

planted and harvested has used propane heavily.

The only point I seek to make is that I can think of no subject matter more critically important to this country today than an adequate supply of food. With that is the proper use of our limited energy resources. No matter how hard we try to conserve our energy resources of fuel oil and propane, or whatever it may be, we will have a tight supply. It will take at least 2 or 3 years to build the refineries needed for expanded production. We also face problems overseas and in other parts of the world as to the availability of crude oil, which I hope will not materialize, but that possibility is there.

My point in speaking today is not out of anger or even sadness, but out of alarm; namely, that the evidence mounts we have to have some kind of better system of allocation of scarce supplies in the fuel situation. I do not believe that the voluntary system will do the job—nor does anyone else. Therefore, we must come to some form of mandatory allocation.

I might add that, in my State, we are the largest producers of turkeys of any State in the Union. Turkey is a high-protein food. It is a good food. Turkey production could easily be seriously jeopardized by a lack of fuel oil or propane—primarily propane gas. It is a complicated business, turkey production; there has to be a constant temperature in the turkey houses, so to speak, in the turkey shelters, both at the time of the hatch and at the time the turkey chicks are in the early stages of their lives, and for a period of time during their growth. If we do not have it, they die. That could mean a wholesale loss of an essential poultry product here in the United States.

So far as fertilizer is concerned, we are hopeful that the Department will have a report for us to indicate some appropriate action within the next few days.

I want to say again that we have about a period of 4 or 5 months in which we will precipitate either some positive good results or some serious, damaging results.

What do I mean by that? I mean that if they do not get fertilizer for Texas, Oklahoma, Kansas, and Nebraska, where the winter wheat crop is planted, as the Senator from Kansas (Mr. DOLE) pointed out the other day, the difference between a field fertilized and one not fertilized would be the difference between 10 and 30 bushels per acre. In the cornbelt, the difference between a field that is fertilized and one that is not fertilized would be the difference between 30 or 40 bushels per acre and 90 bushels per acre.

The same thing is true in the soybean field.

So we are talking about absolute essentials here. I would hate to think of what would happen if our agricultural situation deteriorated to the point where crop estimates were no longer valid. Thank goodness for the fact that we have had one of the best crops in our history this year. It has been a Godsend. Truly, we should be reverently grateful. So that the crop next year will depend

not only on the conditions of weather, which are always an uncertainty, but also on the availability of fuel and fertilizer—and, I might add, seed, but I think that the seed will be there.

Mr. President, again I appeal to the executive branch of the Government to take prompt action on mandatory allocations of these essential fuels, particularly as they relate to the agricultural economy.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate go into executive session to consider nominations in the armed services, now at the desk, which were reported earlier today from the Armed Services Committee. I have cleared this request with the able acting chairman of the committee.

The motion was agreed to; and the Senate proceeded to the consideration of executive business.

The PRESIDING OFFICER (Mr. McCURE). The nominations will be stated.

The second assistant legislative clerk read the nomination of Lt. Gen. Earl C. Hedlund, USAF, to be placed on the retired list.

Adm. Bernard A. Clarey, USN, for appointment to the grade of admiral, when retired.

Col. Charles J. West, Jr., to be brigadier general in the Army.

Maj. Gen. John J. Heanessy, to be lieutenant general, as Chief, Office of Reserve Components, USA.

Forty-four majors in the Air National Guard of the Reserve of the Air Force, to become lieutenant colonels.

Harold C. L. Beardsley, and sundry other Air National Guard officers, for promotion in the Reserve of the Air Force.

Mr. ROBERT C. BYRD. Mr. President I ask unanimous consent that these nominations be considered en bloc.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed en bloc.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate return to the consideration of legislative business.

The motion was agreed to, and the Senate resumed the consideration of legislative business.

RECESS TO 5 P.M.

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate stand in recess until the hour of 5 p.m. today.

The motion was agreed to; and, at 4:08 p.m., the Senate took a recess until 5 p.m.; whereupon the Senate reassembled when called to order by the Presiding Officer (Mr. GRIFFIN).

QUORUM CALL

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. GRIFFIN). The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

Mr. MANSFIELD. Mr. President, have we got an order to come in at 11 a.m. on Monday next?

The PRESIDING OFFICER. We do.

ORDER FOR RECOGNITION OF SENATORS ON MONDAY NEXT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the following Senators be recognized for not to exceed 15 minutes and in the order stated, on Monday, September 17, 1973: Senators PROXMIRE, CURTIS, BUCKLEY, GRIFFIN, MONDALE, HUMPHREY, and ROBERT C. BYRD.

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

AUTHORIZATION FOR CERTAIN ACTION TO BE TAKEN DURING THE ADJOURNMENT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that during the adjournment of the Senate until Monday, September 17, 1973, the Secretary of the Senate be authorized to receive messages from the House of Representatives and the President of the United States, and that the President of the Senate, the President pro tempore or the Acting President pro tempore be authorized to sign duly enrolled bills and joint resolutions, and that on Friday, September 14, 1973, committees of the Senate be permitted to file their reports.

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

AUTHORIZATION FOR APPEARANCE BY THE FINANCIAL CLERK IN A CRIMINAL PROCEEDING

Mr. MANSFIELD. Mr. President, I send a resolution to the desk and ask unanimous consent for its immediate consideration.

The PRESIDING OFFICER (Mr. CLARK). The resolution will be stated.

The legislative clerk read as follows:

S. RES. 169

Whereas a notice of appearance issued on application of the United States Attorney's Office, District of Columbia, addressed to the Financial Clerk, Office of the Secretary of the United States Senate, and served upon the Financial Clerk, to appear in the city of the District of Columbia, in the United States Attorney's Office, on the fourteenth day of September, 1973, at 10:00 o'clock antemeridian, and to bring with him certain records, notes, memoranda, and other records in the possession and under the control of the Senate relating to the case of United States v. Marilyn Gross and Freddie Gross, Criminal Case No. 755-73, pending in the United States District Court for the District of Columbia; and

Whereas a subpoena subsequently may be issued to the Financial Clerk with respect to pretrial and trial proceedings in such case: Now, therefore, be it

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

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

Resolved, That when it appears by the order of the court or of the judge thereof, or of any legal officer charged with the administration of the orders of such court or judge, that documentary evidence in the possession and under the control of the Senate is needed for use in any court of justice, before any judge, legal officer, or grand jury, for the promotion of justice, the Senate will take such order thereon as will promote the ends of justice consistently with the privileges and rights of the Senate; be it further

Resolved, That William A. Ridgely, Financial Clerk of the Senate, or his designee, be authorized to appear at the place and before the United States Attorney, or his assistant, named in such notice of appearance and at any place and before the court named with respect to any subpoena duces tecum that may be issued with respect to such case, but shall not take with him any documentary evidence on file in his office or under his control or in the possession of the Financial Clerk of the Senate; be it further

Resolved, That if said court should issue a subpoena with respect to such case and determine the materiality and relevancy of the documentary evidence called for in any such subpoena, the said court, through any of its officers or agents, shall have full permission to attend with all proper parties to the case at a place under the orders and control of the Senate, to take at such place copies of such documentary evidence in possession or control of said Financial Clerk as the court has found to be material and relevant, and to take at such place such evidence of witnesses in respect to such evidence as the court or other proper officer thereof shall desire, except that the possession of such evidence by the said Financial Clerk shall not be disturbed and such evidence shall not be removed from their file or custody under said Financial Clerk; be it further

Resolved, That subject to the limitations hereinbefore stated, said Financial Clerk, or his designee, is authorized (1) to supply certified copies of such documentary evidence as the court has found to be material and relevant to the proceeding before the court, and (2) to supply to the United States Attorney, or his assistant, such documentary evidence with respect to such case as the said Financial Clerk determines material and relevant; be it further

Resolved, That the said Financial Clerk, or his designee, in response to such notice to appear or any such subpoena may testify to any matter determined by the court to be material and relevant for the purposes of identification of any such documentary evidence if such documentary evidence has previously been made available to the general public, or if its disclosure is authorized by this resolution, but the said Financial Clerk or his designee shall respectfully decline to testify concerning any and all other matters that may be based on his knowledge acquired by him in his official capacity; and be it further

Resolved, That a copy of these resolutions be transmitted to the said United States At-

torney as a respectful answer to the notice of appearance, and to the said court as a respectful answer to any subpoena it may issue with respect to such case.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. MANSFIELD. Mr. President, the financial clerk of the Senate has received a notice of appearance from the office of the U.S. attorney to appear on September 14, 1973, as a witness to assist in the investigation or preparation for trial of the case of United States against Marilyn Gross and Freddie Gross—criminal case 755-73 pending in U.S. District Court in the District of Columbia. The notice of appearance also requires the production of "all records, notes, memorandums, and other writings concerning a U.S. Treasury check made payable to Joseph K. Doss in the amount of \$53 for salary."

This resolution is being submitted in conformity with the custom of the Senate. The Senate has maintained inviolate the rule that no documents of the Senate can be removed from its possession except by its permission. The U.S. attorney has determined that this testimony is necessary in the conduct of the pretrial proceedings.

The resolution will permit the financial clerk or his designee to appear and testify on behalf of the Government at pretrial proceedings and in court if the case is brought to trial. It does not permit the removal of any original documents. However, it does permit the financial clerk, at his discretion, to furnish certified copies of the documents involved for the pretrial proceedings; and, if the case is brought to trial and the court determines that certain documents are material and relevant to the case, he may furnish certified copies of the documents involved to the court. The resolution which I have introduced will also permit the financial clerk or his designee to respond to a subpoena duces tecum if subsequently issued in connection with this case.

Mr. President, I ask unanimous consent that a copy of the notice of appearance be printed in the RECORD.

There being no objection, the Notice of Appearance was ordered to be printed in the RECORD; as follows:

OFFICE OF THE U.S. ATTORNEY,
Washington, D.C., September 11, 1973.

NOTICE OF APPEARANCE

To William A. Ridgely, Office of the Secretary of the U.S. Senate, U.S. Capitol, Washington, D.C.:

This is a notice for your appearance as a witness at the United States Attorney's Office, on the third floor of the United States Court House, at Third Street and John Marshall Place, on Constitution Avenue, N. W., on September 14, 1973, 10:00 a.m., to assist in the investigation or preparation for trial of the case of *United States v. Marilyn Gross and Freddie Gross*. Please bring with you all records, notes, memoranda and other writings concerning United States Treasurer check 64,800, symbol 4840, dated December 29, 1972, and made payable to Joseph K. Doss in the amount of \$53.00 for salary, by Ramona Bañuelos, Treasurer of the United States.

You should contact and confer with the Assistant United States Attorney in charge of this case.

JOHN H. E. BAYLY, Jr.,
Assistant U.S. Attorney.

The resolution (S. Res. 169) was agreed to.

RECESS TO 5: 30 P.M.

Mr. MANSFIELD. Mr. President, I move that the Senate stand in recess until 5: 30 p.m. today.

The motion was agreed to; and, at 5: 06 p.m., the Senate took a recess until 5: 30 p.m.; whereupon the Senate reassembled when called to order by the Presiding Officer (Mr. CLARK).

QUORUM CALL

Mr. GRIFFIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. GRIFFIN. Mr. President, I move that the Senate stand in recess subject to the call of the Chair.

The motion was agreed to; and, at 5:31 p.m., the Senate took a recess subject to the call of the Chair.

At 5:41 p.m. the Senate reassembled when called to order by the Presiding Officer (Mr. CLARK).

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the House had passed the bill (S. 1841) to amend the Communications Act of 1934 for 1 year with respect to certain agreements relating to the broadcasting of home games of certain professional athletic teams, with amendments, in which it requested the concurrence of the Senate.

QUORUM CALL

Mr. PASTORE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

BROADCASTING OF HOME GAMES OF CERTAIN PROFESSIONAL ATHLETIC TEAMS

Mr. PASTORE. Mr. President, I ask the Chair to lay before the Senate a mes-

sage from the House of Representatives on S. 1841.

The PRESIDING OFFICER (Mr. CLARK) laid before the Senate the amendments of the House of Representatives to the bill (S. 1841) to amend the Communications Act of 1934 for 1-year with respect to certain agreements relating to the broadcasting of home games of certain professional athletic teams which were to strike out all after the acting clause, and insert:

That part I of title III of the Communications Act of 1934 is amended by adding at the end thereof the following new section:

"BROADCAST OF GAMES OF PROFESSIONAL SPORTS CLUBS

"Sec. 331. (a) If any game of a professional sports club is to be broadcast by means of television pursuant to a league television contract and all tickets of admission for seats at such game which were available for purchase by the general public one hundred and twenty hours or more before the scheduled beginning time of such game have been purchased seventy-two hours or more before such time, no agreement which would prevent the broadcasting by means of television of such game at the same time and in the area in which such game is being played shall be valid or have any force or effect. The right to broadcast such game by means of television at such time and in such area shall be made available, by the person or persons having such right, to a television broadcast licensee on reasonable terms and conditions unless the broadcasting by means of television of such game at such time and in such area would be a telecasting which section 3 of Public Law 87-331, as amended (15 U.S.C. 1293) is intended to prevent.

"(b) If any person violates subsection (a) of this section, any interested person may commence a civil action for injunctive relief restraining such violation in any United States district court for a district in which the defendant resides or has an agent. In any such action, the court may award the costs of the suit including reasonable attorneys' fees.

"For the purposes of this section:

"(1) The term 'professional sports club' includes any professional football, baseball, basketball, or hockey club.

"(2) The term 'league television contract' means any joint agreement by or among professional sports clubs by which any league of such clubs sells or otherwise transfers all or any part of the rights of such league's member clubs in the sponsored telecasting of the games engaged in or conducted by such clubs.

"(3) The term 'agreement' includes any contract, arrangement, or other understand-

"(4) The term 'available for purchase by general public', when used with respect to tickets of admission for seats at a game or games to be played by a professional sports club, means only those tickets on sale at the stadium where such game or games are to be played, or, if such tickets are not sold at such stadium, only those tickets on sale at the box office closest to such stadium.

"(5) The Commission shall conduct a continuing study of the effect of this section and shall, not later than April 15 of each year, submit a report to the Committee on Commerce of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives with respect thereto. Such report shall include pertinent statistics and data and any recommendations for action relating to the broadcasting of professional football, baseball, basketball, and hockey games which the Commission determines would serve the public interest."

SEC. 2. Section 331 of the Communications Act of 1934 (as added by the first section of this Act) is repealed effective December 31, 1975.

And amend the title so as to read: "An Act to amend the Communications Act of 1934 with regard to the broadcasting of certain professional sports clubs' games."

Mr. PASTORE. Mr. President, before I move to concur in the House amendments, I feel that I should express my gratitude to the Members of the Senate who have been in attendance since 1 o'clock waiting for the House to send back this particular legislation.

We passed our bill some few weeks ago, which is slightly different from the bill passed by the House. The bill reported by the House Committee made this legislation permanent. We in the Senate had some qualms about making it permanent at this time because of many imponderables, involving complex questions, which were raised by the National Football League—namely, that where the blackout is lifted contracts with radio stations would be adversely affected; and second, whether enactment of this bill would in fact have an injurious effect on actual attendance.

We of the Committee on Commerce never believed that it would. However, we have always been compromising and understanding in our view that at least it ought to be given a trial. And for that reason we drew a bill that was satisfactory to the Senate. The effect of the bill was that this would be an experiment for 1 year. The House in turn made it permanent legislation.

Only the other day I heard from my counterpart, the chairman of the subcommittee in the House, who suggested to me that there was a likelihood that the bill as reported by the House Committee could be amended to make it a trial, but on the basis of a longer period of time. The time they adopted is December 31, 1975.

Personally, I believe it is a little bit too long. However, I do want to assure professional sports that in the meantime if it does turn up that some injury is being inflicted upon the sport itself, the Senate is always ready, of course, to hold hearings and take the matter under consideration.

However, under the circumstances, I think it would be ill-advised for us to challenge the position taken by the House in view of their compromise and their making this an experimental basis, although it is for a longer period of time than I had hoped it would be. However, be that as it may, my bill provided for one season. This bill provides for three seasons of football.

I would sincerely hope that we would all cooperate in this matter.

This afternoon I had another talk with Mr. Rozelle. I repeat that I have found him to be a fine gentleman. Naturally he has a private interest to protect.

I explained to him that we would go along with the House on this, and he went so far as to say that even before the President signs the bill, if the House passes the bill, since the Senate has already passed a bill, that he was ready to

open up the screen on Sunday which means that people who have tried to buy a ticket to see a sellout football game may see it on this Sunday.

For that reason, I move that the Senate concur in the amendments of the House.

The PRESIDING OFFICER. The question is on agreeing to the motion.

Mr. COOK. Mr. President, I think that we ought to thank the House. I witnessed part of the debate this afternoon. It started at 4 and ended with a final vote of 336 to 37.

As the record shows, the Senate passed this legislation in a slightly different form by a vote of 77 to 6.

I would like to explain with respect to the problems that may exist throughout the Nation for many college and high school football teams that one of the other amendments passed by the House, which the Senator from Rhode Island, the chairman of the subcommittee, has already moved to adopt, imposes the provisions of section 3 of Public Law 87-331, which takes into consideration the impact within the given areas on the television professional.

Some football games and many college and high school football games do take place during the same period of time. However, I do not believe that really presents any serious problems because most of the games would be obviously on Monday or Sunday, and very few college games are placed on those specific days.

I would also say in attempting to allay some of the fears expressed by people who fear that there will be a deluge of people who will not seek to buy season tickets that one must remember that if any tickets are available, the game will not be available for television.

That is the distinction between what the established law will now be and the exemption given to the sport by the Congress.

Prior to that time, it was available for telecasting, regardless of the disposition of sales to the respective games. On that basis, there was a decided reduction in ticket sales as a result of those games being televised.

I might suggest that the difference between the law prior to that time and the law that will be in effect for the next three seasons will be that if there is not a valid sellout 72 hours prior to the telecast of a game, then obviously that game cannot be made available for local showing within the area involved.

So, Mr. President, I thank the Senator from Rhode Island, and I think we ought to extend the thanks of the Senate to Representative MACDONALD from Massachusetts, Representative STAGGERS from West Virginia, and Representative BROWN from Ohio, who very well managed this measure in the House of Representatives.

Mr. President, I think this action shows one other thing, and I say this to the members of the leadership who are here: Regardless of the issue involved—and this is not an extremely important national issue in our list of priorities among other national issues—I think it

does show that Congress, regardless of what the issue may be, can in fact move expeditiously. It has proved it can move expeditiously on this. I think that gives us all a great deal of hope that in matters far more important than this may be, with the remainder of the time that is left, we can move expeditiously on matters other than this one.

Mr. President, I yield the floor.

Mr. MAGNUSON. Mr. President, I got here a little late. I do not know what has been said, although I have talked with my colleague the Senator from Rhode Island (Mr. PASTORE) about this earlier in the day.

I am somewhat disappointed that the House of Representatives made this a 3-year program by making the date December 31, 1975. It seems to me that we should have given these people—first we started out with a 1-year experiment, and then I thought we might have to compromise in view of the situation in the House of Representatives on 2 years, but now, by making the date December 31, 1975, it is 3 years.

It seems to me that we could have done this in a much more equitable way by having it 2 years. I understand it would be a little bit difficult to gauge in 1 year, because most of the tickets have already been sold and the attendance for this year is probably pretty well settled. But it seems to me that another year would have been sufficient to find this out. Instead of that, we have got 3 years.

I understand that the Senator from Rhode Island probably has already suggested here, in discussing this bill, that he would be the first one to stand up and acknowledge the fact, after the 2 years, if this did not work out, to see what we could do about the matter. The only practical problem is that once we get this started, I do not know that we could do anything about it, even though the second year it looked like the experiment was not going to work like we had hoped it would work.

Three years is a long time. I shall not object to this, but I am disappointed with the fact that we did, with the House of Representatives, make it 3 years.

When we talk about December 31, 1975, we are talking about three seasons. I suggested that they make it September and give them that time, which would be a practical experiment for 2 years. But apparently, as the Senator from Rhode Island told me earlier, the House of Representatives would not buy that at all. I understand the problems with the House when we go into conferences of this nature. But I really wanted to express my disappointment that this matter was not for 2 years. I hoped that it would be one, but then I felt, well, we might have to compromise on two. But now we are compromising on three.

Mr. PASTORE. Mr. President, if the Senator will yield, I agree with him explicitly. As a matter of fact, I liked it the way it was when we passed the bill for 1 year overwhelmingly, by a vote of 76 to 6 by the Members of the Senate. That action was applauded in many editorials. But the House of Representatives was adamant in going for permanent legislation. Therefore, in the spirit of compromise, in order to get something

done, because we did have to get something done, we did agree. But I think in the long run, we can depend on the pledge made by the Members of the House of Representatives that if in the meantime, before three seasons expire, it becomes evident that the right thing has not been done, then we should reconsider the matter.

Mr. President, we are not out to hurt professional football. We love it. We enjoy it. We are grateful for the fact that they have brought so many good hours of entertainment to so many of our people, especially in these trying times.

What we are saying here is that if they have sold all the tickets 72 hours before game time, and other people who are real fans—and fans are the real substance of a team—cannot buy tickets because no tickets are to be had, goodness gracious, let them see it on television; and if this hurts their attendance, let them have their blackout, because then the law would not apply.

Mr. MAGNUSON. I am not trying to disagree with the basic premises of my friend from Rhode Island. I merely suggest it will be very difficult if it does not work out. I think it probably will work out, but if it does not, for 3 years we run into some problems; and to affirmatively pass a bill to stop it if it does not work out is a most difficult proposition.

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

Mr. MAGNUSON. I yield.

Mr. COOK. May I say I have listened to the debate this afternoon, and the point made by the House of Representatives, particularly when we had pretty well said to the members of the respective committees in the House that we would accept the 2-year period, showed that they honestly felt this year would really not count, and nothing subjective could come out of this year; and therefore they really felt, in essence, they were doing it for 2 years, because this year would not count, in an effort to implement the legislation.

Mr. MAGNUSON. I thought if this year did not count, they would have another year for the experiment.

Mr. COOK. I agree.

Mr. MAGNUSON. That is the way I feel about it. I said that when the bill was passed here.

I say I am disappointed they passed it for 3 years, and I still say that, because we want to keep these sports alive and healthy, regardless of what happens. I hope we will not have to change it.

Mr. PASTORE. As I said this afternoon, "Just pray you open the screens, because every time you do, you have sold out the game."

I move that the Senate concur in the amendments of the House of Representatives.

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

The motion was agreed to.

HEALTH MAINTENANCE ORGANIZATION ACT OF 1973

Mr. MANSFIELD. Mr. President, I ask the Chair to lay before the Senate a

message from the House of Representatives on S. 14.

The PRESIDING OFFICER (Mr. CLARK) laid before the Senate the amendments of the House of Representatives to the bill (S. 14) to amend the Public Health Service Act to provide assistance and encouragement for the establishment and expansion of health maintenance organizations, health care resources, and the establishment of a Quality Health Care Commission, and for other purposes, which were to strike out all after the enacting clause, and insert:

SHORT TITLE

SECTION 1. This Act may be cited as the "Health Maintenance Organization Act of 1973".

PUBLIC HEALTH SERVICE ACT AMENDMENTS

SEC. 2. The Public Health Service Act is amended by adding after title XI the following new title:

"TITLE XII—HEALTH MAINTENANCE ORGANIZATIONS

"DEFINITIONS

"SEC. 1201. For purposes of this title:

"(1) The term 'health maintenance organization' means a public or private entity organized to provide, directly or indirectly, basic and supplemental health services to its members in the following manner:

"(A) Each member is to be provided basic health services for a basic health services payment which (i) is to be paid on a periodic basis without regard to the dates health services (within the basic health services) are provided; (ii) is fixed without regard to the frequency, extent, or kind of health service (within the basic health services) actually furnished; (iii) is established under a community rating system, except that if the entity establishes to the Secretary's satisfaction that compliance with this clause would prevent it from competing effectively for the enrollment of new members or for the retention of current members, the Secretary may permit the entity to establish, for the first year of its operation, rates for its basic health services payment without regard to this clause; and (iv) may be supplemented by such additional nominal payments as may be required for the provision of special services (within the basic health services) and which are to be fixed in accordance with the regulations of the Secretary.

"(B) For such payment or payments (hereinafter in this title referred to as 'supplemental health services payments') the entity may require in addition to the basic health services payment, the entity shall provide to each of its members each health service (i) which is included in the definition of supplemental health services in paragraph (3), (ii) which can reasonably be made available to the members of the entity, and (iii) for the provisions of which the member has contracted with the entity.

"(C) The services of health professionals which are provided as basic health services shall be provided through health professionals who are members of the entity or through a medical group (or groups) or individual practice (or associations), except that this paragraph shall not apply in the case of health professionals' services which are provided out of the area served by the entity or which the entity determines, in conformity with regulations of the Secretary, are infrequently used. For purposes of this subparagraph, the term 'health professionals' means physicians, dentists, nurses, podiatrists, optometrists, and such other individuals engaged in the delivery of health care as the Secretary may by regulation designate.

"(D) Basic health services (and supple-