United States of America

# Congressional Record

PROCEEDINGS AND DEBATES OF THE 93d CONGRESS, FIRST SESSION

Vol. 119 WASHINGTON, MONDAY, FEBRUARY 26, 1973 No. 29

# Senate

By Mr. MONDALE:

S. 993. A bill to authorize the Secretary of the Interior to issue rights-of-way and special land use permits for the construction of pipelines in the State of Alaska under certain circumstances, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

Mr. MONDALE. Mr. President, on February 9 of this year, the Court of Appeals for the District of Columbia in Wilderness Society against Morton enjoined the Secretary of the Interior from issuing rights-of-way and special land use permits for construction of the trans-Alaskan pipeline from the Prudhoe Bay area to Valdez, Alaska.

The decision has radically changed the situation which the Congress and the Nation face on the question of how the massive oil reserves in the Prudhoe Bay region of Alaska will reach the "lower 48" States. Prior to this decision, a primary justification of the oil companies and the Department of the Interior for issuing the necessary permits for construction of the trans-Alaska pipeline was the quicker speed with which oil could be delivered through a pipeline built across Alaska to the port of Valdez, as opposed to a pipeline built across Canada to Edmonton and ultimately to Chicago.

Testifying before the Joint Economic Committee in July of 1972, Secretary of the Interior Morton stated that:

> The nucleus of my decision to grant the Alaska route is based on the urgent need to bring North Slope oil and gas into the American marketplace as rapidly as possible.

The court of appeals decision has radically changed the basis of that decision, and we in Congress must respond to this mandate. I am introducing legislation today which would provide authorization for construction of oil and gas pipelines using the Canadian route, thereby bringing energy resources to the fuel-starved Midwestern and Eastern States.

THE COURT OF APPEALS DECISION

The decision of the court of appeals was based on a very simple premise: that the applications for permits submitted by the Alyeska pipeline consortium, which seeks to build a 789-mile pipeline across Alaska, failed to comply with section 28 of the Mineral Leasing Act of 1920. This section provides for a 50-foot right of way in addition to the width of the pipeline itself for any pipelines which cross federally owned land. The Alyeska pipeline would cross 640 miles of such land.

It is clear that any pipeline which would convey the Prudhoe Bay oil economically to the United States will require far more than the 50 feet of right-of-way that the Mineral Leasing Act stipulates. The court of appeals met this issue squarely, and six of the seven judges rejected any arguments that this violation of the act could be waived in the absence of congressional action. The court stated:

> Great cases are called great, Mr. Justice Holmes said 70 years ago, "not by reason of their real importance in shaping the law of the future, but because of some accident of immediate overwhelming interest." The same may be said about the present litigation over the Alaska pipeline. These cases are indeed "great" because of the obvious magnitude and current importance of the interests at stake: billions of gallons of oil at a time when the nation faces an energy crisis of serious proportions; hundreds of millions of dollars in revenue for the State of Alaska at a time when financial support for important social programs is badly needed; industrial development and pollution of one of the last major unblemished wilderness areas in the world, at a time when we are all becoming increasingly aware of the delicate balance between man and his natural environment.
>
> But despite these elements of greatness, the principles of law controlling these cases are neither complex nor revolutionary . . . Congress, by enacting Section 28, allowed pipeline companies to use a certain amount of land to construct their pipelines. These companies have now come into court, accompanied by the executive agency authorized to administer the statute, and have said, "This is not enough land: give us more." We have no more power to grant their request, of course, than we have the power to increase congressional appropriations to needy recipients . . . Congress intended to maintain control over pipeline rights of way and to force the industry to come back to Congress if the amount of land granted was insufficient for its purposes. Whether this restriction made sense then, or now, is not the business of the courts. And whether the width limitation should be discarded, enlarged, or placed in the discretion of an administrative agency, is a matter for Congress, not for this court.

Because the court ruled that the Mineral Leasing Act controlled in this case, they decided not to adjudicate the serious questions raised by the apellants in the case regarding the compliance, or lack thereof, of the Department of the Interior's final environmental impact statement, issued on March 7, 1972, with the requirements of the National Environmental Policy Act of 1969. In particular, the court declined to rule on the appellant's claims that the environmental impact statement failed to adequately consider the feasibility of building a pipeline through the Mackenzie Valley of Canada, and ultimately to Chicago, as the means of delivering the Prudhoe Bay oil to the "lower 48" States.

In so doing, the court stated that—

> Our holding that the Special Land Use Permit for construction purposes is illegal under the Mineral Leasing Act makes it impossible to construct this pipeline until Congress decides to amend the Act. All parties have conceded this fact . . . *Should amendment of the Act take several years, the analysis of environmental, economic and other costs in the present Impact Statement may become outdated.* (Italic added)

The court of appeals, by basing its decision on an act which we in Congress must amend, has rendered substantially ineffective the principal basis of the Alyeska oil companies and Department of the Interior—the time advantage of the Alaskan route—for preferring the trans-Alaskan over the trans-Canadian pipeline route.

RELATIVE TIME OF CONSTRUCTION

Interior Department officials and the Alyeska consortium group have consistently favored the trans-Alaskan pipeline route because of its ability to transport oil to the United States more quickly than the Canadian alternative. A variety of figures have been offered by the opposing parties in this long controversy. The boundaries of these time estimates range from 2 to 5 years longer for construction of a Canadian pipeline. However, in responding to written questions posed by the Senator from Wisconsin (Mr. PROXMIRE) last July, the following answer was given by Secretary Morton:

> Question 3(b). Regarding the alleged 3 to 5 years delay alluded to [should the Canadian route be chosen], did you consider legal delays involved in the trans-Alaska route while the matter is litigated in the courts?
>
> Answer. Of course. The litigation on the trans-Alaska route is very near its end. I am advised that the matter should be finally settled at the trial court level in September and by next spring at the Court of Appeals level.

Clearly, in estimating a 3- to 5-year delay resulting from choice of a trans-Canada alternative the Secretary had assumed the quick end of the trans-Alaska litigation and the beginning of construction within the near future. As a result of the court decision of February 9, this is no longer the case.

Furthermore, other estimates had previously indicated only a 2-year delay should the trans-Canada alternative be chosen. Again, these estimates were made before the recent Court decision. This decision has made it highly likely that if work is begun immediately on intensive study of the trans-Canada alternative, such an alternative would cause no net time delay in delivery of north slope oil to the United States.

ENVIRONMENTAL FACTORS

With the relative time advantage previously enjoyed by the trans-Alaska alternative now largely destroyed, urgent consideration should be given to the more harmful environmental consequences of building the pipeline across Alaska to Valdez.

A Coast Guard report released in early 1972 estimated that up to 5.8 million gallons per year of crude oil might be dumped into the Pacific as a result of the heavy tanker traffic which would transport the oil from Valdez, on the south coast of Alaska, to a point in the Pacific Northwest.

The trans-Alaska route would also raise the very serious danger of seismic disturbances along the route, which could result in a major ecological disaster should the pipeline rupture. In contrast, the trans-Canada route poses neither of these dangers.

Substantial damage to rich fishing grounds off the Gulf of Alaska and damage to wildlife along the course of the pipeline also pose substantial hazards in the trans-Alaska route.

The Department of the Interior's own environmental impact statement, which since its inception had been biased in favor of the trans-Alaskan route, nevertheless indicates in its summary volume that the trans-Canada alternative is preferable from an environmental viewpoint. Numerous environmental groups have concurred in this conclusion, and urged completion of a trans-Canada route as preferable to the Alaskan alternative.

CONSUMER COSTS

All parties involved in this controversy have stated that a primary difference between the trans-Alaskan and the trans-Canada routes would be the different areas of the country to which the resulting oil flow would be delivered. Construction of the Alaskan route would result in the oil flowing to the west coast, while construction of the Canadian route would mean that the Middle West and Eastern States would be the primary beneficiaries.

There seems little doubt that the trans-Canadian alternative would serve those regions of the country where the need for energy products is greatest. The fuel crisis which the Midwest and East have experienced this winter are stark testimony to the near-term insufficiency of current sources of supply in these areas.

However, the real questions to be addressed are the relative long-term needs of the various regions of the country. Since full flow from any pipeline would probably not be realized until 1980 or thereafter, energy needs at that point in

time are the prime factor for consideration.

As with environmental considerations, the Department of the Interior's own Environmental Impact statement admits that the Alaska pipeline would bring about a surplus of oil on the west coast last until the early 1980's. Other sources contest this claim, but Secretary Morton in answering written questions submitted by Senator PROXMIRE last July admitted that even if the west coast did have a crude oil deficit by the early 1980's, the deficit of the Midwest would be "several times" that of the west coast.

Of more immediate concern to Midwestern and East consumers, however, is the relative cost of crude oil in the various regions of the country. At the current time, a barrel of crude oil costs almost 20 percent more in Chicago than it does in Los Angeles, and 25 percent more in New York than in Los Angeles.

This difference represents millions of added dollars for consumers in the Midwest and on the east coast. Construction of the Alaskan pipeline route would only add to the imbalance of crude oil prices, making west coast prices even cheaper in relation to Midwest and Eastern prices. On the other hand, construction of the Canadian pipeline would help over the long run to relieve the excessively high costs of crude oil in the Midwest and the east coast and help to bring the cost of energy products more in line with the lower prices currently enjoyed by west coast residents.

NATIONAL SECURITY

All participants in the debate over the methods by which the Prudhoe Bay discoveries should be piped to the United States agree that we should to the maximum extent possible lessen our reliance on unstable Middle Eastern sources of oil supply. Indeed, this is one of the prime justifications for quick development of the North Slope fields. However, the basis on which the major oil companies and the Department of the Interior have argued that these national security interests dictate the construction of the trans-Alaskan route are faulty.

Secretary Morton, in his testimony last July, stated that:

> The security argument is based on the larger interests of the nation as a whole. It is on this basis that the trans-Alaska route is preferred; it would deliver North Slope oil sooner, and thus reduce dependence on Eastern Hemisphere oil during the critical 1975–1985 period.

The national security argument, therefore, is largely based on the argument that the trans-Alaska route could deliver oil more quickly. However, as I have indicated above, the court of appeals decision largely makes that latter argument inoperable, and hence draws into question the basis of the Department of the Interior's national security argument.

In addition, the Department of the Interior's analysis completely ignores the fact that the oil and gas reserves estimated to be recoverable from the Canadian northern wilderness areas are potentially as large as the reserves in the North Slope area of Alaska. The choice of a trans-Canada route—into which the Canadians could eventually tie their production—would greatly encourage exploration of these vast resources in Canada. By contrast, construction of a trans-Alaska route would discourage such exploration and development.

The Alaskan oil and gas fields, although extremely significant, contain nowhere near enough reserves to make the United States self-sufficient in energy production. Even with full exploitation of the Alaskan field, by 1980 we will depend on foreign sources for 47 percent of our oil. However, the emphasis in our national energy policy should be to encourage the development of these foreign oil sources which are secure—such as those in Canada—in preference to those which are inherently insecure—such as those in the Middle East.

Development of a trans-Canadian pipeline would, therefore, encourage the development of major oil and gas fields in Canada which would help lessen our reliance on Middle Eastern sources of supply; development of the Alaskan alternative would hinder this Canadian development. Therefore, national security interests would dictate construction of the trans-Canadian route.

Finally, national security considerations must take into account regional dependence on insecure foreign oil supply sources. The best estimates are that the Middle West and the East will continue to be at least 20 percent more dependent on insecure sources of supply—primarily the Middle East—than will the west coast. Construction of a trans-Alaskan pipeline would only exacerbate this situation, leaving us by 1980 or 1985 in a condition in which the Midwest and the east coast would be highly dependent on Middle Eastern sources of supply.

COSTS OF CONSTRUCTION

Advocates of the trans-Alaska pipeline route have contended time and time again that the costs of construction of a trans-Canadian pipeline through the Mackenzie Valley would be significantly greater than costs of constructing an Alaskan route. These estimates have often been skewed by the differing time assumptions for construction, in which lower costs ave been attributable to the Alaskan alternative because of the presumption that earlier commencement of construction would be possible for that alternative. The court of appeals decision makes such comparisons unrealistic.

Using the estimates made in an Interior Department memo of March 27, 1972, and factoring out the differential costs assumed for greater delay of the Canadian alternative, the cost differential between the two routes is small indeed. There is little doubt that a natural gas pipeline will be built from Prudhoe Bay to Chicago, to deliver the huge amounts of natural gas which are present in the Prudhoe Bay area to the midcontinent United States.

The cost of sending both oil and gas to Chicago, according to the Department of the Interior, would be an estimated $8.9 billion. The cost of sending gas to Chicago and oil to the west coast—through an Alaskan pipeline—is estimated at $8.65 billion, a net difference of only $250 million.

Cost differentials are therefore very small, if indeed they exist at all. They certainly pose no substantial deterrent to construction along a trans-Canadian route.

LEGISLATION IS REQUIRED

The court of appeals decision of February 9 makes it clear that legislation will be required to allow construction of either a trans-Alaska or a trans-Canada pipeline.

A careful examination of the relative merits of the two routes, however, leads to the unmistakable conclusion that the trans-Canada routing is the preferable alternative. The legislation which I am introducing today will attempt to achieve implementation of this routing within the shortest possible time.

First, the legislation states that notwithstanding the Mineral Lands Leasing Act of 1920, and section 28 thereof, the Secretary of the Interior is authorized to issue rights-of-way and special land use permits as are necessary for the construction, operation, and maintenance of pipelines for the development of the natural gas and oil resources of the Prudhoe Bay area in Alaska. These permits could be granted along the shortest feasible route between Prudhoe Bay and the border between Canada and Alaska.

Second, the legislation directs the Secretary of the Interior to initiate an intensive investigation of the feasibility of the trans-Canadian route, in accordance with the provisions of the National Environmental Policy Act.

Finally, to emphasize the vital need to maintain the quality of our environment—the bill reiterates specifically that rights-of-way and special land use permits may be issued by the Secretary of the Interior only after he has complied with all applicable provisions of the National Environmental Policy Act.

The effect of this legislation would be to begin intensive feasibility explorations of the Canadian route. Once a full survey were done of that alternative—and if such an alternative were declared to be in compliance with the National Environmental Policy Act—this legislation would provide authority for the Secretary of the Interior to issue all necessary permits and rights-of-way to begin construction of a trans-Canadian route.

The Canadian Government has in the past indicated its willingness to cooperate to the fullest in the investigation and development of a viable route across Canada to bring Prudhoe Bay oil to the "lower 48." These indications of interest have consistently been thwarted by the bias of the Department of the Interior and the Alyeska oil companies toward the trans-Alaskan route.

With the recent court of appeals decision, however, the principal claimed justification for the trans-Alaskan—the alleged time advantage accorded that route—has disappeared. The legislation I am offering today gives us the opportunity to explore at the earliest possible date the environmental feasibility of the trans-Canadian route, and gives authorization to proceed with construction as soon as all such questions have been satisfied.

The Eastern and Midwestern regions of the United States desperately need the North Slope oil which they can only get through a trans-Canadian pipeline. This pressing need—coupled with the general superiority of the trans-Canadian route—means that quick legislative action to authorize such a route would provide an important stimulus in our attempts to solve our Nation's energy crisis.

Mr. President, I ask unanimous consent that the text of this legislation appear at the conclusion of my remarks.

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

S. 993

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

SECTION 1. Notwithstanding section 28 of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 185), and any regulations issued pursuant to that section, the Secretary of the Interior is authorized to issue such rights-of-way and special land use permits as are necessary for the construction, operation, and maintenance of pipelines for the development of the oil and natural gas resources in the vicinity of Prudhoe Bay in the State of Alaska, along the shortest feasible direct route from Prudhoe Bay, Alaska, to the border between the State of Alaska and Canada.

SEC. 2. Within 60 days of passage, the Secretary of the Interior, in accordance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), is hereby directed to initiate intensive investigation of the feasibility of a trans-Canadian pipeline route as the means of transporting the oil and natural gas resources of the Prudhoe Bay region in the State of Alaska to the United States.

SEC. 3. Such rights-of-way and special land use permits as authorized by section 1 may be issued by the Secretary of the Interior only after he has complied with all applicable provisions of the National Environmental Policy Act.

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# Congressional Record

PROCEEDINGS AND DEBATES OF THE 93d CONGRESS, FIRST SESSION

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# Senate

## REMARKS OF SENATOR MONDALE ON BEHALF OF THE DEMOCRATIC LEADERSHIP OF CONGRESS IN RESPONSE TO PRESIDENT NIXON'S MESSAGE ON HUMAN RESOURCES

Mr. MANSFIELD. Mr. President, last Friday, Senator WALTER F. MONDALE delivered an address on radio at the request of the Democratic leadership in response to the President's radio message on human resources.

The presentation by Senator MONDALE represents fairly and fully the questions that must be faced by the Congress in determining where this Government shall place its emphasis in the matter of human resources.

I ask unanimous consent that this address be printed in the RECORD.

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

MARCH 2, 1973.

Mr. MONDALE. Good afternoon.

Last month President Nixon submitted his budget proposals. Last Saturday, in a nationwide radio address, he defended his proposals for human resources.

The Congressional Democrats have received equal time and I have been asked by the leadership of the Congress to present our response.

There are some things in the President's message which we all agree with, and are proud of. We *have* made important advances in social security, medicare, higher education, human rights, cancer research, reducing hunger and elsewhere.

All of these came about through cooperation between the President and the Democratic Congress.

But most were Democratic initiatives. And many . . . including the 20 percent Social Security increase . . . were initially opposed by the President.

We have often disagreed with the President's proposals; he has often disagreed with ours. But when there has been a will on both sides to work together, programs have been enacted that have benefitted all Americans.

This is as it should be.

But now the President is challenging both our shared commitments . . . and our tradition of cooperation and constitutional government. And he is doing it in a way that is causing confusion and uncertainty across the nation.

This past week, mayors and governors came to the Congress to tell us they don't know where to turn. They know they'll be getting less help next year, but they don't know how much less . . . and the White House won't tell them. Those in the Executive Branch who will talk don't know the answers. And those who know won't talk.

It's ironic that this Administration talks so much about returning power to the local level . . . when they concentrate so much power in a small group of anonymous Presidential aides. The most fundamental decisions affecting the Amrican people are now often beyond the reach of State officials, local officials, and even the Congress.

The President's real message is not in his speech. It is in his budget. Where a government puts its money tells the truth about its commitments.

The President's budget calls for severe cutbacks in our existing investments in decent housing . . . employment . . . education . . . health . . . the poor and the aged . . . the family farmer

This budget would, among other things, eliminate 180,000 desperately needed jobs . . . end federal aid for low and moderate income housing . . . slash health research, aid to education, medicare benefits for the aged . . . and abolish practically every effort to strengthen rural America.

While nearly 100 programs to help people would be destroyed, the defense and foreign aid budgets would rise dramatically . . . and not a single tax loophole for the rich would be closed.

The President claims that our investment in human resources is increasing. But these increases are in the social security program, which is separate and self-supporting. They are not inflationary because they are fully funded by the payroll tax. And we have passed most of them over the President's objection.

Aside from social security, this budget is nothing less than a disaster for people.

Can you imagine recommending that hospital charges for most older Americans under Medicare be doubled?

Can you imagine ending this nation's Community Mental Health Centers?

Can you imagine cutting job training programs by 29 percent in two years and abolishing public service employment?

Can you imagine reducing aid to our public schools?

That is what this budget does.

And the President has not just proposed cutbacks for Congress and the nation to consider, as Presidents have done in the past. In many cases he has simply gone ahead on his own . . . often in direct violation of the law. This has caused enormous confusion and uncertainty . . . and created one of the most serious constitutional crises in America's history.

He is impounding . . . without legal authority . . . half the funds for pollution control enacted by the Congress over his veto.

Without consulting Congress, he is destroying the poverty program which he asked the Congress to continue . . . and he signed into law . . . last fall.

By executive order he has ended virtually all of our housing and rural development programs.

We are not witnessing a policy of restraint. We are witnessing a retreat from our commitment to social and economic justice.

As one major newspaper said recently:

"This is a break with more than forty years of an essentially liberal momentum supported by the dominant elements in both parties, that has carried this nation forward to a more just and humane society within the framework of enlightened capitalism."

It is a call to abandon our national commitment to a better life for ordinary Americans . . . and especially the poor. It is telling us to ignore the difficult problems we've had the courage to face . . . and to forget our efforts to build a more decent America.

Yet this is the time . . . with the war ending . . . to return to our nation's fundamental pursuit of human justice.

It is a time, as John Kennedy said twelve years ago, for Americans to ask "not what your country can do for you—but what you can do for your country."

It is *not* a time, as we heard the President say last month, to ask "What can I do for myself."

As a prominent economist said:

"Instead of restoring self-reliance, President Nixon is putting self-interest on a pedestal. Instead of restoring confidence in government, he is inviting contempt for government in general and Congress in particular. Instead of focusing efforts on a higher quality of life, he is appealing to instincts of crass materialism. . . . But somehow a crusade to think small, think simple, and think selfish does not strike me as the best path to either personal salvation or national greatness."

And I agree.

The Administration asks us to forget our commitments to people . . . and to spend the money elsewhere. They propose an increase to $10 billion for military and other foreign aid. They want $8 billion for new Pentagon spending as the war ends. And we're told they may ask for $7½ billion more for the two Vietnams.

Yet their budget contains no proposals to close loopholes through which the wealthy escape their fair share of the tax burden. It doesn't deal with cost overruns in military spending. It conceals subsidies for executive jets and business lunches.

One commentator said, "This is free enterprise for the ordinary citizen . . . and socialism for the rich."

If a farmer needs disaster relief, he's on his own. But if a major corporation loses money, we're expected to bail it out.

And who pays for all this? The ordinary taxpayer who has no loopholes.

We need to take a tough look at this budget. The American people cannot afford to repeat the deficits of recent years.

I agree that we must look for waste in "every nook and cranny of the bureaucracy." I agree we must "get rid of old programs that have outlived their time, or that have failed."

And I agree with the tests the President proposed last Saturday . . . to get more value out of every tax dollar . . . and to make our delivery system more efficient and less paternal. I don't know anyone in Congress who is opposed to reforming our programs, and making them more effective.

But *every* budget item must meet these tests. Waste, inefficiency and out-moded programs are not found only in agencies that deal with human needs.

Sure we've made mistakes. And some human programs have not worked. But getting rid of programs doesn't get rid of problems. And a program that doesn't work perfectly may be better than no program at all.

And sometimes we promise too much. But the answer to overpromising is to tone down the rhetoric. The answer to failure is to find new approaches which will work.

And even conceding these difficulties, with the help of thousands of dedicated public servants—who deserve our praise—these programs have accomplished an enormous amount for the people of this country.

In the last decade alone, 15 million people have been helped out of poverty;

In the last 20 years, the number of young people attending college has doubled.

And who can forget . . . the comfort Medicare has brought to millions of old people who used to suffer alone and uncared for . . . the hope and the jobs our expanded education programs have provided to thousands of Americans . . . and the opportunities for a fuller life now available to handicapped children and adults throughout this country. And this is not a full list by any means.

The issue is clear. We can continue our commitment to social and economic justice . . . or we can turn away. The President has made his recommendation. His budget comforts the comfortable. But when it comes to helping those in need, it says, "If at first we don't succeed quit."

We must do better than that.

Of course, there are limits to what we can afford. And as practically everyone in Congress agrees, we must establish a noninflationary budget ceiling. But we will not forfeit Congressional responsibility to decide how funds are spent within the ceiling. We will not give any President absolute power over how your money is spent.

If we take a tough look at every proposed expenditure . . . we can easily save $8–$10 billion in military waste . . . foreign aid . . . tax giveaways . . . and inefficient social programs . . . Over $3 billion could be raised by simply ending super depreciation breaks for big business. And we could responsibly cut Pentagon waste by $5 billion . . . especially now that the war is ending.

I believe we should invest these hard-earned tax dollars wisely . . . in carefully designed programs meeting human needs.

We cannot do everything at once. But we can begin bringing health care within the reach of every American family . . . strengthening our rural and urban communities . . . improving housing opportunities.

And we can begin . . . mounting an effective campaign against crime . . . reducing pollution . . . cutting unemployment . . . improving education . . . and bringing dignity to the sick and the aged.

With these savings we could:

Find public service jobs for 300,000 unemployed Americans.

Double Head Start . . . bringing hope and opportunity to another 500,000 young children.

Prevent the proposed new hospital charges for Medicare . . . and roll back monthly Medicare premiums.

Ease the financial crisis in public education . . . and relieve the growing pressure on the property tax.

Restore disaster aid and housing programs.

Turn the tide against crime by expanding police protection and improving our criminal justice system.

And protect our environment to the fullest extent of the law.

These are the kinds of investments we need. They stand the test of helping people. And that's what our government should be all about.

We can make them . . . or investments like them . . . and honor our national commitment to human justice.

Or we can accept the Administration's budget . . . and accept its decision to abandon that commitment, begun so many years ago.

This is an old debate for Americans. We've all been a part of it. Those who fought against Social Security and rural development in the 1930's . . . or against Medicare and aid to education in the 1960's . . . used the same argument we're hearing now. "These aren't national problems," they claimed. "We don't know how to solve them. And we cannot afford to try."

My answer is the answer Franklin Roosevelt gave to these same arguments 40 years ago:

"Government can err," FDR said. "Presidents can make mistakes, but [we are told that] divine justice weighs the sins of the coldblooded and the sins of the warmhearted on a different scale. Better the occasional faults of a government living in the spirit of charity than the consistent omissions of a government frozen in the ice of its own indifference."

No matter how hard we try, we will make some mistakes. But with your help we can apply the power, the strength, the wisdom and the spirit of our great country to the solution of the problems of our people. Please give us your help.

United States of America

# Congressional Record

PROCEEDINGS AND DEBATES OF THE 93d CONGRESS, FIRST SESSION

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## Senate



By Mr. MONDALE (for himself, Mr. WLLIAMS, Mr. RANDOLPH, Mr. BIBLE, Mr. MCGOVERN, Mr. PASTORE, Mr. BEALL, Mr. STAFFORD, Mr. HUGHES, Mr. HATHAWAY, Mr. PELL, Mr. KENNEDY, Mr. BAYH, Mr. PACKWOOD, and Mr. HUMPHREY):

S. 1191. A bill to establish a National Center on Child Abuse and Neglect, to provide financial assistance for a demonstration program for the prevention, identification, and treatment of child abuse and neglect, and for other purposes. Referred to the Committee on Labor and Public Welfare.

Mr. MONDALE. Mr. President, I would like to take this opportunity to explain my reasons for introducing today the Child Abuse Prevention Act.

One of the most tragic and perplexing problems that has been brought to the attention of my Subcommittee on Children and Youth is that of child abuse and how to deal with it legally.

Although laws requiring the reporting of suspected child abuse cases exist in all States in one form or another, we still hear of incidents that are reported too late—only after the child has died or suffered permanent damage.

No informed resident of the Washington area can be unaware of the tragic cases of child abuse which have come to light in recent months in Prince Georges and Montgomery Counties. Unfortunately, these are not isolated cases. According to the National Center for Prevention and Treatment of Child Abuse and Neglect in Denver, Colo., as many as 60,000 children nationally require protection each year.

I ask unanimous consent to place in the RECORD at this time a list of descriptions of child abuse cases which have come to the attention of the child abuse team at the National Center. They demonstrate more vividly than anything I can say the pressing reasons for early congressional action on the problem of child abuse.

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

CHILD ABUSE

CHILD IN HOSPITAL—FOSTER CARE—HOME

Allan, a 2 month-old boy, was admitted because of severe failure to thrive, with malnutrition and dehydration. He (at 2 mos.) weighed less than ½ lb. over his birth weight and while in the hospital gained over 1 lb. in 9 days. Therefore, the welfare department filed a dependency petition and received temporary custody and the baby was placed in foster care. A rehearing of the situation was planned for a 3 months interval, during which time the mother received general counseling; belonged to a young mother's group and had support from the welfare worker. In the last 2 months of counseling, a great amount of progress was made and at the next hearing, the child was returned home, with the stipulation of continuing contact with the welfare worker and medical follow-up every 3 weeks. The child and mother are thriving.

MEDICAL REPORT, BUT WITHOUT COURT ACTION

Jimmy was a 2-month-old child, who, on admission to the hospital, was found to have bruises around the eyes, 3 small scars on the abdomen and tenderness of the left upper arm. X-Ray examination showed a fracture of this area. The police and the child protective services of child welfare were formally notified by the physician, but neither felt that there was enough evidence to present the boy to Juvenile court. One month after discharge, the child was taken to another hospital where he was dead on arrival and his body showed innumerable signs of injuries.

"THE CHILD WHO WAS HATED"

*(Relinquishment not facilitated)*

The neighbor of David, age four years, became concerned when she noticed many large bruises on the little boy. She soon learned that the step-mother frequently beat the child and on occasion left the child alone for long periods of time. She called for instructions on how best to help the child. She was advised to try to become a friendly, helpful neighbor but that, if the child was left alone again, to call the police. The next day the child was left alone, the police were called and arrived 2 hours later, five minutes after the mother had arrived home. The neighbors, pre-school teacher, and a psychologist contacted the welfare department regarding the child's home situation. The step-mother was encouraged to go to the welfare department to ask for help. She frankly told them she could not stand the child, never wanted to see him again and asked for immediate placement for adoption. She was told it would be impossible to relinquish so abruptly, that the child could not be placed that day and the parents would first have to get involved in relinquishment counseling. Three weeks later David arrived dead in the emergency room. He had been dead for at least 72 hours and had severe burns from his waist down.

RECURRENT INJURY AND THEN REPORTED

Cindy was seen at 6 weeks of age at another medical institution for fractures of both bones of the right lower leg. Since the mother admitted causing these, the attending physician did not report the case. Four days prior to the present admission (at age 6 months) there were recurrent seizures and increasing lethargy. The child was very lethargic, without voluntary muscle control and did not react to light or noise stimuli. The fontanelle was bulging and further tests showed there to be a collection of bloody fluid around the brain. Because of the severe brain injuries and the history of past trauma, the Welfare Department filed a dependency petition which was sustained in court and the baby was placed in foster care.

PARENTAL DISABILITY

*(Successful voluntary relinquishment)*

Both parents of Ruth are diagnosed schizophrenics, released from the hospital prior to Ruth's birth. Mother's first child is in the custody of her former husband. Abortion was offered to the mother during her pregnancy but refused. Intensive follow-up of the family was done by social worker lay therapist, and "on call" psychiatrist. After 2 years of moderately good care the marriage became very unstable and during separations, and chaotic reconciliations, the parents were able to recognize Ruth's need for a stable home and their own inability to provide this. The parents relinquished Ruth in court to Welfare Department for adoption. No physical injury to Ruth, however, the mother frequently spoke of her feelings, under stress, of wanting to injure child.

TWELVE-YEAR-OLD MOTHER AND TWO TRIES AT JUDICIAL REMEDY

Jane, age 12, conceived a premature baby who was fathered by her mother's fiance with whom she had repeated intercourse. While the baby was in the premature unit, Jane treated it like a doll. The nurses and doctors felt that she was totally unable to mother this child because of her very immature behavior, which was at the 9–10 year level. The Juvenile court informally refused a request by the Welfare Department for relinquishment of the baby and foster care supervision for Jane, to help her to go back to school and interrupt her relationship to her step father-to-be on the basis that "she has not yet been proven to be an incompetent mother". Another jurisdiction was sought and another judge ordered relinquishment for a successful adoption which promptly followed. Jane did well in foster care, returned to school and continuing as a supervised dependent under court order, has excellent prospects in a good foster home and with continuing, but less damaging, contacts with her mother and her new husband.

Mr. MONDALE. Mr. President, these are ugly stories. Most of us would probably prefer not to have to read them and be confronted with the dilemma they present for our society. But our society can no longer justify the inadequate laws and services which have allowed child abuse to become such a widespread occurrence.

The active interest of my subcommittee in child abuse dates from last year, when we published a document of selected readings on the subject, part 2 of "Rights of Children, 1972."

I am pleased that our further investigations into child abuse have the strong support of the chairman of the full Committee on Labor and Public Welfare, Senator WILLIAMS. I ask unanimous consent that a copy of a letter from the Senator from New Jersey to me be placed in the RECORD at this time.

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

U.S. SENATE,
*Washington, D.C., March 8, 1973.*

Hon. WALTER F. MONDALE,
*Chairman, Subcommittee on Children and Youth, Committee on Labor and Public Welfare, Washington, D.C.*

DEAR FRITZ: I have been following with great interest the preliminary research and investigation which the Subcommittee on Children and Youth has conducted in the area of child abuse. The compilation of materials which the Subcommittee published last winter is an important beginning.

Child abuse is a sickening, largely overlooked problem in America. In the last several months, however, the media has begun to turn its attention to this phenomenon and it has become clear that brutality against children by their parents has been dramatically and tragically increasing. This fact is confirmed by recent studies showing child abuse to be on the rise in the United States. We can no longer afford to ignore this situation and the implications that it has for children, families, and, indeed, the entire nation.

As Chairman of the Labor and Public Welfare Committee, I cannot urge you strongly enough to expand your Subcommittee's examination and evaluation of this issue. It is my hope that you will begin hearings as soon as possible with a goal of identifying precisely what role, if any, federal legislation and federal resources might play in the solution of this problem. The time has come to prevent the occurrence of child abuse, identify the victims, and provide the necessary help to these children and their families.

I want you to know that you will have my full support and cooperation in this vital effort.

Sincerely,

HARRISON A. WILLIAMS, Jr.,
*Chairman.*

Mr. MONDALE. Mr. President, the bill I am introducing is intended to be a vehicle for a thorough examination of child abuse and its legal, sociological, and medical implications. The subcommittee will hold hearings on the bill starting March 26 and 27 in Washington. It is my hope that the testimony collected in hearings will assist us in preparing a final version of the legislation which would—unlike the many State laws which have been passed in recent years—provide a meaningful solution to the problem of child abuse.

This bill would:

First. Establish a National Center of Child Abuse and Neglect to monitor research, maintain a clearinghouse on child abuse programs and compile and publish training materials for persons working in the field;

Second. Establish a program of demonstration grants to be used in training personnel, providing personnel to areas that lack their own programs on child abuse and support other innovative projects aimed at preventing or treating child abuse or neglect;

Third. Create a National Commission on Child Abuse and Neglect to examine some of the issues relating to child abuse including the effectiveness of existing laws, and the proper role of the Federal Government in the area of child abuse;

Fourth. Amend existing legislation authorizing child welfare programs to require a State plan outlining the system used to deal with child abuse.

In the course of our hearings on the bill we expect to hear from some of the country's foremost experts on the legal, sociological, psychological, and medical aspects of child abuse. In addition, we have scheduled to testify the founder of Parents Anonymous, a new organization which holds great promise for persons who have abused children by enabling them to share their problems and offer each other emotional support. Another element of the hearing will be the detailed examination of how child abuse teams—made up of doctors, lawyers, social workers, and lay aides—have met with some success in identifying, preventing, and treating child abuse.

I ask unanimous consent to place in the RECORD copies of editorials which appeared in three of our Nation's leading newspapers, and which testify to the need for legislative action on child abuse; and other materials relevant to the legislation. I also request that a copy of the bill be printed at the end of my remarks.

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

RESCUING THE VICTIMS WHO CAN'T FIGHT BACK

Among the most unpleasant stories we come across in the news business are reports of child abuse—chilling accounts of the neglect, battering, torture and occasional killing of helpless children by their parents or other adults. Somehow, most people would prefer to believe that these instances of inhumanity must be extremely rare, or perhaps limited exclusively to poor and uneducated families. But experts can tell you that child abuse is unique to no one special group, and that it is a phenomenon far more widespread than is generally believed.

As it happens, the instances gaining the most public attention are usually cases of fatal or near-fatal beatings, in which a parent has been charged. But increasingly, authorities are discovering evidence that repeated physical torture and other severe mistreatment of children are going unreported because people are afraid or at least reluctant to notify police. Worse still, many of the young victims who finally are removed from their homes after tragic experiences are subsequently returned to those homes—only to endure more horror.

There is no precise way to calculate the degree of permanent damage to human lives in these instances, largely because there aren't any reliable statistics on the extent of the problem. Moreover, the procedures for dealing with child abuse cases are, for the most part, failing to meet the need for major remedial action.

At least in Greater Washington there has been some movement to improve approaches to child abuse, stemming from a singularly tragic case in Montgomery County last year. Attention focused on the problem when a 9-year-old Damascus girl died, apparently from beating, burning and other ill treatment; her father and stepmother are awaiting trial on a charge of murder.

Citing this case in the Maryland General Assembly recently State Senator Victor L. Crawford (D-Montgomery) has urged passage of a bill designed to give social workers and police greater power to enter homes where instances of child abuse are suspected. Senator Crawford explains that because social workers lack the authority to force their way into such homes, they were unable to go into the home where they suspected that the Damacus girl was being mistreated last year.

Under existing law, social workers accompanied by police may force their way into a home if they think there "is probable cause" to believe that a serious crime is being committed; but "probably cause" is a legal term meaning that police must have more than a mere suspicion of wrongdoing, and they must obtain a warrant before forcibly entering. Senator Crawford's bill would permit social workers to enter homes without a warrant when they suspect a case of child abuse, to remove any children found to be in danger. Police would be required to accompany social workers for their protection, but not necessarily to make arrests. If a social worker decided to remove a child, a petition would have to be filed with juvenile court and court action taken within five days.

The Crawford bill has met with some understandable opposition, for it does alter established safeguards against indiscriminate breaking into homes by authorities. Montgomery County State's Attorney Andrew L. Sonner—a leader in the effort to focus more attention on child abuse problems—has argued that the proposal is unnecessary, noting that since the case of the girl last year, Montgomery County officials have worked out procedures with police to handle emergency cases.

Besides, he says, "I'm not sure I want our citizens to have their homes broken into without probable cause. There ought to be some information the police are acting on, some standards of probable cause as in other cases." Furthermore, says Mr. Sonner, the bill might hinder social workers because it would require them to be accompanied by police when seeking entry into a home. A spokesman for state social workers, also attacking the proposal, says it would give too much power to social workers.

If every prosecutor's office in Maryland were as concerned about child abuse cases as Mr. Sonner is, and if all local police forces had the manpower and concern to assist social workers in their often dangerous assignments, there might not be any need for legislation along the lines of Senator Crawford's proposals. But the established procedures for recognizing and reporting child abuse cases haven't been working well—and children's lives are at stake. With sensitive and specific safeguards to restrict indiscriminate invasions by social workers and policemen, the Crawford proposal may be worth a careful test.

Legislative attention ought not to stop at this level, however; the concern voiced by Mr. Sonner and others—that identification of child abuse cases in only one part of the problem—is not addressed by the Crawford bill. The handling and treatment of reported cases, the decisions of when (or whether) to return children to their homes, and the whole approach to family-problem situations all cry out for more official concern.

Nationally, some of the more successful programs involve a team approach to child abuse cases, combining the talents of professional experts in all aspects of the problem—psychologists, nurses, social workers, attorneys, teachers, police and so on. Such teams can review abuse cases quickly and decide what measures might help resolve conditions contributing to each case; thus the responsibility for critical decisions is not dumped on one overworked or possibly incompetent social worker, or on a lone policeman who has many other pressing duties.

But the level of interest and concern among local agencies, state legislators, physicians—and the general public—never seems to go much beyond brief spurts of hand-wringing and quick-fix proposals in reaction to some especially chilling case that makes the headlines. Meanwhile, little lives are being threatened and ruined, and the cruelty takes many forms besides physical assault and battery. There are children who are starved, neglected, exploited, overworked and exposed to unwholesome or demoralizing circumstances. They are victims who cannot fight back, who cannot even report the crimes committed against them.

With the General Assembly now in session, and with Senator Crawford, State's Attorney Sonner and others pushing for new ways to approach child abuse problems, Maryland could take the lead in efforts to rescue and protect mistreated children. We hope the lawmakers in Annapolis will not let this important opportunity pass them by.

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[From the Washington Star and News, Nov. 30, 1972]

DEALING WITH CHILD ABUSE

Child abuse is one of the most repugnant crimes growing in our midst, because it is practiced on the most helpless members of society, some of them not even out of the crib. Also, it's one of the most ignored offenses, occurring more often than not in the privacy of homes. Neighbors tend to look the other way, teachers often hesitate to report the parents of bruised and battered students. But Montgomery County Executive James P. Gleason isn't ignoring it, and we expect that his statements on the subject this week will provoke considerable discussion.

That will be all to the good, because this is a rapidly worsening problem, in Montgomery and many other counties, and deserves much more attention than it has received. But Gleason's bold proposals for combating child abuse certainly should be subjected to a good deal of expert scrutiny, and public discussion, before any action is taken on them.

He advocates treating this malefaction much more as a sickness than a crime. He proposes a bill in the next state legislative session to reduce the charge from a felony to a misdemeanor. This measure, which Gleason says he can get introduced, would lower the maximum penalty for child abuse from the present 15-year sentence down to six months and a $1,000 fine. He also wants to bypass prosecutors until social service agencies have investigated alleged offenses, and give total legal immunity to people reporting child abuse cases. But while reducing the punishment for offenders, Gleason would impose some hard new penalties on "professionals," such as doctors, teachers, police and social workers, who fail to report suspected cases. That might bring more results than any of his other proposals.

Undoubtedly Gleason is right in saying this offense stems mainly from psychological sickness, and that the emphasis should be on identifying all the child-beaters and treating them. And a great many more of them might, as he contends, be reported to authorities if the maximum sentence weren't so heavy. There is no guarantee of that, however, and more evidence of potential efficacy of the penalty-reduction plan should be offered. To retain any penalty at all is to recognize that this is both a sickness *and* a crime. Nor is it any small crime. According to one school of thought, practically all forms of crime are the result of psychological illness, but how far that idea can be extended in the workings of justice indeed is a ticklish question. Some people who expend their surplus aggressions upon children are fully capable of finding other outlets, and they must not be dealt with softly by the law.

It seems clear, though, that most of the child abusers are driven by a singular compulsion, and there is encouraging testimony from experts that this can be cured in a large majority of cases. So Gleason is on the right track in calling for more effective means of finding and treating those afflicted adults. Some modifications of law obviously are necessary, and the General Assembly should seek the best advice available in deciding how far to extend those alterations.

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[From the New York Times, Nov. 17, 1972]

ABUSE OF CHILDREN

Under the auspices of the University of Colorado Medical Center, a new organization has been set up to deal with a shocking fact of American society—the abuse and willful neglect of some 60,000 children a year. The hope is not merely to discover instances of abuse and to effect the separation of these pitiful victims from their parents, though that is often necessary for a time, but to go to work on the parents themselves. A team made up of a pediatrician, a psychiatrist, a nurse, a social worker and possibly a lay therapist will work with the involved parent, not punitively but with the aim of rehabilitation.

While this National Center for the Prevention and Treatment of Child Abuse and Neglect is new, its basic aim is by no means untried. It will build on the work of Dr. C. Henry Kempe, chairman of the university's Department of Pediatrics. This highly regarded pioneer in the field has used his coordinated team approach in more than 500 cases with such success that 80 per cent of the affected families were reunited without any recurrence of abuse.

The $558,000 grant by the Robert Wood Johnson Foundation is a wise investment and a hopeful one for the country. No society can afford to be indifferent to the appalling mistreatment of the most helpless and innocent of its citizens.

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[From Woman's Day]

AT LAST! HELP FOR CHILD-ABUSERS

(By Sara Davidson)

Not far from Disneyland, in the Southern California suburb of Anaheim, nine women are sitting in the living room of a sunny ranch house. One is rocking a baby dressed in spotless white on her lap. Another is doing needlepoint. A third is fighting back tears.

Cindy, the young woman near tears, is asked to share her problem with the others. In a soft but hurried voice she tells how she lost her temper the night before when she took her three-year-old son to a hamburger house for dinner. "I told him before we left that if he didn't behave, if he couldn't sit in his seat and eat like a little gentleman, we wouldn't do it again. No sooner did I give our order than he slid out of the booth, ran behind the counter and knocked over someone's soup. Then he ran through the swinging doors into the kitchen. I had to chase him through the restaurant.

The woman next to Cindy winces. "That's so embarrassing when it happens in public." Another woman says, "I wonder why kids do it. To punish the mother or what?"

Cindy says, "When I finally caught him, I pulled him into the rest room and started clobbering him on the floor. I don't know how to handle his tantrums in public. He's so different from the way I was as a child. It scares me the way I can love him so much and then turn on him." She puts her head in her hands and cries.

The other women are all nodding. "We know what you're feeling," says one. "We've been there." They may not have experienced the exact situation, but like Cindy, all have found themselves lashing out aggressively at their children when frustrated. These nine mothers have come, by various routes, to an organization called Parents Anonymous—a private self-help group for parents who abuse their children.

Abuse can take many forms, from physical beatings to verbal attacks or icy withdrawal. All parents feel occasional urges to whack their children, and may sometimes give in to the impulse. But those who come to Parents Anonymous find themselves doing it consistently and uncontrollably. Most have had difficulties with their children since they were born. Doctors in California have found that parents who punish their babies—when it is extremely doubtful that infants can comprehend punishment at all—are likely to abuse the children as they grow up. Following their outbursts, parents tend to feel remorseful and terrified of losing their sanity. Even worse, they rarely tell anyone what they have done for fear their children will be taken away from them.

Parents Anonymous (usually called P.A.) offers one of the few opportunities for relating these experiences freely. Members meet once a week to explore new ways of responding to their children, in between meetings they run a network of telephone calls to feed each other love, warmth and support. From the start, there is both relief and greater pain. As one P.A. veteran advised a new member, "It hurts to grow."

The nine women in Anaheim this evening are being introduced to the founder of P.A. a former child-abuser known simply as Jolly K. Jolly is a tall, handsome woman of thirty-one who wears bell-bottoms and gold-rimmed glasses. She periodically visits the chapters spread through eleven states and Canada, and will, if asked, lead a meeting.

As coffee cups are passed, the members report how the past week has gone. The first girl, Pam, says she has had seven good days. "I like myself, and I know how wonderful that must look to my children." Liz, who is pregnant, reports that she has been getting along "beautifully" with her husband and four-year-old son, Timmy, but wants "to murder the little boy downstairs."

When the others ask why, Liz explains that the boy is two years older than Timmy and twice his size. "He gets all the kids on the block to pick on Timmy and my son won't defend himself. I try to help him; I tell him to hit back, but he won't. He comes crying to me, and keeps asking if I love him. He's afraid I'm going to leave him. He cries, 'Don't leave me, don't leave me' and there's no way I can prove to him I love him. It's so frustrating! Today I got so mad I yelled my head off at him."

Jolly asks, "Do you feel inadequate?"

"Yes," Liz replies, "because there's nothing I can do to reassure him."

Kay, a soft-spoken blond of twenty-four, suggests, "Show him in little ways that you love him."

Liz: "I do, and five minutes later he's back again crying."

Jolly: "Let's reconstruct this scene. Let's say I'm a four-year-old coming to you crying. Some big meanies are picking on me and my ego is shattered. What do you do to help a little guy start feeling like he's worth something?"

Liz holds out her arms. "I hug him and tell him I love him."

Jolly: "Do you tell him *why* you love him?"

Liz cocks her head. "I never thought about it. I don't know why I love him. I guess because he's mine."

Jolly: "If I were you, I might say, 'I love you because you're a nice, warm person, and Mommy loves nice, warm people.'"

Liz shakes her head. "He won't understand that."

Jolly: "Not the words, maybe, but the feeling will come across. Tell him every five minutes if you have to. And remember you're not doing it for *him!* We don't care so much about the four-year-old as we care about the mother. If you can reassure him so he feels better, you'll be proud of yourself. And as you feel better about yourself, he'll feel better about himself."

Liz fidgets in her chair. She says her son will never believe her. "If he'd only get up his gumption and beat up that bully!"

Pam says, "That's not realistic, Liz. Timmy only weights thirty pounds, and he's not old enough to grasp the principles of karate."

Jolly: "You think, Liz, that if you were a good, loving mother, you'd be able to straighten out all Timmy's problems and make him some kind of super tough guy who never gets bullied. Now because you can't do all that, you feel frustrated and inadequate. You think you're a bad mother, and you get angry.

"Why don't you try talking to your son about frustration? Tell him it's frustrating for everyone to have a bully around. Tell him you'd like to make it better for him but you can't—and that that doesn't mean you don't love him or that he isn't a good person. He won't understand all the words, but he'll get the message: Mommy cares."

Liz nods. So does everyone else. They can almost see the insight flicker in her gray-blue eyes.

"Start looking at your feelings and analyzing them," Jolly continues. "Once you see what they are, lay them open to your son. He'd rather hear about your feelings of frustration than get yelled at or beaten because of those feelings."

Liz is crying now, but nodding her head vigorously. "I'll start tomorrow," she promises.

A year ago, when Liz first came to P.A., she had beaten, bitten and kicked her son and hurled him against walls. It is difficult to imagine this from the fresh-faced creature sitting on a velvet sofa, just as it is difficult to imagine the other mothers in the room being driven to violent acts. They are all middle-class women, indistinguishable from those in any suburban shopping mall.

Until fairly recently, most doctors, government officials and health authorities operated on the assumption that child abuse was a bizarre and rare deviation—something that doesn't happen to "normal people."

The first step taken by all P.A. members is to try to redirect their anger. Instead of hitting their children they are told to pound walls, kick chairs or scream out the door. "Right away you start acting in ways you don't have to feel so badly about afterwards," Jolly says. "You can even laugh about it." In addition, parents are urged not to discipline children when they're angry, but to wait four or five hours until they are cool enough to spank, if necessary, without losing control.

The second step is learning how to reach out to other people for help. "You learn to recognize a crisis in the making, and when you get super-uptight, you call every member in the group if you have to until you find someone who can stick with you." Members are told to call each other not only in bad moments but also when they have handled a situation well "to fish for compliments. That helps build up your ego," Jolly says.

This leads to the third stage in P.A., which is to repair emotional damage and alter the way members look at themselves and their children. Jolly says she learned through a long process of self-probing that she hated Faith "because I hated myself. At first it was an act of sheer willpower even to put my arms around her. I would say, 'I love you' and grit my teeth. But the more I was able to accept and like myself, the more I was able to like Faith and to see her as a completely separate individual. She was not my bad self and Roz was not my good self. Each was a separate, unique person."

Faith is in therapy now because, Jolly says, "her ego was almost destroyed. She thinks she deserved the treatment she got because she was such a bad character. But she's getting better. The other morning she came to me and said, 'I like Faith today.' I think that's pretty healthy. And she trusts me enough to say, if she feels like it, 'I hate you, you're mean.' Three years ago, she would have died for less than that."

Jolly says she still gets angry at Faith and feels like "clobbering her, but would I? No. I don't have to be afraid of the urge. I can handle it. If not, I could always call my husband or another P.A. member, or go back to kicking the chair."

According to Jolly, all but two of those who've stayed with P.A. about four months have been able to control and modify their abusive behavior. But progress is not easy to make, and P.A. will not work for everyone. "Some people can't function in a group, and some may be psychotic," she explains.

Dr. Ray Helfer, the author of two books on child abuse and a member of P.A.'s Advisory Board, says that one of the drawbacks of the organization is that the members "lack a model of healthy parenting—a person who understands child development and can provide examples of healthy ways to handle problems as they arise." For this reason, he said, some hospitals and agencies are experimenting with special day-care centers, traditional group therapy and parent aids—lay therapists who make home visits. The advantage of P.A., Dr. Helfer says, is that the members can treat the symptoms immediately without deep therapy. "It's a good way to short-circuit abusive habits."

To see how P.A. affects different people, I drove back to Anaheim the day after the meeting and met with three members—Kay, Cindy and Pam. Kay is an exceptionally pretty, slender young woman with fair skin and straight blond hair. While somewhat shy, she projects an air of warmth and concern. Married to an engineer, she has a son, five, and a daughter, three. Kay's difficulty is with her daughter; in the three months since joining P.A., she has progressed from hating her consistently to a state where she can enjoy and appreciate her *sometimes*.

Cindy is new. She has been to only two meetings, and feels hopeless about ever improving. Separated from her husband, she works as a lab technician to support herself and their three-year-old son.

Pam is a bright, inquisitive thirty-year-old who dresses with meticulous taste and constantly reads books about child-raising. She is married to an insurance broker and has three daughters: eight, three and nine months. She came to P.A. because she felt frantic and utterly unable to cope with her oldest child, who is hyperactive. She is more confident now, but still has "down days."

The feelings these mothers express about their children are quite different. Kay says she hates her daughter, Pam has mixed emotions, and Cindy says she loves her son more than anything in life. But after an hour's talk, it becomes apparent that all three are operating in the same basic pattern. They see in their children qualities they detest in themselves, their husbands or their relatives, and they project onto the children enormous capabilities beyond their years.

Pam says she hates her eight-year-old for lying, and adds, almost offhandedly, "I was a liar when I was a kid."

Kay says her daughter "brings out things in me I loathe. I never thought I could treat a human being the way I've treated her. I started slapping her on the face when she was a week old. I couldn't stand her voice or the way she eats. Nothing about her pleased me. I never wanted to hurt her, but I wished she would die of some infant sickness."

I asked Kay if she was abused as a child. "I wasn't beaten," she answered, "but my sister was, and it scared me. I think I was more abused verbally. I was told I was a dummy and nothing I could do was right." When Kay's daughter was born, the child appeared in the same grim light. "Nothing she did was worth anything. She robbed me of time I wanted to spend with my son and I was afraid she would break up my marriage." We got that cleared up at the last meeting. As someone pointed out, "Why give her that much power? She's just a three-year-old. She's right!"

Cindy, a tiny woman with perfect features and perfectly combed hair, calls her young son "the man of the house. He runs me," she says, "and I'm afraid now because I see the beginnings of the same sick relationship I had with his father." Although Cindy says she is extremely loving and permissive most of the time, when she gets angry or has a bad day, "I just have to pound on him until my feelings are satisfied. He must be so confused! I'm terrified I'll alienate him and he'll abandon me, and he's my whole life." She starts to cry.

Pam says, "I know your son loves you and needs you."

Kay adds: "It would be good for you to have some outside interests. Maybe when you get to know and trust us, you can leave him with us or trade off baby-sitting." Cindy seems inconsolable.

Pam tells her, "If all of us have pulled ourselves out of the pit, you can too." She describes the days before she came to P.A. when she beat her hyperactive daughter with a strap in order to "break her down, get her to be subdued and respect me. Everybody I went to for help could tell me what was wrong," she said, "but nobody ever told me what to do. At the first P.A. meeting, people made suggestions. And they worked! There's such a difference in our house. Now when my daughter gets out of control, I can subdue her by loving her and making her feel secure. And I go to my husband for help—something I never did before. I'm not cured, but at least I'm on top of the thing. I'm not desperate anymore."

Pam admits she was nervous about joining P.A. because she thought child-abusers were "low-class, low-grade, crummy people." She's found that this is not necessarily the case at all. "And I don't think P.A. is just for child-beaters, either," she says. "It's for people who need help because they can't handle difficulties with their kids."

Kay agrees. "I'll stay in it forever, because I know there'll be problems as my children grow up, and this way I'll have the group to support me. If I don't know how to deal with something, I can always call the sponsor for advice, instead of worrying and brooding, I'll be reassured and feel confident I'm doing the best thing."

It was late in the day now. Pam's daughters were in the kitchen making instant brownies, and the other two women had to pick up their children. Kay asked Cindy if she felt any better.

Cindy jerked her head slightly, startled to find that, for a brief time, she had been distracted from her own grief. She managed a weak smile. The others put their arms around her as she said, "Yes. Somehow I do."

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[American Academy of Pediatrics, Committee on Infant and Pre-School Child]

## Maltreatment of Children

### The Physically Abused Child

Maltreatment of children, or child abuse, takes many forms. It may be serious gross neglect of the child's welfare to the point of starvation,[1] cruelty resulting in emotional damage to the child, or physical assault by a parent, older sibling, or person charged with the care of the child, as described in the term "battered child syndrome."[2,3] We do not know the actual number of maltreated children, nor their subdivision into physical and emotional abuse. It is likely that the battered child is the least frequent yet currently the most discussed. This paper will concern itself primarily with the physically abused child.

Recently, the problem of maltreatment of children has received much attention. Perhaps part of the recent public interest in this problem has resulted from the dramatic phrase "battered child syndrome,"[3] which was first used by Kempe, *et al.* during a panel discussion at an annual meeting of the American Academy of Pediatrics.

But long before the phrase was coined, interest in the problem of multiple injuries had begun. About 20 years ago Caffey[4] described x-ray findings of multiple fractures in the long bones, and a diagnostic tool was developed. Since then the child with multiple injuries indicating new or recent injuries superimposed on old has come under increasing scrutiny, especially in the last three or four years. Later studies by hospital pediatric and x-ray departments added to the earlier reports of "skeletal trauma in infants"[5,6] which, in turn, have altered pediatricians, roentgenologists, and

other physicians to the possibility of child abuse. As physicians have become more aware of the possibility of maltreatment as the cause of multiple injuries, the number of discovered cases has grown. The American Humane Association[7] estimates that there are some 10,000 cases of such abuse each year in the United States, but only a fraction of these are reported. However, aroused public and professional interest will, no doubt, cause more to be reported in future years. The increased public attention has been expressed by many newspaper and magazine articles, as well as television and radio programs. Additionally, the whole spectrum of professional organizations—social, welfare, medical, and governmental—have joined in attempting to meet the problem.[8-15]

What is to be done about the problem of child abuse? Some communities have had, and still have, facilities to protect neglected, abused, and exploited children. These child protective services are too few, but where they have existed, they have worked fairly well in helping these children once they have been brought to the attention of the community. Such resources usually have involved local departments of welfare,

Footnotes at end of article.

voluntary child protective associations, other social agencies, and the courts—family, juvenile, or district court with juvenile jurisdiction. It is obvious from the incidence of child abuse that these facilities alone did not reveal the magnitude of the problem, nor did they exert prophylactic deterrants to child abuse. Something more was needed to help unravel this problem. Some of the approaches to the problem have recently taken a new direction, growing directly from increased medical interest coupled with public alarm. As of September, 1965, 47 states had passed legislation dealing with the abused child. In most cases these law require physicians or other health personnel, who have reasonable cause to suspect that a child has had serious physical injury or injuries inflicted upon him other than by accidental means, to report the case to the proper authority designated to receive these reports, whether it be police or some other law enforcement agency, or a department of welfare.

The purpose of such reporting by physicians is to cause the protective services of the community to be brought to bear in an effort to protect the health and welfare of these children and to prevent further abuses. The physician who, previously, when he suspected physical abuse, limited his participation to the best possible professional care for the child and to personal investigation of the family and/or a referral to the social service department of the hospital for an investigation, now has a legislative duty to report these cases to a community authority.[17] Prior to such a law, separation of the child from the family resulted infrequently, and repeated abuse often occurred, sometimes resulting in death of the child or permanent crippling or brain damage.

A few of the laws have been aimed at reporting incidents of assault and in punishing the abusive adult,[17 18] In such states, little attention has been given to the need for continued protection of the child and the rehabilitation (if possible) of the child's family. In the majority of states, however, where the intent of the law is to protect the child, the needs of both the child and his parents have been recognized and help has been recommended for both.

If these protective functions are to be increased by early medical case finding and reporting of child abuse (and this trend is already evident), responsible agencies must be provided with sufficient funds and qualified personnel to provide protection for the child. There must be legal authority to permit removal of the child from his home, and authority to implement prompt social investigation and responsible community action concerning the child and his parents.

The present pattern of child protective programs varies greatly across the country. Agencies responsible for investigation and for provision by protective services include private organizations (e.g., the Society for Prevention of Cruelty to Children in Brooklyn and Manhattan); county or city departments of welfare, the juvenile branch of the municipal police; and the investigating section of the juvenile or family court. Regardless of the plan used by a community to protect its children, the important point about reported cases of maltreatment, in addition to medical care of the child, is the need for prompt investigation of the case, followed by appropriate action by the investigating agency. This action may take the form of assistance to the family to promote more responsible behavior or removal of the child to a safer environment than his home.

For example, in New York City there is a special Child Protective Services Unit. Following the passage of a legislative act making

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the reporting of suspected child abuse mandatory, the unit was set up by the Department of Welfare of New York City as part of its Bureau of Child Welfare in New York. This unit operates a central register whereas all cases of suspected or proven physical maltreatment are recorded and where all information relevant to a child or to his family may be readily available. The New York program, now a year old, has experienced a sharp increase in reporting by hospital physicians; at the same time a shortage of personnel, funds, and other facilities has already become evident.[19]

Observations previously reported indicate that the parents are in some instances mentally ill, mentally retarded, or emotionally immature, inadequate persons who themselves were so neglected or abused that they failed to grow into responsible adults. Also, persons of all walks of life, including professionals, have been incriminated.

With the assistance and supervision of a social agency, some of these parents can be helped to become responsible adults.[14] Punishment of these parents by placing them in jail generally serves little or no useful purpose other than to remove them from the abused child and his siblings for a limited period of time. It does not make them better parents or more able to deal with their children in a sound, constructive way. Indeed, their resentment at having been jailed may lead to even more severe punishment of the child. These individuals must be helped to grow themselves, and if this is not possible, they must be relieved of the responsibility for their children.

*Role of the physician*

The physician's duty is primarily to care for the maltreated child and to initiate steps designed to prevent further maltreatment. In many states he is now legally mandated to report a case of suspected physical abuse. This he must do, but he must exert care in arriving at his decision. The physician's knowledge may be limited to the medical condition of the child and to what background information may be elicited from the parents. X-ray findings may reveal single or multiple bone injuries, some new, some old, and further study may determine the absence of a disease process that might have contributed to the abnormalities. The physician may suspect that the parents' account does not explain adequately the child's injuries. He may also sense that the parent-child relationship is in some way pathologic. Thus the physician's knowledge of the incident, though considerable and sufficient to report suspicion of trauma, upon further investigation may not be sufficient as a basis for legal action against a specific person by a community agency. Further investigation is required by a social service, welfare, or law enforcement agency. The information obtained through investigation added to the original medical knowledge provides a firm foundation for further social or legal action.

Reporting of maltreatment becomes easier when the child has been hospitalized than when he has not. The physician reports the case to the hospital administrator who alerts the appropriate community agency, which in turn investigates and acts.

The physician encountering a case of suspected maltreatment in office practice is handicapped in the full evaluation of the child's condition and the background situation. He may be further handicapped by the traditional physician-patient relationship, and by lack of time in trying to obtain an accurate history. Also, he may lack laboratory facilities, x-ray, etc., to make a suitable evaluation. In such instance, since he must assure the safety of the child, the physician should try to hospitalize the child for protection and for evaluation.[20 21] If the family refuses to allow hospitalization, the physician can obtain a court order for this purpose.

In some instances the practicing physician is apprehensive about becoming involved in legal action. Much of his concern springs from the difficulty of detecting and dealing with assault. He is also concerned about being involved in a law suit, spending time in court, and patient criticism. He should exert caution in taking action on suspicion of abuse. When in doubt, he should seek help and advice from others, but whatever decision he makes should not jeopardize the child's welfare. The hospital physician can more easily avail himself of consultations in the hospital, so that the decision becomes one of a group rather than of an individual. This is likely to be more accurate, yet errors are discovered even after group decisions. To erroneously add an accusation of willful abuse to the burden of guilt of these parents is traumatic and serves no useful purpose.

Elmer and a group [22] including a pediatrician and psychologist re-evaluated 50 children previously believed to have been physically abused. Thirteen had either died or were hospitalized. Four of the remaining children were discovered to have been injured at birth or later, but the injuries were not inflicted by the suspected parent. No decision could be made about seven, although some of these probably were victims of abuse.

The inclusion in state laws of provisions granting immunity from liability for the reporting physician has removed much of the previous apprehension of reporting on suspicion alone. The widespread dissemination of the fact that the physician is legally mandated to report a case of suspected child



abuse should also remove, or at least reduce, the parents' resentment.

*Role of community*

The community must set up a plan whereby cases of maltreatment are reported to an appropriate investigating agency just as soon as they are suspected. Action must be initiated immediately upon receiving the telephone report from the physician, or it may be too late to save the child's life. The agency must have medical and paramedical personnel available and, as already mentioned, adequate funds and facilities to do a prompt and effective job. The agency must then take the necessary action either by helping the family to function more adequately or by seeking legal action to remove the child to a safer environment should this prove necessary.[23]

As indicated earlier, various plans of child protection exist and are now operating in many communities. Where the legal basis and the implementation are adequate, these present programs have been found to be effective. If new reporting and investigating procedures are established, the Committee believes that it should be done through departments of welfare or health or through child welfare agencies. In those areas of the United States inadequate represented by city or county health or welfare departments or by child welfare agencies authorized to provide protective services, the local law enforcement authorities should be notified of maltreatment.

*Central register*

Any program of protection against child abuse involves several phases: case finding; case reporting to an authorized agency that can offer prompt protective action for the child; investigation of the circumstances surrounding the abuse; and maintenance of a register of each reported incident.

The central register is an important aspect of a program. This facilitates the detection of cases of repeated abuse, since parents of abused children frequently take them to different physicians or hospitals after each episode or attack to avoid identification with previous episodes. If a central register exists, a physician, hospital administrator, or social worker can, by telephoning, quickly discover whether a case is one involving repeated injury or neglect and possible abuse. The registry may be maintained by any agency the community selects, but again the Committee believes that either the city or county department of health or welfare is the most logical choice, since it is more likely to have necessary financial and clerical facilities and is experienced in maintaining registers.

The Committee urges those communities that already have effective child protective programs to expand their programs to include a registry.[1]

Wilson [24] reported a case that raises the important question: What shall be done about a person registered as suspected of having inflicted injury on a child who is later found innocent? How does this name get removed from the register? This might be very difficult and require much red tape and a judicial order. The problem might be solved if all reports are held in a temporary file and moved to a permanent one only when the suspicion is found to be based on fact, or when there continues to be doubt as to guilt of the parent. However, when the parent is proved innocent his record should be destroyed.

In setting up a program it is most important that the reporting physician or hospital be given legal immunity in reporting suspected maltreatment. This will deter suits and will encourage the person to report a case of suspected abuse which he otherwise might not do.

*Recommendations*

The Committee on the Infant and Preschool Child believes that mandatory reporting by physicians of suspected cases of child abuse is justified and that legislation for this purpose should be primarily of a protective rather than a punitive nature. It also believes that communities should be encouraged to develop their own sound programs to provide the necessary services to protect the child after a case has been reported.

Legislation should be guided by the following principles:

1. Physicians should be required to report suspected cases of child abuse immediately to the agency legally charged with the responsibility of investigating child abuse, preferably the county or state department of welfare or health or their local representatives, or to the nearest law enforcement agency.

2. The agency should have ample personnel and resources to take action immediately upon receipt of the report.

3. Reported cases should be investigated promptly and appropriate service provided for the child and family.

4. The child should be protected by the agency either by continued hospitalization, supervision at home, or removal from home through family or juvenile court action when indicated.

5. The agency should keep a central register of all such cases. Provision should be made for the removal of case records from the register when it is found that abuse did not, in fact, occur.

6. The reporting physician or hospital should be granted immunity from suit.

A program following these principles should be successful in identifying abused children and in protecting them from further abuse; in restoring those families that are capable of rehabilitation; in allowing the physician to perform responsibly within the bounds of medical knowledge and ethics; and in allowing the community to meet its obligations to its children.

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[From the U.S. Department of Health, Education, and Welfare]

## The Abused Child

### INTRODUCTION

Child neglect and abuse are not new phenomena in our society, or in any society. What is new is the increase and violence in the attacks on infants and young children by parents or other caretakers. Evidence of this abuse, and awareness of it on the part of physicians began to pour into the Children's Bureau about 1960. Spurred by these accounts and by the interest aroused by the symposium on "The Battered Child" at the meeting of the American Academy of Pediatrics in October 1961, the Children's Bureau undertook the task of assembling information and starting action.

In January 1962, a group of consultants was asked to meet with the Children's Bureau to consider what might be done. This group was impressed by the results reported from California where mandatory reporting by physicians and hospitals is in force. One of the steps suggested by this group was the development of a "model law" for States.

Subsequently, the Children's Bureau called together a small technical group, largely from the legal profession to discuss and develop specifications for such legislation. Using this group's conclusions as a basis, the Children's Bureau, in conjunction with the Office of the General Counsel of the U.S. Department of Health, Education, and Welfare, drew up a statement of principles and suggested language for State legislation on reporting of the physically abused child. This material has now been widely reviewed by doctors, lawyers, social workers, juvenile court judges, hospital administrators, and interested citizens. Agreement on the need for such legislation was almost universal. On some of the specifics, differences of opinion exist. Insofar as possible, the ideas of the consultants have been incorporated and differing approaches reconciled in this pamphlet.

The sole purpose of this legislative proposal is to protect the child. By identifying the child in hazard, it is hoped that his plight will lead to protection from further abuse and to providing him with a safe and wholesome environment denied him by his rightful protectors—his parents.

### PRINCIPLES AND SUGGESTED LANGUAGE FOR LEGISLATION ON REPORTING OF THE PHYSICALLY ABUSED CHILD

Many State laws that protect children from injuries and hazards already exist. As Children become more vulnerable to danger in our fast-moving, ever-changing society, other protections are needed.

This legislative guide represents the first several steps which the Children's Bureau believes must be taken to assure identification, protection, and treatment for children who have had injuries inflicted upon them by their parents or others responsible for their care. A growing number of such injuries are being reported by medical personnel who are in a position to detect them.

This guide for State legislation is a first step and would require official reporting of these cases. Since injuries of this nature are seen most frequently by physicians in hospitals, or private practice, this legislation would place upon physicians the responsibility for reporting these injuries to the appropriate law enforcement official. At present, law enforcement constitutes the only chain of services which is sure to exist in every community and within reach of any medical personnel given responsibility for this reporting. Upon receipt of such a report, the law enforcement official may follow any of several measures to assure care and protection of the child. He may make the investigation himself and place the child in protective care for which provision already has been made. Or he may refer the child's case to a voluntary or public social agency given this responsibility by law. Such an agency would make the investigation and take responsibility for the immediate care of the child, if necessary. This agency also would continue to work with the parents toward a plan for the care of the child. This plan might range from temporary foster care of the child while his parents receive help with the problems causing their abuse of him to termination of their parental rights and plans for the permanent care of the child including adoption, if indicated.

In our society, care and protection of children beyond the parental role are the responsibility of the State. This responsibility is usually discharged through social welfare agencies. Logically, the planning for the child and working with the parents in cases of abuse should rest with the public welfare department.

Many States have this responsibility spelled out in their welfare laws. The Children's Bureau legislative guide *Proposals for Drafting Principles and Suggested Language for Legislation on Public Child Welfare and Youth Services*[1] specifically defines this responsibility and makes it mandatory on the welfare department to provide this protection to children. Where States do not have legislation placing this responsibility in the public welfare department or where legislation exists but has not been implemented, considerable work and planning may be necessary to establish and set in motion the services required for protection of children in jeopardy because of actions by their parents or others responsible for their care.

In considering State legislation involving children, one basic principle should always be kept in mind:

Parents have the primary responsibility for meeting the needs of their children. Society has an obligation to help parents discharge this responsibility. Society must assume this responsibility when parents are unable to do so.

The physical abuse of children frequently follows a pattern of severe and repeated injury to very young children. The evil which this present pamphlet seeks to alleviate, and to eliminate in reported cases, is that inflicted on children by other than accidental means by those who should be least likely to engage in such conduct—their parents or other persons responsible for their care and protection and against whom such children are most likely to need the protection of society.

When children are abused or mistreated by other persons, their parents or those responsible for their care and protection are expected to take whatever action may be indicated under the law. But when the family or home environment itself is unsafe for children, when it has produced their injuries and threatens them with more, the duty of the State is to provide protective services.

In order to initiate protective services, cases of such inflicted injury to children must be promptly called to the attention of appropriate agencies of government for investigation and such action as reasonably may be indicated, whether these cases are referred to social welfare agencies or to the courts.

Children who have suffered physical abuse at the hands of parents or other persons responsible for their care and protection are most frequently brought or come to the attention of physicians, either in private practice or at hospitals, for care and treatment. Physicians, because of the nature of the injuries and the case histories of these children, are in an optimum position to form reasonable, preliminary judgments as to how the injuries occurred. Although the proposed legislation is not intended to prevent or discourage voluntary reporting by others, because of the seriousness of the situation for children and for society, it makes reporting mandatory on physicians or the institutions where physicians' services are provided, as is the case with gunshot wounds. Therefore, when a physician has diagnosed a case as within the purview of the statute, neither he nor the institution should have any discretion in the matter of notifying the appropriate police authority with respect to it. Under the proposed statute, without regard for considerations growing out of the physician-patient relationship or any other matter, he would have the duty to make or cause to be made a prompt report.

The proposed legislation requires a report to be made when there is reasonable cause to suspect that physical injury was inflicted by a parent or other person responsible for the care of the child. That is to say, when there is reasonable cause to suspect that the case at hand falls within the category of evil which the statute is designed to act upon. The duty which would be imposed upon the reporter is necessarily a limited one. In its decisionmaking aspects, it is akin to that performed by a grand jury when it finds probable cause that a given individual committed a crime. But, unlike a grand jury, the reporter would not be called upon to identify any given individual, i.e., the mother, the father, etc., as the one who inflicted the injury.

Basically, the legislative language would require a reasonable judgment on the part of the reporter that the injuries are not reasonably explainable as having happened accidentally; that, therefore, they were inflicted upon the child; and that they were inflicted in the family or home setting. It contemplates, furthermore, that the reporter will base his judgment on the facts readily available to him in the conduct of his professional services. He is not expected to make any outside, independent investigation. The reporter would be concerned only with what is disclosed by him by the nature and extent of the injuries and the case history. If from these he finds a reasonable likelihood, both that the injuries were inflicted on the child by other than accidental means and that they were inflicted by a parent or other person responsible for the child's care, he would have to make a report. If he is not able to draw this hypothesis with respect to each of these facets, he is not required to report.

A physician in making his diagnosis would have to decide whether or not the case before him falls within the statute. But, in so doing, his would be the preliminary act. The report would initiate investigative machinery and might or might not result in law enforcement, social service, or judicial action. The decision to report, therefore, while it should be carefully considered and derived from the available evidence, implies no factor of infallibility. In making it, a physician would not be functioning as a judge or jury. He merely would be acting on a reasonable suspicion stemming from his professional experience and expert opinion. More than this would not be required of him.

Even with respect to physicians who are on the staffs of hospitals or similar institutions, the responsibility for initiating a report is on them and not on hospital administrative officials. The decision involved appears to be largely medical in nature. To the extent that nonmedical factors enter the diagnosis, they, too, would have been adduced by the physician. It would seem

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[1] Proposals for Drafting Principles and suggested Language for Legislation on Public Child Welfare and Youth Services." Washington 25, D.C.: U.S. Department of Health, Education, and Welfare, Welfare Administration, Children's Bureau, 1957. 130 pp.

anomalous, therefore, that another person, particularly a nonmedical person who had no direct contact with the case, should have initial responsibility for this report. Moreover, when a staff physician notifies the appropriate administrative person, making a report is mandatory.

With respect to the contents of the report, the suggested legislative language is self-explanatory. In describing the child's injuries, with inclusion of other relevant data as the physician has obtained in the course of carrying out his professional duties, he is not required to specify any individual as having inflicted the injury, nor is he burdened with obtaining additional information.

As drafted, the suggested legislative language does not specify the "appropriate police authority." This would be impossible in this material in view of the nationwide diversity as to the identity of the authority having responsibility to investigate and follow up reports of this kind. If adopted as written, the initial decision as to whom to contact would rest with the physician or the institution. In most political subdivisions, the police department would be the appropriate authority. Where police departments have specialized units with qualified staff, reports could be made or referred to such units. In some jurisdictions, it might be necessary for reports to be made to the sheriff's or marshal's office, or the equivalent. Consequently, in some States it may be desirable for the legislation to identify specifically the appropriate police authority.

Moreover, the suggested legislative language relates only to the reporting of cases to the appropriate police authority. It does not prescribe the duties of such authority upon receipt of the report, nor does it provide for the responsibilities of society in the protection, care, and treatment of the child who is the subject of the report. By the same token, it makes no provision with respect to the handling of the parents or other persons responsible for the child's care and protection whose failures, as such, have forced the State to act in the affairs of the child affected. It presupposes the existence in the States of adequate, applicable legal and social machinery—laws, enforcement, and social welfare agencies and courts—and that these will be put in motion by the making of the required reports. The proposed statute presupposes a duty of the police authority to make an immediate and careful investigation of the report and to take appropriate followup action, or to refer the case to the public welfare agency for investigation and followup action when such arrangement has previously been made. This is based upon the further assumption that under the laws of the jurisdiction, a report would allege facts and conditions which could bring the child and the adults involved within the jurisdiction of the juvenile court, with the adults possibly also subject to the criminal laws of the State.

*The Standard Juvenile Court Act, 1959* (sixth edition) and the *Standard Family Court Act, 1959*, indicate the kinds of jurisdictional provisions which would permit these cases to be brought within the purview of the specialized court. With respect to the investigative and followup activities that may be expected of the police, an informative and authoritative discussion is contained in the recent Children's Bureau publication, *Police Work With Children: Perspective and Principles.*[2]

Many cases will indicate the need for referral by the police authority to the public child welfare agency for protective services.

[2] "Police Work With Children: Perspectives and Principles." Children's Bureau Publication 399. Washington 25, D.C.: U.S. Government Printing Office, 1962. 106 pp. (58–67).

appropriate emotional concern over the baby's appearance and impending operation. The mother, aged 21, a high school graduate, was very warm, friendly, and gave all the appearance of having endeavored to be a good mother. However, it was noted by both nurses and physicians that she did not react as appropriately or seem as upset about the baby's appearance as did her husband. From interviews with the father and later with the mother, it became apparent that she had occasionally shown very impulsive, angry behavior, sometimes acting rather strangely and doing bizarre things which she could not explain nor remember. This was their first child and had resulted from an unwanted pregnancy which had occurred almost immediately after marriage and before the parents were ready for it. Early in pregnancy the mother had made statements about giving the baby away, but by the time of delivery she was apparently delighted with the baby and seemed to be quite fond of it. After many interviews, it became apparent that the mother had identified herself with her own mother who had also been unhappy with her first pregnancy and had frequently beaten her children. Despite very strong conscious wishes to be a kind, good mother, the mother of our patient was evidently repeating the behavior of her own mother toward herself. Although an admission of guilt was not obtained, it seemed likely that the mother was the one responsible for attacking the child; only after several months of treatment did the amnesia for the aggressive outbursts begin to lift. She responded well to treat-

for examination, care or treatment has had serious physical injury or injuries inflicted upon him other than by accidental means by a parent or other person responsible for his care, shall report or cause reports to be made in accordance with the provisions of this Act; *provided* that when the attendance of a physician with respect to a child is pursuant to the performance of services as a member of the staff of a hospital or similar institution he shall notify the person in charge of the institution or his designated delegate who shall report or cause reports to be made in accordance with the provisions of this Act.

3. NATURE AND CONSENT OF REPORT: TO WHOM MADE

An oral report shall be made immediately by telephone or otherwise, and followed as soon thereafter as possible by a report in writing, to an appropriate police authority. Such reports shall contain the names and addresses of the child and his parents or other persons responsible for his care, if known, the child's age, the nature and extent of the child's injuries (including any evidence of previous injuries), and any other information that the physician believes might be helpful in establishing the cause of the injuries and the identity of the perpetrator.

4. IMMUNITY FROM LIABILITY

Anyone participating in good faith in the making of a report pursuant to this Act shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed. Any such participant shall have the same immunity with respect to participation in any judicial proceeding resulting from such report.

5. EVIDENCE NOT PRIVILEGED

Neither the physician-patient privilege nor the husband-wife privilege shall be a ground for excluding evidence regarding a child's injuries or the cause thereof, in any judicial proceeding resulting from a report pursuant to this Act.

[1] It is recommended that the maximum age of juvenile court jurisdiction in the State be used.

6. PENALTY FOR VIOLATION

Anyone knowingly and willfully violating the provisions of this Act shall be guilty of a misdemeanor.

## The Battered-Child Syndrome

(By C. Henry Kempe, M.D., Denver, Frederic N. Silverman, M.D., Cincinnati, Brandt F. Steele, M.D., William Droegemueller, M.D., and Henry K. Silver, M.D., Denver)

(NOTE.—Figures and references mentioned are not printed in RECORD.)

The battered-child syndrome, a clinical condition in young children who have received serious physical abuse, is a frequent cause of permanent injury or death. The syndrome should be considered in any child exhibiting evidence of fracture of any bone, subdural hematoma, failure to thrive, soft tissue swellings or skin bruising, in any child who dies suddenly, or where the degree and type of injury is at variance with the history given regarding the occurrence of the trauma. Psychiatric factors are probably of prime importance in the pathogenesis of the disorder, but knowledge of these factors is limited. Physicians have a duty and responsibility to the child to require a full evaluation of the problem and to guarantee that no expected repetition of trauma will be permitted to occur.

The battered-child syndrome is a term used by us to characterize a clinical condition in young children who have received serious physical abuse, generally from a parent or foster parent. The condition has also been described as "unrecognized trauma" by radiologists, orthopedists, pediatricians, and social service workers. It is a significant cause of childhood disability and death. Unfortunately, it is frequently not recognized or, if diagnosed, is inadequately handled by the physician because of hesitation to bring the case to the attention of the proper authorities.

INCIDENCE

In an attempt to collect data on the incidence of this problem, we undertook a nation-wide survey of hospitals which were asked to indicate the incidence of this syndrome in a one-year period. Among 71 hospitals replying, 302 such cases were reported to have occurred; 33 of the children died; and 85 suffered permanent brain injury. In one-third of the cases proper medical diagnosis was followed by some type of legal action. We also surveyed 77 District Attorneys who reported that they had knowledge of 447 cases in a similar one-year period. Of these, 45 died, and 29 suffered permanent brain damage; court action was initiated in 46% of this group. This condition has been a particularly common problem in our hospitals; on a single day, in November, 1961, the Pediatric Service of the Colorado General Hospital was caring for 4 infants suffering from the parent-inflicted battered-child syndrome. Two of the 4 died of their central nervous system trauma; 1 subsequently died suddenly in an unexplained manner 4 weeks after discharge from the hospital while under the care of its parents, while the fourth is still enjoying good health.

CLINICAL MANIFESTATIONS

The clinical manifestations of the battered-child syndrome vary widely from those cases in which the trauma is very mild and is often unsuspected and unrecognized, to those who exhibit the most florid evidence of injury to the soft tissues and skeleton. In the former group, the patients' signs and symptoms may be considered to have resulted from failure to thrive from some other cause or to have been produced by a metabolic disorder, an infectious process, or some other disturbance. In these patients specific findings of trauma such as bruises or characteristic roentgenographic changes as described below may be misinterpreted and their significance not recognized.

The battered-child syndrome may occur at any age, but, in general, the affected children are younger than 3 years. In some instances the clinical manifestations are limited to those resulting from a single episode of trauma, but more often the child's general health is below par, and he shows evidence of neglect including poor skin hygiene, multiple soft tissue injuries, and malnutrition. One often obtains a history of previous episodes suggestive of parental neglect or trauma. A marked discrepency between clinical findings and historical data as supplied by the parents is a major diagnostic feature of the battered-child syndrome. The fact that no new lesions, either of the soft tissue or of the bone, occur while the child is in the hospital or in a protected environment lends added weight to the diagnosis and tends to exclude many diseases of the skeletal or hemopoietic systems in which lesions may occur spontaneously or after minor trauma. Subdural hematoma, with or without fracture of the skull, is in our experience, an extremely frequent finding even in the absence of fractures of the long bones. In an occasional case the parent or parent-substitute may also have assaulted the child by administering an overdose of a drug or by exposing the child to natural gas or other toxic substances. The characteristic distribution of these multiple fractures and the observation that the lesions are in different stages of healing are of additional value in making the diagnosis.

In most instances, the diagnostic bone lesions are observed incidental to examination for purposes other than evaluation for possible abuse. Occasionally, examination following known injury discloses signs of other, unsuspected skeletal involvement. When parental assault is under consideration, radiologic examination of the entire skeleton may provide objective confirmation. Following diagnosis, radiologic examination can document the healing of lesions and reveal the appearance of new lesions if additional trauma has been inflicted.

The radiologic manifestations of trauma to growing skeletal structures are the same whether or not there is a history of injury. Yet there is reluctance on the part of many physicans to accept the radiologic signs as indications of repetitive trauma and possible abuse. This reluctance stems from the emotional unwillingness of the physician to consider abuse as the cause of the child's difficulty and also because of unfamiliarity with certain aspects of fracture healing so that he is unsure of the significance of the lesions that are present. To the informed physician, the bones tell a story the child is too young or too freightened to tell.

PSYCHIATRIC ASPECTS

Psychiatric knowledge pertaining to the problem of the battered child is meager, and the literature on the subject is almost nonexistent. The type and degree of physical attack varies greatly. At one extreme, there is direct murder of children. This is usually done by a parent or other close relative, and, in these individuals, a frank psychosis is usually readily apparent. At the other extreme are those cases where no overt harm has occurred, and one parent, more often the mother, comes to the psychiatrist for help, filled with anxiety and guilt related to fantasies of hurting the child. Occasionally the disorder has gone beyond the point of fantasy and has resulted in severe slapping or spanking. In such cases the adult is usually responsive to treatment; it is not known whether or not the disturbance in these adults would progress to the point where they would inflict significant trauma on the child.

Between these 2 extremes are a large number of battered children with mild to severe injury which may clear completely or result in permanent damage or even death after repeated attack. Descriptions of such children have been published by numerous investigators including radiologists, orthopedists, and social workers. The latter have reported on their studies of investigations of families in which children have been beaten and of their work in effecting satisfactory placement for the protection of the child. In some of these published reports the parents, or at least the parent who inflicted the abuse, have been found to be of low intelligence. Often, they are described as psychopathic or sociopathic characters. Alcoholism, sexual promiscuity, unstable marriages, and minor criminal activities are reportedly common amongst them. They are immature, impulsive, self-centered, hypersensitive, and quick to react with poorly controlled aggression. Data in some cases indicate that such attacking parents had themselves been subject to some degree of attack from their par-

ents in their own childhood.

Beating of children, however, is not confined to people with a psychopathic personality or of borderline socioeconomic status. It also occurs among people with good education and stable financial and social background. However, from the scant data that are available, it would appear that in these cases, too, there is a defect in character structure which allows aggressive impulses to be expressed too freely. There is also some suggestion that the attacking parent was subjected to similar abuse in childhood. It would appear that one of the most important factors to be found in families where parental assault occurs is "to do unto others as you have been done by." This is not surprising; it has long been recognized by psychologists and social anthropologists that patterns of child rearing, both good and bad, are passed from one generation to the next in relatively unchanged form. Psychologically, one could describe this phenomenon as an identification with the aggressive parent, this identification occurring despite strong wishes of the person to be different. Not infrequently the beaten infant is a product of an unwanted pregnancy, a pregnancy which began before marriage, too soon after marriage, or at some other time felt to be extremely inconvenient. Sometimes several children in one family have been beaten; at other times one child is singled out for attack while others are treated quite lovingly. We have also seen instances in which the sex of the child who is severely attacked is related to very specific factors in the context of the abusive parent's neurosis.

It is often difficult to obtain the information that a child has been attacked by its parent. To be sure, some of the extremely sociopathic characters will say, "Yeah, Johnny would not stop crying so I hit him. So what? He cried harder so I hit him harder." Sometimes one spouse will indicate that the other was the attacking person, but more often there is complete denial of any knowledge of injury to the child and the maintenance of an attitude of complete innocence on the part of both parents. Such attitudes are maintained despite the fact that evidence of physical attack is obvious and that the trauma could not have happened in any other way. Denial by the parents of any involvement in the abusive episode may, at times, be a conscious, protective device, but in other instances it may be a denial based upon psychological repression. Thus, one mother who seemed to have been the one who injured her baby had complete amnesia for the episodes in which her aggression burst forth so strikingly.

In addition to the reluctance of the parents to give information regarding the attacks on their children, there is another factor which is of great importance and extreme interest as it relates to the difficulty in delving into the problem of parental neglect and abuse. This is the fact that physicians have great difficulty both in believing that parents could have attacked their children and in undertaking the essential questioning of parents on this subject. Many physicians find it hard to believe that such an attack could have occurred and they attempt to obliterate such suspicions from their minds, even in the face of obvious circumstantial evidence. The reason for this is not clearly understood. One possibility is that the arousal of the physician's antipathy in response to such situations is so great that it is easier for the physician to deny the possibility of such attack than to have to deal with the excessive anger which surges up in him when he realizes the truth of the situation. Furthermore, the physician's training and personality usually makes it quite difficult for him to assume the role of policeman or district attorney and start questioning patients as if he were investigating a crime. The humanitarian-minded physician finds it most difficult to proceed when he is met with protestations of innocence from the aggressive parent, especially when the battered child was brought to him voluntarily.

Although the technique wherein the physician obtains the necessary information in cases of child beating is not adequately solved, certain routes of questioning have been particularly fruitful in some cases.

One spouse may be asked about the other spouse in relation to unusual or curious behavior or for direct description of dealings with the baby. Clues to the parents' character and pattern of response may be obtained by asking questions about sources of worry and tension. Revealing answers may be brought out by questions concerning the baby such as, "Does he cry a lot? Is he stubborn? Does he obey well? Does he eat well? Do you have problems in controlling him?" A few general questions concerning the parents' own ideas of how they themselves were brought up may bring forth illuminating answers; interviews, with grandparents or other relatives may elicit additional suggestive data. In some cases, psychological tests may disclose strong aggressive tendencies, impulsive behavior, and lack of adequate mechanisms of controlling impulsive behavior. In other cases only prolonged contact in a psychotherapeutic milieu will lead to a complete understanding of the background and circumstances surrounding the parental attack. Observation by nurses or other ancillary personnel of the behavior of the parents in relation to the hospitalized infant is often extremely valuable.

The following 2 condensed case histories depict some of the problems encountered in dealing with the battered-child syndrome.

REPORT OF CASES

CASE 1.—The patient was brought to the hospital at the age of 3 months because of enlargement of the head, convulsions, and spells of unconsciousness. Examination revealed bilateral subdural hematomas, which were later operated upon with great improvement in physical status. There had been a hospital admission at the age of one month because of a fracture of the right femur, sustained "when the baby turned over in the crib and caught its leg in the slats." There was no history of any head trauma except "when the baby was in the other hospital a child threw a little toy at her and hit her in the head." The father had never been alone with the baby, and the symptoms of difficulty appeared to have begun when the mother had been caring for the baby. Both parents showed concern and requested the best possible care for their infant. The father, a graduate engineer, related instances of impulsive behavior, but these did not appear to be particularly abnormal, and he showed appropriate emotional concern over the baby's appearance and impending operation. The mother, aged 21, a high school graduate, was very warm, friendly, and gave all the appearance of having endeavored to be a good mother. However, it was noted by both nurses and physicians that she did not react as appropriately or seem as upset about the baby's appearance as did her husband. From interviews with the father and later with the mother, it became apparent that she had occasionally shown very impulsive, angry behavior, sometimes acting rather strangely and doing bizarre things which she could not explain nor remember. This was their first child and had resulted from an unwanted pregnancy which had occurred almost immediately after marriage and before the parents were ready for it. Early in pregnancy the mother had made statements about giving the baby away, but by the time of delivery she was apparently delighted with the baby and seemed to be quite fond of it. After many interviews, it became apparent that the mother had identified herself with her own mother who had also been unhappy with her first pregnancy and had frequently beaten her children. Despite very strong conscious wishes to be a kind, good mother, the mother of our patient was evidently repeating the behavior of her own mother toward herself. Although an admission of guilt was not obtained, it seemed likely that the mother was the one responsible for attacking the child; only after several months of treatment did the amnesia for the aggressive outbursts begin to lift. She responded well to treatment, but for a prolonged period after the infant left the hospital the mother was not allowed alone with her.

CASE 2.—This patient was admitted to the hospital at the age of 13 months with signs of central nervous system damage and was found to have a fractured skull. The parents were questioned closely, but no history of trauma could be elicited. After one week in the hospital no further treatment was deemed necessary, so the infant was discharged home in the care of her mother, only to return a few hours later with hemiparesis, a defect in vision, and a new depressed skull fracture on the other side of the head. There was no satisfactory explanation for the new skull fracture, but the mother denied having been involved in causing the injury, even though the history revealed that the child had changed markedly during the hour when the mother had been alone with her. The parents of this child were a young, middle-class couple, who in less than 2 years of marriage, had been separated, divorced, and remarried. Both felt that the infant had been unwanted and had come too soon in the marriage. The mother gave a history of having had a "nervous breakdown" during her teens. She had received psychiatric assistance because she had been markedly upset early in the pregnancy. Following an uneventful delivery, she had been depressed and had received further psychiatric aid and 4 electroshock treatments. The mother tended to gloss over the unhappiness during the pregnancy and stated that she was quite delighted when the baby was born. It is interesting to note that the baby's first symptoms of difficulty began the first day after its first birthday, suggesting an "anniversary reaction." On psychological and neurological examination, this mother showed definite signs of organic brain damage probably of lifelong duration and possibly related to her own prematurity. Apparently her significant intellectual defects had been camouflaged by an attitude of coy, naive, cooperative sweetness which distracted attention from her deficits. It was noteworthy that she had managed to complete a year of college work despite a borderline I.Q. It appeared that the impairment in mental functioning was probably the prime factor associated with poor control of aggressive impulses. It is known that some individuals may react with aggressive attack or psychosis when faced with demands beyond their intellectual capacity. This mother was not allowed to have unsupervised care of her child.

Up to the present time, therapeutic experience with the parents of battered children is minimal. Counseling carried on in social agencies has been far from successful or rewarding. We know of no reports of successful psychotherapy in such cases. In general, psychiatrists feel that treatment of the so-called psychopath or sociopath is rarely successful. Further psychological investigation of the character structure of attacking parents is sorely needed. Hopefully, better understanding of the mechanisms involved in the control and release of aggressive impulses will aid in the earlier diagnosis, prevention of attack, and treatment of parents, as well as give us better ability to predict the likelihood of further attack in the future. At present, there is no safe remedy in the situation except the separation of battered children from their insufficiently protective parents.

TECHNIQUES OF EVALUATION

A physician needs to have a high initial level of suspicion of the diagnosis of the battered-child syndrome in instances of subdural hematoma, multiple unexplained fractures at different stages of healing, failure to thrive, when soft tissue swellings or skin bruising are present, or in any other situation where the degree and type of injury is at variance with the history given regarding its occurrence or in any child who dies suddenly. Where the problem of parental abuse comes up for consideration, the physician should tell the parents that it is his opinion that the injury should not occur if the child were adequately protected, and he should indicate that he would welcome the parents giving him the full story so that he might be able to give greater assistance to them to prevent similar occurrences from taking place in the future. The idea that they can now help the child by giving a very complete history of circumstances surrounding the injury sometimes helps the parents feel that they are atoning for the wrong that they have done. But in many instances, regardless of the approach used in attempting to elicit a full story of the abusive incident(s), the parents will continue to deny that they were guilty of any wrongdoing. In talking with the parents, the physician may sometimes obtain added information by showing that he understands their problem and that he wishes to be of aid to them as well as to the child. He may help them reveal the circumstances of the injuries by pointing out reasons that they may use to explain their action.

If it is suggested that "new parents sometimes lose their tempers and are a little too forceful in their actions," the parents may grasp such a statement as the excuse for their actions. Interrogation should not be angry or hostile but should be sympathetic and quiet with the physician indicating his assurance that the diagnosis is well established on the basis of objective findings and that all parties, including the parents, have an obligation to avoid a repetition of the circumstances leading to the trauma. The doctor should recognize that bringing the child for medical attention in itself does not necessarily indicate that the parents were innocent of wrongdoing and are showing proper concern; trauma may have been inflicted during times of uncontrollable temporary rage. Regardless of the physician's personal reluctance to become involved, complete investigation is necessary for the child's protection so that a decision can be made as to the necessity of placing the child away from the parents until matters are fully clarified.

Often, the guilty parent is the one who gives the impression of being the more normal. In 2 recent instances young physicians have assumed that the mother was at fault because she was unkempt and depressed while the father, in each case a military man with good grooming and polite manners, turned out to be the psychopathic member of the family. In these instances it became apparent that the mother had good reason to be depressed.

RADIOLOGIC FEATURES

Radiologic examination plays 2 main roles in the problem of child-abuse. Initially, it is a tool for case finding, and, subsequently, it is useful as a guide in management.

The diagnostic signs result from a combination of circumstances: age of patient, nature of the injury, the time that has elapsed before the examination is carried out, and whether the traumatic episode was repeated or occurred only once.

*Age.*—As a general rule, the children are under 3 years of age; most, in fact, are infants. In this age group the relative amount of radiolucent cartilage is great; therefore, anatomical disruptions of cartilage without gross deformity are radiologically invisible or difficult to demonstrate (Fig. 1a). Since the periosteum of infants is less securely attached to the underlying bone than in older children and adults, it is more easily and extensively stripped from the shaft by hemorrhage than in older patients. In infancy massive subperiosteal hematomas may follow injury and elevate the active periosteum so that new bone formation can take place around and remote from the parent shaft (Figs. 1c and 2).

*Nature of Injury.*—The ease and frequency with which a child is seized by his arms or legs make injuries to the appendicular skeleton the most common in this

United States of America

# Congressional Record

PROCEEDINGS AND DEBATES OF THE 93d CONGRESS, FIRST SESSION

Vol. 119 WASHINGTON, WEDNESDAY, MARCH 14, 1973 No. 40

# Senate

WEDNESDAY, MARCH 14, 1973

By Mr. MONDALE (for himself, Mr. JAVITS, Mr. ABOUREZK, Mr. BAYH, Mr. BIDEN, Mr. BROCK, Mr. BROOKE, Mr. BURDICK, Mr. CASE, Mr. CLARK, Mr. COOK, Mr. CRANSTON, Mr. EAGLETON, Mr. FULBRIGHT, Mr. GRAVEL, Mr. HART, Mr. HARTKE, Mr. HATFIELD, Mr. HATHAWAY, Mr. HOLLINGS, Mr. HUDDLESTON, Mr. HUGHES, Mr. HUMPHREY, Mr. KENNEDY, Mr. MATHIAS, Mr. McGEE, Mr. McGOVERN, Mr. McINTYRE, Mr. MONTOYA, Mr. MOSS, Mr. MUSKIE, Mr. NELSON, Mr. PACKWOOD, Mr. PASTORE, Mr. PELL, Mr. PERCY, Mr. RANDOLPH, Mr. RIBICOFF, Mr. SCHWEIKER, Mr. STAFFORD, Mr. STEVENSON, Mr. TUNNEY, and Mr. WILLIAMS:

S. 1220. A bill to limit the authority of the Secretary of Health, Education, and Welfare to impose, by regulations, certain additional restrictions upon the availability and use of Federal funds authorized for social services under the public assistance programs established by the Social Security Act. Referred to the Committee on Finance.

Mr. MONDALE. Mr. President, I am introducing legislation to preserve key aspects of the Federal social services program from "impoundment by red-tape." My bill reflects the concerns expressed in a letter 45 Senators joined me in sending to Secretary Weinberger on February 15, a copy of when I ask unanimous consent be printed at the close of my remarks. This legislation is co-sponsored by a bipartisan coalition of 42 Senators, and endorsed by 12 of our Governors. The Governors supporting our bill include Governors Carter of Georgia, Anderson of Minnesota, Bumpers of Arkansas, Tribbitt of Delaware, Andrus of Idaho, Ford of Kentucky, Mandel of Maryland, Curtis of Maine, Exon of Nebraska, Shapp of Pennsylvania, Rampton of Utah, and Lucey of Wisconsin. Mr. President, regulations proposed by the administration and scheduled to go into effect on April 1 would cripple the effectiveness of this program which is designed to assist States in helping families off the welfare rolls and in providing alternatives to institutional care for the aged, blind, and disabled.

Last year the Congress adopted a $2.5 billion ceiling and other reforms for the social services program—to prevent abuses and to require States to more carefully order their priorities.

But the new regulations go far beyond the mandate of Congress, to crush existing State programs—for day care so that mothers can work, meals and other services for elderly persons living at home, drug and alcoholism treatment and prevention, juvenile delinquency prevention and other services.

They would sharply reduce the Federal contribution for social services—by $600 million to $1 billion below the level established by the Congress. In Minnesota alone the new regulations would cut over $34 million in services for programs affecting 73,000 children and adults.

Gov. Dale Bumpers of Arkansas recently described the impact of these proposals on his State:

To give you an example of the effect it would have on our mental retardation programs, when I was elected we had fewer than 20 community facilities caring for a little less than 400 children.

In the past year and a half . . . we have expanded that to 82 facilities caring for over 2,000 children.

Quite frankly, with the guidelines prohibiting the use of private funds and the further restrictions . . . we will probably wind up closing virtually every one of the new ones we have started in the past year and a half.

Under these proposed regulations, former welfare recipients would be denied eligibility for day care or other services just after those services have permitted them to find employment and leave the welfare rolls. So they would be forced back on welfare. As an HEW memo states:

The regulations will cause many former welfare recipients to quit their jobs . . . [and] create a revolving door effect.

This is precisely the kind of mixed up incentive system which traps people in poverty, and destroys faith in the good intentions of government.

The bill which we are introducing today does not attempt to preserve the old regulations intact. Instead, our bill would preserve the five most essential components of the existing program:

First. The use of privately contributed funds and in-kind contributions to make up the State's matching share.

Second. Existing flexibility for States to offer services to past welfare recipients for up to 2 years and to potential welfare recipients for up to 5 years.

Third. The authority of States to provide drug and alcohol treatment programs, education and training services and comprehensive services for children, the elderly and the disabled under the social services program.

Fourth. The continued application of day care standards established for the program in 1969.

In addition, our bill would free States from unreasonable requirements for reporting as often as every 3 months on the use of funds.

The social services program is an essential effort to aid families in getting off welfare, and to help older or disabled citizens live useful lives outside of institutions. It is a flexible program, with broad authority resting in the States.

The cuts the administration has proposed will not create savings. The American people will pay more in higher State and local taxes, in increased costs for welfare and crime and in the waste of thousands of human lives.

We are hopeful that Secretary Weinberger will revise his proposal to reflect widespread congressional concern. If he does not, we will move through the legislative process to preserve this program, as Congress intended, within the $2.5 billion ceiling established by the Congress last fall.

EXHIBIT 1

FEBRUARY 14, 1973.

Hon. CASPAR WEINBERGER,
*Secretary of Health, Education, and Welfare, Washington, D.C.*

DEAR MR. SECRETARY: We are extremely concerned about reports that forthcoming social service regulations may make fundamental changes in the operation of federally-assisted programs in the fields of day care, aid to the elderly, mental retardation and juvenile delinquency.

In particular, we would like to register our strong opposition to the reported administrative repeal of existing provisions which permit the use of privately contributed funds—from charitable organizations such as the United Way of America—to make up the required local or state match. This proposed change would seriously undermine the excellent existing private-public partnership approach to human problems. These kinds of cooperative efforts should be encouraged rather than discouraged.

Such an extreme change in the existing social services program is unwarranted. Fears of an uncontrollable budget in this area were resolved by the $2.5 billion ceiling on Title IV–A which the Congress adopted last year. And less extreme proposals for dealing with isolated examples of abuse have been offered by individuals such as former Secretary Richardson. We are attaching for your information a copy of a letter Secretary Richardson sent to Representative Wilbur Mills last October concerning this issue.

In addition, we would like to express our concern about other parts of the reported new regulations such as those which would repeal the current use of in-kind contributions for the non-federal match, deny day care eligibility to former welfare recipients just after this day care program has permitted them to find employment and leave the welfare rolls; and raise serious questions about whether the Federal Inter-agency Day Care Standards—which establish minimum protection for children in federally assisted day care and which have been in effect for the past 5 years—will continue to apply.

We respectfully request that we be informed in advance about any proposed changes in areas such as these, and that if and when any changes are proposed they be available for public comment and later revision.

With warmest personal regards,

Sincerely,

Mondale, Javits, Ribicoff, Packwood, Stevenson, Abourezk, Bayh, Beall, Brooke, Burdick, Case, Church Cranston, Dominick, Eagleton, Fulbright, Gravel, Hart, Hartke, Hatfield, Hathaway, Huddleston, Hughes, Humphrey, Kennedy, Mathias, McGee, McGovern, McIntyre, Metcalf, Moss, Muskie, Nelson, Nunn, Pell, Percy, Randolph, Schweicker, Stafford, Stevens, Taft, Tunney, Williams, Clark, Montoya, and Symington.

EXHIBIT 2

S. 1220

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

SEC. 2. (a) The regulations of the Secretary of Health, Education, and Welfare (relating to the administration of titles I, X, XIV, and XVI, and part A of title IV, of the Social Security Act) as in effect on January 1, 1973, shall remain in full force and effect insofar as such regulations relate to—

(1) the use of privately contributed funds and in-kind contributions as part of State expenditures, in determining (for purposes of any such title or part A) the amount of the Federal contribution to which any State is entitled on account of expenditures incurred by the State for social services under a State plan approved under any such title or part A, provided that the Secretary may clarify requirements that such privately contributed funds be expended in accordance with a State plan.

(2) the authority of any State, under any such plan, to define the categories or classes of individuals who are eligible to receive such social services;

(3) the authority of any State, under any such plan, to include, as social services, and alcohol treatment programs, education and training services, and comprehensive service programs for children, the elderly, or the disabled (including such programs for mentally retarded children and adults);

(4) reporting requirements of States, under any such plan, with respect to the provision of social services; or

(5) the standards imposed, under any such plan, with respect to the provision, as social services, of day care services.

(b) No regulation, promulgated by the Secretary of Health, Education, and Welfare after January 1, 1973, shall have any force or effect, and any such regulation shall be invalid, if, and insofar as, such regulation is inconsistent with the provisions of subsection (a).

LIST OF COSPONSORS

Senators Javits, Abourezk, Bayh, Biden, Brock, Brooke, Burdick, Case, Clark, Cook, Cranston, Eagleton, Fulbright, Gravel, Hart, Hartke, Hatfield, Hathaway, Hollings, Huddleston, Hughes, Humphrey, Kennedy, Mathias, McGee, McGovern, McIntyre, Montoya, Moss, Muskie, Nelson, Packwood, Pastore, Pell, Percy, Randolph, Ribicoff, Schweiker, Stafford, Stevenson, Tunney, Williams.

# Senator WALTER F. MONDALE ON MEDICARE, MEDICAID CUTS

United States of America

# Congressional Record

PROCEEDINGS AND DEBATES OF THE 93d CONGRESS, FIRST SESSION

*Vol. 119* WASHINGTON, MONDAY, MARCH 26, 1973 *No. 46*

## *Senate*

SENATE CONCURRENT RESOLUTION 18—SUBMISSION OF A CONCURRENT RESOLUTION EXPRESSING OPPOSITION TO CERTAIN MEASURES FOR THE CURTAILMENT OF BENEFITS UNDER THE MEDICARE AND MEDICAID PROGRAMS

(Referred to the Committee on Finance.)

SENATE MAJORITY OPPOSES MEDICARE, MEDICAID CUTS

Mr. MONDALE. Mr. President, I am proud to act on behalf of a bipartisan majority of my colleagues in the Senate—in introducing a concurrent resolution rejecting cuts in medicare and medicaid benefits proposed in the budget submitted by the President last January 29.

The President has said that he will submit legislation to Congress making the following changes in medicare and medicaid programs:

Increase the charge to patients for the first day of hospitalization from $72 to the full hospital charge.

Require the patient to pay 10 percent of actual hospital costs between the first and 61st days—now free under medicare.

Require those covered under part B of medicare to pay the first $85 of bills for physicians' services—instead of the first $60—and 25 percent of everything above that—instead of 20 percent.

Eliminate "low priority" medicaid services—including dental care for adults.

Under the present law, older Americans covered by medicare are assured that a stay in the hospital—even one as long as 60 days—will cost them no more than $72. But under the administration proposals a 3-week stay would cost a minimum of $200, and a stay of 60 days a minimum of $500. These figures are based on the 1972 average daily hospital service charge of $70 a day. But in many States—such as my own State of Minnesota, where daily hospital charges may run as high as $500—the budget proposals would place an even greater and absolutely intolerable burden on medicare patients.

We all agree on the need for economy. But we can spare this additional burden on those least able to pay. There is enough fat in the budget—in Pentagon waste, in extravagant space programs, in continued special tax benefits for powerful interests—to make up the difference many times over.

With a majority of the Senate on record against the administration's proposed cutbacks, 23 million older Americans will not have to spend weeks and months waiting in fear to see what Congress will do with these proposals—which would increase their out-of-pocket costs for health care by over $1 billion in 1974.

Mr. President, I ask unanimous consent that a copy of the concurrent resolution may appear at this point in the RECORD, together with an excellent article by Jonathan Spivak from last Friday's Wall Street Journal discussing the administration's medicare proposals.

There being no objection, the concurrent resolution and article were ordered to be printed in the RECORD, as follows:

S. CON. RES. 18

Whereas, in the National Budget proposed for the fiscal year ending June 30, 1975, the amount of expenditures allocated for the Medicare and Medicaid programs for such year is predicated upon the enactment into law of amendments to titles XVIII and XIX of the Social Security Act which would have the effect of—

(1) increasing the amount of the deductible, which is applicable (under part A of such title XVIII) with respect to the first day of inpatient hospital services received by a patient, to an amount equal to the average per diem cost of inpatient hospital services;

(2) imposing a coinsurance amount, with respect to inpatient hospital services (under part A of such title XVIII) received after the first day a patient receives such services and prior to the 61st day he receives such services, equal to 10 per centum of the actual costs imposed for such services;

(3) reducing coverage for physicians' services (under part B of such title XVIII) by increasing the deductible applicable thereto from $60 to $85, and by increasing the patient's share of such costs, above the deductible, from 20 per centum to 25 per centum; and

(4) eliminating (under such title XIX) Federal financial participation with respect to costs, incurred under a State plan approved under such title, attributable to the provision of certain low-priority services (including dental care) to adults: Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring)*, That it is the sense of the Congress that no such amendments be enacted.

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SHOULD OLD FOLKS PAY MORE FOR MEDICARE? WOULD THAT CURB THE MISUSE OF SERVICES?

(By Jonathan Spivak)

WASHINGTON. Mary W., 75 years old, entered Washington Hospital Center here last November with diabetes and cancer. Though her seven-day stay cost $903.35, she paid only $72; medicare took care of the rest.

But, under a Nixon administration proposal she would have to pay nearly twice as much, or $152.13, for the same care.

That is a fair sample of the dollar-and-cents effect of one of President Nixon's most hotly disputed economy plans—one that proposes the elderly foot more of thier health bills while the government pay less. The biggest change: Starting next January, the aged would have to pay 10% of their hospital bills. Their contributions now total far less than that. And though a few medicare beneficiaries would gain by the change, many would find their pocketbook burden doubled.

Against these presidential intentions, the elderly and their liberal friends in Washington are employing strong language. "Savage cutbacks proposed for the medicare health insurance program . . . represent a shameful repudiation of a pledge made to older Americans by the President," charges Nelson Cruikshank, 70, president of the National Council of Senior Citizens.

But Nixon spokesmen, denying any breach of promise, are pouring forth soothing reassurances. Caspar Weinberger, Health, Education and Welfare Secretary, says: "We believe that the medicare reforms . . . won't invoke financial hardship on the program's beneficiaries."

EMOTIONAL DEBATE

In the often emotional debate, serious economic issues are being thrashed out. The administration, backed by congressional conservatives, believes the rapid escalation of medicare costs must be halted. The proposed changes would mean a cut of 10%, saving an estimated $1.3 billion annually at the start and much more later on.

The advocates of the cutback argue, too, that the tightening-up would eliminate wasteful use of health services, make physicians more cost-conscious and tie medicare patients' payments closer to the actual cost of care.

"It seems clear that someone with a pension or even Social Security income can and should pay a small percentage of his income if he is going to stay in a hospital bed that is going to cost other people as much as $50 to $100 a day," insists Nixon aide John Ehrlichman.

Critics complain that the changes would impose a financial burden on the aged, prevent them from getting necessary medical care, produce a medicare fund surplus without passing the savings along to taxpaying workers and do nothing to solve the problem of rising medical costs. One Democrat, Sen. Edmund Muskie of Maine, even suggests "this plan could in fact increase costs for all concerned—the elderly, the government and the health industry.

The critics do concede one point: Charges paid by patients would be more closely related to actual hospital costs. Currently the aged must pay the national average cost for their first day of hospital care, regardless of what the hopsital charges and what the illness is. They, then get 59 days of free hos-

pitalization. For the 30 days following they pay 25% of the average daily cost and for the 60 days following that they pay 50%. This arrangement plainly puts a burden on patients who are more seriously ill and stay in the hospital longer, and it ignores wide cost variation among individual institutions in different parts of the country.

Instead, the administration approach would have patients pay the actual charges for the first day of care. These range from $15 in small hospitals to $100 in big-city institutions. The national average is $72 a day. After the first day, patients would pay 10% of all hospital charges.

Some patients, particularly the 1% hospitalized for more than 60 days, would have money by the change. But most patients would pay more than at present, since the average hospital stay for medicare beneficiaries is only about 12 days. Secretary Weinberger concedes that the patient's payment for the average stay would rise to $189 from $84.

Other burdens for medicare beneficiaries would also rise. Under the program's separate coverage of doctor bills, patients would have to pay a higher "deductible" amount before the government would start shelling out. These payments would increase in the future by the same percentage that Social Security benefits rose.

COUNTING ON MEDICARE

The savings resulting from the proposed changes would permit a reduction of 6% to 7% in the payroll tax that finances medicare and would allow a cut of 30 cents from the $6.30 monthly premium for doctor-bill coverage. But the administration isn't proposing such adjustment. Instead, it is counting on the medicare cutbacks to help reduce the budget deficit.

Nixon men argue, moreover, that reducing medicare outlays would allow them to maintain spending for other health programs. But Congress likes to look on medicare and Social Security as a separate compartment of the budget and balance the tax revenue taken in and the benefits handed out.

Beyond that, Congress simply doesn't like the notion of curtailing basic benefits that so many voters count on. And this is one Nixon economy plan that would clearly require legislation to enact. Last year a much milder proposal to increase patients' hospital payments came to grief in the Senate Finance Committee. This year's tougher plan seems sure to meet even stiffer resistance, as Secretary Weinberger's stalwarts themselves concede. "There's a one-in-twenty chance to get the legislation," one HEW official says.

The clashing assessments of the Nixon proposal spring partly from conflicting views of medicare priorities. To those who see lowering of financial barriers to medical care as the overriding aim, any increase in payments to the elderly is a step backward. Certainly when medicare was adopted in 1965, Congress was more intent on increasing the aged's access to health care than on holding down the cost.

"The whole principle of medicare was that the elderly weren't getting the care they need because they couldn't afford to pay for it," insists Bert Seidman, Social Security director for the AFL–CIO.

To those more concerned about costs, the view is different. Since 1965 the price of medical care has skyrocketed, and the government has already imposed limits on physicians' fees and the length of hospital stays it will pay for. The proportion of the aged's total health expense covered by medicare has fallen to 42% from a peak of 45% in 1969. And by some estimates, the new Nixon plan would reduce the share to 35%.

Those eying medicare costs look also at the elderly's income and find it has risen sharply. Since 1965 Social Security benefits have increased 70%. The administration argues this rise should permit an increase of 70%, to $85 from $50, in the payment that a patient must make for doctor bills before the government pays. Thus, the aged wouldn't be any worse off financially under this part of the program than when it started in 1966, the economizers reason.

The proposed increase in patients' payments for hospital care is defended on the broad ground of promoting economy and efficiency in health care. Proponents contend that making patients share in the cost would deter needless treatment and increase price competition in the medical marketplace.

STOP-AND-LOOK ATTITUDE

Imposing a 10% patient payment for hospital care would act as "a reminder that these resources aren't free, and for a fair fraction of the aged it's probably a meaningful enough amount," Martin Feldstein, a Harvard economist, says.

"It achieves a stop-and-look attitude: Do I need to be in the hospital an extra day? Do I need this test?" argues Peter Fox, a HEW health expert.

Mr. Fox and colleagues contend that patients facing larger bills would seek to be admitted to lower-priced hospitals, to avoid costly tests and to shorten lengthy hospital stays. Admittedly the decisions are made by doctors, but proponents reason that patient pressure would make the medical men more cost-conscious and would minimize intervention by Washington. "My personal preference is to let doctors and patients make the decision, not the federal government," says Stuart Altman, a deputy assistant secretary at HEW.

There is little doubt that increasing charges to patients decreases their use of medical care. When a 25% patient payment was imposed by a Palo Alto, Calif., medical clinic, use by Stanford University employes covered by a university health plan dropped 24%. Studies of other health plans show similar effects. "If you put in a big enough financial barrier, you will have a diminution in use," concludes Howard West, director of the Social Security administration's division of health insurance studies.

Unfortunately, it is difficult to determine whether essential or nonessential medical services are cut back in such cases. Statistics are sparse and subject to differing interpretations. Moreover, there isn't any agreement on what is a proper amount of care for the aged or any other population group. Medicare enthusiasts tend to measure progress in dollars spent, but dollar amounts can't express the quality of care.

When medicare began paying the bills for the elderly, their use of health services jumped 25%. At the same time, use of health services by younger people fell, presumably because medical-care costs were vaulting. But since 1969, hospitalization rates for the elderly have declined, the average length of stay has dropped sharply under pressure from medicares managers. "I don't see any evidence there is overutilization or underutilization now," says Herman Somers, a Princeton University health insurance specialist.

The idea of making the medical marketplace more responsive to price competition is appealing, but skeptics detect several drawbacks. How hard-headed can a worried, impoverished and medically unsophisticated patient be? Does a sick person want his doctor to skimp on the costs of his medical care?

Moreover, there are many of the aged who can hardly become more cost-conscious because of the administration's proposal. Some are so poor that medical-welfare programs take care of any payments they incur that medicare doesn't cover. Others are wealthy enough to buy supplementary private insurance to fill medicare's gaps. The existence of these groups weakens the case for the cutbacks.

The underlying question of how much individual patients should pay for their health care is an issue sure to arise in any future broad national health insurance program. Congress is already considering possibilities that range in generosity from an AFL–CIO proposal for paying the full cost of most care to an American Medical Association plan for providing limited financial help to low-income patients. The medicare outcome will show which way politics points.

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Mr. MONDALE (for himself, Mr. WILLIAMS, Mr. ABOUREZK, Mr. BAYH, Mr. BEALL, Mr. BENTSEN, Mr. BIBLE, Mr. BROOKE, Mr. BURDICK, Mr. ROBERT C. BYRD, Mr. CANNON, Mr. CASE, Mr. CHILES, Mr. CHURCH, Mr. CLARK, Mr. CRANSTON, Mr. DOMINICK, Mr. EAGLETON, Mr. GRAVEL, Mr. GURNEY, Mr. HART, Mr. HARTKE, Mr. HASKELL, Mr. HATFIELD, Mr. HATHAWAY, Mr. HOLLINGS, Mr. HUDDLESTON, Mr. HUGHES, Mr. HUMPHREY, Mr. JACKSON, Mr. JAVITS, Mr. KENNEDY, Mr. MCGEE, Mr. MCGOVERN, Mr. MCINTYRE, Mr. METCALF, Mr. MONTOYA, Mr. MOSS, Mr. MUSKIE, Mr. NELSON, Mr. PASTORE, Mr. PELL, Mr. PERCY, Mr. RANDOLPH, Mr. RIBICOFF, Mr. SCHWEIKER, Mr. SPARKMAN, Mr. STAFFORD, Mr. STEVENSON, Mr. SYMINGTON, Mr. TUNNEY, and Mr. WEICKER) submitted the following concurrent resolution; which was referred to the Committee on Finance

United States of America

# Congressional Record

PROCEEDINGS AND DEBATES OF THE 93d CONGRESS, FIRST SESSION

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# Senate

By Mr. MONDALE:

S. 1392. A bill to establish a ceiling on expenditures for the fiscal year 1974 and to provide procedures for congressional approval of action taken by the President to keep expenditures within the ceiling. Referred to the Committee on Government Operations.

AMENDMENT NO. 59

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

Mr. MONDALE. Mr. President, today I am pleased to introduce the Budget Control Act of 1973.

The last several months have seen an unprecedented effort by the Executive branch to assume virtually complete control of domestic priorities without either the advice or consent of the Congress. Just for example, in recent weeks the President has:

Impounded half of the authorization for water pollution control passed last fall over his veto;

Frozen Federal housing programs;

Decreed an end to the public service jobs program;

Without warning, cut off access to the farm emergency disaster loan program, enacted at Presidential request last August;

Ordered the end of 56 regional medical programs and a phase-out of Federal support of over 500 community mental health centers;

Ended most efforts to help farm communities;

Announced plans to sharply reduce day care and other social service programs designed to help families off the welfare rolls, and to help the elderly avoid institutionalization.

This is only the beginning of a long list. Top Presidential advisors have sworn to disregard congressional actions opposing program termination. And the climate of cooperation, respect and compromise between the Executive branch and Congress—so essential to the operation of our constitutional system—threatens to dissolve into bitter infighting from entrenched and inflexible positions.

This must not be allowed to go further.

The legislation which I am introducing today is designed to guarantee the financial responsibility of the Federal Government, to restore the Congress to its proper role in public decisionmaking, and to reestablish the conditions for a full and equal dialog between Congress and the Executive branch regarding the future of American domestic policy.

First, the bill is designed to establish a congressional ceiling on Federal expenditures of $268 billion in the next—1974—fiscal year. This figure would be automatically adjusted upward to reflect any increase in Federal revenues through tax reform or economic growth beyond present expectations. If in the course of the congressional appropriations process the ceiling is exceeded, all funds available for expenditure in controllable areas of Federal spending would be reduced on a pro rata basis.

Second, the bill would end the practice the so-called "impoundment" of congressionally appropriated funds which has been put to such extraordinary use—or rather abuse—by the present administration. I propose to accomplish this through the procedure suggested by the very distinguished and able Senator from North Carolina (Mr. ERVIN).

A BUDGET CEILING

Title I of the bill which I am introducing today would establish a ceiling of $268 billion on all Federal expenditures during the next fiscal year.

This expenditure level reflects a consensus among economists; in fact, it is $700 million below the level proposed by the President himself. In the opinion of most experts, it will limit inflationary pressure without jeopardizing our continuing economic recovery.

To the extent that Congress exceeds this ceiling, all funds available for expenditure would be reduced pro rata—so that priorities established through the legislative process would be preserved. The following fixed obligations of the U.S. Government would be exempted from reduction: interest, veterans' benefits and services, payments from social insurance trust funds, public assistance maintenance grants, medicaid social service grants under title IV of the Social Security Act, food stamps, military retirement pay, and judicial salaries.

The mechanical function of computing pro rata reductions would be performed by the Office of Management and Budget, and submitted to Congress by the President for approval under expedited procedures.

The $268 billion ceiling would be automatically adjusted upward to reflect increased revenues through tax reform or economic growth.

AN END TO IMPOUNDMENT

With the establishment of a firm ceiling on expenditures, there is no excuse at all for continuing the practice of impoundment, which threatens to tip a balance of power between Congress and the Executive which has lasted nearly 200 years. Therefore, title II of the legislation I propose adopts the approach developed by the distinguished Senator from North Carolina (Mr. ERVIN). No impoundment would be permitted without the approval of Congress. And again, expedited procedures for prompt consideration of impoundment requests would be provided.

Under this approach, the President would be required to report all impoundments to the Congress, which would consider them under expedited procedures which would prohibit delay. If not approved by the Congress within 60 days, any authority to impound would expire.

Proposals have been advanced in both the House and the Senate under which Presidential impoundments would stand under disapproval by the Congress within a given period. But with the many opportunities open to an organized congressional minority to delay and obstruct, this approach is not workable.

If there is to be effective congressional participation, the burden of justifying impoundment must lie with the Executive, as the Senator from North Carolina (Mr. ERVIN) has proposed.

I recognize that there is waste, there are ineffective programs which may need cutting—and there are circumstances where all funds provided by Congress cannot wisely be spent. And so this bill permits the President to withhold funds—subject to congressional approval. We in Congress must assert and accept our responsibility. We must have dialog between Congress and the Executive in the arena of reform, not singlehanded demolition by the executive branch.

THE NEED FOR IMMEDIATE ACTION

My bill does not attempt to resolve all of the complex and difficult questions involved in establishing an ongoing congressional budgetary process. Those questions are well presented in the recent interim report of the Joint Study Committee on Budgetary Control, and must be resolved after further study by the committee and full debate by the Congress. This process will take time, and almost certainly will be completed too late to take effect this year.

Instead, the bill which I am proposing today is designed to establish immediate congressional control of Federal spending and priorities for the next fiscal year, beginning July 1 of this year—while the Congress considers the organizational questions involved in a more permanent approach.

And we must take immediate action before the Congress becomes an ornamental advisory board to the Office of Management and Budget.

NEED FOR AN EXPENDITURE CEILING

Everyone agrees that a ceiling on expenditures is badly needed. The American people cannot afford to pay for continued deficits on the record level of recent years.

During the first 4 years of the Nixon administration, the total deficit has exceeded $80 billion—more than all the deficits of Presidents Eisenhower, Kennedy, and Johnson put together. While these deficits may have been useful during our recovery from the recession of 1969, to continue them would contribute to another round of unchecked inflation.

In recent months the need to bring spending under control has become even more urgent. We are now experiencing the worst inflation in 22 years, putting an intolerable burden on our citizens and threatening the stability of the dollar abroad.

Much of this is due to delayed adoption and premature abandonment of wage and price controls and other economic mistakes, but some of it is due to the spiraling deficits of recent years.

By acting now to impose a firm ceiling on spending, we can assure American citizens that inflation will not be fueled by more deficit spending, and we can assure our friends abroad that we are doing our part to maintain the stability of the dollar.

We can demonstrate clearly that Congress is prepared to act in a fiscally responsible manner.

But let us set the record straight. Over the past 5 years, the Congress has cut Presidential requests for appropriations by approximately $30 billion. We have increased other forms of Federal spending for example, through increased social security benefits—by only a little more. And a major share of these increases has come in social security and medicare programs which are fully funded through the payroll tax, and which therefore do not themselves cause deficit spending. Charges that the Congress has spent vast sums over the objections of the administration are simply not true.

The Congress has not outspent the executive branch. And the Congress is on record as favoring a spending ceiling.

Last October, both the House and Senate overwhelmingly agreed to the $250 billion ceiling on expenditures proposed by the President for the current—1973—fiscal year.

But when the executive branch refused to tell us where the cuts would be made, the Senate insisted that cuts be made across the board, so as to retain the priorities previously established by the Congress. And we acted last fall under the leadership of the former senior Senator from Idaho (Mr. JORDAN) a widely respected member of the President's own party, and certainly an economic conservative. Unfortunately, the President refused to accept these limits on im-

poundment, and the measure died in conference with the House.

While the Congress has not outspent the administration, and while the Congress has agreed with the administration on the need for a spending ceiling, the Congress, on a bipartisan basis, has often disagreed with the administration on how funds should be spent. And this is the real root of the present dispute between Congress and the Executive.

IMPOUNDMENT

When the President disagrees with the Congress, the Constitution gives him the right to veto legislation—and the veto in turn may be overriden by a two-thirds majority of both the House and Senate. But in recent months, the President has simply refused to spend—or "impounded"—funds in those areas where he disagrees with congressional judgments.

There is no way to override an impoundment. While this may appear to some in the executive branch to be a more efficient way to manage government, it also carries us too far down the road to one-man rule. And once we start down that road, we may find it hard to turn back.

Mr. President, figures on current impoundment released by the administration last month reveal a truly fundamental and alarming shift in the relationship between the Congress and the executive branch in determining our national priorities.

According to the administration, only 3.5 percent of available funds are presently impounded. But I have just discovered that an analysis by the Congressional Research Service reveals that an incredible 29 percent of controllable funds made available by the Congress for nondefense purposes in the current year have been impounded. And this figure does not include other actions which, according to the Office of Management and Budget, do not fit the technical definition of "impoundment"—including the administration's refusal to allocate $6 billion of the $11 billion enacted by the Congress last fall over the President's veto for water pollution control.

In the words of a Congressional Research Service analyst:

Whatever the merits of the technical argument, it certainly suggests that the total amount of reserves—from whatever sources—are at a record level.

A CHALLENGE TO THE ADMINISTRATION

The issue between the Congress and the President is not the amount of Federal spending, or the amount of the Federal deficit. On those questions, I believe we agree. The issue is the unchecked power claimed by the administration to destroy some programs entirely, while spending fullbore for others, with no regard for the requirements of law.

Under our Constitution, the President has the right—even the obligation—to send the Congress his recommendations on what should be done in the Nation's interest. And after the Congress has acted, he has the authority to accept or to reject what we have done. But nowhere does the Constitution give the President the right to substitute his judgment for that of the Congress. He can suggest—he can lobby—he can try to persuade—he can do many things, but he cannot act in our stead.

Yet, that is precisely what this President is trying to do—what in fact he is doing. From every indication, he is attempting on his own—without the consent of the Congress—to repeal the shared, bipartisan commitment to social and economic justice which this Nation has consciously, and at times painfully, developed over the past 40 years.

The question is, Will the Congress do what is necessary to make its own judgment felt in this great decision? Will we act affirmatively to reassert our constitutional authority in the budgetary process? Will we be able to come together in common cause to preserve the balance between the executive and legislative branches of Government which has served us so well for nearly 200 years?

Or will we, instead, continue to gradually but knowingly relinquish our constitutional authority to the White House?

It saddens me to know that large numbers of Americans—perhaps even a majority—are convinced we will do the latter. They are convinced that the Congress is overmatched in this struggle—they are convinced that our resources—staff, access to information, command of media, and all the rest—cannot compete on an equal footing with those of the Executive. But, most of all, they are convinced that we cannot agree among ourselves on a plan of action to correct the present institutional imbalance.

It is with this latter point most firmly in mind, Mr. President, that I have designed my bill. It is intended to be a bill that virtually every Member of the Congress can support if he or she wants to effectively restore congressional authority to its proper place in our decisionmaking process. It is for this reason that the bill is based on two fundamental principles:

That the Federal Government must live within its financial means;

That within those means, the Congress itself shall determine how our resources shall be spent.

These principles have nothing to do with party—I am preparing a ceiling even below the President's own. They have nothing to do with ideology—liberals and conservatives alike have adhered to them both since the Nation's beginning. They have only to do with budgetary responsibility and constitutional government—concerns that are shared by all Americans.

Mr. President, I would hope, that my colleagues who subscribe to these principles will join me in this effort. I would hope as well that the President of the United States will lend us his support. He has spoken forcefully and often on behalf of both budgetary responsibility and constitutional government. If he is sincere in his support of these principles, then this bill is one that he can readily endorse. If he does not support these principles, then we—and the Nation—should know that.

But I am hopeful that the President will support this effort, because I am convinced that only by working together—within our constitutional framework—can we achieve our common goals.

I am convinced that only through compromise between the Congress and the President will our Government work as it was intended to work—in the interests of all its citizens. That is why I am proposing that the Congress accept a budget ceiling even lower than the President has proposed: if adopted, it is absolute proof that the Congress is prepared to live within sound financial limitations.

I for one am more than willing to live within the ceiling proposed in this bill. I will work as best I can in the Congress for additional revenues through closing the special interest loopholes which riddle our tax laws. It will work to cut waste in the Pentagon and in social programs as well. And I will work to invest the savings in meeting our urgent domestic needs—for a cleaner environment, decent health care, better education, and urban and rural development.

If the Congress agrees to live within the President's budget ceiling, then the question becomes, will the President in turn agree that the Congress shares responsibility for determining how the Nation's resources are to be spent in meeting its needs?

It is that question, Mr. President, to which we are most earnestly awaiting the President's answer.

Mr. President, I am also submitting an amendment, intended to be proposed by me, to the bill (S. 929) to amend the Par Value Modification Act.

I ask unanimous consent that the bill I have introduced (S. 1392), and the amendment which I have submitted (No. 59) be printed in the RECORD.

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

S. 1392

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Budget Control Act of 1973".

SEC. 2. The following provisions of this Act may be cited as the "Expenditure Control Act of 1973".

TITLE I—CEILING ON FISCAL YEAR 1974 EXPENDITURES

PART A—ESTABLISHMENT OF A CEILING

SEC. 101. (a) Except as provided in subsection (b), expenditures and net lending during the fiscal year ending June 30, 1974, under the Budget of the United States Government shall not exceed $268,000,000,000.

(b) If the estimates of revenues which will be received in the Treasury during the fiscal year ending June 30, 1974, as made from time to time, exceed $255,300,000,000, the limitation specified in subsection (a) shall be increased by an amount equal to such excess.

SEC. 102. (a) Notwithstanding the provisions of any other law, the President shall, in accordance with this section, propose reservations from expenditure and net lending, from appropriations or other obligational authority otherwise made available, of such amounts as may be necessary to keep expenditures and net lending during the fiscal year ending June 30, 1974, within the limitation specified in section 101.

(b) In carrying out the provisions of subsection (a), the President shall propose reservations of amounts proportionately from appropriations or other obligational authority available for all programs and activities of the Government (other than expenditures for interest, veterans' benefits and services, payments from social insurance trust funds, public assistance maintenance grants, Medicaid, social service grants under title IV of the Social Security Act, food stamps, military retirement pay, and judicial salaries).

(c) The President shall propose reservations of expenditures under this section by one or more special messages to the Congress. Each special message shall be transmitted to the House of Representatives and the Senate on the same day, and shall be delivered to the Clerk of the House of Representatives if the House is not in session, and to the Secretary of the Senate if the Senate is not in session. Each such message shall be printed as a document of each House.

(d) Any proposed reservation of expenditures shall become effective on the date on which a concurrent resolution approving such reservation is agreed to by the Senate and the House of Representatives pursuant to title II of this Act.

SEC. 103. In the administration of any program as to which—

(1) the amount of expenditures is limited pursuant to this Act, and

(2) the allocation, grant, apportionment, or other distribution of funds among recipients is required to be determined by application of a formula involving the amount appropriated or otherwise made available for distribution,

the amount available for expenditure (after the application of this Act) shall be substituted for the amount appropriated or otherwise made available in the application of the formula.

PART B—CONGRESSIONAL CONSIDERATION OF PROPOSED RESERVATIONS OF EXPENDITURES

SEC. 111. The following sections of this title are enacted by the Congress—

(1) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they shall be considered as part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in such House in the case of resolutions (as defined in section 202); and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change such rules (so far as relating to the procedure in such House) at any time, in the same manner, and to the same extent as in the case of any other rule of such House.

SEC. 112. As used in this title, the term "resolution" means only a concurrent resolution of the two Houses of Congress, the matter after the resolving clause of which is as follows (the blank spaces being appropriately filled): "That the Congress approves the reservations of expenditures set forth in the special message of the President to the Congress dated ——— —, 19— (House Document ———, Senate Document ———)."

SEC. 113. A resolution with respect to a special message shall be referred to a committee (and all resolutions with respect to the same message shall be referred to the same committee) by the President of the Senate or the Speaker of the House of Representatives, as the case may be.

SEC. 114. (a) If the committee to which has been referred a resolution with respect to a special message has not reported it before the expiration of ten calendar days after its introduction (or, in the case of a resolution received from the other House, ten calendar days after its receipt), it shall then (but not before) be in order to move either to discharge the committee from further consideration of such resolution, or to discharge the committee from further consideration of any other resolution with respect to such message which has been referred to the committee.

(b) Such motion may be made only by a person favoring the resolution, shall be highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same special message), and debate thereon shall be limited to not to exceed one hour, to be equally divided between those favoring and those opposing the resolution. No amendment to such motion shall be in order, and it shall not be in order to move to reconsider the vote by which such motion is agreed to or disagreed to.

(c) If the motion to discharge is agreed to or disagreed to, such motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same special message.

SEC. 115. (a) When the committee has reported, or has been discharged from further consideration of, a resolution with respect to a special message, it shall at any time

thereafter be in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of such resolution. Such motion shall be highly privileged and shall not be debatable. No amendment to such motion shall be in order and it shall not be in order to move to reconsider the vote by which such motion is agreed to or disagreed to.

(b) Debate on the resolution shall be limited to not to exceed ten hours, which shall be equally divided between those favoring and those opposing the resolution. A motion further to limit debate shall not be debatable. No amendment to, or motion to recommit, the resolution shall be in order, and it shall not be in order to move to reconsider the vote by which the resolution is agreed to or disagreed to.

SEC. 116. (a) All motions to postpone, made with respect to the discharge from committee, or the consideration of, a resolution with respect to a special message, and all motions to proceed to the consideration of other business, shall be decided without debate.

(b) All appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution with respect to a special message shall be decided without debate.

SEC. 117. If, prior to the passage by one House of a resolution of that House with respect to a special message, such House receives from the other House a resolution with respect to the same message, then—

(1) If no resolution of the first House with respect to such message has been referred to committee, no other resolution with respect to the same message may be reported or (despite the provisions of section 204(a)) be made the subject of a motion to discharge.

(2) If a resolution of the first House with respect to such message has been referred to committee—

(A) the procedure with respect to that or other resolutions of such House with respect to such message which have been referred to committee shall be the same as if no resolution from the other House with respect to such message had been received; but

(B) on any vote on final passage of a resolution of the first House with respect to such message the resolution from the other House with respect to such message shall be automatically substituted for the resolution of the first House.

## TITLE II—REQUIREMENT OF CONGRESSIONAL APPROVAL OF IMPOUNDMENTS

SEC. 201. (a) Except as provided in subsection (g), whenever the President impounds any funds appropriated or otherwise obligated for a specific purpose or project, or approves the impounding of such funds by any officer or employee of the United States, he shall, within ten days thereafter, transmit to the Senate and the House of Representatives a special message specifying—

(1) the amount of the funds impounded;

(2) the date on which the funds were ordered to be impounded;

(3) the date the funds were impounded;

(4) any account, department, or establishment of the Government to which such impounded funds would have been available for obligation except for such impoundment;

(5) the period of time during which the funds are to be impounded;

(6) the reasons for the impoundment;

(7) to the maximum extent practicable, the estimated fiscal, economic, and budgetary effect of the impoundment.

(b) Each special message submitted pursuant to subsection (a) shall be transmitted to the House of Representatives and the Senate on the same day, and shall be delivered to the Clerk of the House of Representatives if the House is not in session, and to the Secretary of the Senate if the Senate is not in session. Each such message shall be printed as a document for each House.

(c) A copy of each special message submitted pursuant to subsection (a) shall be transmitted to the Comptroller General of the United States on the same day as it is transmitted to the Senate and the House of Representatives.

(d) If any information contained in a special message submitted pursuant to subsection (a) is subsequently revised, the President shall transmit promptly to the Congress and the Comptroller General a supplementary message stating and explaining each such revision.

(e) Any special or supplementary message transmitted pursuant to this section shall be printed in the first issue of the Federal Register published after that special or supplemental message is so transmitted.

(f) The President shall publish in the Federal Register each month a list of funds impounded as of the first calendar day of that month. Each list shall be published no later than the tenth calendar day of the month and shall contain the information required to be submitted by special message pursuant to subsection (a).

(g) The provisions of this title shall not apply to any reservation of expenditures which the President proposes to the Congress pursuant to the provisions of section 102 of this Act.

SEC. 202. The President shall cease the impounding of funds set forth in each special message within sixty calendar days of continuous session after the message is received by the Congress unless the specific impoundment shall have been ratified by the Congress by passage of a resolution in accordance with the procedure set out in section 304 of this title.

SEC. 203. For purposes of this title, the impounding of funds includes—

(1) withholding or delaying the expenditure or obligation of funds (whether by establishing reserves or otherwise) appropriated or otherwise obligated for projects or activities, and the termination of authorized projects or activities for which appropriations have been made, and

(2) any type of executive action which effectively precludes the obligation or expenditure of the appropriated funds.

SEC. 204. The following subsections of this section are enacted by the Congress:

(a) (1) As an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they shall be deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described by this section; and they shall supersede other rules only to the extent that they are inconsistent therewith; and

(2) With full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

(b) (1) For purposes of this section, the term "resolution" means only a concurrent resolution of the Senate or House of Representatives, as the case may be, which is introduced and acted upon by both Houses before the end of the first period of sixty calendar days of continuous session of the Congress after the date on which the President's message is received by that House.

(2) The matter after the resolving clause of each resolution shall read as follows: "That the Senate (House of Representatives) approves the impounding of funds as set forth in the special message of the President dated ————, Senate (House) Document No. ——".

(3) For purposes of this subsection, the continuity of a session is broken only by an adjournment of the Congress sine die, and the days on which either House is not in session because of an adjournment of more than three days to a day certain shall be excluded in the computation of the sixty-day period.

(c) (1) A resolution introduced with respect to a special message shall not be referred to a committee and shall be privileged business for immediate consideration. It shall at any time be in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. Such motion shall be highly privileged and not debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(2) If the motion to proceed to the consideration of a resolution is agreed to, debate on the resolution shall be limited to ten hours, which shall be divided equally between those favoring and those opposing the resolution. An amendment to the resolution shall not be in order. It shall not be in order to move to reconsider the vote by which the resolution is agreed to or disagreed to, and it shall not be in order to move to consider any other resolution introduced with respect to the same special message.

(3) Motions to postpone, made with respect to the consideration of a resolution, and motions to proceed to the consideration of other business, shall be decided without debate.

(4) Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution shall be decided without debate.

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AMENDMENT NO. 59

At the end of the bill insert the following:

SEC. 2. The following provisions of this Act may be cited as the "Expenditure Control Act of 1973".

## TITLE I—CEILING ON FISCAL YEAR 1974 EXPENDITURES

### PART A—ESTABLISHMENT OF A CEILING

SEC. 101. (a) Except as provided in subsection (b), expenditures and net lending during the fiscal year ending June 30, 1974, under the Budget of the United States Government shall not exceed $268,000,000,000.

(b) If the estimates of revenues which will be received in the Treasury during the fiscal year ending June 30, 1974, as made from time to time, exceed $255,300,000,000, the limitation specified in subsection (a) shall be increased by an amount equal to such excess.

SEC. 102. (a) Notwithstanding the provisions of any other law, the President shall, in accordance with this section, propose reservations from expenditure and net lending, from appropriations or other obligational authority otherwise made available, of such amounts as may be necessary to keep expenditures and net lending during the fiscal year ending June 30, 1974, within the limitation specified in section 101.

(b) In carrying out the provisions of subsection (a), the President shall propose reservations of amounts proportionately from appropriations or other obligational authority available for all programs and activities of the Government (other than expenditures for interest, veterans' benefits and services, payments from social insurance trust funds, public assistance maintenance grants, medicaid, social service grants under title IV of the Social Security Act, food stamps, military retirement pay, and judicial salaries).

(c) The President shall propose reservations of expenditures under this section by one or more special messages to the Congress. Each special message shall be transmitted to the House of Representatievs and the Senate on the same day, and shall be delivered to the Clerk of the House of Representatives if the House is not in session, and to the Secretary of the Senate if the Senate is not in session. Each such message shall be printed as a document of each House.

(d) Any proposed reservation of expenditures shall become effective on the date on which a concurrent resolution approving such reservation is agreed to by the Senate and the House of Representatives pursuant to title II of this Act.

SEC. 103. In the administration of any program as to which—

(1) the amount of expenditures is limited pursuant to this Act, and

(2) the allocation, grant, apportionment, or other distribution of funds among recipients is required to be determined by application of a formula involving the amount appropriated or otherwise made available for distribution,

the amount available for expenditure (after the application of this Act) shall be substituted for the amount appropriated or otherwise made available in the application of the formula.

### PART B—CONGRESSIONAL CONSIDERATION OF PROPOSED RESERVATIONS OF EXPENDITURES

SEC. 111. The following sections of this title are enacted by the Congress—

(1) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they shall be considered as part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in such House in the case of resolutions (as defined in section 202); and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change such rules (so far as relating to the procedure in such House) at any time, in the same manner, and to the same extent as in the case of any other rule of such House.

SEC. 112. As used in this title, the term "resolution" means only a concurrent resolution of the two Houses of Congress, the matter after the resolving clause of which is as follows (the blank spaces being appropriately filled): "That the Congress approves the reservations of expenditures set forth in the special message of the President to the Congress dated ———— —, 19— (House Document ——, Senate Document ——)."

SEC. 113. A resolution with respect to a special message shall be referred to a committee (and all resolutions with respect to the same message shall be referred to the same committee) by the President of the Senate or the Speaker of the House of Representatives, as the case may be.

SEC. 114. (a) If the committee to which has been referred a resolution with respect to a special message has not reported it before the expiration of ten calendar days after its introduction (or, in the case of a resolution received from the other House, ten calendar days after its receipt), it shall then (but not before) be in order to move either to discharge the committee from further consideration of such resolution, or to discharge the committee from further consideration of any other resolution with respect to such message which has been referred to the committee.

(b) Such motion may be made only by a person favoring the resolution, shall be highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same special message), and debate thereon shall be limited to not to exceed one hour, to be equally divided between those favoring and those opposing the resolution. No amendment to such motion shall be in order, and it shall not be in order to move to reconsider the vote by which such motion is agreed to or disagreed to.

(c) If the motion to discharge is agreed to or disagreed to, such motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same special message.

SEC. 115. (a) When the committee has reported, or has been discharged from further consideration of, a resolution with respect to a special message, it shall at any time thereafter be in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of such resolution. Such motion shall be highly privileged and shall not be debatable. No amendment to such motion shall be in order and it shall not be in order to move to reconsider the vote by which such motion is agreed to or disagreed to.

(b) Debate on the resolution shall be limited to not to exceed ten hours, which shall

be equally divided between those favoring and those opposing the resolution. A motion further to limit debate shall not be debatable. No amendment to, or motion to recommit, the resolution shall be in order, and it shall not be in order to move to reconsider the vote by which the resolution is agreed to or disagreed to.

SEC. 116. (a) All motions to postpone, made with respect to the discharge from committee, or the consideration of, a resolution with respect to a special message, and all motions to proceed to the consideration of other business, shall be decided without debate.

(b) All appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution with respect to a special message shall be decided without debate.

SEC. 117. If, prior to the passage by one House of a resolution of that House with respect to a special message, such House receives from other House a resolution with respect to the same message, then—

(1) If no resolution of the first House with respect to such message has been referred to committee, no other resolution with respect to the same message may be reported or (despite the provisions of section 204(a)) be made the subject of a motion to discharge.

(2) If a resolution of the first House with respect to such message has been referred to committee—

(A) the procedure with respect to that or other resolutions of such House with respect to such message which have been referred to committee shall be the same as if no resolution from the other House with respect to such message had been received; but

(B) on any vote on final passage of a resolution of the first House with respect to such message the resolution from the other House with respect to such message shall be automatically substituted for the resolution of the first House.

TITLE II—REQUIREMENT OF CONGRESSIONAL APPROVAL OF IMPOUNDMENTS

SEC. 201. (a) Except as provided in subsection (g), whenever the President impounds any funds appropriated or otherwise obligated for a specific purpose or project, or approves the impounding of such funds by any officer or employee of the United States, he shall, within ten days thereafter, transmit to the Senate and the House of Representatives a special message specifying—

(1) the amount of the funds impounded;

(2) the date on which the funds were ordered to be impounded;

(3) the date the funds were impounded;

(4) any account, department, or establishment of the Government to which such impounded funds would have been available for obligation except for such impoundment;

(5) the period of time during which the funds are to be impounded;

(6) the reasons for the impoundment;

(7) to the maximum extent practicable, the estimated fiscal, economic, and budgetary effect of the impoundment.

(b) Each special message submitted pursuant to subsection (a) shall be transmitted to the House of Representatives and the Senate on the same day, and shall be delivered to the Clerk of the House of Representatives if the House is not in session, and to the Secretary of the Senate if the Senate is not in session. Each such message shall be printed as a document for each House.

(c) A copy of each special message submitted pursuant to subsection (a) shall be transmitted to the Comptroller General of the United States on the same day as it is transmitted to the Senate and the House of Representatives.

(d) If any information contained in a special message submitted pursuant to subsection (a) is subsequently revised, the President shall transmit promptly to the Congress and the Comptroller General a supplementary message stating and explaining each such revision.

(e) Any special or supplementary message transmitted pursuant to this section shall be printed in the first issue of the Federal Register published after that special or supplemental message is so transmitted.

(f) The President shall publish in the Federal Register each month a list of funds impounded as of the first calendar day of that month. Each list shall be published no later than the tenth calendar day of the month and shall contain the information required to be submitted by special message pursuant to subsection (a).

(g) The provisions of this title shall not apply to any reservation of expenditures which the President proposes to the Congress pursuant to the provisions of section 102 of this Act.

SEC. 202. The President shall cease the impounding of funds set forth in each special message within sixty calendar days of continuous session after the message is received by the Congress unless the specific impoundment shall have been ratified by the Congress by passage of a resolution in accordance with the procedure set out in section 304 of this title.

SEC. 203. For purposes of this title, the impounding of funds includes—

(1) withholding or delaying the expenditure or obligation of funds (whether by establishing reserves or otherwise) appropriated or otherwise obligated for projects or activities, and the termination of authorized projects or activities for which appropriations have been made, and

(2) any type of executive action which effectively precludes the obligation or expenditure of the appropriated funds.

SEC. 204. The following subsections of this section are enacted by the Congress:

(a)(1) As an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they shall be deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described by this section; and they shall supersede other rules only to the extent that they are inconsistent therewith; and

(2) With full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

(b)(1) For purposes of this section, the term "resolution" means only a concurrent resolution of the Senate or House of Representatives, as the case may be, which is introduced and acted upon by both Houses before the end of the first period of sixty calendar days of continuous session of the Congress after the date on which the President's message is received by that House.

(2) The matter after the resolving clause of each resolution shall read as follows: "That the Senate (House of Representatives) approves the impounding of funds as set forth in the special message of the President dated ———, Senate (House) Document No. ——".

(3) For purposes of this subsection, the continuity of a session is broken only by an adjournment of the Congress sine die, and the days on which either House is not in session because of an adjournment of more than three days to a day certain shall be excluded in the computation of the sixty-day period.

(c)(1) A resolution introduced with respect to a special message shall not be referred to a committee and shall be privileged business for immediate consideration. It shall at any time be in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. Such motion shall be highly privileged and not debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(2) If the motion to proceed to the consideration of a resolution is agreed to, debate on the resolution shall be limited to ten hours, which shall be divided equally between those favoring and those opposing the resolution. An amendment to the resolution shall not be in order. It shall not be in order to move to reconsider the vote by which the resolution is agreed to or disagreed to, and it shall not be in order to move to consider any other resolution introduced with respect to the same special message.

(3) Motions to postpone, made with respect to the consideration of a resolution, and motions to proceed to the consideration of other business, shall be decided without debate.

(4) Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution shall be decided without debate.

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