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No. 103

Senate

THURSDAY, JUNE 26, 1975

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

S. 2029. A bill to amend title XVI of the Social Security Act to insure that cost-of-living increases in supplemental security income benefits are granted to recipients of such benefits in all States, and for other purposes. Referred to the Committee on Finance.

S. 2030. A bill to amend title XVI of the Social Security Act to provide for the establishment of an outreach program to assure that potentially eligible recipients of supplemental security income benefits will be fully informed of the availability of such benefits and the steps to be taken in obtaining them. Referred to the Committee on Finance.

IMPROVEMENTS IN SSI PROGRAM

Mr. MONDALE. Mr. President, today I and Senator HUMPHREY are pleased to join my distinguished colleague from the Fifth District of Minnesota, Representative DON FRASER, in introducing two bills to improve the supplemental security income program, which presently provides minimum levels of income support to 4 million aged, blind and disabled Americans.

These bills would: First, require States to "passthrough" Federal cost-of-living increases in SSI to the beneficiaries of the program; and second, require the Secretary of HEW to try harder to locate the estimated 3 million citizens who are eligible for benefits, but not receiving them.

SSI PASSTHROUGH

Mr. President, as every American knows, the last few years have been times of intolerable inflation. All Americans are suffering under this burden. But those who suffer most are the aged poor, the blind, and the disabled who must struggle to live on fixed incomes which do not grow as the economy expands.

No national commitment is more fundamental to the character of this Nation than our promise to help these citizens toward a decent life.

And we have made major steps toward achieving that goal in recent years. The Social Security Amendments of 1972 provided for replacing the old and complex program of aid to the aged, blind and disabled with the new supplemental security income, SSI, program—a Federal guaranteed minimum income for the aged, blind, and disabled. And in June of 1974, my amendment was enacted to provide an automatic cost-of-living increase in Federal SSI benefits—so that, like social security payments, the Federal SSI payment will increase with the cost of living.

Yet major problems remain. This July 1, the Federal minimum payments will increase by 8 percent—from \$146 to \$157 a month. This is by no means generous, or even adequate. And, in at least half the States, this Federal increase will be meaningless for many, if not most, SSI recipients.

Those recipients who receive State supplementation in addition to their Federal benefits are likely to find that their State grants have been cut back by an amount equal to the Federal increase. Recipients who now receive \$146 a month in Federal benefits and \$20 a month in State supplements will receive an \$11 increase in their Federal payment. However, their State benefit may be cut back from \$20 to \$9. As a result, they end up no

better off than they are now. And the Federal increase, in effect, goes to the State treasury.

According to information we have received from the Social Security Administration, as of mid-May only eight States—California, Idaho, Maine, Missouri, Nebraska, Pennsylvania, Vermont, and Washington—have decided to pass-through the full Federal increase. Five other States—Hawaii, Iowa, Minnesota, Montana, and Rhode Island—have decided thus far, to provide a partial pass-through, or small parallel increase in State supplements. Eighteen States—Alabama, Arkansas, Florida, Georgia, Indiana, Kansas, Kentucky, Louisiana, Massachusetts, Mississippi, North Carolina, South Carolina, Tennessee, Wisconsin, Wyoming, Virginia, West Virginia, and Texas will provide no pass-through; and 20 others—Alaska, Arizona, Colorado, Connecticut, Delaware, District of Columbia, Illinois, Maryland, Michigan, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Dakota, Ohio, Oklahoma, Oregon, South Dakota, and Utah—have not yet decided what they will do.

I know the claim has been made that State supplementation should be of no concern to the Federal Government. When we originally enacted the supplemental security income program in 1972, we may have thought that we were creating a Federal program with one uniform benefit level throughout the country. However, I think we need to recognize that most recipients live in States where benefits are now, and will continue to be, a shared Federal-State responsibility.

Under our legislation, States would not be asked to provide added funds—only to pass the Federal increase through to beneficiaries, rather than holding it in State treasuries.

If we continue to argue over whether the Federal Government or the States have the primary responsibility for raising benefits, the only losers will be the recipients.

And they may lose a great deal. In those States which refuse to increase the total SSI payment to make up for inflation, cost-of-living increases in social security will force many off the SSI rolls altogether, and these unfortunate Americans may find themselves no longer eligible for health insurance benefits under the medicaid program. The total impact can be devastating.

To remedy this situation, the legislation which I am introducing today will require States to pass through to SSI beneficiaries the full amount of SSI cost-of-living increases. The Senate adopted a similar provision last year as part of my amendment, and I am deeply hopeful that this year the House of Representatives will be able to agree.

SSI OUTREACH

The second bill we are introducing today is aimed at correcting a basic failing of the SSI program—that after a year and a half of operation, recent estimates by the Social Security Administration, SSA, indicate only about 4 million of approximately 7 million potential recipients are now receiving benefits.

Supplemental security income is an entitlement. People have a right to receive benefits if they are eligible. Yet millions of potentially eligible recipients may not even know that the program exists. In

Minnesota, only about 40,000 out of an estimated 120,000 potential beneficiaries currently participate in the program.

While I can appreciate the administrative difficulties inherent in starting any new Federal assistance program, it seems apparent that without sufficient effort and funds devoted to outreach, the public will not know that it is entitled to benefits, thus dooming any program to fall short of its objectives.

Our bill is an effort to make sure that eligible individuals receive the benefits to which they are entitled.

Under our bill, the Social Security Administration would be required to undertake a comprehensive SSI outreach, information, and referral program. SSA would be required to provide information concerning the eligibility requirements for SSI by employing the media, as well as certain specified public welfare and social service agencies. Social security would have the authority to contract with State and local welfare departments and private nonprofit organizations to implement the Outreach requirements of the bill, and would be required to report to the President and the Congress at least once every 6 months on the progress and accomplishments of the Outreach program.

The urgent need for this legislation is, I think, illustrated by two groups of recipients which have been written off by SSA as unreachable. One of these groups is those people who stand to gain only a few dollars under SSI. SSA believes that these people have decided that it is simply not worth the effort to apply for such small benefits. While I do not deny that this may be the case in many instances, I do not feel these potential beneficiaries should be disregarded. Often, people in this category do not realize that their receipt of public assistance, no matter how small, automatically makes them eligible for medicaid benefits. In fact, in 15 States, only persons receiving public assistance are eligible for medicaid.

Another underserved group consists of blind and disabled children who became eligible for Federal income support for the first time as a result of the 1972 act. SSI participation rates for children in most States is miniscule. In Minnesota, for example, only 490 disabled and 34 blind children were receiving SSI benefits, as of February 1975. We have no reliable estimates of the number of potentially eligible children in our State, but it is clear that there are far more than 34 blind children in the entire State who would qualify for benefits.

I recognize that the low participation rates for children are due in part to administrative problems with the program. Nevertheless, a coordinated Outreach program can, and should, identify those children who can be helped.

Mr. President, I wish to express my special thanks to Mr. Joel Bondar and Mr. Iric Nathansen of Representative FRASER's staff for their work on these bills, and I ask unanimous consent that the text of both bills, together with the joint press release issued by Representative FRASER and myself, be printed at this point in the RECORD.

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

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

SECTION 1. (a) Title XVI of the Social Security Act is amended by adding immediately after section 1617 the following new section:

"OPERATION OF STATE SUPPLEMENTATION PROGRAMS

"SEC. 1618. (a) In order for any State (other than the Commonwealth of Puerto Rico, Guam, or the Virgin Islands) which has at any time after December 1973 had in effect a program of supplementation payments described in section 1616(a) to be eligible for payments pursuant to title XIX, with respect to expenditures for any calendar quarter which begins—

"(1) after September 30, 1975, or if, later,
"(2) after the calendar quarter in which supplementation payments are first made under such program, such State must have in effect an agreement with the Secretary whereby the State will—

"(3) continue to operate such program,
"(4) maintain, under such program, a level of benefits which (prior to application of the provisions of paragraph (5)) is not lower than the level of benefits under the program for the first month that the program was in effect, and

"(5) in determining eligibility for and the amount of payment to which any applicant or recipient is entitled under the program disregard an amount of the income, including income in the form of benefits payable under section 1611, of such applicant or recipient equal to the amount, if any, by which—

"(A) the aggregate amount of the increases which have occurred in the level of supplemental security benefits payable under this title as a result of cost-of-living adjustments under section 1617 (as determined under regulations of the Secretary) since the first month with respect to which payments were made under the State program of supplementation, exceeds

"(B) the aggregate amount of the increases over the level specified in paragraph (4) which have occurred in the level of benefits under such State program.

"(b) The Secretary, in determining for purposes of subsection (a) the level of benefits provided under a State supplementation program and the aggregate amount of any increases in such level, shall (after reviewing the program as it affects the various classes and categories of beneficiaries covered thereunder) consider the program as it affects the vast majority of beneficiaries; and the Secretary shall not determine that a State has failed to meet the requirements imposed by paragraph (4) or (5) of such subsection solely because its supplementation program does not meet, in one or more respects or in the case of one or more classes or categories of beneficiaries, such requirements, if the Secretary finds that the level of benefits provided under such program to the beneficiaries thereunder, when such beneficiaries are viewed as a single group, is not significantly lower than the level which would obtain if such requirements were fully met in every respect and in the case of each and every class or category of beneficiaries."

"(b) Section 212(a)(3)(C)(i) of Public Law 93-66 is amended by inserting "(except that, there shall not be counted so much of any such benefit for any month as is attributable to any increase made in the level of supplemental security income benefits pursuant to section 1617 of such Act)" immediately after "Social Security Act".

"(c) The limitation imposed by section 401(a) of the Social Security Amendments of 1972 on the amount payable to the Secretary of Health, Education, and Welfare by a State pursuant to its agreement or agreements under section 1616 of the Social Security Act shall be applied without regard to paragraph (2) of such section in the case of an amount equal to so much of the expenditures under the agreement or agreements as are necessary in order to enable the State to meet the requirements imposed by section 1618 of the Social Security Act or to meet the requirement imposed by the amendment made by subsection (e) of this section.

SEC. 2. The provisions of this Act shall be effective with respect to benefits payable for months after September 1975.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That part B of title XVI of the Social Security Act is amended by adding at the end thereof the following new section:

"Outreach Program

"SEC. 1635. (a) The Secretary shall establish and carry out a program designed specifically to assure that all individuals who are or may become eligible for supplemental security income benefits under this title will be fully informed of the availability and nature of such benefits and of the steps to be taken in obtaining them.

"(b) The information to be provided through the program established under this section shall include—

"(1) an explanation of who is eligible for benefits under this title;

"(2) an explanation of the income and resources requirements for such eligibility, including an indication of how income is defined and how the value of resources is determined, the income and resources which are excluded from consideration, and the maximum amount of income and resources which an individual may have and still qualify for such benefits;

"(3) a statement of how such benefits are computed, including a description of the cost-of-living increase provisions of section 1617;

"(4) an explanation of how to apply for such benefits, including specifically what documentation is required and the names, addresses, phone numbers, and office hours of the places where application may be made;

"(5) a specific statement of where and how applicants and potential applicants for such benefits may obtain further information and receive answers to questions;

"(6) an explanation of the rights of applicants to hearings with respect to their eligibility; and

"(7) such other information as may be necessary or appropriate to assure that all applicants and potential applicants are fully informed as described in subsection (a).

"(c) In providing information to applicants and potential applicants for supplemental security income benefits through the program under this section, the Secretary shall—

"(1) make maximum use of radio, television, and other communications media;

"(2) establish on the widest possible basis a system of toll-free telephone numbers to assure that such information is readily accessible; and

"(3) obtain the cooperation and participation of State and local welfare, social service, and other agencies, senior citizens organizations, settlement homes, grocery stores, legal aid offices, day care centers, alcoholic and drug treatment centers, family planning centers, and any other establishments and organizations through which substantial numbers of such applicants and potential applicants might be reached.

"(d) The Secretary is authorized to carry out his functions under this section through the personnel and facilities of the Department of Health, Education, and Welfare, or to enter into appropriate contracts or arrangements with State and local agencies and private nonprofit organizations for the performance of such functions, or both, with the objective in any case of assuring the widest and most effective dissemination of the information described in the preceding provisions of this subsection.

"(e) The Secretary shall report to the President and the Congress at least once every six months on the progress and accomplishments of the program under this section, including any recommendations he may have for improving its effectiveness.

"(f) There are authorized to be appropriated such sums as may be necessary to carry out this section."

MONDALE, FRASER ANNOUNCE BILLS TO AID ELDERLY

WASHINGTON, June 24.—Senator Walter F. Mondale (D-Minn.) and Representative Don Fraser (D-Minn.) today announced two initiatives to improve the Supplemental Security Income program. SSI provides minimum levels of income support to four million aged, blind and disabled Americans.

One bill introduced by Mondale and Fraser in the House and Senate would require states to "pass through" federal cost-of-living increases in SSI to the beneficiaries of the program. The other would require the Secretary of HEW to "try harder to locate the estimated three million citizens who are eligible for benefits, but not receiving them," the legislators said.

"Federal payments for the aged, blind and disabled will automatically increase by eight per cent, or \$11, next June 30," the two legislators said, "but many states have chosen to withhold the benefits from eligible recipients, and in effect to retain the federal increase in state treasuries.

"While we sympathize with the financial plight of many states, failure to pass through federal cost-of-living benefits will work tragic hardship on hundreds of thousands of impoverished elderly and disabled Americans. Inflation will further reduce their living standards. And, because Social Security payments will also rise on June 30, failure to increase SSI eligibility will actually force many to lose eligibility for needed health benefits under the Medicaid program.

"Our bill, by requiring the states to pass the federal cost-of-living increase through to SSI beneficiaries, would provide a measure of justice to the elderly and disabled poor, without requiring additional expenditures of state funds.

"Our second bill," Fraser and Mondale said, "would require redoubled efforts by the Secretary of HEW—through the media and through contact with state and local government and private groups—to locate persons eligible for SSI."

"Today—a year and a half after SSI replaced the old program of Aid to the Aged, Blind and Disabled—only four million of an estimated seven million eligible persons are included in the program," they added. "In our own state of Minnesota only 40,000 of an estimated 120,000 potential beneficiaries are enrolled and many of those left out are disabled children whose parents are unaware of the program.

"Surely justice and decency demand a full-hearted effort to locate the impoverished elderly and disabled citizens who are eligible for SSI benefits."



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THE RECOMMENDATIONS OF THE ROCKEFELLER COMMISSION

Mr. MONDALE. Mr. President, in the 2 weeks since the report of the Rockefeller Commission on CIA activities within the United States has been published, we have had an opportunity to consider its findings, its conclusions and begin to come to grips with its recommendations. It opens up many crucial issues concerning our constitutional rights, the functions of our Government and the protection of our individual liberties and national interests.

I approach the Commission report and my responsibilities as a member of the Senate Select Committee on Intelligence Operations with the belief that we need a Central Intelligence Agency. We need a thorough and coordinated intelligence effort so as to provide our Government the soundest possible basis for our diplomacy and our defense. And I believe there may be a role for certain covert actions, particularly if this is necessary to counter the covert actions of our adversaries. It is in this spirit that I have carefully studied the report of the Rockefeller Commission on domestic CIA activities.

While it is clear that the Commission did not have the mandate to address all of the many important questions concerning the intelligence activities of the United States, the report is a serious and worthwhile effort to come to grips with the alleged abuses carried out by the CIA in their domestic operations. The Commission should be given credit for a reasonably thorough investigation of some of the charges leveled at the CIA and for the straightforward manner within which the findings are presented. The recommendations, however, require the most thorough debate and consideration.

Many of the recommendations are close to the mark. The proposals to strengthen oversight and accountability are long overdue:

Beefing up the President's Foreign Intelligence Board;¹

Expanding the CIA's Inspector General corps;² and

A recognition that it is necessary to strengthen Congressional oversight—quite apart from whether a Joint Committee is the right answer.³

Some of the specific prohibitions are also indisputable:

The prohibition on drug testing;⁴

The ban on CIA domestic wiretapping.⁵

But, as laudable as some of the recommendations are, many of the others are either inadequate or, in fact, contradict basic lessons provided by the Commission's own findings—particularly with respect to protecting our constitutional rights. In some cases, the recommendations are little more than pious requests for the President and the CIA to obey the law. In others, the recommendations would go far to legalize the very abuses the Commission deplores.

Moreover, the recommendations systematically disregard the necessity of involving the Congress in defining the role and responsibilities of the Central Intelligence Agency. In many crucial areas the Commission proposes to short-

circuit the legislative process that the circumstances require by means of Executive orders.

In this brief address, I want to start the debate on the appropriate remedies for the abuses and issues uncovered by the Commission report. The Senate select committee will be delving into these and other related matters in great detail, but nonetheless, I believe we can at least begin the dialog, starting with the recommendations in the Rockefeller report.

I will not try to deal with all 30 recommendations. Rather, I want to focus first on those areas which are usefully opened up by the report, but which require further treatment; and second on those areas in which I believe the recommendations are inadequate to the point of where our constitutional liberties could be jeopardized.

The subjects usefully addressed but not adequately considered include:

CIA relations with state and local police;

Constraints on physical surveillance;

The problem of overseas connections with domestic crime, especially narcotics;

Clandestine collection of foreign intelligence in the United States;

The responsibility for counterintelligence activities.

First, the report documents the fact that the relationship between the CIA and State and local law enforcement agencies has involved many questionable activities, the CIA's providing equipment and money to police and the police supplying to the CIA false identification documents and help in at least one break-in.⁶

Yet, the Commission makes no recommendations in this area. It simply calls for a change in these policies and urges that the CIA be more circumspect in its dealings with local law enforcement agencies.⁷

Now, the CIA's basic statute makes it very clear they are not to have any domestic law enforcement responsibilities. The need for, and nature of, any relationship between the CIA and domestic State and local law enforcement organizations must be carefully examined and explicitly set forth in law. This is essential if the prohibitions on CIA domestic police functions are not circumvented.

Second, the report points out that while electronic surveillance, wiretapping and bugging is controlled by statute, physical surveillance, and the use of undercover agents and informers is "largely uncontrolled by legal standards."⁸ The problem of controlling physical surveillance and the use of agent informers is not peculiar to the CIA, but involves the FBI, the IRS, and other intelligence and investigative bodies.

The report should be commended for addressing the subject of the appropriate legal constraints on physical surveillance and on the use of agent informers, for these can raise fundamental questions of privacy and possibly constitutional rights. However, the only recommendation of the Commission is that in cer-

tain cases physical surveillance and the placing of undercover agents in domestic organizations be permitted on the say-so of the Director of the Central Intelligence Agency.⁹ This is clearly not what is called for. The Senate must now ask Congress to go forward and thoroughly explore this area and arrive at a proper legislative solution.

Third, the report raises what might be called the general subject of the overseas connection to domestic crime, in the context of the problem of narcotics.¹⁰

Just as legitimate business concerns have now become multinational in scope, so criminal activity, especially in the field of narcotics, is an internationalized enterprise. The report is correct in cautioning the CIA against getting involved in police functions,¹¹ yet we must also consider what instruments are appropriate to monitor criminal activities abroad which, in time, end up as criminal activities at home. Again, this is an area requiring the most thorough and careful consideration by the Congress, so as to provide our Government with the appropriate instrumentalities for combating crime but protecting our civil liberties.

Fourth, despite all the concern about clandestine CIA activities in the United States, the report of the Rockefeller Commission merely states that the authority of the CIA to engage in clandestine operations within the United States aimed at collecting information on foreign individuals or organizations is unclear and needs clarification.¹² How this is to be done is not clearly spelled out. Whether the CIA should have this responsibility has major implications for the permitted scope of CIA activities within the United States and the potential for abuse.

The Commission also did not address whether CIA or any other clandestine foreign intelligence operations in the United States would have any limits or checks. For example, would it be permissible to tap telephones, to break into embassies, to conduct surveillance of various kinds? And what about alleged entrapment of foreign diplomats, such as that which has been alleged against the CIA in New York City?

I can see there may be a legitimate need in this general area of intelligence, but whether, and how, clandestine collection of foreign intelligence in the United States is to be carried out must be carefully examined by the Senate select committee. Such operations can easily endanger our civil liberties, particularly if there are no external checks upon them.

This subject is closely related to another major issue which is raised, but not adequately treated, by the Rockefeller report. This is the role to be played by the Central Intelligence Agency in counterintelligence within the United States. Heretofore, that mission largely has been the province of the FBI. If I read them correctly, the recommenda-

⁶ Recommendation 16.

¹⁰ pp. 233-234.

¹¹ p. 39.

¹² p. 59.

⁸ Pp. 40-41, 236-240.

⁷ P. 41.

⁹ Pp. 63, 64.

¹ Recommendation 5.

² Recommendation 9.

³ Recommendations 3 and 4.

⁴ Recommendation 27.

⁵ Recommendation 23.

tions of the Commission appear to move in the direction of granting the Central Intelligence Agency a major role in the conduct of counterintelligence operations in the United States.

Paragraph C of recommendation 2 grants to the CIA the authority to collect information about the domestic activities of U.S. citizens, whether by overt or covert means, if they are "persons suspected of espionage or other illegal activities relating to foreign intelligence."¹³ The Commission calls for proper coordination with the FBI, but in so doing seems to relegate the Bureau to a secondary role.

The Commission recommendations concerning the proper role of the CIA and the FBI in regard to domestic intelligence activities can only be described as vague. Recommendation 2c and 14c seem to suggest CIA preeminence in the field of counterintelligence, but the final recommendation, No. 30, simply calls upon the Director of Central Intelligence and the Director of the FBI to negotiate a detailed agreement setting forth their respective jurisdictions and submitting it for approval to the National Security Council.¹⁴

It is my firm view that this would be an inadequate procedure. The division of responsibilities between the FBI and the CIA in this delicate area must be made by Congress. Counterintelligence is the cutting edge of many of the abuses that have come to our attention. The Huston plan was developed in the name of counterintelligence. Cointelpro, that stumbling acronym, stands for counterintelligence program. Illegal mail opening was a counterintelligence program. And there are yet other counterintelligence activities that, in the course of the Senate select committee's investigation may well indicate the dangerous and possibly uncontrolled character of counterintelligence activities, as they have been conducted in the past. For this reason, I believe, it is essential that the Congress establish the proper guidelines clearly defining jurisdiction for the CIA and the FBI, and equally important, setting up a system accountability for the conduct of counterintelligence-type activities within the United States.

These, then, are what I consider to be some of the incomplete aspects of the findings and recommendations of the Rockefeller Commission. But there are other recommendations, most of them dealing directly with the issue of spying by the CIA on U.S. citizens, that are at best hopes rather than remedies, and at worst could contribute to legalizing the illegal. In these cases, the Commission either falls back on simply urging the President and the CIA to obey the law or proposes measures that would legitimize the abuses that have brought forth this investigation.

To get a clear picture of this problem, it is important to go behind the "don't" language of the recommendations and focus on the exceptions which constitute the list of "do's" for the CIA. The exceptions set forth a wide variety of actions

Critical aspects of this proposed authority are not defined. What is meant by "affiliation"? What is meant by "indirect affiliation"? How does one define persons or activities posing a clear threat to CIA facilities or personnel? How does one define "illegal activities relating to foreign intelligence"?

Second, the CIA is authorized to conduct mail covers,¹⁵ albeit in compliance with postal regulations, and in the furtherance of the CIA's legitimate activities, on a selected basis in matters involving national security. If past practice is considered, postal regulations are inadequate to protect citizens' rights and the restriction of mail covers to furtherance of the CIA's legitimate activities in matters of national security imposes no real restraint. Only the injunction to be selective is mildly controlling.

Third, the CIA is authorized to infiltrate dissident groups or other organizations of Americans upon "a written determination by the Director of Central Intelligence that such action is necessary to meet a clear danger to Agency facilities, operations, or personnel and that adequate coverage by law enforcement agencies is unavailable."¹⁶ Note that none of these terms are defined and that it is left to the discretion of the Director of Central Intelligence to decide what is a danger to the Agency and whether other law enforcement agencies are providing adequate support.

Fourth, the CIA would be authorized to conduct its own investigations of individuals presently or formerly affiliated with it. This would be done on the authority of the Director of Central Intelligence alone, once he determines that the investigation is necessary to protect intelligence sources and methods, the disclosure of which "might," let me stress "might," endanger the national security.¹⁷

¹³ P. 13.

¹⁴ P. 21.

¹⁵ P. 27.

¹⁶ P. 29.

This particular provision, recommendation No. 18, also makes the point that such investigations must be coordinated with the FBI whenever substantial evidence suggesting espionage or violation of Federal criminal statute is discovered. This, of course, raises the question whether such investigations may go on when there is no substantial evidence suggesting espionage or violation of Federal criminal statutes. In this connection, it should be pointed out that to permit investigations of individuals in cases where the national security merely might be endangered, and in ways that are not defined runs the same grave risks of abusing the concept of national security we found in the Watergate case.

Finally, recommendation No. 22 makes clear that physical surveillance of Agency employees, contractors, or related personnel—whatever that might mean—can be conducted within the United States on the written approval of the Director of Central Intelligence.

I do not believe that the Congress or the American people can accept proposals whereby undefined categories of American citizens can be spied upon, their privacy invaded, and possibly their constitutional rights suspended, on the voucher of the Director of Central Intelligence. It is ironic that these provisions would go far to legitimize precisely the various abuses cited in the report and which has given rise to such great public concern.

The Rockefeller Commission would place reliance on the personnel involved, on the Inspector General and on a beefed-up President's Foreign Intelligence Advisory Board to see that such spying was kept in bounds. All this would be control after the fact, and the only positive check would be the Director of Central Intelligence, who, in the past, has often been a witting handmaiden to Agency abuses.

It seems strange, that with all this new Executive machinery, there is no reference to the role of Congress, or in fact, the public, as the real check on future abusive secret domestic intelligence operations. This is a fundamental defect of the Rockefeller Commission report: Past abuses are to be remedied only by Executive orders and the responsibility for avoiding abuses is left largely in the hands of the institutions which

abused their powers in the past. Indeed, the report recommends giving them more explicit authority to investigate American citizens.

Mr. President, running through the Rockefeller Commission report, following the recital of some very serious invasion of American liberties and the destruction of due process with respect to many American citizens, there is a series of recommendations.

In effect, it says we will let the Director see if he cannot do better next time.

There are practically no recommendations for legal changes. Most of the recommendations involve internal regulatory changes which, in effect, leave the executive free to do as he pleases despite a record of very serious transgressions of American civil liberties.

Mr. President, there are no strict recommendations for legal changes which they make. In effect, it calls for the adoption of an Official Secrets Act here in the United States. We never have had one, and what it would say, in effect, is that anything in effect that is classified by an executive department official would then be protected by the force of criminal law from disclosure. It would for the first time in our Nation's history make it illegal and subject to criminal penalties for a public official in Government to disclose or be part of a conspiracy to disclose so-called official secrets.

The irony of this recommendation is that it would probably in the future prevent the public from knowing about transgressions and violations of the law of the kind we are now investigating here before the Senate Select Committee on Intelligence.

If that were the law the last few years, it is probably likely that the American people would never have known, indeed could not conduct an investigation to determine, whether their civil liberties had been interfered with by the CIA or other governmental agencies.

I would say that that recommendation is seriously deficient. It is based on European practice. In many European countries, particularly Great Britain, they are now beginning to doubt the wisdom of their own official secret acts.

Mr. President, once again it seems to me we have to decide what is important in American life and, above all, it seems to me it is our system of freedoms and liberties.

The Government is saying, "Trust us, although we have abused these liberties in the past, we are now forewarned and you can trust us in the future."

I believe that we need trust, but I also think that the exercise of governmental power when uncontrolled, when undisclosed to the public, when unrestricted by clear laws, can be very dangerous in the hands of those who hold it.

This suspicion goes back to really the basis of our Constitution.

As Thomas Jefferson once wrote:

It is the tendency of things that freedom retreats and Government gains ground.

Thus we should not be surprised to find that when it comes to muzzling the stories that finally led to the current exposure of domestic wrongdoings and the long-overdue Senate inquiry, the Commission has no trouble coming up with proposals supporting legislation for an official secrets act. It endorses the idea of a statute which would make it—

A criminal offense for employees or former employees of the CIA willfully to divulge to any unauthorized person classified information pertaining to foreign intelligence or the collection thereof obtained during the course of their employment. (Recommendation 21.)

Unless we are careful about the ways in which we develop our laws, our administrative control and the relationship of those agencies to the Congress, we can well once again see the commencement of what can only be described as a secret police here in our own country.

Now please note that this recommended statute would operate even if no harm were done to the national defense or to our diplomacy. And it does not apply to espionage—that already is a crime. But it would apply to the revelation of wrongdoing if the information were classified. To reveal the spying on Americans.

¹⁵ P. 13.

¹⁶ P. 39.

the CIA can take toward Americans in the United States.

First, under recommendation No. 2, the CIA would be permitted to collect "information about the domestic activities of U.S. citizens, whether by overt or covert means," to evaluate, correlate, and disseminate analysis and reports about these activities and to store such information on "persons presently or formerly affiliated, or being considered for affiliation, with the CIA, directly or indirectly, or others who require clearance by the CIA to receive classified information."

They also would be able to do this on "persons or activities that pose clear threat to CIA facilities or personnel, provided the proper coordination of the FBI is accomplished."

They would also be able to do this with regard to any "persons suspected of espionage or other illegal activities relating to foreign intelligence, provided there is proper coordination with the FBI."

They also would be able to use information "received incidental to appropriate CIA activities and transmit it to agencies with appropriate jurisdictions, including, of course, law enforcement agencies."¹⁸

the opening of their mail, the bugging of their phones, or plots to assassinate foreign leaders all could put you in jail.

The Commission asks that this statute be drafted with appropriate safeguards for the constitutional rights of all affected individuals. This is a laudable, but a conflicting, objective. Moreover, it avoids the key issue, which is that this law would impede the kind of scrutiny that the Commission report makes clear is necessary.

How much of the information in the report, I wonder, was secret or top secret only a few months ago? Without public disclosure, most of the abuses documented in the report would never have been corrected. Yet, this law, proposed by the Commission, could help insure that public scrutiny would never happen again.

I want to emphasize that we need to be able to protect legitimate secrets from our potential adversaries. But we need even more to protect our constitutional rights. The burden of proof for more laws than we have already must lie upon the executive branch. Those who make and try to keep secrets must prove that they are justified in doing so.

I am not revealing any secrets when I say that the committee is concluding a study of "leaks" to see whether "national security" in fact has been endangered in the past. At this point it seems likely that the greatest percentage of leaks concern political issues that should in fact be debated in open democratic processes. The agencies will be asked to provide their "damage assessments" of the so-called leaks that have occurred in the last several years.

In 1970, the Defense Science Board found that the volume of classified scientific and technical information could be reduced by 90 percent. I do not know if this percentage would also apply to diplomatic secrets, but everyone dealing with the Federal Government is aware of the penchant for bureaucrats to classify all manner of documents, sometimes to draw attention to them and sometimes to cover up bungling, mistakes, errors of judgment, or just plain embarrassments—not to mention misdeeds and crimes.

Now, this is a pretty convenient device for protecting one's power and image. I daresay many of us in this chamber would like to be able to classify some of the things that we say, once we have had a chance to think about them.

The United Kingdom has an Official Secrets Act of this type that is apparently being proposed by the Rockefeller Commission. The indications are that it is not working. A few years ago, in fact, a royal commission was appointed, which was headed by Lord Franks, which thoroughly considered all of the difficulties which had been encountered in their Official Secrets Act. Their conclusion was that the law was far too open ended and must be thoroughly revised.

Public exposure is the ultimate sanction against violation of our constitutional rights in this society. We must not compromise this away. The basic question that must be faced is whether the recommendations of the Rockefeller Commission, taken in their entirety, so insure proper operation of the CIA that we can forgo the crucial protection afforded all other democratic rights by the first amendment of the Bill of Rights. As James Madison reminds us—

The right of freely examining public character and measure, and of free communication thereon, is the only effective guardian of every other right.

The Rockefeller Commission, says of the Bill of Rights that these freedoms are not absolute. The report states that the first amendment, as Justice Holmes noted—

Does not "protect a man in falsely shouting 'fire' in a theater and causing a panic."

The Rockefeller Commission apparently believes that this justifies an Official Secrets Act.

But the revelations which led to the Senate inquiry and to the Rockefeller Commission have not proved false. In my view, they are much closer to a man truthfully shouting "fire" in a theater and thus saving lives. The Official Secrets Act proposed by the Rockefeller Commission could in effect make it a criminal offense to sound the alarm when our

rights and our democratic institutions are jeopardized by secret Government operations.

In reviewing these concerns about the recommendations of the Rockefeller Commission, I am led to object to one of the report's most basic conclusions. The Rockefeller Commission report states that—

The evidence within the scope of this inquiry does not indicate that fundamental rewriting of the National Security Act is either necessary or appropriate.

I believe that this is clearly wrong. It is absolutely necessary for the Congress itself to write the most explicit guidance in law that it possibly can concerning the authority, and the jurisdiction, of the CIA, of the FBI, and of the other Federal investigatory bodies. It is absolutely appropriate for the Congress to draw a line between what is proper and what is not, both at home and abroad. We must make clear the conditions and terms under which various CIA activities can take place and on who's sayso. We must define or replace such terms as "national security," "sources and methods," and so forth.

For the American people to once again have confidence in its Government, and in its intelligence operations, this difficult task of reconciling liberty and freedom on the one hand, and the requirements of national security and secrecy on the other, must not be left solely to the executive branch; it must be an act of consensus, taken by the entire Federal Government, and in particular, the representatives of the people in Congress.

Laws alone are not enough, as we have already seen. Many laws on the statute books have been violated or disregarded by the Central Intelligence Agency. Law must be accompanied by the enforcement of adequate oversight. We need both a new legislative framework and a new political framework, within which intelligence operations take place.

The system of accountability must not stop with the President. It must embrace the Congress. I hope that the President's referral of the subject of assassinations to the Senate is a sign of a desire to have the Congress exercise its rightful role in these ultimate and most difficult of responsibilities in Government.

Any domestic CIA activities must be carefully monitored by the congressional oversight bodies. Any wrongdoing must be brought to the attention of the Congress and the congressional oversight bodies. And this oversight system, whether it involves a joint committee, a special committee, or the existing committees, must be as representative as possible—possibly even including rotating membership. The key to increased confidence of the American people in our intelligence and investigatory bodies for them to know that their views are included in the process by which decisions are made and authority is granted.

Our Founding Fathers were keen observers of human nature. They knew that the only way power and liberty could coexist was to pit ambition against ambition.

Thus, in the final analysis, relying on the basic principle of government by checks and balances is the only way to restore the confidence in our intelligence agencies so they can get on with their basic and vital job.

In considering this question of confidence, I am reminded of Thomas Jefferson's clear exposition on the issue and how it relates to the preservation of democracy. In the Kentucky Resolution of 1798, he said:

It would be a dangerous delusion were a confidence in the men of our choice to silence our fears for the safety of our rights: that confidence is every where the parent of despotism: free government is founded in jealousy and not in confidence; it is jealousy and not confidence which prescribes limited Constitution to bind down those whom we are obliged to trust with power: that our Constitution has accordingly fixed the limits to which and no further our confidence may go.

It seems to me that is essentially the direction in which we must consider the report of the Rockefeller Commission and with which we must approach the task of dealing with the transgressions of intelligence collecting agencies in our society over the past several years.



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Senate

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

S. 2097. A bill to provide for the establishment of the Minnesota Valley National Wildlife Recreation Area. Referred to the Committee on Commerce.

Mr. MONDALE. Mr. President, I am today introducing a bill to establish the Minnesota Valley National Wildlife Recreation Area. I am pleased that Senator HUMPHREY is joining me as a cosponsor of this measure.

This bill provides for the preservation of a rare, environmental resource—an urban wildlife recreation area. It is offered in recognition of the unique qualities of the Lower Minnesota River Valley within the Twin Cities metropolitan region as a haven for waterfowl and other wildlife and as an exceptional resource for recreation and nature study.

Located within a few minutes drive of downtown Minneapolis, the Lower Minnesota provides a habitat for more than 275 species of migrating birds. In the spring tens of thousands of ducks and other waterfowl use the Minnesota River flood plain. White tailed deer also inhabit the valley along with mink, racoon, grey and red fox, beaver, and other animals.

The proposal I am offering today represents the culmination of an intensive effort spanning several years during which residents of the Minnesota River Valley worked with the U.S. Fish and Wildlife Service and with State and local environmental organizations to develop a realistic and workable plan to protect this important resource. Supporters of the bill include the Lower Minnesota Valley Citizens Committee, the Minnesota Izaak Walton League, the Minnesota River Audubon Club, the National Wildlife Refuge Association, the Burnsville Environmental Council, the Bloomington Natural Resources Commission, and many other groups. The Nature Conservancy has offered its assistance in the effort to preserve the valley.

There can be little doubt of why the Minnesota Valley Wildlife Recreation Area concept has sparked such enthusiasm among residents of the river valley and throughout the State. In no other major metropolitan area in America would it be possible to find a river valley of equal natural beauty or abundance and diversity of wildlife. With other outdoor recreational and nature study facilities in the Twin Cities already straining to capacity, this rich natural area would be easily accessible to local residents and visitors.

Within the proposed area, visitors would have an opportunity to observe wildlife in its natural habitat and to enjoy hiking, birdwatching, photography, nature study, hunting, fishing, and other wildlife-oriented activities. Schools serving the metropolitan region would have an outstanding resource to use in the field study of environmental interrelationships and in stimulating an interest in living things through firsthand outdoor experiences.

While each of these opportunities could be assured by the creation of the proposed wildlife recreation area, there is a danger that they may be permanently lost if no action is taken. The principal threat to the flood plain is that of continuing intrusion by development. Urban pressure could soon destroy this magnificent resource unless there is adequate provision for its preservation.

The proposal I introduce today is designed to prevent such a tragedy. It would designate the segment of the Minnesota

River flood plain between the city of Jordan and Fort Snelling State Park as a national wildlife recreation area. This corridor would be managed according to guidelines established jointly by the U.S. Fish and Wildlife Service and appropriate units of State and local government. The guidelines would be set forth in a comprehensive plan to be completed within 2 years of enactment of the bill. Federal assistance would be available to help State and local governments pay up to 60 percent of the cost of acquiring lands and easements within the wildlife recreation area.

In addition, the bill authorizes the U.S. Fish and Wildlife Service to create a Minnesota Valley Wildlife Refuge as the centerpiece of wildlife preservation and enhancement efforts. The refuge would be composed of nine units, totaling 9,540 acres of prime habitat for waterfowl, deer, and other forms of wildlife. It would also include an interpretive center for environmental education and study of wildlife in its natural habitat. Funding for the refuge would be authorized in accordance with the Land and Water Conservation Fund Act.

Navigation, an activity which is vital to Minnesota agriculture, would not be affected by this proposal, nor would it attempt to remove evidence of man's presence in areas that are already developed, such as those within the communities of Burnsville, Shakopee, Chaska, and Savage. Instead, the bill seeks to assure future protection of areas in the flood plain whose primary value lies in their richness as a wildlife resource and to permit greater coordination of Federal, State, and local programs affecting the natural qualities of the entire river valley.

As one who is fortunate to have an opportunity to see the lower Minnesota Valley virtually every time I return home, I think it would be impossible to overemphasize what a superb resource it is. It is one that is worthy of national, as well as State and local pride. But I think we must be realistic in recognizing that it is only an accident of history that has allowed the lower Minnesota to remain much the way it was hundreds of years ago. We now have an opportunity to assure that man's carelessness in the rush for new development sites does not deprive future generations of an irreplaceable natural asset. I hope we will take this opportunity to preserve the lower Minnesota, thereby assuring that our children and their children will be able to use and enjoy this valuable, but fragile, resource.

Mr. President, as evidence of the interest in and support for this bill, I ask unanimous consent that an article and an editorial from the Minnesota Valley Sun and an article from the Minneapolis Tribune be printed in the RECORD, together with the text of my bill and a copy of a study report on the river, entitled "A Wildlife Resource in an Urban Environment."

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

S. 2097

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That for the preservation and enhancement of highly significant wildlife habitat in the Lower Minnesota River Valley in the State of Minnesota, for the protection of migratory waterfowl and other wildlife and to provide an opportunity for wildlife-oriented recreation and nature study within the open space so preserved, the Secretary of the Interior

(hereinafter referred to as the "Secretary") is authorized and directed to designate as herein provided, a national wildlife recreation area to be known as the Minnesota Valley National Wildlife Recreation Area (hereinafter referred to as the "recreation area") which boundaries are described as follows:

(1) That portion of the Lower Minnesota River flood plain which lies between the city of Jordan, Minnesota and Fort Snelling State Park excluding that industrialized portion in the municipalities of Savage, Chaska, Shakopee, and Burnsville, Minnesota.

(2) Areas adjacent to the flood plain that are necessary for public access and/or safety and well-being of the visiting public and/or operation and maintenance of the wildlife recreation area.

Sec. 2 (a). To implement the purpose of this Act, the Secretary shall immediately acquire and establish within the boundaries of the "recreation area" a national wildlife refuge known as the Minnesota Valley National Wildlife Refuge (hereinafter referred to as the "refuge") to be managed by the U.S. Fish and Wildlife Service. There shall be included within the boundaries of the refuge those lands, marshes, submerged lands and open waters in the lower Minnesota River Valley area generally depicted on the map entitled "Boundary Map Proposed Minnesota Valley National Wildlife Refuge," dated 1975, and which comprise approximately 9,540 acres within nine units to be known as the Long Meadow Lake Unit (2,100 acres), Black Dog Lake Unit (1,300 acres), Coleman Lake Unit (410 acres), Bloomington Ferry Unit (160 acres), Townline Unit (140 acres), Savage Unit (330 acres), Grass-Rice Lake Unit (2,500 acres), Chaska Lake Unit (400 acres) and Louisville Swamp Unit (2,200 acres), except that the Secretary may from time to time make adjustments in the boundaries of the refuge as he determines are necessary. Said boundary map shall be on file and available for public inspections in the offices of the Fish and Wildlife Service, United States Department of the Interior.

(b) The Secretary may acquire lands and waters or interests therein within the boundaries of the refuge by donation, purchase with donated, transfer or appropriated funds, or exchange.

(c) The Secretary shall administer the lands, waters and interests therein acquired for the refuge in accordance with the provisions of the National Wildlife Refuge System Administration Act of 1966, as amended (80 Stat. 927; 16 U.S.C. (666dd-666ee); except that the Secretary may utilize such additional statutory authority as may be available to him for the conservation and management of wildlife and natural resources, the development of wildlife recreation opportunities, wildlife interpretation and environmental education as he deems appropriate to carry out the purposes of this Act.

(d) The Secretary shall construct, administer and maintain at an appropriate site within the Minnesota Valley National Wildlife Refuge, a wildlife interpretive center for the purpose of promoting environmental education, and to afford visitors an opportunity for the study of wildlife in its natural habitat.

(e) There are hereby authorized to be appropriated under the Land and Water Conservation Fund Act such sums as may be necessary to carry out the provisions of this Act.

Sec. 3(a). To further implement the purpose of this Act, the Secretary, in cooperation with the State of Minnesota and political subdivisions thereof, shall formulate within two years after this Act takes effect a comprehensive plan for the protection, preservation and interpretation of the Minnesota Valley National Wildlife Recreation Area, but he shall not spend more than \$500,000 of Federal funds thereon. The Secretary will delineate and provide management guidelines for areas constituting the following categories:

Category I—The Minnesota Valley National Wildlife Refuge to be acquired and managed by the U.S. Fish and Wildlife Service under the provisions of this Act.

Category II—Public nature-recreation areas to be acquired in fee, or through lease, easement or other types of agreement and managed by the State and/or Regional,

County or municipal governments under the provisions of this Act.

Category III—Privately-owned lands that will (through easement compensation and protection) remain undeveloped in a natural environment condition with public use subject to the owners' desires.

Sec. 4. The Secretary may grant financial assistance to the State of Minnesota and political subdivisions thereof for its acquisition of lands and interests in Category II and III lands lying within the area designated as the wildlife recreation area. Any grant made under this section shall be only for lands or interests in land acquired by the State and political subdivisions thereof after designation of the wildlife recreation area, as provided by this Act, and the total of all grants under this section shall not exceed 60 percent of the cost to preserve 4,000 acres and shall be subject to terms and conditions prescribed by the Secretary.

Sec. 5(a). Any payment made by the Secretary under the provisions of the Section 4 of this Act shall be made subject to the understanding and agreement by the State of Minnesota and any political subdivision thereof that the conversion, use, or disposal, for purpose contrary to the purposes of this Act, as determined by the Secretary, of any land acquired by said state or political subdivisions thereof with funds supplied in part by the United States pursuant to said section, shall result in a right of the United States to compensation therefor from said State or political subdivisions in the amount of sixty (60) per centum of the fair market value of the land, exclusive of any improvements thereon, as determined at the time of such conversion, use or disposal.

Sec. 8. There are to be appropriated sufficient funds to carry out the provisions of this Act, not including funds to be expended under the Land and Water Conservation Fund Act for the purchase of the Minnesota Valley National Wildlife Refuge.

[A Study Report—Minnesota Valley National Wildlife Refuge]

A WILDLIFE RESOURCE IN AN URBAN ENVIRONMENT

The Lower Minnesota River Valley, gently winding through metropolitan Minnesota, is surrounded but not subdued by urbanization. Its bottomlands are still wild and rich with life. The river banks are covered with great elm, cottonwood and ash trees. Beyond these natural levees are vast spring-fed marshes interspersed with lush brush patches, grassy meadows and small farm fields.

Inhabiting these fertile bottomlands is a variety and abundance of life unknown to most other metropolitan areas. Here, unseen and forgotten, wildlife and plant species have united in harmony with the waters, creating an incomparable river environment.

Man, too, has made his contribution to the river floodplain environment. People have polluted its waters, stripped its protective vegetation, filled its marshes with garbage and crisscrossed its shores with utility lines. Despite this urban encroachment, the river floodplain still remains an outstanding wildlife area, a tribute to nature's perseverance.

CITIZENS' CONCERN

Some citizens, alarmed with continual destruction of this unique urban resource, have organized to protect the river floodplain. They have distributed informational materials and have held public meets. Their efforts have led to a congressional request that the U.S. Fish and Wildlife Service investigate the possibility of establishing a national wildlife refuge in the Valley.

In response, the U.S. Fish and Wildlife Service has determined that a national wildlife refuge could be established in the Minnesota Valley between Jordan and Fort Snelling. This brochure summarizes the study that was conducted by the Service.

A REFUGE

A Minnesota Valley refuge, if established, could become one of 370 other units of the National Wildlife Refuge System. The mission of the System is to provide and safeguard a national network of lands and waters to meet the need for areas where the entire spectrum of human benefits associated with wildlands and wildlife is enhanced. A Minnesota Valley national wildlife refuge could support that broad mission by keeping in public trust, in an urban location, an important natural floodplain which contributes significantly to the wildland and wildlife heritage of this nation.

REFUGE OBJECTIVES

A Minnesota Valley national wildlife refuge could provide wildlife-oriented activities to broaden man's understanding and appreciation of the environment. It could work in concert with other natural resource units in the River Valley which are or will be managed by the State Department of Natural Resources, County park organizations and local municipal park departments. Together, they could preserve much of the floodplain and ensure that it continues to function as a natural system.

Specifically, the objectives of the refuge could be to:

Preserve a critical portion of the Minnesota River Valley with its wildlife and natural habitat.

Provide an urban wildlife area for hiking, birdwatching, photography, nature study, hunting, fishing and other wildlife-oriented activities.

Provide a unique educational resource to all ages by assisting with field studies of environmental interrelationships, stimulating curiosity and investigation of living things by offering a variety of first-hand outdoor experiences.

REFUGE PROGRAMS

Wildlife production and maintenance

Waterfowl Production: The refuge could be managed to produce three important species of ducks—mallards, wood ducks and blue-winged teal. Management could focus on improvement of nesting habitat and maintenance of brood areas. Special attention could be given to the protection of local broodstock. Waterfowl nesting habitat could be improved by establishing suitable ground cover, installation of nesting structures and a forest management program. Rearing areas for waterfowl broods could be improved by carp control and management of marsh vegetation. The refuge could help increase the metro area nesting flock of Canada geese by providing nesting habitat. The refuge also could participate in a trumpeter swan restoration project by assisting the Hennepin County Park Reserve District with their on-going program.

Waterfowl Maintenance: The marsh and upland areas could be managed to maintain spring and fall populations of both ducks and geese at levels that could provide ample opportunity to observe waterfowl in their natural habitat. This could be done without causing a significant redistribution of waterfowl or waterfowl harvest from other areas of the flyway. The refuge also might serve to improve the distribution of large Canada geese now moving into the Rochester, Minnesota area where populations are near capacity level.

The refuge could protect and provide for migrating canvasbacks and redheads. It could also be managed to control the increasing wintering mallard flocks to maintain current distribution patterns and control disease. Production and maintenance management could begin immediately without new development by establishing closed areas, controlled hunting, control of carp populations and manipulation of vegetation.

Wildlife Diversity: The area has an abundant variety of birds and mammals (over 200 species) due to the various types of habitat. Many people enjoy the diversity of wildlife on-site, but the same wildlife is enjoyed off-site since it often ventures into adjacent residential areas. The refuge could be managed to maintain this diversification so that the great mix of wildlife is perpetually enjoyed by the public.

Wildlife and wildlands appreciation

Visitors could observe and enjoy wildlife through programs and facilities specifically designed for that purpose. There could be foot trails, connected to the proposed State Minnesota River Valley Trail System, to lead people to observation blinds and elevated platforms for enhancing their wildlife viewing experience. Signs and brochures could help the visitor interpret and understand what he sees. In addition to the self-guided facilities, there could be guided tours and demonstrations by naturalists who could assist visitors in learning about and enjoying the floodplain environment.

Environmental education

Suitable outdoor study areas are in short supply in the Twin Cities metro area; existing centers are filled to near capacity. There is a special need for those types of wild areas which can be visited in half a day.

The proposed areas could provide space and limited facilities where outdoor programs in natural science and environmental education could be conducted for all age groups, with particular emphasis on serving inner-city schools.

Fishing and hunting

Hunting and sport fishing are still popular activities on the floodplain. Waterfowl and small game hunters pursue ducks, pheasants and rabbits with shotguns while bow-and-arrow hunters seek deer.

These activities could continue to be encouraged on a controlled basis, particularly river fishing. Public access could be improved and fishing sites developed so only a minimum of equipment is needed. The low-cost form of outdoor recreation could then be easily accessible by both public and private transportation and equally available to all citizens. Limited types of hunting could be made available with priority emphasis given to youth programs.

Research and scientific studies

Because of its urban location near a multitude of educational institutions, the refuge could provide an excellent opportunity for scientific research studies related to monitoring, preserving or improving the natural environment. Refuge personnel can designate sites and make available facilities for such studies.

Historic preservation

There are approximately 40 historic sites within the Minnesota River Valley between the Village of Carver and Fort Snelling. Those which could be acquired could become part of the total interpretive program and be used to illustrate the interrelationship of wildlife, Indians and early settlers. In addition, those that qualify could be added to the National Register of Historic Places.

DESCRIPTION OF THE STUDY AREA

Geology

Eleven thousand years ago, vast melt waters of the retreating Wisconsin Glacier formed an inland sea called Lake Agassiz. The only outlet at that time, the Glacial River Warren, carved the wide valley that is now known as the Minnesota River Valley. Torrential waters fed the Warren, which varied from one to five miles wide and from 75 to 300 feet deep. When the last ice age came to an end, the River Warren gradually receded. Today, this broad glacial valley is occupied by a much smaller Minnesota River. In the lower stretches of the river valley, there is now an abundance of seeps and springs. These are trapped by a natural levee along the river channel which has created a series of marshes and lakes.

History

The marshes and lakes of the Lower Minnesota River Valley have always been known for their abundance of fish and wildlife. Bluffs rising above the valley floor were once dotted with buffalo and elk, an important source of food for the Dakota or Sioux Indians. These native Americans searched for natural foods along the river bottoms that comprised the bulk of their diet—ducks, geese, fish, turtles, deer, wild rice, plant tubers, fruits, nuts, maple sap and others.

By 1860, white settlers were establishing farms all along the Valley and they, too, learned to depend on the river bottoms for the wild staples of their diet. One local resident reports that his father homesteaded above Black Dog Lake in 1856 and ate buffalo and passenger pigeons as a boy. Later, that individual's own family feasted on ducks, bobwhite quail, prairie chickens and pike.

In recent times, cropland has been increased in the lowlands along the river. Other impacts causing destruction of traditional wildlife habitat include development of landfills, quarries and industries. Conversion of floodplain environments for commercial and industrial production has taken a heavy toll in things natural, wild and free. Yet, amazingly, many of the species which gave sustenance to native American and settlers still occur abundantly throughout the Valley.

Vegetation

The refuge study area is located in a prairie-forest transition area. A representative cross-section of the river valley shows distinct zones of vegetation. Plant life changes from moist, grassy meadows on the valley floor to maple-basswood forests on the lower slopes and to dry oak savannas with prairie grasses near the bluff tops.

The floodplain forest along the river consists mainly of elm, silver maple, willow, cottonwood, ash, box elder and aspen. While large cottonwoods tend to line the river and silver maples grow in rather homogeneous stands, most forested areas are populated with mixed species.

The valley's large wetlands and shallow lakes are edged with dense willow, aspen, ash and dogwood. Open wet meadows surrounding marshy areas are dominated by reed canary grass, cutgrass, whettop, boneset, swamp milkweed, marsh dock, sedge, smartweed, boneset and cordgrass. Extending far into the water of the area's marshes and lakes are vast stands of phragmites, bulrushes, cattails, sedges, arrowhead, plantain, smartweed and wild rice.

Waterfowl

During spring migration, tens of thousands of waterfowl use this stretch of Minnesota Valley floodplain. Observers report that in the spring of 1959, approximately 5,000 lesser scaup, 1,000 canvasbacks and 1,000 coots rested on Fisher Lake alone. In the fall of 1971, an estimated 10,000 teal, mallards, wood ducks and other species used the Rice Lake/Grass Lake area. By October 1 of each year, between 30 and 40 thousand waterfowl congregate on the refuge study area. These concentrations account for a high level of hunting success throughout the area.

Small numbers of waterfowl have traditionally wintered on the ice-free springs and fast-flowing streams of the Lower Minnesota Valley. Since 1952, 200 to 300 acres of water at Black Dog Lake have been kept open by the action of warm water discharged from the Northern States Power electrical generating plant there, causing numbers of wintering waterfowl to increase considerably. Approximately 4,500 mallards, 850 goldeneyes and 50 black ducks presently winter at Black Dog Lake.

Protected whistling swans and increasingly rare canvasback ducks traditionally use Rice and Grass Lakes during spring migration. In all, 24 waterfowl species have been recorded here.

Lower Minnesota Valley wood duck nesting habitat is excellent. Other principal species of waterfowl produced here include blue-winged teal, mallards and shovellers. Some of the metropolitan area's estimated 200 pairs of Canada geese could be expected to expand into the refuge study area if suitable sanctuary were provided. The marshes of the refuge study area could be much more productive than other metropolitan wetlands because of their fertility and seclusion.

Other birds

The Minnesota River Valley Audubon Club and the Minneapolis Bird Club have long kept extensive records on birds seen in this area. They have recorded approximately 275 species during migration. About 100 species nest locally. The Valley's shallow lakes and marshes attract an abundance of water-loving species. Little green herons, black-crowned night herons, bitterns, black terns, yellowlegs, killdeer, spotted sandpipers and rails are also frequently seen and heard calling from the marshes; and good cover adjacent to small grain crops along the river bottoms has maintained excellent pheasant populations.

Mammals

White-tailed deer are common throughout the proposed refuge. Up to 600 have been counted along this 25-mile stretch of river bottoms during the winter when deer move into traditional yarding areas.

Furbearers such as muskrats, mink and beaver have always been abundant in the floodplain marshes. Raccoons, red and gray foxes, woodchucks, weasels, cottontail rabbits, squirrels, bats, shrews and many species of mice are found throughout the uplands.

Fish

Although these shallow floodplain lakes are subject to frequent winter kills, their fertile waters are restocked naturally during periods of high water. Long Meadow Lake, Black Dog Lake, Grass Lake, Upper Rice Lake, Louisville Swamp and part of the Chaska Lake complex are inhabited by carp, buffalo, bullheads, shad, drum, catfish, dogfish, gar, shiners, northern pike, sunfish and other species.

[From the Minneapolis Tribune, June 27, 1975]

WILDLIFE AREA PROPOSED NEAR MINNESOTA RIVER

(By Linda Picone)

A 6,600-acre wildlife refuge in the Minnesota River valley has been proposed by a citizens' group and the U.S. Fish and Wildlife Service, but congressional action and money will be needed before the plans can be accomplished.

The proposed national wildlife refuge is only the first part of what the Lower Minnesota River Valley Citizens' Committee hopes will be complete preservation of the river area.

"It's very rare for a major city to have this beautiful and rich river running right through and available by bus," said Marialice Seal, cochairman of the citizens' committee. "There's a great deal of pressure to develop the area for heavy industry. The time for procuring and saving these areas is short."

The proposed wildlife refuge would consist of four units: Chaska Lake, about 400 acres; Louisville Swamp, about 1,600 acres; Grass Lake/Rice Lake, about 2,500 acres; and Long Meadow Lake, about 2,100 acres.

The Fish and Wildlife Service said, in a report released in May, that those four areas meet the criteria of national wildlife refuges.

Plans for the wildlife refuge would include extending the Minnesota Trail System through it, with some offshoot trails, putting up observation blinds in a few places and building a visitor center at Long Meadow Lake. There would be only one road in the area, at Long Meadow Lake, for bus access and for handicapped persons.

Mrs. Seal said the area is widely used by bird-watchers who come to see the ducks, herons, egrets, bald eagles and occasional visiting pelicans.

There is a large deer herd living in the river valley and the U.S. Fish and Wildlife report listed many common Minnesota mammals, from beavers to skunks, living there also.

A small flock of Canada geese summers in the area, said the report, and would probably expand if the wildlife refuge were established.

The citizens' committee was formed about two years ago and succeeded in getting the Fish and Wildlife Service to study its proposal and develop a report. Now the committee is seeking public support in hopes of getting funding for the four-part refuge.

Congress would have to appropriate U.S. Water and Conservation funds for the project. "We are asking our legislators to introduce a bill in the next session," said Mrs. Seal. "We feel it will be a high-priority item because it is an urban river."

Although the report did not estimate the cost of the refuge, either for buying land or building new facilities, it said there are now about 60 private ownerships in the proposed refuge, including 10 homes. Land values are high because it is near an urban area.

Mrs. Seal said she hopes land acquisition, at least, could begin within two years.

[From the Minnesota Valley Sun, June 26, 1975]

WILDLIFE REFUGE IS EXCITING PROPOSAL

Plans for a wildlife refuge in the Minnesota Valley is exciting news for many area residents. The valley itself is unique as an area of abundant wildlife, both flora and fauna, in the midst of a large metropolitan area.

In our opinion, the efforts of the Minnesota Valley Citizens Committee are to be applauded for its foresight and persistence in finding a way to preserve this rich natural area.

Area municipalities, too, should be encouraged to support this plan for a national wildlife refuge. If local approval can be attained by July 9, Congress may be able to pass special legislation so this valuable natural asset can be acquired at an early date.

Preservation of the key parts of the Minnesota Valley as a wildlife refuge is one way we can leave our part of the world a better place than we found it.

[From the Minnesota Valley Sun, June 6, 1975]

NATIONAL WILDLIFE REFUGE PROPOSED FOR VALLEY AREA

(By Frances Berns)

Approximately 6,600 acres, in four separate units, will be included in the proposed Minnesota Valley National Wildlife Refuge.

Plans for the refuge were described at the Bloomington Planning Commission meeting last Thursday and will be explained again at a public informational meeting at 7:30 p.m. July 2, at Bloomington City Hall.

Spearheading the effort to have four portions of the river valley preserved in a wildlife refuge are members of the Lower Minnesota River Valley Citizens Committee.

Ed Crozier, Burnsville, a member of the planning branch of the U.S. Fish and Wildlife Service, described the river valley area earmarked for preservation.

The four units are the Long Meadow Lake area of 2,100 acres, the Grass Lake/Rice Lake area of 2,500 acres, the Chaska Lake area of 400 acres and the Louisville Swamp area of 1,600 acres.

"The Minnesota River Valley between Fort Snelling and Jordan where the four sections are located includes wild rice habitat, many species of water birds, mallards, teals and wood ducks," Crozier said.

"More than 275 species have been identified here. Seldom is such a large amount of wildlife found so close to a metropolitan area."

"Thousands of years ago when the glacier melted the river valley was formed. The native Americans, then the settlers and now we are the custodians of this resource."

"But time is running out. Once the river valley has developed its value as a natural resource is gone forever."

The citizens committee has asked the U.S. Fish and Wildlife Service to create a wildlife refuge, Crozier said. The Long Meadow Lake unit would be the location of the refuge's interpretive center.

Much of the 25 miles of floodplain could be preserved through the cooperation of cities, counties, the state and federal government, Crozier said.

The Minnesota Valley Wildlife Refuge could be acquired by the U.S. Fish and Wildlife Service by using wildlife funds from the Department of the Interior, he said.

Special congressional enabling legislation is needed to allow the necessary land and water conservation funds to be released, Crozier said.

The refuge would include spur trails leading from the Minnesota State Trail system, viewing blinds and platforms from which wildlife could be observed and studied.

Crozier said he thought the Minnesota Valley Wildlife Refuge would have the highest priority because of its urban location.

No fees are charged for the use of wildlife refuge areas at the present time, Crozier said.

Crozier answered several questions posed by members of the public and the planning commission.

"I think the priority should be either specifically for wildlife use and wildlife management and the public use should be de-emphasized," said Kelly Neal, a resident.

Crozier said there are safeguards to assure that any endangered species would be protected.

Commissioner Skip Reiter asked if the property would be taken from the tax rolls.

Crozier replied this was the case, but there is a provision for some equivalent monies to be returned to some local taxing units.

The four refuge units proposed for acquisition would be developed to different degrees, depending upon their location and physical features.

The Long Meadow Lake unit, located in Bloomington between Fort Snelling and Portland Avenue would be developed into a combination administration and visitor center building.

This unit would provide visitors with an opportunity to learn about the recreation activities and values of the river area, Crozier said.

The Long Meadow Lake unit would be the center of the refuge interpretive and environmental education activities.

The other three units would each have a developed access point which would include a visitor information point, parking area, toilets, control gates and signing.

The refuge boundary would be posted, but not fenced.

The Grass Lake/Rice Lake area of 2,500 acres is located in Eden Prairie. The Chaska Lake area of 400 acres is in Chaska and the Louisville Swamp area of 1,600 acres is between Shakopee and Jordan.

At the conclusion of last Thursday's presentation the Bloomington Planning Commission and Natural Resources Commission adopted separate resolutions recommending that the Bloomington City Council support the proposed land acquisitions and the establishment of a National Wildlife Refuge within the city of Bloomington.

The Bloomington Park and Recreation Commission was expected to adopt a similar resolution.

Support for the wildlife refuge will also be sought in the other affected municipalities.

MORE

AMENDMENT NO. 1023 TO S. 2097
OFFERED BY SENATOR MONDALE
October 28, 1975

viz: On the first page, line 3, insert "(a)" immediately after "That".

On page 2, between lines 12 and 13, insert the following:

(b) The Congress recognizes the unique character of the Minnesota River Valley as a wildlife and recreational resource, as an avenue for navigation consistent with prior Congressional authorization and as a corridor linking heavily populated communities in the Twin Cities metropolitan area. Establishment of the Refuge and Recreation Area shall not be construed so as to prohibit or prevent the provision of vital public services, including (1) continuation of navigation, (2) construction, improvement, replacement or maintenance of roads and bridges, or (3) any other such activities by public agencies as may be determined by the Secretary to be necessary; except that such activities referred to in the preceding clauses shall be carried out with minimum disruption of wildlife, recreational and scenic values of the area consistent with economic feasibility.

(c) The Secretary shall provide for the Minnesota Valley Trail Corridor, authorized by Minnesota Statute, 1969, Section 85.198, as an integral part of the Minnesota Valley National Wildlife Refuge and Recreation Area.

On page 4, strike lines 9, 10, 11 and 12 and insert the following:

(e) The United States Fish and Wildlife Service and the United States Corps of Engineers shall assist appropriate local authorities in the designation of sites for deposit of spoil material so as to minimize the disruption of wildlife, scenic, and recreational values consistent with the need to ensure the continuation of navigation on the riverway. The Fish and Wildlife Service shall be authorized to expend not more than _____ per centum of the funds appropriated for acquisition of the Refuge to purchase alternative sites for deposit of spoil material as may be necessary outside the boundaries of the refuge and recreation area.

On page 4, preceding Sec. 3 insert the following new subsection:

(f) Revenue sharing payments made to counties in which units of the Minnesota Valley National Wildlife Refuge are located in accordance with 16 USC 715(s) shall be distributed to affected municipalities and townships on the same pro rata basis as is used in the distribution of real estate taxes.

On page 6, beginning with line 9, strike out all through line 13 and insert the following:

Sec. 6. There are authorized to be appropriated from moneys in the Land and Water Conservation Fund Act of 1965 and which are available for Federal purposes thereunder such amounts as may be necessary to carry out the provisions of this Act.

Senator Walter Mondale on the Bicentennial Photo & Film Project



United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 94th CONGRESS, FIRST SESSION

Vol. 121

WASHINGTON, FRIDAY, JULY 25, 1975

No. 120

Senate

EXTENSION OF THE EMERGENCY JOBS AND UNEMPLOYMENT AS- SISTANCE ACT OF 1974—S. 1695

AMENDMENT NO. 817

(Ordered to be printed and referred to the Committee on Labor and Public Welfare.)

Mr. MONDALE. Mr. President, I am pleased to submit in the Senate today an amendment which would create the "American Bicentennial Photography and Film Project."

The legislation would result in creation of an enduring portrait of the American people in the year of our Bicentennial, as well as provide much-needed employment opportunities for American photographers and film makers.

Those of us who lived through the New Deal—and many Americans who learned about the period through their history books—cannot forget the moving human stories told through the pictures taken by photographers employed by the Federal Government. Some of the most creative photographers this Nation has ever had both got their start and made their reputations through programs designed to document the work of the Farm Security Administration and other New Deal agencies.

The FSA was created to assist rural Americans to pull themselves out of the depths of the Depression. The agency provided rehabilitation loans and relief grants to farmers, and extended credit and technical assistance to farmers who needed livestock, repairs, feed and seed. Dorothea Lange, Walker Evans, and Ben Shahn were among those hired to record American rural life and the programs of the FSA with their cameras.

They created a priceless and unforgettable legacy. Roy Stryker, who headed the FSA photo project, recounts the human side of the project in this story about a picture-taking expedition with photographer Russell Lee:

We were in a small town and he saw a little old lady with a little knot on her head. He wanted to take her picture but the woman said: What do you want my picture for? Russell's response was part of my education as to how a photographer thinks. He turned to the lady and said: Lady, you're having a hard time, and a lot of people don't think you're having such a hard time. We want to show them that you're a human being, a nice human being, but you're having troubles. Well, she said All right, you can

take my picture, but I've got some friends and I wish you'd take some of their pictures too. Could you come and have some lunch with me today. We stayed all that day and that night and had supper. She invited four or five women over and Russell took pictures.

Stryker developed outlines to be followed by photographers in the field. He outlined one photo project he called "American Background," in which Americans would be shown "at home in the evening," attending church, and in such community gathering places as baseball fields and pool halls. Another essay theme was "The Railroads and their Place in the Life of America." Among the subjects to be photographed were the interior and exterior of a railroad station, the activity on the platform, the arrival and departure of trains, movement of baggage and freight, and people involved in such activities as ticket-buying and eating a snack.

Some 35 years after the FSA project, we are faced both with a serious economic recession and with the 200th birthday of America. These factors present a perfect opportunity for us to create a portrait of America which will become a vital and enduring part of our heritage.

For this reason I am proposing that Congress approve legislation creating the "Bicentennial Photography and Film Project." Through this project we could provide jobs for some of our most creative citizens. The bill I am introducing would specify that 1 percent or up to \$10 million nationally of public service employment funds be spent to provide jobs to photographers and film makers. Some \$4 million would be provided to State arts councils to administer projects designed to result in a national Bicentennial portrait. Three million dollars would be used to provide each State arts agency with \$60,000 to operate a project. An additional \$1 million would be distributed to the States on the basis of population.

In order to secure these funds, a State arts council would present a plan for photo and/or film projects to the National Endowment for the Arts. The State council would be authorized to use the funds for secure equipment and supplies, supporting personnel—including master photographers—processing, cataloging, collection and dissemination, and display of the photographs and films produced by the State projects.

The National Endowment for the Arts would receive \$1 million to administer the program on the national level and provide for selection and dissemination of the films and photos.

We can expect from such a national effort a product as rich and varied as American life itself. It will show us life in communities throughout America today—life in farms, towns, and cities, the life of the rich and the poor, moments of happiness and despair and of quiet family times. Mr. President, I ask unanimous consent that the text of the amendment be printed in the Record.

There being no objection, the amendment was ordered to be printed in the Record, as follows:

AMENDMENT No. 817

Designate the existing provisions of S. 1695 as Title I thereof, renumber sections accordingly, and add the following new Title II:

"TITLE II. AMERICAN BICENTENNIAL PHOTOGRAPHIC AND FILM PROJECT

FINDINGS AND STATEMENT OF PURPOSES

SEC. 201. (a) The Congress hereby finds (1) that the federally supported photographic projects conducted during the 1930's created a lasting national historic and artistic resource of priceless value and (2) that the public employment program provided in Title I of this Act presents the opportunity to contract a similar portrait, through photographs and film, of the people and communities of the United States in our bicentennial year.

(b) It is the purpose of this Title to establish the National Bicentennial Photographic and Film Project, by permitting State Arts Agencies to serve, under Title I of this Act, as prime sponsors of qualified photographic and film projects within their States, and by establishing the National Endowment for the Arts as national coordinator for the National Bicentennial Photographic and Film Project.

AUTHORIZATION OF APPROPRIATIONS

SEC. 202. (a) There is hereby authorized to be appropriated to the National Endowment for the Arts for the purposes of this Title not in excess of \$5,000,000 for the fiscal year ending June 30, 1976. Sums appropriated pursuant to this paragraph shall remain available until expended.

(b) Of the amounts appropriated pursuant to paragraph (a) of this section, not in excess of one-fifth shall be reserved by the National Endowment for the Arts for purposes of section 204, and the remainder shall be apportioned among the States on the following basis: the first \$3 million shall be allocated among the States in equal amounts, and the remainder shall be apportioned among the States on the basis of population.

STATE PROJECTS

Sec. 203. (a) From funds appropriated and apportioned to each State pursuant to section 202, the Endowment is authorized to provide, by grant or contract, financial assistance to the State Arts Council of each State, pursuant to such regulations and guidelines as the Endowment shall establish, to permit such State Agency to serve as prime sponsor for one or more photographic or film projects meeting the purposes of this Title. Such assistance shall be available for purposes which include securing equipment, supplies, and administrative or supervisory personnel not reimbursable under Title I of this Act and processing, cataloguing, display and related activities with respect to photographs and films produced pursuant to this Title.

(b) Upon the application of a State Arts Agency which the Endowment finds, pursuant to such regulation and guidelines as the Endowment may establish to meet the purposes of this Title, and to promise productions of artistic merit and cultural significance, the Endowment shall designate such Agency as prime sponsor under Title I of this Act for purposes of carrying out such application. The Secretary of Labor shall receive one percent, but not to exceed \$10 million, of the funds appropriated under Title I of this Act for the fiscal year ending June 30, 1976 for the purposes of this paragraph, and shall make assistance available from such reserved funds pursuant to application approved by the Endowment. Such reserved funds shall remain available until expended.

NATIONAL PROJECT

Sec. 204. From funds allotted to the Endowment pursuant to Section 202, the Endowment shall defray costs of administration, provide for collection and dissemination of photographs and films produced pursuant to this section, and provide direct assistance to applicants for photographic or film projects of special merit which meet the purposes of this Title. The Endowment shall assure that representatives photographs and films (including, where appropriate, negatives) produced under this Title are made available for the permanent collection of the Library of Congress.



Congressional Record

PROCEEDINGS AND DEBATES OF THE 94th CONGRESS, FIRST SESSION

Vol. 121

WASHINGTON, WEDNESDAY, SEPTEMBER 17, 1975

No. 136

Senate

WEDNESDAY, SEPTEMBER 17, 1975

LIBERTY AND JUSTICE FOR ALL

Mr. MONDALE. Mr. President, I wish to take this opportunity to congratulate the U.S. Catholic Conference, under the leadership of the National Conference of Catholic Bishops, for its remarkable effort to establish a broad-based 5-year program of social action.

At hearings held throughout the country, the bishops of the national conference set an example which we in the Congress would do well to follow. These hearings touch on the topics of our deepest concerns in this country today—from the problems faced by American families, to the family farm, from the problems of Spanish-speaking citizens to our relationship with the developing countries of the world. I was privileged to testify at a hearing held in St. Paul on June 13 on justice for native Americans.

These national hearings will be followed by discussion among clergy and laity at the local level, and capped by a national conference of clergy and laity to be held October 20-23, 1976, in Detroit, Mich.

This is a magnificent undertaking, and a celebration of our Bicentennial in the finest possible way. I wish to call the activities of the conference to the attention of my colleagues, and ask that an excellent article describing these activities which appeared in the New York Times on August 26 be printed in the RECORD.

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

RELIGIOUS GROUPS STUDYING BASIC U.S. VALUES

(By Kenneth A. Briggs)

TIDY CREEK CAMP GROUNDS, Ga.—Gustav Rhodes settled his beefy, 6-foot frame into a straight-back chair, folded his calloused hands on a small table, and spoke deliberately into a microphone.

"Mr. Chairman," he said, "I love the land. I am proud of my work. But I am mighty ashamed of what people think me and my work is worth."

He proceeded to tell of the lot of the sugar cane workers in Louisiana, where he has worked since his boyhood, particularly their efforts to escape squalor and exploitation.

The bishops, priests and lay professionals on the panel listened attentively, as they had to a succession of men and women from many parts of the South.

Their testimony, given under a spacious green revival tent here in a remote wooded section of northwestern Georgia, followed an ambitious plan by the United States Catholic Conference to learn more about the nation's problems.

By choosing such a project as its main Bicentennial focus, the Roman Catholic Church became part of a wider movement among many religious groups to study American values during the nation's observance of its 200th birthday.

Through a variety of methods—conferences, films, television and radio broadcasts and printed matter—Christians and Jews are raising disturbing questions as to whether the nation has defaulted on the pledges made in its founding documents.

SPIRIT OF DISSENT

Projects are local and regional as well as national in scope. The Pittsburgh chapter of the National Conference of Christians and Jews, for instance, will sponsor a special convocation Sept. 29 on the First Amendment. On the list of topics are such items as medical ethics and credibility in public life.

In the spirit of dissent that drove many of their Catholic, Protestant and Jewish forebears to these shores, these efforts are concerned with such issues as religious liberty, the quality of morality, the role of religion in history, gaps between social ideals and reality and the nature of civil religion.

On a more strictly academic level, the Bi-woman saved the money by eating her food centennial Conference on Religious Liberty, raw. Another ate every other day. Hundreds, an interfaith project scheduled for next including a 98-year-old man living alone, April 25 to 30 in Philadelphia, will range over these and a number of related issues, including the rights of the aging and of privacy and conscience and disobedience.

"While the Bicentennial is a time for celebration," says Nancy Nolde, the conference director, "we should remember that the promises of America have been merely promises for large segments of the population."

Meanwhile, the American Broadcasting Company, guided by Protestant, Catholic and Jewish representatives, is producing a "Conscience of America" series that will explore such topics as the effect of the bombing of Hiroshima on America's spiritual climate and the history of protest in America, from Thoreau to the recent antiwar movement.

OTHER PROJECTS

In addition, the National Broadcasting Company will start a four-part special entitled "One Nation Under God," the Religious Education Association is planning a major colloquy on civil religion from Nov. 23 to 25, and Project Forward '76, the most inclusive ecumenical venture, is preparing conferences on the religious aspects of the American Issues Forum.

No endeavor of this kind has required more time and energy than the Catholic concept. Originating three years ago with an advisory group to the Conference of Bishops, the idea calls for six sets of hearings at as many places across the country.

Hearings in Atlanta, which included one day at Tidy Creek, 90 miles away, were the fourth in the series. Prior to that, hearings were held in Washington, San Antonio, Tex., and Minneapolis. The final two sites are Sacramento, Calif., and Newark.

The Catholic project, styled after Congressional hearings and adopting the theme "Liberty and Justice for All," is designed to put the Roman Catholic Church in better touch with what the Most Rev. James Rausch, secretary of the Catholic Conference, calls "society's lingering hurts."

When the hearings are completed, the Council of Bishops will put together a summary of its findings and start a five-year program to combat injustice.

At each hearing, certain social problems have been underscored. In San Antonio, for example, the hearing reflected the concerns of Mexican-Americans, and in Minneapolis, problems of native Americans.

A SOUNDING BOARD

Tidy Creek, like the other settings, became a sounding board. Among other things, the bishops heard victims of black lung and brown lung diseases describe hazardous working conditions in coal mines and textile factories, small-land holders speak of threatened loss of farms, migrant laborers describe continuing hardships and strip-mining opponents decry the lack of stiffer legislation.

Panelists, headed by the Most Rev. Peter J. Gerety, Archbishop of Newark, and including a woman judge, a graduate student and a history professor, were visibly moved by much of the testimony.

The Rev. Vincent O'Connell, pastor of Holy Cross Church of Lafayette, La., said sugar cane workers earned an average of \$3,200 a year while working 1,500 to 1,700 hours, and were constantly in debt to the growers. He called them "practically indentured servants."

BROWN LUNG DISEASE

Hub Spires, a rangy South Carolinian with hollow cheeks and sunken eyes, labored to catch his breath as he told how, after 34 years as a mill hand, "something got wrong with me." He described it as brown lung disease—something he said the medical profession in South Carolina was reluctant to identify as an occupationally related sickness—and he said he had been forced to retire 10 years prematurely on an \$8-a-month pension from the mill.

At the hearing in Atlanta, Mrs. Ruth Tipplins of Jacksonville, Fla., told of her survey of the need for food stamps among elderly people. The most common complaint, she said, was the stamps were too expensive. One

Some of the frustration was vented at the church—allegedly for helping to perpetuate injustice and poverty. The bishops accepted the criticism with apparent equanimity.

MINGLED WITH WORKERS

At Tidy Creek, the bishops mingled with the workers, admired the quilts, cornhusk dolls and other handcrafted articles that were on display, munched on hot dogs and Southern barbecue, and appeared relaxed and buoyant.

Whatever the final results of the hearings, Bishop Rausch said that what has happened to the participants "is so worthwhile that it has set something of great significance in motion."

"The church needs to broadly consult people," he added, "to educate itself to the questions that relate directly to their lives."

Other strategies are also aimed at underscoring problems in American life. Often they revive lagging ecumenical efforts. "This affords an opportunity to bring groups together," says the Rev. Dr. R. H. Edwin Espy, chairman of '76, "who can't always get together."

Religion in American Life, a promotional campaign by 43 Christian groups, will introduce a series of radio, television, newspaper and magazine advertisements next month designed to make people more aware of such social problems as hunger, poverty and racial discrimination.

OUTSIDE THE SYSTEM

Among the campaign's goals, says Jerald Hatfield, director of the agency's project, is to show "how people have been cut out of our system."

Another direction has been taken by the Ecumenical Task Force on the Religious Observance of the Bicentennial, a coalition of Christians at the National Council of Churches. The group, according to its secretary, the Rev. Dr. Dean Kelley of the United Methodist Church, has produced a film, "Echoes of Revolution," which Dr. Kelley said portrayed how "rights and freedoms are available to anyone who can afford them."

The group has also published a far-ranging critique of social and religious issues. Called "Bicentennial Broadides," it enlists several authorities to evaluate such topics as religious liberty and the role of women and blacks in national life.



United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 94th CONGRESS, FIRST SESSION

Vol. 121

WASHINGTON, TUESDAY, SEPTEMBER 23, 1975

No. 140

Senate

By Mr. MONDALE (for himself, Mr. HUMPHREY, Mr. NELSON, Mr. CURTIS, Mr. PHILIP A. HART, Mr. HARTKE, Mr. HOLLINGS, Mr. HUDDLESTON, Mr. LAXALT, Mr. ABOUREZK, and Mr. MCGEE):

S. 2394. A bill to amend the Internal Revenue Code of 1954 to increase the amount of the estate tax exemption, to provide that certain farm land included in the gross estate be valued according to its use as farm land, and for other purposes. Referred to the Committee on Finance.

ESTATE TAX RELIEF FOR FARMERS, SMALL BUSINESSMEN

Mr. MONDALE. Mr. President, I am today introducing, on behalf of myself and Senators HUMPHREY, NELSON, CURTIS, PHILIP A. HART, HARTKE, HOLLINGS, HUDDLESTON, LAXALT, and MCGEE, legislation that would substantially ease the growing burden of the Federal estate tax on family farms and businesses.

The bill would:

First. Increase the present \$60,000 estate tax exemption to \$150,000;

Second. Allow family farms to be valued for estate tax purposes at their value as farm land rather than their value for other commercial purposes, as long as the land is kept in the family and continues to be used for farming;

Third. Return the interest rate on 10-year installment payments of estate taxes—recently raised to 9 percent—to its previous level of 4 percent; and

Fourth. Allow 10-year installment payments whenever immediate payment would result in hardship—instead of undue hardship, as present law requires.

These were among the most frequent recommendations made at a hearing held in Minneapolis on August 26 before the Senate Small Business Committee and the Joint Economic Committee. Senator HUMPHREY and I heard there from a number of small businessmen and farmers about the problems they face in paying Federal estate and gift taxes, and of the severe burden this could place on their estate and their heirs.

In some cases, it could prove necessary to sell part of or all of a family farm or business in order to pay estate taxes.

This hurts everyone. It hurts the family that loses its farm or business. It hurts the community that loses the support and concern that local ownership brings. And it hurts our national economy, as concentration increasingly pushes out competition.

The healthy competition our economy needs to continue strong, noninflationary growth is undermined when family farms are taken over by huge corporate farming operations, and when independent and innovative small businesses are taken over by large outside corporations.

Our estate and gift tax laws are intended in part to prevent excessive concentrations of wealth. Yet in their application to small businesses and family farms, they may inadvertently be increasing it.

The changes we are proposing could help to ease this problem by:

Increasing the \$60,000 exemption to \$150,000.—The present \$60,000 exemption has remained unchanged since 1942, while the price of everything else has gone up enormously. Increasing the exemption to \$150,000 would help to make up for this erosion in the real value of the exemption over the last 33 years. The revenue loss from this change would be substantial—\$1.7 billion—and it should,

therefore, be made in conjunction with other revenue-raising changes. If enough revenue can be raised through additional reforms in the estate and gift tax laws, a further increase in the exemption above \$150,000 and a liberalization of the marital deduction should be considered.

Allowing valuation as farm land.—When farms are located near rapidly growing urban areas, the value of the land for purposes other than farming—housing developments, shopping centers, et cetera—often far exceeds its farm value. If the property is valued for estate tax purposes at its higher, non-farm value, the heavy estate tax due could well force the heirs to sell the farm to pay the tax. The bill we propose would allow the land to be valued for estate tax purposes at its value for farming. To be eligible for this lower valuation, the farm must constitute a large portion of the estate, and it must have been used for farming for 5 years prior to the owner's death. The land must be kept in the family and used for farming after the owner's death, and if at some later point these conditions are no longer met, the higher estate tax based on the nonfarm value must be paid.

Liberalizing the installment payment provisions.—Present law allows the estate tax to be paid in installments over as many as 10 years in cases of undue hardship or if the estate includes a farm or closely held business which amounts to 35 percent of the gross estate or 50 percent of the taxable estate. These installment payment provisions are rarely used. For 1972, for example, IRS statistics indicate that fewer than 1 percent of the taxable estate tax returns included a request to pay in 10-year installments, and there is no data on how many of these requests were granted. Making the installment payment provisions easier to use could well ease the liquidity problems faced by many family farms and businesses, and make it unnecessary to sell the farm or business to pay the estate tax. Two changes can be readily made:

Return the interest rate to 4 percent.—Prior to July 1 of this year, the interest rate on estate tax installment payments was only 4 percent, but as a result of legislation passed late last year, the rate is now 9 percent. Returning this rate to its earlier level would make it easier for heirs to pay the estate tax out of the proceeds of the farm or business, and avoid a forced sale.

Require only simple "hardship."—The present requirement of "undue hardship" can be a difficult one to meet, and permitting installment payments in any case of simple hardship would make the installment payment option more broadly available.

Mr. President, I ask unanimous consent that the text of the bill and an editorial from the St. Paul Dispatch be printed in the RECORD.

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

S. 2394

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 2052 of the Internal Revenue Code of 1954 (relating to exemption) is amended by striking out "\$60,000" and inserting in lieu thereof "\$150,000".

(b) Section 6018(a) of such Code (relating to estate tax returns) is amended by striking out "\$60,000" and inserting in lieu thereof "\$150,000".

Sec. 2. Section 6161(a)(2) of such Code, (relating to extension of time for paying

estate tax) is amended by striking out "undue".

Sec. 3. Section 6601(a) of such Code (relating to interest on underpayment, nonpayment, or extensions of time for payment, of tax) is amended to read as follows:

"(a) IN GENERAL.—

"(1) GENERAL RULE.—Except as provided in paragraph (2), if any amount of tax imposed by this title (whether required to be shown on a return, or to be paid by stamp or by some other method) is not paid on or before the last date prescribed for payment, interest on such amount at an annual rate established under section 6621 shall be paid for the period from such last date to the date paid.

"(2) EXTENSIONS OF TIME FOR PAYMENT OF ESTATE TAX.—If the time for payment of an amount of tax imposed by chapter 11 is extended as provided in section 6161(a)(2) or 6166, or if the time for payment of an amount of such tax is postponed or extended as provided in section 6163, interest shall be paid at the rate of 4 percent, in lieu of the annual rate established under section 6621."

Sec. 4. (a) Part II of subchapter 9 of chapter 11 of such Code (relating to credits against estate tax) is amended by adding at the end thereof the following new section:

"Sec. 2017. CREDIT FOR PART OF VALUE OF CERTAIN FARM PROPERTY.

"(a) IN GENERAL.—At the election of the executor of an estate, the tax imposed by section 2001 shall be credited with the amount of the excess, if any, of the amount of tax imposed on the transfer of the estate under this chapter over the amount of tax which would have been imposed on the transfer of the estate under this chapter if the value of any property included in the gross estate which is qualified farm property had been determined, for purposes of this chapter, by its value as qualified farm property determined on the basis of the value of the property for the use by which it is eligible to be qualified farm property.

"(b) DEFINITION OF QUALIFIED FARM PROPERTY.—For purposes of this section, the term 'qualified farm property' means real property—

"(1) the value of which is included in determining the gross estate of a decedent if such value exceeds either—

"(A) 35 percent of the value of the gross estate of such decedent, or

"(B) 50 percent of the taxable estate of such decedent,

"(2) which is substantially all, and, during the 60 months preceding the date of death of such decedent, has been, devoted

to farming (including the production of agricultural commodities and the raising of livestock), and

"(3) which is transferred by the executor of the decedent's estate to an eligible individual entitled to receive such property under the decedent's will or under the applicable law of descent and distribution.

"(c) ELECTION REQUIREMENTS.—An election under this section shall be filed with the Secretary or his delegate at such time and in such form and manner as he may prescribe by regulations and shall contain, in addition to any other matter, the name, address, and taxpayer identification number of the individual to whom the property passes under the terms of the decedent's will or by operation of law.

"(d) ELIGIBLE INDIVIDUAL.—For purposes of this section, the term 'eligible individual' means any individual who is a member of the family of the decedent within the meaning of section 267(c)(4).

"(e) CROSS REFERENCE.—For lien against property where credit is taken, see section 6324(a)(4)."

(b) Section 6324(a) of such Code (relating to special liens for estate and gift taxes) is amended by adding at the end thereof the following new paragraph:

"(4) UPON QUALIFIED FARM PROPERTY.—

"(A) LIEN IMPOSED.—If the executor of an estate elects to take the credit against the estate tax allowed by section 2017, the amount of that credit is a lien upon the qualified farm property (as defined in section 2017(b)) with respect to which the credit was claimed. If the credit relates to more than 1 piece of qualified farm property, a lien is

imposed under this paragraph on each piece of such property in an amount which bears the same ratio to the total amount of the credit allowed under section 2017 as the value of that piece of property (for purposes of chapter 11) bears to the value of all property to which the credit relates.

"(B) RELEASE OF LIEN.—

"(i) IN GENERAL.—The lien imposed by subparagraph (A) on any qualified farm property may be released by the payment to the Secretary or his delegate of the estate tax reduction amount attributable to that property.

"(ii) TERMINATION OF LIEN.—The Secretary or his delegate may not take any action to obtain payment of the estate tax reduction amount attributable to any qualified farm property until the close of the calendar year in which the property is substantially converted to a use inconsistent with its use as qualified farm property. The Secretary or his delegate shall take any action necessary to obtain payment of such amount at the earliest date possible under the preceding sentence.

"(C) DEFINITION OF ESTATE TAX REDUCTION AMOUNT.—For purposes of this paragraph, the term 'estate tax reduction amount' means, with respect to any qualified farm property, the amount of the credit allowed under section 2017 for that property."

(c) Section 6601 of such Code (relating to interest on underpayment, nonpayment, or extensions of time for payment, of tax) is amended by adding at the end of subsection (e) the following new paragraph:

"(5) ESTATE TAX REDUCTION AMOUNT.—For purposes of this section, any estate tax reduction amount (as defined in section 623(a)(4)(C)) collected in satisfaction of the lien imposed under section 6324(a)(4)(A) shall not be considered to be an underpayment or nonpayment of tax."

(d) The table of sections for part II of subchapter A of chapter 11 of such Code is amended by adding at the end thereof the following new item:

"Sec. 2017. Credit for part of value of certain farm property."

SEC. 5. The amendments made by this Act apply with respect to decedents who die after December 31, 1975.

[From the St. Paul Dispatch, Aug. 27, 1975]
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One thing that hasn't kept pace with inflation is the federal estate tax exemption.

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Congress should get to work and make an immediate change to a more realistic exemption figure (one witness suggested \$300,000 as being comparable to the value of \$60,000 in 1942). It's hard enough for a farmer or small businessman to hold onto his business while he lives; surely the government should not make it impossible for his heirs to hold on after he dies.



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No. 140

Senate

By Mr. MONDALE (for himself, Mr. HUMPHREY, Mr. NELSON, Mr. CURTIS, Mr. PHILIP A. HART, Mr. HARTKE, Mr. HOLLINGS, Mr. HUDDLESTON, Mr. LAXALT, Mr. ABOUREZK, and Mr. MCGEE):

S. 2394. A bill to amend the Internal Revenue Code of 1954 to increase the amount of the estate tax exemption, to provide that certain farm land included in the gross estate be valued according to its use as farm land, and for other purposes. Referred to the Committee on Finance.

ESTATE TAX RELIEF FOR FARMERS, SMALL BUSINESSMEN

Mr. MONDALE. Mr. President, I am today introducing, on behalf of myself and Senators HUMPHREY, NELSON, CURTIS, PHILIP A. HART, HARTKE, HOLLINGS, HUDDLESTON, LAXALT, and MCGEE, legislation that would substantially ease the growing burden of the Federal estate tax on family farms and businesses.

The bill would:

First. Increase the present \$60,000 estate tax exemption to \$150,000;

Second. Allow family farms to be valued for estate tax purposes at their value as farm land rather than their value for other commercial purposes, as long as the land is kept in the family and continues to be used for farming;

Third. Return the interest rate on 10-year installment payments of estate taxes—recently raised to 9 percent—to its previous level of 4 percent; and

Fourth. Allow 10-year installment payments whenever immediate payment would result in hardship—instead of undue hardship, as present law requires.

These were among the most frequent recommendations made at a hearing held in Minneapolis on August 26 before the Senate Small Business Committee and the Joint Economic Committee. Senator HUMPHREY and I heard there from a number of small businessmen and farmers about the problems they face in paying Federal estate and gift taxes, and of the severe burden this could place on their estate and their heirs.

In some cases, it could prove necessary to sell part of or all of a family farm or business in order to pay estate taxes.

This hurts everyone. It hurts the family that loses its farm or business. It hurts the community that loses the support and concern that local ownership brings. And it hurts our national economy, as concentration increasingly pushes out competition.

The healthy competition our economy needs to continue strong, noninflationary growth is undermined when family farms are taken over by huge corporate farming operations, and when independent and innovative small businesses are taken over by large outside corporations.

Our estate and gift tax laws are intended in part to prevent excessive concentrations of wealth. Yet in their application to small businesses and family farms, they may inadvertently be increasing it.

The changes we are proposing could help to ease this problem by:

Increasing the \$60,000 exemption to \$150,000.—The present \$60,000 exemption has remained unchanged since 1942, while the price of everything else has gone up enormously. Increasing the exemption to \$150,000 would help to make up for this erosion in the real value of the exemption over the last 33 years. The revenue loss from this change would be substantial—\$1.7 billion—and it should,

therefore, be made in conjunction with other revenue-raising changes. If enough revenue can be raised through additional reforms in the estate and gift tax laws, a further increase in the exemption above \$150,000 and a liberalization of the marital deduction should be considered.

Allowing valuation as farm land.—When farms are located near rapidly growing urban areas, the value of the land for purposes other than farming—housing developments, shopping centers, et cetera—often far exceeds its farm value. If the property is valued for estate tax purposes at its higher, non-farm value, the heavy estate tax due could well force the heirs to sell the farm to pay the tax. The bill we propose would allow the land to be valued for estate tax purposes at its value for farming. To be eligible for this lower valuation, the farm must constitute a large portion of the estate, and it must have been used for farming for 5 years prior to the owner's death. The land must be kept in the family and used for farming after the owner's death, and if at some later point these conditions are no longer met, the higher estate tax based on the nonfarm value must be paid.

Liberalizing the installment payment provisions.—Present law allows the estate tax to be paid in installments over as many as 10 years in cases of undue hardship or if the estate includes a farm or closely held business which amounts to 35 percent of the gross estate or 50 percent of the taxable estate. These installment payment provisions are rarely used. For 1972, for example, IRS statistics indicate that fewer than 1 percent of the taxable estate tax returns included a request to pay in 10-year installments, and there is no data on how many of these requests were granted. Making the installment payment provisions easier to use could well ease the liquidity problems faced by many family farms and businesses, and make it unnecessary to sell the farm or business to pay the estate tax. Two changes can be readily made:

Return the interest rate to 4 percent.—Prior to July 1 of this year, the interest rate on estate tax installment payments was only 4 percent, but as a result of legislation passed late last year, the rate is now 9 percent. Returning this rate to its earlier level would make it easier for heirs to pay the estate tax out of the proceeds of the farm or business, and avoid a forced sale.

Require only simple "hardship."—The present requirement of "undue hardship" can be a difficult one to meet, and permitting installment payments in any case of simple hardship would make the installment payment option more broadly available.

Mr. President, I ask unanimous consent that the text of the bill and an editorial from the St. Paul Dispatch be printed in the RECORD.

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

S. 2394

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 2052 of the Internal Revenue Code of 1954 (relating to exemption) is amended by striking out "\$60,000" and inserting in lieu thereof "\$150,000".

(b) Section 6018(a) of such Code (relating to estate tax returns) is amended by striking out "\$60,000" and inserting in lieu thereof "\$150,000".

Sec. 2. Section 6161(a)(2) of such Code, (relating to extension of time for paying

estate tax) is amended by striking out "undue".

SEC. 3. Section 6601(a) of such Code (relating to interest on underpayment, nonpayment, or extensions of time for payment, of tax) is amended to read as follows:

"(a) IN GENERAL.—

"(1) GENERAL RULE.—Except as provided in paragraph (2), if any amount of tax imposed by this title (whether required to be shown on a return, or to be paid by stamp or by some other method) is not paid on or before the last date prescribed for payment, interest on such amount at an annual rate established under section 6621 shall be paid for the period from such last date to the date paid.

"(2) EXTENSIONS OF TIME FOR PAYMENT OF ESTATE TAX.—If the time for payment of an amount of tax imposed by chapter 11 is extended as provided in section 6161(a)(2) or 6166, or if the time for payment of an amount of such tax is postponed or extended as provided in section 6163, interest shall be paid at the rate of 4 percent, in lieu of the annual rate established under section 6621."

SEC. 4. (a) Part II of subchapter 9 of chapter 11 of such Code (relating to credits against estate tax) is amended by adding at the end thereof the following new section:

"SEC. 2017. CREDIT FOR PART OF VALUE OF CERTAIN FARM PROPERTY.

"(a) IN GENERAL.—At the election of the executor of an estate, the tax imposed by section 2001 shall be credited with the amount of the excess, if any, of the amount of tax imposed on the transfer of the estate under this chapter over the amount of tax which would have been imposed on the transfer of the estate under this chapter if the value of the estate included in the gross estate which is qualified farm property had been determined, for purposes of this chapter, by its value as qualified farm property determined on the basis of the value of the property for the use by which it is eligible to be qualified farm property.

"(b) DEFINITION OF QUALIFIED FARM PROPERTY.—For purposes of this section, the term 'qualified farm property' means real property—

"(1) the value of which is included in determining the gross estate of a decedent if such value exceeds either—

"(A) 35 percent of the value of the gross estate of such decedent, or

"(B) 50 percent of the taxable estate of such decedent,

"(2) which is substantially all, and, during the 60 months preceding the date of death of such decedent, has been, devoted to farming (including the production of agricultural commodities and the raising of livestock), and

"(3) which is transferred by the executor of the decedent's estate to an eligible individual entitled to receive such property under the decedent's will or under the applicable law of descent and distribution.

"(c) ELECTION REQUIREMENTS.—An election under this section shall be filed with the Secretary or his delegate at such time and in such form and manner as he may prescribe by regulations and shall contain, in addition to any other matter, the name, address, and taxpayer identification number of the individual to whom the property passes under the terms of the decedent's will or by operation of law.

"(d) ELIGIBLE INDIVIDUAL.—For purposes of this section, the term 'eligible individual' means any individual who is a member of the family of the decedent within the meaning of section 267(c)(4).

"(e) CROSS REFERENCE.—For lien against property where credit is taken, see section 6324(a)(4)."

(b) Section 6324(a) of such Code (relating to special liens for estate and gift taxes) is amended by adding at the end thereof the following new paragraph:

"(4) UPON QUALIFIED FARM PROPERTY.—

"(A) LIEN IMPOSED.—If the executor of an estate elects to take the credit against the estate tax allowed by section 2017, the amount of that credit is a lien upon the qualified farm property (as defined in section 2017(b)) with respect to which the credit was claimed. If the credit relates to more than 1 piece of qualified farm property, a lien is

imposed under this paragraph on each piece of such property in an amount which bears the same ratio to the total amount of the credit allowed under section 2017 as the value of that piece of property (for purposes of chapter 11) bears to the value of all property to which the credit relates.

"(B) RELEASE OF LIEN.—

"(i) IN GENERAL.—The lien imposed by subparagraph (A) on any qualified farm property may be released by the payment to the Secretary or his delegate of the estate tax reduction amount attributable to that property.

"(ii) TERMINATION OF LIEN.—The Secretary or his delegate may not take any action to obtain payment of the estate tax reduction amount attributable to any qualified farm property until the close of the calendar year in which the property is substantially converted to a use inconsistent with its use as qualified farm property. The Secretary or his delegate shall take any action necessary to obtain payment of such amount at the earliest date possible under the preceding sentence.

"(C) DEFINITION OF ESTATE TAX REDUCTION AMOUNT.—For purposes of this paragraph, the term 'estate tax reduction amount' means, with respect to any qualified farm property, the amount of the credit allowed under section 2017 for that property."

(c) Section 6601 of such Code (relating to interest on underpayment, nonpayment, or extensions of time for payment, of tax) is amended by adding at the end of subsection (e) the following new paragraph:

"(5) ESTATE TAX REDUCTION AMOUNT.—For purposes of this section, any estate tax reduction amount (as defined in section 623(a)(4)(C)) collected in satisfaction of the lien imposed under section 6324(a)(4)(A) shall not be considered to be an underpayment or nonpayment of tax."

(d) The table of sections for part II of subchapter A of chapter 11 of such Code is amended by adding at the end thereof the following new item:

"Sec. 2017. Credit for part of value of certain farm property."

SEC. 5. The amendments made by this Act apply with respect to decedents who die after December 31, 1975.

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