a friendly spirit.

Mr. HOLLAND and Mr. BAKER addressed the Chair.

Mr. WILLIAMS of Delaware. I yield to the Senator from Florida.

Mr. HOLLAND. Mr. President, perhaps I can throw a little light on the question raised by the Senator from Michigan.

At the time I served as Governor of the State of Florida, we had no State income tax and we do not now, but we did and do have an intangible property tax; that is, a tax on the holdings of intangible personal property, including the securities, of citizens. We have many citizens in our State who did own securities and filed an intangible property tax return.

One of the ways of checking against the accuracy of those returns was to see what they filed in their income tax returns with the Federal Government showing the income or dividends from their various corporate investments and notes or mortgages.

The program worked out was that the Governor would make the request, but that the income tax returns when sent down, as they were in many, many cases, would be referred to the comptroller of the State of Florida who was the tax enforcement officer of the State. The Governor at that time, for those 4 years, did not see any of those income tax returns. There was no occasion for him to see them. It was simply a cooperative effort to see that the laws were obeyed and taxes were paid. I think it was helpful to both governments. I would not want anything that comes out here to jeopardize that procedure in any way, because many States that have State income taxes and the several States that have intangible property taxes rely upon the procedure, which is handled not for political reasons whatever, but for practical enforcement of the tax laws of those States.

I hope that this explanation will be helpful to the Senator from Michigan.

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

Mr. WILLIAMS of Delaware. I yield to the Senator from Tennessee.

Mr. BAKER. Mr. President, I want to make sure that the junior Senator from Tennessee fully understands the thrust of the important remarks made by the Senator from Delaware. Do I understand correctly, according to the Senator's previous statement, that there have been seven instances of requests for tax returns by the executive department in this administration?

Mr. WILLIAMS of Delaware. Seven was the figure given to us the other day, but that embraced the tax returns for nine individuals.

Mr. BAKER. There were nine tax returns, but seven individual requests were involved?

Mr. WILLIAMS of Deleware. Yes.

Mr. BAKER. Do I understand correctly that the requests of the administration have been made in writing, in conformity with the requirements of the Internal Revenue Code?

Mr. WILLIAMS of Delaware. All requests under the Nixon administration have been in writing, in conformity with the regulations issued by Commissioner Thrower. The Internal Revenue Code states that tax returns will be issued upon the basis of regulations worked out by the Treasury Department and approved by the President, which means the administration can write them in any way he wishes.. Mr. Thrower has written regulations and the White House has concurred that it would be more orderly procedure to make the requests in writing each time and make the man sign for them. I think that is good. The way Mr. Caplin did it under the Kennedy administration, no record was made and nobody was accountable, which I think was the wrong method.

It was a loose and dangerous practice, yet I hear very little mention of that loose practice under the Democratic regime.

Surely they are not advocating double standards.

Mr. BAKER. Mr. Caplin, during his tenure as Commissioner of Internal Revenue, promulgated, and the White House at that time approved, a regulation which did not require such a request to be in writing. Is that correct?

Mr. WILLIAMS of Delaware. That is right.

Mr. BAKER. And the White House can approve it?

Mr. WILLIAMS of Delaware. It must approve it.

Mr. BAKER. So no written requests were made, and there was no way to tell how many returns were examined, during the Johnson and Kennedy administrations?

Mr. WILLIAMS of Delaware. I do not remember any figures being given as to what happened under the Johnson administration, but we were told that under the Kennedy administration they spent "days on end" examining taxpayers' returns.

Mr. BAKER. If the Senator will yield for one further question, the letter which the Senator referred to in his remarks was written by Mr. O'Brien and whom else?

Mr. WILLIAMS of Delaware. I read the press release and the statement which Lawrence O'Brien released as chairman of the Democratic National

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